ORDINANCE NO. 1992-2


BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Bethel, Berks County, Pennsylvania, as follows:

SECTION 1. SHORT TITLE

This Ordinance shall be known and may be cited as the "Bethel Township Junkyard Ordinance".

SECTION 2. 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 Bethel Township.

B. FARM shall mean a lot on which a farmer resides and engages in agriculture.

C. FARMER shall mean a person who meets the U.S. Internal Revenue Service criteria for a farmer.
D. GARBAGE shall mean putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food, excluding manufactured food waste used as animal feed and properly maintained compost piles.

E. JUNK shall mean any material or article including, but not limited to, scrap metal; scrapped, abandoned, or junked machinery, equipment, furniture, electrical appliances, rags, paper, glass containers, tires or other automotive equipment and parts, buildings and structures or parts thereof; and three (3) or more scrapped, abandoned or junked motorized vehicles which are unlicensed, inoperable or do not have a current and valid inspection sticker as required by the Pennsylvania Vehicle Code, excluding vehicles bearing current farm exemption identification. It shall not include garbage or rubbish kept in a proper container for the purpose of prompt disposal, nor functional farm machinery located on a farm, nor material used in conjunction with a legally operating business, such as metal used in conjunction with a welding shop.

F. JUNKYARD shall mean any place or establishment where junk is disposed of, stored or accumulated on the outside of any building, edifice or structure that is enclosed on all sides; or, where the business of selling, buying or dealing in junk is carried on. On a FARM, farm machinery or equipment used for parts, scrap metal, and scrapped building materials for use on that farm may be stored outside a building and said storage area shall not be
considered a JUNKYARD provided that: Such material shall be
confined to one location on the farm, and shall not cover an area
greater than five thousand (5,000) square feet; such material shall
be located a minimum of two hundred (200) feet from property lines
and public street rights-of-way, unless the material is completely
screened from view from adjacent properties year-round; and no more
than eighteen (18) cubic yards (9' X 9' X 6'H maximum dimensions)
of scrap metal and scrapped building materials shall be stored on
any one farm outside a building.

G. JUNK DEALER shall mean any person, as hereinafter
defined, who shall engage in the business of selling, buying,
salvaging and dealing in junk, and who maintains and operates a
junkyard within the Township of Bethel.

H. LICENSE shall mean the permit granted to a person who
accumulates, stores or disposes of junk or to a junk dealer as
hereinbefore defined.

I. PERSON shall include any individual, partnership,
association, firm or corporation.

J. REFUSE shall mean all putrescible and nonputrescible
solid wastes (except body wastes), including garbage, rubbish,
ashes, dead animals and solid commercial and industrial wastes.

K. RUBBISH shall mean nonputrescible solid wastes such as
paper, cardboard, tin cans, yard clippings, bottles and jars and
similar materials.
L. TOWNSHIP shall mean Bethel Township, Berks County, Pennsylvania.

SECTION 3. LICENSE

No person shall engage in business as a junk dealer or maintain a junkyard without first having obtained a license from the Board, for which license a fee in accordance with the schedule hereinafter set forth shall be paid to the Township for the use of the Township. The license shall be issued for the twelve (12) month period of each calendar year. Each license must be renewed before December 31 of the then current year to be effective for the next year.

SECTION 4. APPLICATION FOR LICENSE

The license provided for in this Ordinance shall be issued by the Board after written application shall have been made therefor by the person desiring to be licensed. Such license shall state the name of the person to whom such license is to be issued and the premises on which such business is to be conducted, or such junkyard is to be maintained. The written application for license shall be accompanied by a form, every question of which must be answered, which form will be supplied by the Board. Each application shall describe the premises upon which the junkyard is to be established or operated, specifying therein setback lines, structures erected thereon, dwellings erected upon premises adjacent to the premises proposed to be used, and reference to the place of recording of the deed for the premises. Applicant shall
also submit therewith a survey or plat of the premises used or to be used in connection with such license.

SECTION 5. ISSUANCE OF LICENSE

Upon receipt of an application by the Board, the Board shall issue a license or shall refuse to issue a license to the person applying therefor after an examination of the application, taking into consideration the suitability of the property proposed to be used for the purposes of the license, the character of the properties located nearby, the effect of the proposed use upon the Township, the health, welfare and safety of the residents of the Township, any potential hazard which may result to adjacent properties and structures thereon or to the citizens of Bethel Township, and the competence, responsibility and propensity of the applicant (or its shareholders, if a corporation) to observe the regulations and ordinances of the Township.

