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Model Junkyard Ordinance

Lydia Doyle
Fall 2007

Land Use Clinic
university of georgia
School of Law and School of Ecology

The **UGA Land Use Clinic** provides innovative legal tools and strategies to help preserve land, water and scenic beauty while promoting creation of communities responsive to human and environmental needs. The clinic helps local governments, state agencies, landowners, and non-profit organizations to develop quality land use and growth management policies and practices. The clinic also gives UGA law students an opportunity to develop practical skills and provides them with knowledge of land use law and policy.

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Model Junkyard Ordinance

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Model Junkyard Ordinance

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Introduction

Every community needs access to a junkyard. Junkyards buy and recycle junk, notably cars, but they may also accept other appliances or mechanical equipment.[1] Junkyards buy cars, and/or other vehicles and appliances, which are damaged or malfunctioning beyond repair. They sell the usable parts to consumers and the remaining scrap metal to metal recycling companies.[2] Junkyards are a legitimate business interest and are not necessarily nuisances under the law per se.[3]

However, although junkyards provide a necessary service they are not always welcomed by neighbors, especially when they are close to homes, schools, churches or offices.[4] Junkyards can create nuisances such as noise and vibrations.[5]

This paper is designed to provide an overview of junkyard regulation in Georgia as it currently exists on the federal, state and local level. Following this summary of junkyard regulation is a model junkyard ordinance to be used by communities in Georgia as guidance or the basis for their junkyard ordinances.

1 Wikipedia, *Wrecking Yard* (Oct. 8, 2007), http://en.wikipedia.org/wiki/Wrecking_yard.

2 *Id.*

3 *Jasper v. Commonwealth*, 375 S.W.2d 709, 710-711 (1964).

4 Interview with Faye Bush, President, Newtown Florist Club in Gainesville, Ga. (Oct. 11, 2007).

5 *Id.*

Overview of Junkyard Regulations

Regulations surrounding junkyards are not new. In fact, they have been in existence since the early 20th century.[6] Junkyard ordinances have included provisions such as total exclusion from a city, setback requirements, restriction to particular areas and screening requirements.[7] Junkyard ordinances were originally written with health and safety in mind.[8] However, spurred in part by the Federal-Aid Highway Act, these regulations came to be driven by aesthetic considerations as well.[9]

While junkyard regulations and their interpretation and validity vary from state to state there are some general principles that have been almost universally upheld. First, regulation of junkyards is a proper exercise of a state government's police power.[10] Second, requirements that a junk dealer be licensed are valid unless administrative authorities have unlimited discretion to grant or deny the license and such authorities have abused that discretion in the past.[11] Licensing requirements have also been held invalid if the law requires the person seeking the license to get permission from neighboring landowners or if the specific licensing provision is found to be "prohibitory or discriminatory in [its] operation."[12] Third, fee provisions are generally upheld unless they are found to be unreasonable in that they exceed actual administrative costs.[13] Finally, regulations requiring

6 Jesse Dukeminier, *Zoning for Aesthetic Objectives: A Reappraisal,* 20 Law & Contemp. Prob. 218, 235 (1955) as cited in Matthew Bender & Co., Inc., Zoning and Land Use Controls §16.06(3)(c) (2007).

7 *Donovan v. Board of Zoning Appeals of Rockingham County*, 467 S.E.2d 808 (Va. 1996) as cited in Matthew Bender & Co., Inc., Zoning and Land Use Controls §16.06(3)(c) (2007). *See also Cox v. Township of New Sewickley*, 284 A.2d 829 (Pa. 1971) and *Delmar v. Planning and Zoning Bd. of the Town of Milford*, 109 A.2d 604 (Conn. 1954) as cited in Matthew Bender & Co., Inc., Zoning and Land Use Controls §16.06(3)(c) (2007).

