

SCOTT TOWNSHIP
LACKAWANNA COUNTY, PENNSYLVANIA

10/11/95

ORDINANCE NO. 95-10-11

AN ORDINANCE PROVIDING FOR THE LICENSING AND REGULATION OF JUNKYARDS, FOR THE CONTROL OF JUNK ACCUMULATION, AND THE REGULATION OF THE STORAGE OF ABANDONED AND JUNK VEHICLES; AND PRESCRIBING PENALTIES FOR VIOLATIONS.

BE IT ENACTED AND ORDAINED by the Township of Scott, Lackawanna County, Pennsylvania, under the authority granted by the Pennsylvania Second Class Township Code, Act of May 1, 1933 (P.L. 103, No. 69), Reenacted and amended July 10, 1947 (P.L. 1481, No 567), as amended; and it is hereby enacted and ordained by the authority of the same as follows:

Section 1 SHORT TITLE

This Ordinance shall be known and may be cited as *THE JUNK REGULATION ORDINANCE OF SCOTT TOWNSHIP*.

Section 2 PURPOSE

The purpose of this Ordinance is to regulate the accumulation, storage and sale of junk in order to minimize safety hazards created by junk, to prevent blight and property deterioration, to protect property values, and otherwise protect the general health, safety and welfare of the citizens of Scott Township.

Section 3 DEFINITIONS

Abandoned or Junked Vehicle - Any vehicle not stored in a fully enclosed building which is not in good operating and road-worthy condition.

Agricultural Operation - The use of any parcel of land containing five (5) or more acres for economic gain in the raising of agricultural products or livestock. It includes necessary structures within the limits of the parcel and the storage of equipment necessary for production. It excludes commercial stables, horse farms and dog kennels; the disposal or use of sludge, septage or similar waste products; and agricultural products processing, as defined by the Township Zoning Ordinance.

Antique Vehicle - Any vehicle twenty-five (25) years or older which has been restored to good operating and road-worthy condition.

Collector Vehicle - Any vehicle of limited manufactured production from the present to twenty-four (24) years old, in good operating and road-worthy condition.

Contracting Business - An active, ongoing business legally operating in accord with the Township

Zoning Ordinance which involves the performance of services related to the construction of buildings, erection of structures, the preparation of the land for buildings and structures, the installation of community facilities such as roads, water systems and sewage disposal systems, or the provision of transportation services.

Good Operating and Road-Worthy Condition: - A vehicle having both a current and valid registration and current and valid inspection sticker as required by the motor vehicle laws of the Commonwealth of Pennsylvania, or if lacking a registration and/or inspection sticker, is in full and complete working order and condition, but for not having said current registration and inspection sticker could be safely and legally operated on a public roadway. Registrations and inspections which have been expired for less than sixty (60) days shall be considered current for the purposes of this definition.

Junk - Any scrap, waste, refuse, reclaimable material or debris, vehicles, appliances, equipment or machinery, or parts thereof, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk shall include, but shall not be limited to:

- A. Scrap iron, tin, brass, copper, lead, zinc and all other metals and alloys; bones, rags, paper, used cloth, used rubber, used rope, and similar materials; old or used, or parts of machinery, vehicles, tools, appliances, furniture, plumbing, heating and other fixtures, and pipe and pipe fittings;
- B. Used lumber, boxes, crates and pallets;
- C. Used tires;
- D. Other worn, deteriorated, or obsolete manufactured goods which are unusable;
- E. Mobile/manufactured homes that are not in habitable condition; and,
- F. Abandoned or junked vehicles.

Junk shall not include:

- A. Any solid or liquid waste the disposal of which is regulated by the Pennsylvania Department of Environmental Protection;
- B. Agricultural vehicles and implements such as tractors, mowers, etc. for use as parts for equipment and machinery used as part of an active, on-going agricultural operation provided such equipment is stored on the premises of the operation, can be legitimately used for parts, and is adequately screened.; and,
- C. Construction and contractors equipment for use as parts for equipment and machinery used as part of an active, on-going contracting business legally operating in accord with the Township Zoning Ordinance, provided such equipment is stored on the premises of the operation, can be legitimately used for parts, and is adequately screened.

