

CHAPTER 114: JUNKYARDS AND OTHER FACILITIES

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(Ord. passed 10-06-97; Am. Ord. passed 05-01-00; Am. Ord. passed 7-19-21; Am. Ord. passed 11-7-22)

§ 114.01 DEFINITIONS.

For the purposes of this Chapter, certain terms and words are hereby defined; words used in the present tense shall include the future; words used in the singular number shall include the plural number, and the plural the singular; and the word "shall" is mandatory and not directory.

ACTIVITY. The use of a land parcel or facility for a service station, garage, used car lot, wrecker service, junkyard, or motor vehicle storage area.

AUTOMOBILE GRAVEYARD. More than 10 vehicles meeting the definition of junk motor vehicle as defined in this chapter located upon a land parcel that has not been issued a permit as a service station, garage, used car lot, wrecker service, junkyard, or motor vehicle storage area.

BUILDING. Any structure having a roof supported by columns or walls, and designated or intended for the shelter, support, enclosure or protection of persons, animals or chattels.

ENCLOSED BUILDING. A permanent structure located on a parcel of land configured so as to prevent its contents from being visible from the public road or adjacent land parcel of another.

ENFORCEMENT OFFICER. Duly sworn employees of the Planning Office and Haywood County Sheriff's Office and such other persons as may be authorized by the Haywood County Board of Commissioners. The Enforcement Officer is also referred to as the "Officer" in this chapter.

ESTABLISHMENT. Any real property on which, or in which, there is operated or maintained any commercial, industrial, or service business or activity.

FACILITY. A structure used for a service station, garage, used car lot, wrecker service, junkyard, or motor vehicle storage area.

FARM OR BONAFIDE FARM. One or more contiguous land parcels under common or separate ownership on which agricultural operations are conducted as the primary use and which meets the definition of agricultural land or horticultural land under G.S. § 105-277.2 (1) and (3). For the purposes of this chapter, farm operations include the cultivation of crops, forest products, or the husbandry of livestock, poultry, or fish.

FENCE. A continuous, opaque, unperforated barrier extending from the surface of the ground to a uniform height of not less than six feet from the ground at any given point, constructed of dirt, wood, stone, steel or other metal, or any substance of a similar nature and strength.

GARAGE. An establishment which is maintained and operated for the primary purpose of making mechanical and/or body repairs to motor vehicles.

GATE. A door or other device attached to a fence which, when opened, provides a means of ingress and egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier as a part of the fence to which it is attached.

HEALTH-NUISANCE OR SAFETY-HAZARD VEHICLE. A motor vehicle, used machinery or other used materials is a health-nuisance or safety-hazard vehicle if it is:

- (1) A breeding ground or harbor for mosquitoes or other insects, snakes, rodents or other pests; or
- (2) A point of collection of pools or ponds of water; or
- (3) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by observation or odor; or

(4) One which has areas of potential human confinement which cannot be opened from the inside such as trunks, hoods, etc. or is a source of danger from exposed surfaces of metal, glass or other rigid materials; or

(5) So located that there is a danger of the vehicle falling or turning over; or

(6) A point of concentration of car radiators, batteries or other materials that pose either immediate or long-term danger of environmental degradation.

HOUSING UNIT. A house, an apartment, a group of rooms, or a single room occupied or intended for occupancy as separate living quarters.

JUNK. Scrapped copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, iron, steel, or other scrap ferrous or non-ferrous materials; or wrecked, dismantled or uninhabitable mobile homes.

JUNK MOTOR VEHICLE. A motor vehicle or other motorized equipment or parts thereof that:

- (1) Is fully or partially dismantled or wrecked; or
- (2) Cannot be self-propelled in its present condition; or
- (3) Does not display a current license plate.

JUNKYARD. Any land parcel which is maintained, operated, or used for storing, keeping, buying or selling junk, or junk motor vehicles. The term "junkyard" shall not include any county-operated landfills, collection, or recycling facilities.

JUNKYARD CONTROL ACT. G.S. § 136-141 through 155 (Article 12) which delegates to the N.C. Department of Transportation the responsibility to regulate "junkyards" and "automobile graveyards" located on interstate and federal-aid primary system highways.

LAND PARCEL. A tract of land which is separately described by the Haywood County Land Records/GIS Office.

MOTOR VEHICLE. Any machine designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

MOTOR VEHICLE STORAGE AREA. One or more contiguous land parcels under common or separate ownership where junk motor vehicles are stored.

OPAQUE. Impervious to light.

