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REGISTER OF DEEDS
BOOK 263 PAGE 666

**AN
ORDINANCE TO REGULATE
JUNKYARDS AND JUNKED OR ABANDONED
MOTOR VEHICLES**

IN

GATES COUNTY

BOOK 263 PAGE 667

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WHEREAS, the Gates County Board of Commissioners declares that automobile graveyards, junkyards and junked or abandoned vehicles in close proximity to public roads and residential areas are patently offensive to the dignity and aesthetic quality of the environment in Gates County unless at least partially obscured from view by appropriate fencing or a combination of fencing and vegetation; and

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

WHEREAS, this Board finds regulatory restraint and prohibition of abandonment of junked motor vehicles and junkyards are necessary and desirable to promote or enhance community, neighborhood or area appearance; public safety and health; and

WHEREAS, the authority to enact such regulations is granted to the County of Gates pursuant to North Carolina General Statutes 153A-132 and 153A-132.2.

NOW, THEREFORE, the Board of Commissioners of Gates County, North Carolina does order and ordain the following:

**ARTICLE I
INTRODUCTION**

SECTION 101 TITLE

This Ordinance shall be known and will be cited as the Gates County Junkyards and Abandoned Motor Vehicles Ordinance.

SECTION 102 PURPOSE

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

- 102.1 To protect the citizens and residents of Gates County from inherently dangerous automobile graveyards and junkyards.
- 102.2 To preserve the dignity and aesthetic quality of the environment in Gates County.
- 102.3 To preserve the physical integrity of land in close proximity to churches, schools, and residential areas.
- 102.4 To achieve responsible economic growth in areas of Gates County that is compatible with growth and development in nearby areas.
- 102.5 To protect Gates County's water quality and environment.

SECTION 103 DEFINITIONS

For the purpose of this Ordinance, certain words or terms used herein shall be defined as follows:

- 103.1 **Abandoned Motor Vehicle** – is one that:
- (a) Is left on public grounds or county-owned property in violation of a law or ordinance prohibiting parking; or
 - (b) Is left for longer than 24 hours on property owned or operated by the County; or
 - (c) Is left for longer than two hours on private property without the consent of the owner, occupant, or lessee of the property; or
 - (d) Is left for longer than seven days on public grounds.
- 103.2 **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 for motor vehicle parts. Any establishment or place of business upon which six (6) or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored for a period of fifteen (15) days or more.
- 103.3 **Body Shop** – see term garage.
- 103.4 **Church or Synagogue** – tax-exempt building used for nonprofit purposes by a recognized and legally established sect for the purpose of worship, including educational buildings when operated by such church or synagogue.
- 103.5 **Evergreen** – Any of a variety of trees that remain green and functional through more than one growing season. A Leland Cypress tree is a recommended type of evergreen for the purposes of screening.
- 103.6 **Farm** – singularly or jointly owned land parcel or contiguous parcels on which agricultural operations are conducted as the substantial use. Agricultural operations include but are not limited to cultivation of crops, the husbandry of livestock, and forestry.
- 103.7 **Garage** – any establishment which is maintained and operated for the primary purpose of making mechanical and/or body repairs to motor vehicles, which is not used to store more than five (5) 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 are stored or kept at such property. This term includes the terms "Body Shop" and "Service Station".
- 103.8 **Health or Safety Nuisance** – a motor vehicle may be declared a health or safety nuisance when it is found to be:

- (a) A breeding ground or harbor for mosquitoes or other insects, snakes, rats, or other pests; or
 - (b) A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height; or
 - (c) A point of concentration of gasoline, oil, or other flammable or explosive materials; or
 - (d) So located that there is a danger of the vehicle falling or turning over; or
 - (e) A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces of metal, glass, or other rigid materials.
- 103.9 **Junk** – old or scrap copper, brass, rope, rags, batteries, paper, plastic, trash, rubber or junked, dismantled or wrecked motor vehicles or parts thereof, iron, steel, and other old scrap ferrous or non-ferrous materials appliances and in-operable boats.
- 103.10 **Junked Motor Vehicle** – a vehicle that does not display a current license plate and that:
- (a) Is partially dismantled or wrecked; or
 - (b) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
 - (c) Is more than five years old and appears to be worth less than one hundred dollars (\$100.00).
- 103.11 **Junkyard** – any establishment or place of business, which is maintained, operated, or used for storing, keeping, building, or selling junk, or for maintenance or operation of a motor vehicle graveyard. An establishment or place of business which stores or keeps for a period of 15 days or more material within the meaning of "junk" so defined in Subsection 103.8.
- 103.12 **Junkyard Control Act** – North Carolina General Statutes 136-141 through 155 (Article 12) which delegate to the North Carolina Department of Transportation the responsibility to regulate "junkyards" and "automobile graveyards" located on interstate and federal aid primary system highways.
- 103.13 **Motor Vehicle** – any machine designed or intended to travel over land, sea or air by self-propulsion or while attached to any self-propelled vehicle, i.e. trailer, travel trailer.
- 103.14 **Private Road** – a dedicated right-of-way or an ingress and egress easement intended for the public use, with a width of forty-five (45) feet, or more containing a roadway which provides or is used by the general public but is not maintained by N.C. Department of Transportation or any municipality in Gates County.

