

**STATE OF WEST VIRGINIA
SALVAGE YARDS**

§17-23-4. Areas where establishment prohibited; screening requirements; existing licensed yards; approval permit required; issuance; county planning commission criteria satisfied; fee.

On and after the effective date of this article: (1) No license shall be issued to establish a salvage yard or any part thereof within one thousand feet of the nearest edge of the right-of-way of any road within the state road system designated and classified or redesignated and reclassified as expressway, trunkline or feeder, or any road within the state road system designated and classified or redesignated and reclassified for purposes of allocation of federal highway funds as part of the federal-aid interstate or primary systems: *Provided*, That this limitation shall not apply to landfills established and maintained by the state or any county or municipality if such landfill is effectively screened and obscured by natural objects, plantings, fences or other appropriate means so as not to be visible from the main traveled way of the system; and (2) no license shall be issued to establish a salvage yard or any part thereof within five hundred feet of the nearest edge of the right-of-way of any state local service road, unless the view thereof from such state local service road shall be effectively screened and obscured by fences: *Provided, however*, That this limitation shall not apply to landfills established and maintained by the state or any county or municipality if such landfill is effectively screened and obscured by natural objects, plantings, fences or other appropriate means so as not to be visible from the main traveled way of the system; and (3) no license may be issued allowing a salvage yard within one thousand feet of the nearest occupied private residence, unless waived by the owner of such residence, or within five thousand feet of the nearest occupied private residence which is part of a residential community. The provisions of this paragraph, as amended, shall apply only to salvage yards licensed after the first day of April, one thousand nine hundred eighty-eight.

The license of any salvage yard duly issued under the former provisions of this article, which salvage yard or any part thereof on the effective date of this article, is: (1) Within one thousand feet of the nearest edge of the right-of-way of any road within the state road system designated and classified or redesignated and reclassified as expressway, trunkline or feeder, or any road within the state road system designated and classified or redesignated and reclassified for purposes of allocation of federal highway funds as part of the federal-aid interstate or primary systems; or is (2) within five hundred feet of the nearest edge of the right-of-way of any state local service road; or is (3) within one thousand feet of the nearest occupied private residence or within five thousand feet of the nearest occupied private residence which is part of a residential community, may be renewed only if the view of the said salvage yard and all parts thereof are effectively screened from the adjacent road by natural objects, plantings, fences or other appropriate means or a waiver is obtained from the owner of an occupied private residence. The provisions of this paragraph, as amended, shall apply only to salvage yards licensed after the first day of April, one thousand nine hundred eighty-eight.

Any salvage yard which, on the effective date of this article, is duly licensed under the former provisions of this article may be established or continue to be operated and maintained without screening by natural objects, plantings, fences or other appropriate means so long as any part of such salvage yard is: (1) Not located within

one thousand feet of any road within the state road system designated and classified or redesignated and reclassified as expressway, trunkline or feeder, or any road within the state road system designated and classified or redesignated and reclassified for the purposes of allocation of federal highway funds as part of the federal-aid interstate or primary systems; or is (2) not located within five hundred feet of the nearest edge of the right-of-way of any state local service road; or is (3) not located within one thousand feet of the nearest residence or within five thousand feet of the nearest occupied private residence which is part of a residential community. Notwithstanding any other provision of this section to the contrary, ownership of a salvage yard duly licensed under the former provisions of this article and continuously maintained and licensed since the first day of July, one thousand nine hundred eighty-eight, may be sold or otherwise transferred, and the salvage yard shall be eligible for relicensure and may continue to be operated under the same legal requirements that would have been applicable had the change in ownership not occurred.

