

ORDINANCE NO. 2012-03

AN ORDINANCE OF THE TOWNSHIP OF BETHEL, BERKS COUNTY, PENNSYLVANIA, REGULATING JUNK DEALERS, THE ESTABLISHMENT AND MAINTENANCE OF JUNKYARDS, INCLUDING, BUT NOT LIMITED TO AUTOMOBILE JUNK OR GRAVE YARDS, THE STORAGE AND DISPOSAL OF SCRAP, REFUSE AND JUNKED ARTICLES, PROVIDING FOR THE ISSUANCE OF LICENSES OF JUNK DEALERS AND FOR THE MAINTENANCE AND OPERATION OF JUNKYARDS UNDER PRESCRIBED CONDITIONS, PRESCRIBING REMEDIES FOR THE ABATEMENT OF NUISANCES AND UNLICENSED JUNKYARDS AND SCRAP YARDS, 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 BETHEL TOWNSHIP, County of Berks, Commonwealth of Pennsylvania, hereby finds and determines that:

Premises:

1. On May 5, 1992, the Bethel Township Board of Supervisors enacted Ordinance 1992-2 to regulate junkyards.
2. The Bethel Township Board of Supervisors has since determined that Ordinance 1992-2 does not provide sufficiently specific regulations or enforcement provisions to carry out the intended purpose of the Ordinance.

NOW THEREFORE, in consideration of the above recitals which are incorporated herein by reference, the Bethel Township Board of Supervisors, County of Berks, Commonwealth of Pennsylvania therefore enacts and ordains the following:

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 a 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 combustible and noncombustible waste materials except garbage; the term shall include diapers, animal waste, rags, leather, rubber, old clothes, carpets, excelsior, ashes, furniture, tin cans, glass, crockery, masonry, tree branches, yard trimmings, or any items or materials defined as "municipal waste" in the Municipal Waste Planning, Recycling & Waste Reduction Act, section 103.
- 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 junk yard, without first having obtained a license from the Designated Township Official, 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-month period beginning January 1, and ending December 31, and each license must be renewed annually on or before the first day of each year.

SECTION 4. APPLICATION FOR LICENSE

The application from a Junkyard License shall be submitted to the Designated Township Official in writing on a form prescribed by the Designated Township Official. The application shall be submitted by the owner or lessee of any building, structure, or land or the agent of either provided, however, that if the application is made by a person other than the owner or lessee, it shall be accompanied by a written authorization from the owner or lessee authorizing the work and designating the agent. A map of the lot in question, drawn to scale, shall accompany the form, indicating the following information

1. The use, height, length, width, and proportion of the total lot area covered of all proposed and existing buildings, structures, signs, and additions or alterations to buildings, structures, and signs.
2. The number, location, and dimensions and design of parking and loading areas, signs, buffer yards and landscaping, means of egress from and ingress to the lot, and outdoor lighting.
3. Method of proposed water supply and sewage disposal and the location of any on-lot facilities.
4. All other information necessary for the Designated Township Official to determine conformance with and provide for enforcement of this Ordinance.

Only applications which contain all of the necessary information for the Designated Township Official to make a determination as to the conformity to this Ordinance, and which are accompanied by the required fee, will be considered complete.

SECTION 5. ISSUANCE OF LICENSE

Upon receipt of an application by the Designated Township Official, the Designated Township Official shall issue a license or shall refuse to issue a license to the person applying therefore after an examination of the application and 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, and the affect of the proposed use upon the Township, and the health safety and welfare of the residents of the Township. In the event the Designated Township Official shall issue a license, he may impose upon the license and the person applying therefore 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 6. DISPLAY OF LICENSE

Each Junkyard License shall be posted conspicuously upon the premises licensed there under.

SECTION 7. 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 determined from time to time by resolution of the Supervisors of the Township. No license shall be issued for the use of a tract of land in excess of five (5) acres, excluding setback areas.

SECTION 8. 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 9. 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 10. TRANSFER OF LICENSE

No license issued by the Designated Township Official shall be transferable by the licensee to any other person unless the Board authorizes such a transfer. 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 11. 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 12. RECORDS

Every person, licensed under this Ordinance, shall provide and shall constantly keep a book, in which shall be fairly written down in the English language at the time of the purchase of any junk, a description of every article or material purchased or received by him, the date of such purchase, or receipt, and the person from whom such article or material was purchased, received or handled by such person, which book shall at all times be subject to the inspection of any official of the Township in accordance with the requirements of all State and Federal statutes and regulations.

SECTION 13. 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 12 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 14. REGULATIONS

Every person, licensed under this Ordinance, shall constantly maintain the licensed premises in the manner prescribed by this section. The Board of Supervisors is expressly authorized to adopt further Regulations by resolution at any time and from time to time to further supplement these provisions:

- A. No property designated as a junkyard use shall exceed five (5) acres in size.
- B. 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.
- C. No garbage or other organic waste shall be stored in such premises.
- D. 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 Protection, 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.
- E. 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.
- F. 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 maximum height of ten (10) feet provided, however, that two (2) passenger automobiles may be stacked one (1) on top of the other.
- G. All junk kept, stored, or arranged on the licensed premises shall at all times be kept stored and arranged with the junk yard as described in the application for the license, and as limited under paragraph C above.
- H. The premises to be licensed shall be set back a minimum distance of twenty-five (25) feet from the right-of-way lines on all streets or roads and a minimum distance of one hundred (100) feet from all other property lines. The area between the set-back line

and the right-of-way line and all public streets and roads and all other property lines shall be at all times, kept clear and vacant.

- 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 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. 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 15. VIOLATIONS

- A. Any person who shall violate any of the provisions of this Ordinance shall upon conviction thereof, by a summary proceeding, be sentenced to pay a fine of not more than One Thousand Dollars (\$1,000.00) and the costs of prosecution, provided that each day's violation of any of the provisions of this Ordinance shall constitute 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 I 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 Designated Township Official, in his 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 any felony or first or second degree misdemeanor, or any crime involving *crimen falsi*.
- D. The Designated Township Official 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 16. ABATEMENT OF NUISANCES

In addition to the remedies provided in Section 15, 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 17. 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 Section 15.D. and 16 of this Ordinance. The Board shall determine the amount of such security 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 18. 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 14 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 14. The decision of the Board in granting or refusing to grant a variance shall be conclusive and final.

SECTION 19. 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 in to 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 Section 14 shall have been fully complied with.

SECTION 20. 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 21. CONFLICTS

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

SECTION 22. 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.

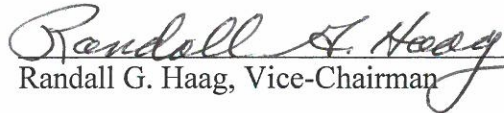
SECTION 23. EFFECTIVE DATE

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

ORDAINED and ENACTED as an Ordinance by the Board of Supervisors of Bethel Township, Berks County, Pennsylvania, in lawful session duly assembled this 21 day of May, 2012.


BOARD OF SUPERVISORS OF BETHEL
TOWNSHIP, BERKS COUNTY, PA


Herbert R. Zechman, Jr., Chairman


Randall G. Haag, Vice-Chairman


Carl R. Kauffman, III, Member

Attest:


Jayne K. Seifrit, Township Secretary