

1. Town of Whitefield Automobile Graveyard, Automobile Recycling Business, and Junkyard Ordinance

I. Title and Purpose:

This ordinance shall be known and cited as the “Town of Whitefield Automobile Graveyard, Automobile Recycling Business, and Junkyard Ordinance” and will be referred to herein as “this Ordinance”. This Ordinance provides definitions of Automobile Graveyards, Automobile Recycling Businesses, and Junkyards; provides for permitting and regulation of Automobile Graveyards, Automobile Recycling Businesses and Junkyards; and provides for additional miscellaneous standards for Automobile Graveyards, Automobile Recycling Businesses, and Junkyards. The purpose of this Ordinance is to provide adequate controls to ensure that Automobile Graveyards, Automobile Recycling Businesses, and Junkyards within the Town of Whitefield do not have a harmful impact on public health, safety, general welfare, property values and the natural environment.

II. Authority and Applicability:

This Ordinance is adopted pursuant to 30-A MRSA Sec. 3001 and 30-A MRSA Sec. 3751 *et seq.* The provisions of the ordinance shall apply to all Automobile Graveyards, Automobile Recycling Businesses, and Junkyards as defined in 30-A MRSA Sec. 3752 within the Town of Whitefield. The Whitefield Select Board delegates all permitting and inspection activities to the Planning Board and/or Code Enforcement Officer, where appropriate. Persons or entities wishing to establish an Automobile Graveyard, Automobile Recycling Business, or Junkyard within the Town of Whitefield shall first obtain a permit from the Whitefield Planning Board (hereinafter “the Municipal Officers”) and shall be subject to the provisions of this Ordinance.

From the time of enactment of this Ordinance, owners of properties that meet the criteria as defined in this Ordinance as an automobile graveyard, automobile recycling business or junkyard have six months to come into compliance and be permitted or to remedy all conditions that would subject them to requirements for being permitted under this Ordinance. This Ordinance shall not apply to pre-existing “family farm” dumps that may date back into the 1800’s and which have not had any accretionary activity since 2002, and which consist primarily of household and farm waste products (including but not limited to cans, glass bottles, discarded agricultural and household implements) consistent with daily living activities at the time. This Ordinance does not apply to lawn sales and the like, provided that there is no more than one per month and that they last no longer than 3 days. All materials must be removed between sales. No permits are necessary. Any full time “lawn sales” or similar will be considered junkyards and subject to this Ordinance.

Barn, garage and any other fully enclosed “sales” are not considered “lawn sales.”

Conflict with Other Ordinances:

Whenever a provision of this Ordinance conflicts with or is inconsistent with other provisions of this Ordinance, or of any other ordinance, regulation or standard, the more restrictive provision shall apply.

Effective Date:

The effective date of this Ordinance shall be the date this Ordinance is adopted by the voters at a Town Meeting or municipal election.

Validity and Severability:

Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision.

Definitions:

As used in this Ordinance, unless the context otherwise indicates, the following terms have the following meanings:

Aquifer. Aquifer means a geological formation composed of rock, sand, gravel or any other permeable bedrock or surficial geological formation that stores and transmits significant quantities of recoverable water.

Aquifer, Generally Known. A generally known aquifer means any aquifer which is known to exist by local citizens, geologists, hydrologists, and/or soil scientists but which is not currently mapped as such.

Aquifer, Mapped. “Mapped Aquifer, ” means a geological formation composed of rock, sand, gravel or any other permeable bedrock or surficial geological formation that stores and transmits significant quantities of recoverable water according to Hydrogeologic Data for Significant Sand and Gravel Aquifers contained in Map 32 compiled and mapped by the Maine and US Geological Surveys and published by the Department of Conservation (now known as the Department of Agriculture, Conservation and Forestry) in cooperation with the Maine Department of Environmental Protection, dated 1982, or any other more recent update.

Automobile Graveyard. “Automobile Graveyard” means a yard, field or other area used to store three (3) or more unserviceable vehicles or discarded, worn-out or junked motor vehicles or parts of such motor 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 or in making repairs to render a motor vehicle serviceable.
- B. “Automobile Graveyard” includes an area used for automobile dismantling, salvage and recycling operations.

