

## **Chapter 3. Policy, Procedure and Control of Junkyards along Interstate and Primary Systems**

### **§301. General**

A. The rules and regulations contained in this manual shall apply to all junkyards located within 1,000 feet of the nearest edge of the right-of-way on all interstate and federal aid primary highways in Louisiana. These rules do not apply to junkyards in zoned industrial areas, zoned by an authorized zoning commission or those which exist in an unzoned industrial area as defined by the Louisiana Department of Highways and which was approved by the Federal Highway Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:445 (October 1975).

### **§303. Authority**

A. The applicable law authorizing the state to regulate the establishment of junkyards and authorizing the screening or removal of junkyards is R.S. 48:461-461.15 (Act 474 of 1966) and in particular §461.9 through §461.15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:445 (October 1975).

### **§305. Organization**

A. The provisions of the Beautification Act regarding junkyards will be carried out by the traffic and planning division through its beautification and permits unit. The beautification sub-unit consists of one stenographer and one engineering specialist who heads up the sub-unit and is stationed in the central office. In addition, there are two engineering aides whose duties entail field investigation encompassing inventory, surveillance, site location review, and other designated duties. The traffic and planning division, as the need arises, will rely on the services of other specialized sections of the department for assistance in carrying out these provisions.

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HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:445 (October 1975).

### **§307. Program Priorities**

A. Predicated on the assumption that adequate funding for initiating screening, relocation, or removal projects will be provided, the department will attempt to first have illegal junkyards screened, relocated, or removed along the interstate and federal aid primary highways. This will be followed by the screening, relocation, or removal of legally established nonconforming junkyards.

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HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:445 (October 1975).

### **§309. Inventory and Control**

A. The beautification and permits unit will have the responsibility of maintaining a current inventory of all junkyards, conducting a continuing surveillance program to discover illegally established or maintained junkyards, and to initiate procedures to obtain compliance with the Highway Beautification Act.

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HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:445 (October 1975).

### **§311. Legally Established Nonconforming Junkyards**

A. Junkyards which were in existence at the time of the passage of the state law in 1966 and which were not established in violation of any other law, ordinance, or valid regulatory standard, will be screened or removed on a site by site basis by the Department of Highways. In screening nonconforming

junkyards, the department's landscape architect in the location and design section shall prepare the necessary plans which will be submitted to the Federal Highway Administration for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:445 (October 1975).

### **§313. Unlawful or Illegal Junkyards**

A. Junkyards not lawfully established shall be screened or removed by the junk owner. If the junkyard is to be screened, detailed plans including a plan and profile view of the proposed screening in addition to a description of the materials to be used shall be submitted to the Louisiana Department of Highways, Box 94245, Capitol Station, Baton Rouge, LA 70804, Attention: Permit Section, for approval.

B. If the junkyard cannot be effectively screened, then the junkyard shall be removed at the junk owner's expense.

C. In either event a notification to the junk owner by certified mail will be sent by the department advising him of the unlawful junkyard. The junk owner will then have 30 days in which to submit plans to the department at the aforementioned address.

D. Upon written acceptance by the department of the screening or removal plans, the junk owner will have 90 days in which to comply with the law.

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HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:445 (October 1975).

### **§315. Screening**

#### **A. Fences**

1. The fencing shall be of suitable material and constructed so it will be capable of remaining erect.

2. The fencing shall be high enough to screen all junk and junked cars from view of the traveled way of the highway. Should the junk piles be increased in height, the height of the fence must also be increased.

3. The fence shall extend along the frontage of the junkyard and along the sides of the junkyard to a distance so that all junk and wrecked cars within 1,000 feet will be screened from view of the traveled way of the highway. The fence shall be located on private property and will be maintained by the junkyard owner or operator. Should the fence become damaged, it must be repaired within 30 days.

4. The fence must be neat in appearance and of uniform color and height. If the fence is painted, it shall be of uniform color or neatly trimmed in another color. Distracting colors and designs will not be acceptable.

5. It is not necessary that the fence be solid. However, the open spaces must be small enough that the junk material is effectively screened.

#### **B. Planting**

1. If plantings are to be used for screening, they must be large enough and placed close enough to screen the junk and junked cars shortly after planting.

2. All plants must be of either the evergreen variety or bamboo in order to give year-round effective screening.

3. Plants must be located with the same stipulations as fences.

4. Except for extremely fast growing plants, the planting of young or sparse plants will not be allowed with the purpose that in time the screening will be acceptable.

5. Should the plants become diseased, die, or get damaged in any way so as to cause the junk not to be screened, they must be replanted within 30 days.

#### **C. Natural Objects**

1. Natural occurring woods, earth mounds, etc., may be utilized for screening if they are of a size such that the junk cannot be seen from the traveled way of the highway.

