



# Town of Turner, Maine

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## Town of Turner, Maine Automobile Grave Yard and Junk Yard Ordinance

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## Section 1 - PURPOSE

A. The purpose of this ordinance is to provide adequate controls to insure that the establishment, operation and maintenance of automobile recycling businesses do not have a negative effect on public health, safety and general welfare or on the natural environment.

B. The purpose of this ordinance is to provide adequate controls to insure that the operation and maintenance of existing automobile graveyards, junkyards and automobile recycling businesses do not have a negative effect on public health, safety and general welfare or on the natural environment.

## Section 2 - AUTHORITY

This ordinance is enacted pursuant to Title 30-A MRSA Section 3001 and Title 30-A MRSA Section 3751 et seq.

## Section 3 - APPLICABILITY

A. This ordinance shall apply to any automobile graveyard junkyard or automobile recycling businesses now existing or to be established, all or part of which is within the Town of Turner.

B. This ordinance shall not apply to any Town of Turner waste handling facility.

C. This Ordinance shall not apply to bona fide farm and/or agricultural uses when- unserviceable vehicles- scrap metal and other items that may meet the definition of junk are stored for future use or to repair or maintain farm equipment used in connection with the owner's ongoing farm or agricultural operations. Should the farm or agricultural use cease, the provisions of this ordinance shall be met.

D. Farm or Agricultural operations shall provide proof of farming operations with a copy of their Schedule F Federal Form.

## Section 4 - DEFINITIONS

**Agricultural Operation:** Operations that include, but are not limited to the harvest of agricultural products such as milk, hay, corn, fruit and other harvest type of items grown on the land and used for the continued agricultural operation.

**Automobile Graveyard:** A yard, field or other area used as a place of storage, other than temporary storage not to exceed ninety (90) days by an establishment or place of business which is engaged primarily in doing auto body repair work for the purpose of making repairs to render a motor vehicle serviceable, for three (3) or more unserviceable, discarded, worn out or junked motor vehicles as defined in Title 29-A MRSA, Section 101, subsection 42, or parts of such vehicles. Automobile graveyard includes an area used for dismantling, salvage and recycling of motor vehicles.

**Automobile Recycling Business:** A premise of a person who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage for the purpose of resale or for selling the basic materials in the salvage vehicles, provided

that eighty (80) percent of the business premises specified in Section 7.C. is used for automobile recycling operations.

**Junkyard:** A yard, field or other area used to store discarded, worn out or junked plumbing, heating supplies, household appliance or furniture, scraped or junked lumber, rotten wood, scrap metal, rope, rags, batteries, paper trash, rubber debris or any other waste material, garbage dumps, waste dumps, and sanitary fills.

**Road:** State and Town maintained highways and streets and privately owned street designated for vehicular travel other than driveways.

**Stream:** Stream or brook means a channel between defined banks. A channel is created by the action of surface water and has two (2) or more of the following characteristics.

- A. It is depicted as a solid or broken blue line on the most recent edition of the US Geological Survey 7.5 minute series topography map or if that is not available, 15-minute service topography map.
- B. It contains or is know to contain flowing water continuously for a period of at least three (3) months of the year in most years.
- C. The channel bed is primarily composed of material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
- D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present in the streambed.
- E. The channel bed contains aquatic vegetation and is essentially devoid of upland vegetation.

Stream or brook does not mean a ditch or other drainage way constructed and maintained solely for the purpose of draining storm water or a grassy swale.

**Unserviceable Vehicle:** Any motor vehicle which is wrecked, dismantled, unable to be operated legally on any public highway, such as, but not limited to unregistered or undisputed automobiles, or which is not being used for the purpose for which it was manufactured regardless of whether it is registered.

**Water Body:** Any great pond, river or stream.

**Wetland:** Swamps, marshes, bogs and similar areas, which are:

A. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient

to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted to life in saturated soils; and

B. Not considered part of a great pond, river, stream or brook. These areas may contain small stream channels or inclusions of land that do not conform to these criteria.

## Section 5 - PERMIT REQUIRED

A. No person may establish, and the owner of property shall not permit the first time establishment, operation or maintenance of any automobile graveyard or automobile recycling

businesses without meeting the requirements of the Town of Turner Zoning Ordinance. Prior to the Municipal officers considering a permit application for the establishment of a first time automobile graveyard or automobile recycling business required by this ordinance site plan review approval as required by the Town of Turner Zoning Ordinance shall be obtained from the Planning Board. First time junkyards and automobile graveyards are prohibited in the Town of Turner.