RECYCLING FACILITY. A temporary or permanent site at which glass, aluminum cans, paper, plastic, clothes or similar materials commonly collected for recycling are collected and

moved off site or kept on site in enclosed buildings, storage bins, solid waste containers, truck trailers or other rolling stock.

SERVICE STATION. An establishment which is maintained and operated for the purpose of making mechanical repairs, servicing and/or washing of motor vehicles.

USED CAR LOT. An establishment which is maintained and operated for the purpose of selling used automobiles under a license issued by North Carolina Division of Motor Vehicles.

VECTOR. An organism that carries pathogens from one host to another.

VEGETATION. All season or evergreen vegetation including evergreen trees with leaves or foliage at all seasons of the year. Examples are white pine, southern yellow pine, hemlock and spruce trees.

WIRE FENCE. A continuous, translucent, perforated barrier extending from the surface of the ground to a uniform height of not less than six feet from the ground at any given point, constructed of wire, steel or nylon mesh, or any substance of a similar nature and strength, but which perforations or openings are no larger than 16 square inches.

WRECKER SERVICE. A land parcel which is used for the purpose of storing motor vehicles. (Ord. passed 10-06-97; Am. Ord. passed 05-01-00; Am. Ord. passed 11-7-22)

§ 114.02 FINDINGS, PURPOSES AND OBJECTIVES.

It is hereby found that automobile graveyards and health-nuisance or safety-hazard vehicles are inherently dangerous and should be prohibited. It is further found that junkyards, service stations, garages, used car lots, wrecker services, or motor vehicle storage areas should be regulated for the benefit of the public, including:

- (1) To promote the health, safety and welfare of the citizens of Haywood County;
 - (2) To protect citizens and residents from hazardous and unsightly conditions;
 - (3) To promote or enhance property values throughout the county;
 - (4) To attract tourists and promote the prosperity, economic well-being and general welfare of the county;
 - (5) To protect surface and groundwater quality; and
 - (6) To preserve and protect the natural environment in Haywood County.
- (Ord. passed 10-06-97; Am. Ord. passed 05-01-00; Am. Ord. passed 11-7-22)

§ 114.03 GEOGRAPHIC COVERAGE.

These regulations shall be in effect in all unincorporated portions of Haywood County which are not under the jurisdiction of any municipality.
(Am. Ord passed 08-21-06)

§ 114.04 GENERAL STANDARDS.

(A) All junkyards which are established from and after the original effective date of this chapter (November 1, 1997) and any service station, garage, used car lot, wrecker service, or motor vehicle storage area shall meet the following standards:

- (1) A minimum setback of 30 feet from any public or private road surface and outside the right of way of any public or private road; and
- (2) Screened as herein provided, or not visible from the main-traveled way and adjacent properties at any season of the year, or fenced, or fenced and screened and maintained as provided for in § 114.07, subsection (B); and
- (3) Not be located closer than 500 feet of a residence, school or business; and
- (4) Have a 50 foot vegetative buffer from all perennial streams or water bodies as shown on the U.S.G.S. topographic map.

(B) The following criteria shall be applicable to pre-existing junkyards which are registered within 180 days of November 1, 1997 (the original effective date of this chapter) and service stations, garages, used car lots, wrecker services, or motor vehicle storage areas that are registered within 30 days of May 1, 2000. No portion of any such junkyard, service station, garage, used car lot, wrecker service, or motor vehicle storage area shall be operated, maintained or expanded, except those meeting at least one of the following conditions:

- (1) Those which are screened by natural land features or vegetation, berms, plantings, fences or other appropriate means which sufficiently preserves the policy and intent of this chapter, or are screened and/or fenced in accordance with § 114.07; or
- (2) Those which are located where the topography and terrain of adjacent lands is such that screening would be ineffective or useless. In these instances, the Enforcement Officer may waive all or part of the fencing or screening requirements, but shall require fencing and screening insofar as is practical and feasible, at all points where such fencing and/or screening shall be necessary to screen or partially screen the view of the property or a health nuisance or safety hazard vehicle as defined by this chapter.

(C) Automobile graveyards are prohibited.
(Ord. passed 10-06-97; Am. Ord. passed 05-01-00; Am. Ord. passed 11-7-22)

§ 114.05 ADDITIONAL STANDARDS.

All junkyards, service stations, garages, used car lots, wrecker services, and motor vehicle storage areas which are established from and after the effective date of this chapter (November 1, 1997), or that have been issued a current valid permit to establish, operate or maintain a junkyard, as provided in § 114.10 hereof shall meet the following additional standards:

(1) **JUNKYARDS** that store more than ten junk motor vehicles, for more than thirty days, shall meet the fencing and screening requirements of § 114.07 and registration and permit requirements of § 114.09.