(See Section 10 for Vehicle or Equipment Repair Operations.)

Junk Yard: An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of junk as defined by this Ordinance, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The following shall also be considered junk yards:

- A. The outside storage or deposit on a lot of one (1) or more abandoned or junked vehicles; and,
- B. The outside storage or deposit on a lot of one (1) or more mobile/manufactured homes that are not in habitable condition; and,

Vehicle sales lots managed by licensed vehicle dealers operated in accord with the Township Zoning Ordinance and storage areas for antique and collector vehicles with adequate screening approved by the Township shall not be considered junk yards. (See Section 10 for Vehicle or Equipment Repair Operations.)

On-Site Utility Vehicle: An abandoned or junked vehicle used on a specific property for plowing snow, hauling fire wood, moving goods or equipment, and other similar property maintenance or operational activities.

Person: An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization or other entity acting as a unit.

Screened: Not visible from any adjoining or neighboring property, any public or private road right-of-way, or any other premises which is accomplished by fencing, topography, berms, natural and planted vegetation or other means approved by the Township.

Township - The Township of Scott, Lackawanna County, Pennsylvania.

Vehicle - Any device in, upon or by which any person or property is or may be transported or drawn upon a public highway or upon any land, including, but not limited to, automobiles, trucks, vans, buses, utility trailers, tractors, truck tractors, recreational vehicles, motor homes, travel trailers, motorcycles, machinery, trailers, farm machinery and implements, and other wheeled equipment; boats; and aircraft.

Vehicle or Equipment Repair/Towing Operation: An establishment, operating in accord with the Township Zoning Ordinance, engaged in the service and/or repair of vehicles, including but not limited to, auto body shops, repair garages, truck repair garages, towing companies and agriculture equipment repair.

Section 4 ANNUAL LICENSE REQUIRED

On and after the effective date of this Ordinance, no person shall establish, maintain or operate, or continue to maintain or operate a junk yard; and no person shall establish, maintain or operate, or continue to maintain or operate any premises in such manner which constitutes a junk yard under the terms of this Ordinance; except as authorized by this ordinance and without a license issued by the Township. All licenses shall be valid for a period of one (1) year beginning January 1st and expiring January 1st of the following year. All licenses must be renewed annually on or before January 1st of each year.

A. Application

Any person intending to operate or currently operating a junk yard in Scott Township shall make annual application for a license. Said application shall be made on a form prescribed by the Township and shall, at a minimum, contain the following information. Said application shall be made concurrently with that for any required zoning approval.

1. Name of applicant
2. Address and telephone of applicant
3. The location of the junk yard
4. Property owner if different than applicant
5. Any criminal record of the applicant, owner or associates involved in the business
6. Signature of the applicant and owner

B. Plan

The application shall include a plan of the proposed junk yard showing, at a minimum, the following information:

1. All information required for land developments by the Township Subdivision and Land Development Ordinance.
2. The location of principal structures on all properties within one thousand (1,000) feet of the junk yard premises.

C. Annual Fee

The operator of every junk yard shall pay an annual license fee for the issuance or renewal of every license. The fee shall be established by Resolution of the Board of Supervisors.

D. Annual Bond

The operator of every junk yard shall, as part of the annual license requirement, provide a bond to cover the cost of any junk removal and/or remediation of any environmental problems undertaken by the Township in accord with Section 15 of this Ordinance. Nothing herein shall legally bind the Board of Supervisors to effect the removal of any junk and the remediation of any environmental problems associated with any junk, which shall remain the ultimate responsibility of the owner of the property upon which the junk is located and the owner of the junk.