SECTION 6. CONDITIONS

In the event the Board shall issue a license, it may impose upon the license and the person applying therefor such terms and conditions in addition to the regulations herein contained and adopted pursuant to this Ordinance as may be deemed necessary to carry out the spirit and intent of this Ordinance.

SECTION 7. DISPLAY OF LICENSE

Each junkyard license issued by the Board shall be posted conspicuously upon the premises licensed thereunder.
SECTION 8. LICENSE FEE

The license fee shall be paid immediately upon the issuance or renewal of a license. The amount of the license fee shall be calculated in accordance with the following schedule as determined by the actual land to be used by the person to whom the license is issued:

A. 1,000 square feet or less - $100.00
B. More than 1,000 square feet - $200.00
C. No license shall be issued for the use of a tract of land in excess of five (5) acres as a junkyard or place of business of a junk dealer.

SECTION 9. LICENSE RESTRICTION

No license or renewal of a license shall be issued to any person who, within five (5) years immediately preceding the date of his application, shall have been convicted of any felony or misdemeanor, crimen falsi.

SECTION 10. LICENSE LIMITATION

No person licensed under this Ordinance shall, by virtue of one license, keep more than one place of business within the Township or maintain more than one junkyard, for the purpose of buying, selling and dealing in junk. No person shall engage in business as a junk dealer in any place other than the place designated upon his license, or maintain a junkyard in any place other than the place designated upon his license.
SECTION 11. TRANSFER OF LICENSE

No license issued by the Board shall be transferable by the licensee to any other person unless such a transfer is authorized by the Board. Any person desiring to transfer his license shall notify the Board in writing, which notification shall be accompanied by an application for a license, as required by this Ordinance, by the transferee.

SECTION 12. TRANSFER FEE

In the event the Board shall approve the transfer of a license, the transferee shall immediately pay to the Township a transfer fee in an amount equal to the license fee for a junkyard of the size being transferred, according to the schedule of fees in effect at the time of transfer.

SECTION 13. RECORDS

Every person licensed under this Ordinance shall keep records in accordance with the requirements of all State and Federal statutes and regulations.

SECTION 14. DELAY IN DISPOSAL

Every person licensed under this Ordinance shall keep and retain upon the licensed premises for a period of twenty-four (24) hours after the purchase or receipt thereof all junk received or purchased by him, and he shall not disturb or reduce the same or alter its original form, shape or condition until such period of twenty-four (24) hours shall have elapsed, unless the junk is an automobile for which a proper junk certificate of title has been
issued. Thereafter, the fact of disposal shall be recorded in the record book required by Section 14 hereof, setting forth the date and hour of such disposal, the person, if any, who obtained such article or material, and the method of disposal, such as sale, destruction or change of original form.

SECTION 15. REGULATIONS

Every person licensed under this Ordinance shall constantly maintain the licensed premises in the manner prescribed by this Section and any subsequent regulations adopted by resolution of the Board.

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

B. No garbage or other organic waste shall be stored on or in such premises.

C. Whenever any motor vehicle shall be received in such premises as junk, all gasoline and oil shall be drained and removed therefrom. One two hundred seventy-five (275) gallon container each for the storage of gasoline, drain oil and heating oil, approved by the Fire Marshal, the Pennsylvania Department of Environmental Resources, or other regulatory agency having jurisdiction, may be located above ground or in the licensed premises. This subparagraph shall not apply to motor vehicles or parts thereof held for sale as operable units.
D. Every structure erected upon the licensed premises and used in connection therewith shall be of fireproof construction. At least two (2) hand fire extinguishers shall be located on the inside of a junkyard, one inside the main entrance and the other at the point farthest removed from the main entrance.

E. The manner of storage and arrangement of junk and the drainage facilities of the premises shall be such as to prevent the accumulation of stagnant water upon the premises and to facilitate access for fire-fighting purposes. In any event, junk shall be stacked only to a maximum height of ten (10) feet provided, however, that two (2) passenger automobiles may be stacked one (1) on top of the other.

