

ORDINANCE NO. 85

AN ORDINANCE OF THE TOWNSHIP OF SOUTH HUNTINGDON, DEFINING, REGULATING AND LICENSING JUNKYARDS, AUTOMOTIVE SALVAGE, DISMANTLING OR RECYCLING YARDS, SALVAGE YARDS, SCRAP YARDS AND SIMILAR OPERATIONS AND ACTIVITIES; PROHIBITING NUISANCES AND OTHER ACTIVITIES AND CONDITIONS INVOLVING JUNKYARDS, AUTOMOTIVE SALVAGE YARDS, DISMANTLING OR RECYCLING YARDS, SALVAGE YARDS, SCRAP YARDS AND SIMILAR OPERATIONS AND ACTIVITIES; PROHIBITING NUISANCES AND OTHER ACTIVITIES AND CONDITIONS INVOLVING SCRAP, JUNK OR ABANDONED VEHICLES; AND PRESCRIBING REMEDIES AND PENALTIES FOR VIOLATIONS; AND REPEALING, AMENDING AND SUPPLEMENTING ORDINANCE NO. 7 ADOPTED MAY 4, 1959, AS PREVIOUSLY AMENDED.

WHEREAS, both the Board of Supervisors of South Huntingdon Township and the General Assembly of the Commonwealth of Pennsylvania find that it is in the public interest and for the public welfare to regulate the location and maintenance of junkyards, and automotive dismantlers and recyclers adjacent to the highways of the Commonwealth in order to promote the safety, convenience and enjoyment of public travel, to preserve the scenic beauty of lands bordering on such highways and to protect the public investment in such highways; and

WHEREAS, the Board of Supervisors of South Huntingdon Township is authorized pursuant to Section 1532 of the Second Class Code to license and regulate by ordinance, junk dealers and the establishment and maintenance of junk yards and scrap yards, including, but not limited to, automobile junk yards or automobile grave yards; and

WHEREAS, the Board of Supervisors of South Huntingdon Township is authorized pursuant to Section 1529 of the Second Class Township Code to prohibit nuisances, including, but not limited to, storage of abandoned or junked automobiles, on private and public property and the carrying on of any offensive manufacture or business; and

WHEREAS, Article 1, Section 27 of the Constitution of the Commonwealth of Pennsylvania provides, inter alia, that the people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment; and

WHEREAS, the Board of Supervisors of South Huntingdon Township are empowered pursuant to Section 1506 of the Second Class Township Code to make and adopt any ordinances, rules and regulations not inconsistent with or restrained by the Constitution and laws of this Commonwealth, that are necessary for the proper management, care and control of the Township and the maintenance of peace, good government, health and welfare of the Township and its citizens, trade, commerce and manufactures.; and

WHEREAS, the Board of Supervisors of South Huntingdon Township have determined that the presence, operation and activities involving junkyards, automotive salvage, dismantling or recycling yards, salvage yards, scrap yards and similar operations and activities can pose and present a detrimental effect upon the convenience, safety, health, enjoyment and welfare of the public, that portion of the public that comes into contact with such presence, operation or activity, and to persons, property and the environment if not properly and reasonably regulated and controlled; and have further determined that prohibiting nuisances and other activities and conditions involving, junkyards, automotive salvage, dismantling or recycling yards, salvage yards, scrap yards and similar operations and activities and prohibiting nuisances and other activities and conditions involving scrap, junk or abandoned vehicles is in the best interests of the residents of the Township because such conditions, operations and activities can pose and present a detrimental effect upon the convenience, safety, health, enjoyment and welfare of the public, that portion of the public that comes into contact with such condition, operation or activity, and to persons, property and environment.

NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED by the Board of Supervisors of South Huntingdon Township that Ordinance No. 7, adopted May 4, 1959, as subsequently amended and supplemented, is hereby repealed, amended and supplemented as hereafter set forth:

SECTION I. DEFINITIONS. As used in this ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

FARM MACHINERY – All types or machinery and equipment, which were originally manufactured for farm use, which are retained on farm properties, either as operable equipment or for the purpose of salvaging repair parts.

JUNK – any discarded or salvageable article or material or thing possessing value in part, gross or aggregate, and including but not limited to scrapped motor vehicles and parts thereof, including motors, bodies or motor vehicles and vehicles which are wrecked, scrapped, ruined, dismantled or inoperable; or which do not have a current and valid inspection sticker as required by the motor vehicle laws of the Commonwealth of Pennsylvania. Also, any scrap metal, paper, rags, glass, rope, containers, scrap wood, trailers, machinery, equipment, or parts thereof with the exceptions of farm machinery and mobile homes or house trailer which are occupied or are properly placed and planned for occupancy, rubber, debris, waste iron, steel and other old scrap ferrous or non-ferrous material.

