

Automobile Graveyard and Junkyard Ordinance

Section 1. Purpose

The purpose of this ordinance is to provide adequate controls to ensure that automobile graveyards, automobile recycling businesses and junkyards do not have a deleterious impact on the Town's health, safety, general welfare and property values.

Section 2. Authority

This ordinance is enacted pursuant to Title 30-A, Section 3001 and Section 3751-55 of the Maine Revised Statutes Annotated as amended.

Section 3. Applicability

This ordinance shall apply to all automobile graveyards, automobile recycling businesses and junkyards as defined in Title 30-A M.R.S.A. Section 3752 and as further defined in Appendix A to this ordinance, which is incorporated herein by reference, whether located on private or commercial property. This ordinance shall not apply to the temporary storage, as defined in Appendix A, of motor vehicles that are wrecked or dismantled and awaiting repair.

Section 4. Permits Required

Unless otherwise provided by the Council, the Code Enforcement Officer shall be required to administer this ordinance. As provided for in this section, the Town Council shall issue all permits according to the requirements set forth below.

- 4.1 No person or entity may establish, operate or maintain an automobile graveyard, automobile recycling businesses or junkyard without first obtaining a nontransferable permit from the Town Council.
- 4.2 All permits, whether new or renewals shall be issued annually. Permits shall become effective October 1st and expire September 30th

of each year. An annual fee of \$50 will be charged for new or renewal permits. New permits issued during the year shall expire on September 30th and must be renewed for the next year.

- 4.3 Prior to approval of any permit, new or renewal, the CEO shall inspect the site to insure compliance with this Ordinance and State automobile graveyards, automobile recycling businesses and junkyard laws.
- 4.4 For all proposed permits, the Town shall schedule a Public Hearing. A notice of said Hearing shall be sent to the Town Council and all abutting property owners, posted at the Town Office and the Public Library and published in the local newspaper at least 7 and not more than 14 days before said Hearing. The cost of posting and publishing said notice shall be paid by the applicant.
- 4.5 For all permit applications for a new automobile graveyard or automobile recycling business, the town shall give notice to the automobile dealer licensing section of the Department of the Secretary of State, Bureau of Motor Vehicles by mailing such notice between 7 and 14 days before the hearing.
- 4.6 Any permit granted with restrictions or conditions shall clearly state those conditions or restrictions on or attached to the permit.
- 4.7 The denial of any permit shall be in writing and shall set forth the reasons for the denial.

Section 5 Right, Title and Interest

No permit will be issued for an automobile graveyard, automobile recycling business or junkyard unless there is proof of ownership, a sales/lease agreement, or an authorization letter that the land (site) may be used for that particular type of operation.

- 5.1 All proof of ownership (copy of deed), lease agreement, or letter of agreement shall be on file at the Town Office at all times. All lease agreements and letters of agreements must show the number of years that the site may be used for that particular operation and must be notarized.

- 5.2 A person or entity may file an application for a permit on a site that already has a permit if the permit holder has a sales agreement with the person or entity seeking the permit. The permit may be granted but will only become valid when the transaction has been completed.

Section 6. Submission Requirements

Applications for permit renewals shall be submitted by October 1st of each year. If found to be incomplete, the CEO shall immediately notify the permit holder that the required information must be submitted prior to the Public Hearing date. If there are no changes to the ownership, size or nature of the existing automobile graveyard, automobile recycling business or junkyard facility, an applicant for a renewal permit does not need to submit the information as further described in this section, except as otherwise specified by the Town Council.

- 6.1 For new permit applicants, or for existing facilities which are proposed to be changed or expanded beyond the original permitted area, a completed application must be submitted at least 7 days prior to the required Public Hearing to provide the public an opportunity for review. All such applications shall contain the following information:
- 6.2 The property owner's name and address and the name and address of the person or entity who will operate the site.
- 6.3 A site plan drawn to a scale not to exceed 1" = 100', on which is shown:
- a. the boundary lines of the property
 - b. soils information from Kennebec County Soil Conservation Service.
 - c. the location of any and all gravel aquifer recharge area(s) as mapped by the Maine Geological Survey, or a licensed geologist
 - d. the location of all wells within three hundred (300) ft. of where cars or junk will be placed
 - e. the location of any residences, schools, churches, playgrounds or parks within five hundred (500) feet of the area where cars or junk will be placed
 - f. the location of any water bodies on the property or within two hundred (200) feet of the property lines.

