

TOWN OF TROY AUTOMOBILE GRAVEYARDS AND NUISANCE ORDINANCE

PURPOSE: TO ENHANCE THE AESTHETIC VALUE OF THE TOWN OF TROY.

1. AUTOMOBILE GRAVEYARD. "AUTOMOBILE GRAVEYARD" MEANS A YARD, FIELD OR OTHER AREA USED TO STORE THREE OR MORE UNSERVICEABLE, DISCARDED, WORN-OUT OR JUNKED MOTOR VEHICLES AS DEFINED IN TITLE 30-A, MRSA SECTION 3751 -3760, OR PARTS OF SUCH VEHICLES. A. "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.

2. HIGHWAY. "HIGHWAY" MEANS ANY PUBLIC WAY.

3. JUNKYARD. "JUNKYARD" MEANS A YARD, FIELD OR OTHER AREA USED TO STORE: 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, ROPE, RAGS, BATTERIES, PAPER TRASH, RUBBER DEBRIS (INCLUDING TIRES), WASTE AND ALL SCRAP IRON, STEEL AND OTHER SCRAP FERROUS OR NONFERROUS MATERIAL; D. GARBAGE DUMPS, WASTE DUMPS AND SANITARY FILLS.

4. DEFINITION, ANY VIOLATION OF THIS ORDINANCE SHALL BE DEEMED A NUISANCE.

5. ANY CAR PARTS, JUNK VEHICLES, OR ANY ITEMS LISTED IN #3 SHALL BE COMPLETELY OBSCURED YEAR ROUND FROM PUBLIC VIEW. **THREE OR MORE JUNK VEHICLES CONSTITUTE THE NEED FOR A AUTOMOBILE GRAVEYARD PERMIT.**

A. CONFORMITY WILL BE ADDRESSED UPON APPROVAL OF THE ORDINANCE.

B. ALL PREMISES, LAND, OR PARTS THEREOF WITH PERMITS, BUT FOUND TO BE IN NON-COMPLIANCE WILL HAVE 30 DAYS TO BE IN COMPLIANCE WITH THIS ORDINANCE. (OR ANY OTHER AMOUNT OF TIME DETERMINED BY THE BOARD OF SELECTMEN)

C. ALL PREMISES, LAND, OR PARTS THEREOF WITHOUT PERMITS AND FOUND TO BE IN NON-COMPLIANCE WILL BE CHALLENGED TO CORRECT THE VIOLATION(S) UPON APPROVAL OF THIS ORDINANCE. NOTE: THOSE THAT FALL UNDER "C" SHALL HAVE 30 DAYS TO COMPLY.

D. WHEN THE ABOVE ACTION DOES NOT RESULT IN THE CORRECTION OR ABATEMENT OF THE VIOLATION OR NUISANCE CONDITION, THE MUNICIPAL OFFICERS, UPON NOTICE FROM THE CODE ENFORCEMENT OFFICER AND RECOMMENDATION OF THE PLANNING BOARD ARE HEREBY DIRECTED TO INSTITUTE ANY AND ALL ACTIONS AND PROCEEDINGS, EITHER LEGAL OR EQUITABLE, INCLUDING SEEKING INJUNCTIONS OF VIOLATIONS AND THE

IMPOSITION OF FINES, THAT MAY BE APPROPRIATE OR NECESSARY TO ENFORCE THE PROVISIONS OF THIS CODE IN THE NAME OF THE MUNICIPALITY. THE MUNICIPAL OFFICERS, OR THEIR AUTHORIZED AGENT, ARE HEREBY AUTHORIZED TO ENTER INTO ADMINISTRATIVE CONSENT AGREEMENTS FOR THE PURPOSE OF ELIMINATING VIOLATIONS OF THIS CODE AND RECOVERING FINES WITH OUT COURT ACTIONS.

6. LIABILITY FOR VIOLATIONS: ANY PERSON, INCLUDING, BUT NOT LIMITED TO, A LANDOWNER, THE LANDOWNER'S AGENT OR A CONTRACTOR, WHO VIOLATES ANY OF THE LAWS OR ORDINANCES SET FORTH IN THIS ORDINANCE IS LIABLE FOR THE PENALTIES SET FORTH AS FOLLOWS:

A. THE MINIMUM PENALTY FOR STARTING CONSTRUCTION OR UNDERTAKING A LAND USE ACTIVITY WITHOUT A REQUIRED PERMIT IS \$100, AND THE MAXIMUM PENALTY IS \$2,500.

B. THE MINIMUM PENALTY FOR A SPECIFIC VIOLATION IS \$100, AND THE MAXIMUM PENALTY IS \$2,500.

C. THE VIOLATOR MAY BE ORDERED TO CORRECT OR ABATE THE VIOLATIONS UNLESS THE ABATEMENT OR CORRECTION RESULTS IN: (1) A THREAT OR HAZARD TO PUBLIC HEALTH OR SAFETY; (2) SUBSTANTIAL ENVIRONMENTAL DAMAGE; OR (3) A SUBSTANTIAL INJUSTICE.