B. No person may operate or maintain, and the owner of property shall not permit the operation or maintenance of a previously existing legal automobile graveyard, junkyard or automobile recycling business without each year re-applying and obtaining a permit renew under the standards herein set forth in this ordinance.

C. The currently approved permits issued shall remain in affect until October 1, 2005. Permits issued in 2005 and each succeeding year, in accordance with this ordinance shall be for a time frame not to exceed one (1) calendar year and shall expire on September 30th of each calendar year regardless of the date of issue, unless earlier suspended or revoked.

D. Permit Fees:

1. The annual fee for a permit for an automobile graveyard, automobile recycling business or junkyard of which no portion is within one hundred (100) feet of a road shall be fifty (\$50.00) dollars, plus the cost of posting and publishing the notice required in Section Six.

2. The annual fee for a permit for a new automobile recycling business shall be two hundred dollars (\$200), plus the cost of posting and publishing the notice required in

#### Section Six-APPLICATION PROCEDURES

A. Applications for a permit or renewal permit shall be made on forms provided that they shall be determined to be complete by the Code Enforcement Officer prior to processing.

B. Applications for renewal of existing automobile graveyards, junkyards or automobile recycling businesses shall not be required until October 1, 2005. Thereafter, the renewals shall be yearly on or before October 1st of any given year.

C Permits shall be granted by the Municipal Officers only after all required fees are paid in full and the automobile graveyard, junkyard or automobile recycling business is in compliance with all applicable Federal, State and local Ordinances and laws and the standards set out below and 30-A MRSA ss 3751 et seq. The Municipal Officers may impose restrictions, limitations and conditions in connections with the granting of any permit.

#### Section 6 - HEARINGS

A. The Municipal Officers shall hold a public hearing before granting a permit for operating or maintenance of an automobile graveyard, junkyard or establishing an automobile recycling business. Notice of the hearing shall be posted at least seven (7) days and not more than fourteen (14) days before the hearing in at least two (2) public

places in the municipality and published in a newspaper being generally circulated in the Municipality. Written notice of the application shall be mailed to the Department of Motor Vehicle Enforcement Division by the applicant.

## Section 7 - SUBMISSION REQUIREMENTS

Any application for a first time automobile recycling business permit and all applications for a renewal permit for existing automobile graveyard, junkyard or automobile recycling business beginning with the year 2001 shall contain the following information.

- A. The property owner's name and address and the name and address of the person or entity that will operate the site. Size of the lot and percentage used by the business is to be presented.
- B. An area map (a copy of a USGS 7.5 minute topographical map or similar map with contour intervals) showing the area where the operations will be and the location of all roads within 1000 feet of the site.
- C. A set of site plans drawn to scale showing the following.
  1. The boundary lines of the property and setback requirements.
  2. Plans shall depict the specific location and size of all areas within the property boundary lines for the dismantling and storage of vehicles and parts.
  3. The specific location and size of all buildings and structures used in the business.
  4. The location of all adjacent properties and what they are used for within 1000 feet of the area where vehicles will be placed, or within 500 feet of the property line on the lot that the operation is located, whichever is the greater distance.
  5. The location of any water bodies and wetlands on the property or within 200 feet of the property lines.
  6. A description of the soil on the property
  7. The location of any sand and gravel aquifer as depicted on the current USGS Topographical Maps
  8. The boundaries and elevation of the 100-year flood plan as depicted on the current FEMA Flood Plain Maps
  9. The location, size and type of all existing or proposed screening
  10. A plan for the containment of fluids, containment and disposal of batteries and storage or disposal of tires.

## Section 8 - STANDARDS

Before granting a new permit or a renewal permit the Municipal Officers shall find that the following standards have been met.

- A. All material in any previously legally existing automobile graveyard, junkyard or automobile recycling business between June, 1993 and April, 2003 shall be screened from view from any

portion of a road or any property not in the same ownership adjacent to the automobile graveyard, junkyard or automobile recycling business by natural or manmade object, plantings, properly constructed fences or building or combination thereof. Hills, gullies, embankments or berms constructed to form a screen must be constructed to blend with the landscape by loaming and seeding or other treatment so as to establish a natural appearance. Screening required by this paragraph must be well constructed and properly maintained at a minimum height of six (6) feet and acceptable to the Municipal Officers.

