

Hoke County

**ORDINANCE
REGULATING THE OPERATION
OR MAINTENANCE
OF
AUTOMOBILE GRAVEYARDS
JUNKYARDS
AND
REPAIR SHOPS**

**Effective October 20, 1987
Amended October 18, 1993**

**ORDINANCE REGULATING THE OPERATION OR
MAINTENANCE OF AUTOMOBILE
GRAVEYARDS, JUNKYARDS AND REPAIR
SHOPS IN HOKE COUNTY**

WHEREAS, North Carolina General Statute 153A-121A provides that a county may by ordinance define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the county; and may define and abate nuisances; and

WHEREAS, this Board declares that automobile graveyards, junkyards, and repair shops in close proximity to public roads and residential areas are potentially offensive to the dignity and aesthetic quality of the environment in Hoke County unless at least partially obstructed from view by appropriate fencing or combination of fencing and vegetation; and

WHEREAS, this Board declares that automobile graveyards, junkyards, and repair shops in close proximity to public roads, residential areas, schools, and churches pose an inherently dangerous threat to the health, safety and welfare of the citizens, residents and children in close proximity thereto unless sufficiently enclosed and surrounded by a substantial fence or wall, due to the hazard of fire, the possible entrapment of children and others in areas of confinement such as vehicle trunks, compartments and appliances and the possibility of injury to persons, especially children, resulting from said persons coming into contact with metal, glass, or other rigid materials; and;

WHEREAS, this Board desires to enact the following ordinance regulating the operation or maintenance of automobile graveyards, junkyards and repair shops in the areas of Hoke County outside incorporated municipalities and the extra-territorial jurisdiction of incorporated municipalities.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of Hoke County, North Carolina as follows:

SECTION ONE - TITLE

This ordinance is hereby entitled and may be cited as “Ordinance Regulating the Operation and Maintenance of Automobile Graveyards, Junkyards, and Repair Shops in Hoke County.”

SECTION TWO — PURPOSES AND OBJECTIVES

The purposes and objectives for which this ordinance is passed include the following:

- A. To protect the citizens and residents of Hoke County from inherently dangerous automobile graveyards, junkyards, and repair shops and to promote the health, safety, and welfare of the citizens and residents of Hoke County;

- B. To preserve the dignity and aesthetic quality of the environment of Hoke County;
- C. To preserve the physical integrity of land in close proximity to residential areas;
- D. To protect the economic interest of the citizens and residents of Hoke County;
- E. To protect the citizens and residents of Hoke County, North Carolina from the proliferation of rodents and mosquitoes and the spread of diseases by vectors.

SECTION THREE — DEFINITIONS

For the purposes of this ordinance, certain terms and words are hereinafter defined. Words used in the present tense shall include the future. Words used in the singular number shall include the plural number, and the plural, the singular. The word “shall” is mandatory and not directory.

- A. Automobile Graveyard: Site where more than three (3) wrecked, scrapped, ruined, dismantled, or inoperable motor vehicles or motorized equipment not being restored to operation are located on a land parcel used in conjunction with any establishment; or site where there are more than three (3) wrecked, scrapped, ruined, dismantled, or inoperable motor vehicles or motorized equipment used in conjunction with said establishment but located on another land parcel.
- B. Building: Any structure having a roof supported by columns or walls, and designed or intended for the shelter, support, enclosure, or protection of persons, animals or chattels.
- C. Church: A building used for public worship and/or religious services.
- D. Establishment: Any real property on which or in which there is operated or maintained any commercial, industrial, or service business or activity for profit.
- E. Farm: Singularly or jointly owned land parcel or contiguous parcels on which agricultural operations are conducted as the substantial use, to include cultivation of crops, the husbandry of livestock, and forestry.
- F. Garage: An establishment which is maintained and operated for the primary purpose of making mechanical and/or body repairs to motor vehicles, and which is not used to store more than six (6) motor vehicles that are not capable of being driven under their own power and are not being restored to operable condition, regardless of the length of time that individual motor vehicles being restored to operable condition are stored or kept at such property. There is no limit to the number of vehicles being restored to operable condition that may be stored on site.
- G. Gate: A door or other device attached to a wire fence, which when opened, provides a means of ingress and egress of person as part of the wire fence to which it is attached.
- H. Housing Unit: 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.