8 Jesse Dukeminier, *supra* note 6.

9 *Id.*

10 R.D. Hursh, *Regulation of Junk Dealers*, 45 A.L.R.2d 1391 (2007).

11 *Id.*

12 *Id.*

13 *Id.*

junkyard dealers to keep records and make reports of items bought by the junkyard have been upheld as a valid exercise of the police power.[14]

Regulation of junkyards is primarily a matter of state or local concern with the important exception of the Federal-Aid Highway Act.[15] The Act was passed in 1965 and provides that the

> establishment, use and maintenance of junkyards in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.[16]

The Act prohibits junkyards within 1,000 feet of the nearest edge of the right-of-way.[17] The law also requires that junkyards be screened so they are not visible from the public right-of-way.[18] These screens may be constructed using natural material, vegetation or fencing.[19] The Act provides that states will have their funding for Federal-aid highways reduced every year that the those states are out of compliance with this Act. [20]

In the Junkyard Control Act, the State of Georgia codified at the state level the federal law prohibiting junkyards within 1000 feet of a federal highway.[21] Any junkyard must be screened from the federal highway if it would otherwise be visible from the thoroughfare.[22] The Act further provides that any junkyard that came into existence after 1967 that cannot conform to the act will be considered a public nuisance that may be removed at the owner's expense.[23]

There has been little guidance from the Georgia courts or legislature concerning junkyard control. The Georgia Constitution gives local governments broad authority to enact zoning regulations or to exclude uses from particular districts altogether.[24] Courts have held that junkyards may be the subject of zoning regulations as part of the traditional police power functions.[25]

The case of *Shurman v. Atlanta* is an early case from the Georgia Supreme Court that addresses issues surrounding junkyard ordinances.[26] This case originated when people were robbing abandoned houses in Atlanta, stealing fixtures, hardware, plumbing, electric and gas fixtures and other articles in the house and selling them to junk dealers.[27] To solve this problem, the City of Atlanta enacted a junkyard ordinance to regulate junkyards and the purchase of junk.[28]

The *Shurman* court held that regulating junkyards is a valid exercise of the police power.[29] The court said that a provision that required junk dealers to determine whether the people selling the junk to the junk dealers had a legal right to do so was not arbitrary. [30] The court also held that naming junk dealers as a unique class does not constitute a violation of the equal protection and due process clauses because of the concern that junkyards may provide a market for a certain type of stolen goods.[31]

Shurman was relied on in the case of *Rockdale County v. Mitchell's Used Auto Parts, Inc*.[32] In this case the court upheld the idea that the regulation of junkyards is a permissible exercise of a local government's police power.[33] However, the court emphasized that the Constitution requires that the provisions of the ordinance "not be unreasonable, arbitrary or capricious, and that the means adopted have some real and substantial relation to the object to be

14 *Id.*
15 23 U.S.C.S. §136 (2007).
16 23 U.S.C.S. §136(a) (2007).
17 23 U.S.C.S. §136(b) (2007).
18 23 U.S.C.S. §136(c) (2007).
19 *Id.*
20 *Id.*
21 O.C.G.A. §32-6-242 (2007).
22 *Id.*
23 O.C.G.A. §32-6-244(b) (1967).
24 Ga. Const. Art. IX, §II, Para. IV (2007).
25 *Rockdale County v. Mitchell's Used Auto Parts, Inc.,* 243 Ga. 465 (1979).
26 148 Ga. 1 (1918).
27 *Id.* at 10.
28 *Id.*
29 *Id.*
30 *Id.* at 12.
31 *Id.*
32 243 Ga. 465 (1979).
33 *Id.*

attained."[34] The court noted that while there was no Georgia case on point, other jurisdictions have upheld similar fencing and screening requirements to those in *Rockdale*. The case did not specify those fencing and screening requirements.[35]

In *Lithonia Asphalt Co. v. Hall County Planning Commission* the Georgia Supreme Court held that Hall County's heavy industrial zoning ordinance was invalid. [36] The *Lithonia Asphalt* case provides guidance in the case of junkyards because, while the case actually dealt with construction of an asphalt plant, the invalidated ordinance provision specifically included junkyards. [37] The provision of the ordinance at issue, §15(A)(3), stated:

> Uses permitted inherently…Any industrial use provided that the use, such as a poultry processing plant, junk yard, chemical plant, cement plant, oil storage facility or foundry, which may cause injurious or obnoxious noise, vibrations, smoke, gas, fumes, odors, dust, fire hazard, or other objectionable conditions shall require a finding by the Planning Commission that the proposed location, construction, and operation will not injure unduly the surrounding developments or the community either present or future.[38]

The court held that §15(A)(3) of the ordinance was invalid because it was overly vague and did not contain sufficient objective standards and guidelines to meet the requirements of due process.[39]

Zoning regulations in general, and junkyard ordinances in particular, have long been the subject of debate and litigation. Modern rules, particularly in Georgia, grant local governments broad authority to enact land use regulations. So long as the ordinance is a valid exercise of the police powers and is reasonable rather than arbitrary and capricious, there is a good chance that the regulation will be upheld in a Georgia court.