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 repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, provided that 80% of the business premises is used for automobile recycling operations.

Classified Water Body. “Classified Water Body” means freshwater wetlands, floodplain wetlands, great ponds and rivers, streams or brooks as defined in 38 MRSA Sec. 480-B.

100-Year Floodplain. “100-Year Floodplain” means those areas depicted as such on the FEMA (Federal Emergency Management Agency) NFIP (National Flood Insurance Program) Flood Insurance Rate Map (FIRM) dated July 3, 1995 or more recently adopted FEMA NFIP/FIRM map.

Highway. “Highway” means any public way, road or right-of-way maintained by the State, Town, County or other public entity.

Junked. Junked means a state of existence where items are collected or disposed of within a site where there is no reasonable expectation that those items will be used or reused within a reasonable period of time; not temporary storage; collected without demonstrated intent to use or reuse in a timely manner.

Junkyard. “Junkyard” means a yard, field or other outdoor area used to store junked items including but not limited to the following:

- A. Discarded/worn-out plumbing, heating supplies, household appliances, furniture, machinery, equipment and trailers;
- B. Discarded /scrap lumber and building materials;
- C. Discarded/scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel, plastic and other scrap ferrous or nonferrous metallic material;

D. Garbage and waste dumps;

E. Any discarded/scrap conveyance originally designed to operate on land, water or air.

All the materials in A through E found in the locations listed above are hereinafter referred to as “junk”.

Lawn Sale. A lawn sale is the periodic sale of miscellaneous household or similar materials where the materials are spread out in the open air, or under a tent or canopy. Such activities happen on a frequency of no more than once a month and last a maximum of three (3) days when they occur. Any such activity that occurs in a fully enclosed structure such as a barn or garage is not considered either a junkyard or lawn sale.

Liquids and Gasses. “Liquids and Gasses” means substances including, but not limited to, fuels, engine coolants, transmission fluids, hydraulic fluids, differential fluids, battery acid, refrigerants, engine oils, bearing lubricants, degreasing compounds, and transformer oils.

Motor Vehicle. “Motor Vehicle” means any self-propelled vehicle not operated exclusively on tracks.

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

Recycling or Recycling Operations. “Recycling or Recycling Operations” means the dismantling of motor vehicles for the purpose of reselling 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.

Temporary Storage. “Temporary Storage” means a period not to exceed ninety (90) days.

Unserviceable Vehicle. “Unserviceable Vehicle” as used in this Ordinance means 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.

III. Permit 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 officers.

Permits issued to an Automobile Graveyard or Junkyard under this section are valid until the third Wednesday of July the calendar year following the issuance of the permit.

Permits issued to an Automobile Recycling Business under this section 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. 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.

Hearings:

The municipal officers shall hold a public hearing before granting a permit to establish, operate or maintain an Automobile Graveyard, Automobile Recycling Business, or Junkyard.

They shall post a notice of the hearing at least seven (7) and not more than fourteen (14) days before the hearing in at least two (2) public places in the municipality and publish a notice in one (1) newspaper having general circulation in Whitefield.

Abutting property owners shall be notified by certified mail by the Town at least fourteen (14) days prior to consideration by the Municipal Officers. This notice shall indicate the time, date and place of the public hearing. The cost of notification shall be borne by the applicant.

Limitations on Automobile Graveyard, Automobile Recycling Business, and Junkyard

Permits:

Prohibitions. No permit may be granted for an Automobile Graveyard, Automobile Recycling Business or Junkyard within one thousand (1,000) feet of the right-of-way of any highway incorporated in the primary system or within six hundred (600) feet of the right-of-way of any other highway, except for:

Those Automobile Graveyards, Automobile Recycling Businesses, or Junkyards that are kept entirely screened from ordinary view from the highway at all times by natural objects, plantings or fences per the standards set forth herein.

No permit may be granted for an Automobile Graveyard, Automobile Recycling Business, or Junkyard that is:

Located within three hundred (300) feet of any public park, public playground, public recreational area, school, government building, church or cemetery, nursing home or senior housing facility or within ordinary view from any above public facility.

No permit may be granted for an Automobile Graveyard, Automobile Recycling Business or Junkyard that is located within three hundred (300) feet of any abutter's residence or within ordinary view from any abutting property.

