

CONVERTING FROM ELECTED ASSESSORS TO AN APPOINTED ASSESSOR

Converting the Assessor position from an elected role to an appointed one would allow the Town to continue operating much as it has been, with one assessor handling the day-to-day work, while better matching how the role actually functions. The position would stay filled in the near term and also create a clearer path for hiring qualified assessors in the future.

The goal of this change is to support consistency, stability, and appropriate professional qualifications in a very technical job. Moving to an appointed model helps ensure continuity from year to year and allows the town to plan ahead when future transitions are needed.

Orland Board of Assessors

Amber Poulin, CMA

Amy Dunn, CMA

Ernie Guimond, CMA

TOWN OF ORLAND
AUTOMOBILE GRAVEYARDS AND RECYCLING
BUSINESSES AND JUNKYARDS

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1. Purpose.

- A. The purpose of this chapter is to regulate the permitting and operation of automobile graveyards, automobile recycling businesses and junkyards.
- B. Automobile graveyards and automobile recycling businesses and junkyards pose potential risks to the environment, particularly to groundwater and surface water quality if gasoline, oil or other fluids are not managed and disposed of properly. Proper location and operation of these facilities are critical to ensure protection of groundwater and surface water quality, other natural resources and the health and welfare of the public. These facilities may create nuisance conditions potentially affecting abutting landowners and others if not located and operated properly. For these reasons, it is declared that these facilities are appropriately subject to certain environmental and operational standards and to appropriate municipal and state regulation.

2. Authority.

This chapter is enacted pursuant to 30-A M.R.S.A. § 3001 et seq. and 30-A M.R.S.A. § 3751 et seq.

3. Applicability.

- A. This chapter shall apply to automobile graveyards, automobile recycling businesses and junkyards as defined in §13.
- B. This chapter shall not apply to any land use activity subject to regulation by 38 M.R.S.A. §§ 481 to 489-E, Site Location of Development; and 38 M.R.S.A. §§ 1301 to 1316-M, Waste Management.

4. Severability; conflict with other provisions.

- A. In the event that any provision of this chapter is decided by the courts to be invalid, such decision shall not invalidate any other provision of this chapter.
- B. In the event that any provision of this chapter conflicts with another provision of this chapter or any other ordinance, regulation or statute, the more restrictive provision shall govern.

5. Administration.

- A. This chapter shall be administered by the Select Board.
- B. Upon receipt of an application to establish, operate or maintain an automobile graveyard, automobile recycling business or junkyard, the Select Board shall hold a public hearing in accordance with 30-A M.R.S.A. § 3754.
- C. Notice of a public hearing shall be posted in at least two public places within the municipality and in a newspaper having general circulation in the municipality. Notice shall also be provided by regular mail to abutting property owners. Notice shall be given at least seven days but not more than 14 days before the hearing.
- D. Upon receipt of an application to establish a new automobile graveyard or automobile recycling business, the Town Clerk shall give written notice of the application to the automobile dealer licensing section of the Department of the Secretary of State, Bureau of Motor Vehicles. Notice shall be sent by regular mail at least seven days and not more than 14 days before the hearing.
- E. Upon receipt of an application for any automobile graveyard, automobile recycling business, or junkyard located within a source water supply area of a public water supply, the Town Clerk shall give written notice of the application to the public water supplier. Notice shall be sent by regular mail at least seven days and not more than 14 days before the hearing.

- F. To carry out the provisions of this chapter or to determine compliance with any laws, license or permit approvals, decisions or conditions, municipal officers or their designees may:
 - (1) Enter any automobile graveyard, automobile recycling business property or junkyard and inspect all outside areas, equipment and activities at reasonable hours; and
 - (2) Enter any building on the property with consent of the owner, occupant or agent to inspect the building and activities within the building.

