

KANSAS ADMINISTRATIVE REGULATIONS

Article 27.—Junkyard and Salvage Control

36-27-1. Unzoned industrial area. (1) For the purposes of this act an unzoned industrial area shall mean the 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:

- (a) Located on the same side of the highway as the principal part of said activity.
- (b) Not predominantly used for residential or commercial purposes, and
- (c) Not zoned by state or local law, regulation or ordinance.

(2) Industrial activities, for purposes of this definition, shall mean 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, 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 more than 300 feet from the nearest edge of the main traveled way.
- (f) Activities conducted in a building principally used as a residence.
- (g) Railroad tracks, minor sidings, and passenger depots.
- (h) Junkyards, as defined in K.S.A. 1968 Supp. 68-2203 (c), except junkyards which are appurtenant to and on the same premises as an existing industrial activity. (Authorized by K.S.A. 68-2204, 68-2212; effective, E-70-7, Nov. 26, 1969; effective Jan. 1, 1971.)

36-27-2. Locations under same certificate of compliance. One application and one certificate of compliance may be approved by the beautification administrator for salvage storage locations within the same county and under identical ownership if all locations are identified on the application. (Authorized by and implementing K.S.A. 68-2212; effective Jan. 1, 1972; amended May 1, 1978; amended May 1, 1988.)

36-27-3. Transfers of ownership of certified locations. When a transfer occurs in the ownership of a certified salvage storage location, the following will be required:

(a) If a transfer in ownership does not constitute a change in the entire ownership, the owner or owners shall apply for a correction of the owner records at no additional fee. Transfers of ownership may include the following:

- (1) The addition of a partner to the business;
- (2) the withdrawal of a partner from the business or the sale and transfer of the interest of a partner; or
- (3) ownership and operation of the business by a surviving spouse, personal representative, heir, legatee of the deceased owner or one or more of them.

(b) If the change in ownership constitutes a total change in ownership of the certified location, the new owner or owners shall apply for a new certificate of compliance. The application shall be accompanied by the annual or semiannual fee, whichever is applicable. (Authorized by K.S.A. 68-2212; implementing K.S.A. 68-2205, as amended by L. 1987, Ch. 263, Sec. 1; effective Jan. 1, 1972; amended May 1, 1988.)

36-27-4. Persons exempt from junkyard certificate of compliance. Any person storing materials or equipment on property, located within 1,000 feet of the right-of-way of any public

road, shall be exempt from obtaining a certificate of compliance if the materials or equipment are included in the following uses and categories:

(a) Any well drilling equipment purchased and stored for its intended use, reconditioning or resale for its intended use; or

(b) Any farm machinery owned by persons engaged in agriculture and intended for agricultural use. Inoperable farm machinery stored by the owner for purposes of removing and reselling parts to other persons or individuals shall be subject to the state salvage control law. (Authorized by and implementing K.S.A. 68-2212; effective Jan. 1, 1972; amended Jan. 1, 1974; amended May 1, 1988.)

36-27-5. (Authorized by K.S.A. 1975 Supp. 68-2212; effective Jan. 1, 1972; revoked May 1, 1978.)

36-27-6. Inspection required for issuance of a certificate of compliance for junkyards created after May 4, 1967.

(a) Before approval of any application for a certificate of compliance for junkyards created after May 4, 1967, a physical inspection of the junkyard location shall be made by the landscape architect of the department of transportation to determine whether the junkyard is visible to motorists.

(b) A written report signed by the person making the inspection shall be submitted to the beautification administrator of the department, or the administrator's designated representative. The report shall indicate whether screening the applicant's location is feasible. If screening is deemed feasible, the report shall contain a recommendation for either artificial or natural screening to be installed by the owner to conceal the junkyard from the view of motorists on the road. Failure by the owner, owners or operators to install the required screening within 90 days or within any extension of time granted by the beautification administrator, shall be grounds for revocation or suspension of the certificate of compliance. (Authorized by and implementing K.S.A. 68-2212 and K.S.A. 1986 Supp. 68-2213 as amended by L. 1987, Ch. 263, Sec. 3; effective Jan. 1, 1972; amended May 1, 1978; amended May 1, 1988.)

36-27-7. Provisional certificates of compliance; junkyards created after May 4, 1967. Upon written notice from the beautification administrator to the owner or operator of a junkyard created after May 4, 1967 of the screening required, a provisional certificate of compliance may be issued by the department to the owner. The provisional certificate shall be conditioned on the completed installation of the required screening within 90 days from the written notice. If inclement weather conditions interfere with the installation, an extension of time for the installation of the screening may be granted by the beautification administrator. Failure to install the required screening within 90 days, or within any extension of time granted by the administrator, shall be grounds for revocation or suspension of the provisional certificate of compliance pursuant to the provisions of K.S.A. 1986 Supp. 68-2213, as amended by L. 1987, Ch. 263. (Authorized by K.S.A. 68-2212, implementing K.S.A. 1986 Supp. 68-2213, as amended by L. 1987, Ch. 263, Sec. 3; effective Jan. 1, 1972; amended May 1, 1978; amended May 1, 1988.)

