CHELSEA AUTOMOBILE GRAVEYARD/AUTOMOBILE RECYCLING AND JUNKYARD LICENSING PERMITTING ORDINANCE

**Ordinance additions are underlined. Deletions have been struck out.**

SECTION 1. PURPOSE

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

SECTION 2. AUTHORITY

This Ordinance is enacted pursuant to 30-A MRSA, Section 3001 et seq, and Section 3751 et seq.

SECTION 3. APPLICABILITY

This Ordinance shall apply to the licensing and reissuing permitting and re-permitting of all automobile graveyards, automobile recycling businesses and junkyards as defined in 30-A MRSA, Section 3752 and as further defined in this Ordinance.

SECTION 4. DEFINITIONS

Automobile graveyard.

“Automobile graveyard” as defined in 30-A, MRSA, Section 3752, means a yard, field or other outdoor area used to store 3 or more unserviceable, discarded, worn out, or junked motor vehicles, unregistered or uninspected motor vehicles, or parts of the vehicles. “Automobile graveyard” includes an area used for automobile dismantling, salvage and recycling operations.

A. The term “Automobile graveyard” does not include:

1. Any area used for temporary storage of vehicles or vehicle parts by an establishment or place of business which that is primarily engaged in doing auto-body 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 Title 29-A, section 101 as long as the hobbyist’s activities comply with all applicable federal and state statutes and rules and municipal ordinances, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles or vehicle parts that are collected by a hobbyist, except that a municipal ordinance may require areas used by automobile hobbyists to comply with the screening requirements in section 3754-A, subsection 1, paragraph A, and the standards in section 3754-A, subsection 5, paragraph A, paragraph B, subparagraph (1) and paragraph C. For purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those 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 Title 29-A, Chapter 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 Title 29-A, section 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 Title 29-A, section 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 subparagraph, 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 mobile equipment as defined in Title 29-A, section 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. This subsection does not exempt an area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area.

Automobile Recycling Business

"Automobile Recycling Business" means the business premises of a dealer or a recycler licensed under Title 29-A, sections 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 basic materials in the salvage vehicles, as long as 80% of the business premises specified in the site plan in section 3755-A, subsection 1, paragraph, is used for automobile recycling operations.

An "Automobile Recycling Business" does not include:

(1) Financial institutions as defined in Title 9-B, section 131, subsections 17 and 17-A;
(2) Insurance companies licensed to do business in the State;
(3) New vehicle dealers as defined in Title 29-A section 851, licensed to do business in the State;
(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 temporary under this sub-paragraph, the vehicle must be removed from site within 180 days of receipt of title by the business.

Junkyard. "Junkyard", as defined in 30-A MRSA, Section 3752, means a yard, field or other area used to store:

1) Discarded, worn-out or junked plumbing, heating supplies, household appliances and or furniture;
2) Discarded, scrap and junked lumber;
3) 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; and
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. Any automobile graveyard or junkyard established in Chelsea after the effective date of this Ordinance must also receive Site Plan Review approval by the Chelsea Planning Board pursuant to the Chelsea Site Plan Review Ordinance.

SECTION 6. ADMINISTRATION

6-1 This Ordinance shall be administered by the Selectmen or the Code Enforcement Officer. No automobile graveyard, automobile recycling business 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 permitting of the automobile graveyard, automobile recycling business or junkyard in accordance with 30-A MRSA, Section 3754. The Selectmen shall mail a copy of the application to the Maine Department of Transportation at least 7 and not more than 14 days before the hearing in accordance with State Law.

6-3 Permits shall be renewed annually by January of each year to remain valid reissued for automobile graveyards and junkyards on a yearly basis beginning on October 1, 2007 to remain valid. The Selectmen shall annually inspect or cause to be inspected the site of the automobile graveyard or junkyard to ensure that the provisions of this Ordinance and applicable State Law Statute are complied with. Automobile recycling permits shall be issued on a five-year basis. The holders of automobile recycling permits are required to apply once every five years for the issuance of a permit by the Town and to sign sworn statements each year on the anniversary of the permit issued that the recycling business is being operated in full compliance with Town Ordinance and State Statutes.