- 103.15 **Public Road** – any road or highway which is designated and maintained by the North Carolina Department of Transportation as part of the State Highway System, whether primary or secondary, paved or unpaved.
- 103.16 **Residence** – a home, manufactured home, an apartment, a group of homes, or single room occupied or intended for occupancy as a separate living quarters for one or more persons.
- 103.17 **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 or other appropriate licensing board.
- 103.17 **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 five (5) motor vehicles that are not capable of being driven under their own power and are not being restored to operable conditions, regardless of the length of time that individual motor vehicles are restored, or kept at such property.
- 103.18 **Unzoned area** – an area or portion of Gates County where no zoning regulations are in effect by the County or any municipality.
- 103.19 **Vectors** – any organism that carries disease – causing micro-organisms from one host to another (e.g. rats, mosquitoes, etc.).
- 103.20 **Visible** – capable of being seen without visual aid by a person of normal visual acuity.

SECTION 104 JURISDICTION

The regulations contained herein as provided in N.C.G.S. 153A-121 shall govern all territory within Gates County, North Carolina, outside of the incorporated jurisdiction of any municipality. A municipality may authorize the provisions of this Ordinance to be applicable to the territory within the municipality by the adoption of a resolution by the governing body.

**ARTICLE II
ENFORCEMENT AND REGULATION**

SECTION 201 ADMINISTRATION

The Gates County Planner and his/her assistants will be the primary investigating officers under this Ordinance. The Gates County Planning and Inspections Department shall be responsible for the administration and enforcement of this Ordinance. The Sheriff's Department shall be responsible for administering the removal and disposition of vehicles determined to be abandoned on any public or private road within the County and on property owned by the County. The Sheriff's Department will also be responsible for the enforcement of this Ordinance on privately owned property, on property owned by Gates County and on property within any public or private road as defined in Section 103. The Planning and Inspections Department shall provide the Sheriff's Department with notification of the violation. The Sheriff's Department shall then provide notification to any violator of any violation under this Ordinance and such violator shall be given thirty (30) days from the

time of such notice to bring the matter into compliance with this Ordinance. The Gates County Planning and Inspections Department shall be responsible for administering all other provisions of this Ordinance.

Any appropriate county investigating officer having probable cause to suspect a violation of this Ordinance may, upon presentation of proper credentials, enter onto any premises within the County's jurisdiction at any reasonable hour in order to determine if any motor vehicle is in violation of this Ordinance.

The County may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles and junked motor vehicles in compliance with this Ordinance and applicable state laws.

Nothing in this Ordinance shall be construed to limit the legal authority or power of officers of the Sheriff's Department or any other County Department in enforcing other laws or otherwise carrying out their duties.

SECTION 202 PROHIBITIONS

- 202.1 It shall be unlawful after the effective date of this Ordinance for any person, firm, corporation or other entity, to begin operation in any unincorporated area of Gates County a junkyard or automobile graveyard within three hundred (300) feet of any right-of-way of any public or private road, or one thousand (1,000) feet of a school, church or home. (This prohibition shall not apply to the residence or home of the owner of the junkyard or automobile graveyard.)
- 202.2 After the effective date of this Ordinance, the operation of any pre-existing junkyard or automobile graveyard in any unincorporated area of Gates County shall be unlawful except as provided in Section 203, 204 and 205 of this Ordinance.
- 202.3 After the effective date of this Ordinance, a junked motor vehicle shall be permitted only in registered motor vehicle graveyards or junkyards as provided in Sections 205 and 206, or placed within an enclosed building; except (5) or less junked motor vehicles may be permitted outside a motor vehicle graveyard or junkyard or enclosed building provided that it meets paragraphs (a) and (b):
- (a) Ten (10) Acres or More Lot Requirements;
 - (1) The lot or parcel that the junked motor vehicle is located on is ten (10) acres or more in land area; and,
 - (2) The Junked Motor Vehicle is placed with a minimum setback of three hundred (300) feet from any adjoining property line or six hundred (600) feet from any public road right-of-way; and,
 - (3) The junked motor vehicle is not a health or safety nuisance as defined in Section 103.7.
 - (b) Two (2) Acres, but Less Than Ten (10) Acres Lot Requirements;

