

ORDINANCE NO. 35

An Ordinance of the Township of Catharine, County of Blair, Commonwealth of Pennsylvania, providing for the licensing of junk and salvage yards and dealers within the Township; setting standards for issuance, renewal, suspension, and revocation of licenses; providing for inspections and general operating requirements; prohibiting the transfer of licenses; providing for financial liability of such dealers; providing for inspection and application procedures; and setting penalties for violation of licensing and operating requirements.

BE IT ORDAINED AND ENACTED by the Board of Supervisors of the Township of Catharine, County of Blair, Commonwealth of Pennsylvania, and it is hereby ordained and enacted by the authority of the same as follows:

Section 1: TITLE:

This Ordinance shall be known as the Catharine Township Junk and Salvage Yard Licensing and Control Ordinance.

Section 2: DEFINITIONS:

Except where otherwise indicated by the context, the following definitions shall apply in the interpretation and enforcement of this Ordinance:

(a) "Person" - shall mean any person, firm, partnership, association, corporation, company, or organization of any kind.

(b) "Junk or Salvage" - shall mean any and all discarded and/or salvaged materials including, but not limited to, scrap metal, scrapped, inoperable, abandoned or junked motor vehicles or parts thereof, liquid by-products, machinery, equipment, paper, glass, containers, structures or parts thereof including used lumber or other used building components or materials, used household items, including but not limited to refrigerators, stoves, washing machines, plumbing and heating fixtures, it being the intent and purpose of this definition to include any and all items received for the purpose of salvage, storage and re-use, disposal, or resale. The term "junk or salvage" shall not include the accumulation of equipment and materials which are a normal part of the farming process and which are accumulated upon the premises of an operating farm.

(c) "Junk or Salvage Yard" - shall mean a yard, lot, or place, covered or uncovered, outdoors or in an enclosed building, containing junk as defined herein, upon which occurs one or more acts of buying, keeping, dismantling, processing, selling, or offering for sale any such junk, in whole units or by parts, for a business or commercial purpose, whether or not the proceeds from such act or acts are to be used for charitable purposes.

(d) "Junk or Salvage Yard Dealer" - shall mean a person who operates a junk or salvage yard as defined herein within the Township limits.

(e) "Liquid By-products" - shall mean any and all liquids contained in the junk vehicles, derived during the dismantling process, or used in the cleaning of dismantled parts. This includes, but is not limited to, used motor oils, anti-freeze, brake fluids, transmission fluids and greases, battery acids, gasoline, kerosenes, and other liquids used to clean salvaged parts.

(f) "Junk and Salvage Yard License" - shall mean a license or permit issued by the Township Board of Supervisors to authorize operation of the junkyard.

(g) "Existing Junk or Salvage Yard" - shall mean any and all junk or salvage yards as defined herein which were in operation prior to enactment of this Ordinance.

(h) "Sensitive Areas" - shall mean any and all land that lies within 100 feet of any river, stream, pond, run, creek, irrigation or drainage ditch, or any other natural water course. Where the natural slope or grade of any land would facilitate runoff of surface water or underground seepage toward the aforementioned water sources, the area of sensitivity shall be extended to a maximum of 150 feet or to a point where the slope or grade ceases, whichever is less.

Section 3: LICENSE REQUIRED:

A. It shall be unlawful for any person to act as a junk or salvage yard dealer in the Township of Catharine whether personally, by agents or employees, singly, or along with some other business or enterprise, without first having obtained a license therefor from the Township Board of Supervisors in accordance with the provisions of this Ordinance. Any person operating an existing junk or salvage yard within the Township limits shall apply for such a license within 3 months after enactment of this Ordinance. A dealer who operates more than one junk or salvage yard shall have a separate license for each such operation.

B. Any accumulation of scrapped or inoperable or abandoned or junked vehicles, which would require registration and licensing for use on public roads, that exceeds the following limits and which are kept, stored or maintained for a period in excess of 180 (one hundred and eighty) days shall be deemed a junk or salvage yard under the provisions of this Ordinance and must comply with all provisions thereof:

(a) 3 such vehicles on any premises of one acre or less.

(b) 8 such vehicles on any premises of one acre or more.

C. Operable vehicles maintained for off-road use and truck or bus-type vehicle bodies actually used as storage facilities shall not be deemed as scrapped, inoperable, abandoned, or junked vehicles under this Ordinance.

D. The open storage of scrapped or inoperable or abandoned or junked vehicles allowed without licensing under paragraph 3B above are subject to the following:

(a) Vehicles shall not be stored within 25 feet of adjoining property lines or public roads, or within 50 feet of any river, stream, pond, creek, run, irrigation or drainage ditch, or other natural water course.

