

TOWN OF HOWLAND

ORDINANCE TO REGULATE AUTOMOBILE GRAVEYARDS, JUNKYARD AND AUTOMOBILE RECYCLING BUSINESS

Section 1. Purpose

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

Section 2. Authority

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

Section 3. Applicability

This ordinance shall apply to all automobile graveyards, junkyards and automobile recycling businesses as defined in 30-A M.R.S.A. §3752

3.1 Definitions - Automobile graveyard. "Automobile graveyard" means a yard, field or other outdoor area used to store 3 or more unregistered or uninspected motor vehicles, as defined in Title 29-A, section 101, subsection 42, or parts of the vehicles. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations.

3.2 Exclusions – "Automobile graveyard" does not include any exclusions as defined in 30-A M.R.S.A. §3752 (1)(A)(1-8).

Section 4. Permit Required

No person may establish, operate or maintain an automobile graveyard, junkyard or automobile recycling business without first obtaining a nontransferable permit from the municipal officers.

Section 5. Administration

5.1 This ordinance shall be administered by the municipal officers. No automobile graveyard, junkyard or automobile recycling business permit shall be issued unless the provisions of this ordinance are met.

5.2 Upon receipt of an application, the municipal officers shall hold a hearing in accordance with 30-A M.R.S.A. §3754.

5.3 Permits shall be renewed annually to remain valid except that automobile recycling business permits shall be valid for 5 years. 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.

5.4. A fee per 30-A M.R.S.A. §3756 shall be submitted with the permit application.

Section 6 Submission Requirements

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

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

6.2 A site plan drawn to a scale not to exceed 1"=100', on which is shown:

- a. the boundary lines of the property
- b. the soils.
- c. the location of any sand and gravel aquifer recharge area, as mapped by the Maine Geological Survey, or a licensed geologist
- d. the location of any residences or schools within 500 feet of the area where vehicles will be placed.
- e. the location of any water bodies on the property or within 200 feet of the property lines.
- f. the boundaries of the 100 year flood plain
- g. the location of all roads within 1000 feet of the site

6.3 Once the site plan is approved it does not have to be resubmitted unless changes are made on the site.

Section 7. Performance Standards

The following performance standards are required of all automobile graveyards, junkyards and automobile recycling businesses, whether new or existing:

7.1 The site must be enclosed by a visual screen at least 6 feet in height and built in accordance with Department of Transportation rules issued pursuant to 30-A M.R.S.A. §3759

7.2 No vehicle shall be stored within 300 feet of any water body or inland wetland.

7.3 No vehicle shall be stored within 500 feet of any private well, school, church or public playground or public park.

7.4 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.

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

7.6 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 onto the ground.

7.7 No vehicle shall be located closer than 100 feet from any lot line.

7.8 To reduce noise, all dismantling of motor vehicles shall take place within a fully enclosed building, and shall be done after 7:00 a.m. and before 6:00 p.m. Mondays through Saturdays. No dismantling of motor vehicles shall be allowed on Sundays.

Section 8. 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 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 and any other remedy available at law.

Section 9. Effective Date and Amendment

This ordinance shall become effective on the date of adoption, and may be amended by vote of the legislative body.

Section 10. Legal Non-Conforming (“Grandfathered”) Uses, Structures, and Lots

Structures, uses, and lots which were legally existing as of the adoption of this Ordinance but which do not conform to the requirements of the Ordinance shall be treated as non-conforming and may continue and be maintained, repaired, and improved. Expansions of non-conforming structures, uses or lots must conform to all other standards of this Ordinance.

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 provision 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.

Section 12. Appeals

12.1 Any person, firm or corporation aggrieved by a decision of the municipal officers may appeal such decision to the Board of Appeals within 30 days of the written decision by filing an appeal at the office of the Town Clerk on forms approved by the Board of Appeals.

12.2 The fee established by the Board of Selectmen (see fee schedule) shall be paid at the time of filing the appeal to cover the cost of advertising. An escrow fee shall also be paid for miscellaneous services rendered in processing the application. This fee shall also be established by the Board of Selectmen. Any unused portion of the escrow shall be returned to the appellant.

12.3 Appeals from decisions of the municipal officers shall be purely appellate. The CEO shall transmit to the Board of Appeals the decision of the municipal officers and all documents


and other evidence comprising the record on which the municipal officers' decision was based. The Board of Appeals shall conduct a public proceeding at which all persons shall have the right to present legal argument concerning the decision of the municipal officers. The Board of Appeals shall not permit the introduction of additional testamentary or documentary evidence. The standard of review shall be whether the decision of the municipal officers was arbitrary or capricious, based on error of law or on findings of fact not supported by substantial evidence in the record. The Board of Appeals shall have authority to sustain or reverse a decision of the municipal officers or to remand the matter to the municipal officers for further proceedings.

12.4 The Board of Appeals shall not continue a public hearing on an appeal to a future date except for good cause.

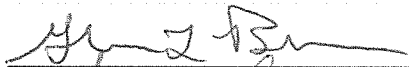
12.5 The affirmative vote of three members of the Board of Appeals shall be necessary to grant an appeal from a decision of the municipal officers. The failure of the Board of Appeals to issue a written notice of its decision, directed to the appellant by registered mail, within thirty five (35) days of the close of the public hearing shall constitute a denial of the appeal.

12.6 Any aggrieved party may appeal a decision of the Board of Appeals to Maine Superior Court within 45 days of the date of the vote of the Board of Appeals in accordance with 30-A M.R.S.A. §2691 and Rule 80B of the Maine Rules of Civil Procedure.

Adopted this 11th day of Sept., 2017 following a Public Hearing and Voter Approval.



Michael O'Neil



James M. Feltus

Howland Board of Selectmen

Town Seal