34 *Id.*

35 *Id.*

36 258 Ga. 8 (1988).

37 *Id.* at 9.

38 *Id.*

39 *Id.*

Using the Model Junkyard Ordinance

This model junkyard ordinance is designed to provide guidance to local governments in the creation of their junkyard regulation. The model could be adopted in whole or in part by a local government as its junkyard ordinance. It draws some of its provisions from existing junkyard ordinances in Polk County, North Carolina; Union County, Georgia; and Lee County, Georgia. The provisions from these ordinances were chosen because they are clear and effectively balance public and private interests.

The blanks in the ordinance are present because each local government has different names for their zoning authority or the body that will review junkyard plans and address the concerns set forth in the ordinance. These blanks should be filled by each local government to reflect the commission or authority charged with each enumerated task.

The numbers set forth in the model ordinance regarding setbacks, buffers, fencing height, etc. are designed to strike a balance between protecting the health, safety and welfare of the public and the property rights of junkyard owners and their right to operate a legitimate and legal business. These numbers may be modified based on the specific concerns or conditions in a particular locality, but this balance between public and private interests should be maintained.

Junkyards should be set back from particular uses, such as residences, because proximity of a junkyard to these uses would particularly impact the public health, safety or welfare. The vegetation and fencing requirements along with the required setbacks are designed to shield junkyards from the public's view. These setback and screening requirements are designed to protect the public investment in public roadways[40] as well as protect property values of neighboring landowners. The vegetation surrounding the junkyard is intended to not only screen the junkyard from public roadways and neighboring properties, but to also improve the overall aesthetics of the site and the area.

40 U.S.C.S. §136(a) (2007).

New junkyards are required to obtain a permit under the model ordinance while existing junkyards must register within 90 days of enactment of the model ordinance. Existing junkyards are required to register under the model ordinance so that the local government will have a record of the junkyards in existence at the time the ordinance was enacted. These records will help in case one of these junkyards later decides to undergo an expansion or substantial modification. Because the model ordinance requires existing junkyards that undergo an expansion or substantial modification to comply with the ordinance's screening and setback requirements, it will help the local government to have a record as to the size and operations of the facility at the time the ordinance was enacted.

The model ordinance calls for a permit application fee. This fee should be determined based on the actual amount necessary to administer and enforce the permitting scheme.[41] The U.S. Supreme Court has upheld fees intended to reimburse the permitting authority for the costs of administering the permitting scheme so long as the fee is not a revenue measure.[42] In Georgia, the rule is that no local government can use regulatory fees to raise revenue for general purposes.[43] The amount of the regulatory fee must approximate the reasonable cost of the local government in carrying out the regulatory activity.[44] Therefore, the permit fee called for in the model ordinance should be set by the government enacting that provision to reflect the actual cost of administering the permit scheme in that locality.

The model ordinance also includes a provision for civil penalties. This is a fine against the junkyard for every day that it is in noncompliance with the ordinance. The amount of the civil penalty is left blank but should be filled in by the local government with a figure that is consistent with the penalty provisions in the local government's other ordinances.

41 *I.D.K., Inc. v. Ferdinand,* 277 Ga. 548, 551 (2004).

42 *Cox v. New Hampshire,* 312 U.S. 569, 576-577 (1941).

43 O.C.G.A. §48-13-9(a) (2007).

44 *Id.*

Model Junkyard Ordinance

Section 1 - Purpose

To promote the public health, safety and welfare; to protect and preserve the scenic and natural beauty of the area; to preserve property values and protect the integrity of the community; and to protect the public from health nuisances and safety hazards.[45]

Section 2 - Applicability

1. This ordinance applies to all junkyards created, expanded or substantially modified after the date this ordinance is enacted. Junkyards that exist as of the date this ordinance is enacted are grandfathered as prior nonconforming uses so long as pre-existing junkyards register with _____ [office charged with granting permits] within ninety (90) days of enactment of this ordinance.
2. Bona fide service stations, garages and recycling centers using enclosed structures or solid waste containers shall be exempted from this ordinance.[46]

Section 3 - Authority

The _____ [local authority enacting the ordinance] enacts this ordinance under Georgia Constitution Article IX, Section 2, Paragraphs I-II which grant the governing authority of each county and municipality the power to adopt ordinances designed to promote the public health, safety and general welfare of its citizenry.[47]

Section 4 - Definitions

The following words, terms and phrases shall have the meaning ascribed to them in this section.