36-27-8. Periodic inspection of junkyard locations. Periodic inspections of certified junkyards shall be made by the designated representatives of the beautification administrator to insure that they are being operated and maintained in accordance with the rules and regulations of the secretary of transportation. Any owner or owners of a junkyard not maintained or operated in accordance with rules and regulations of the secretary of transportation shall be notified by the beautification administrator in writing, by registered mail or certified mail, return receipt requested. The notice shall specify the required corrections to be made within 30 days from receipt of the notice. Any owner who fails to make the corrections shall become subject to the provisions of K.S.A. 68-2209. Failure to make the required corrections shall be grounds for revocation or suspension of the certificate of compliance in accordance with K.S.A. 68-2213 and amendments thereto. (Authorized by K.S.A. 68-2212 and K.S.A. 1986 Supp. 68-2213 as amended by L. 1987, Ch. 263, Sec. 3; implementing K.S.A. 68-2209 and K.S.A. 1986 Supp. 68-2213 as amended by L. 1987, Ch. 263, Sec. 3; effective Jan. 1, 1972; amended May 1, 1978; amended May 1, 1988.)

36-27-9. Types of screening approved. Either artificial or natural screening may be used to conceal a junkyard from the view of motorists traveling on the road. All screening shall be of a type approved by the beautification administrator. The screening shall be serviceable as well as pleasing to sight. Screening may be effected by construction of a fence of metal, wood or other suitable material or by planting shrubs, trees or other types of natural screening or a combination of these methods as approved by the beautification administrator. When wooden planks or chain-link fence are installed at a junkyard location, the installation shall not permit the junkyard to be seen from the road by a motorist. Wooden planks shall be installed in such a manner that no storage in the junkyard can be seen from the road. Metal slats shall be interwoven into chain-link fence to the degree that no storage in the junkyard can be seen from the road. Either type of fencing must be of sufficient height to achieve the screening necessary and shall be of uniform height unless the beautification administrator approves a variation in such height. (Authorized by K.S.A. 1977 Supp. 68-2212; effective Jan. 1, 1972; amended May 1, 1978.)

36-27-10. Junkyards expanded. Any junkyard which is altered, changed or enlarged after May 4, 1967, so as not to conform to the junkyard and salvage control act, and is not made to conform to the act by its owner, shall constitute a public and private nuisance and shall be subject to abatement. This provision includes both junkyard locations subject to screening at state expense and locations created after May 4, 1967. Where an owner alters, changes or expands the junkyard location after May 4, 1967, the beautification administrator may recommend that additional screening be installed at the owners expense in lieu of the abatement proceedings. (Authorized by K.S.A. 1977 Supp. 68-2209, 68-2212; effective Jan. 1, 1972; amended May 1, 1978.)

36-27-11. (Authorized by K.S.A. 68-2212, implementing K.S.A. 1986 Supp. 68-2213; as amended by L. 1987, Ch. 263, Sec. 3; effective Jan. 1, 1972; amended May 1, 1978; amended May 1, 1988; revoked March 7, 1994.)

36-27-12. Zoning policy. Local government zoning ordinances or regulations affecting a salvage storage location shall not be abrogated or overruled by actions of the beautification administrator. Any owner with a storage location that was in existence prior to the passing of an ordinance or regulation forbidding use of the location for salvage storage shall be approved and certified by the administrator subject to salvage control regulations of the secretary of transportation. If at any time the owner or owners of a salvage storage location is required to abate and discontinue storage of salvage at a non-conforming location due to enforcement action brought about by a zoning authority, the certification of compliance shall be revoked by the beautification administrator. Any application for a certificate of compliance of a storage location, which, at the time of the creation of the location is not in conformance with applicable zoning ordinances or regulations of a local public authority, shall be denied by the beautification administrator. (Authorized by K.S.A. 68-2212 and K.S.A. 1986 Supp. 68-2213 as amended by L. 1987, Ch. 263, Sec. 3, implementing K.S.A. 68-2204; effective Jan. 1, 1972; amended May 1, 1978; amended May 1, 1988.)

36-27-13. Determination of whether failure to make original or renewal application for a certificate of compliance or to pay annual certification fee was intentional. When any person fails to make an original or renewal application for a certificate of compliance or to pay the annual certification fee within the time prescribed in K.S.A. 68-2205; as amended by L. 1987, Ch. 263, a determination as to whether the failure was willful or intentional shall be made by the beautification administrator. If the administrator finds and determines that failure to apply or pay the annual certification fee within the time prescribed in K.S.A. 68-2205; as amended by L. 1987, Ch. 263, was not willful or intentional, the penalty fee prescribed in K.S.A. 68-2205; as amended by L. 1987, Ch. 263 shall not be assessed by the beautification administrator. (Authorized by K.S.A. 68-2212, implementing K.S.A. 68-2205, as amended by L. 1987, Ch. 263, Sec. 1; effective Jan. 1, 1974; amended May 1, 1978; amended May 1, 1988.)