B. All material in any previously legally existing between June 1993 and April 2003, of any automobile graveyard, junkyard or automobile recycling business prior to January 1, 2013 shall be screened from view from any portion of a road or any property not in the same ownership adjacent to the automobile graveyard, junkyard or automobile recycling business by natural plantings, hills, gullies, embankments to form a natural screen that blends with the landscape, so as to establish a natural appearance. Man made fences will no longer be an acceptable screen.

C. All new automobile recycling businesses licensed after April 2003 shall be screened from view from any portion of a road or any property not in the same ownership adjacent to the automobile recycling business by natural plantings, hill, gullies, embankments to form a screen that blends with the natural landscape so as to establish a natural appearance.

D. No automobile graveyard or junkyard portion thereof shall be within three hundred (300) feet of any water body, sand and gravel aquifer, residence, public park or playground, school, cemetery or church or within a one hundred year floodplain, unless such automobile graveyard, junkyard or automobile recycling business was in legal existence prior to January 1, 1994.

E. No automobile graveyard or junkyard or automobile recycling business or any portion thereof shall be within one hundred (100) feet of a public or private water supply except a private water supply that serves only the yard or yard owners residence.

F. No automobile graveyard, junkyard or automobile recycling business or any portion; thereof shall be within one hundred (100) feet of any public road regardless of when the yard was established.

G. Upon receiving a motor vehicle, the fuel tank and battery shall be removed and fuel, engine ubricant, transmission fluid, brake fluid and engine coolant shall be drained from the vehicle and placed into watertight, covered containers. Written plans and copies of contracts to dispose of these items are to be part of an initial application and renewal statements for these items or new contracts and plans are to be submitted at renewal time.

H. All dismantling of motor vehicles with power tools shall take place within a building.

I. No noise, vibration, glare, fumes or odor shall be emitted which is detectable to the normal senses from any abutting property no in the same ownership

## Section 9 - ENFORCEMENT, SUSPENSION AND REVOCATION

A. The Code Enforcement Officer shall enforce the requirements of this Ordinance.

B. The Code Enforcement Officer shall annually inspect each automobile graveyard, junkyard or automobile recycling business to determine compliance with its permit, at anytime during reasonable business hours.

C. Upon determination of the Code Enforcement Officer or complaint of an aggrieved party that the standards of this ordinance or applicable Federal, State or local ordinances are being violated and, after seven days notice sent by certified mail return receipt requested or delivered in person to the owner or operator of an automobile graveyard, junkyard or automobile recycling business, the Municipal Officers may hold a public hearing to determine whether a permit issued to establish, operate or maintain an automobile graveyard, junkyard, or automobile recycling business should be suspended or revoked. In determining whether a permit to establish, operate or maintain an automobile graveyard or junkyard should be suspended or revoked, the Municipal Officers will consider the legality of the issuance of the permit as well as the overall operating and compliance record of the automobile graveyard or junkyard in question. Whether or not junkyard is in compliance with all applicable laws and standards at the time of a suspension or revocation hearing shall not be the sole basis for determining whether or not to suspend or revoke a permit. A permit to establish, operate or maintain an automobile graveyard or junkyard may be suspended or revoked even if it is in compliance with all applicable laws and standards at the time of a hearing if it is determined that there has been repeated or serious violations of applicable laws and standards or damage to the environment such as noise, air, light, ground or surface water pollution.

#### Section 10 - PENALTIES

A. Any person, firm or corporation establishing operation or maintaining an automobile graveyard, automobile recycling business or junkyard in violation of this ordinance will be subject to a civil penalty of not less than one hundred (\$100) nor more than \$2,500, for each day the violation exists. The maximum penalty may exceed \$2,500 by may not exceed \$25,000 when it is shown that there has been a previous conviction by the same party within the past two (2) years of this ordinance. Each day a violation exists shall be considered a separate violation.

#### Section 11 - SEVER ABILITY

If a provision of this ordinance is declared invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to that provision of this ordinance directly involved in the controversy which gave rise to the judgment and shall not affect or impair the validity of any other provision of this ordinance.

#### Section 12 - APPEALS

An aggrieved party may take an appeal within forty-five (45) days from a decision of the Municipal Officers to Superior Court in accordance with Rule 800 B of the Maine Rules of Civil Procedure.