

TOWN OF ADDISON

AUTOMOBILE GRAVEYARD

ORDINANCE

ENACTED: OCTOBER 27, 1994 TO BECOME EFFECTIVE JANUARY 1, 1995
DATE

CERTIFIED BY: _____
NAME

TITLE

ATTEST: A TRUE COPY
December 12, 1995

NAME

TITLE

AFFIX SEAL

Town of Addison

AUTOMOBILE GRAVEYARD ORDINANCE

Purpose

The purpose of this ordinance is to provide adequate controls to ensure that automobile graveyards do not have a deleterious impact on the health, safety, and general welfare of the people of the Town of Addison.

The operation of an automobile graveyard is a privilege granted to an individual by the state acting through the selectmen of the Town of Addison. Because the law defines these types of operations to be a nuisance, the selectmen must decide whether or not to issue a permit under the operation proposed by the applicant.

Title 30-A, sections 3751-3760 impose an obligation on municipalities to license automobile graveyards which meet State and local requirements and to enforce the law against people who are in violation.

State law shall take precedent over town ordinance when more restrictive. Town ordinance will apply whenever the town requirements are equal or more restrictive than the State law.

Authority

This ordinance is enacted pursuant to 30-A M.R.S.A. section 3751 et seq.

Licensing

Any automobile graveyard established, operated or maintained is required to be licensed whether or not the person is actually in the automobile graveyard business.

No differentiation shall be made between initial applications for a permit and renewal applications. Each licensing is an original proceeding. Conditions might change to the extent that it would not be feasible to permit the continuation of an automobile graveyard in a certain place after it has been operating lawfully in that area.

The permit shall specify that compliance with the performance standards is required. Permits issued are valid until the first day of the following year.

Definitions

Automobile graveyard: Means a yard, field, or other area used to store three (3) or more unserviceable, discarded, worn-out or junked motor vehicles or parts of such vehicles. This definition excludes licensed used car dealerships. Automobile graveyard does not include any area used for temporary storage by an establishment or business, which is *primarily* engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable.

Unserviceable vehicle: An unserviceable vehicle shall mean any motor vehicle which is wrecked, dismantled, or cannot be operated legally on any public highway or which is not being used for the purpose for which it was manufactured. This definition excludes any insured, registered vehicles, which are temporarily stored while awaiting parts and/or adjustment. For example: registered, insured vehicles awaiting auto body work for the purpose of making repairs to render a motor vehicle serviceable.

Highway: Any public way including, but not limited to, state roads, county roads, or town roads (whether currently maintained or discontinued).

Temporary storage: Temporary storage shall be limited to five (5) vehicles for a limit of five (5) days. Any vehicles beyond this limit must be stored behind screening which meets the requirements set forth in this ordinance (see Screening).

Freshwater wetlands: Means freshwater swamps, marshes, bogs and similar areas which are:
A. Of 10 or more contiguous acres, or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river stream or brook, such that, in a natural state, the combined surface area is in excess of 10 acres; and
B. 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 for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

Administration

This ordinance shall be administered by the selectmen. No automobile graveyard permit shall be issued unless the provisions of this ordinance are met.

Upon receipt of an application, the selectmen shall hold a hearing in accordance with 30-A M.R.S.A. section 3754. A public hearing shall be held before granting a permit to establish, operate or maintain an automobile graveyard. A notice of the hearing shall be posted at least 7 and not more than 14 days before the hearing in at least 2 public places in the town and a notice shall be published in one newspaper having general circulation in the town. The selectmen shall give written notice of the application at least 7 days and not more than 14 days before the hearing.

The selectmen shall inspect at any time, or cause to be inspected at any time, the automobile graveyard site to ensure compliance with the provisions of this ordinance and state law. At a minimum said inspection shall occur annually. Records of inspections shall be maintained by the selectmen.