Abandoned motor vehicle: a motor vehicle that 1) is physically inoperable, or missing essential parts to be operable, and has been stored on public property for more than 48 hours; 2) lacks a current license plate and is not stored within a completely enclosed structure or is not currently for sale and stored at a facility licensed for such sales.[48]

Expansion: an increase in the size or scope of the junkyard. An expansion includes, but is not limited to, an increase in the total amount of space devoted to use by the junkyard, the placement and/or use of additional machinery or an addition of services offered onsite.[49]

Garage: 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.

Junk: any motor vehicle, appliance, scrap material or other item that is in a condition which prevents its use for the purpose for which it was originally manufactured.[50]

Junkyard: any lot, land, parcel, building or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage or disposal of junk.[51]

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45 Polk County, N.C., Junkyard Ordinance §1-1 (2006).

46 *Id.* §1-4.

47 Lee County, Ga., §38-2 (2007).

48 Harvey S. Moskowitz & Carl G. Lindbloom, *The Latest Illustrated Book of Development Definitions* 251 (2004).

49 Michael B. Brough, *A Unified Development Ordinance* 65 (1985).

50 Lee County, Ga., *supra* note 51 §70-6.

51 Harvey S. Moskowitz, *supra* note 52, 214.

Nuisance: Anything within the county or municipality or its police jurisdiction that works hurt, inconvenience or damage to others or tends to the immediate annoyance of the citizens or is manifestly injurious to the public health or safety.[52]

Public road: any road maintained or funded by the federal, state or local government.

Recycling center: 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 or other storage facilities.[53]

Residence: 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.[54]

School: any building or part thereof that is designed, constructed, or used for education or instruction in any branch of knowledge.[55]

Screen: a method of visually shielding or buffering one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.[56]

Service station: 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 and/or servicing of motor vehicles.

Setback: the shortest straight line distance between a street right-of-way or lot line and the nearest point of a structure or building or projection therefrom.[57]

Substantial modification: a material change or alteration to the site or operations of the junkyard. A substantial modification includes, but is not limited to, a change in the layout of structures, machinery and junk on the site; a change in the volume, intensity or frequency of use of the property; or a change in the operations taking place on the site.[58]

Vegetation: evergreen vegetation.[59]

Visible: capable of being seen by a person of normal acuity.[60]

52 Lee County, Ga., *supra* note 51 §34-31.

53 Polk County, N.C., *supra* note 49 §1-3.

54 *Id.* §1-3.

55 Harvey S. Moskowitz, *supra* note 52, 340.

56 *Id.*

57 Gainesville, Ga., Code, §9-2-2 (2005).

58 Michael B. Brough, *supra* note 53, 66.

59 Harvey S. Moskowitz, *supra* note 52, 340.

60 Union County, Ga., Junk yard Regulation Ordinance §2 (2006).

Section 5 - Required Permit

1. A permit shall be required to create, expand or substantially modify any junkyard. No person shall establish, operate or maintain a junkyard without first obtaining a permit.[61]
2. A permit shall be required for any expansions or substantial modification of new and existing junkyards.[62]
3. No permit is required for junkyards existing at the time of enactment of this ordinance, however existing junkyards are required to register with _____ [office charged with granting permits] within ninety (90) days of enactment of this ordinance.[63]

Section 6 - Permit Application

1. A permit application for the creation, expansion or modification of a junkyard shall be made to _____ [office designated to receive permit applications].
2. A plan detailing the proposed new junkyard, expansion or modification shall be included with each permit application. This plan shall include:
   a. Setbacks;
   b. Location of public rights-of-way;
   c. All structures within three-hundred (300) feet of the junkyard;
   d. Driveways;
   e. Entrances;
   f. Current and proposed structures;
   g. Screening;
   h. Buffers;
   i. Gross acreage of the site;
   j. Owner's name and address; and,
   k. The preparer of the plan's name and address.