6-4 The selectmen shall collect in advance from the applicant a $60.00 fee for each permit for automobile graveyard or junkyard, plus all costs associated with posting or publishing notice of public hearing. First time automobile graveyard or junkyard applications. On reissued permits for automobile graveyard or junkyard applications, the fee will be $50.00 per year payable at the time of permit application submittal. The fee for first time automobile recycling applications will be $260.00 for a 5-year permit. On reissued permits for automobile recycling businesses, the fee will be $250.00 payable at the time of permit application submittal. The selectmen shall collect a $100.00 fee for any after the fact permit issued. An after the fact permit for existing junkyards or automobile graveyards is any permit issued in response to an application submitted on or after January 1. For junkyards or automobile graveyards established after January 1 of the current year, an after the fact permit is any permit issued in response to an application submitted after the junkyard or automobile graveyard has come into existence.

SECTION 7. Limitations on graveyard, automobile recycling business and junkyard permit

As Highways, Interstate System and Primary System. A permit may not be granted for an automobile graveyard or junkyard within 1,000 feet of the right-of-way of any highway incorporated in both the Interstate System and Primary System or within 600 feet of the right-of-way of any other highway, except for:

(1) Those automobile graveyards or junkyards that are kept entirely screened from ordinary view from the highway and abutting property lines at all times by natural objects, plantings or fences. Screening required by this paragraph must be:
(a) At a height, density and depth sufficient to accomplish complete screening from ordinary view.
(b) Well constructed and properly maintained at a minimum height of 6 feet;
(c) Placed outside of the highway right-of-way; and
(d) Acceptable to the municipal officers.
(e) Screening of vehicles from view of abutter's property line is not required if the applicant receives a written waiver from the abutter and submits the same with applicant.
(f) Screening requirements do not apply to the display of vehicle parts, which are nearly displayed on display racks, being offered for sale to the public as replacement body panels etc,

B: Limitations on new permits. A permit may not be granted for an automobile graveyard or junkyard established after October 3, 1973 and located within 100 feet of any highway.

(1) PUBLIC FACILITIES. A new permit may not be granted for an automobile graveyard, auto recycling business or junkyard that is:

(a) Located within 300 feet of a public building, public park, public playground, public bathing beach, school, church or cemetery; and
(b) Within ordinary view from a facility under paragraph A.
(c) A vehicle may not be dismantled or stored within 500 feet of a school, church, cemetery, public building, public playground or park that existed on the date the permit was issued.

(2) PUBLIC AND PRIVATE WATER SUPPLIES. A permit may not be granted for an automobile graveyard, junkyard or automobile recycling business that handles junk scrap metal, vehicles or other solid waste within 300 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, junkyard, automobile recycling business or the owner's or operators abutting residence. This prohibition does not apply to wells installed after an automobile graveyard, junkyard or automobile recycling business has already received a permit under section 3733. Automobile graveyards, junkyards and automobile recycling businesses operating under the terms of permits issued prior to the effective date of this Sub Section and handling junk, scrap metals, vehicles or other solid waste within 300 feet of wells that serve as public or private water supplies may continue to operate in those locations under the terms of those permits. Municipal officers may reissue a permit allowing the continued handling of junk, scrap metal, vehicles or other solid waste within 300 feet of a well serving 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 well.

SECTION 8. (Formerly section 7) SUBMISSION REQUIREMENTS

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

1. (1) The property owner's name and address and the name and address of the person or entity who will operate the site.
2. (2) A Site Plan drawn to scale not to exceed 1"=100', on which is shown, including:
a) The boundary lines of the property; Property Boundary Lines and name and address of all abutters
b) the soils, as mapped on a comprehensive soils survey prepared by the Soil Conservation Service or as mapped by a certified soil scientist or other competent professional. A description of soils on the property;
c) The location of any sand or gravel aquifer recharge area, as mapped by the Maine Geological Survey or a licensed geologist;
d) The location of any residences, school, public parks, public playgrounds, public bathing beaches, churches or cemeteries cemetery within 500 feet of the area where motor vehicles the vehicles or parts thereof, or items of junk will be stored;
e) The location of any waterbodies or watercourses body of water 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 1,000 feet of the storage site;
h) A plan for containment of fluids, containment and disposal of batteries and storage or disposal of tires;
i) The location within property boundary lines where vehicles are drained, dismantled or stored;
j) The location of all private and or public wells within 500 feet of the location where vehicles or parts thereof, or items of junk will be stored.
k) The location of the building required to be used to store all vehicle fluids, batteries and any other items required by this ordinance or State Statute.