- I. Junk: Scrapped copper, brass, rope, rags, batteries, appliances, paper, trash, rubber, dismantled or wrecked automobiles, dismantled or wrecked motorized equipment, or parts thereof, iron, steel, and other scrap ferrous material.
- J. Junkyard: Any land parcel which is maintained, operated, or used for storing, keeping, buying or selling junk in conjunction with any establishment located on the same or another land parcel, or any establishment which is maintained, operated, or used for storing, keeping, buying or selling junk regardless of the length of time that junk is stored or kept, or for maintenance or operation of an automobile graveyard. "Junkyard" shall not include the County-operated sanitary landfill.
- K. Land Parcel: A single tract or contiguous tracts of land under single or joint ownership.
- L. Motor Vehicles: Every device in, upon, or by which any person or property is or may be transported or drawn upon land, air or water which is propelled by non-human or mechanical power sources, and every device designed to run upon land, air, or water that is pulled or pushed by a device propelled by non-human or mechanical power.
- M. Motorized Equipment: Every device that is propelled or powered by non-human or mechanical power sources which is designed to accomplish any work.
- N. Public Road: Any road or highway which is now or hereafter designated and maintained by the North Carolina Department of Transportation as part of the State Highway System, whether primary or secondary, hard-surfaced or other highways.
- O. Repair Shop: An establishment which is maintained and operated for the purpose of repairing, storing, keeping, buying or selling appliances or equipment other than motor vehicles and which stores or keeps any of the said appliances or equipment on the land parcel outside a building.
- P. Residential Area: Fifteen (15) or more housing units within a geographical area comprised of a one-fourth (1/4) mile wide strip contiguous and parallel to the external boundaries of the tract of real property on which an automobile graveyard, or junkyard or repair shop is located.
- Q. School: Any public or private institution for the teaching of children under eighteen years of age which is recognized and approved by the North Carolina Board of Education.
- R. Service Station: Any establishment which is maintained and operated for the primary 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, servicing and/or washing of motor vehicles, and which is not used to store more than six (6) motor vehicles that are not capable of being driven under their own power and that are not being restored to operable conditions, regardless of the length of time that individual motor vehicles are stored, or kept at such property. There is no limit to the number of vehicles that may be stored on site that are being restored to operable condition.
- S. Vectors: An organism that carries pathogens from one host to another.

- T. Vegetation: Evergreen trees, including, but not limited to, white pine and/or hemlock, evergreen shrubs or plants, that can reach a height of eight (8) feet within a period of eight (8) years from the date planted.
- U. Wire Fence: A continuous translucent, perforated barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at all points, constructed of 11.5 gauge wire, with two (2) inch mesh and a one and five-eighths (1-5/8) inch top rail, two (2) inch line posts set at a minimum of ten (10) feet apart with two and one-half (2-1/2) inch corner posts with caps on all corner, end and line posts. All line and corner posts are to be set thirty (30) inches deep in the ground in a hole eight (8) inches in diameter filled with cement. The fence shall have number seven (#7) gauge tension wire attached to the fence with rings spaced approximately twenty-four (24) inches apart. The wire fence shall have three (3) strands of barbed wire all the way around the top of the fence, said barbed wire to be on arms extending toward the outside of the automobile graveyard, junkyard or repair shop.

SECTION FOUR - PROHIBITIONS

- A. Except as hereinafter provided, it shall be unlawful after the effective date of this ordinance for any person, firm or corporation or other legal entity to begin operation in any area of Hoke County within the jurisdiction of this ordinance of a junkyard, automobile graveyard, or repair shop within three hundred (300) feet of the centerline of any public road, within one-half (1/2) mile of any school or church, within any residential area or within three (300) feet of a housing unit.
- B. Except as hereinafter provided it shall be unlawful, after the effective date of this ordinance, for any person, firm or corporation, or other legal entity, to operate or maintain in any unincorporated area of Hoke County, a junkyard, automobile graveyard or repair shop, within three hundred (300) feet of the centerline of any public road, within one-half (1/2) mile of any school or church, within any residential area or within three (300) feet of a housing unit. Notwithstanding any contrary language contained herein, the existence of housing units occupied by the owner, operator and/or employee shall be a non-conforming use pursuant to the provisions of this Ordinance. In the event the use of a housing unit by the owner, operator and/or employee of a junkyard, automobile graveyard or repair shop within three hundred (300) feet of the said establishment is discontinued for a continuous period of six (6) months, the use of the housing unit by the owner, operator and/or employee shall not be resumed and any resumption thereof after the said six (6) month period shall be a violation of this ordinance.