Automobile Graveyard Site Requirements

The following requirements must be met before a permit may be granted for an automobile graveyard:

- The automobile graveyard must be a plot of no more than three (3) acres. The plot must be clearly staked out and must be kept entirely screened to the ordinary view from residences and highways at all times by natural objects, plantings or fences as defined by the Department of Transportation (see Screening).
- Automobile graveyards cannot be located within 100 feet of a highway right-of-way and must be setback at least 20 feet from property boundary lines.
- Screening must be well constructed and properly maintained and acceptable to the selectmen of the Town of Addison. Screening must be maintained so that automobile graveyards are kept entirely screened to the ordinary view from both residences and highways.
- An automobile graveyard cannot be located within 300 feet of any public park, public playground, public bathing beach, school, church, cemetery or any body of water or within 100 feet of a freshwater wetland.
- An automobile graveyard cannot be 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.
- An automobile graveyard cannot be located within the 100-year floodplain.
- An automobile graveyard must comply, at all times, with all of the requirements set forth in this ordinance and with the rules adopted in title 30-A M.R.S.A.
- The total acreage for any person or any combination of persons applying for an automobile graveyard permit, a junkyard permit, and automobile recycling permit, or any combination thereof, cannot exceed three (3) acres whether on one site or multiple sites. Example #1: If a person applies for both a junkyard permit and an automobile graveyard permit the total acreage for both OPERATIONS CANNOT EXCEED THREE (3) ACRES. Example #2: If a person is operating a recycling business and decides to operate a junkyard in partnership with another person the total acreage for both operations cannot exceed three (3) acres.

Operating Standards

The following operating standards are required of all automobile graveyards, whether new or existing:

- All vehicles must be stored within the enclosure designated as the graveyard. Temporary storage outside of the graveyard shall be limited to five (5) vehicles for five (5) days.
- No vehicle shall be stored within 300 feet of any body of water or within 100 feet of a freshwater wetland.
- No vehicles shall be stored over a sand and gravel aquifer or aquifer recharge area as mapped by the Maine Geological Survey or by a licensed geologist.
- No vehicles shall be stored within the 100-year flood plain.
- No vehicle, whether temporarily or permanently stored, shall be located closer than 20 feet from any lot line.
- Upon receiving a motor vehicle, 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 regarding disposal of waste oil and hazardous materials. No discharge of any fluids from any motor vehicle shall be permitted into or on the ground.
- An automobile graveyard must employ a system of containment to collect, store for recycling, or properly dispose of used oils, fluids, coolants, and spilled battery acid that ensures that no discharge from any vehicle is permitted into or onto the ground.
- Containers used for the storage of used oils, fluids, and coolants must be watertight and free from leaks.
- Licensed disposal facilities must be contracted to handle the removal of used oils, fluids.
- The Code Enforcement Officer must be given forty-eight (48) hours notice before any crushing operation is started on the site. The Code Enforcement Officer must be allowed to inspect all crushing operations.
- The Code Enforcement Officer must be allowed to inspect the site of the automobile graveyard operation at any time.
- An automobile graveyard must comply at all times with all of the operating standards set forth in this ordinance and with the rules adopted in title 30-A M.R.S.A.

Application Requirements

Application for an automobile graveyard shall be made to the selectmen on the “Application for Automobile Graveyard” form available at the town office. The completed application shall be dated on the day received at the town office. The application requires the following in order to be complete:

- The property owner’s name and address and the name and address of the person or entity who will operate the site.
- A description of any screening required by this ordinance.
- A site plan drawn to scale on which is shown:
 - 1) The boundary lines of the property
 - 2) The soils
 - 3) The location of any sand and gravel aquifer recharge area, as mapped by the Maine Geological Survey, or a licensed geologist
 - 4) The location of any residences or schools within 500 feet of the area where cars will be placed.
 - 5) The location of any bodies of water or wet areas on the property or within 200 feet of the property lines.
 - 6) The boundaries of the 100-year floodplain
 - 7) The location of all highways within 1000 feet of the site
- All questions listed on the application must be answered in full.
- Additional information to be submitted with the application:
 - 1) A current soil test of the storage area will be required for all first time applications and thereafter as requested by the Code Enforcement Officer. Indicate the areas where the tests were taken on the site plan.
 - 2) Show, on the site plan, the location of the storage area and any buildings and/or other preparation areas where vehicles will be prepared for storage including distances from storage area and buildings and/or preparation areas to property lines.
 - 3) Site plan to include any wells or private residences within 500 feet of the storage area and dismantling area.
 - 4) Description of the system of containment to be used to collect, recycle, or properly dispose of used oils, fluids, and coolants, and any spilled battery acids.

- 5) Copy of signed contracts with licensed disposal facilities that will remove the used oils, fluids, and coolants or a description of other accepted methods of disposal.

The applicant must be able to show that all conditions set forth in this ordinance have been met before the application will be acted upon by the selectmen.

