

**JUNKYARD ORDINANCE  
POLK COUNTY**

**ARTICLE 1. GENERALLY**

**Section 1-1. Purpose and authority.**

The purposes and objectives for which this ordinance is adopted are to:

1. Promote the safety, health, and welfare of the public.
2. Keep the County attractive, and promote the prosperity, economic well-being and general welfare of the County.
3. Preserve and enhance the natural scenic beauty of the County.
4. Protect property values and preserve the character and integrity of the community.
5. Protect the public from health nuisances and safety hazards by controlling vectors, concentrations of volatile or poisonous materials, and sources of danger.

This ordinance is adopted pursuant to G.S. 153A-132, 132.1, 132.2 and 340 (a).

**Section 1-2. Jurisdiction.**

This ordinance shall be in effect in all unincorporated portions of the County that are not under the jurisdiction of any municipal zoning ordinance, unless this ordinance is adopted by reference in those areas.

**Section 1-3. Definitions.**

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandoned motor vehicle* is one that:

- a. Is left on public grounds or County-owned property in violation of a law or ordinance prohibiting parking; or
- b. Is left for longer than 24 hours on property owned or operated by the County; or
- c. Is left for longer than two hours on private property without the consent of the owner, occupant, or lessee of the property; or
- d. Is left for longer than seven days on public grounds.

*Automobile graveyard* means 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 three or more such motor vehicles, which cannot be operated under their own power, are not being restored to operable condition, and which are kept or stored for profit for a period of 30 days or more.

*Establishment* means any place, land, building or structure on which or in which there is operated or maintained a business or going concern for profit.

*Garage* means 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 outdoors as many as ten 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.

*Health or safety nuisance* means a motor vehicle, used machinery or other used materials 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;
2. A point of collection for pools or ponds of water;
3. A point of concentration of gasoline, oil or other flammable or explosive materials;
4. So located that there is a danger of the vehicle or other materials falling or turning over;
5. A source of danger through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces of metal, glass or other rigid materials, or hazardous materials; or
6. A point of concentration of car radiators, batteries or other materials that pose either immediate or long-term environmental degradation.

*Junk* means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, refrigerators, stoves, household or other appliances or equipment, salvaged building materials, salvaged machinery or parts, dismantled or wrecked automobiles, or parts thereof, junked motor vehicles, iron and steel and other scrap ferrous or nonferrous material.

*Junked motor vehicle* means a motor vehicle that does not display a current license plate and either:

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 years old and appears to be worth less than \$500.00.

*Junkyard* means 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 and the term shall include garbage dumps and sanitary fills. An establishment or place of business which stores or keeps for a period of 30 days or more materials within the meaning of the word "junk" which had been derived or created as a result of industrial or commercial activity shall be deemed to be a junkyard within the meaning of this ordinance. A junkyard shall be presumed to have been created when a total of 2500 square feet or more of junk materials are kept or stored at any single property. Materials enclosed in closed buildings, solid waste containers or rolling stock are excluded.

*Junkyard Control Act* means G.S. 136-141 through 136-155, which delegates to the North Carolina Department of Transportation the responsibility to regulate junkyards and automobile graveyards located on interstate and federal aid primary system highways.

*Motor vehicle* means any vehicle or machine designed or intended to travel over land by self-propulsion.

*Public road* means 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.

*Recycling center* means a temporary or permanent site at which glass, aluminum cans, paper, plastic, clothes or similar materials commonly collected for recycling are collected and moved offsite or kept onsite in buildings, storage bins, solid waste containers, truck trailers and other rolling stock.

*Residence* means a house, an apartment, a group of homes, or a single room occupied or intended for occupancy as separate living quarters for one or more humans.

*School* means any public or private institution for the teaching which is recognized and approved by the State Board of Education or other appropriate licensing board.

*Screen* means Vegetation or other materials designed to create a visual barrier.

*Service station* means 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 three 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.