F. 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 the license, and as limited by paragraph E above.

G. No open burning whatsoever shall be permitted on the licensed premises. Burning may be allowed only if it is done in a container with solid side walls and has, at a minimum, a mesh covering with no larger than 1/2 inch openings. Such burning shall only be done on days with calm winds at a minimum of 50 feet from any buildings or piles of junk, and only during daylight hours.

H. The premises to be licensed shall be set back a minimum distance of twenty-five (25) feet from the right-of-way lines of all streets or roads and a minimum distance of twenty-five (25)
feet from all property lines. The area between the setback line and the right-of-way line of all public streets or roads and all other property lines shall be kept clear and vacant at all times.

I. No junk as defined in this Ordinance shall be stored, maintained, situated, placed or otherwise located within fifty (50) feet of any river, stream, run, creek, irrigation ditch, 100-year flood plain or any other natural water course within the boundary lines of Bethel Township.

J. All premises proposed to be licensed which have an area in excess of one thousand (1,000) square feet shall be enclosed by a metal chain-link fence constructed of good heavy-duty steel and supported upon steel posts, in concrete footings, or in lieu thereof, a solid masonry, wood or metal wall of uniform design, texture and structure. Erection of such a fence or wall shall be controlled by the setback provisions of subsection H hereof. Such fence or wall shall not be less than six (6) feet in height. The erection of the fence shall be completed within six (6) months after the issuance of the license. If such a fence has not been completely erected within six (6) months after the issuance of the license, but if, in the sole and exclusive opinion of a majority of the Board of Supervisors, it should appear that the owner and/or operator of the licensed premises has clearly demonstrated a continuing bona fide effort to comply with the fencing requirement of this subsection, and only in such cases, the Board may, in its sole discretion, grant an extension of time to such owner and/or
operator to complete the erection of the fence, upon receipt of a written request from the owner and/or operator for such an extension of time. The foregoing fencing requirements shall only apply to that portion of the licensed premises which is actually being used for the storage of junk and shall not apply to the balance of the property as long as the balance of the property is not being used for the storage of junk or the operation of a junkyard or a place of business of a junk dealer, as defined in this Ordinance.

K. The land area between the above provided chain-link fence or wall and any public street or road and adjoining property shall be implanted with evergreens having a minimum height of three (3) feet, at intervals of not more than five (5) feet.

SECTION 16. VIOLATIONS

A. Any person who shall violate any of the provisions of this Ordinance shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than One Thousand Dollars ($1,000.00). All fines shall be paid to the Township. Each day of a continuing violation shall be deemed a separate offense.

B. The licensed premises and its records shall at all times be subject to inspection by the Board or its duly authorized agents or officers for the purpose of determining whether the requirements of this Ordinance are being complied with. The license shall be subject to suspension by the Board for failure to comply with this
Ordinance, or any regulations applicable to the licensed premises, and a license so suspended may be reinstated by the Board for the balance of the year for which it was issued upon compliance with the provisions of this Ordinance or such regulations and conditions. No person shall engage in business as a junk dealer in the Township during the time when the license for his junkyard or place of business shall have been suspended.

C. The Board, in its discretion, may revoke any outstanding license and refuse the issuance of a license, pursuant to this Ordinance, to any person who shall have been convicted of a felony or a misdemeanor, crimen falsi, within a period of five (5) years prior to the date of such revocation or refusal.

D. The Board may refuse to renew the license of any person who fails to maintain his junkyard in accordance with Township regulations or fails to maintain his junkyard so as to conform to the plan under which his license was issued.

SECTION 17. ABATEMENT OF NUISANCES

In addition to the remedies provided in Section 17 above, any junkyard located, used or occupied in violation of this Ordinance is declared to be a public nuisance and abatable as such by the Township and, if abated, the Township may collect the cost of such abatement together with a penalty of ten per centum (10%) of such cost in the manner provided by law for the collection of municipal claims, or the Township may seek relief against the violator by a proceeding in a court of equity. If a junkyard is moved to another
location or is abandoned, the owner of the junkyard at the time of such removal or abandonment shall clean up the site within six (6) months from the date of such event. If the site has not been cleaned up to the satisfaction of the Board or other regulatory agencies having jurisdiction within said six (6) month period, the Township may, but shall not be required to, proceed to clean up the site and the owner shall be liable for all costs thereof, together with a penalty of ten percent (10%) of such costs, which the Township may collect by an action at law, by the filing of a municipal claim or by an appropriate proceeding in a court of equity.

