

JUNKYARD ORDINANCE

Wilmington Township, Mercer County, Pennsylvania
Ordinance No. 2 of 1990

AN ORDINANCE OF WILMINGTON TOWNSHIP, MERCER COUNTY, PENNSYLVANIA, REGULATING JUNK DEALERS, THE ESTABLISHMENT AND MAINTENANCE OF JUNKYARDS, INCLUDING, BUT NOT LIMITED TO, AUTOMOBILE JUNK OR GRAVEYARDS, THE STORAGE AND DISPOSAL OF SCRAP, REFUSE AND JUNKED ARTICLES OF ALL KINDS, PROVIDING FOR THE ISSUANCE OF LICENSES FOR JUNK DEALERS AND FOR THE MAINTENANCE AND OPERATION OF JUNKYARDS UNDER PRESCRIBED CONDITIONS, PRESCRIBING REMEDIES FOR THE ABATEMENT OF NUISANCES AND UNLICENSED JUNKYARDS, PRESCRIBING PENALTIES FOR VIOLATORS AND PROVIDING FOR THE REVOCATION OF LICENSES IN THE EVENT OF NONCOMPLIANCE.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Wilmington Township, Mercer County, Pennsylvania, and it is hereby enacted and ordained pursuant to and in compliance with the authority of the Second Class Township Code, as amended, as follows:

SECTION I. - Short Title. This ordinance shall be known and may be cited as the "Wilmington Township Junkyard Ordinance."

SECTION II. - Definitions. Unless otherwise expressly stated, the following words and phrases shall be construed

throughout this ordinance to have the meanings herein indicated:

a. Board shall mean the Board of Supervisors of Wilmington Township, Mercer County, Pennsylvania.

b. Junk shall mean any worn, cast-off, discarded or salvageable articles, machinery, equipment or materials which are ready for destruction or which have been collected or stored for sale, resale, salvage or conversion to some other use, including but not limited to, scrap metal, scrapped abandoned or junked motor vehicle or vehicles of all types, machinery, equipment, paper, glass, containers and structures. The term junk shall include any two (2) or more unlicensed, abandoned, junked, or non-operating vehicles of any kind. It shall not include garbage, organic, hazardous or toxic waste as now or hereafter defined by federal or state laws, rules and regulations nor refuse or garbage produced or generated on the lot and kept enclosed in a proper container for the purpose of prompt disposal by a garbage or refuse disposal system. Also, it shall not include machinery and equipment retained by farmers and commercial or industrial business operations solely to provide spare parts for machinery and equipment owned by them and actually used on a regular basis in the operation of their farm or business, provided however all such machinery and equipment shall not be stored on the premises in an open and visible manner within one hundred (100) feet as measured from the center line of any public

road and that all such machinery and equipment is removed from the premises within ninety (90) days after the farming or business operation ceases to be conducted on a regular basis on the premises.

c. Junk Dealer shall mean any person who shall engage in the business of selling, buying, salvaging, storing or dealing in junk, scrap and scrap materials of any kind, or who owns, maintains or operates a junkyard or any other place used and maintained to receive, collect, store, accumulate or dispose of junk within the Township.

d. Junkyard shall mean the use of more than two hundred (200) square feet of the area of any lot or contiguous lots, as a place for receiving, storage, keeping, disposing, accumulation, recycling, management, processing or abandonment of junk, as herein defined, or for the dismantling, demolition or abandonment of any motor vehicles or vehicles of all types or machinery or parts thereof. It shall not apply to duly licensed automobile dealers having operable vehicles on their premises for resale provided however, said dealers may not store or accumulate more than one (1) unlicensed, abandoned, junked or non-operating vehicle of any kind upon such premises.

e. Licensee shall mean the person to whom a license to operate a junkyard has been issued by the Board in accordance with the provisions of this ordinance.

f. Lot shall mean the same as the definition of

lot as set forth in the Wilmington Township Zoning Ordinance and particularly Article XX thereof as presently set forth and as may hereinafter be amended.

g. Person shall include any and all individuals, partnerships, associations, firms, corporations and other legal entities.

h. Township shall mean Wilmington Township, Mercer County, Pennsylvania.