SECTION FIVE - EXCEPTIONS

- A. This ordinance shall not apply to bona fide service stations or garages.
- B. This ordinance shall in no way regulate, restrict, prohibit, or otherwise deter any bona fide farm and its related uses.

SECTION SIX — REQUIREMENTS

A. All new and existing junkyards, automobile graveyards and/or repair shops established in accordance with Section FOUR shall be operated and maintained subject to the following conditions:

1. The Hoke County Health Department shall inspect each junkyard, automobile graveyard and repair shop at least two times each year to determine compliance with this ordinance and to determine that no vectors are present. Should vectors be identified, the owner/operator/maintainer shall submit satisfactory evidence to the Health Department that vectors have been eliminated.

2. The owner/operator shall dispose of all petroleum products and residue in a manner that will not adversely affect the environment and that will comply with State and Federal regulations.

3. Each junkyard, automobile graveyard and/or repair shop shall be entirely surrounded by a wire fence and vegetation. Vegetation shall be planted on either side of the wire fence contiguous to, and not more than five (5) feet from the fence. The vegetation shall be of a type that can reach a minimum height of eight (8) feet within eight (8) years from the date planted and shall be planted at intervals evenly spaced and in close proximity to each other so that a continuous, unbroken hedgerow (without gaps or open spaces) will exist to a height of at least eight (8) feet along the length of the fence surrounding the junkyard, automobile graveyard and/or repair shop. The hedgerow shall be maintained as a continuous, unbroken hedgerow for the period the property is used as a junkyard, automobile graveyard and/or repair shop.

Each owner, operator or maintenance of a junkyard, automobile graveyard or repair shop to which this ordinance applies shall utilize good husbandry techniques, as for example, pruning, mulching, and proper fertilization, so that vegetation can reach a height of eight (8) feet within eight (8) years of the date planted and will have maximum density and foliage. Dead or diseased vegetation shall be replaced at the next appropriate planting time.

The wire fence shall have not more than four (4) gates for the purposes of ingress and egress of motor vehicles. The gates shall be closed and securely locked at all times except during business hours. All gates shall have lattice work threaded in/or covering the said gate which shall cause the gate to be nontransparent.

The Hoke County Health Department shall be available to assist an owner, operator or maintainer of a junkyard, automobile graveyard or repair shop upon request of the said owner, operator or maintainer in the formulation of plans for said fencing and/or vegetation.

The wire fence shall be maintained in good order and shall not be allowed to deteriorate.

4. All operations, equipment, junk, appliances and/or inoperable motor vehicles shall be kept within the confines of said wire fence and vegetation at all times unless in motion by transport to or from the site.

SECTION SEVEN — NONCONFORMING AUTOMOBILE GRAVEYARDS, JUNKYARDS, AND REPAIR SHOPS EXISTING AT EFFECTIVE DATE OF THIS ORDINANCE

A. All owners, operators, or maintainers of automobile graveyards, junkyards and repair shops existing at the effective date of this Ordinance shall register the same with and be licensed by the Hoke County Health Department within a period of one hundred eighty (180) days beginning with the effective date of this Ordinance. All existing automobile graveyards, junkyards or repair shops that have not been registered within one hundred eight (180) days shall be in violation of the provisions of this Ordinance. Fees for licenses issued pursuant to this section to be paid by the applicant and shall be in amounts established by the Hoke County Board of Commissioners for the initial license and any annual licensing which may be required.

B. All existing automobile graveyards, junkyards, and repair shops at the effective date of this Ordinance, registered in accordance with Section Seven A, shall be granted a grace period of twelve (12) months from the effective date of this Ordinance to conform to Ordinance provisions. Thereafter, the same shall be in violation of this Ordinance if they do not conform to Ordinance provisions.