*Unzoned area* means an area where no zoning is in effect.

*Vector* means any organism that carries disease-causing microorganisms from one host to another.  
Examples: mosquitoes, flies, rats, vermin.

*Vegetation* means evergreen vegetation.

*Visible* means capable of being seen without visual aid by a person of normal acuity.

#### **Section 1-4. Exemptions.**

- a. Bona fide service stations or garages are exempted.
- b. Recycling centers using enclosed structures or solid waste containers, bins, truck trailers and rolling stock to store materials and equipment are exempted from the provisions of this ordinance.

### **ARTICLE 2. ADMINISTRATION AND ENFORCEMENT**

#### **Section 2-1. Enforcement by ordinance administrator; procedure.**

- a. The County Manager shall designate the ordinance administrator. The ordinance administrator shall enforce this ordinance and may call upon other agencies as necessary to assist in enforcement of this ordinance. In addition, whenever the administrator receives a written complaint alleging a violation of this ordinance, the administrator shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken. The owner, tenant, or occupant of any building or land or part thereof and agent or other person who participates 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 provided in this Article 2.
- b. The following procedure shall apply upon discovery of a violation:
  1. If the administrator finds that any provision of this ordinance is being violated, the administrator 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 (60 days) within which the violation shall be corrected. The violator shall be informed of right to appeal to the Zoning Board of Adjustment.
  2. Notwithstanding the subsection (b)(1) of this section, 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 involving any of the penalties or remedies authorized in this ordinance.

### **Section 2-2. Penalties and remedies for violations.**

Penalties and remedies for violations of this ordinance shall be as follows:

1. Violations of the provisions of this ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established, shall constitute a misdemeanor.
2. Any act constituting a 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 \$50.00 per violation. If the offender fails to pay this penalty within ten days after being cited for a violation, the penalty may be recovered by the County in a civil action in the nature of debt.
3. This ordinance may also be enforced by any appropriate equitable action. Such remedy may include a Court order of abatement as part of a judgment in the case. The abatement order may include removal of junk from illegal junkyards and other actions required to make the property comply with the provisions of this ordinance at the owner's expense.
4. 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 ordinance.
5. Any one, all, or any combination of the penalties and remedies described in this section may be used to enforce this ordinance. In addition to such enforcement provisions, this ordinance may be enforced by any remedy provided in G.S. 153A-123, including, but not limited to, all appropriate equitable remedies including injunction and order of abatement.
6. Any building permits associated with the property that has a junkyard permit may be revoked by the County, in accordance with the provisions of this ordinance, 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 County Board of Commissioners. Before such other permits may be revoked, the permit recipient shall be given ten 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 a hearing on the allegations before the Zoning Board of Adjustment. If any relevant permit is revoked, the administrator shall provide to the permittee a written statement of the decision and the reasons therefore.

### **Section 2-3. Appeals to Board of Adjustment for relief; variances.**

- a. Appeals may be taken by any person aggrieved, or by any official or board of Polk County affected by, any ruling or decision of the ordinance administrator to issue or refuse to issue a notice of violation pursuant to Section 2-1(b)(1), or to revoke or refuse to revoke a building permit pursuant to Section 2-2(6), or to grant a junkyard permit pursuant to Section 2-5, to the Zoning Board of Adjustment. Such appeal shall be taken within a reasonable time, as provided by the rules of the Zoning Board of Adjustment, by filing with the ordinance administrator and with the secretary of the Zoning Board of Adjustment a notice of appeal and specifying the grounds thereof. The ordinance administrator shall forthwith transmit to the Zoning Board of Adjustment all papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the ordinance administrator certifies to the Zoning Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Adjustment or by a court of record on application, on notice to the ordinance administrator and on due cause shown.