SECTION III. - License. No person shall operate or engage in any business as a junk dealer nor maintain or operate a junkyard without first having obtained a license from the Board, and paying the required fees to the Township Treasurer for the use of the Township. The annual license fee shall consist of an initial or amended application fee of One Hundred (\$100) Dollars, which shall not be refundable in the event of refusal of the license, and an annual license fee of One Hundred (\$100) Dollars. The application and license fees may be amended, from time to time, by the Board by resolution. All fees are due and payable to and for the use of the Township at the time of application.

The license shall be issued for the period beginning January 1, or such later date if the initial application is submitted after January 1 and ending December 31 of the calendar year for which it is issued, and each license must be renewed annually together with the filing of an oath or equivalent that no changes in the application have or will

occur in the year for which the license is sought and payment of the aforesaid license fee on or before the fifth day of October of the preceding year. Any changes or deviations from the application on file shall require an amended application which shall be examined and considered by the Board for compliance with the terms of this Ordinance. In the event a license is issued after January 1, but before December 31 of any year, the fee for such license may be prorated by the Board for the remainder of the licensed year.

SECTION IV. - Application for License. The annual license required by this ordinance shall be issued by the Board only after the payment of the required fee and a written application or oath of no change having been made for each license or renewal thereof by the person desiring to be licensed. Such license shall state the name and address of the person to whom the license is to be issued, the premises on which the business or junkyard is to be maintained and the period during which the license shall be effective. After issuance, the license shall be posted conspicuously upon the licensed premises. The written application shall be made on a form which shall be supplied by the Board to the applicant, who shall also submit, in writing, all information necessary to show that the proposed junkyard shall fully comply with all provisions of this ordinance and particularly Section VIII hereof and all other applicable laws and regulations. Said information shall include, but shall not be limited to a

description of the proposed manner of arrangement or storage of the junk; a plot plan of the premises to be used in connection with such license which plan shall accurately show the size and boundaries thereof, the location and size of any buildings or structures proposed or erected thereon, the proposed area to be used as a junkyard, the proposed means of ingress, egress and access to the junkyard and junk, the names of the landowners adjacent to the premises to be licensed and the uses being made of said adjacent lands. The applicant shall also submit in writing such other information as the Board may request or require.

The permitted size of a junkyard shall be fixed at the time the license is issued after consideration of the application and the provisions and regulations of this ordinance and any other applicable ordinances, laws and regulations.

SECTION V. - Issuance of License. Upon receipt by the Board of an application or oath of no change completed in accordance with the requirements of this ordinance, the required fee and the necessary information from the Applicant, the Board shall, within sixty (60) days after receipt of same, issue a license or shall issue a written refusal of a license to the Applicant after an examination of the application or oath and information and consideration of the public health, safety and welfare and the provisions and regulations of this

ordinance and any other applicable or relevant ordinances, laws, rules and regulations.

In the event the Board shall issue a license it may impose upon the license and the Licensee, such reasonable terms and conditions, in addition to the regulations herein contained and adopted pursuant to this ordinance, that may be necessary to carry out the spirit and intent of this ordinance.

SECTION VI. - License Limitations. Each license issued hereunder shall be valid only for the specific premises described in the license and for no other place. No person shall operate or engage in any business as a junk dealer nor maintain or operate any junkyard in any place other than the premises specifically designated upon such person's license. In the event a person shall desire to maintain more than one junkyard or engage in the business of a junk dealer at more than one location, then a separate application and license shall be required for each place or premises involved. No person shall by virtue of one license, own, operate or maintain more than one place of business or junkyard within the Township unless another license is approved by the Board.

SECTION VII. - Transfer of License. No license issued by the Board shall be transferable by the Licensee without the written approval of the Board being first had and obtained. Any person desiring to transfer a license shall first notify the Board in writing, which notification shall be accompanied

by an application for a license as described in this ordinance, said application to be made proposed transferee and the payment of a transfer fee in the amount of One Hundred (\$100) Dollars, which fee shall not be refundable in the event of a refusal of the transfer. Within sixty (60) days after receipt of such notification, the application, and necessary information, the Board shall issue a written approval or refusal of the transfer, after taking into consideration the public health, safety, welfare and the provisions and regulations set forth in this ordinance and any other applicable or relevant ordinances, laws, rules and regulations.

