

**Town of Vassalboro**

**Automobile Graveyard and Junkyard Ordinance**

Amended June 2008

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# Town of Vassalboro

## Automobile Graveyard Ordinance

Ordinance to Regulate Automobile Graveyards, Automobile Hobbyists, Junkyards and Automobile Recycling Businesses

### Section 1. Purpose

Junkyards, automobile graveyards and automobile recycling businesses pose potential risks to the environment, particularly to groundwater and surface water quality if gasoline, oil or other fluids are not managed and disposed of properly. Proper location and operation of these facilities are critical to ensure protection of groundwater and surface water quality, other natural resources and the health and welfare of Vassalboro residents. These facilities may create nuisance conditions potentially affecting abutting landowners and others if not located and operated properly. For these reasons, it is declared that these facilities are appropriately subject to certain environmental and operational standards.

It is recognized that some individuals within town enjoy restoring or collecting vehicles as a hobby. Language within the Ordinance allows a limited number of unregistered and uninspected vehicles for an automobile hobbyist subject to proper operating standards to insure protection of the environment and neighboring properties .

### Section 2. Authority

This ordinance has been prepared in accordance with the provisions of Title 30-A M.R.S.A., §3001 and § 3751 et seq., except that requirements for automobile hobbyists are more stringent than State Law.

### Section 3. Applicability

This ordinance shall apply to all automobile graveyards, automobile hobbyists, junkyards, and automobile recycling businesses as defined in this Ordinance. It shall also apply to any parcel that meets the definitions contained herein regardless of the intent of the owner of said parcel to operate an automobile graveyard, junkyard, or automobile recycling business. A permit from the Planning Board to operate a business that sells used items does not affect the need for a license.

### Section 4. Administration

1. Administration - This ordinance shall be administered by the municipal officers and their designees.
2. Permit Required - A person may not establish, operate or maintain an automobile graveyard, automobile recycling business or junkyard without first obtaining a permit from the Municipal Officers. An automobile hobbyist, as defined in Section 11 of this Ordinance shall also obtain a permit from Municipal Officers.

A permit shall not be issued unless the provisions of this ordinance are met. The municipal officers or their designees shall annually inspect these facilities to ensure compliance of the provisions of this Ordinance and State Law.

3. Permit Renewal - Permits shall be renewed every year except that automobile recycling business permits shall be renewed every five years. Permits shall be renewed on October 1.
4. Public Hearing Required - Upon receipt of an application for a new junkyard, automobile graveyard, automobile hobbyist, or automobile recycling business, the municipal officers shall hold a hearing in accordance with 30-A M.R.S.A. § 3754. A public hearing shall also be held annually for the re-licensing of these facilities.
5. Nontransferable Permit: A permit issued under this ordinance may not be transferred to another individual. In the event of a sale of a parcel issued a permit under this ordinance, the new owner must apply for a new permit.
6. Permit Fee - The fee shall be determined by Title 30-A, M.R.S.A., § 3456, except that a fee of an automobile hobbyist shall be ½ that of an automobile graveyard.
7. Automobile Recyclers and Dealers - A permit, other than a limited-term permit as described in this section, may not be granted for an automobile graveyard or automobile recycler that is not in compliance with all applicable provisions of the automobile dealer or recycler licensing provisions of Title 29-A, chapter 9. Municipal officers may award a limited-term permit conditioned upon an automobile graveyard's or automobile recycling business's demonstrating compliance with the provisions of Title 29-A, chapter 9 within 90 calendar days of the issuance of the municipal limited-term permit. An automobile hobbyist permit shall not be granted for automobile recyclers or dealers as defined in this Ordinance.
8. Relationship to State Stormwater Requirements – Municipal Officers shall reject an application for an automobile graveyard or automobile recycling business if the applicant has not demonstrated that a notice of intent has been filed with the Department of Environmental Protection to comply with the general permit conditions for storm water discharges or the Department of Environmental Protection has determined that a stormwater discharge permit is not required.