- b. Variance; authorized under certain conditions. The Zoning 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 unnecessary hardship. So that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done, such variance may be granted in such individual case of unnecessary hardship upon a finding by the Zoning Board of Adjustment that the following conditions exist:
1. 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 junkyards governed by this ordinance.
  2. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other operators of other automobile graveyards and junkyards governed by this ordinance.
  3. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other operators of automobile graveyards or junkyards governed by this ordinance.
  4. 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.
  5. The special circumstances are not the result of the action of the applicant.
  6. The variance requested is the minimum variance that will make possible the legal use of the land in question.

In granting a variance, the Zoning Board of Adjustment shall make findings that the requirements of this section have been met. The Zoning 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 Zoning Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation 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.

#### **Section 2-4. Appeal of Zoning Board of Adjustment decisions.**

Any person or persons, jointly or severally, aggrieved by any decision of the Zoning Board of Adjustment, or any official or board of Polk County may, within thirty (30) days after the filing of the decision in the office of the Zoning Board of Adjustment, but not thereafter, present to the superior court a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the ground of illegality, whereupon such decision of said board shall be subject to review by certiorari as provided by law.

#### **Section 2-5. Permit.**

- a. Required; application and written notice to adjacent property owners. No person shall establish, operate, or maintain a junkyard without obtaining a permit. The permit shall only be issued upon the person seeking the permit submitting a statement under oath that the existing or proposed junkyard does not violate any of the provisions of this ordinance. Application for the permit shall be made to the ordinance administrator on such forms as the ordinance administrator shall prescribe and shall include the permit fee as set forth in the County fee ordinance.
- b. Plan. A junkyard plan prepared by the applicant shall be submitted as part of the junkyard permitting process. Every permit shall contain in bold type all capital letters the following statement: **THIS PERMIT DOES NOT EXEMPT THE HOLDER FROM COMPLIANCE WITH ANY FEDERAL OR**

STATE LAWS OR OTHER POLK COUNTY ORDINANCES, SPECIFICALLY INCLUDING BUT NOT LIMITED TO ENVIRONMENTAL PROTECTION LAWS. The plan for any junkyard which is an establishment, place of business, or expansion of any junkyard shall indicate setbacks; location of public rights-of-way, all proposed structures, all structures within 300 feet of the junkyard, driveways, entrances, screening; type screening; dimensions of the junkyard; gross acreage; owner's name and address; the preparer of the plan's name and address. The plan must be legible and acceptable by the Community Development office.

- c. Expansion of preexisting or newly permitted junkyard. Any expansion of a junkyard, whether preexisting or newly permitted, shall require a permit and shall be permitted in accordance with this ordinance as a new establishment.
- d. Rejected; resubmission. A rejected permit may be resubmitted within 30 days from the date of rejection without incurring an additional permit fee.
- e. Nontransferable. Permits under this ordinance are issued to owners, not to junkyards, and are nontransferable. New owners of existing junkyards must obtain their own permits. For junkyards owned by entities other than individuals, the transfer of control or of 50% or more of the beneficial interest in the owner shall be deemed a transfer of the junkyard and a new permit shall be required.
- f. Renewal. Permits for junkyards which are an establishment or place of business shall be valid for one year from date of issuance. Applications for renewal of permits shall be granted so long as the permittee remains in compliance with such requirements as existed at the time of issuance of the original permit. Other permits are valid until revoked for the nonconformance with this ordinance.
- g. Revocation. Permits shall be revoked for failure to comply with state and federal regulation, including but not limited to environmental regulations.

### **Section 2-6. Registration and permitting of preexisting junkyards**

- a. All owners, operators, or maintainers of automobile graveyards or junkyards existing on effective date of this ordinance, shall register same with the County within 60 days of the date of the ordinance. All existing automobile graveyards or junkyards that have not been registered within 60 days shall be in violation of the provisions of this ordinance.
- b. Registration shall be accomplished by acquiring a permit and paying the currently required permit fee. A junkyard plan as described above prepared by the owner or operator shall be submitted as part of the junkyard registration.

