

**ORDINANCE TO ENHANCE THE APPEARANCE AND PROMOTE THE
GENERAL WELFARE OF THE TOWN OF RANDOLPH, MAINE BY REGULATING
AUTOMOBILE GRAVEYARDS AND JUNKYARDS No. 692-1**

SECTION 1. PURPOSE.

The purpose of this ordinance is to provide adequate controls to protect the Town's health, safety and general welfare. Commonly, junkyards and automobile junkyards have a deleterious effect on the appearance and welfare of the Town. It is declared that such junk yards and automobile graveyards are a nuisance and are properly subject to regulation and control. It is the intent of this Ordinance to regulate automobile graveyards and junkyards no matter where they are found in Randolph.

SECTION 2. AUTHORITY.

This ordinance is enacted pursuant to 30-A, M.R.S.A., Sections 3751-3760, as amended in March, 1992. All junk dealers are regulated pursuant to 30-A, M.R.S.A., Section 3901.

SECTION 3. APPLICABILITY.

3.1. This ordinance shall apply to the licensing and relicensing of all automobile graveyards and junkyards as defined in state law 30-A, M.R.S.A. 3752, within the Town of Randolph and as further defined in this Ordinance.

3.2 Any automobile graveyard or junkyard established, operated or maintained is required to be licensed whether or not the person is actually in the junk business. There are no limitations in the ordinance beyond the fact that there must be three or more unserviceable, discarded, wornout, or junked automobiles or parts thereof, or the specified items of junk. There is no grandfather clause, so-called, permitting uses in existence before the enactment of the ordinance to continue. The present emphasis on licensing automobile graveyards and junkyards is a direct way of getting them cleaned UP and made presentable.

3.3 Because the law defines these types of operations to be a nuisance, the immediate problem becomes whether or not a permit will be issued under these circumstances (the operation proposed by the applicant). This then, is a privilege granted to an individual by the State acting through the municipal officers and not an inherent right of the individual.

3.4 The Ordinance does not differentiate 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 or junkyard in a certain place after it has been operating lawfully in that area.

SECTION 4. DEFINITIONS.

4.1 *Automobile graveyard.* "Automobile graveyard" means a yard, field or other area used for auto dismantling, salvage, and recycling operations or to store 3 or more unserviceable, discarded, worn-out or junked motor vehicles as defined in Title 29, section 1, subsection 7, or parts of such vehicles. The term "automobile graveyard" does not include any area used for temporary storage by an establishment or place of business which is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable.

4.2 *Unserviceable vehicle*. The term “unserviceable” has not been defined by the Legislature; therefore, the definition which has been assigned to this term by the Department of Transportation and is in effect in this ordinance is as follows:

“An unserviceable vehicle as used in the subchapter shall mean 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”. This definition, however, would exclude wrecked or dismantled vehicles which are awaiting parts and/or adjustment, such as damaged insured vehicles awaiting auto body work for the purpose of making repairs to render a motor vehicle serviceable. The term “temporary storage” does not exceed (90) days. This definition shall be used until such time the definition is changed by either a Legislative Act or by a decision from a court of law.

4.3 *Highway*. “Highway” means any public way. (State road, town way or public easement.)

4.4 *Junkyard*. Junkyard means a yard, field or other area used to store the following kinds of junk:

- A. discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
- B. discarded, scrap and junked lumber;
- C. old or scrap copper, brass, tin, lead, rope, rags, batteries, paper trash, rubber or glass debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material, chains, old rope, paper clippings, and all articles discarded or no longer used as a manufactured article composed of any one or more of the materials mentioned;
- D. garbage dumps, waste dumps and sanitary fills; and
- E. other unsightly materials or dangerous items.

4.5 *Ordinary view*. “Ordinary view” means the unaided visual access from any point within 6 feet of ground level that a person has of an automobile graveyard or junk yard from the immediately adjacent public road or abutting property line. Vehicles or junk shall be construed to not be in ordinary view to a public road or abutting property line when they are located more than 1000 feet from the abutting property lines or the applicant has constructed a screen in accordance with Section 8.2 of this Ordinance between the storage area and the public road or property line.

SECTION 5. PERMIT REQUIRED.

5.1 No person may establish, operate, or maintain an automobile graveyard or junkyard without first applying to the Board of Selectmen for a permit. Review and recommendations must also be made by the Randolph Planning Board. Permits issued under this Section are valid until the first day of the following calendar year. The application shall present either a permit from the Maine Department of Environmental Protection or a letter stating that a permit is not required

5.2 No automobile graveyard or junkyard shall be permitted within 100 feet of any highway right-of-way. In addition, permits are prohibited if the junkyard would be within a radius of 300 feet from any public park, public playground, public bathing beach, school, church or cemetery, and be within ordinary view.

5.3 If either the automobile or junk material is inside a building, neither would be subject to the ordinance.

If either the automobile or junk material is outside a building, then all items will be stored in a neat and orderly fashion.

5.4 The following regulations must be observed for those automobile graveyards and junkyards in existence at the time this ordinance is enacted:

A. Any automobile graveyard or junkyard in existence at the time this ordinance is enacted may remain in operation until the end of the year on the parcel of land it is presently located on, providing it meets all pertinent statutory requirements.