SECTION VIII. - Regulations. Every person licensed under this ordinance shall at all times maintain the licensed premises in strict accordance with any special provisions imposed by the Board and in the manner prescribed by this Section and any subsequent regulations adopted by the Board or the license may be revoked:

a. such premises shall at all times be used, operated and maintained so as not to constitute a nuisance, a place for the harboring or breeding of rodents and vermin, a menace or otherwise adversely affect the safety, health and welfare of the community or of the nearby residents;

b. such premises shall at all times be used, operated and maintained so as not to create any unreasonable risks of harm or adversely affect the health, safety or

welfare of the children, residents, motor vehicle and pedestrian traffic in the area. No exterior lighting shall be erected or maintained which casts light on adjoining roads or property;

c. such premises shall at all times be used, operated and maintained so as not to cause any offensive, excessive or noxious odors, vibrations or sounds or to be in violation of any health, sanitation or other applicable laws, ordinances and regulations;

d. such premises shall at all times be used, operated and maintained in such a manner so as to minimize, to the greatest extent possible, all dangers and hazards from fire and explosion and eliminate contamination of land and waters in the area. Any activity or use involving the storage or use of any combustible, flammable or explosive material shall be protected by adequate firefighting or fire suppression equipment acceptable to the Board of Fire Underwriters and such equipment shall, at all times, be properly maintained and readily available when any use or activity involving the handling, storage or use of combustible, flammable or explosive materials is conducted on any part of the licensed premises;

e. no junk as herein defined shall be stored closer than one hundred (100) feet landward from the top of the bank of any river, stream, spring, or natural water course;

f. no garbage, organic, hazardous, infectious or toxic waste as defined now or hereafter by federal and/or state environmental or other laws, rules and regulations shall be received, abandoned, accumulated, stored or disposed of in any junkyard;

g. whenever any abandoned, junked, unlicensed or non-operating motor or other vehicles shall be received on such premises, all gasoline, oil and other combustible fuels shall be immediately drained and removed therefrom. Gasoline or other volatile substance in an amount not exceeding three (300) gallons may be stored above ground on or in said junkyards provided the same is placed in containers approved and permitted by the Board and all applicable laws, rules and regulations. All other gasoline or volatile substances which may be kept or stored on the premises shall be stored underground which underground storage must be approved by the Board and all other applicable state or federal agencies;

h. the manner of storage and arrangement of junk and materials and the drainage facilities of the premises shall be such as to prevent the accumulation of liquids or water upon the premises and to prevent their unreasonable or unlawful discharge onto or into adjoining lands or waters. Adequate provisions must be made and maintained at all times to insure proper collection, disposal and discharge of all waters, storm-water, liquids and materials from the licensed premises to drains, water courses, public sewers or otherwise

in strict accordance with all applicable laws, ordinances, rules and regulations and so as not to adversely affect the health, safety or welfare of the residents or the community.

i. the manner of storage and arrangement of junk and materials on the premises shall be such so as to facilitate and allow, at all times, free and clear access for fire and other vehicles and emergency equipment to the premises and every part thereof and to allow the necessary area for maneuvering of all such vehicles and equipment on the premises. No junk shall be stored or arranged in piles or tiers which are in excess of six (6) feet in height from the land;

j. all junk kept, stored or arranged on the licensed premises shall at all times be kept, stored and arranged within the junkyard as described in the application for license hereunder and as approved and limited by the Board, this ordinance and in accordance with all applicable laws, rules and regulations;

k. no person shall burn any junk, motor vehicles, tires, oil, grease, gasoline, rubber, plastics or other similar materials which could be dangerous or tend to produce obnoxious or dangerous smoke or odors without first requesting and receiving the written approval of the Board and all applicable governmental agencies, including but not limited to the Department of Environmental Resources of the Commonwealth of Pennsylvania or its successors. If such

written consents are granted and obtained, any burning must be attended and controlled at all times and must be in strict and full compliance with all conditions, if any, set forth in the written approvals and all applicable laws, ordinances, rules and regulations. At least twenty-four (24) hours prior written notice of the burning must be given to and received by the local fire department and Township. Any burning shall be done at an approved time and must be at a location which constitutes the furthest point from the nearest dwelling, school or other structure used by the public;