6. Permit required.

- A. A permit shall be required from the Select Board to establish, operate or maintain an automobile graveyard, automobile recycling business or junkyard.
- B. Applications for permit renewals must be submitted at least 30 days prior to the permit expiration date.
- C. A permit issued to an automobile graveyard or junkyard is valid until the first day of October of the following year.
- D. A permit issued to an automobile recycling business is valid for five years from the date of issuance.
- E. 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.
- F. Permits are nontransferable.
- G. A fee shall be submitted with an application for a permit in accordance with the Schedule of Fees. The cost of posting and publishing the public hearing notice shall be the responsibility of the applicant.
- H. New applications for automobile graveyards, automobile recycling businesses or junkyards are subject to approval by the Planning Board. The Planning Board must approve any new application before it may be submitted to the Select Board.

7. Permit limitations.

- A. A permit may not be granted for an automobile graveyard, automobile recycling business or junkyard located within 600 feet of the right-of-way of any 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, fences or other structures.
- B. A permit may not be granted for an automobile graveyard, automobile recycling business or junkyard located within 100 feet of any highway.
- C. A permit may not be granted for an automobile graveyard, automobile recycling business or junkyard that handles junk, scrap metal, vehicles or other solid waste within 750 feet of a well that serves as a public or private water supply. This prohibition does not apply to an automobile graveyard, automobile recycling business or junkyard with a private well that serves only the owner's or operator's residence. This prohibition does not apply to an automobile graveyard, automobile recycling business or junkyard that is within 750 feet of a well installed after a permit was granted by the Select Board.
- D. Any automobile graveyard, automobile recycling business or junkyard operating under the terms of a permit issued prior to the effective date of this chapter and that handles junk, scrap metal, vehicles or other solid waste within 750 feet of a well that serves as a public or private water supply may continue to operate under the terms of the permit. The Select Board may grant a permit, including the

continued handling of junk, scrap metal, vehicles or other solid waste, within 750 feet of a well that serves as a public or private water supply as long as no further encroachment toward the well occurs and there is no evidence of contamination of the water supply.

- E. A permit may not be granted to an automobile graveyard, automobile recycling business or junkyard that is located within 750 feet of the normal high water line of any lake, great pond, stream, or the upland edge of an associated freshwater wetland.
- F. A permit, other than a limited-term permit as described in this subsection, may not be granted to 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 29-A M.R.S.A. Ch. 9. The Select Board may issue a limited-term permit conditioned upon an automobile graveyard's or automobile recycling business's demonstration of compliance with 29-A M.R.S.A. Ch. 9 within 90 calendar days of the issuance of the limited-term permit.
- G. Automobile graveyard, automobile recycling business and junkyard owners must demonstrate at the time of permitting that the facility or facilities for which a permit is sought are, or are part of, a viable business entity engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale, trade or personal use.

8. Application requirements.

An application for an automobile graveyard, automobile recycling business or junkyard permit must contain the following information:

- A. The name and address of the property owner and the person or entity that will operate the site;
- B. Evidence of right, title or interest to the property;
- C. The Tax Map and lot number identification of the property;
- D. A site plan drawn to a scale no smaller than one inch equals 100 feet, to include:
 - (1) Property boundary lines;
 - (2) Identification of soils on the property;
 - (3) The location of any sand and gravel aquifer or aquifer recharge areas;
 - (4) The location of any residence or school within 500 feet of the property lines;
 - (5) The location of any body of water on the property or within 400 feet of the property lines;
 - (6) The boundaries of the 100-year floodplain;
 - (7) The location of all roads within 1,000 feet of the site;
 - (8) The location within the property boundary lines where vehicles are drained, dismantled or stored;
 - (9) The location and dimensions of all land area to be utilized for the activity;
 - (10) The location and dimensions of all site improvements, such as buildings, operating pads, processing equipment, and storage areas for oils, PCB, battery acid or other liquids collected;
 - (11) The location and description of screening;
 - (12) The location of all public and private water supplies within 750 feet of the site; and

- (13) A plan for containment of fluids, containment and disposal of batteries and storage or disposal of tires.
- E. A description of methods used to prevent unauthorized access to the site;
- F. A description of routine maintenance, litter removal and cleaning procedures for the entire site;
- G. A description of procedures for handling and disposing of any washdown waters and leachates;
- H. A schedule for removal of stored wastes and copies of contracts with authorized waste haulers;
- I. A fire prevention plan for the facility approved by the Fire Department; and
- J. A groundwater and surface water quality monitoring plan if required by the Select Board.