B. Any existing junkyard or graveyard shall not expand into a parcel of land outside the specific permitted storage area or into a parcel of land described in a separate deed unless all of the provisions of this ordinance are met on the separate parcel.

SECTION 6. ADMINISTRATION.

6.1 This Ordinance shall be administered by the Selectmen. No automobile graveyard or junkyard permit shall be issued unless the provisions of this Ordinance are met.

6.2 Upon receipt of an application, the Selectmen shall hold a public hearing regarding the licensing of the automobile graveyard or junkyard in accordance with 30-A M.R.S.A. Section 3754. They shall post a notice of the hearing at least 7 and not more than 14 days before the hearing in at least 2 public places in Randolph and publish a notice in one newspaper having general circulation in the municipality in which the automobile graveyard or junkyard is to be located. The municipal officers shall give written notice of the application to the Department of Transportation Right-of-Way Division by mailing a copy of the application at least 7 days and not more than 14 days before the hearing.

6.3 Permits shall be issued annually by January 1 of each year to remain valid. Once the specific defined area of storage in the site plan is approved, the site plan does not have to be resubmitted. The municipal officers shall annually inspect, or cause to be inspected, the site to ensure that the provisions of this ordinance and state law are complied with.

6.4 All submissions of documentation must be submitted at least thirty (30) calendar days prior to license expiration for review by the Code Enforcement Officer. The Code Enforcement Officer must review the documentation within seven (7) calendar days to ensure completeness prior to the public hearing. The Code Enforcement Officer must respond in writing within five (5) calendar days of the review if the application is not complete so that the applicant can complete the application. The completed application must be returned to the Code Enforcement Office within five (5) calendar days. An application may be denied if it is late being returned or if information required in Section 7 is missing, incomplete or is incorrect.

6.5 The Selectmen shall collect, in advance from the applicant, a \$50 fee for each permit for an automobile graveyard or junkyard located more than 100 feet or \$200.00 if located less than 100 feet from any highway, plus the cost of posting and publishing the notice as provided in section 3754. The latter fee of \$200.00 is for all bonafide automobile graveyard and/or junkyards in existence within 100 feet of the highway right-of-way and legally established to October 3, 1973. The measurement should start from the edge of the highway (right-of-way) limit and not from the center of the highway.

6.6 The denial of any permit granted under this ordinance shall be in writing and shall set forth the reasons for the denial. Appeals shall go through the Randolph Board of Appeals.

Any permit granted with restrictions or conditions shall clearly state those conditions or restrictions on or attached to the permit.

Where undue hardship will result from strict application of the performance standards, the Randolph Board of Appeals may relax those standards to the extent necessary to avoid such hardship. It is the applicant's burden of proving undue hardship. The Board of Appeals may not relax the screening requirement, however, regardless of undue hardship.

Even when an applicant proves undue hardship, the Board of Appeals is not required to relax the performance standards if it will result in a potential threat to human life or safety.

7.0 SUBMISSION REQUIREMENTS.

Any application for an automobile graveyard or junkyard permit shall contain the following information:

7.1 The property owner's name and address and the name and address of the person or entity who will operate the site.

7.2 A site plan drawn to a scale not to exceed 1"=100', on which is shown: (need not be an engineered drawing)

- a. the boundary lines of the property.
- b. the specific area of storage of materials and dimensions, thereof.
- c. the soils profile as established from maps supplied from the Department of Agriculture Soil Conservation Service
- d. the location of any and all gravel aquifer recharge area, as mapped by the Maine Geological Survey, or a licensed geologist.
- e. the location of any residences, schools, churches, playgrounds, parks or wells within five hundred (500) feet of the area where cars or junk will be placed.
- f. the location of any water bodies on the property or within two hundred (200) feet of the property line.
- g. the boundaries of the 100-year floodplain.
- h. the location and name or route number of all roads within one thousand (1000) feet of the site.
- i. yard access roads.
- j. designated area's for storage and eventual disposal of special wastes, motor oil, anti-freeze, batteries, transmission and brake fluids and any and all other fluids including hazardous materials, coolants and lubricants and tires and vehicles and a removal schedule for each.
- k. approximate quantity in gallons or numbers of each item listed above stored prior to disposal or removal and a removal schedule for each will be submitted with the application.

7.3 A list of and agreements between operator and haulers of fluids, special wastes (as defined by DEP), tires and unsalvageable vehicles etc...

7.4 A list of agreements with firms receiving items listed above along with copies of approvals from the appropriate licensing authorities such as the DEP authorizing the disposal and/or storage of these materials.

7.5 Copies of all other permits and licenses held by the operator at this facility.

7.6 Any person or entity which is currently holding or has held an automobile graveyard/junkyard or hazardous waste permit within the past ten (10) years and is seeking a new site permit or buying an existing site must provide a list and copies of all revoked or violation and enforcement action for the last three (3) years for which they held a permit.

