

City of Morristown

Incorporated 1855

DEPARTMENT OF COMMUNITY DEVELOPMENT & PLANNING



TO: Hamblen County Planning Commission
FROM: Steve Neilson, Community Development Director
DATE: January 6, 2020
SUBJECT: Text Amendment – Automobile Wrecking, Junk and Salvage yards and dumps.

BACKGROUND:

This is a staff-initiated proposal to amend Section 7.4. Development Standards for Automobile Wrecking, Junk and Salvage yards and dumps and Section 9.7.A.8. Uses Permitted in the Environment Industrial District, I-2

The proposed amendments to Section 7.4. have been an ongoing discussion since 2018. Joe Barrett, Planner for the East Tennessee Development District, pointed out in an August 22, 2018 memo that Subsection K, Amortization Schedule which removed the grandfather status of nonconforming junkyards was in violation of State law. Under Tennessee Code Annotated (TCA) 13-7-208, commercial, industrial, and multifamily uses are allowed to continue in perpetuity or up to thirty months after the use is abandoned. This position was recently confirmed by Chris Capp, County Attorney in a letter dated September 6, 2019 (see attached)

The most significant change to the proposed amendments is to remove Subsection K, Amortization Schedule and replace it with language which better explains the provisions under TCA 13-7-208. Other minor changes to Section 7.4 include:

- Adding a sentence specifying where automobile wrecking, junk and salvage yards and dumps can locate and states where the applicable development standards were located in the Zoning Ordinance.
- Reducing the spacing of buffer trees from 20 feet to 10 feet and change the minimum height of buffer trees from 4 feet to 5 feet.
- Establishing a 12 foot maximum height that material could be stacked.

The proposed amendment to Section 9.7.A.8. Environmental Industrial District, I-2, Uses Permitted is to replace the term “Junk Yards” with “Automobile Wrecking, Junk and Salvage yards and dumps” to match the language in Section 7.4.

RECOMMENDATION:

Staff recommends approval of the proposed text amendment.

7.4

Development Standards for Automobile Wrecking, Junk and Salvage yards and dumps.

– Because of the nature and character of their operations, automobile wrecking and salvage yards, junkyards and similar uses of land can have a decidedly detrimental effect upon surrounding properties. Salvage and wrecking yards tend to create problems of noise, dust, traffic and health hazards and may adversely affect property values by their general appearance. The following standards shall be used as a guide in evaluating whether proposed land uses, such as those outlined above, will have properly minimized their objectionable characteristics:

- A. These uses are only permitted in the I-2, Environmental Industrial District. See Article II, Section 9.7.C and D. for set back and other dimensional regulations.
- A. All motor vehicles stored or kept in such yards shall be so kept that they will not catch or hold water in which mosquitoes may breed or so that they will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared or propagated.
- B. Because of the tendency for salvage yards, junkyard or automobile wrecking yards to promote the breeding of vermin, no such operation shall be permitted closer than five hundred (500) feet from any established residence.
- C. All automobile wrecking, junk and salvage yards located on a county road shall be conducted entirely within either an enclosed opaque fence, screen, or wall, except driveway areas, from eight (8) feet to twelve (12) feet in height or a screen or wall composed of white pine, eastern hemlocks, scotch pines or Leland cypress trees, no less than five (5) four feet in height at planting, at ten (10) 20' intervals between tree trunks along the fence lines, excepting driveway areas. Any fence, screen or wall for screening purposes shall be properly painted or otherwise maintained in good condition. Any material associated with the operations, as defined in Article V. Definitions, pertaining to junkyards shall not exceed a maximum of twelve (12) feet in height. ~~Variations may be granted by the Board of Zoning Appeals where traffic safety is an issue.~~
- D. All such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety.
- E. Off Road Parking - No vehicles may be parked outside of the fence, screen or wall.
- F. Ingress and Egress – The number of vehicular access driveways permitted on any single street frontage shall be limited to:
 - 1. One (1) driveway where the parcel to be used has a maximum road or street frontage of one hundred (100) feet or less.
 - 2. Two (2) driveways where the road or street frontage exceeds one hundred (100) feet.