(2) **SERVICE STATIONS** that store more than three junk motor vehicles, for more than thirty days, shall meet the fencing and screening requirements of § 114.07 and registration and permit requirements of § 114.09.

(3) **GARAGES** that store more than three junk motor vehicles, for more than thirty days, shall meet the fencing and screening requirements of § 114.07 and registration and permit requirements of § 114.09.

(4) **USED CAR LOTS** that store more than three junk motor vehicles, for more than thirty days, shall meet the fencing and screening requirements of § 114.07 and registration and permit requirements of § 114.09.

(5) **WRECKER SERVICES** that store more than three junk motor vehicles, for more than thirty days, shall meet the fencing and screening requirements of § 114.07 and registration and permit requirements of § 114.09.

(6) **MOTOR VEHICLE STORAGE AREAS** that store more than three junk motor vehicles, for more than thirty days, shall meet the fencing and screening requirements of § 114.07 and registration and permit requirements of § 114.09.

(Ord. Passed 10-06-97; Am. Ord. passed 05-01-00)

§ 114.06 EXEMPTIONS.

The following are exempted from regulation by this chapter:

(1) Recycling facilities using enclosed structures or solid waste containers, bins, truck trailers and rolling stock to store materials and equipment; or

(2) Any bona fide farm; or

(3) Motor vehicles that are not visible from outside an enclosed building and are listed as taxable personal property in the Haywood County Tax Assessors Office; or

(4) Abandoned vehicles as defined in G.S. § 153A-132.

(Ord. Passed 10-06-97; Am. Ord. passed 05-01-00)

§ 114.07 FENCING AND SCREENING REQUIREMENTS.

All new and pre-existing facilities, land parcels, or activities regulated in accordance with this chapter shall be operated subject to the following fencing and screening conditions:

(A) New land parcels created, activities commenced or facilities established after the original effective date of this chapter (November 1, 1997) shall comply with this Chapter by registering, obtaining a permit, meeting the requirements of § 114.04 (A) and meeting the following fencing and screening requirements of this section:

(1) The facility, parcel, or activity shall be entirely surrounded by:

(a) an opaque fence at least six feet in height; or

(b) by either a woven or welded wire (14 gauge minimum) fence at least six feet in height; or

(c) chain link fence a minimum of six feet in height.

With respect to (b) and (c) above, there shall be vegetation that is at least three feet high and no more than six feet apart when planted. The vegetation shall be planted at the time the facility begins operation, or at the next appropriate planting time. The fence and vegetation shall surround the minimum area necessary for the facility to not be visible from a point at the same elevation as the facility. The vegetation shall be planted on the outbound side of the fence, contiguous to, and not more than eight feet from the fence. The vegetation shall be maintained as a continuous, unbroken hedgerow for the period the property is used as a regulated facility. Each owner, operator, or maintainer of a facility shall utilize good horticultural 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.

(2) All operations, equipment, junk and/or junk motor vehicles shall be kept within the confines of the fence or enclosed building at all times.

(B) Pre-existing activities regulated and operating with a proper business license or valid tax number from the North Carolina Department of Revenue on the effective date of this chapter (November 1, 1997) shall comply with this chapter by obtaining a permit as provided in § 114.09 and meeting the requirements for pre-existing service stations, garages, used car lots, wrecker services, junkyard, or motor vehicle storage areas, as set forth in § 114.04, General Standards, subsections B(1) or B(2), or meeting one of the following conditions:

(1) Remove all junk, vehicles or equipment that may be located within 15 feet of a public or private road surface to an area further than 15 feet from the road surface; and install a fence with an all-season vegetation screening between junk materials and property lines; or

(2) Screen and fence the junkyard in accordance with the screening and fencing provisions of § 114.07 (B) for new junkyards; provided, however, if topography renders fencing and screening useless and ineffective, the Enforcement Officer may waive all or part of the fencing and screening requirements as provided in § 114.04 (B)-(3) of this chapter; or

(3) Place in an enclosed building all items regulated by this chapter.
(Ord. passed 10-06-97; Am. Ord. passed 05-01-00; Am. Ord. passed 11-7-22)

§ 114.08 MAINTENANCE.