## **Section 5. Permit Application Requirements**

- A. Application Requirements for Automobile Graveyards, Junkyards, and Automobile Recycling Businesses.
  1. The property owner's name and address and the name and address of the person or entity that will operate the site.
  2. A demonstration that the facility for which a permit is being pursued is a viable business entity and the facility is actively engaged in the business of salvaging, recycling, dismantling, processing, repairing, or rebuilding junk or vehicles for the purpose of sale or trade.
  3. The number of vehicles stored, crushed, and shredded at the facility in the past year.

4. A written plan for the containment of fluids, containment and disposal of batteries and mercury switches and storage or disposal of tires
5. Evidence that a log is being maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale, and the date or dates upon which all fluids, refrigerants, batteries, and mercury switches were removed.
6. Evidence that applicant has applied for a DEP stormwater permit or one is not needed.
7. A site plan drawn to a scale not to exceed 1" = 100', on which is shown:
  - a. The boundary lines of the property and the location of screening;
  - b. The location of any sand and gravel aquifer recharge area, as mapped by the Maine Geological Survey, or a licensed geologist;
  - c. The location of any residences, public areas including but not limited to buildings, parks, playgrounds, bathing beaches, churches, cemeteries or schools within 500 feet of the area where vehicles will be stored or dismantled;
  - d. The location of any waterbodies on the property or within 300 feet of the property lines;
  - e. The boundaries of the 100-year flood plain, if applicable;
  - f. The location of all roads within 1000 feet of the site; and
  - g. The location of any wells within 500 feet of the site
  - h. The location within the property boundary lines where vehicular fluids are drained, and vehicles dismantled, and stored

Site plan requirements, once approved, may be waived by the CEO in subsequent license renewals if after reviewing plans with the applicant, the CEO determines that no significant changes have occurred since the last license renewal

- B. Application Requirements for Automobile Hobbyists - An application for the licensing of an automobile hobbyist shall include the following information:
1. The property owner's name and address
  2. The nature of the hobby (personal/family use, re-sale, antique collector, classic vehicles, street rods, ect.)
  3. The number of unregistered and uninspected vehicles on the applicant's property
  4. The year, make, and model of each vehicle
  5. A plan for the containment of vehicular fluids, batteries, and mercury switches, if applicable.

## Section 6 Operating Standards

The following operating standards are required of all permitted automobile graveyards, junkyards, or automobile recycling businesses as of the adoption date of this ordinance:

1. Screening Required - The site must be screened from ordinary view of abutting properties and passing motorists at all times by natural objects, plantings, or well constructed and maintained fences at least 6 feet in height; and placed a minimum of 100 feet from any highway. The height of the screen shall be adequate to

screen from view all materials located within the yard. At no time can the materials located inside the fence be placed in a manner that they can be seen from outside the fence.

2. Setbacks - No vehicle, motor or transmission or appliance containing fluids shall be stored or dismantled within:
  - A. 500 feet of any public area including but not limited to buildings, parks, playgrounds, bathing beaches, churches, cemeteries or schools. This prohibition does not apply to public areas created after an automobile graveyard, junkyard or automobile recycling business has already received a permit under this Ordinance.
  - B. 300 feet of any water body or inland wetland.
  - C. 500 feet of any public or private well or water supply, except that facilities currently licensed prior to the effective date of this ordinance that do not meet this setback may continue to operate, provided that there is no evidence of contamination of abutting water supplies or significant encroachment of pollutants toward abutting water supplies. This setback does not include the private well that serves only the automobile graveyard or recycling business and the owner or operator's abutting residence. This setback does not apply to wells installed after an automobile graveyard, junkyard or automobile recycling business has already received a permit under this Ordinance.
  - D. 20 feet from any lot line unless the operator has notarized written permission from the abutting property owner.
3. No vehicles, motors or transmissions or appliances containing fluids shall be stored or dismantled over a sand and gravel aquifer or aquifer recharge area as mapped by the Maine Geological Survey, or a licensed geologist.
4. No vehicles or motor or transmission shall be stored within the 100-year flood plain.
5. The dismantling of all vehicles must be performed in accordance with the following operating standards:
  - A. Within 180 days of acquisition, batteries, mercury switches and all fluids including but not limited to the engine lubricant, transmission, brake, power steering, hydraulic, engine coolant, refrigerants, gasoline, diesel fuel, and oil shall be removed from parts of vehicles and vehicles that are incapable of being driven under their own motor power. Fluids shall be drained into watertight, covered containers and shall be recycled, stored and disposed of according to all applicable Federal and State laws, rules, and regulations regarding disposal of waste oil and hazardous materials.
  - B. Proof of where the fluids are being taken must be provided at the time of application.
  - C. No discharge of any fluids from any motor vehicle or appliances shall be permitted into or onto the ground
  - D. A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale, and the date or dates upon which all fluids, refrigerants, batteries, and mercury switches were removed.