- (1) The lot or parcel that the junked motor vehicle is located on is two (2) acres or more but less than ten (10) acres in land area; and,
- (2) The junked motor vehicle is placed with a minimum setback of three hundred (300) feet from any adjoining property line or six hundred (600) feet from any public or private right-of-way; and,
- (3) The junked motor vehicle is placed within an area screened by use of evergreen trees which are four (4) feet high at planting but which will grow to a height of six (6) feet within five (5) years of the date of planting and by a six (6) foot opaque fence, with the evergreen trees planted on the outbound side of the fence as set out in Section 204.2; and
- (4) The junked motor vehicle is not a health or safety nuisance as defined in Section 103.7.

202.4 One junk car will be allowed on any property less than two acres provided that the vehicle remains there for a period of no longer than 6 months.

202.5 It shall be unlawful for any new junkyard or automobile graveyard to be located within the 100 year floodplain as defined by flood zone maps.

SECTION 203 EXCEPTIONS

203.1 This Ordinance shall not apply to bona fide service stations, body shops and garages as defined by this Ordinance.

203.2 This Ordinance shall in no way regulate, restrict, prohibit, or otherwise deter any bona fide farm as defined by this Ordinance and its related uses. Equipment, devices, appliances and other materials normally not used to plant, cultivate, harvest or transport crops, produce or seed to and/or from the farm are not considered to be exempt under this Section or Ordinance.

203.3 Any expansion to a pre-existing motor vehicle graveyard or junkyard area shall be considered a new establishment, and as such, the expanded part shall conform to the requirements of Section 202.

SECTION 204 NEW MOTOR VEHICLE GRAVEYARD OR JUNKYARD DESIGN STANDARDS

All new junkyard and/or automobile graveyards established in accordance with Section 202 and all pre-existing motor vehicle graveyards and junkyards shall be operated and maintained subject to conformance with the following criteria.

204.1 A junkyard or motor vehicle graveyard shall be surrounded by an opaque fence six (6) feet in height and by an evergreen vegetative fence which is four (4) feet high at planting but which will grow to a height of six (6) feet within five (5) years of the date of planting.

The opaque fence must provide a visual barrier from all public and private roads and from all homes and buildings of adjoining landowners and it must have a planting of vegetation as follows:

Evergreen trees shall be planted on the outbound side of the fence on any side of the junkyard or motor vehicle graveyard that is visible from any public or private road or from any home or building or an adjoining landowner. All such trees shall be contiguous to, and not more than five (5) feet from the fence. The trees shall have a minimum height of four (4) feet when planted and shall be planted at evenly spaced intervals of every ten (10) feet.

Each owner, operator or maintainer of a junkyard or motor vehicle graveyard to which this Ordinance applies shall utilize good husbandry techniques, for example, pruning, mulching and proper fertilization, so that the vegetation can reach a height of six (6) feet within five (5) years of the date planted and will have a maximum density and foliage. Dead or diseased vegetation shall be replaced at the next appropriate planting time.

The County Planning and Inspections Department shall be available to assist the owner, operator, or maintainer of a junkyard or motor vehicle graveyard, in the formation of plans for said fencing and/or vegetation. If surrounding topography renders the screening useless, the Planning and Inspections Department may waive or modify the requirement for screening to meet the topographical needs of the surrounding area.

- 204.2 All operations, equipment, junk and/or inoperable motor vehicles shall be kept within the confines of said fence at all times unless in motion by transportation to and from the site.

SECTION 205 STANDARDS FOR EXISTING JUNKYARDS AND MOTOR VEHICLE GRAVEYARDS AT THE EFFECTIVE DATE OF THIS ORDINANCE

- 205.1 All owners, operators, or maintainers of motor vehicles graveyards and junkyards existing at the effective date of this Ordinance shall register the same with the Gates County Planning and Inspections Department within a period of ninety (90) days beginning with the effective date of this Ordinance. All existing motor vehicle graveyards or junkyards that have not been registered within ninety (90) days shall be in violation of the provisions of this Ordinance.

A junkyard in existence prior to the effective date of this ordinance must respond to a notice of violation within thirty (30) days from the date received. The owner of an existing junkyard considered to be in violation will be allowed twelve (12) months to bring the site into complete compliance.

