Chapter 5

Junkyard Ordinance
AUTOMOBILE GRAVEYARDS, JUNKYARDS AND AUTOMOBILE RECYCLING BUSINESSES

Sec. 1 Purpose.

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

Sec. 2 Applicability.

This article shall apply to any automobile graveyard, junkyard or automobile recycling business all or part of which is within (municipality).

Sec 3 Definitions.

Unless otherwise expressly stated, the following words shall, for the purposes of this article, have the meaning herein indicated:

Aquifer. A geological formation composed of rock or sand and gravel that stores and transmits significant quantities of recoverable water, as mapped by the Maine Geological Survey.

Automobile Graveyard. A yard, field or other area used to store three (3) or more unserviceable, discarded, worn-out or junked motor vehicles as defined in 29-A MRSAS 101, subsection 42, or parts of such vehicles. “Automobile graveyard” does not include any area for temporary storage by an establishment or place of business that is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable. ‘Automobile graveyard’ includes an area used for automobile dismantling, salvage and recycling operations.

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**Automobile Recycling Business.** The business premises 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 vehicles for the purpose or resale or for selling the basic materials in the salvage vehicles, provided that eighty (80) percent of the business premises specified in Section 5.B.4 of this ordinance is used for automobile recycling operations.

**Classified Water Body.** Classified water body shall include coastal and freshwater wetlands, floodplain wetlands, great ponds and rivers, streams or brooks as defined in 38 MRSAS §480-B.

**Floodplain.** The low land and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, which are inundated by a flood that has a one (1) percent or greater chance of recurring in any year or a flood of magnitude equaled or exceeded once in one hundred (100) years on the average as identified by the Federal Insurance Administration.

**Junkyard.** 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, scrapped 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;

All of these materials are hereinafter referred to as “junk”.

**Sec. 4 Permit Required.**

(A) No person shall establish, operate or maintain, and the owner of property shall not permit the establishment, operation or maintenance of any automobile graveyard, junkyard, or automobile recycling business all or any part of which
is within (municipality) without first obtaining a permit therefore in accordance with the provisions of this ordinance and 30-A MRSA §3751 et seq.

(B) All permits issued hereunder shall be approved by the municipal officers.

(C) Permits issued hereunder for an automobile graveyard or junkyard shall be for a term not to exceed one (1) calendar year that expires on the first day of the year next following unless earlier suspended or revoked. Permits issued hereunder for an automobile recycling business are valid for five (5) years from the date of issuance and are renewable provided that the permit holder furnishes a sworn statement, annually, on the anniversary date of the granting of the permit, that the facility complies with the standards of operation applicable at the time of issuance of the permit.

(D) A person operating a business that involves the recycling of automobiles may operate under a permit for an automobile graveyards or a permit for an automobile recycling business.

Sec. 5 Administration.

(A) Contents of application. All applications for permits under this chapter shall be filed with, and in a form satisfactory to, the municipal officers. Said application shall include, but is not limited to, the following:

1. Name and address of the applicant, all other persons having a legal interest in the property and the person or entity who will operate the site.

2. The location of the premises for which a permit is sought by identification of tax map number and street address.

3. The dimensions and acreage of the property.

4. An original and three (3) copies of a site plan, drawn to a scale of one hundred (100) feet or less to the inch which contains the following information:
   a. The boundary lines of the property for which a permit is sought.
   b. The location of all existing and proposed buildings and structures.
   c. The location of all existing and proposed areas within which all vehicles and junk will be located and the location.
where vehicles will be drained and dismantled, as applicable.

d. The location of any aquifer or aquifer recharge area on the property or within one thousand (1,000) feet thereof.

e. The location of any classified water bodies on the property or within three hundred (300) feet thereof.

f. The location of any floodplain areas located on the property.

g. The location and characteristics of all existing and proposed vegetation that is proposed to be maintained for required screening.

h. The location and characteristics of all existing and proposed fencing that is proposed to be maintained for required screening.

i. The locations of any residences, wells, school, churches, cemeteries, public beaches or public parks or playgrounds within one thousand (1,000) feet of the property.

j. The characteristics of the soils existing on the property as determined by the Soil Conservation Service Soils Survey Map.

k. The contours of the property as determined by the U.S. Geological Survey Contour Map.

l. The location and characteristics of all vehicular entrances and exits serving the property.

m. The location of all roads within one thousand (1,000) feet of the site.