No permit may be granted for Automobile Graveyard, Automobile Recycling Business or Junkyard operations within three hundred (300) feet of a well that serves as a public or private water supply except for private wells that serve the business or serving the business owner's abutting residence.

IV. Automobile Graveyard, Automobile Recycling Business, and Junkyard Permits; Operation Standards:

A. Application. An application for an Automobile Graveyard, Automobile Recycling Business, or Junkyard permit must include the following information:

- a.i.1.** The name and address of the property owner.
- a.i.2.** The name and address of the person or entity who will operate the site.
- a.i.3.** Identification of the site by Town Map and Lot designation.
- a.i.4.** A site plan to scale, including:
 - a.i.1.a.** Property boundary lines, dimensions and acreage;
 - a.i.1.b.** Site contours from USGS maps;
 - a.i.1.c.** Soil types as determined from NRCS soil survey maps;
 - a.i.1.d.** The location of any generally known and/or mapped aquifer areas within one thousand (1,000) feet;
 - a.i.1.e.** The location of any residence, school or other public facility within three hundred (300) feet;
 - a.i.1.f.** The location of any classified water body on the property or within two hundred (200) feet of the property lines and wells within 100 feet;
 - a.i.1.g.** The boundaries of any 100-Year Floodplain or shoreland zoned areas located on the property;
 - a.i.1.h.** The location of all roads within one thousand (1,000) feet of the site including all vehicular entrances and exits serving the site;

- a.i.1.i.** The location within the property boundary lines where any equipment, including motor vehicles, old appliances, or machinery are drained, dismantled or stored; and
- a.i.1.j.** The location and characteristics of all existing and proposed vegetation and/or fencing that is to be maintained for required screening.
- a.5.** A plan for containment, storage and disposal or recycling of all liquids, batteries, tires or any hazardous materials which are located at the site.
- a.6.** A statement as to whether any State agency approvals are required under State law.

B. Standards for permit. The municipality may issue a permit to an Automobile Graveyard, Automobile Recycling Business, or Junkyard if the business demonstrates that it meets all the operation standards set forth below:

1. The site must be enclosed 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 abutting properties at all times.
2. Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and be maintained in good condition.
3. The site must not be within one hundred (100) feet of any classified water body.
4. The site must not be within three hundred (300) feet of and must not be within ordinary view of any public park, public playground, public recreational area, school or university, municipal building, church or cemetery, nursing home or senior housing facility that existed on the date the permit was issued.
5. The site must not have any slopes exceeding twenty percent (20%).
6. The site must not have any hydric soils present.
7. The site must not be over a mapped aquifer or a generally known aquifer area which contributes to or could potentially contribute to a public or private water supply outside the boundary of the site. In the case where a generally known aquifer is alleged under the proposed site, it will be incumbent upon the applicant to prove to the municipal officers that the proposed site is not over a generally known aquifer which may pollute any water supply outside the boundary of the site.
8. The site must not be within the 100-Year Floodplain.

9. The site must not be within three hundred (300) feet of a well that serves as a public or private water supply except for a private well that serves the business or the business owner's abutting residence.

10. The site must not be within fifty (50) feet of any lot line.

11. Dismantling of any equipment, including motor vehicles, old appliances or machinery must be performed in accordance with the following:

11.a. All batteries must be removed and disposed of or recycled in accordance with applicable federal or State laws, rules or regulations.

11.b. All liquids and gasses from any equipment must be contained in approved containers and must be recycled or disposed of in accordance with applicable federal or State laws, rules or regulations.

11.c. No liquids may be permitted to flow or be discharged into or onto the ground.

11.d. All operations must comply with all applicable Town ordinances and federal or State laws related to hazardous materials.

11.e. No sound, noise, vibration, glare, fumes or odor inconsistent with those generally experienced in the neighborhood shall be emitted which are detectable to the normal senses from any abutting property, nor shall any of these exceed federal or State standards.