2. Natural objects may be used in conjunction with plantings, fences, or other appropriate objects to screen junkyards.

D. Other Appropriate Objects for Screening. Subject to prior approval by the Louisiana Department of Highways, other objects for screening such as buildings, houses, and occupied house trailers may be used entirely or in part to screen junkyards provided the objects are neat in appearance and properly maintained so as not to mar the natural beauty of the highway and its facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:446 (October 1975).

### **§317. Procedures Used in Determining the Practicality of Whether a Nonconforming Junkyard Should be Screened or Removed**

A. An on-site inspection will be made of each location by the landscape architect of the location and design section and a representative of the right-of-way section to determine if the topography of the land will permit effective screening. If effective screening is possible, an economic survey will be conducted to determine the feasibility of screening versus removal. The final determination as to whether screening or removal will be effected is the responsibility of the beautification and permit engineer. After this decision has been made, the supporting data and justification shall be submitted to the division engineer of the Federal Highway Administration on a project by project basis for review and approval.

B. If the beautification and permit engineer determines that the most feasible method for compliance with state law and policies is by the screening of a junkyard, it will then be the responsibility of a representative of the right-of-way section to obtain permission for allowing the department's contractor to enter land outside of highway right-of-way to effectively screen the junkyard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:446 (October 1975).

### **§319. Programming and Authorization Screening Projects**

A. Whether the screening of a nonconforming junkyard is along an interstate or a federal aid primary highway, the length of a given project will depend upon establishing terminal points of a control section with limitations to project size being imposed only by the number of, and cost of screening the junkyards.

1. The beautification and permit engineer will be responsible for determining the scope of a project. He will secure from the project control engineer the project number to be assigned and will provide the location and design section a list of the junkyards to be screened, their inventory number, location, and validation of their legal status. The location and design section will then furnish the beautification and permit engineer an estimated cost along with detailed plans and cross sections showing the type of screening.

2. The federal aid engineer of the project control section will then request federal participation by submitting to the division engineer of the Federal Highway Administration the following information which will be supplied to him by the beautification and permit engineer:

a. the zoning and validation of the legal status of each junkyard on the project;

b. plans or graphic displays indicating the location of the junkyard relative to the highway, the 1,000-foot control lines, property ownership boundaries, the general location of the junk or scrap material, and any buildings, structures or improvements involved;

c. the type of screening, and adequately detailed plans and cross sections or other adequate graphic displays which illustrate the relationship of the motorist to the screen, and the material to be screened at critical points of view;

d. estimated cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:447 (October 1975).

### **§321. Relocation and/or Disposal**

A. Valuation. This method of junkyard control will be used only as a last resort. Moving costs will be determined by an appraiser or consultant on the basis of information obtained from salvage yard operators, contract carriers, and any other reliable source. The junk owner will be given the opportunity to accompany the appraiser or consultant during his inspection. The maximum moving cost will be that amount which is consistent with the most economical method of disposing of the junk material. All appraisals will be in accordance with state and federal regulations.

B. Negotiations. Negotiations with the owner of property rights involved in the junkyard will be conducted by right-of-way personnel. Negotiations will include a thorough investigation of all claims for compensation made by either the junk owner, the landowner, or any other person. Formal written offers will be made. Such letters will set out the property rights to be acquired or damaged and the amount to be paid therefor. The time allowed for the removal of the junk and other personal property will be negotiated, but the 90-day notice process will be followed. Controls will be established to insure that the junk is not moved to any location which would violate the provisions of the Beautification Act, or any other law or ordinance.

C. Acquisition by Expropriation. If the written offer to any party which has a compensable interest is not accepted within a reasonable time, acquisition by expropriation to acquire the necessary property interest will be initiated by the state.

#### **D. Programming and Authorization of Relocation or Disposal Projects**

1. When a project is to be let for the relocation or disposal of non-conforming junkyards along interstate and federal aid primary highways, the beautification and permit engineer will be responsible for determining the scope of the project. The length of a given project will depend upon the number and cost of relocation or disposal of the junkyards.

2. After obtaining a project number from the project control engineer, the beautification and permit engineer will provide the right-of-way section with a list of the junkyards to be relocated or disposed of, their inventory number, location and validation of their legal status. The right-of-way section will then furnish the beautification and permit engineer the junkyard owner, parcel numbers, location of replacement site, if applicable, and the real property interest to be acquired in order to implement the control measures.