Fifty percent (50%) of compliance shall be completed at the end of six months from date of notice. One hundred percent (100%) shall be completed at the end of the 12-month time period. The Gates County Board of Commissioners, upon recommendation by the Planning Board, may grant time extensions on a case-by-case basis. Property owner(s) shall show proof of work done and provide reasons for the requested time extension.

if the requirements of this ordinance are not met within the specified time period, the operation will be ordered to shut down and all junk/junked vehicles to be removed at the cost of the property owner.

An option and suggestion to junkyard owners is to reduce the area in which the junk/junk cars are stored to decrease the cost of compliance.

205.2 All existing motor vehicle graveyards or junkyards, at the effective date of this Ordinance, must install an evergreen, vegetative barrier which is a minimum of four (4) feet high at planting and will grow to a height of six (6) feet within five (5) years of the date of planting. This evergreen, vegetative barrier must provide, within five (5) years of installation, a six (6) foot high, continuous, visual barrier from all public and private roads and from all homes and buildings of adjoining landowners. A six foot high opaque fence must also be installed along with the evergreen barrier.

SECTION 206 REGISTRATION OF NEW MOTOR VEHICLE GRAVEYARDS OR JUNKYARDS

The owner, operator, or maintainer of any new motor vehicle graveyard or junkyard and/or expansion thereof shall be established in accordance with the provisions of this Ordinance. All new motor vehicle graveyards or junkyards shall be registered by submittal of a registration application to the Gates County Planning and Inspections Department, and shall not begin operation until that Department issues a Certificate of Compliance that all applicable provisions of this Ordinance have been satisfied. Failure to obtain a Certificate of Compliance shall constitute a violation of this Ordinance for any motor vehicle graveyard or junkyard that has begun operation.

**ARTICLE III
JUNKED OR ABANDONED MOTOR VEHICLES**

SECTION 301 REMOVAL OF JUNKED OR ABANDONED VEHICLES

Gates County may require the removal of junked or abandoned motor vehicles from public grounds or private property upon a finding that such removal is necessary and desirable to promote or enhance community, neighborhood, or area appearance or to abate public health or safety nuisances. Nothing in this section shall be construed to authorize the County to require the removal or disposal of a motor vehicle kept or stored in a bona fide motor vehicle graveyard, junkyard, body shop, or garage as defined in Section 103, in compliance with the definition and the applicable provisions of this Ordinance. In addition, the Ordinance shall not be construed to authorize the County to require the removal or disposal of any motor vehicle that is driven on a regular basis for business or personal use.

Gates County shall, whenever possible, provide to the owners of junked or abandoned motor vehicles which must be removed, the names of establishments which will remove the vehicle(s) at no charge to the owner.

SECTION 302 ORDER TO REMOVE

Any order to remove a junked or abandoned motor vehicle shall be in writing, signed by the investigating officer and sent by first class mail with proper postage affixed to the

registered owner and/or lien holder(s) of said motor vehicle as shown by the records of the N.C. Division of Motor Vehicles. If the Division of Motor Vehicles has no record of the vehicle's ownership, then the notice shall be mailed to the owner of the property where said motor vehicle is located according to the records of the Gates County Tax Assessor's Office.

The investigating officer shall obtain the ownership information in written form from the Division of Motor Vehicles or the County Assessor's Office. Removal of the motor vehicle(s) shall be required within thirty (30) days of the date of the written order.

If after receiving an order to remove a junked or abandoned motor vehicle the owner fails to remove such vehicle, the County may cause the vehicle to be removed to a storage garage or area. Such removal shall be undertaken in accordance with N.C. General Statute Article 7A, Chapter 10. (SEE APPENDIX)

SECTION 303 DISPOSAL BY COUNTY

After holding a junked or abandoned motor vehicle for thirty (30) days after the day the vehicle is removed, Gates County may sell or dispose of it as follows:

- 303.1 If the vehicle appears to be worth less than one hundred (\$100.00) dollars, the County may dispose of the vehicle as a junked motor vehicle. With the written consent of the owner, the County may remove and dispose of a motor vehicle as a junked motor vehicle without regard to the value, condition, or age of the vehicle and without holding it for any prescribed period of time.
- 303.2 If the vehicle appears to be worth one hundred (\$100.00) dollars or more, it shall be sold at public auction. The County shall give twenty (20) days written notice of the sale to the registered owner at his last known address, to each holder of a lien against the vehicle, and to the Division of Motor Vehicles. Any person having an interest in the vehicle may redeem it at any time before the sale by paying all costs accrued to date. The proceeds of the sale shall be paid to the County Finance Officer, who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale, and liens, in that order. The remainder of the proceeds of the sale, if any, shall be paid to the County's General Fund.
- 303.3 If a junked motor vehicle does not display a current license plate and the vehicle identification number has been removed or defaced so as to be illegible, Gates County may dispose of it under this Ordinance as follows:
 - (a) The County may destroy the vehicle or sell it at private sale (without regard to value), after having held the vehicle for seventy-two (72) hours.
 - (b) The County will notify the Division of Motor Vehicles of all Motor Vehicles destroyed.