All junkyards, service stations, garages, used car lots, wrecker services, or motor vehicle storage areas shall be maintained to protect the public from health nuisances and safety hazards. The Enforcement Officer shall inspect each facility once each year to determine that the chapter provisions are being followed. The Enforcement Officer may call upon the health department for advice and consultation as needed regarding vector or rodent problems. Should vectors be identified, the owner/operator/maintainer shall be notified of a violation in writing. Within 30 days of the receipt of the letter, the owner/operator/maintainer shall submit satisfactory evidence to the health department that vectors have been eliminated. 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 § 114.13.

(Ord. passed 10-06-97; Am. Ord. passed 05-01-00)

§ 114.09 REGISTRATION AND PERMITTING OF PRE-EXISTING JUNKYARDS, SERVICE STATIONS, GARAGES, USED CAR LOTS, WRECKER SERVICES, AND MOTOR VEHICLE STORAGE AREAS.

All owners, operators or maintainers of junkyards existing on the original effective date of this chapter (November 1, 1997) shall register same with the Enforcement Officer within a period of 180 days beginning with the effective date of this chapter. All owners, operators or maintainers of service stations, garages, used car lots, wrecker services, and motor vehicle storage areas shall register same with the Enforcement Officer within 30 days from May 1, 2000. All existing junkyards, service stations, garages, used car lots, wrecker services, and motor vehicle storage areas that have not been registered within the stated time shall be in violation of this chapter. Following registration, a permit shall be applied for and obtained as provided for in § 114.11.

(Ord. passed 10-06-97; Am. Ord. passed 05-01-00; Am. Ord passed 11-7-22)

§ 114.10 NON-CONFORMING PRE-EXISTING JUNKYARDS, SERVICE STATIONS, GARAGES, USED CAR LOTS, WRECKER SERVICES, AND MOTOR VEHICLE STORAGE AREAS.

(A) All existing junkyards at the original effective date of this chapter, registered in accordance with the preceding section, shall be granted a compliance period of 12 months from the effective date of registration to conform to the chapter. All existing junkyards that have not registered within

this period shall be in violation of this chapter. The Enforcement Officer shall monitor such facility at least annually.

(B) All service stations, garages, used car lots, wrecker services, and motor vehicle storage areas existing at the original effective date of this chapter (November 1, 1997), registered in accordance with § 114.09, shall be granted a compliance period of 90 days from the effective date of registration to conform to the chapter. All existing facilities that have not registered within this period shall be in violation of this chapter. The Enforcement Officer shall monitor each facility at least annually.

(Ord. passed 10-06-97; Am. Ord. passed 05-01-00; Am. Ord 11-7-22)

§ 114.11 PERMIT REQUIRED.

No person, firm or business entity shall establish, operate or maintain a junkyard, service station, garage, used car lot, wrecker service, or motor vehicle storage area at any single location without obtaining a permit for that location. Application for the permit shall be made to the Enforcement Officer, on such forms as it prescribes. A plan prepared by the applicant shall be submitted as part of the permitting process.

The plan shall indicate setbacks, location of road rights-of-way, all proposed or existing structures, driveways, entrances, fencing, screening, types of fencing, types of screening, dimensions, gross acreage, owner(s) names(s), address(es), preparer of plan name(s) and address(es). Plans may be drawn to scale or freehand with distances marked, on paper large enough to show details.

No expansion, whether pre-existing or newly permitted, may be undertaken until a permit as a new facility is first obtained in accordance with this Section.

(Ord. passed 10-06-97; Am. Ord. passed 05-01-00; Am. Ord. 11-7-22)

§ 114.12 ENFORCEMENT PROVISIONS.

This chapter shall be enforced by the Enforcement Officer. The Officer may call upon other agencies, departments, or offices as necessary to assist in the enforcement of this chapter.

In addition, whenever the Officer receives a written complaint alleging a violation of this chapter, the Officer shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken. The complainant shall provide their name, address, and telephone number upon making a written complaint.

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 junkyard, service station, garage, used car lot, wrecker service, junkyard, or motor vehicle storage area that is contrary to the requirements of this chapter, shall be held responsible for the violation of this chapter and shall suffer the penalties and be subject to the remedies herein provided.

The following procedure shall apply upon discovery of a violation:

- (1) The Enforcement Officer shall give a written notice of violation to the responsible party, in accordance with the provisions of N.C. G.S. Chapter 160D-404. In an appropriate case, the Enforcement Officer may issue a stop-work order in accordance with N.C. G.S. Chapter 160D-404(b) and seek the remedies of Chapter 160D-404(c).
- (2) Appeals from the decisions of the Enforcement Officer may be made to the County Board of Commissioners in accordance with Chapter 160D-405 and -406.