SECTION EIGHT - REGISTRATION OF NEW AUTOMOBILE GRAVEYARDS, JUNKYARDS, AND REPAIR SHOPS

The owner, operator, or maintainer of any new automobile graveyard, junkyard, or repair shop to be established in accordance with this Ordinance shall apply for a license to operate with the Hoke County Health Department and shall not begin operation until the Health Department certifies that all applicable provisions of this ordinance have been satisfied and issues a license for operation. Failure to obtain the Health Department's license and certification shall constitute a violation of this Ordinance. Fees for licenses issued pursuant to this section to be paid by the applicant and shall be in amounts established by the Hoke County Board of Commissioners for the initial license and any annual licensing which may be required.

SECTION NINE — REMEDIES AND PENALTIES FOR VIOLATION

If any real property is used in violation of this Ordinance, the Hoke County Health Department or any other appropriate authority, or adjacent or other property owner who would be damaged by such violation, in addition to other remedies, may institute any appropriate legal action, including without limitation, the bringing of action to obtain any appropriate equitable remedy, the obtaining of injunctions, orders of abatement and other legal process commanding the defendant(s) to correct the unlawful condition upon or cease the unlawful use of the property. Any Court hearing an action to enforce the provisions of this Ordinance may as part of its judgment direct that buildings or other structures on the property in question be closed, demolished or removed; that fixtures, furniture or other movable property be removed from the

property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the Ordinance. If any defendant fails or refuses to comply with an injunction order of abatement or other court order within the time allowed by the Court, he may be cited for contempt and the County may execute the order of abatement. If the County executes the order of abatement, it has a lien on the property in the nature of a mechanic's and materialman's lien for the costs of executing the order. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings, including without limitation, attorney's fees, and by posting a bond for compliance with the Order. The bond shall be given with sureties approved by the Hoke County Clerk of Superior Court in an amount approved by the judge before whom the matter was heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction with the order.

Any person, firm, corporation, or other entity who maintains or operates or who controls the maintenance or operation of a junkyard, automobile graveyard or repair shop in violation of this Ordinance shall be guilty of a misdemeanor and subject to prosecution; and if convicted, shall be punished in accordance with the provisions of N.C. General Statute 14-4. Each day that said automobile graveyard, junkyard or repair shop shall be maintained or operated in violation of this Ordinance shall constitute a separate and distinct offense.

In addition to all other remedies provided for herein, any violation of this Ordinance subjects the offender to a civil penalty in the amount of Fifty and no/100 (\$50.00) Dollars per day that the automobile graveyard, junkyard or repair shop shall be maintained or operated in violation of this Ordinance. The civil penalty shall be in the nature of a debt and may be recovered by the County in a civil action if the offender does not pay the penalty within a prescribed period of time after he has been cited by written notice from the County for violation of the Ordinance.

SECTION TEN - VARIANCES

The Hoke County Board of Commissioners may authorize a variance from certain of these regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Board of Commissioners shall make the findings required below, taking into account the existing use of land in the vicinity of the automobile graveyard, junkyard or repair shop, the number of persons residing or working in the area of the automobile graveyard, junkyard or repair shop in question and the probable effect of the granting of the variance upon conditions in the neighborhood. No variance shall be granted unless the Board of Commissioners find:

(a) That there are special circumstances of conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land.

(b) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

(c) That the circumstances giving rise to the need for the variance are particular to the parcel and are not generally characteristic of other parcels in the jurisdiction of this Ordinance.

(d) That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which said property is situated.

Notwithstanding any contrary language contained above, the Hoke County Board of Commissioners may consider a variance only upon those requirements of the Ordinance set out specifically below:

(1) That requirement that any automobile graveyard, junkyard or repair shop existing at the time of the adoption of the Ordinance not be within 300 feet of the center line of any public road, within ¼-mile of any school or church, within any residential area or within 300 feet of any housing unit. Any automobile graveyard, junkyard or repair shop existing at the time of the adoption of this Ordinance and required to move to comply with the provisions of this Ordinance within twelve (12) months of its adoption shall be considered an existing automobile graveyard, junkyard or repair shop at its new location.

SECTION ELEVEN — EFFECTIVE DATE

This ordinance shall become effective October 20, 1987, 12:01 a.m.
ADOPTED this 19th day of October, 1987.

Wyatt C. Upchurch, Chairman
Hoke County Board of Commissioners

ATTEST Oleta K. Lopez, Clerk to the Board

Duncan B. McFadyen, III
County Attorney

AMENDMENT OF HOKE COUNTY JUNKYARD ORDINANCE

SECTION FOUR - PROHIBITIONS

A. Except as hereinafter provided, it shall be unlawful after the effective date of this ordinance for any person, firm or corporation or other legal entity to begin operation in any area of Hoke County within the jurisdiction of this ordinance of a junkyard, automobile graveyard, or repair shop within three hundred (300) feet of the centerline of any public road, within one-half (1/2) mile of any school or church, within any residential area or within three (300) feet of a housing unit.