   The _____ [permit review authority] may require additional information regarding the plans depending on site specific concerns such as topography or neighboring properties.[64]
3. All permit applications shall include a $____ permit fee.[65] [Amount adjustable based on the actual cost of reviewing plans.]
4. When a junkyard is sold, the new owner shall notify _____ [permit department] within thirty (30) days of any change in ownership and provide the department with their name and contact information.

Section 7 – Control Provisions

The following criteria shall apply to all new junkyards:

1. Junkyards shall be set back at least five hundred (500) feet from any preexisting single family residential district, multifamily residential district, school, church, public building, public recreation facility, hospital, nursing home or day care facility. On-site residences of the owner or operator are exempted from this provision.[66]
2. Junkyards shall have a minimum setback from the front property line to the fence of twenty (20) feet. There shall be a minimum setback from the side and rear property lines to the fence of fifteen (15) feet.[67]

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61 Polk County, N.C., *supra* note 49 §2-5.

62 *Id.*

63 *Id.* §2-6.

64 *Id.* §2-5.

65 Union County, Ga., *supra* note 64 §4.3.

66 Union County, Ga., *supra* note 64 §3.1(c) *see also* Polk County, N.C., *supra* note 49 §3-1(b)(2).

67 Union County, Ga., *supra* note 64 §3.1(b) *see also* Polk County, N.C., *supra* note 49 §3-1(b)(1).

3. In compliance with state and federal statute, junkyards shall not be visible from a state or federally funded or maintained thoroughfare at any time of year.[68]
4. Junkyards shall be surrounded by an opaque wood or masonry fence at least seven (7) feet in height.[69]
5. In addition to the fence, junkyards shall be completely surrounded by vegetation that provides a year-round opaque screen that may reasonably be expected to be at least six (6) feet tall within four (4) years of planting. Plants shall be placed at regular intervals so as to provide a continuous hedgerow without gaps or open spaces. The vegetation shall be maintained as a continuous unbroken hedgerow for the entire period the property is used as a junkyard and shall be planted not more than four (4) feet outside of the required fence. Dead or diseased foliage shall be replaced at the next appropriate planting time. Each owner, operator or maintainer of a junkyard shall use good husbandry techniques, such as pruning and fertilizing, to maintain maximum density and foliage.[70]
6. The required fence shall enclose all operations, equipment, junk and inoperable motor vehicles at all times unless the junk, equipment or inoperable motor vehicles are in transport to or from the site.[71]
7. All junkyards shall be maintained to protect the public from health and safety nuisances and hazards.[72] Types of maintenance actions may include upkeep of the vegetative screen, maintenance of the fence so that there are no holes, keeping all junk and operations within the confines of the fence and keeping machinery in good working order.

Section 8 - Existing Junkyards

1. Junkyards existing at the time of enactment of this ordinance shall be grandfathered as prior nonconforming uses so long as the junkyard is registered within ninety (90) days of enactment of this ordinance. There shall be no fee to register an existing junkyard. To register an existing junkyard the owner or operator must provide the following:
   a. Name and address of the owner and operator;
   b. Date junkyard was created or founded;
   c. Location and/or address of the junkyard;
   d. Size of the junkyard; and,
   e. A detailed description or list of operations currently taking place on the site.
2. Should a pre-existing junkyard undergo an expansion or substantial modification it shall be subject to the setback and screening requirements provided in Section 7 of this ordinance.

Section 9 - Variances

The _____ [local body that issues variances] may authorize, upon appeal in specific cases, such variance from the terms of this ordinance if it will not be contrary to the public interest. A variance may be granted where, owing to special conditions, a literal interpretation and enforcement of the provisions of this ordinance would, in an individual case, result in unnecessary hardship. A variance may be granted in such individual case of unnecessary hardship upon a finding by the [local body that issues variances] that the following conditions exist:[73]

1. The size, shape, topography or location of a particular piece of property creates extraordinary and exceptional conditions that are not present for other junkyards governed by this ordinance;[74]

68 Polk County, N.C., *supra* note 49 §3-1(b)(3).

69 Union County, Ga., *supra* note 64 §3.1(e) *see also* Polk County, N.C., *supra* note 49 §3-2(2)(a).

70 Polk County, N.C., *supra* note 49 §3-2(2)(a).

71 *Id.* §3-2(2)(b).