1. Amount - A surety bond shall accompany every application for license. The amount of the bond shall be established by the Board of Supervisors based upon the size and nature of the proposed junk yard, but in no case shall the amount be less than twenty thousand dollars (\$20,000).
2. Form - The Bond shall be executed by a surety company authorized by the laws of the Commonwealth of Pennsylvania to transact business within the Commonwealth of Pennsylvania. The Township may, in lieu of such surety bond, accept a bond executed by the applicant for license if such bond is secured by the deposit with the Township Secretary of a cashier's check, treasurer's check, or certificates of deposit of a banking institution in the total sum as established by the Board.
3. Annual Renewal - The bond shall be renewed and refiled annually along with the annual license renewal.
4. Term - The bond shall be executed in favor of the Township of Scott and shall be for the use of the Township. The term of the bond shall be for one (1) year.
5. It shall be the condition of the bond that if upon and after the issuance of such license the said licensee does not fully and faithfully observe and comply with the provisions of this

Ordinance and any other applicable approvals or regulations, the Township Board of Supervisors shall have the authority to use such bond to effect the required compliance and/or the removal of junk.

E. Determination of Issuance

Upon receipt of a completed application and fee, the Board of Supervisors, at a duly advertised meeting, shall take action to grant or deny the license application or renewal. Said action shall be based upon the suitability of the premises for the operation of a junk yard; the character of adjacent properties and the likely effect of the junk yard; the general health, safety and welfare of Township residents; the potential hazards to neighboring properties and structures; and the past performance of the licensee in the case of renewals. No license shall be issued for a new junk yard unless and until the proper zoning and land development approvals are granted by the Board of Supervisors. If approval is granted, the licenses shall be issued and shall be conspicuously posted on the junk yard premises. Any license shall be for the operation of the junk yard only upon the premises for which the license is issued and no license shall be transferable by any means.

The Board shall act upon any complete application within sixty (60) days following its submission, and the Board's decision shall be in writing to the applicant within seven (7) days of when the decision is made. Upon refusal of a license, the applicant may request in writing a hearing before the Board within seven (7) days of the applicant's receipt of the notice of denial; and the Board shall conduct a hearing within fifteen (15) days of receipt of such request. Hearings and any subsequent appeal shall be pursuant to the Act of December 2, 1968, P.L. 1133, No. 353, as amended, the Local Agency Law.

F. Records

Every licensee shall maintain written records of the following information for all junk purchased, acquired or received:

1. Date and approximate time of purchase, acquisition or receipt of junk
2. Full and complete description including trade names and serial numbers, if any
3. Name and address of person from whom junk was obtained

Such records shall be maintained for a period of five (5) years and shall, at all times, be subject to the inspection of the Township Supervisors.

G. Revocation

Any license issued under this Ordinance may be revoked by the Board of Supervisors in the event the said licensee is found to have given any false information or in any way misrepresented any material fact upon which the Township has relied in granting the license; or, where the licensee violates any provisions of this Ordinance. No fee refunds shall be made in such case.

Section 5 ZONING ORDINANCE

Junk yards shall be permitted only in those areas of the Township as designated by the Scott Township Zoning Ordinance and Zoning Map, as amended.

Section 6 PROPERTY OWNER RESPONSIBILITY

It shall be the responsibility of the property owner of the premises upon which any junk is situated and the owner of any such junk to comply with this Ordinance; and to provide for the removal of such junk and remediation of any environmental problems associated with any junk. Any property owner or owner of any junk who fails to comply with the provisions of this Ordinance shall be deemed to be in violation of the Ordinance and shall be subject to the penalties and remedies prescribed in Section 11 and 15.

Section 7 OPERATING STANDARDS

All existing and proposed junk yards licensed under the provisions of this Ordinance shall be established, maintained, and operated in accord with the following standards:

A. Federal and State Regulations

Any junk yard located adjacent to a Federal Aid Highway shall comply with all regulations of the Federal Highway Administration, and all junk yards shall meet the licensing and screening requirements of the Commonwealth of Pennsylvania.

