

§3754-A. Limitations on graveyard, automobile recycling business and junkyard permits

1. 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:

A. Those automobile graveyards or junkyards that are kept entirely screened from ordinary view from the highway at all times by natural objects, plantings or fences. Screening required by this paragraph must be:

- (1) At a height, density and depth sufficient to accomplish complete screening from ordinary view;
- (2) Well constructed and properly maintained at a minimum height of 6 feet;
- (3) Placed outside of the highway right-of-way; and
- (4) Acceptable to the municipal officers or county commissioners; and [PL 2003, c. 312, §9 (NEW).]

B. Those automobile graveyards or junkyards located within areas that have been zoned for industrial use and located more than 600 feet but less than 1,000 feet from the right-of-way of any highway incorporated in both the Interstate System and Primary System. [PL 2003, c. 312, §9 (NEW).]

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2. Limitation 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.

[PL 2003, c. 312, §9 (NEW).]

3. Public facilities. A new permit may not be granted for an automobile graveyard 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 [PL 2003, c. 312, §9 (NEW).]

B. Within ordinary view from a facility under paragraph A. [PL 2003, c. 312, §9 (NEW).]

[PL 2003, c. 312, §9 (NEW).]

4. 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 operator's 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 3753.

Automobile graveyards, junkyards and automobile recycling businesses operating under the terms of permits issued prior to the effective date of this subsection and handling junk, scrap metal, 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 or county commissioners may renew 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. The municipal officers or county commissioners may not renew a permit if there is substantial, credible evidence that the permitted activities have caused contamination of the well.

[PL 2005, c. 424, §3 (AMD).]

5. Operating standards. All automobile graveyards and junkyards permitted pursuant to section 3753 are required to comply with the following standards:

A. 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 into a body of water; [PL 2005, c. 247, §1 (AMD); PL 2005, c. 247, §7 (AFF).]

B. A vehicle containing fluids may not be stored or dismantled:

(1) Within 100 feet of any body of water or freshwater wetland, as defined by Title 38, section 436-A, subsection 5;

(2) Within the 100-year floodplain; or

(3) Over a mapped sand and gravel aquifer; [PL 2003, c. 312, §9 (NEW).]

C. Junk, scrap metal, vehicles or other solid wastes may not be placed or deposited, directly or indirectly, into the inland waters or tidal waters of the State or on the ice of inland waters or tidal waters or on the banks of inland waters or tidal waters in such a manner that they may fall or be washed into these waters; [PL 2005, c. 247, §2 (AMD); PL 2005, c. 247, §7 (AFF).]

D. Junkyard and automobile graveyard owners must demonstrate at the time of licensing 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; [PL 2005, c. 683, Pt. A, §51 (RPR).]

E. 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; [PL 2005, c. 247, §3 (NEW); PL 2005, c. 247, §7 (AFF).]

F. 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, 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; [PL 2005, c. 247, §3 (NEW); PL 2005, c. 247, §7 (AFF).]

G. Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations; and [PL 2005, c. 247, §3 (NEW); PL 2005, c. 247, §7 (AFF).]

H. All fluids, refrigerant, batteries and mercury switches must be removed from motor 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. [PL 2005, c. 247, §3 (NEW); PL 2005, c. 247, §7 (AFF).]

[PL 2005, c. 683, Pt. A, §51 (AMD).]

6. Rules. 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 or county commissioners 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.

[PL 2003, c. 312, §9 (NEW).]

6-A. Relationship to state storm water requirements. After October 30, 2005, municipal officers or county commissioners 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 [PL 2005, c. 247, §4 (NEW); PL 2005, c. 247, §7 (AFF).]

B. The Department of Environmental Protection has determined that a storm water discharge permit is not required. [PL 2005, c. 247, §4 (NEW); PL 2005, c. 247, §7 (AFF).]
[PL 2005, c. 247, §4 (NEW); PL 2005, c. 247, §7 (AFF).]

7. Local ordinances. This subchapter may not be construed to limit a municipality's home rule authority to enact ordinances with respect to automobile graveyards, automobile recycling businesses and junkyards that the municipality determines reasonable, including, but not limited to, ordinances concerning:

A. Compliance with state and federal solid waste and hazardous waste regulations; [PL 2003, c. 312, §9 (NEW).]

B. Fire and traffic safety; [PL 2003, c. 312, §9 (NEW).]

C. Levels of noise that can be heard outside the premises; [PL 2003, c. 312, §9 (NEW).]

D. Distance from existing residential or institutional uses; [PL 2003, c. 312, §9 (NEW).]

E. The effect on groundwater and surface water, as long as municipal ordinances on groundwater are no less stringent than or inconsistent with rules adopted by the Department of Environmental Protection; and [PL 2003, c. 312, §9 (NEW).]

F. Best management practices for automobile graveyards, junkyards and automobile recycling businesses developed by the Department of Environmental Protection. [PL 2003, c. 312, §9 (NEW).]

Municipal officers or county commissioners shall consider compliance with these local ordinances in deciding whether to grant or deny a permit for any automobile graveyard, automobile recycling business or junkyard and in attaching conditions of approval to a permit.

[PL 2003, c. 312, §9 (NEW).]

8. Applicability. Municipalities may apply local ordinances adopted previously under subsection 7 pertaining to automobile graveyards and junkyards to an automobile recycling business without amending those ordinances to include automobile recycling businesses. A municipality must provide notice of its intent to apply these ordinances at the time an application for an automobile recycling business permit is filed.

[PL 2003, c. 312, §9 (NEW).]

9. Right of entry. Municipal officers or their designees may, to carry out the provisions of this subchapter or to determine compliance with any laws, ordinances, license or permit approvals, decisions or conditions:

A. Enter any automobile graveyard, junkyard or automobile recycling business property and inspect all outside areas, equipment and activities at reasonable hours for compliance with the laws or ordinances set forth in accordance with this subchapter; and [PL 2003, c. 312, §9 (NEW).]

B. Enter any building on the property with the consent of the owner, occupant or agent to inspect the building and activities within the building for compliance with the laws or ordinances set forth in accordance with this subchapter. [PL 2003, c. 312, §9 (NEW).]

A municipal officer's or designee's entry onto property under this subsection is not a trespass. [PL 2003, c. 312, §9 (NEW).]

10. Standard for permit. The municipal officers or county commissioners may issue a permit to an automobile graveyard or junkyard if that automobile graveyard or junkyard meets the operating standards set forth in subsection 5.

[PL 2005, c. 424, §5 (NEW).]

For purposes of revocation or suspension of a permit pursuant to section 3758-A, subsection 5, each of the standards set forth in this section is a condition of a permit. [PL 2005, c. 424, §6 (NEW).]

SECTION HISTORY

PL 2003, c. 312, §9 (NEW). PL 2005, c. 247, §§1-4 (AMD). PL 2005, c. 247, §7 (AFF). PL 2005, c. 424, §§3-6 (AMD). PL 2005, c. 683, §A51 (AMD).

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