

JY1 (1-3-91)

AUTOMOBILE GRAVEYARDS AND JUNKYARDS ORDINANCE

This Ordinance concerns the operation and regulations of automobile graveyards and junkyards in accordance with Title 30-A Maine Revised Statutes Annotated (M.R.S.A.), Sections 3751 – 3760).

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Section 3751. PURPOSE

Junkyards and so-called “Auto Graveyards” have been steadily expanding and frequently encroach upon highways. These junkyards and graveyards have become a nuisance and a menace to safe travel on public ways, often distracting the attention of drivers of motor vehicles because it appears cars are parked on the highway or that an accident has occurred. It is declared that such junkyards and automobile graveyards are a nuisance and are properly subject to regulation and control.

Section 3752. DEFINITIONS.

As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

1. AUTOMOBILE GRAVEYARD. “Automobile Graveyards” means a yard, field or other area used to store 3 or more unserviceable, discarded, worn-out or junked motor vehicles as defined in Title 29, section 1, subsection 7 (“Motor Vehicle” means any self-propelled vehicle not operated exclusively on tracks, and ALL= Terrain Vehicles that are registered for highway use by the Secretary of State, or parts of such vehicles. This does not include snowmobiles).
 - A. An unserviceable vehicle as used in this subsection shall mean any motor vehicle which is wrecked, dismantled, cannot be operated

legally on any public highway or which is not being used for the purpose for which it was manufactured.

- B. "Automobile Graveyard" would exclude temporary (not more than 90 days) shall be used until such time the definition is changed by either a Legislative Act or by the decision from a Court of Law: storage by an establishment or place of business which is primarily engaged in doing repairs of wrecked or dismantled vehicles which are awaiting parts and/or adjustment, such as damaged insured vehicles awaiting auto body work for the purpose of making repairs to render a motor vehicle serviceable.

- 2. HIGHWAY. "Highway" means any public way.
- 3. INTERSTATE SYSTEM. "Interstate System" means those portions of the Maine Turnpike and the State Highway System incorporated in the National System of Interstate and Defense highways, as officially designated by the Department of Transportation.
- 4. JUNKYARD. "Junkyard" means a yard, field or other area used to store:
 - 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
 - D. Garbage dumps, waste dumps and sanitary fills.

NOTE: If either the automobile or the salvage material is inside a building, neither would be subject to the statute in most cases.

SECTION 3753. PERMIT REQUIRED.

- 1. No person may establish, operate or maintain an automobile graveyard or junkyard without first obtaining a nontransferable permit from the Selectmen of the Town of Norridgewock. Any automobile graveyard or junkyard established, operated or maintained is required to be licensed whether or not the person is actually in the junk business. This then, is a privilege granted to an individual by the State acting through the Selectmen and not an inherent right of the individual.
- 2. The Selectmen require the applicant to make a written request for the granting of the permit, stating such things as location, size, and other information pertaining to the operation (see from at appendix A). The written application must be accompanied by a fee as provided in section 3756 plus the cost of posting and publishing the hearing notice.
- 3. Permits issued under this section are valid until the first day of the following year.

SECTION 3754. HEARINGS.

The Selectmen as provided for in section 3753, shall hold public hearing before granting a permit to establish, operate or maintain an automobile graveyard or junkyard. They shall post a notice of the hearing at least 7 and not more than 14 days before the hearing in at least 2 public places in the municipality and publish a notice in one newspaper having general circulation in the municipality. The Selectmen shall give written notice of the application to the Department of Transportation by mailing a copy of the application at least 7 days and not more than 14 days before the hearing.

SECTION 3755. LIMITATIONS ON PERMITS.

1. **HIGHWAYS; Interstate and Primary Systems.** No permit may be granted for an automobile graveyards or junkyard within 1,000 feet of the right-of-way of any highway incorporated in the Interstate and Primary Systems or within 600 feet of the right-of-way of any other highway (State or State-aid highway or County or Town roads (secondary highways), except for:
 - A. Those automobile graveyards or junkyards which are kept entirely screened to ordinary view from the highway at all times by natural objects, planting or fences:
 - (1). Screening required by this paragraph must be well constructed and properly maintained at a minimum height of 6 feet and acceptable to the Selectmen. It must comply with the rules adopted by the Department of Transportation. The permit shall specify that compliance with these rules is required.
 - B. Those automobile graveyards or junkyards located within areas which have been zoned for industrial use and located more than 600 feet but less than 1,000 feet from the right-of way of any highway incorporated in the Interstate and Primary Systems.
2. **PUBLIC FACILITIES.** No permit may be granted for an automobile graveyard or junkyard which is:
 - A. Located within 300 feet of any public park, public playground, public bathing beach, school, church or cemetery; and
 - B. Within ordinary view from that public facility.
3. **LIMITATION OF NEW PERMITS.** No permit may be granted for any automobile graveyard or junkyard established after October 3, 1973, and located within 100 feet of any highway. All bona fide automobile graveyards and/or junkyards in existence within 100 feet of the highway Right-of-Way prior to October 3, 1973 may remain if they were there legally prior to that date. Those automobile

graveyards and/or junkyards which have been illegally established, operated and maintained, on or before October 3, 1973 would be considered “new yard” and cannot be within 100 feet of any highway Right-of-way.

4. RULES.

- A. No permit may be granted for an automobile graveyard or junkyard that does not comply with the rules adopted under section 3759. The Selectmen shall clearly state all conditions in the space provided on the permit which makes for clear notice of the conditions for the operator and the enforcement agency.