- E. All fluids refrigerants, batteries, and mercury switches must be removed from motor vehicles, appliances, and other items before crushing or shredding.
  - F. Motor vehicles, appliances, and other items acquired by and on the premises of a junkyard or automobile graveyard prior to October 1, 2005 must have all fluids, refrigerants, batteries, and mercury switches removed by the enactment of this Ordinance as required in 30-A M.R.S.A. § 3754-A and § 3755-A. For those automobile graveyards or recycling businesses that are unable to meet this deadline, a schedule for compliance must be made that is satisfactory to the Municipal Officers.
  - G. Junkyards and automobile graveyards owners must demonstrate at the time of licensing that the facility for which they seek a permit is a viable business entity and the facility is actively engaged in the business of salvaging, recycling, dismantling, processing, repairing, or rebuilding junk or vehicles for the purpose of sale or trade.
6. Automobile Hobbyist Operating Standards – The following operating standards are required of all persons licensed as an automobile hobbyist.
- A. Screening as indicated in paragraph 1 of this section may be required under the discretion of Municipal Officers for those sites that are determined to be detrimental to existing properties within the neighborhood or public and private development within the neighborhood.
  - B. Dismantling requirements as indicated under operating standards 5 A, B, and C of this section shall be required for all vehicles or vehicle parts stored on the premises more than 180 days and are incapable of being driven under their own motor power.

### **Section 7 Enforcement**

- 1. Enforcement - This ordinance shall be enforced by the municipal officers or their authorized agents in accordance with state law. The municipal officers or their authorized agents shall annually inspect, or cause to be inspected, the site to ensure that the provisions of this ordinance and state law are complied with.
- 2. Penalties - Any violation of this ordinance shall also be deemed a nuisance within the meaning of 17 M.R.S.A. § 2802 and the violator shall be subject to the penalties set forth in 30-A M.R.S.A. § 4452 and any other remedy available at law.
- 3. Suspension and Revocation of Permit - The municipal officers may suspend or revoke a license upon just cause, notice, and hearing for any violation of this ordinance.
- 4. Removal of All Materials After Permit Denial or Revocation. The owner or operator of a junkyard, automobile graveyard or automobile recycling business for which a permit has been denied or revoked shall, not later than 90 days after all appeals have been denied, begin the removal of all vehicles, vehicle parts and materials associated with the operation of that junkyard, automobile graveyard or automobile recycling business. The property must be free of all scrapped or junked vehicles and materials not later than 180 days after denial of all appeals.

An alternative schedule for removal of junk or vehicles may be employed if specifically approved by the municipal officers or county commissioners

5. Right of Entry – Municipal Officers or their designees may, to determine compliance with this Ordinance and any laws, license or permit approvals, decisions, or conditions:
  1. Enter any automobile graveyard, junkyard, or automobile recycling business and inspect all outside areas, equipment, and activities at reasonable hours
  2. Enter any building on the property with the consent of the owner and occupant, or agent at reasonable hours

### **Section 8. Effective Date and Amendment**

This ordinance shall become effective 90 days after adoption, and may be amended by vote of the legislative body.

### **Section 9. Severability and Conflict**

In the event that any provision of this ordinance is ruled to be invalid by a Court of competent jurisdiction, the remaining provisions shall continue in full force and effect. In the event that any provision of this ordinance conflicts with State statute, the stricter provision shall govern.