(5) A plan for containment of fluids, containment and disposal of batteries and storage and disposal of tires.
(6) A statement as to whether approval by any state agency or department is required pursuant to state law and, if so, the name of said agency or department.

(7) A nonrefundable application fee in the amount of 

(8) A performance guarantee in an amount to be determined by (Municipal officers or designated review authority) to be sufficient to rehabilitate and close the site should the owner or operator cease operation. Such performance guarantee shall in the form of an irrevocable letter of credit, performance bond or similar financial instrument acceptable to (municipal officers or designated review authority).

(B) Compliance standards. The municipal officers shall issue a permit under this article for an automobile graveyard, junkyard or automobile recycling business that meets all of the following standards. Such standards shall govern the operation and maintenance of all permitted premises.

(1) An effective visual screen at least six (6) feet in height shall be located and maintained around all sides of the area where vehicles or junk are to be located such that said areas are entirely screened from ordinary view from all directly abutting properties at all times.

(2) All screening requirements of 30-A M.R.S.A§3755 shall be satisfied except that, for automobile recycling businesses, the screening requirements of 30-A M.R.S.A § shall be satisfied.

(3) No vehicle or junk shall be stored within one hundred (100) feet of any classified water body or over a sand and gravel aquifer or aquifer recharge area.

(4) No vehicles or junk shall be stored within three hundred (300) feet of any school, church, cemetery, public beach or public playground or park except that for an automobile recycling business such distance shall be increased to five hundred (500) feet from a school, church, cemetery or public playground or park that existed on the date the initial permit was issued.

(5) No vehicle or junk shall be stored within one hundred (100) feet of a residence except the owner or operator’s residence.

(6) No vehicles or junk shall be stored within a floodplain.

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(7) No vehicle or junk may be stored or dismantled within one hundred (100) feet of a well that serves as a public or private water supply, excluding a private well that serves only the automobile recycling business or the owner or operator's abutting residence. This prohibition does not apply to wells established after the effective date of this ordinance if the automobile graveyard, junkyard or automobile recycling business had already received a permit under Section 4.

(8) No vehicles or junk shall be located closer than one hundred (100) feet from a public way and fifty (50) feet from all other lot lines of the property except that for an automobile recycling business, a vehicle may not be located or dismantled closer than twenty (20) feet from all other lot lines of the property unless the owner has notarized written permission from the abutting property owner.

(9) Upon receiving a motor vehicle, the fuel tank and battery shall be removed and the fuel, 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 regarding disposal of waste oil and hazardous materials. No discharge of any fluids from any motor vehicle or junk shall be permitted into or onto the ground.

(10) All applicable federal and state hazardous waste laws and regulations shall be satisfied.

(11) All vehicle entrances and exits shall be located and constructed in a manner that does not create or aggravate a traffic safety hazard.

(12) No vibration, glare, fumes or odor shall be emitted which are detectable to the normal senses from any abutting property. (If the municipality has adopted a noise control ordinance, it should be referenced in this subsection.)

(13) All dismantling of motor vehicles and junk with power tools shall take place within a building.

(14) Hours of operation shall reflect the nature of the neighborhood in which the proposed business is to be located (i.e.) the hours of operation in an industrial neighborhood would be longer than those in a predominantly residential neighborhood.)
(C) Conditions of approval. The municipal officers may impose conditions on the approval of any permit application hereunder to ensure compliance with the provisions of this chapter. Said conditions may include, but are not limited to, the following:

1. That, prior to the commencement of operation, the applicant provide documentation that all approvals required from any municipal board or agency have been received.
2. That any screening requirements imposed pursuant to the provisions of this ordinance be installed and completed prior to the issuance of any permit hereunder.