No permit will be issued for an automobile graveyard/junkyard to a person or entity seeking a new site or buying an existing site until all revoked permits and all violation and enforcement action has been corrected and proof thereof notarized by the Town or Towns issuing such permits.

7.7 Any person or entity submitting false or misleading information on an automobile graveyard/junkyard site permit application for either the permit or condition to the permit, will be subject to revocation of the permit after a public hearing or a penalty of one thousand (1,000) dollars or both if the Board finds that the misleading or false information was critical to granting of the permit.

SECTION 8. PERFORMANCE STANDARDS.

The following performance standards are required of all automobile graveyards and junkyards:

8.1 Any portion of the automobile graveyard or junkyard which is in ordinary view be enclosed by a visual screening at least six feet in height in accordance with Department of Transportation rules issued pursuant to 30-A M.R.S.A. 3755

8.2 Screening

Screening may be accomplished by natural or man-made objects, plantings or properly constructed fences, any of which must completely screen the junkyard from ordinary view within the prescribed distances throughout the entire calendar year, all of which shall be outside of the highway right-of-way limits. The screening may be located within the 100 feet distance from the highway's right—of-way line to provide the most effective screening.

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

1. Hills, gullies, or embankments. Such manmade objects must be constructed to blend with the landscape with loaming and seeding or other treatment as may be necessary to establish a natural appearance.
2. Buildings or other installations.
3. Combinations of above.

8.3 No vehicle shall be stored within three hundred (300) feet of any waterbody or inland wetland, regardless of size, also man—made water bodies shall not be filled in or drained without proper DEP permits.

8.4 No vehicle shall be stored within three hundred (300) feet of any property line of a school, church, public playground, public park or within three hundred (300) feet of a well. Wells that are on the automobile graveyard/junkyard are to be excluded.

8.5 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 unless such vehicles are stored in a contained structure having an impermeable, leak—proof floor.

8.6 No vehicles shall be stored within the 100-year flood plain.

8.7 Upon receiving a motor vehicle, which will not be repaired, 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. All Federal and State hazardous waste laws and regulations shall be complied with.

8.8 No article included in sections 4.1 and 4.4 shall be closer than one hundred (100) feet of any property line.

8.9 To reduce noise, all dismantling of motor vehicles shall be done after 7 a.m. and before 8 p.m. daily.

8.10 Any automobile graveyard/junkyard site permit which is not issued at the time of review, has six (6) months from the date of expiration of the last permit issued to meet the requirements of the last permit issued.

8.11 Any automobile graveyard/junkyard site permit that is revoked has six (6) months to meet the regulations and ordinances in effect of the last permit issued. Any permit issued after six (6) months of the date of the revoked permit shall meet all regulations and ordinances that are in effect at the time the new permit is issued.

8.12 Any automobile graveyard/junkyard not issued a permit because of a lack of an application or an incomplete application on a site that previously had a permit must clean up (refer to Section 4 for definition) the site of such automobile graveyard/junkyard within six (6) months of the date of expiration of the last permit issued.

8.13 Any previously licensed automobile graveyard/junkyard that has either been denied a license or has had a license revoked shall have six (6) months to clean up (refer to Section 4 for definition) the site of said automobile graveyard/junkyard from the date of the final appeal by the applicant.

8.14 For sections 8.11 and 8.12 either both the person or entities that held the license or the landowner shall be responsible for proper clean up (refer to Section 4 for definition) of the site. Such clean up to be completed within six (6) months to the satisfaction of the Code Enforcement Officer.

SECTION 9. ENFORCEMENT.

This ordinance shall be enforced by the Board of Selectmen, Constable(s) or Code Enforcement Officer, as well as the State Police or county law officers. 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 (see attached copy) and any other

remedy available at law. Each day that the violation continues constitutes a separate offense. These two specific statutes become a part of this ordinance and shall be used only for minimum requirements and will not affect more severe regulations that may exist in this ordinance.

Violation of any condition, restriction or limitation inserted in a permit by the municipal officers is cause for revocation or suspension of the permit by the Town. No permit may be revoked or suspended without a hearing and notice to the owner or the operator of the automobile graveyard or junkyard. Notice of hearing shall be sent to the owner or operator by registered mail at least 7 but not more than 14 days before the hearing. The notice must state the time and place of hearing and contain a statement describing the alleged violation of any conditions, restrictions or limitations inserted in the permit. Any and all fines and/or monetary awards by any court exceeding the actual cost shall be paid to the Town of Randolph.

SECTION 10. EFFECTIVE DATE AND AMENDMENT.

This Ordinance shall become effective on the date of adoption and may be amended by vote of the town meeting.

SECTION 11. 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 or any other provision of any other Randolph ordinance, the more demanding provision shall apply. Any existing ordinance or regulation setting forth lesser requirements than this ordinance are herein repealed.

Public Hearing conducted JUNE 25, 1992

Number of voters at Public Hearing TWENTY (20)

Ordinance presented to voters at annual town meeting held
on JULY 29, 1992 at T.C. HAMLIN SCHOOL RANDOLPH

Number of voters present EIGHTY-EIGHT (88)

Number of voters voting 54 yes 14 no

Ordinance adopted and effective 8/6/92