- B. The Selectmen, as provided for in section 3753 may apply more stringent restrictions, limitations and conditions in considering whether to grant or to deny any permit for an automobile graveyard or junkyard adjacent to any highway.

- C. The municipality conditions include, but not limited to:
 - (1). Compliance with all State and Federal hazardous waste regulations.

 - (2) Fire and traffic safety regulations.

 - (3) To reduce the noise level, all dismantling, with power tools, shall take place within a building.

 - (4) All motor vehicles shall be stored in a dry condition. A cement pad with catch basin shall be installed for the purpose of removing all lubricants or fluids from the vehicle. The battery shall be removed and stored to prevent any contamination. The battery and all lubricants and fluids shall be disposed of in accordance with Federal and State Laws.

 - (5) All motor vehicles or junk shall be located no closer than 20 feet from property lines.

 - (6) To ensure the quality of the ground and surface waters, the applicant (permit holder), at his sole expense, shall employ qualified geotechnical advisors satisfactory to the Selectmen to ascertain the need, type and quantity of ground and surface water monitoring wells at or near the perimeters of the proposed automobile graveyard and /or junkyard and if such wells are necessary, forthwith installed the same according to

the recommendations of the geotechnical consultant and supply to the Selectmen and well owners complete reports at least quarterly unless contamination is found and then monthly.

- (7) No motor vehicle or junk shall be located within 300 feet of any water body.
 - (8) No motor vehicle or junk shall be located within 100 feet of any freshwater wetland.
 - (9) All wells within 1,000 feet of an automobile graveyard or junkyard shall, if requested by the well owner, will be tested yearly at the expense of the automobile graveyard or junkyard owner and a copy of the test results will be provided to the well owner.
 - (10) Seasonal farm equipment will be exempted from this ordinance so long as it is located on the farm owners property and reported as personal property for tax purposes to the Town Office or excises taxes have been paid by owner.
5. The Selectmen shall take into consideration any and all local ordinances in deciding whether to grant or deny a permit for any automobile graveyard or junkyard and in attaching conditions of approval to the granting of a permit.

SECTION 3756. PERMIT FEES.

The Selectmen shall collect, in advance from the applicant for a permit, a fee in accordance with the following schedule. (The measurement should start from the edge of the highway (right of way) limit and not from the center of the highway):

- A. More than 100 feet from highway. Fifty dollars for each permit for an automobile graveyard or junkyard located more than 100 feet from any highway, plus the cost of posting and publishing the notice under section 3754.
- B. Within 100 feet from highway. Two hundred dollars for each permit for an automobile graveyard or junkyard located within 100 feet from any highway, plus the cost of posting and publishing the notice under section 3754.

SECTION 3757. PROVISIONS REGARDING NUISANCES UNAFFECTED.

This subsection shall not be construed as in any way repealing, invalidating or abrogating Title 17, section 2802, or limiting the right of prosecutions under that section. Violation of this subsection in the establishment, maintenance of operation of any automobile graveyard or junkyard constitutes prima facie evidence that the yard is a nuisance as defined in Title 17, section 2802.

SECTION 3758. VIOLATION.

1. ENFORCEMENT. Selectmen or their designee may enforce this subsection.
2. PENALTIES. Whoever violates this subsection or the rules of the Department of Transportation adopted under section 3759 shall be penalized in accordance with Title 30-A, section 4506. Each day that the violation continues constitutes a separate offense.
3. REVOCATION OR SUSPENSION OF PERMIT. Violation of any condition, restriction or limitation inserted in a permit by the Selectmen is cause for revocation or suspension of the permit by the same authority which issued the permit. No permit may be revoked or suspended without a hearing and notice to the owner or the operator of the automobile graveyard or junkyard. Notice of hearing shall be sent to the owner or operator by registered mail at least 7 but not more than 14 days before the hearing. The notice must state the time and the place of hearing and contain a statement describing the alleged violation of any conditions, restrictions or limitations inserted in the permit.

SECTION 3759. RULES.

In the interest of uniformity and to establish guidelines for the Selectmen in the matter of adequate screening, the Department of Transportation has adopted rules establishing minimum standards for screening of automobile graveyards and junkyards.

SECTION 3760. RELOCATION, REMOVAL, DISPOSAL, COMPENSATION AND CONDEMNATION.

1. ACQUISITION OF LAND. If the Department of Transportation determines that the topography of the land adjacent to any portion of a highway incorporated in the Interstate or Primary Systems will not permit adequate screening, as required in sections 3751 to 3760, or that adequate screening would not be economically feasible, it may acquire by gift, purchase or condemnation any interests in property that are necessary to secure the relocation, removal or disposal of the automobile graveyards or junkyards.

2. **COMPENSATION.** In case of such acquisition, just compensation shall be paid to the owner for the relocation, removal or disposal of the following automobile graveyards and junkyards:
 - A. Those which were operating and in existence on May 11, 1966 and located in areas adjacent to any portion of a highway incorporated in the Interstate or Primary Systems, which exceed Federal restrictions and for which Federal funds are available to defray the cost.
 - B. Those in operation along any highway made a part of the Interstate or Primary Systems on or after May 11, 1966.
 - C. Those in operation and established on or after May 11, 1966.
3. **PROCEDURES.** The purchase, condemnation, negotiation, assessment of damage and appeal procedures shall be in accordance with this ordinance and Title 23, section 153 to 159 (State highway Laws).
4. **USE OF FEDERAL FUNDS.** This ordinance does not prevent the town from participating with the owner when Federal or State funds are available to defray costs of screening junkyards whenever it is determined to be more feasible to screen rather than to be involved in the cost of impact of acquisition and relocation.