D. IF THE MUNICIPALITY IS THE PREVAILING PARTY, THE MUNICIPALITY MUST BE AWARDED REASONABLE ATTORNEY FEES, EXPERT WITNESS FEES AND COSTS, UNLESS THE COURT FINDS THAT SPECIAL CIRCUMSTANCES MAKE THE AWARD OF THESE FEES AND COSTS UNJUST. IF THE DEFENDANT IS THE PREVAILING PARTY, THE DEFENDANT MAY BE AWARDED REASONABLE ATTORNEY FEES, EXPERT WITNESS FEES AND COSTS AS PROVIDED BY COURT RULE.

E. IN SETTING A PENALTY, THE COURT SHALL CONSIDER, BUT IS NOT LIMITED TO, THE FOLLOWING:

- (1) PRIOR VIOLATIONS BY THE SAME PARTY;
- (2) THE DEGREE OF ENVIRONMENTAL DAMAGE THAT CANNOT BE ABATED OR CORRECTED;
- (3) THE EXTENT TO WHICH THE VIOLATION CONTINUED FOLLOWING A MUNICIPAL ORDER TO STOP; AND
- (4) THE EXTENT TO WHICH THE MUNICIPALITY CONTRIBUTED TO THE VIOLATION BY PROVIDING THE VIOLATOR WITH INCORRECT INFORMATION OR BY FAILING TO TAKE TIMELY ACTION.

F. THE MAXIMUM PENALTY MAY EXCEED \$2,500, BUT MAY NOT EXCEED \$25,000, WHEN IT IS SHOWN THAT THERE HAS BEEN A PREVIOUS CONVICTION OF THE SAME PARTY WITHIN THE PAST TWO YEARS FOR A VIOLATION OF THE SAME LAW OR ORDINANCE.

G. THE PENALTIES FOR VIOLATIONS OF WASTE DISCHARGE LICENSES ISSUED BY THE MUNICIPALITIES PURSUANT TO TITLE 38, M.R.S.A., OR VIOLATIONS OF A SEPTAGE LAND DISPOSAL OR STORAGE SITE PERMIT ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION UNDER TITLE 38, M.R.S.A.

H. IF THE ECONOMIC BENEFIT RESULTING FROM THE VIOLATION EXCEEDS THE APPLICABLE PENALTIES UNDER THIS SECTION, THE MAXIMUM CIVIL PENALTIES MAY BE INCREASED. THE MAXIMUM CIVIL PENALTY MAY NOT EXCEED AN AMOUNT EQUAL TO TWICE THE ECONOMIC BENEFIT RESULTING FROM THE VIOLATION. ECONOMIC BENEFIT INCLUDES, BUT IS NOT LIMITED TO, THE COSTS AVOIDED OR ENHANCED VALUE ACCRUED AT THE TIME OF THE VIOLATION AS A RESULT OF THE VIOLATOR'S NON COMPLIANCE WITH THE APPLICABLE LEGAL REQUIREMENTS.

NOTE: ENFORCEMENT WILL BEGIN ON THE DATE OF APPROVAL OF THE ORDINANCE.

DATE: 10/15/05

15/ ERWIN E. PIPER, CHAIRMAN
15/ FREDERICA E. FULLER
15/ KATHLEEN A. MATTINGLY

Certification of Ordinance by Municipal Officers

We, the following Troy Board of Selectmen certified this Ordinance entitled:

“The Town of Troy Automobile Graveyards and Nuisance ”

to the Troy Town Clerk, Janet C. Cropley

Date: October 5, 2005

Signed by the Selectmen of Troy:

Erwin E. Piper *Erwin E. Piper*

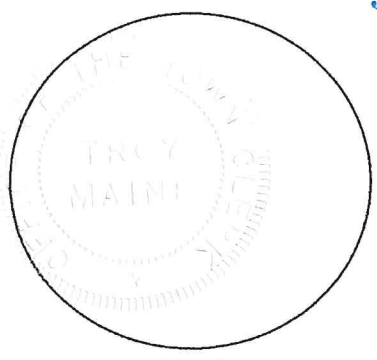
Frederica Fuller *Frederica Fuller*

Kathleen Mattingly *Kathleen A. Mattingly*

**A true copy of an ordinance entitled Town of Troy, ME Automobile Graveyard & Nuisance Ordinance
As certified to me by the Municipal Officers of Troy, ME Attest: Janet C. Cropley, Town Clerk *see.***

ENACTED: OCTOBER 15, 2005 Troy Town Meeting

**CERTIFIED BY: Janet C. Cropley
Janet C. Cropley, Town Clerk**



(Seal)