B. Except as hereinafter provided it shall be unlawful, after the effective date of this ordinance, for any person, firm or corporation, or other legal entity, to operate or maintain in any unincorporated area of Hoke County, a junkyard, automobile graveyard or repair shop, within three hundred (300) feet of the centerline of any public road, within one-half (1/2) mile of any school or church, within any residential area or within three (300) feet of a housing unit. Notwithstanding any contrary language contained herein, the existence of housing units occupied by the owner, operator and/or employee of a junkyard, automobile graveyard or repair shop within three hundred (300) feet of the said junkyard, automobile graveyard or repair shop shall be a non-conforming use pursuant to the provisions of this Ordinance. In the event the use of a housing unit by the owner, operator and/or employee of a junkyard, automobile graveyard or repair shop within three hundred (300) feet of the said establishment is discontinued for a continuous period of six (6) months, the use of the housing unit by the owner, operator and/or employee shall not be resumed and any resumption thereof after the said six (6) month period shall be a violation of this ordinance. Additionally, the prohibition of the operation or maintenance of a junkyard, automobile graveyard or repair shop within the proscribed distances from a public road, school, church, residential area, or housing unit shall not prevent such operation or maintenance if the public road, school, church, residential area or housing unit is established after the junkyard, automobile graveyard or repair shop was in operation.

SECTION SEVEN - NONCONFORMING AUTOMOBILE GRAVEYARDS, JUNKYARDS, AND REPAIR SHOPS EXISTING AT EFFECTIVE DATE OF THIS ORDINANCE

A. All owners, operators, or maintainers of automobile graveyards, junkyards and repair shops existing at the effective date of this Amendment to this amended Ordinance who have not previously registered with the Hoke County Health Department shall register the same with and be licensed by the Hoke County Health Department within a period of one hundred eighty (180) days beginning with the effective date of this Ordinance Amendment. All existing automobile graveyards, junkyards or repair shops that have not been registered within one hundred eighty (180) days shall be in violation of the provisions of this Ordinance. Fees for licenses issued pursuant to this section to be paid by the applicant and shall be in amounts established by the Hoke County Board of Commissioners for the initial license and any annual licensing which may be required.

B. All existing automobile graveyards, junkyards, and repair shops at the effective date of this Ordinance, registered in accordance with Section Seven A, shall be subject to the following special pre-existing non-conforming use setback requirements:

1. Ten (10) feet from the right-of-way of any public road.
2. One hundred fifty (150) feet from any church or housing unit, other than one owned by the owner or operator of said existing automobile graveyard, junkyard and repair shop.
3. Three hundred (300) feet from any school property line.
These requirements, as to those qualified pre-existing non-conforming entities, shall control, i.e. this section supersedes for these entities, Section Four set-back requirements. Additionally, the prohibition of the operation or maintenance of a junkyard, automobile graveyard or repair shop within the prescribed distances from a public road, school, church, residential area, or housing unit shall not prevent such operation or maintenance if the public road, school, church, residential area, or housing unit is established after the junkyard, automobile graveyard or repair shop was in operation.

SECTION TEN—VARIANCES

The Hoke County Board of Commissioners may authorize a variance from certain of these regulations when, in its opinion, undue hardship may result from strict compliance. In granting any Variance, the Board of Commissioners shall make the findings required below, taking into account the existing use of land in the vicinity of the automobile graveyard, junkyard or repair shop, the number of persons residing or working in the area of the automobile graveyard, junkyard or repair shop in question and the probable effect of the granting of the variance upon conditions in the neighborhood. No variance shall be granted unless the Board of Commissioners find:

- (a) That there are special circumstances of conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land.
- (b) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
- (c) That the circumstances giving rise to the need for the variance are particular to the parcel and are not generally characteristic of other parcels in the jurisdiction of this Ordinance.

(d) That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which said property is situated.

Notwithstanding any contrary language contained above, the Hoke County Board of Commissioners may consider a variance only in setback matters.

ADOPTED: October 18, 1993