l. all junkyards shall be enclosed by a solid fence built in a workmanlike manner and at least six (6) feet in height. Such fence shall, at all times, be properly maintained in a good and safe condition and shall enclose the premises on all sides except for one entrance/exit not over 25 feet in width. Entrance/exit gates shall be of material similar to the fence, well constructed, and shall be kept securely locked except during business hours. The area inside the fence and lot lines of every junkyard premises shall be maintained continuously in good order, free of weeds, vegetation and shrub growth in excess of twelve (12) inches in height;

m. all junk and the storage areas for all junk shall be set back at least the minimum distances required for yards in the applicable provisions of the Wilmington Township Zoning Ordinance, as now exist and as may hereafter be

amended. No junk shall be stored or accumulated on or upon said set back areas nor within two hundred (200) feet of any dwelling, school or building used by the public and erected upon land adjacent to the licensed premises. The area between the set back line and the right of way line of all streets or roads and other property lines shall, at all times, be kept clear and vacant except for the required fence and when the Board shall deem it necessary to promote the public health, safety and general welfare, the premises to be licensed shall, within the set-back areas, be screened and planted with hedge, screen planting, evergreen plantings or other plantings required by the Board. The Board may set forth the planting requirements at the time of the issuance of a license or at the time of renewal or transfer of a license.

n. the means of ingress, egress and access to the junkyard and junk shall, at all times, be kept open, properly maintained, of such width and condition to provide clear and unimpaired use by all police, fire and emergency vehicles;

o. vehicular access and parking shall be organized to minimize traffic congestion in the area and adequate off-street loading and parking areas shall be provided. If the access to the junkyard requires the use of Township streets, roads or thoroughfares, the applicant shall be required to supply sworn statements concerning the size and weight of vehicles which will be used to transport junk and materials to and from the junkyard and the frequency and number of

vehicles of which will use the roads or thoroughfares on a daily basis. After receipt of such information, the Township may restrict or prohibit use of streets or roads or require the posting of a bond or providing of security by persons operating the junkyard to insure that the Licensee will be able to repair, restore and/or replace the streets or roads as a result of any damages or destruction caused by the vehicles transporting junk or materials to or from the junkyard.

p. no use or activity shall cause or emit any dangerous radioactivity or electrical disturbance adversely affecting the use of adjoining lands, the operation of any radios, televisions, or other equipment on adjoining lands or otherwise adversely affecting the health, safety or welfare of nearby residents or the community;

q. no pollution of air by dust, vapors or any other substances shall be permitted which is harmful or injurious to the health, safety or welfare of the adjoining property owners or the community or to animals, vegetation or other property or which can cause soiling of the property;

r. all local, state and federal permits, licenses and authorizations now or hereafter required to operate a junkyard shall at all times be maintained and conspicuously displayed throughout the duration of all junkyard operations. Any suspension or revocation of any required local, state or federal permits, licenses or authorizations shall constitute

a violation of this Ordinance, and will result in immediate revocation of the license and enforcement of the penalty and remedy provisions of the Ordinance;

s. the junkyard and every part thereof shall, at all times, be operated and maintained in strict and full compliance with all applicable ordinances, laws, rules and regulations. Prior to commencing any part of the proposed use on the premises the Licensee shall obtain all of the required licenses, permits and authorizations from all governments and agencies thereof and give to the Township a certified true and correct copy of each such license, permit and authorization.

t. the Board may, from time to time pursuant to resolution, adopt additional regulations to carry out the provisions of this Ordinance upon giving notice to licensees affected by such regulations.

SECTION IX. - Inspection of Premises and Records.

The licensed premises and every part thereof shall, at all reasonable times, be open for and subject to inspection by the Board or its authorized representatives.

Permanent and legible written records of all junk received in or removed from any junkyard shall be constantly kept by the Licensee and junk dealer on the licensed premises. Such records shall contain the name and address of the person from whom junk was received or to whom delivered; the date and time thereof and a complete description of all junk received or removed. Similar written records shall also be

kept for all junk destroyed or disposed of on the premises. Such records shall be kept for a period of at least five (5) years and shall be open to and available for inspection and copying at all reasonable times by the Board or its agents or representatives.

SECTION X. - Delay in Disposal. Every Licensee shall keep and retain upon the licensed premises for a period of forty eight (48) hours after the purchase or receipt thereof, all junk received or purchased by such person and the person shall not disturb or reduce the same or alter the original form, shape or condition until such period of forty-eight (48) hours shall have elapsed.