- g. the boundaries of the 100-year flood plain, if applicable
- h. the location and name or route number of all roads within one thousand (1000) feet of the site
- i. yard access roads
- j. designated area for storage of vehicles, vehicle parts and any and all other items associated with this facility

This site plan does not need to be an engineered drawing.

- 6.4 A written plan must also be submitted describing how all fluids/special wastes will be stored and eventually disposed of. Estimates of quantities and schedules for removal and disposal must be included along with agreements with haulers. Storage and disposal of batteries and tires must also be addressed in this written plan.
- 6.5 Copies of all other permits and licenses held by the operator at this facility.
- 6.6 No permit will be issued for an automobile graveyard, automobile recycling business or junkyard to a person or entity seeking a new site or buying an existing site until all revoked permits and all violation and enforcement action have been corrected. This would include not only local violations, but also any violations of State/Federal laws regardless of where committed.
- 6.7 Any person or entity submitting false or misleading information on an automobile graveyard, automobile recycling business or junkyard site permit application will be subject to revocation of the permit after a public hearing or a penalty of one thousand (\$1,000) dollars or both if the Council finds that the misleading or false information was critical to granting of the permit.

Section 7. Performance Standards

The following standards are required of all automobile graveyards and junkyards, whether established and permitted before February 27, 1991 or thereafter. The performance standards for automobile recycling businesses will be as provided for in State Law, Title 30-A, Section 3755-A.

- 7.1 The site of the automobile graveyard or junkyard must be enclosed by a visual screen at least six (6) feet in height and built in accordance with D.O.T. rules as authorized by Title 30-A, Section 3755 of State law (See Appendix B).
- 7.2 No vehicles or junk shall be dismantled or stored over a sand and gravel aquifer or aquifer recharge area as mapped by the Maine Geological Survey or by a licensed geologist unless such vehicles are dismantled or stored in a contained structure having an impermeable, leak-proof floor.
- 7.3 No vehicles or junk shall be dismantled or stored within the 100-year flood plain.
- 7.4 Upon receiving a motor vehicle which will not be repaired, the battery shall be removed and the engine lubricant, transmission fluid, brake fluid and engine coolant shall be drained into watertight, covered containers and shall be recycled or disposed of according to all applicable Federal and State laws, rules, and regulations. No discharge of any fluids from any motor vehicle shall be permitted into or onto the ground.
- 7.5 To reduce noise, all dismantling of motor vehicles shall take place after 7:00 am and before 6:00 pm Mondays through Saturdays.

The following additional performance standards shall apply to all automobile graveyards, automobile recycling businesses and junkyards as follows:

1. Any graveyard, recycling business or junkyard that was created after February 27, 1991.
2. Any proposed expansion to an existing site which is beyond the limits shown on the original site plan approved at the time the graveyard, recycling business or junkyard was first permitted prior to February 27, 1991.
3. Any graveyard, recycling business or junkyard that has been in existence but never permitted.

- 7.6 No vehicle or junk shall be dismantled or stored within three hundred (300) feet of any water body or inland wetland, regardless of size. Also man-made water bodies shall not be filled in or drained without proper DEP permits.
- 7.7 No vehicles or junk shall be stored within three hundred (300) feet from the property line of any school, church, public playground, public park or cemetery or within ordinary view from the public facility.
- 7.8 No vehicles or junk shall be dismantled or stored within three hundred (300) feet of a well that serves as a public or private water supply unless such well serves the business or the owner or operator's abutting residence.
- 7.9 No vehicles, junk or parts of other items shall be stored closer than one (100) feet of any property line.
- 7.10 No automobile graveyard, automobile recycling business or junkyard shall be permitted within 500 feet of any residential or commercial building, unless such buildings are the property of the owner of the automobile graveyard, automobile recycling business or junkyard. This sub section shall apply and become enforceable on all new permits issued after February 14, 2001.