### **Section 2-7. Nonconforming existing junkyards.**

- a. All junkyards existing on the effective date of this ordinance, and registered in accordance with the previous section, shall be granted a compliance period of 12 months from the effective date of registration to conform to the provisions of this ordinance. Thereafter the nonconforming junkyard shall be in violation of this ordinance.
- b. Any owner or operator of an existing junkyard that has previously planted evergreen seedlings as a screen shall be allowed appropriate additional time for such seedlings or small trees to reach a minimum height of six feet. The enforcement officer shall monitor such facility at least annually to determine whether any diseased or dead trees shall be replaced or replanted by the owner.

### **Section 3-1. Removal and disposal of abandoned and junked motor vehicles.**

The County prohibits the abandonment of motor vehicles on public grounds, private property, and County-owned property wherever located. The County may remove and dispose of abandoned or

junked motor vehicles according to the procedures prescribed in this section.

- a. *Removal of Vehicles.* The County may remove to a storage garage or area an abandoned or junked motor vehicle found to be in violation of this ordinance. A vehicle may not be removed from private property, however, without the written request of the owner, lessee, or occupant of the premises unless the Ordinance Administrator or designee has declared the vehicle to be a health or safety nuisance. If the vehicle is declared a safety or hazard nuisance, the owner or possessor will be notified by certified mail that the vehicle will be removed within 72 hours of receiving notice. Appropriate County officers and employees have a right, upon presentation of proper credentials, upon having just cause a violation may exist, to enter on any premises within the County ordinance-making jurisdiction at any reasonable hour in order to determine if any vehicles are health or safety hazards. When an abandoned or junked motor vehicle is removed, the County shall give notice to the owner as required by G.S. 20-219.11(a) and (b). The abandoned or junked motor vehicle shall be removed at no expense to the owner.
- b. *Hearing Procedure.* The owner or any other person entitled to claim possession of the vehicle may request in writing a hearing to determine if probable cause existed for the towing within 10 business days of filing. The request shall be filed with the magistrate in Columbus. The magistrate shall set the hearing before the magistrate within 10 calendar days of receiving the request. The owner or the person requesting the hearing, if not the owner, and the Ordinance Administrator shall be notified of the time and place of the hearing. The owner, the Ordinance Administrator or designee and any other interested parties may present evidence at the hearing. The Ordinance Administrator or designee may submit an affidavit in lieu of appearing personally, but the affidavit does not preclude that person from also testifying. The only issue at this hearing is whether or not the County had grounds to remove the vehicle. Any aggrieved party may appeal the magistrate's decision to District Court as provided in North Carolina General Statutes.
- c. *No Liability.* Neither the County, nor any of its agents, servants or employees may be held to answer in a civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, junked, lost, or stolen motor vehicle for disposing of the vehicle as provided in this section.
- d. *Exceptions.* This section does not apply to any vehicle in an enclosed building, to any vehicle on the premises of a business enterprise being operated in a lawful place and manner, if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the County.

## **ARTICLE 3. STANDARDS AND REQUIREMENTS**

### **Section 3-1. General standards.**

- a. *Preexisting junkyards.* The following criteria shall be applicable to preexisting junkyards which are registered within 60 days of the effective date of this ordinance. Any expansion beyond properties registered as junkyard properties must comply with requirement of new junkyards. No portion of any junkyard shall be operated, or maintained, except those junkyards meeting any of the following conditions.:

  - 1. Those which are screened by natural land features or vegetation, berms, plantings, opaque fences or other appropriate means which sufficiently preserves the policy and intent of this ordinance so as not to be visible from the main-traveled way of any state-maintained public road at any season of the year.
  - 2. Those which are farther than 1,320 feet (one-quarter mile) from the main-traveled way of a state-maintained public road.
  - 3. Those which are either not visible from adjoining properties because of screening with natural land

features or vegetation, berms, plantings, opaque fences or other appropriate means or are screened and/or fenced in accordance with Section 3-2.