SECTION XI. - Time Limit for Existing Establishments to Comply and Obtain License. Junk dealers and all persons operating junkyards and existing in the Township on the effective date of this ordinance shall be required to comply with the provisions of and obtain a license under this ordinance within six (6) months from the effective date. An extension of time, not to exceed six (6) months, may be granted at the discretion of the Board for good cause shown by the applicant.

SECTION XII. - Revocation of License. If the Board or its authorized representative finds that any of the provisions of this ordinance or any applicable law, rule or regulation is being violated by any person, written notice of the violation shall be given to the licensee at the licensed

premises indicating the nature of the violation and ordering the necessary action to be taken to correct the violation and the maximum number of days within which the violation must be corrected. If the violation is not corrected within the number of days set forth in the notice, then the Board shall hold a hearing and send written notice of the hearing to the licensee at the licensed premises and if the Board finds that a violation has occurred, the license issued to the person shall be revoked and the use of the premises described in the license as a junkyard shall be terminated. In the event of the revocation of a license there shall not be any refund of any part of the required license fee paid by such person to the Township.

SECTION XIII. - Violations. Any person who shall violate any of the provisions of this ordinance shall, upon conviction thereof by a summary proceeding, be sentenced to pay fines and penalties not exceeding Six Hundred (\$600) Dollars and in default of the payment of the fines and penalties be sentenced to imprisonment for a period not exceeding thirty (30) days or such other fines, penalties and remedies as may be available under any applicable laws and/or regulations now existing or hereafter enacted.

SECTION XIV. - Additional Remedies. In addition to all remedies provided in this Ordinance and at law or equity, civil or criminal, the Board may apply to any court of competent jurisdiction for an injunction to enjoin the

operation or use of any junkyard or junk dealer not conforming to any of the requirements of this ordinance or if the use of the junkyard shall constitute a nuisance, menace or otherwise adversely affect the health, safety or welfare of the community or nearby residents, the Board may seek to abate same by proceedings against the person in a court of equity and obtaining appropriate relief. In any such action or actions the Board may, in addition to obtaining the injunction or abating the nuisance request and obtain all other available benefits, remedies and relief as provided by law including costs, expenses and attorneys' fees.

SECTION XV. - Municipal Liability. The granting or issuance of a license or other approval under this Ordinance shall not constitute a representation, guarantee or warranty of any kind of the Township or any official, agent, employee or representative thereof of the practicability or safety of the proposed use and/or junkyard and shall create no liability upon the Township, its officials, agents, employees or representatives. The issuance of any license or approval shall not mean nor shall it be construed to mean that the operation of any junkyard may not constitute a nuisance in fact, menace or otherwise adversely affect the health, safety and/or welfare of the community or nearby residents.

SECTION XVI. - Validity and Severance. If any section, subsection, regulation, limitation, sentence, clause or word in this ordinance shall, for any reason, be declared

to be illegal, unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect or impair the validity of the ordinance as a whole or any section, subsection, regulation, limitation, restriction, sentence, clause or word or remaining portion of the ordinance. The Board hereby declares that it would have adopted this ordinance and each section, subsection, regulation, limitation, restriction, sentence, clause and word thereof irrespective of the fact that any one or more of the sections, subsections, regulations, limitations, restrictions, sentences, clauses or words may be declared illegal, unconstitutional or invalid.

SECTION XVI. - Repeal. The prior junkyard ordinance, Ordinance No. 3 of 1988 enacted May 8, 1988, is specifically repealed. In the event of any conflict between the provisions of this ordinance and any other applicable ordinance, law, rule, or regulation, it is the intent and desire of the Board that the more restrictive provisions shall control and be applicable in the event of any such conflict.

ION XVII. - Effective Date.

This ordinance shall become effective five (5) days after its enactment.

ORDAINED AND ENACTED this 11 day of December, 1990.

ATTEST:

BOARD OF SUPERVISORS OF
WILMINGTON TOWNSHIP,
MERCER COUNTY, PA

Diane N. Warner
Township Secretary

Dale L. Tillitt
Supervisor

(SEAL)

Dale Sheffer
Supervisor

George R. Campbell
Supervisor