C. Nonconforming uses. Any Automobile Graveyard, Automobile Recycling Business or Junkyard in existence and licensed under State law on the effective date of this Ordinance may remain in operation in its present location for a period not to exceed six months pending permit application, approval and issuance or remedy all conditions that would subject them to requirements for being permitted under this Ordinance. Thereafter, said Automobile Graveyard, Automobile Recycling Business or Junkyard shall be required to comply with the provisions of this ordinance. Any expansion of said Automobile Graveyard, Automobile Recycling Business, or Junkyard beyond the size which existed on the effective date of this ordinance shall comply with all provisions of this Ordinance.

D. Revocation or suspension of permit. Each of the standards set forth in this section are conditions of a permit and failure to satisfy any of the standards may result in suspension or revocation of a permit.

E. Screening Rules. In the interest of uniformity and to establish guidelines in the matter of adequate screening, the following rules establishing minimum standards for screening of Automobile Graveyards, Automobile Recycling Businesses and Junkyards shall apply:

Screening may be accomplished by natural or man-made objects, plantings or properly constructed fences, any of which must completely screen the site from ordinary view from any portion of any highway or abutting property within the prescribed distances throughout the entire calendar year. The minimum height of any screen is to be six (6) feet, or higher if needed to sufficiently accomplish the complete screening from ordinary view. Where a potential safety hazard to children would likely arise, screening shall be sufficient to deter small children from entering the premises. All screens shall be well constructed and maintained in keeping with the character of the surrounding neighborhood.

- a.i.1.** If plantings are used they should be of sufficient height, density, depth or growth to completely screen the site from ordinary view from the highway or abutting property within the prescribed distance throughout the entire calendar year.
- a.i.2.** Fences shall be so located and of sufficient height to completely screen the site from ordinary view from any highway and abutting property within the prescribed distances.
- a.i.3.** Fences should not obstruct sight distance for vehicular traffic on public ways or create any other hazard or potential hazard.

F. Inspections. Each permit holder shall allow the Code Enforcement Officer to inspect the property annually, and additionally in response to a complaint, for the purpose of determining continued compliance with this Ordinance. Failure to permit the Code Enforcement Officer, upon reasonable notice, entry onto the property for purposes of an inspection shall be grounds for revocation of a permit.

V. Permit Fees and Annual Inspection Fees:

All permit fees are due upon initial submittal of the application to the Planning Board. All permit fees and annual inspection fees for Automobile Graveyards or Junkyards, Automobile Recycling Businesses shall be established by the Select Board and updated or reaffirmed annually.

The municipal officers shall collect all fees in advance from the applicant for a permit (or permit holder in the case of annual inspection fees).

VI. Provisions Regarding Nuisances Unaffected:

This Ordinance shall not be construed as in any way repealing, invalidating or abrogating 30-A MRSA, Sec. 3751 *et seq.* or 17 MRSA, Sec. 2802, or limiting the right of prosecutions under these laws. Violation of this Ordinance in the establishment, maintenance or operation of any Automobile Graveyard, Automobile Recycling Business or Junkyard constitutes prima facie evidence that the business is a nuisance as defined in 17 MRSA, Sec. 2802.

VII. Violation:

- A. Enforcement.** The Select Board or their designees shall enforce this Ordinance in accordance with 30-A MRSA, Sec. 3758-A.
- B. Penalties.** Whoever violates this ordinance is subject to penalty under 30-A MRSA, Sec. 4452. Each day that the violation continues constitutes a separate offense with maximum fines of two thousand five hundred dollars (\$2,500.00) per offense. There is a twenty-five thousand-dollar (\$25,000.00) maximum fine per offense upon the second conviction within two (2) years for violations under this Ordinance.
- C. Revocation or suspension of permit.** Violation of any condition, restriction or limitation inserted in a permit by the Municipal Officers is cause for revocation or suspension of the permit.

No permit may be revoked or suspended, or fine imposed without a notice and opportunity for a hearing 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 seven (7) but not more than fourteen (14) days before the hearing. The notice must state the time and the place of hearing and contain a statement describing the alleged violation and the penalties that may be imposed.

VIII. Appeals:

Any person aggrieved by the action of the Code Enforcement Officer or municipal officers may appeal to the Board of Appeals by filing a notice of appeal within thirty (30) days after receipt of the Code Enforcement Officer or municipal officer notification.

Administrative appeals and variance applications submitted under this Ordinance shall be subject to the standards and procedures established by the Town of Whitefield Board of Appeals.