72 *Id.* §3-3(a).

73 Polk County, N.C., *supra* note 49 §2-3(b).

74 *Id.* §2-3(b)(1).

2. Granting the variance will not give the applicant any special privileges that are denied to other junkyard owners or operators governed by this ordinance;[75]
3. A literal interpretation of the provisions of this ordinance would deny the junkyard owner or operator of rights commonly enjoyed by other junkyard owners or operators governed by this ordinance;[76]
4. The requested variance will be consistent with the purpose and intent of this ordinance and will not be injurious to the public health, safety or welfare;[77]
5. The special circumstances in question are not the result of action by the applicant or his agent or employee;[78] and,
6. The variance requested is the minimum variance that will make possible the legal and logical use of the land in question.[79]

In granting the variance the _____ [local board that issues variances] shall make written findings that the requirements of this section have been met. Written notice that the finding has been made shall be delivered to the address provided by the applicant. In granting any variance, the _____ [local board that issues variances] may prescribe appropriate conditions and safeguards to ensure conformity with the purpose and intent of 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.[80]

Section 10 - Enforcement

1. The _____ [local official] shall be 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 or verbal complaint alleging a violation of this ordinance, the administrator shall investigate the complaint, take whatever action is warranted, and inform the complainant what actions have been or will be taken.[81]
2. 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 ordinance.[82]
3. If the administrator finds that any provision of this ordinance is being violated, the administrator shall send or give 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 within which the violation shall be corrected. The violator shall be informed of right to appeal to the _____ [local appeals body].[83]
4. In cases where 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 by this ordinance.[84]

75 *Id.* §2-3(b)(2).
76 *Id.* §2-3(b)(3).
77 *Id.* §2-3(b)(4).
78 *Id.* §2-3(b)(5).
79 *Id.* §2-3(b)(6).
80 *Id.* §2-3.
81 *Id.* §2-1(a).
82 *Id.*
83 *Id.* §2-1(b)(1).
84 *Id.* §2-1(b)(2).

Section 11 - Penalties for Violations

Penalties for violation 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.[85]
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 $_____ per violation. If the offender fails to pay this penalty within ten (10) days after being cited for a violation, the penalty may be recovered by the County in a civil action in the nature of debt.[86]
3. Each day that any violation continues after notification by the administrator that such violation exists may be considered a separate offense for purposes of the penalties specified in this ordinance.[87]
4. Any junkyard owner found in violation of this ordinance shall, in addition to any fine imposed, be required to bring the junkyard into compliance with all provisions of this ordinance at the owner's expense.[88]
5. 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 _____ [local government]. 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 _____ [local appeals body]. If any relevant permit is revoked, the administrator shall provide to the permittee a written statement of the reasons for the decision.[89]

Section 12 - General Provisions

1. These rules and regulations shall be in full force from and after _____ [date of enactment].
2. All junkyards shall be subject to inspection by the _____ [local enforcement body] to ensure continued compliance with this chapter and other applicable federal, state and local laws.[90]
3. No provision of this ordinance shall be interpreted to create any power or conflict with federal or state laws which have preemptive effect.[91]
4. If any provision of this ordinance or its application is held invalid such finding shall not affect the other provisions of this ordinance. [92]
5. All laws, ordinances or parts thereof which conflict with this ordinance are hereby repealed.[93]

Disclaimer of Legal Advice

While this document is intended to assist jurisdictions in regulating junkyards, it not intended to provide a complete discussion of junkyard control. The law changes rapidly, and timely legal advice is essential in drafting ordinances. This publication is provided for general information only and is not a substitute for legal advice. Readers should consult with an attorney familiar with this area of law before taking action based on any information in this document.

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85 Polk County, N.C., *supra* note 49 §2-2(1) *see also* Union County, Ga., *supra* note 64 §7.3.

86 Polk County, N.C., *supra* note 49 §2-2(2).

87 *Id.* §2-2(4).

88 *Id.* §2-2(3).

89 *Id.* §2-2(6).

90 Union County, Ga., *supra* note 64 §4.4.

91 *Id.* §10.3.

92 *Id.* §10.1.

93 *Id.* §10.2.

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