9. Performance standards.

- A. Automobile graveyards, automobile recycling businesses and junkyards must be screened from ordinary view from any highway and abutting properties in accordance with the screening requirements of section 10 of this ordinance.
- B. Any automobile graveyard, automobile recycling business or junkyard must be located:
 - (1) No less than 300 feet from any water body or freshwater wetland as defined by 38 M.R.S.A. § 436-A(5);
 - (2) No less than 500 feet from any public building, public park, public playground, school, church or cemetery in existence at the time of initial application;
 - (3) No less than 300 feet from a sand and gravel aquifer or aquifer recharge area;
 - (4) Outside the 100-year floodplain;
 - (5) No less than 500 feet from a residential dwelling, other than the dwelling occupied by the owner or facility operator;
 - (6) No less than 750 feet from a public or private water supply in existence at the time of application except as provided for in section 7 of this ordinance;
 - (7) No less than 100 feet from the right-of-way of any highway; and
 - (8) No less than 20 feet from any property line.
- C. The dismantling or storing of a vehicle must be performed in accordance with the following standards:
 - (1) The battery must be removed.
 - (2) Engine lubricant, transmission fluid, brake fluid, battery acid, engine coolant, gasoline and oil must be drained into watertight, covered containers, handled in such a manner that they do not leak, flow or discharge into or on the ground or into a body of water, and must be recycled or disposed of in accordance with applicable federal or state laws, rules and regulations.
 - (3) Any recycling operation must comply with applicable federal or state laws relating to hazardous materials.
 - (4) Dismantling of motor vehicles may only take place between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday.

- (5) No vehicle may be stored or dismantled within 100 feet of any property boundary line in existence at the time of initial application unless the operator has notarized written permission from the abutting property owner.
 - (6) Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations.
 - (7) A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale and the date or dates upon which all fluids, refrigerant, batteries and mercury switches were removed.
 - (8) All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or other parts that render the vehicles incapable of being driven under their own motor power or that are otherwise incapable of being driven under their own motor power within 180 days of acquisition. Motor vehicles acquired by and on the premises of an automobile recycling business prior to October 1, 2005, must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007. Fluids required to be removed under this subsection must be removed to the greatest extent practicable.
 - (9) All fluids, refrigerant, batteries and mercury switches must be removed from vehicles before crushing or shredding. Fluids required to be removed under this subsection must be removed to the greatest extent practicable.
- D. Open burning of any substance or disposal or release to the environment of any solid, special or hazardous waste is prohibited.

10. Screening.

- A. Automobile graveyards, automobile recycling businesses and junkyards must be screened from ordinary view from any highway and from abutting properties. Screening may be provided by:
 - (1) Natural or altered topographical features such as hills, gullies or embankments that are stable and vegetated;
 - (2) Vegetation such as trees and shrubs that effectively provide screening at all times;
 - (3) Stone, brick or concrete walls; or
 - (4) Buildings, fencing or other structures.
- B. All buildings, fences and other structures providing screening must be structurally sound, free of rot and decay and properly maintained.
- C. All fencing utilized for screening must be designed and installed to resist damage from gale-force winds and to remain stable and plumb in frozen soil.
- D. The exterior surface of fencing utilized for screening must be uniform in appearance and comprised of materials customarily used and/or designed for fence installations. The material used may be wood, metal, plastic, vinyl or composite. For the purposes of this section, "exterior surface" means the side facing a highway or an abutting property.
- E. Screening must be no less than six feet in height.

11. Enforcement; remedies; violations and penalties.

- A. The Select Board or their designees may enforce this chapter in accordance with the enforcement provisions of 30-A M.R.S.A. § 4452, the litter control provisions of 17 M.R.S.A. Ch. 80, or the

abatement of nuisance provisions of 17 M.R.S.A. Ch. 91.