JUNK DEALER – any person, partnership, association or corporation that deals in junk or owns, leases, operates or maintains a junkyard within the Township.

JUNKYARD – any place or establishment where junk as herein defined is stored or accumulated. Any premises, as herein defined, having two or more unlicensed motor vehicles, which are inoperable and do not have a current and valid inspection sticker as required by the motor vehicle laws of the Commonwealth of Pennsylvania and/or two or more unlicensed trailers thereon shall be deemed to be a junk yard, except that the foregoing shall not apply to duly licensed automobile dealers having operable vehicles on their premises for resale. Such exceptions shall not apply to inoperable vehicles being stored for salvage purposes.

MOTOR VEHICLE – all types of automobiles, trucks and tractors, including self-propelled machinery of all kinds with the exception of farm machinery.

PERSON – any natural person, association, partnership, firm, company, corporation or other legal entity.

PREMISES - any parcel of land or part thereof situated in the Township, having a tax map parcel number for county assessment purposes.

SOLID WASTE - any waste, including but not limited to, municipal, residual or hazardous wastes including solid, liquid, semisolid or contained gaseous material.

TRAILER – any wheeled vehicles not self-propelled or drawn by a motor vehicle.

In this ordinance, the singular shall include the plural; the plural shall include the singular and the masculine shall include the feminine and the neuter.

SECTION 2. LICENSE REQUIRED; FEES. No person may operate a junkyard, automotive salvage, dismantling or recycling yard, salvage yard, scrap yard or similar operation or activity, nor engage or continue to engage in business as a dealer of any such place, operation or activity or establish nor operate a place, operation or activity as herein defined within the Township without first obtaining a license as herein described.

Any person desiring to operate a junkyard, automotive salvage, dismantling or recycling yard, salvage yard, scrap yard or similar operation or activity in the Township shall first make application to the Township Secretary. Application for such license shall be made in writing, under oath, shall contain the name of the applicant, his address, his length of

residence at such address, his previous criminal record, if any, the address of the premises upon which such business is to be conducted or upon which such place, operation or activity is to be established or operated, the name of the owner of said property if other than the applicant, and upon any subsequent applications a statement that the applicant, during the preceding term of his license, did comply with and did maintain his premises, operations and activities in full compliance with the provisions of this Ordinance. Each applicant shall describe the premises upon which such operation or activity is to be established or operated, specifying, therein set-back lines, structures erected thereon, dwelling(s) erected upon properties adjacent to the premises proposed to be used, and a reference to the place where the deed is recorded, by page and deed book volume number. If the applicant is a partnership or association, the applicant shall furnish the above information for each officer and director thereof. The application shall be signed by the applicant, if an individual, by all members, if applicant is a partnership or association, and by the president and secretary if the applicant is a corporation. A separate application shall be required for each premises, operations or activity.

Examination of application.

(a) The township Engineer, upon receipt of an application for license under this Ordinance, shall determine whether or not a license shall be issued or a renewal thereof shall be granted within sixty (60) days of submission thereto after an examination of the application and upon the fullest consideration of the suitability of the premises proposed to be used for the purposes of the license, the character and use of the property adjacent thereto and the effect of any act and consequences of the proposed use, taking into consideration the health, safety, enjoyment and general welfare of the residents of the Township, the public, the members of the public that come into contact with such premises, operations and activity, the impact, effect and consequences of such premises, operations and activities on the use and enjoyment of adjacent properties; the impact, effect and consequences on the public's right to clean air, pure water and the preservation of the natural scenic, historic and esthetic values of the environment; and any potential hazard which may result to adjacent properties and structures thereon, to citizens of the Township or to the environment. Such license shall be issued upon the condition that the same may be summarily revoked in the event said licensee be found to have given any false information or in any way misrepresented any material fact upon which the Township has relied on in granting such license.

Denial of License.

- (a) No license or renewal of 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.
- (b) The term of any license issued under this Ordinance shall be for one calendar year or portion thereof and shall terminate on December 31st of the year in which issued. Licenses issued under this ordinance must be renewed on or before January 1st of the year in which the applicant desires to continue operations. Such application for renewal must be in writing, in form as required by the Supervisors of the Township, and accompanied by the required license fee. Renewal applications are subject to complete reexamination and consideration by the Township Engineer for continued compliance with the terms of this Ordinance.
- (c) No person licensed under this ordinance shall by virtue of one license, operate more than one such business, premises, operation or activity within the Township.
- (d) No person shall engage in business or operate a premises, operation or activity regulated by this Ordinance at any place other than the place designated by this license. Licenses are nontransferable, both as to operator and premises. No such license issued by the Township shall be transferable or assignable by agreement, will, intestacy or otherwise.

Annual license Fee.