- G. Except for grandfathered, non-conforming yards, no automobile wrecking, junk or salvage yards shall be permitted within three hundred (300) feet of any public road in Hamblen County.
- H. Application for Automobile Wrecking, Junk, or Salvage Yard Permit: No person shall own or maintain an automobile wrecking, junk or salvage yard within Hamblen County until he has secured a permit from the Hamblen County Board of Zoning Appeals. An application for said permit shall be filed and shall be accompanied by a detailed Site Plan, a schedule for construction, and any other information herein required.
- I. Dumps – No person shall own or maintain a landfill or waste dump within Hamblen County until a Site Plan has been submitted and approved by the Planning Commission, received approval as a special exception by the Board of Zoning Appeals; and received a permit issued by the Tennessee Department of Health and Environment, Division of Solid Waste. No such landfill or dump shall be permitted within five hundred (500) feet of a residence, school, church, park, or public gathering place. All debris must be covered daily from public view. The dumping of chemicals or toxins is not permitted. Other standards required for junkyards shall also be required for dumps.
- J. Saving Clause- If any of the provisions of this Article 7.4 conflict with the provisions of general law regarding the regulation of junkyards, by being less restrictive than the general law or otherwise, then the general law provisions shall govern the matter at issue.
- K. ~~Amortization Schedule—With respect to Article 7.4 A., C., D., E. and F., any non-conforming junkyard considered “grandfathered” under this Resolution or general law shall lose such grandfathered status with regard to Article 7.4 A., C., D., E. and F. three (3) years after the adoption of this amended Article 7.4. (December 22, 2005)~~
- K. **Expansions-An expansion of these type business/operations shall constitute extending the operation to a separate lot of record that is distinct from the lot of record the operation originally took place upon regardless of the ownership. Any expansion to a new separate lot must conform to all the regulations pertaining to these uses.**

9.7. Environmental Industrial District, I-2: This district’s purpose is to allow industrial development for heavy industrial uses, which, by their nature, offer the potential for impacting the environment negatively.

- A. Uses Permitted – In I-2- Environmental Industrial District, the following uses are permitted on review by the Board of Zoning Appeals as special exceptions:

1. Landfills
2. Smelting Plants
3. Asphalt Plants
4. Slaughtering Houses
5. Incinerators for the burning of garbage materials or medical waste
6. Paper/Pulp Products Plants
7. Chemical Manufacturing Plants in which potentially hazardous chemicals are to be produced or utilized
8. ~~Junk Yards~~ Automobile Wrecking, Junk and Salvage yards and dumps

RESOLUTION _____

**A RESOLUTION TO AMEND SECTION 7.4 DEVELOPMENT STANDARDS FOR
AUTOMOBILE WRECKING, JUNK, SALVAGE YARDS, AND DUMPS AND SECTION 9.7
ENVIRONMENTAL INDUSTRIAL DISTRICT (I-2) OF THE
HAMBLEN COUNTY ZONING RESOLUTION**

WHEREAS, the Hamblen County Board of Commissioners, in accordance with Section 13-7-105 of the Tennessee Code Annotated, may amend the "Zoning Resolution of Hamblen County, Tennessee", and

WHEREAS, the Hamblen County Regional Planning Commission and the Morristown Municipal/Regional Planning Commission have reviewed and made recommendations regarding the proposed amendment of the "Zoning Resolution of Hamblen County, Tennessee", in accordance with Section 13-7-105(a) of the Tennessee Code Annotated; and

WHEREAS, public notice has been provided in a newspaper of general circulation for the public hearing to be held by the Hamblen County Board of Commissioners to consider such zoning amendment of the "Zoning Resolution of Hamblen County, Tennessee" with a complete summary of such amendment, in accordance with Section 13-7-105(b) of the Tennessee Code Annotated; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Hamblen County, Tennessee:

Section 7.4 be deleted in its entirety and replaced with the following:

7.4 Development Standards for Automobile Wrecking, Junk and Salvage yards and dumps.

Because of the nature and character of their operations, automobile wrecking and salvage yards, junkyards and similar uses of land can have a decidedly detrimental effect upon surrounding properties. Salvage and wrecking yards tend to create problems of noise, dust, traffic and health hazards and may adversely affect property values by their general appearance. The following standards shall be used as a guide in evaluating whether proposed land uses, such as those outlined above, will have properly minimized their objectionable characteristics:

- A. These uses are only permitted in the I-2, Environmental Industrial District. See Article II, Section 9.7.C and D. for set back and other dimensional regulations.

- B. All motor vehicles stored or kept in such yards shall be so kept that they will not catch or hold water in which mosquitoes may breed or so that they will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared or propagated.

- C. Because of the tendency for salvage yards, junkyard or automobile wrecking yards to promote the breeding of vermin, no such operation shall be permitted closer than five hundred (500) feet from any established residence.
- D. All automobile wrecking, junk and salvage yards located on a county road shall be conducted entirely within either an enclosed opaque fence, screen, or wall, except driveway areas, from eight (8) feet to twelve (12) feet in height or a screen or wall composed of white pine, eastern hemlocks, scotch pines or Leland cypress trees, no less than five (5) in height at planting, at ten (10) intervals between tree trunks along the fence lines, excepting driveway areas. Any fence, screen or wall for screening purposes shall be properly painted or otherwise maintained in good condition. Any material associated with the operations, as defined in Article V. Definitions, pertaining to junkyards shall not exceed a maximum of twelve (12) feet in height
- E. All such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety.
- F. Off Road Parking - No vehicles may be parked outside of the fence, screen or wall.
- G. Ingress and Egress – The number of vehicular access driveways permitted on any single street frontage shall be limited to:
 - 1. One (1) driveway where the parcel to be used has a maximum road or street frontage of one hundred (100) feet or less.
 - 2. Two (2) driveways where the road or street frontage exceeds one hundred (100) feet.
- H. Except for grandfathered, non-conforming yards, no automobile wrecking, junk or salvage yards shall be permitted within three hundred (300) feet of any public road in Hamblen County.
- I. Application for Automobile Wrecking, Junk, or Salvage Yard Permit: No person shall own or maintain an automobile wrecking, junk or salvage yard within Hamblen County until he has secured a permit from the Hamblen County Board of Zoning Appeals. An application for said permit shall be filed and shall be accompanied by a detailed Site Plan, a schedule for construction, and any other information herein required.
- J. Dumps – No person shall own or maintain a landfill or waste dump within Hamblen County until a Site Plan has been submitted and approved by the Planning Commission, received approval as a special exception by the Board of Zoning Appeals; and received a permit issued by the Tennessee Department of Health and Environment, Division of Solid Waste. No such landfill or dump shall

be permitted within five hundred (500) feet of a residence, school, church, park, or public gathering place. All debris must be covered daily from public view. The dumping of chemicals or toxins is not permitted. Other standards required for junkyards shall also be required for dumps.

- K. Saving Clause- If any of the provisions of this Article 7.4 conflict with the provisions of general law regarding the regulation of junkyards, by being less restrictive than the general law or otherwise, then the general law provisions shall govern the matter at issue.
- L. Expansions-An expansion of these type business/operations shall constitute extending the operation to a separate lot of record that is distinct from the lot of record the operation originally took place upon regardless of the ownership. Any expansion to a new separate lot must conform to all the regulations pertaining to these uses.

Section 9.7.A.8. Uses Permitted in the Environmental Industrial District, I-2 be amended to state:

8. Automobile Wrecking, Junk and Salvage yards and dumps.

NOW THEREFORE BE IT RESOLVED that the Hamblen County Board of Commissioners met in regular session on the 19th day of December, 2019, hereby adopting the proposed amend to Section 7.4 of the Hamblen County Zoning Resolution as recommended by the planning commission and written above.