(Ord. passed 10-06-97; Am. Ord. passed 05-01-00; Am. Ord. passed 7-19-21)

§ 114.13 PENALTIES AND REMEDIES FOR VIOLATIONS.

Any act constituting a violation of the provisions of this chapter or a failure to comply with any of its requirements shall subject the offender to a civil penalty of \$25.00 per violation. Each day shall constitute a separate violation. If the offender fails to pay this penalty within 10 days after being served with a notice of violation, the penalty may be recovered by the county in a civil action in the nature of a debt. Notice of penalties shall be in writing and issued by the Enforcement Officer.

This chapter may also be enforced by appropriate equitable action. Such remedy may include court order of abatement as part of a judgment in the cause. The abatement order may include actions required to make the facility, land parcel or activity comply with the provisions of this chapter at the owner's expense.

Any one, all, or combination of the foregoing penalties and remedies may be used to enforce this chapter. In addition to the foregoing enforcement provisions, this chapter may be enforced by any remedy provided in G.S. § 153A-123, including, but not limited to, all appropriate equitable remedies provided in G.S. § 153A-123(d) and particularly the remedy of injunction and order of abatement as allowed in G.S. §153A-123(e).

Any building permit(s) associated with property that has a permit may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the permit holder fails to develop or maintain the property in accordance with the plans submitted, the requirements of this chapter, or any additional requirements lawfully imposed.

Before such other permit(s) may be revoked, the permit holder shall be given 10 days written notice of intent to revoke a permit. The notice shall inform the holder of the reasons for the revocation and of the right to obtain an informal hearing on the allegations before the County Manager. If any permit is revoked, the Enforcement Officer shall provide to the permittee a written statement of the decision and the reasons why the action has been taken.

(Ord. passed 10-06-97; Am. Ord. passed 05-01-00; Am. Ord. passed 1-3-22; Am. Ord. passed 11-7-22)

§ 114.14 APPEALS AND VARIANCES.

- (A) Unless otherwise provided, appeals from any action taken by the Enforcement Officer shall be filed with the Board of Commissioners within 10 days of receipt of notice of such action. The Board of Commissioners shall consider the matter in accordance with the provisions of G.S. 160D-406 as a quasi-judicial proceeding.

The Board of Commissioners may authorize relief from these provisions when, in its opinion, undue hardship may result from strict compliance.

In considering the matter, the Board of Commissioners shall be governed by the conflict-of-interest provisions of G.S. 160D-109.

- (B) The Board of Commissioners may authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship. Such variance may be granted as a quasi-judicial decision in individual cases upon a finding by the Board of Commissioners that all of 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 similar facilities governed by this chapter;

- (2) Granting the variance requested will not confer upon the applicant any special privileges that are denied to operators of similar facilities governed by this chapter;

- (3) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other operators of similar facilities governed by this chapter;

- (4) The requested variance will be in harmony with the purpose and intent of this chapter and will not be unduly injurious to the neighborhood or to the general welfare; and

- (5) The variance requested is the minimum variance that will make possible a reasonable legal use of the land in question.

A copy of the decision by the Board of Commissioners shall be prepared and furnished to the applicant within 10 days of its rendition. In granting any variance, the Board of Commissioners may prescribe appropriate conditions and safeguards to insure conformity with this chapter. Violation of such condition and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

- (C) The decision of the Board of Commissioners on any appeal from the Enforcement Officer or request for variance may be appealed to the Superior Court of Haywood County in accordance with the provisions of G.S. 160D-406(k), in the nature of certiorari, within 30 days after the later of the following occurrences:

(1) A written copy of the Board of Commissioners decision has been filed in the office of the Enforcement Officer; and

(2) A written copy of the Board of Commissioners decision has been delivered, by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy prior to or at the hearing of the case.

A copy of the petition for writ of certiorari shall be served upon the county through the office of the County Manager.

(Ord. passed 10-06-97; Am. Ord. passed 05-01-00; Am. Ord. passed 7-19-21; Am. Ord. passed 11-7-22)

§ 114.15 SEVERABILITY.

Should any section or provision in this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional. (Ord. passed 10-06-97; Am. Ord. passed 05-01-00)

§ 114.16 EFFECTIVE DATE AND REVISION OF ORIGINAL ORDINANCE

This revised ordinance revises and supplants the ordinance in Chapter 114 originally adopted October 6, 1997, and all subsequent amendments, and shall be effective on and after November 7, 2022.