4. However, if the topography and terrain of adjacent lands is such that screening would be ineffective or useless, the enforcement officer may waive all or parts of the screening requirements, but shall require screening insofar as is practical and feasible, at all points where such screening shall be necessary to screen or partially screen the view of persons from public roads, schools, or residential areas adjacent to or near the junkyard.
- b. New junkyards. The following criteria shall be applicable to new junkyards.
1. Have a minimum setback to the screen from front, side and rear property lines, excluding a state road right-of-way of at least 15 feet.
  2. Not be located closer than 660 feet (one-eighth of one mile) to either a preexisting church, school, day care center, nursing home, skilled health care facility, residence, hospital, public buildings, or public recreation facilities; excluding, however, onsite residences of the owner or his agent.
  3. Be screened as provided in Section 3-2, or not visible from the main-traveled way of a state-maintained public road at any season of the year.

### **Section 3-2. Screening.**

All preexisting and new junkyards established in accordance with this ordinance may be operated, subject to the following fencing and screening conditions:

1. Preexisting. Junkyards in existence on the effective date of this ordinance, including any junkyard along any state road or highway, shall comply with this ordinance by obtaining a permit, as provided in Section 2-6 and meeting the requirements for preexisting junkyards as set forth in Section 3-1(a)(1), (a)(2) or (a)(3), and meeting one of the following conditions:
  - a. Remove junk and equipment that may be located within 15 feet of the property lines to an area further than 15 feet from the property lines. Install and continuously maintain an all season vegetation screening between junk materials and property lines, which screening planted in sufficient numbers of adequately sized plant to grow within ten years to a visual barrier.
  - b. Screen the junkyard in accordance with the provisions of this section; provided, however, if topography renders screening useless and ineffective, the enforcement officer may waive all or part of the screening requirements, as provided in Section 3-1(a)(4).
2. New. Junkyards established after the effective date of this ordinance shall comply with this ordinance by registering, obtaining a permit, meeting the requirements of Section 3-1(b) and (c) and meeting the following screening requirements:
  - a. The junkyard shall be entirely surrounded by and with vegetation that provides a continuous all-seasons opaque screen at least six feet in height within four years of planting or setting such vegetation. The vegetation shall surround the minimum area necessary for the junkyard to not be visible from a point at the same elevation as the junkyard. Screening vegetation 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. The vegetation shall be maintained as a continuous, unbroken hedgerow for the period the property is used as a junkyard. Each owner, operator, or maintainer of a junkyard 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.

- b. All operations, equipment, junk and/or inoperable motor vehicles shall be kept within the confines of the screen at all times unless in motion by transport to or from the site.

**Section 3-3. Maintenance.**

- a. All junkyards shall be maintained to protect the public from health nuisances and safety hazards.
- b. The Rutherford Polk McDowell District Health Department may inspect each junkyard 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.
- c. Failure to comply with this section may result in revocation of the permit as well as other penalties and remedies for violation as provided for in Article 2 of this Chapter.

**ARTICLE 4. Effective Date**

These rules and regulations shall be in full force and effective from and after \_\_\_\_\_, 2006.

***Resolution Adopting Regulations Governing Construction and Operation of Junkyards in Polk County***

Whereas, the presence and visibility of junk and junked automobiles can affect the public health and safety, tourism, economic development opportunities and the natural scenic beauty of Polk County, and

Whereas, the Polk County Board of Commissioners is of the opinion that in order to protect public health in Polk County, it must regulate the construction and operation of junkyards and stored junk in Polk County

Now, therefore, be it resolved and ordained by the Polk County Board of Commissioners that the preceding regulations for the protection and promotion of public health in Polk County are hereby adopted and ordained as the next available chapter in the Polk County Code of Ordinances, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Attest:

Polk County Board of Commissioners

\_\_\_\_\_  
Anne Britton, Clerk to Board

\_\_\_\_\_  
Chairman, Board of Commissioners

Approved as to legal form:

\_\_\_\_\_  
County Attorney