BE IT FRUTHER RESOLVED, that the zoning amendment adopted hereby shall be effective upon passage of this Resolution.

WHEREFORE, it was moved by _____ and seconded by _____ that this Resolution be adopted.

Voting:

Aye

Nay:

Pass:

The chair declared the Resolution adopted this 19th day of December 2019.

Hamblen County Board of Commissioners

By: _____
Hamblen County Mayor

Approved:

Attest:

Chairman

By: _____
Hamblen County Clerk

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September 6, 2019

VIA: HAND-DELIVERY

Hamblen County Planning Commission
Hamblen County Commission Chairman Howard Shipley
Hamblen County Commissioners

**RE: SCREENING OF HAMBLEN COUNTY JUNKYARDS PURSUANT
TO THE HAMBLEN COUNTY ZONING ORDINANCE**

Dear Mr. Shipley, County Commissioners and Hamblen County Planning Commission:

Counties obtain their power to enact zoning ordinances and otherwise regulate the use of land by delegation from the state. (*TCA* §§ 13-7-101(a) (1) attached) Another statute, *TCA* §§ 13-7-208 (attached), establishes the right of an industrial or commercial establishment to continue their operations if they were legally permitted prior to the adoption of zoning regulations which due to their location makes the continued operation a “non-conforming use”.

All of the “junkyards” or wrecking yards located in Hamblen County were “grandfathered” under this statute when Hamblen County adopted its zoning ordinance in 1990. In 2005, the Commission amended the ordinance originally adopted in 1990 with regard to “automobile wrecking, junk and salvage yards and dumps.” (See attached amendment “Article 5”)

The junkyards or salvage yards that were affected by this amendment were the same yards that were “grandfathered” by the adoption of the zoning ordinance in 1990 which continue to be “non-conforming uses.” After contacting the County Technical Advisory Service (“CTAS”) operated by the University of Tennessee, and researching the issue, it is my considered opinion based upon that research and conversation with other county attorneys, specifically Washington and Knox counties, and upon the holding in Smith County Regional Planning Commission v. Hiwassee Village Mobile Home Park LLC, 304 S.W. 2d 302 (Tenn. 2010) that Hamblen County does not have authority to require our existing non-conforming use junkyards to screen the yards as required

Capps, Cantwell, Capps & Byrd

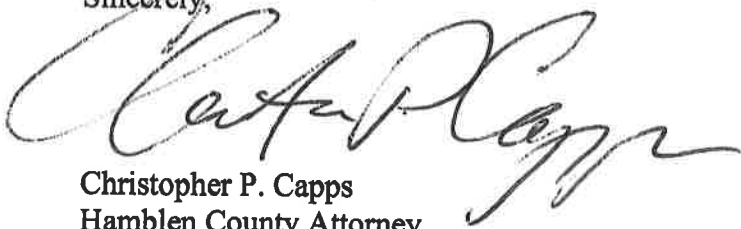
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by our 2005 zoning amendment. (See attached opinion) This case establishes that a “change in zoning” results in “grandfathered” non-conforming uses, just as an original adoption of zoning does where no zoning law had previously existed.

The amendment of our zoning ordinance in 2005 was meant to affect those junkyards which had been “grandfathered” in 1990. The amendment constituted a “change in zoning” and these junkyards are again “grandfathered” with regard to the application of the 2005 amendment.

Historically a couple of the yards did purchase trees to comply with the 2005 amendment but the trees died and were not replaced, and Hamblen County has not made any efforts to enforce the amendment in many years. Under both the statute, *TCA §§ 13-7-208 (b) 1*, and the holding in Smith County Regional Planning Commission v. Hiwassee Village Mobile Home Park LLC, the County’s attempts to enforce the 2005 amendment regarding screening of junkyards could be successfully defended at the expense of Hamblen County regardless of how well intended and desirable the 2005 Amendment was. The 2010 case cited above was a change to the law existing in 2005.

Sincerely,



Christopher P. Capps
Hamblen County Attorney

CPC/alg

Enclosures

cc: Mr. William H. Brittain, County Mayor