(D) Nonconforming uses. Any automobile graveyard, junkyard or automobile recycling business in existence and for which a valid permit was in effect on the effective date of this ordinance may remain in operation in its present location pending expiration of said permit so long as said use complies with the provisions of 30-A MRSA §3751 et seq. Any expansion of said junkyard or automobile graveyard beyond the size which existed and for which a valid permit was in effect on the effective date of this ordinance shall comply with all provisions of this ordinance.

Sec. 6 Enforcement.

This ordinance shall be enforced by the municipal officers or their authorized agents in accordance with state law. Any violation of this ordinance shall also be deemed a nuisance within the meaning of 17MRSA §2802 and the violator shall be subject to the penalties set forth in 30-A MRSA §4452 and any other remedy available at law.

Sec. 7 Suspension or Revocation.

The municipal officers may suspend or revoke a permit in accordance with the provisions of municipal code referenced and 30-A MRSA §3758(3).

Sec. 8 Severability.

In the event that a Court of competent jurisdiction rules any provision of this ordinance to be invalid, the remaining provisions shall continue in full force and
effect. In the event that any provision of this ordinance conflicts with State statute, the State statute shall govern.
JUNKYARDS AND AUTOMOBILE GRAVEYARDS

30-A MRSA§3751. Purposes

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.

It is recognized that recycling of automobiles is a business enterprise that, when conducted in accordance with certain standards, differs from the enterprise of an automobile graveyard and that adoption of uniform state standards for this type of business enterprise would assist in development and regulation of that business.

30-A MRSA§3752. Definitions

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

1. Automobile graveyard. "Automobile graveyard" means a yard, field or other area used to store 3 or more unserviceable, discarded, worn-out or junked motor vehicles as defined in 29-A MRSA section 101, subsection 42, or parts of such vehicles.

A. "Automobile graveyard" does not include any area used for temporary storage by an establishment or place of business that is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable.

B. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations.

1-A. Automobile recycling business. "Automobile recycling business" means the business premises 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 reselling salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, provided that 80% of the materials so sold is recycled.
the business premises specified in the site plan in section 3755-A, subsection 1, paragraph C. is used for automobile recycling operations.


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 hogshead;
   C. Old or scrap copper, brass, rope, rags, batteries, paper, transformers, debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material and
   D. Garbage dumps, waste dumps and sanitary fills.

5. Primary System. “Primary System” means that portion of the state highway system which the Department of Transportation has by official designation incorporated into the Federal-Aid Primary System.

6. Recycling or recycling operations. “Recycling or recycling operations” means the dismantling of motor vehicles for the purpose of removing the 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.

30-A MRSA § 3755. Permits required.

No person may establish, operate or maintain an automobile graveyard, automobile recycling business or junkyard without first obtaining a nontransferable permit from the municipal officials of the municipality in which the automobile graveyard, automobile recycling business or junkyard is to be located, or from the county commissioners of the county of any

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unorganized territory in which the automobile graveyard, automobile recycling business or junkyard is to be located. Permits issued to an automobile graveyard or junkyard under this section are valid until the first day of the following year. Permits issued to an automobile recycling business under this section are valid for 5 years from the date of issuance and are renewable provided that the permit holder furnishes a sworn statement, annually, on the anniversary date of the granting of the permit, that the facility complies with the standards of operation applicable at the time of issuance of the permit. A person operating a business that involves the recycling of automobiles may operate under a permit for an automobile graveyard or a permit for an automobile recycling business.

30-A M RSA § 3754 Hearings.