B. Fencing

All junk yards shall be completely enclosed by a chain link, security fence not less than eight (8) feet in height completed prior to the issuance of a license for a new junk yard. Existing fences enclosing junk yards licensed prior to the effective date of this Ordinance shall be permitted to remain in place and shall fully enclose the junk yard within six (6) months of the effective date of this Ordinance; and, if any pre-existing fences are replaced, such replacement shall be a chain link, security fence not less than eight (8) feet in height. All gates shall be closed and locked when closed for business. All fences and gates shall be maintained in good repair and in such a manner as not to become unsightly. There shall be no advertising of any kind placed on the fence. The foregoing fencing provisions shall be applicable only to that portion of the premises being immediately used for the storage of junk and shall not be applicable to the balance of the property owned or used by said junk yard operator so long as said remaining portion of land is not being used for the storage of junk as defined in this Ordinance.

C. Screening

All junk yards shall be screened from any adjoining or neighboring property, any public road right-of-way, or any other premises; and, natural vegetative cover shall be maintained in all

required setback areas. Vegetative plantings of sufficient height and density, berms, topography or fencing of such design may be used to effect the required screening as determined by the Board of Supervisors. All screening shall be maintained in such fashion as to continue to provide the required screening.

D. Setbacks

The fence enclosing any junk yard and any structures associated with the junk yard shall be located not less than one thousand (1,000) feet from any public or private road right-of-way, two hundred (200) feet to any property line or two hundred and fifty (250) feet from any principal residential or commercial structures existing at the time of adoption of this Ordinance. The requirements of this Section "D" shall not apply to junk yards legally existing prior to the effective date of this Ordinance and which fully complied with Township Ordinance No. 2 of 1985, and the Township Zoning Ordinance, as applicable. However, the expansion of any such existing junk yard into an area already not used for the storage of junk shall comply with this Section "D".

E. Dumping

The area used for a junk yard shall not be used as a dump area for trash or garbage.

F. Burning

No burning whatsoever shall be permitted on the premises.

G. Water Bodies

No junk yard shall be located less than two hundred (200) feet from any body of water, stream, wetland or well.

H. Hazardous Materials

All batteries, coolants, gasoline, diesel fuel, engine oil, any other petroleum products and any other noxious or potentially contaminating materials shall be removed from all junk within two (2) working days after arrival to the premises and shall be disposed of in a manner meeting all local, state and federal requirements. Such liquids and materials, while stored on the premises, shall be kept separately in leak proof containers at a central location on the premises.

I. Water Quality

In cases where the junk yard includes ten (10) or more junk vehicles or where the Board of Supervisors deems it necessary to meet the intent of this Ordinance, the owner of any junk yard shall be required to monitor the ground and surface water in the vicinity of the junk yard. Water testing shall be conducted every three (3) months on any stream located on the premises or any stream within five hundred (500) feet of any area used for the storage of junk if water drainage from the junk yard area is to said stream. For each testing period two (2)

samples shall be collected; one sample shall be taken from the stream at a point upstream of the junkyard drainage area and one sample shall be taken from the stream at a point below the junk yard drainage area. In addition, the well located on the premises shall also be sampled every three months. The samples shall be collected and analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Board of Supervisors, and results shall be provided to the Township. If said samples exceed the limits established by the Pennsylvania Department of Environmental Protection, the junkyard shall cease operation until such time as the source of the contamination has been identified and corrected.

J. Fire Lanes

Fire lanes of a minimum width of twenty (20) feet shall be maintained so that no area of junk shall span a distance of more than fifty (50) feet.

K. Hours of Operation

Any activity associated with the operation of the junk yard that produces any noise audible beyond the property line shall be conducted only between the hours of 6:30 a.m. and 9:00 p.m. During business hours, an adult attendant shall, at all times, remain on the premises.