SECTION 18. PERFORMANCE GUARANTEE

At the time of approval of a license pursuant to the provisions of this Ordinance, but before the issuance thereof by the Township, the owner and/or operator of the premises to be licensed shall deliver to the Board a performance guarantee in the form of an irrevocable letter of credit issued by a federal or Commonwealth chartered lending institution, or a restrictive or escrow account in such an institution, or a bond with corporate surety, or such other security as may be approved by the Township Solicitor, to guarantee the performance by the owner and/or operator of the licensed premises of all of his obligations hereunder and the discharge of all of his liabilities hereunder, specifically including, but not limited to, the obligations and liabilities of such owner and/or operator under Sections 17.D. and
18 of this Ordinance. The amount of such security shall be determined by the Board at the time of issuance of the license and such security shall be maintained continuously at all times while the license and any renewals thereof are in effect. Should the security lapse or be discontinued for any reason, the license shall thereupon be considered to have been revoked and shall not be reinstated until satisfactory security has again been established in the required amount. A lapse in security shall include, but not be limited to, the termination for any reason of the irrevocable letter of credit, the reduction of the balance in the restrictive or escrow account below the required minimum amount or the termination for any reason of the corporate surety bond.

SECTION 19. VARIANCES

The Board shall have the authority to grant variances to junkyard owners and/or operators properly licensed under this Ordinance from the regulations set forth in Section 16 hereof as the circumstances, in the Board's sole judgment, may warrant in order to avoid an undue hardship or an unrealistic application of the provisions of said Section 16. The decision of the Board in granting or refusing to grant a variance shall be conclusive and final.

SECTION 20. EXISTING JUNKYARDS

All junkyards in Bethel Township which are in existence legally as of the effective date of this Ordinance shall comply with all of the provisions and requirements of this Ordinance,
specifically including, but not limited to, the licensing requirement and fencing requirement, within six (6) months from the effective date hereof. Any such junkyard which is not brought into compliance with this Ordinance within such period of time shall be in violation of this Ordinance from and after the expiration of such six (6) month period and shall continue to be in daily violation of this Ordinance until the requirements of this Section 21 shall have been fully complied with. Existing junkyards which are licensed by the State shall be allowed to expand beyond the five (5) acre limitation stipulated in Section 9.C. herein, provided that such expansion may only occur on the same deeded property as that of the existing junkyard, and provided that all other provisions and requirements of this Ordinance are complied with.

SECTION 21. SEVERABILITY

If any section, subsection, paragraph, clause, phrase or provision of this Ordinance shall be adjudged invalid or held to be unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provision hereof other than the part so adjudged to be invalid or unconstitutional and the remaining provisions of this Ordinance shall continue in full force and effect.
SECTION 22. CONFLICTS

Whenever there is a conflict between the provisions of this Ordinance and the Bethel Township Zoning Ordinance of 1977, as amended, the most stringent or restrictive provisions shall govern.

SECTION 23. REPEALER

All Bethel Township ordinances or parts thereof which are inconsistent with this Ordinance shall be and the same hereby are repealed, but only to the extent of such inconsistency.

SECTION 24. EFFECTIVE DATE

This Ordinance shall become effective five (5) days after enactment, as provided by law.

ENACTED AND ORDAINED this 5th day of May, 1992.

BOARD OF SUPERVISORS OF BETHEL TOWNSHIP,
BERKS COUNTY, PENNSYLVANIA

By: [Signature]
Chairman

Attest:
[Signature]
Secretary
CERTIFICATE OF ADOPTION

I HEREBY CERTIFY that the foregoing is a true and accurate copy of Ordinance No. 1992-2 of the Board of Supervisors of Bethel Township, Berks County, Pennsylvania, which was duly enacted at a public meeting held pursuant to notice as required by law on May 5, 1992.

Dated:  

[Signature]  
Secretary, Bethel Township
CERTIFICATE OF ORDINANCE 1992-2

I HEREBY CERTIFY that the foregoing is a true and accurate copy of Ordinance No. 1992-2 of the Board of Supervisors of Bethel Township, Berks County, Pennsylvania, which was duly enacted at a public meeting held pursuant to notice as required by law on May 5, 1992.

ATTEST: 

DATE: Nov. 2, 1998

Nancy E. Zachul

Nov. 2, 1998