(b) Vehicles shall be effectively screened to prevent viewing from public roads and, upon formal petition by the owner(s) or resident(s) of an adjoining property(s) to the Board of Supervisors, from the dwelling(s) on such adjoining property(s) by means of vegetation, ground contours, buildings, or fencing.

Section 4: ENFORCEMENT:

The Township Board of Supervisors are hereby given the authority and duty to enforce, or aid in the enforcement of all provisions of this Ordinance and for this purpose, they or their duly authorized designees, shall have the right and are hereby empowered to enter on any premises on which any enterprise subject to the provisions of this Ordinance is located, or about to be located, to inspect the same at any reasonable time. The Township Board of Supervisors are further empowered to issue orders granting, renewing, or revoking any license provided for in accordance with this Ordinance.

Section 5: APPLICATION:

A. An applicant for license under this Ordinance shall file with the Township Secretary a written application signed by himself, if an individual, by all partners, if for a partnership, and by the President or chief operating officer of a corporation or other organization, upon forms provided by the Township Secretary for that purpose, together with a license fee as hereafter prescribed.

B. The initial application shall be sworn by each of the signers before a Notary Public or officer authorized by law to administer oaths and shall include the a certificate of proof that the required insurance is in effect or a sworn notarized statement that such insurance will be obtained before operations commence.

Section 6: INVESTIGATION, APPROVAL AND ISSUANCE OF LICENSE:

A. The Township Board of Supervisors shall process applications as follows:

(a) The application for a license shall be reviewed to

determine if the planned or existing controls, siting, financial liability, and operating procedures conform to the requirements of this Ordinance.

(b) If the application meets all requirements of this ordinance, a Junk and Salvage Yard license shall be issued within 60 days after filing. If the application does not meet the requirements of this Ordinance, the applicant shall be notified within 60 days after filing of such disapproval and that no license will be issued. Upon request, a brief written statement of the grounds for disapproval will be provided to the applicant.

(c) If the application is for approval of a junk or salvage yard in existence at the time of enactment of this Ordinance, the dealer may continue to operate that business pending completion of the evaluation of the application. A license will be issued within 60 days after filing of the application, if the operation meets all of the requirements of this Ordinance. If not, a temporary written authorization to continue operation of the business will be issued while the operation is brought into compliance. The temporary authorization shall specify the duration (not to exceed one year) of the temporary approval and shall identify all actions that must be completed to obtain a license. Not more than one temporary authorization may be issued to any junk or salvage yard. If the requirements of this Ordinance are not met within the granted period of authorization, the Township Board of Supervisors shall issue a "cease and desist" order to the dealer and initiate legal proceedings as specified elsewhere within this Ordinance. If at any time during the period of temporary authorization, the dealer brings the operation into compliance, he or she may reapply for a license by providing information on actions taken to meet previously identified items of non-compliance.

B. The Board of Supervisors shall retain the right to impose additional reasonable terms and conditions to the license approval where they are deemed necessary to protect the environment or the health or welfare of Township residents, or where so advised by a State or Federal agency.

SECTION 7: RENEWAL OF LICENSE:

A. Renewal applications shall be submitted and processed as follows:

(a) The junk or salvage yard dealer shall apply for renewal of his or her license by application to the Township Secretary at least 60 days prior to the annual expiration date. The application for renewal shall be a signed letter from the dealer requesting renewal and specifically stating that the business is being operated in compliance with this Ordinance. A check or money order for the license fee and a certificate of proof of required insurance shall be attached to the request for renewal.

(b) The Township Supervisors shall issue license renewal if the renewal requirements of this Ordinance have been met and if required corrective actions from previous inspections have been completed. A renewal or rejection of the renewal application shall be issued within 60 days of filing. If disapproved, the applicant shall be notified of any actions required to obtain final approval along with the deadlines for those actions.

B. The Board of Supervisors shall retain the right to impose additional reasonable terms and conditions upon the operation at the time of license renewal where they are deemed necessary to protect the environment or the health, or welfare of Township residents, or where so advised by any State or Federal agency.

Section 8: LICENSE FEE:

A. There shall be submitted to the Township Secretary with the application, a fee of:

(a) To one acre - \$100.00.

(b) Two acres - \$150.00.

(c) Three acres - \$300.00.

(d) Four to ten acres - \$500.00.

H. No junk or salvage yard in excess of 10 acres shall be permitted in the Township.

C. This application and licensing fee shall be non-refundable.

Section 9: LICENSE PERIOD:

Each license shall be effective as of the date of its issuance and shall expire on the last day of the 12th month thereafter.