3. The federal aid engineer of the project control section will then request federal participation by submitting to the division engineer of the Federal Highway Administration the following information which will be supplied to him by the beautification and permit engineer:

- a. the zoning and validation of the legal status of each junkyard on the project;
- b. the control measures proposed for each junkyard including, where applicable, information relative to permanent disposal sites to be acquired by the state;
- c. the real property interest to be acquired in order to implement the control measures;
- d. project and parcel number;
- e. landowner;
- f. junkyard inventory number;
- g. estimated cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461-48:461.15.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:447 (October 1975).

### §323. Documentation

A. Documentation for federal participation will be as prescribed in the most current federal publications regarding junkyards. The department will use before and after photographs on the junkyard site and the screened or relocated site.

#### B. Definitions

*1966 Inventory*—the record of the survey of junkyards in existence along interstate and federal aid primary highways as of the date of the inventory, compiled by the State Highway Department pursuant to Federal Highway Administration Instructional Memorandum 50-1-66, dated January 7, 1966.

*Automobile Graveyard*—any 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. Ten or more such dismantled vehicles will constitute an automobile graveyard.

*Centerline of the Highway*—a line equidistance from the edge of the median separating the main-traveled ways of a divided highway, or the centerline of the main-traveled way of a nondivided highway, or the centerline of each of the main-traveled ways of a divided highway separated by more than the normal median width or constructed on independent alignment.

*Effective Screening*—the planting, architectural screen barrier, earth grading, inventory reduction, shifting of the storage area on the same property, and any combination of these that eliminates the visibility of the junk.

*Federal-Aid Primary Highway*—any highway within that portion of the state highway system as designated, or as may hereafter be so designated by the state, which has been approved by the secretary of Transportation pursuant to Subsection (b) of Section 103, Title 23, United States Code.

*Illegal Junkyard*—one which was established and/or maintained in violation of state law or local ordinance or other valid regulatory standard.

*Industrial Activities for Purposes of Classifying Unzoned Industrial Areas*—those permitted only in industrial zones, or in less restrictive zones by the nearest zoning authority within the state, or prohibited by said authority but generally recognized as industrial by other zoning authorities within the state, or prohibited by said authority but generally recognized as industrial by other zoning authorities within the state, except that none of the following shall be considered industrial activities:

- a. outdoor advertising structures;
- b. agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands;
- c. activities normally and regularly in operation less than three months of the year;
- d. transient or temporary activities;
- e. activities not visible from the traffic lanes of the main-traveled ways;
- f. activities more than 300 feet from the nearest edge of the main-traveled ways;
- g. activities conducted in a building principally used as a residence;
- h. railroad tracks, minor sidings, and passenger depots;
- i. junkyards, as defined in Section 136, Title 23, United States Code.

*Junk*—old or scrap metal, rope, rags, batteries, paper, trash, rubber debris, waste, or junk, dismantled, or wrecked automobiles or parts thereof.

*Junkyard*—an establishment or place of business which is maintained, operated or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary landfills.

- a. Activities for purposes of classifying junkyards include:

- i. scrap metal processors, auto-wrecking yards, salvage yards, scrap yards, auto-recycling yards, used auto parts yards, and similar facilities;
  - ii. temporary storage of automobile bodies or parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises.
- b. Activities not included in classifying junkyards include:
- i. litter, trash, and other debris scattered along or upon the highway;
  - ii. temporary operations and outdoor storage of limited duration not falling within Subparagraph b above.

*Landscaping*—planting and related work.

*Maintain*—allow to exist.

*Main-Traveled Way*—the traveled way of the highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadway, or parking areas.

*National System of Interstate and Defense Highways and Interstate Systems*—the system presently defined in and designated, or as may hereafter be so designated, pursuant to Subsection (d) of Section 103, Title 23, United States Code.

*Non-Conforming Junkyard*—one which was lawfully established, but which does not comply with the provisions of state law or state regulations passed at a later date or which later fails to comply with state regulations due to changed conditions.

*Sanitary Landfill*—a method of disposing of refuse on land without creating a nuisance or hazards to public health or safety by utilizing the principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary. Sanitary landfills which meet this definition will not be required to be screened, but will be required to be landscaped when the fill has been completed and the operations have ceased.

*State Law*—a state constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a state agency or political subdivision of a state pursuant to a state constitution or statute.

*Unzoned Area*—an area where there is no zoning in effect. It does not include areas which may have rural zoning classification or land uses established by zoning variances or special exceptions.

*Unzoned Industrial Area*—land occupied by the regularly used building, parking lot, storage, or processing area of an industrial activity, and that land within 1,000 feet thereof which is located on the same side of the highway as the principal part of said activity, not predominantly used for residential or commercial purposes, and not zoned by state or local law, regulation, or ordinance.

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

*Zoned Industrial Area*—those districts established by zoning authorities as being most appropriate for industry or manufacturing. A zone which simply permits certain industrial activities as an incident to the primary land use designation is not an industrial zone.

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