Municipal officers or county commissioners, as provided for in section 3753, shall hold a public hearing before granting a permit to establish, operate or maintain an automobile graveyard, automobile recycling business or junkyard. They shall give 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 or unorganized territory and publish a notice in one newspaper having general circulation in the municipality or unorganized territory in which the automobile graveyard, automobile recycling business or junkyard is to be located. The municipal officers or county commissioners shall give written notice of the application to the Department of Transportation by mailing a copy of the application at least 7 and not more than 14 days before the hearing.

30-A M RSA § 3755. Limitations on graveyard, automobile recycling business and junkyard permits

1. Highways: Interstate and primary systems. No permit may be granted for an automobile graveyard or junkyard within 1,000 feet of the right-of-way of any highway or route included in the Interstate and Primary Systems or within 500 feet of the right-of-way of any other highway, except for:

A. Those automobile graveyards or junkyards that are kept entirely screened from ordinary view from the highway at all times by natural objects, plantings or fences;

B. Screening required by this paragraph must be well constructed and properly maintained at a minimum height of 8 feet; any objectionable to the municipal officers or

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county commissioners. It must comply with the rules adopted by the Department of Transportation. The permit shall specify that compliance with these rules is required, and

B. Those automobile graveyards or junkyards located with areas that 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 that is:

A. Located within 300 feet of any public park, public playground, public building, beach, school, church or cemetery; and

B. Within ordinary view from that public facility.

2-A. Public and private water supplies. No permit may be granted for automobile graveyards or junkyards located within 100 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the automobile graveyard or the owner's or operator's abutting residence. This prohibition does not apply to wells installed after the effective date of this subsection if the automobile graveyard has already received a permit under section 3753.

3. Limitation on new permits. No permit may be granted for any automobile graveyard or junkyard established after October 5, 1973, and located 1,000 feet of any highway.

4. Rules. No permit may be granted for an automobile graveyard or junkyard that does not comply with the rules adopted under section 3753. Municipal officials or county commissioners 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.

5. Local ordinances. This subsection may not be construed to limit a municipality's home rule authority or enact ordinances with respect to automobile graveyards, automobile recycling businesses and junkyards.

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that concern any other standards that the municipality determines reasonable, including, but not limited to:

A. Compliance with state and federal hazardous waste regulations;
B. Fire and traffic safety;
C. Levels of noise that can be heard outside the premises;
D. Distance from existing residential or institutional uses; and

E. The effect on ground water and surface water, provided that municipal ordinances on ground water are no less stringent than or inconsistent with rules adopted by the Department of Environmental Protection, concerning automobile graveyards and junkyards.

Municipal officers or county commissioners shall consider compliance with these local ordinances in deciding whether to grant or deny a permit for any automobile graveyard, automobile recycling business or consider compliance with these local ordinances in deciding whether to grant or deny a permit for any automobile graveyard, automobile recycling business or junkyard and in adopting conditions or a permit to the grant of a permit.

6. Applicability. Municipalities may apply local ordinances adopted previously under subsection A pertaining to automobile graveyards and junkyards to any automobile recycling business without amending those ordinances to include automobile recycling businesses. A municipality must provide notice of its intent to apply these ordinances at the time an application for an automobile recycling business permit is filed.

30-A MRS Appendix 4: Automobile recycling business permits, operation standards

1. Application. An application for an automobile recycling business permit must include the following information:

A. The name and address of the property owner;

B. The name and address of the person or entity who will operate the

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C. A site plan, including;

(1) Property boundary lines;
(2) A description of the soils on the property;
(3) The location of any sand and gravel aquifer recharge areas;
(4) The location of any residence or school within 500 feet of where the cars will be stored;
(5) The location of any body of water on the property or within 200 feet of the property lines;
(6) The boundaries of the 100-year flood plain;
(7) The location of all roads within 1,000 feet of the site;
(8) A plan for containment of fluids, containment and disposal of batteries, and storage or disposal of tires; and
(9) The location within the property boundary lines where vehicles are drained, dismantled or stored.