L. Stacking of Junk

Junk vehicles or major parts thereof shall not be stacked on top of any other junk vehicle or major part. No junk shall be stacked or piled to a height of greater than eight (8) feet.

M. Nuisances

All premises shall, at all times, be maintained so as not to constitute a nuisance, or a menace to the health, safety, and welfare of the community or to the residents nearby, or a place for the breeding of rodents and vermin. Within two (2) days of arrival on the premises, all glass shall be removed from any broken windshield, window or mirror, and all trunk lids, appliance doors and similar closure devices shall be removed. Grass and weeds on the premises shall be kept mowed.

N. Rubbish

Paper, rags, plastic materials, and other rubbish shall not be stored outside and shall not be accumulated or remain on any premises.

O. Fireproof Structures

Every structure erected upon the premises and used in connection therewith shall be of fireproof construction.

P. Solid Waste

No junk yard shall be operated or maintained in violation of any state or federal regulations governing the disposal of any solid or liquid waste.

Section 8 EXISTING JUNK YARDS

The requirements of this Ordinance shall apply to junk yards existing prior to the effective date of this Ordinance. All such junk yards shall comply with the licensing and operational standards provided in this Ordinance.

Section 9 RECYCLING FACILITIES

Nothing in this Ordinance is intended to preclude the operation of a recycling facility established, maintained and operated in accord with the Scott Township Zoning Ordinance, provided such facility does not violate any of the provisions of this Ordinance.

Section 10 VEHICLE OR EQUIPMENT REPAIR/TOWING OPERATIONS

In recognition of the need to allow limited storage of junked vehicles or vehicles awaiting insurance coverage resolution at an active and bona fide vehicle repair/towing operation, the standards in this Section 10 shall apply. Such operations shall in all other respects comply with the provisions of this Ordinance with regard to junk and junk vehicles.

A. Insurance or Impoundment

An abandoned or junked vehicle stored in anticipation of the resolution of insurance coverage or a vehicle impounded by a Municipal Police Department or by the State Police may be stored until the particular insurance or impoundment matter is resolved. The owner of the establishment shall maintain accurate and current records for all vehicles on the premises and the same shall be open for inspection by the Township.

B. Storage Areas

All such stored vehicles shall be situated not less than fifteen (15) feet from any property line and twenty-five (25) feet from any public or private road right-of-way, and shall be maintained in an orderly manner.

C. Number of Vehicles

Not more than three (3) abandoned or junked vehicles may be stored on the premises if the size of the parcel is less than one (1) acre, and not more than five (5) abandoned or junked vehicles may be stored on the premises if the size of the parcel is one (1) acre or more. All such stored vehicles shall be screened.

Section 11 INSPECTIONS

All junk yards shall at all times be subject to inspection by the Board of Supervisors or its agent(s) during reasonable hours. The Township Board of Supervisors shall, from time to time, inspect every junk yard licensed under this Ordinance to determine compliance with the provisions of this Ordinance. Any violations identified shall be prosecuted in accord with this Ordinance.

Section 12 - ENFORCEMENT OFFICER

The Board of Supervisors may appoint one or more Enforcement Officers, who may be an individual, firm or agency of the Township, to conduct inspections, make reports and administer other parts of this Ordinance as determined by the Board of Supervisors.

Section 13 - WAIVER FOR CERTAIN VEHICLES

A. Waiver for On-Site Utility Vehicles

The Board of Supervisors may grant a waiver for one (1) on-site utility vehicle per property which would otherwise be considered an *abandoned or junked vehicle* by Section 3 of this Ordinance, provided said vehicle is screened at times when it is not in use.

B. Conditions

In granting any waiver the Board of Supervisors may impose such conditions as will, in its judgement, secure substantially the objectives of the standards and requirements of this Ordinance.