- B. If the municipality is the prevailing party in an action taken pursuant to this section and the violator does not complete any ordered correction or abatement in accordance with the ordered schedule, the municipal officers or their designated agents may enter the property and may act to abate the site in compliance with the order. To recover the costs of abatement, including the expense of court costs and reasonable attorneys' fees necessary to file and conduct the action, the municipality may:
 - (1) File a civil action against the owner;
 - (2) File a lien on real estate where the automobile graveyard, automobile recycling business or junkyard is located; or
 - (3) Assess a special tax on real estate where the automobile graveyard, automobile recycling business or junkyard is located. This amount must be included in the next annual warrant to the Tax Collector of the municipality, for collection in the same manner as other state, county and municipal taxes are collected. Interest, as determined by the municipality pursuant to 36 M.R.S.A. § 505 in the year in which the special tax is assessed, accrues on all unpaid balances of the special tax beginning on the 60th day after the day of commitment of the special tax to the Tax Collector. The interest must be added to and becomes a part of the tax.
- C. Violation of any condition, restriction or limitation of a permit issued by the Select Board is cause for revocation or suspension of the permit by the Select Board. A hearing must be held prior to any action to revoke or suspend a permit. Notice of the hearing must be sent to the owner or operator by registered mail at least seven days but not more than 14 days before the hearing. The notice must state the time and place of the hearing and contain a statement describing the alleged violation.
- D. The owner or operator of a junkyard, automobile graveyard or automobile recycling business for which a permit has been denied or revoked shall, not later than 90 days after all appeals have been denied, begin the removal of all vehicles, vehicle parts and materials associated with the operation of that automobile graveyard, automobile recycling business or junkyard. The property must be free of all scrapped or junked vehicles and materials no later than 180 days after denial of all appeals. An alternative schedule for removal of junk or vehicles may be employed if specifically approved by the Select Board.

12. Appeal.

An aggrieved party may appeal any decision of the Select Board to issue, revoke or deny a permit. Such appeal shall be taken to Superior Court within 30 days of the date of the decision being appealed.

13. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AUTOMOBILE GRAVEYARD —

- A. A yard, field or other outdoor area used to store three or more unregistered or uninspected motor vehicles, as defined in 29-A M.R.S.A. § 101, Subdivision 42, or parts of the vehicles.
- B. "Automobile graveyard" does not include:
 - (1) An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle's storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipt;

- (2) An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in 29-A M.R.S.A. § 101. The hobbyist's activities must comply with all applicable federal and state statutes and rules and municipal ordinances, other than ordinances that are more restrictive than this chapter, regarding the storage of vehicles or vehicle parts that are collected by a hobbyist. An "automobile hobbyist" is a person who is not primarily engaged in the business of selling any of the above vehicles or parts from those vehicles;
- (3) An area used for the parking or storage of vehicles, vehicle parts or equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;
- (4) An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under 29-A M.R.S.A. Ch. 5;
- (5) An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in 29-A M.R.S.A. § 851;
- (6) An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as a new vehicle dealer as defined in 29-A M.R.S.A. § 851;
- (7) An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subsection, the vehicle must be removed from the site within 180 days of receipt of title by the business; or
- (8) An area used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment as defined in 29-A M.R.S.A. § 101 that is temporarily out of service but is expected to be used by the vehicle or equipment owner or by an operator designated by the owner. An area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area is not exempt.

AUTOMOBILE RECYCLING BUSINESS —

- A. The business premises of a dealer or a recycler licensed under 29-A M.R.S.A. §§ 851 to 1112 who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, as long as 80% of the business premises specified in the site plan is used for automobile recycling operations.
- B. "Automobile recycling business" does not include:
 - (1) Financial institutions as defined in 9-B M.R.S.A. § 131, 17 M.R.S.A. and 17-A M.R.S.A.;
 - (2) Insurance companies licensed to do business in the state;
 - (3) New vehicle dealers, as defined in 29-A M.R.S.A. § 851, licensed to do business in the state; or
 - (4) That portion of the business premises that is used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered to be temporary under this subsection, the vehicle must be removed from the site within 180 days of receipt of title by the business.

HIGHWAY — Any public way.

JUNKYARD — A yard, field or other outside area used to store, dismantle or otherwise handle:

- A. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances, or furniture;
- B. Discarded, scrap and junked lumber; and
- 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.

ORDINARY VIEW — Seen or observed without the aid of magnification provided by binoculars, telescopes or similar optical equipment.