Section 10: TRANSFERABILITY:

No license issued under this Ordinance shall be transferred or reassigned or used by any other person other than the one to whom it was issued, and no license shall be issued at any location other than the one prescribed in the application upon which it was issued.

Section 11: FINANCIAL LIABILITY REQUIREMENTS:

A. The licensee of any commercial junk or salvage yard operation shall obtain, renew, and otherwise retain liability insurance in the following minimum amount(s) to cover any environmental damages that may be caused by operation of the licensed operation:

(a) To one acre - \$250,000.

- (b) Two acres - \$500,000.
- (c) Three acres - \$750,000.
- (d) Four to ten acres - \$1,000,000.

B. Since the residual effects of pollution may occur long after the licensed operation is terminated, the dealer must retain such ~~insurance in the~~ for a period of 7 years after operations cease and the land is cleared of junk or salvage materials.

Section 12: GENERAL OPERATING REQUIREMENTS:

A. Each licensee shall continuously maintain the licensed premises in the manner hereinafter prescribed:

(a) Such premises shall be at all times maintained so as not to constitute a nuisance, or a menace to the health and welfare of the community or to residents nearby, or a place for the breeding of rodents and vermin.

(b) No garbage or other organic waste liable to give off a foul odor or attract rodents or vermin shall be stored within the junk or salvage yard premises. This does not prohibit composting processes on portions of the premises that lie outside of the junk or salvage yard area.

(c) The manner of storage and arrangement of junked vehicles, parts thereof, and salvage materials shall be such as to facilitate access for fire fighting and inspection purposes.

(d) Air-conditioning refrigerants and other potentially hazardous substances defined as "liquid by-products" shall be removed from the junk vehicles within 24 hours after arrival on the premises but, in any event, before the vehicles are moved to the storage yard. After draining, all drain plugs must be replaced and petcocks must be closed to prevent residual drippage. These substances shall not be placed or thrown upon or buried on the premises and shall be removed from the premises within 30 days after removal from the vehicles to a hazardous landfill or other appropriate disposal site as specified by the Pennsylvania Department of Environmental Resources. The licensee shall obtain receipts for such disposal and shall retain them for a period of 2 years for inspection purposes by the Township Board of Supervisors.

(e) No junk, liquid by-products, other materials from the operation, or garbage shall be burned upon the premises.

(f) No operations which create a level of noise so as to constitute a public nuisance shall be conducted between the hours of 9:00PM and 6:00 AM daily.

(g) The licensee shall permit inspection of the business

premises by the Township Board of Supervisors, or their designees, at any reasonable time for the annual inspection or upon their receipt of any written complaint of probable violation.

(h) The licensee shall maintain detailed records on each junked vehicle brought onto the premises to include make, model and year of the vehicle, vehicle identification number (VIN), date of acquisition, and vehicle title or bill of sale. These records shall be made available for inspection by the Board of Supervisors upon demand.

B. The maximum acreage of any junk or salvage yard within the Township shall be limited to 10 acres.

C. Unless otherwise approved, a buffer area of at least 150 feet shall be maintained between the area of junk or salvage material storage and adjoining properties. No junk, salvage, vehicles or parts thereof, buildings containing junk, or liquid by-products shall be stored within these buffer areas at any time. The buffer area must remain in its natural vegetative state to aid in screening the junkyard from adjoining properties. By written approval of each adjoining property owner, together with formal and official approval of the Township Board of Supervisors, the required buffer area between the junk or salvage materials and the property lines of approving owners may be reduced to a distance of not less than 25 feet from those property lines.

D. Unless otherwise approved, a buffer area of at least 75 feet shall be maintained between the junk or salvage material storage and public roads. No junk, salvage materials, or liquid by-products may be stored therein at any time. Upon a written request from the junk or salvage yard owner and by official and formal approval of the Township Board of Supervisors, the required buffer area between a specific public road and the junk or salvage yard may be reduced to a distance of not less than 25 feet from the public road in question. This does not prohibit use of this buffer area for other legitimate purposes.

E. No item of junk, salvage, or liquid by-product may be stored, maintained, situated, or otherwise located within any designated flood plain or within any "sensitive areas" as defined elsewhere within this Ordinance.