C. Procedure

All requests for waivers shall be in writing and shall include:

1. A description of the type of vehicle and its use.
2. Details about how the vehicle will be screened when not in use.

D. Action

If the Board of Supervisors denies the request, the applicant shall be notified, in writing, of the reasons for denial. In any case, the Township shall keep a written record of all actions on all requests for waivers.

E. Fees

The applicant for any waiver shall pay a fee for the same as shall be established by Resolution of the Board of Supervisors.

Section 14 VIOLATIONS AND TOWNSHIP ACTION TO REMOVE JUNK

A. Notice

Any applicant whose initial or renewal application for a license shall be denied, and every person who shall engage or continue to engage in the operation of a junk yard in violation of any of the terms and provisions of this Ordinance, or any person who shall keep or store upon his or other premises any junk or one (1) or more abandoned or junk vehicles without first obtaining a license, shall be deemed a violation of this Ordinance. Within fifteen (15) days after certified mail notice of such violation, such applicant or person shall remove and clear from the premises all junk thereon as defined by this Ordinance. The Township may specify a longer time period in cases where the amount or nature of the junk warrants the same.

B. Township Removal

If such applicant or violator fails to comply within the specified time period, the Township may effect such removal and clearing, and the cost of the same, plus twenty (20) percent thereof, shall be paid by the applicant or violator. The Township may collect the said sum from the bond or other such security required by Section 4,D of this Ordinance, or by any other means provided by Law. The Township may also take enforcement action under the terms of Section 15 of this Ordinance. All property deemed junk under the terms of this Ordinance which remains on the premises after the time period specified in the notice shall be presumed to be abandoned and to be of no value and the same may be disposed of by the Township on behalf of the denied applicant or violator in accord with all applicable laws.

Section 15 - PENALTIES FOR VIOLATIONS

A. Fine - Imprisonment

Any person, firm, partnership or corporation who or which shall violate any provision of this Ordinance shall, upon conviction thereof in summary proceedings before the District Justice, be sentenced to pay a fine of not less than six hundred dollars (\$600.00) but not more than one thousand dollars (\$1,000.00), and costs of prosecution, plus reasonable attorneys fees of not less than five hundred dollars (\$500.00). In default of the payment of such fine and costs, it shall be the duty of the District Justice to commit such person to the County Jail until such time as the fine and costs shall be paid, not exceeding, however, a period of thirty (30) days.

B. Costs

In accord with Section 11 of this Ordinance, the Board of Supervisors may cause the removal or clearing of junk to be commenced and/or completed if the same is not effected by the junk yard violator. The cost and expense thereof, including, but not limited to, materials, labor, and legal fees, together with a penalty of twenty (20) percent, shall be collected from the violator in any manner provided by law. The recovery of such costs of abatement, together with the penalty, may be in addition to the penalty prescribed in Subsection A of this Section 15.

C. Other Remedies

In addition to any penalty therein provided, any person, persons, firm, partnership or corporation who or which shall violate any provision of this Ordinance shall be subject to any law or laws, of the Commonwealth of Pennsylvania, which affords a remedy for such violation in any court of the Commonwealth.

Section 16 - SEVERABILITY

Should any section, subsection, clause, provision or other portion of this Ordinance be declared invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance; the Board of Supervisors having adopted this Ordinance as if such invalid portions had not been included therein.

Section 17 - REPEALER

Township Ordinance No. 2 of 1985, as amended, is hereby repealed in its entirety.

Section 18 - CONFLICTS

Should any provision of this Ordinance be in conflict with any other section, provision, regulation or standard of any other Township ordinance, the more restrictive shall apply.

Section 19 - EFFECTIVE DATE

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

ENACTED AND ORDAINED into law by the Board of Supervisors of Scott Township, Lackawanna County, Pennsylvania, this 11th day of October of 1995.

Michael Giannetta
Harvey

ATTEST:

Joan Michalitis, Secretary