- (a) Every operator or dealer regulated by this Ordinance shall pay an annual license fee. The license fee shall consist of two parts: 1) the application fee shall be Two Hundred Fifty Dollars (\$250.00) and it is not returnable in case of refusal of

license; 2) an annual license fee of Fifty Dollars (\$50.00), per year. All fees are due, payable to and for the use of the Township at time of application.

SECTION 3. POSTING OF JUNKYARD LICENSES; OPERATING PROCEDURES. The license under which the premises, operations or activities is operated shall at all times be conspicuously posted on the licensed premises and the operating requirements as herein provided shall be complied with at all times.

Posting.

- (a) The name of the licensed operator and the number of the license under which he operates shall be placed in a conspicuous place at the entrance of the main structure on the premises, or, if no structure exists, at the main entrance of such premises.

Hours of Operation.

- (a) Premises, operations and activities licensed under this ordinance may not operate on Sunday, nor between the hours of 9:00 o'clock p.m. and 6:00 o'clock a.m., Monday through Friday, except to remove any wrecked motor vehicle or trailer from any public highway.

Records.

- (a) Every licensee hereunder shall provide and shall at all times keep and maintain records, in the English language, of the time of his purchase and acquisition of junk; a full and complete description, including trade names, serial or manufacturer's numbers, if any, of every article or item of junk purchased, acquired or received by him; the date and approximate hour of such purchase, acquisition or receipt; and the name and address of the person from whom such articles or item of junk was purchased, acquired or received. Such written records shall at all times be subject to the inspection by the Township Engineer or the designated official of the Township or other appointed agent thereof. Such records shall be retained by the licensee at the premises for a period of five (5) years.

Receipt for Article of Junk.

- (a) Every licensee hereunder shall keep and retain upon the licensed premises, for a period of twenty-four (24) hours after the purchase, acquisition or receipt thereof, every item or article of junk so purchased, acquired and received by him and placed on the licensed premises. The licensee shall not disturb, reduce or alter the original form, shape or condition of the same until such period of twenty-four (24) hours shall have elapsed.

SECTION 4. STORAGE REQUIREMENTS FOR JUNK. All junk on premises licensed under this Ordinance shall be stored as herein provided.

- (a) All junk shall be set back at least one thousand (1000) feet from the property line of any adjoining property used for residential purposes and at least on thousand (1000) feet from the nearest right-of-way of any public street, road highway or public park.
- (b) All junk shall be stored and arranged so as to permit access by firefighting equipment. No junk may be stored outside a fully enclosed building at a height in excess of ten (10) feet. Junked motor vehicles shall be spaced in rows with at least twenty-five (25) feet between double rows; other junk shall be stored in piles or tiers which shall be separated by aisles or cleaned areas of no less than Fifteen (15) feet.
- (c) The manner of storage and arrangements of junk and the drainage facilities of the premises shall be such as to prevent the accumulation of stagnant water upon the licensed land.

- (d) All gasoline, oil, lubricants or petroleum products and any products hazardous to people or the environment shall be drained from motor vehicles, machinery and equipment within twenty-four (24) hours of arrival on premises. Such items shall be stored at only one location on the premises, in proper containers, and not more than one hundred (100) gallons of the same, in aggregate, may be stored above ground. All such processing, removal and storage must be approved by the appropriate state and/or federal agency and be in compliance with all state and federal laws, rules and regulations.
- (e) Garbage or solid waste shall not be received or stored on any such premises. Materials designated as solid waste may be received only as mixed with salvage materials and shall be promptly separated and the solid waste shall be properly disposed of. Materials separated as solid waste shall not be accumulated for more than seven (7) days.
- (f) Paper, rags, plastic, and similar materials for salvage shall not be accumulated or remain on the premises for more than sixty (60) days. Paper, rags, plastic and similar materials for salvage shall be stored indoors.
- (g) No junk shall be stored, maintained, situated, placed or otherwise located within one hundred (100') feet of any river, stream, run, creek, irrigation ditch or any other natural water course within the Township.

SECTION 5. MAINTENANCE OF PREMISES. Every licensee hereunder shall constantly maintain the licensed premises in the manner hereinafter prescribed:

- (a) All premises shall be maintained in such manner so as not to cause a public or private nuisance; so as not to cause any menace to the health or safety of persons off the premises; so as not to cause any excessive, offensive or noxious odors or sounds to a person of reasonable sensibility; nor cause the breeding, harboring or infesting of rats, rodents or vermin; nor cause any violation of any health or sanitation law or ordinance or regulation of any governmental body, state law or state regulation or federal law or federal regulation.
- (b) The premises shall be enclosed by a metal chain link fence constructed of heavy duty steel and supported upon steel posts, or in lieu thereof, a solid masonry or metal wall of a uniform design, texture and structure. The erection of such fence or wall shall be controlled by the set-back provisions set forth herein and such fence or wall shall not be less than six (6) feet in height, nor shall two (2) or more vehicles or major parts thereof be stacked on top of one another or otherwise as to protrude above it. The fencing provisions set forth above shall be applicable only to that portion of the premises being used for the storage of junk and shall not be applicable to the balance of the property owned or used by said licensee so long as said remaining portion of land is not being used for the storage of junk as defined in this ordinance and so long as said portion is fenced from the portion used for storage of junk. Entrance gates shall be of similar material, well constructed, and shall be kept securely locked except during business hours. Fencing shall be maintained in good condition throughout its length at all times.
- (c) Licensed premises which have open-wire fence enclosures visible from an abutting public thoroughfare or from an abutting residential property within one thousand (1000) feet of the fence shall have a landscaped screen of trees and/or shrubs, of varieties capable of attaining a continuous height of six (6) feet within two (2) years, planted along such fence or section of fence. All required open areas between fence and lot lines of the premises shall be maintained continuously in good order, free of weeds and scrub growth.
- (d) The area inside the fence and lot lines of any licensed premises shall have weeds mowed regularly and not permitted to go to seed. The licensed premises shall at all times be in full compliance with the Township's ordinance regarding grasses, vegetation and weeds.
- (e) Every structure erected upon the licensed premises and used in connection therewith shall be of fireproof construction.

SECTION 6. BURNING RESTRICTIONS. No burning of junk, garbage, refuse, solid waste, rubbish, or other material in connection with said premises, operation or activities shall be permitted.

SECTION 7. RIGHT OF ENTRY FOR INSPECTION; ADDITIONAL REGULATIONS AUTHORIZED. Every licensed dealer and every licensed premises, operation or activity is subject to inspection and regulation as herein provided.

- (a) Any member of the Board of Supervisors of the Township, the Township Engineer, or their designated agent may at any reasonable time enter upon the premises currently licensed or for which a license application is pending.
- (b) The Township Engineer or appointed agent thereof shall from time to time regularly inspect the premises of every licensee hereunder for the purpose of determining whether said licensee has established and maintained his premise in full compliance with the provisions and such rules and regulations which may hereafter be adopted by the Township regulating and licensing junk dealers and the establishment and maintenance of junkyards.
- (c) The Board of Supervisors of the Township may from time to time pursuant to resolution, adopt regulations to carry out the provisions of this ordinance, upon giving notice to licenses affected by such regulations.

SECTION 8. EXCEPTIONS FOR EXISTING JUNKYARDS. Existing junkyards, currently under permit, are exempt from the setback requirements as established by section 4(a), the fencing provisions as established by section 5(b), and the planting requirements as established by Section 5(c). However, any expansion of an existing permitted junkyard beyond the areas permitted at the time of the enactment of this Ordinance, must comply with all the provisions of this Ordinance.

SECTION 9. TIME LIMIT FOR EXISTING ESTABLISHMENTS TO COMPLY AND OBTAIN LICENSE. Dealers, premises, operations and activities operating and existing without prior permit from the Township on the effective date of this Ordinance shall be subject to and be required to comply with the provisions of , and obtain a license under this Ordinance, within one (1) month from the effective date of this Ordinance. However, an extension of the time allotted in complying with the terms of this Ordinance may be granted at the discretion of the Board of Supervisors, upon good cause shown, which extension shall be for good reason, and shall not exceed six (6) months.

SECTION 10. PENALTIES. Any person, firm or corporation who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine not more than six hundred dollars (\$600.00), and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Ordinance continues shall constitute a separate offense.

SECTION 11. ENFORCEMENT REMEDIES. The Board of Supervisors of the Township may take any appropriate action at laws or equity, civil or criminal, to enforce the provisions of this Ordinance, and this Ordinance shall in no way restrict any remedies otherwise provided by law.

SECTION 12. GENERAL REPEALER. Any Ordinance or parts of Ordinances in conflict with this Ordinance are hereby specifically repealed.

SECTION 13. SEVERABILITY. Any word, phrase, section, sentence, clause or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, invalidity or illegality shall not affect or impair any of the remaining words, phrases, sections, sentences, clauses or parts of this Ordinance. It is hereby declared to be the intent of the Township Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid word, phrase, section, sentence, clause or part thereof not been included therein.

SECTION 14. This Ordinance amends Ordinance No. 7 of 1959, as previously amended by Ordinance No. 9 of 1960, and repeals any provisions inconsistent herewith, however any other provision remains in each and every other particular.

SECTION 15. EFFECTIVE DATE. This Ordinance shall become effective Five (5) days after adoption.

ORDAINED AND ENACTED by The Board of Supervisors of the Township of South
Huntingdon, this 27 day of June, 2002.

TOWNSHIP OF SOUTH HUNTINGDON

Scott Painter
Chairman

ATTEST: Cindy Thorne
Secretary