Section 8. Permit Denials, Revocations, Clean Up

Any automobile graveyard, automobile recycling businesses permit application which is not approved at the time of review, has six (6) months from the expiration date to become re-licensed. Any permit issued after six (6) months from the expiration date of the previous permit shall comply with all requirements for new site approvals. In other words, the site will lose its grandfathered status and be considered as a new permit site. This will also apply to any permits revoked during the year.

- 8.1 Any existing automobile graveyard, automobile recycling businesses/junkyard not issued a permit because of a lack of any application or an incomplete application must clean up the site within six (6) months of the date of expiration of the last permit issued.

- 8.2 In addition to its other enforcement options, the Town may revoke any permit when, after notice and hearing, it is shown that the operator or owner is not in compliance with the conditions of the permit or the requirements of this ordinance.
- 8.3 Any automobile graveyard, automobile recycling businesses/junkyard that has either been denied a license or has had a license revoked shall have six (6) months to clean up the site of said automobile graveyard/junkyard. If applicable, the property owner, if different from the applicant will be held responsible for clean up.
- 8.4 If necessary, the town may pursue clean-up activities as provided for in Title 30-A, Section 3758 as amended.

Section 9. Enforcement and Penalties

The Code Enforcement Officer (CEO) shall enforce this ordinance. If the CEO finds a violation of this ordinance, the CEO shall notify in writing the person responsible for it, specifying the nature of the violation, ordering whatever action may be necessary to correct it and giving that person not more than 30 calendar days to make the correction. A copy of the notice shall be given to the municipal officers.

If the violation is not corrected as ordered by the CEO, the CEO may initiate any and all actions and proceedings, legal or equitable, that may be necessary or appropriate to enforce this ordinance. The CEO may grant one extension of not more than 180 calendar days to the time allowed by him for correction of the violation if he determines, based upon all relevant circumstances, that the person responsible for the violation cannot reasonably be expected to make the correction with the time allowed due to personal physical disability or financial hardship or seasonal weather conditions.

Any person who violates this ordinance shall be penalized in accordance with Title 30A MRSA S4452, including, without limitation, a penalty of \$100 to \$2500 per day for a specific violation, injunctive relief and reasonable attorney fees, expert witness fees and costs.

Section 10. Effective Date

This ordinance became effective as of February 27, 1991 and may be amended by the Town Council in accordance with Town requirements for amending ordinances. It was amended on February 14, 2001, and August 25, 2004.

Section 11. Appeals

Any and all appeals under this Ordinance may be taken within 30 days of the decision to the Superior Court in accordance with the Maine Rules of Civil Procedure.

Section 12. Severability and Conflict

In the event that any provision of this ordinance is ruled to be invalid, the remaining provisions shall continue in full force and effect. In the event that any provision of this ordinance is found to be less restrictive than State law, the requirements of State law shall govern.

APPENDIX A

DEFINITIONS

1. Automobile graveyard. “Automobile graveyard” means a yard, field or other outdoor area used to store 3 or more unregistered or uninspected motor vehicles, as defined in Title 29-A section 101, subsection 42, or parts of the vehicles. “Automobile graveyard” includes an area used for automobile dismantling, salvage and recycling operations.

A. “Automobile graveyard” does not include:

- (1) An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle’s storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipt;
- (2) An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in Title 29-A, section 101 as long as the hobbyist’s activities comply with all applicable federal and state statutes and rules and municipal ordinances, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles or vehicle parts that are collected by a hobbyist. For the purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles;

- (3) An area used for the parking or storage of vehicles, vehicle parts or equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;
- (4) An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under Title 29-A, chapter 5;
- (5) An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in Title 29-A, section 851;
- (6) An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as a new vehicle dealer as defined in Title 29-A, section 851;
- (7) An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or
- (8) An area used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment as defined in Title 29-A, section 101 that is temporarily out of service but is expected to be used by the vehicle or equipment owner or by an operator designated by the owner. This subsection does not exempt an area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area.