2. Standards for permit. The municipality may issue a permit to an automobile recycling business if the business demonstrates that the business meets the operation standards set forth in subsection 3.

3. Operation standards. An automobile recycling business licensed under this section must meet the following standards.

A. The site of the yard must be enclosed by a visual screen at least 6 feet high and built in accordance with rules adopted by the Department of Transportation pursuant to section 3759.

B. A vehicle with an intact engine or motor may not be stored with 100 feet of any body of water or tidal wetland, as defined by 38 M.R.S.A. section 436-A, subsection 1.

C. A vehicle may not be dismantled or stored within 500 feet of a school, church, cemetery or public playground or park that existed on the date the permit was issued.

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D. A vehicle may not be dismantled or stored over a sand and gravel aquifer or aquifer recharge area.

E. A vehicle containing fluids may not be dismantled or stored within the 100-year floodplain.

F. A vehicle may not be dismantled or stored within 100 feet of a well that serves as a public or private water supply, excluding a private well that serves only the automobile recycling business or the owner or operator, excluding residence.

G. A vehicle may not be located or dismantled closer than 20 feet from any lot line, unless the operator has notarized written permission from the adjoining property owner.

H. Dismantling of vehicles must be performed in accordance with the following standards:

1. The battery must be removed.

2. Engine lubricant, transmission fluid, brake fluid and engine coolant must be drained into watertight, covered containers and must be recycled, or disposed of in accordance with applicable federal or state laws, rules or regulations.

3. Fluids from a vehicle may not be permitted to flow or leach into any part of the ground.

4. The recycling operation must comply with all applicable federal or state laws related to hazardous substances.

4. Revocation and suspension of permit. For purposes of section 3758, subsection 2, each of the standards set forth in this section are conditions of a permit.

5. Relationship to automobile graveyard permit. A person who recycles automobiles but does not qualify for a license, an automobile recycling business permit may apply for an automobile graveyard permit.

30-A MRS §3756. Permit fees.

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The municipal officers or county commissioners shall collect, in advance from the applicant for a permit, a fee in accordance with the following schedule:

1. Graveyard or junkyard 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:

2. Graveyard or junkyard 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; and

3. Recycling business. Two hundred fifty dollars for a 5-year permit for an automobile recycling business plus the cost of posting and publishing the notice under section 3754.

30-A MRSA §3757. Provisions regarding nuisances unaffected

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

30-A MRSA §3758. Violation

1. Enforcement. The State Police, and all local and county law officers shall enforce this subchapter. Municipal officers or their designee may also enforce this subchapter.

2. Penalties. Whoever violates this subchapter or the rules of the Department of Transportation adopted under section 3759 must be penalized in accordance with section 4452. Each day that the violation continues constitutes a separate offense.

3. Revocation or suspension of permit. Violation of any condition, regulation or limitation imposed in a permit by the municipal officers or county commissioners is cause for revocation or suspension of the permit by the same authority that 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, automobile recycling business or
junkyard. Notice of hearing must be sent to the owner or operator by registered mail at least 10 but not more than 15 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.

30-A MRS 3758. Rates

In the interest of uniformity and to establish guidelines for the municipal officers and county commissions in the matter of adequate screening, the Department of Transportation shall adopt rules establishing minimum standards for screening of automobile graveyards and junkyards.

30-A MRS 3758. 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 and 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 the 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 standards and for which federal funds are available to defray the costs;

b. Those in operation when any highway made a part of the Interstate or Primary Systems on or after May 11, 1966; and

c. Those in operation and established on or after May 11, 1966.

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3. Procedures. The purchase, condemnation, negotiation, assessment of damage and appeal procedures shall be in accordance with this section and 23 MRSA, sections 153-A to 159.

4. Use of federal funds. This section does not prevent the department from participating with the owner when federal 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 or impact of acquisition and relocation.