### **10. Appeals**

A decision, or determination made by the Municipal Officers or the Code Enforcement Officer regarding the interpretation of the requirements or conditions of this Ordinance or failure to act on applicable provision of this Ordinance may be taken to the Board of Appeals by an aggrieved person. Such an appeal shall be made by filling a written statement to the Board of Appeals within 30 days of the decision appealed from. The written statement should state what relief is requested and why it should be granted. Upon receipt of the appeals request, the Board of Appeals shall hold a public hearing within 35 days.

### **Section 11. Definitions**

1. **Automobile Dealer** – A person engaged in the business of buying, selling, exchanging, negotiating, or advertising a sale of vehicles as determined by the any of the following:
  - a. Buying vehicles for the purpose of resale,
  - b. Selling more than 5 vehicles in any 12 month period, or
  - c. Advertises in any form 3 or more vehicles for sale or displays three or more vehicles for sale within any thirty day period.



2. **Automobile graveyard.** “Automobile graveyard” means a lot used to store three or more unserviceable, unregistered, or uninspected vehicles as defined in Title 29-A, section 101, subsection 42, or parts of such vehicles. “Automobile graveyard” includes an area used for automobile dismantling, salvage and recycling operations. “Automobile graveyard” does not include the following establishments as defined in MRSA 30-A, §3752.
  1. An area used for the temporary storage of vehicles or vehicle parts of an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable.
  2. An area licensed by the Town as an Automobile Hobbyist as defined in this Ordinance, subject to conditions of this Ordinance.
  3. An area used for the parking or storing of vehicles by a municipality, 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 equipment exempted from registration under Title 29-A, chapter 5.
  5. An area used for the parking or storing of vehicles by a used or new vehicle dealer, equipment dealer, trailer dealer, or vehicle auction business, as defined in Title 29, section 851.
  6. An area used for the temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool.
  
3. **Automobile Hobbyist.** – A person owning three to five unregistered and uninspected vehicles in any given year located on one lot. A hobbyist restores, displays, or collects vehicles that are or will be useable within a reasonable time period, except those vehicles that are primarily used for parts and are subjected to dismantling requirements as indicated in Section 6-5 of this Ordinance. This includes antique and classic vehicles, street rods, or vehicles for personal use and resale. A person who uses their lot primarily for storage of these vehicles does not meet the definition of an automobile hobbyist. An automobile hobbyist must demonstrate at the time of licensing that he or she is actively engaged in restoring, displaying, using, or reselling vehicles that are being licensed. An automobile hobbyist shall not meet the definitions of an automobile dealer or recycler as defined in this section. An automobile hobbyist shall not be primarily engaged in the business of selling vehicles or parts, and any income generated from this venture shall be secondary to another employment.
  
4. **Automobile Recycler** – A person engaged in the business of purchasing or acquiring vehicles for the purpose of:
  - A. Reselling the vehicles or its component parts,
  - B. Rebuilding or repairing the vehicles for the purpose of sale or trade,
  - C. Selling the vehicles basic parts,
  - D. Displaying or storing the vehicle or its parts, or
  - E. Acting as a scrap processor

This definition is exclusive of an automobile hobbyist who may be permitted to own up to five unregistered and uninspected vehicles per year and whose primary purpose may be rebuilding and repairing the vehicles for sale or personal use.

5. **Automobile recycling business.** "Automobile recycling business" means a lot which includes the business premises of a dealer or 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. An automobile recycling business does not include:
  - A. Financial institutions as defined in Title 9-B, section 131, subsections 17 and 17-A;
  - B. Insurance companies licensed to do business in the state; or
  - C. New vehicle dealers as defined in Title 29-A, section 851, licensed to do business in the State.
  - D. That portion of a business premises that is used for the temporary storage of vehicles by an establishment or place of business as an insurance salvage pool.
  
6. **Highway.** "Highway" means any public way.
  
7. **Junkyard.** "Junkyard" means a lot used to store, dismantle, or otherwise handle:
  - A. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances and furniture;
  - B. Discarded, scrap and junked lumber; or
  - 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.
  
8. **Lot** – A property within the town of Vassalboro as defined under the tax map and lot system. For the purposes of this Ordinance, abutting lots under a single ownership are considered as one lot.
  
- 8 **Temporary Storage** 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.