Junkyard: “Junkyard” as used in this chapter shall mean a yard, field or other area used as a place of storage for:

- a. Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
- b. Discarded, scrap and junked lumber;
- c. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material; and,

1-A. Automobile recycling business. “Automobile recycling business” means the business premises of a dealer or a recycler licensed under Title 29-A, sections 851 to 1112 who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, as long as 80% of the business premises specified in the site plan in section 3755-A, subsection 1, paragraph C is used for automobile recycling operations.

A. “Automobile recycling business” does not include:

- (1) Financial institutions as defined in Title 9-B, section 131, subsections 17 and 17-A;
- (2) Insurance companies licensed to do business in the State;
- (3) New vehicle dealers, as defined in Title 29-A, section 851, licensed to do business in the State; or
- (4) That portion of the business premises that is used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle’s storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business.

Temporary Storage: The term “temporary storage” as used in this ordinance shall mean storage for not more than 90 consecutive days, unless the repair is awaiting an insurance settlement, in which case storage may exceed 90 consecutive days provided the owner of the motor vehicle produces written proof satisfactory to the Town that the insurance claim is pending and active.

APPENDIX B

General

Screening may be accomplished by natural or man-made objects, plantings or properly constructed fences, any of which must completely screen the junkyard from ordinary view from any portion of any highway within the prescribed distances throughout the entire calendar year. All screening must be located outside of the highway right-of-way limits.

Natural or man-made objects may be interpreted to be:

1. Hills, gullys, or embankments. Such man-made objects must be constructed to blend with the landscape with loaming and seeding or other treatment as may be necessary to establish a natural appearance.
2. Buildings or other installations.
3. Combinations of above.

Plantings

Trees, shrubs, or other vegetation of sufficient height, density and depth of planting or growth to completely screen the junkyard from ordinary view from any highway within the prescribed distance throughout the entire calendar year may be used for screening.

Fences

Fences shall be so located and of sufficient height to completely screen the junkyard from ordinary view from any highway within the prescribed distances. Although the minimum height of any fence is stated to be six feet, it must be emphasized that height must be sufficient to accomplish the complete screening from ordinary view. All fences shall be well constructed and maintained. Only sound undamaged material, uniform in appearance, and erected in a workmanlike manner will be acceptable.

Suggested Materials

Posts: Wood – Sound, round or square, preferably cedar, hackmatack, spruce, or fir. Preservative treatment with creosote oil or cuprinol is suggested. 4” x 4” minimum (square) or 4” minimum diameter (round).

Metal – Steel pipe or structural section steel either galvanized or base coat painted with red lead or other rust inhibitive paint.

All posts to extend a minimum of 4 feet below ground level and to be set plumb. Recommended post spacing 8’ to 12’. End and corner posts to be diagonal braced to nearest adjacent post.

Stringers: Minimum 2 x 4 – Spruce or Fir – Sound and free of excessive or weakening knots, and relatively free from warp or wain, preferably treated with creosote or cuprinol after cutting to length. Solidly spike to wood posts or bolted to metal posts. Three stringers for 6 or 8 foot height of fence, 4 stringers for 10 or 12 foot height. Over 12 foot height would require a special design.

Steel pipe or structural section stringers may be used. These should be either galvanized or base coat painted with red lead or other rust inhibitive paint.

Facing Materials

Facing material may be wood, composite, sheet metal or plastic. Although new material will not be a requirement, bent, damaged, poor quality, scrap, discarded, mixed or conglomerate materials will not be acceptable.

Suggested materials would be sound, new or used boards; exterior grade hardboard or plywood; corrugated steel, aluminum, or plastic.

It is suggested that all fastenings be galvanized nails, spikes, bolts, clamps, etc., and that all wood materials be treated with either a creosote oil base stain or cuprinol (with color additive) to preserve and prolong the life of the fence and to present a uniformity of appearance.

Since wind damage is a problem with any fence, bracing may be required and certainly would be essential on any fence over 8 feet in height. In board fence construction, relief of wind pressure may be achieved by placing the boarding alternatively on outside and inside of stringers with the spacing to

be such that edges overlap enough to present a solid appearance and effectively screen the junkyard from ordinary view.

Ordinances/Automobile graveyard and junkyard ordinance