Enforcement

This ordinance shall be enforced by the selectmen or their authorized agents in accordance with state law.

A permit may, after notice and hearing, be suspended or revoked by the selectmen for violation of any condition of approval, requirement, operating standard, or rules set forth in this ordinance or in Title 30-A M.R.S.A. Any violation of this ordinance shall also be deemed a nuisance within the meaning of 17 M.R.S.A. Section 2802 and the violator shall be subject to the penalties set forth in 30-A M.R.S.A. section 4452 and any other remedy available by law.

The selectmen and the code enforcement officer shall be responsible for enforcing this ordinance.

Any person, including, but not limited to, a landowner, the landowner’s agent or a contractor, who violates any of the provisions set forth in this ordinance or the regulations established by the state of Maine is liable for any penalties assessed.

Penalties include, but are not limited to, the following:

- The minimum penalty for starting an automobile graveyard without a permit is \$100.00, and the maximum penalty is \$2,500.00. These penalties may be assessed on a per-day basis.
- The minimum penalty for a specific violation is \$100.00, and the maximum penalty is \$2,500.00. These penalties may be assessed on a per-day basis.
- The violator may be ordered to correct or abate the violations.
- If the town of Addison is the prevailing party, the town must be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and cost unjust.
- The maximum penalty may exceed \$2,500.00, but may not exceed \$25,000.00, when it is shown that there has been a previous conviction of the same party within the past 2 years for violation of the automobile graveyard ordinance or applicable state or federal regulations. These penalties may be assessed on a per-day basis.

All proceedings arising under ordinances and laws administered by the town of Addison shall be brought in the name of the town. All fines resulting from those proceedings shall be paid to the town.

Other

If any section or provision of this ordinance is declared invalid by a court, such decision shall not invalidate any other section or provision of this ordinance.

Effective date of this ordinance is _____. Copies of this ordinance and all amendments to it shall be filed with the Town Clerk.

Fees

An annual fee of \$50.00 plus the cost of posting and publishing the notice shall be submitted with the application.

If an automobile recycling permit and/or a junkyard permit is also requested the fee structure will be an annual fee of \$50.00 for the first permit and a \$10.00 annual fee for each additional permit.

Junkyard	Auto. Graveyard	Auto Recycling	ANNUAL FEE
X			\$50.00
	X		\$50.00
		X	\$50.00
X	X		\$60.00
	X	X	\$60.00
X		X	\$60.00
X	X	X	\$70.00

Screening

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

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

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

Plantings

Trees, shrubs, or other vegetation of sufficient height, density and depth of planting or growth to completely screen the junkyard or automobile graveyard 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 or automobile graveyard from ordinary view from any highway within the prescribed distances. The minimum height of any fences is six feet. However, 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 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 rust inhibitive paint.

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

Stringer: Minimum 2x4 – Spruce or Fir – Sound and free of excessive or weakening knots, and relatively free from warp or wain, preferably treated with a preservative after cutting to length. Solidly spiked 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 special design.

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

Facing Material

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 a preservative to 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 constructions, relief of wind pressure may be achieved by placing the boarding alternately on outside and inside of stringers with the spacing to such that edges overlap enough to present a solid appearance and effectively screen the junkyard or automobile graveyard from ordinary view.

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the Automobile Graveyard Ordinance.

After enacted by the voters of the Town of Addison this Ordinance shall become effective January 1, 1995.

Given under our hands this _____ day of _____, 1994

Michael L. Murphy

Virgil L. Crowley

David T. Ouellet

Selectmen Town of Addison

“Attest: A true copy of the ordinances entitled Automobile Graveyard Ordinance for the Town of Addison, Maine,” as certified to me by the municipal officers of Addison on the _____ day of _____, 1994.

Signature _____
Glenda C. Emerson
Town Clerk of Addison

AMENDMENT TO AUTOMOBILE GRAVEYARD, JUNKYARD, RECYCLE
ORDINANCE

Enacted December 10, 2009

No permit, other than a limited term permit as described in 30-A MRSA 3754 A-(6) may be granted for an automobile graveyard or automobile recycling business that is not in compliance with all applicable provisions of the automobile dealer or recycler licensing provisions of Title 29-A Chapter 9. Town clerk or county commissioners may award a limited term permit conditioned upon an automobile graveyard 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 or county limited term permit.

Michael Murphy

Dale Crowley

Tom Batson