SECTION 2 (Formerly section 8) PERFORMANCE OPERATING STANDARDS

The following performance standards are required of all automobile graveyards and junkyards, whether new or existing. The selectmen shall not issue a license to operate an automobile graveyard or junkyard unless the applicant can positively demonstrate that each and every of the following performance standards have been and will be met.

8.1 Coordination with Site Plan Review. Where applicable, the facility has received Site Plan approval by the Chelsea Planning Board, and the operation of the automobile graveyard or junkyard is in complete compliance with any Site Plan Review approved by the Chelsea Planning Board for the facility.

8.2 Aquifer location prohibited.

8.3 Flood Plain location prohibited. No vehicle or junk shall be located within a 100-year flood plain.

8.4 Storage/Handling of engine fluids. Upon receiving a motor vehicle, the battery shall be removed and located in such a way as to ensure the battery’s contents will not spill onto the ground. When any engine lubricant, transmission fluid, brake fluid and/or engine coolant is removed from a vehicle, those fluids shall be drained into watertight containers which shall be kept covered and secured by containment in a storage building designed to contain spills. Any engine fluids which are not being temporarily stored shall be recycled or disposed of according to all applicable federal and state laws. No discharge of any fluids from any motor vehicle shall be permitted into or onto the ground.

8.5 Noise impact. To reduce the impact of noise, all mechanized sorting or baling of materials or dismantling or crushing or motor vehicles shall be done after 7 a.m. and before 6 p.m. Mondays through Saturdays. All mechanized dismantling of vehicles shall take place in a building.

8.6 Setback from public areas. No vehicle or junk shall be located within 500 feet of any public park, public playground, public bathing beach, school, church or cemetery.
8.7 Setback from waterways. No vehicle or junk shall be located within 300 feet of any waterbody, watercourse, or wetland.

8.8 Road/property line setback. No vehicle or junk shall be located within 1000 feet of a public road or abutting property line except for an automobile graveyard or junkyard entirely screened from ordinary view from that public road or abutting property line at all times in accordance with the screening standards in Section 8.10 of this Ordinance. In no event shall the automobile graveyard or junkyard be located closer than 100 feet from a public road. The Selectmen may issue a permit for a junkyard or automobile graveyard which lies within the ordinary view of an abutting property line provided the applicant has submitted a written waiver from this protection signed by the abutting property owner within 30 days of the date of application. These setback provisions shall apply to temporary or permanent storage areas for any vehicles or junk, but shall not apply to the fences or screening which may be established to keep the facility screened from ordinary view, except such fences or screening must be outside the public road right-of-way. For the purposes of this Ordinance, the term “from a public road” shall mean from the outside edge of the road right-of-way.

8.9 Visual impact. Vehicles of junk shall be located in such a way so as not be in ordinary view from any public road or abutting property line. This standard can be met through storage setback or screening or a combination thereof.

All Automobile graveyards, junkyards and automobile recyclers permitted pursuant to section 3753 are required to comply with the following standards:

1) All fluids, including, but not limited to engine lubricant, transmission fluid, brake fluid, power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be properly handled in such a manner that they do not leak, flow or discharge into or onto the ground or onto a body of water.

2) A vehicle containing fluids may not be stored or dismantled;
   (a) Within 100 feet of any body of water or freshwater wetland as defined by Title 38, Section 436-A, Subsection 5;
   (b) Within a 100 year flood plain;
   (c) Over a mapped sand and gravel aquifer.

3) Junk, scrap metal, vehicles or other solid wastes may not be placed or deposited, directly or indirectly, into inland waters or tidal waters of the state or on the ice of inland waters or tidal waters in such a manner that they fall or be wasted into those waters.

4) Junkyard, automobile graveyard and recyclers owners must demonstrate at the time of permitting that the Facility or facilities for which they seek permits are, or are part of, a viable business entity and the facility or facilities are actively engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale or trade.

5) A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicles title or bill of sale and the date of dates upon which the fluids, refrigerant, batteries and mercury switches were removed.

6) All fluids, refrigerant, batteries and mercury switches must be removed from the motor vehicle that lacks of engines or other parts that render the vehicles incapable of being driven under their own power or that are otherwise incapable of being driven under their own motor power, appliances and
other items within 180 days of acquisition. Motor vehicles, appliances and other items acquired by
and on the premises of a junkyard or automobile graveyard 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 paragraph must be removed to the greatest extent practicable.

7) Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply
with all applicable federal and state laws, rules and regulations.

8) All fluids refrigerant, batteries and mercury switches must be removed from the vehicles, appliances
and other items before crushing or shredding. Fluids required to be removed under this paragraph
must be removed to the greatest extent practicable.

9) Records shall be kept showing the dates vehicles were received and the dates that fluids and other
parts have been removed from the vehicles.

SECTION 10 (Formerly Section 9) Enforcement RULES

This Ordinance shall be enforced by the selectmen or the Code Enforcement Officer. Any violation of
this Ordinance shall also be deemed a nuisance within the meaning of 17-MRSA, Section 2802 and any
violator shall be subject to the penalties set forth in 30-A, MRSA, Section 4452 and any other remedy
available at law. Violation of any condition, restriction or limitation inserted in a permit by the selectmen
is cause for revocation of that permit by the selectmen. The revocation process shall be conducted in
accordance with the notice and hearing provisions found in 30-A MRSA, Section 3758(3).

A permit, other than a limited-term permit as described in this section, may not 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. Municipal
officers may award a limited-term permit conditioned upon an automobile graveyard’s 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.

1) After October 30, 2005, municipal officers may reject an application for an automobile graveyard or
automobile recycling business if the applicant has not demonstrated that:

(a) A notice of intent has been filed with the Department Of Environmental Protection to
comply with the general permit provisions for storm water discharges; or

(b) The Department Of Environmental Protection has determined that a storm water permit
is not required.

SECTION 11 VIOLATIONS:

1) Municipal Authority: Municipal officers or their designees may enforce the provisions of this
ordinance pursuant to:

a) The enforcement of land use laws and ordinances under Section 30-A§4452
b) The letter control provisions of Title 17, Chapter 80
c) The abatement of nuisance provisions of Title 17, Chapter 91.
d) A municipal official such as a municipal officer or code enforcement officer may enter any
property at a reasonable time to inspect the property for compliance with this ordinance. Such
entry is not a trespass.
2) Violations of this subchapter are subject to the penalty provisions of 30-A MRSA 4452, Title 17, sections 2264-A and 2264-B; or Title 17, Chapter 91.

Each day that violation continues constitutes a separate offense.

3) Abatement.

If the municipality is the prevailing party in an action taken pursuant to the provisions of this Title or Title 17 as outlined in subsection 2 and the violator does not complete any ordered correction or abatement in accordance with the ordered schedule, the municipal officers or designated agent may enter the property and may act to abate the site in compliance with the order. To recover any actual and direct expenses incurred by the municipality in the abatement of the nuisance, the municipality may:

a) File a court action against the owner to recover the cost of abatement, including the expense of court costs and reasonable attorney's fees necessary to file and conduct the action.

b) File a lien on real estate where the junkyard, automobile graveyard or automobile recycling business is located; or

c) Assess a special tax on real estate where the junkyard, automobile graveyard or automobile recycling business 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 Title 36, Section 505 in the year which the special tax is assessed accrues on all unpaid balances of the special tax beginning on the 60th day after the commitment of the special tax to the collector. The interest must be added to and becomes part of the tax.

d) Revocation or Suspension of Permit. Violation of any condition, restriction or limitation inserted in the permit by the municipal officers is cause for revocation or suspension of the permit by the same authority that issued the permit. A permit may not be revoked or suspended without a hearing and notice to the owner or 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 7 but not more than 14 days before the hearing and the notice must state the time and place of the hearing and contain a statement describing the alleged violation of any conditions, restrictions or limitations inserted in the permit. The municipal officers shall provide written or electronic notice of the hearing to the automobile dealer licensing section of the Department of the Secretary of State Bureau of Motor Vehicles at least 7 days before the hearing.

e) Removal of all materials after permit denial or revocation. The owner or operator of a junkyard, 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 junkyard, automobile graveyard or automobile recycling business. The property must be free of all scrapped or junked vehicles and materials not 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 municipal officers.
SECTION 12 (Formerly Section 10) EFFECTIVE DATE AND AMENDMENT

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

SECTION 13 (Formerly 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 Chelsea Ordinance, the more demanding provision shall apply.

Enacted March 21, 1995
Amended June 14, 2007