On or after the first day of July, one thousand nine hundred eighty-four, any owner or operator establishing, operating or maintaining a salvage yard for which a license is required under the provisions of this article is hereby required to first obtain an approval permit from the county planning commission, or if the county does not have a county planning commission, from an appropriate office or agency designated by the county commission, in which the salvage yard is located. The county planning commission or designated agency or office shall promulgate such reasonable rules including, but not limited to, determining the effect of the proposed salvage yard on residential, business or commercial property investment and values, establishing a quota for the number of salvage yards in the county, and the social, economic and environmental impact on community growth and development in utilities, health, education, recreation, safety, welfare and convenience, if any, before issuing such approval permit. These rules shall conform to guidelines established in rules promulgated by the commissioner. The fee for the approval permit shall be twenty-five dollars, payable upon the filing of the application on forms to be designated and approved by the county planning commission or designated office or agency.

Upon the granting of an approval permit by the county planning commission, the owner or operator shall then apply to the commissioner for a license to operate. The commissioner may issue a license to the applicant, but only after an approval permit has issued in the first instance and the location of the salvage yard is in compliance with the location requirements of section four of this article. The approval permit requirement of this section does not apply to any owner or operator who has established, or is operating or maintaining, a salvage yard prior to the first day of July, one thousand nine hundred eighty-four.

§17-23-8. Authority of commissioner to remove or purchase certain yards; restrictions on relicensing at location where yard terminated.

Whenever a salvage yard is so situated that it or any part thereof is or shall be required to be effectively screened by fences as provided in section four of this article, and the said salvage yard or any part thereof cannot, in the opinion of the commissioner, be effectively screened by fences to comply with the provisions of this article, so that the owner or operator of the salvage yard cannot lawfully continue to operate and do

business in compliance with the terms hereof, or if a salvage yard has been abandoned, then and only in such events, the commissioner, in addition to all other powers herein conferred, may (1) with the consent of said owner or operator pay the cost of removal of all salvage and equipment from such salvage yard to such other location as the said owner or operator may direct whereon a salvage yard business may be conducted in compliance with the provisions of this article, or (2) purchase at private sale or acquire by proceeding in eminent domain, in accordance with the provisions of chapter fifty-four of this code, all such property rights and interests, other than title to real property, as are necessary and required to effect a lawful termination of the salvage business conducted on any such salvage yard, or on any part thereof.

If any salvage yard at any location is terminated under the provisions of this section or by court order as provided in section nine of this article, the commissioner shall not thereafter license any salvage yard at any such location if such location or any part thereof is (1) within one thousand feet of the nearest edge of the right-of-way of any road within the state road system designated and classified or redesignated and reclassified as expressway, trunkline or feeder, or any road within the state road system designated and classified or redesignated and reclassified for purposes of allocation of federal highway funds as part of the federal-aid interstate or primary systems or (2) within five hundred feet of the nearest edge of the right-of-way of any state local service road unless and until the view of such salvage yard or any part thereof from such state local service road is screened by fences as provided in this article.

§17-23-2. Definitions.

(a) "**Salvage**" means old or scrap brass, copper, iron, steel, other ferrous or nonferrous materials, batteries or rubber and any junked, dismantled or wrecked machinery, machines or motor vehicles or any parts of any junked, dismantled or wrecked machinery, machines or motor vehicles. (b) "**Salvage yard**" means any place which is maintained, operated or used for the storing, keeping, buying, selling or processing of **salvage**, or for the operation and maintenance of a motor vehicle graveyard. (c) "**Abandoned salvage yard**" means any unlicensed **salvage yard** or any **salvage yard** that was previously licensed but upon which the license has not been renewed for more than one year.

§17-23-7. Exempt areas in municipalities.

The provisions of this article shall not apply to **salvage yards** or any parts thereof within municipalities situated in areas zoned industrial, nor to **salvage yards** or any parts thereof situated in areas within municipalities not zoned industrial but which the commissioner determines are used for industrial activities. The provisions of section four of this article shall not apply to **salvage yards** within municipalities in existence on the effective date of this article but not required to be licensed under the former provisions of this article, if the view of said **salvage yards** is effectively screened from the adjacent road by fences.