F. The junk or salvage yard area shall be enclosed by an aesthetic fence or wall of uniform design, texture, and structure located to the junk or salvage yard side of the approved buffer area. Acceptable methods of fencing are landscaped earthen barriers, solid wooden fencing, solid masonry walls, solid metal walls, and metal chainlink fencing with interwoven vinyl which restricts at least 80% of viewing. Fencing or walls of junked vehicles, or parts thereof, salvage materials, or vinyl or fabric sheeting are unacceptable. Such fencing or walls shall be not less than 8 feet in height. It is further provided that these fencing provisions shall be applicable

only to that portion of the premises being used directly for storage of the junk or salvage materials. It shall not be applicable to the balance of the property owned or used by the junk or salvage yard operator or dealer so long as said remaining portion of land is not being used for storage of junk or salvage materials.

G. By means of a fence or wall, as described above, ground contours, and vegetative material within the buffer areas, any view of the junk or salvage from a public road or from adjoining property shall be effectively screened.

H. The maximum height of any outdoor, unhoued accumulation of junk or salvage materials within a junk yard shall be 6 feet.

Section 13: INSPECTIONS:

A. The Catharine Township Board of Supervisors, or their duly appointed representative(s), shall inspect the junk or salvage yard premises and records annually to determine compliance with this Ordinance. This inspection shall include:

(a) An inspection of the premises for evidence of ground contamination with any of the "Liquid By-products" described elsewhere in this Ordinance or materials deemed "hazardous" by the Environmental Protection Agency (EPA).

(b) A review of all records associated with acquisition and storage of junked vehicles on the premises.

(c) A review of records required for storage and disposal of potentially hazardous "Liquid By-products."

(d) Inspection of fencing and buffer areas.

B. If the inspection finds evidence of non-compliance with this Ordinance, the Board of Supervisors shall, within 30 days after the inspection, issue compliance orders specifying the problem(s) found, remedies to be taken, and date(s) that remedial action(s) must be completed. One copy of the order(s) shall be sent to the junk or salvage yard owner by certified mail (return receipt requested) with a second copy being sent by regular mail. A copy of the order(s) shall also become part of the Township permanent file system.

C. The Board of Supervisors shall re-inspect the premises when the date(s) for completion are reached and shall issue a report of re-inspection to include required actions not completed. If appropriate remedial action has not been taken, legal proceedings shall be promptly initiated to levy fines and penalties. A copy of this report shall be sent to the junk or salvage yard owner by certified mail (return receipt requested) with a second copy being sent by regular mail. A copy shall also be entered into the Township permanent file system.

D. At least one time per year and at the discretion of the Township Board of Supervisors, Township personnel shall take water samples from nearby ponds and water courses for analysis at an approved testing facility. Adjoining property owners may, at that time, provide water samples from their wells for analysis to determine if the junk or salvage yard operation is polluting their water supplies. If the analyses show evidence of contamination or pollution of either underground or surface water resources, the Board of Supervisors shall immediately notify the PA Department of Environmental Resources and the PA Fish Commission accordingly. If the evidence indicates probable contamination of Federally Designated Wetlands, the U.S. Environmental Protection Agency shall also be notified.

E. Within 30 days after a written complaint is received from any Township resident, the Board of Supervisors shall inspect the premises to determine if this Ordinance has been violated and, if so, shall issue a clean-up or compliance order specifying what must be done to bring the operation into compliance and the date(s) that actions must be completed. A re-inspection shall be made when the date(s) for completion have been reached and the Board of Supervisors shall initiate legal proceedings if appropriate remedial actions have not been taken.

Section 14: PENALTY FOR VIOLATION:

If any person, after receiving due notice, fails to comply with the provisions of this Ordinance or any notice of violation herein:

(a) He or she shall be guilty of a violation of this Ordinance shall and upon conviction thereof, pay a fine of not more than one thousand (\$1000.00) dollars, nor less than thirty (\$30.00) dollars, and the costs of prosecution, and, in default of payment of such fine and costs of prosecution, shall be imprisoned for not more than thirty (30) days; provided each day's continuance of a violation shall constitute a separate offense.

(b) The Board of Supervisors may direct the clean-up, removal, repairs, or alterations, as each case may be, to be done by the Township or by contract, and the cost thereof with a penalty thereof of 10% may be collected from the owner of the premises by an action of assumpit or may file a municipal claim or lien therefore against such real estate.

(c) The Township by means of a complaint in equity may compel the owner to do so or seek other relief as such court is empowered to afford.

Section 15: SEVERABILITY:

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a

separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions thereof.

Section 16: EFFECTIVE DATE:

This Ordinance shall become effective five (5) days after adoption thereof.

ENACTED AND ORDAINED by the Board of Supervisors of the Township of Catharine, Blair County, Pennsylvania, this day of

BOARD OF SUPERVISORS OF THE
TOWNSHIP OF CATHARINE