ARTICLE IV

PENALTIES, REMEDIES, SEPARABILITY AND EFFECTIVE DATE

SECTION 401 REMEDIES AND PENALTIES FOR VIOLATIONS

If any real property is used in violation of this Ordinance, the County or any other appropriate authority may take the necessary remedies to protect adjacent or other property owners who would be damaged by such violations, and in addition to other remedies, may institute injunctions, mandamus, or other appropriate action in proceeding to stop the violation.

The Gates County Sheriff's Department shall be responsible for enforcing the provisions of this Ordinance on privately owned property and for the enforcement of this Ordinance on property owned by the County or within the right-of-way of any public or private road as defined in Section 103. The Sheriff's Department shall provide notification to any violator of any violation under this Ordinance and such violator shall be given thirty (30) days to bring the matter into compliance with this Ordinance.

Any person, firm, corporation, or other entity who maintains or operates or who controls the maintenance and/or operation of a junkyard or automobile graveyard 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 North Carolina General Statutes, Section 14-4. Each day that said automobile graveyard or junkyard shall be maintained or operated in violation of this Ordinance shall constitute a separate and distinct offense.

In lieu of or in addition to the criminal penalties outlined above, any person violating this Ordinance may be subject to the remedies outlined in N.C.G.S. 153A-123 including civil penalties, not to exceed \$100.00. No penalty shall be assessed prior to notice of the violation. For every day a person is in violation of this Ordinance, it may be considered a separate offense. If the violator does not pay such penalty within thirty (30) days of notification of this assessment by written citation it may be recovered by the County in civil action in the nature of debt. The violator may contest said penalty in the court of appropriate jurisdiction.

SECTION 402 SEPARABILITY

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 403 EFFECTIVE DATE

This Ordinance shall take effect and be enforced as of the 4th day of April, 2005.


Clerk to the Board


Chairman, Gates County
Board of Commissioners

N.C. GENERAL STATUTE 20-219.11

Notice and Probable Cause Hearing

A. Whenever a vehicle, with a valid registration plate or registration, is towed as provided in G.S. 20-219.10, the authorizing person(s) shall immediately notify the last known registered owner of the vehicle of the following:

1. A description of the vehicle;
2. The place where the vehicle is stored;
3. The violation with which the owner is charged, if any;
4. The procedure the owner must follow to have the vehicle returned to him; and
5. The procedure the owner must follow to request a probable cause hearing on the towing.

If the vehicle has North Carolina registration plate or registration, notice shall be given to the owner within 24 hours; if the vehicle is not registered in North Carolina notice shall be given to the owner within 72 hours. This notice shall, if feasible, be given by telephone. Whether or not the owner is reached by telephone, notice shall be mailed to his last known address unless he or his agent waives this notice in writing.

- B. Whenever a vehicle with neither a valid registration plate nor registration is towed as provided in G.S. 20-219.10, the authorizing person shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information listed in Subsection (A). Unless the owner has otherwise been given notice, it is presumed that the authorizing person has not made reasonable efforts, as required under this Subsection, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at least seven (7) days before the towing actually occurred; except, no pretowing notice need be given if the vehicle impeded the flow of traffic or otherwise jeopardized the public welfare so that immediate towing was necessary.
- C. The owner or any other person entitled to claim possession of the vehicle may request in writing a hearing to determine if probable cause existed for the towing. The request shall be filed with the Magistrate. The Magistrate shall set the hearing within 72 hours of his receiving the request. The owner, the person who requested the hearing if someone other than the owner, the tower and the person who authorized the towing shall be notified of the time and place of the hearing.
- D. The owner, the tower, the person who authorized the towing, and any other interested parties may present evidence at the hearing. The person authorizing the towing and the tower may submit an affidavit in lieu of appearing personally, but the affidavit does not preclude that person from also testifying.
- E. The only issue at this hearing is whether or not probable cause existed for the towing. If the Magistrate finds that probable cause did exist, the tower's lien continues. If the Magistrate finds that probable cause did not exist, the tower's lien is extinguished.
- F. Any aggrieved party may appeal the Magistrate's decision to District Court.