

ORDINANCE NO. 2009-05

AN ORDINANCE OF THE TOWNSHIP OF HEREFORD, BERKS COUNTY, PENNSYLVANIA, AMENDING HEREFORD TOWNSHIP ORDINANCES NO. 1970-4 AND 1983-1 REGULATING JUNK DEALERS, THE ESTABLISHMENT AND MAINTENANCE OF JUNKYARDS, INCLUDING, BUT NOT LIMITED TO AUTOMOBILE JUNK OR GRAVEYARDS, PROVIDING FOR THE STORAGE AND SALE OF ANTIQUE AND CLASSIC VEHICLES, PROVIDING FOR THE ISSUANCE OF LICENSES FOR JUNK DEALERS UNDER PRESCRIBED CONDITIONS, PRESCRIBING REMEDIES FOR THE ABATEMENT OF NUISANCES, UNLICENSED JUNKYARDS AND SCRAP YARDS, AND PROVIDING FOR THE REVOCATION OF LICENSES IN THE EVENT OF NON-COMPLIANCE.

SECTION I. Short Title. This ordinance shall be known and may be cited as Hereford 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. Person. Shall include any partnership, association, firm and corporation.
- B. Township. Shall mean Hereford Township, Berks County, Pennsylvania.
- C. Board. Shall mean the Board of Supervisors of Hereford Township, Berks County, Pennsylvania.
- D. Junkyard. Shall mean any place where any junk as hereinafter defined, is stored, disposed of, or accumulated whether for commercial or non-commercial purposes. It shall also be construed to include any place where one or more junked or abandoned vehicles is stored, but shall not include the area within an enclosed garage or other building.
- E. Junk. Shall mean any discarded material or article and shall include, but not be limited to, scrap metal, scrapped, abandoned or junked motor vehicles, machinery, equipment, paper, glass containers, and structures. It shall not include, however, refuse or garbage kept in a proper container for the purpose of prompt disposal, nor shall it include farm equipment or motor vehicles kept by farm operators for parts or for use in connection with their farming operations.

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- F. Junk Dealer. Shall mean any person, as hereinafter defined, who shall engage in the business of selling, buying, salvaging, or dealing in junk and who maintains and operates a junkyard within the Township of Hereford, Berks County, Pennsylvania.
- G. Junked or Abandoned Vehicle. Shall include but will not be limited to one or more of the following:
1. A vehicle for which a certificate of junk has been issued by the Pennsylvania Secretary of Revenue or the official designated by any other state to issue such certificates;
 2. A vehicle in or on which it is found that any of the following exists:
 - a. It is inoperative; or
 - b. Its engine, engine parts, drive train parts, or drive train have been removed for more than thirty (30) days; or
 - c. Its tires have been deflated or removed or its wheels have been removed for more than thirty (30) days; or
 - d. It bears no official inspection sticker or any such sticker is not current by more than sixty (60) days;

PROVIDED that a vehicle under repair which the owner thereof establishes by competent evidence as intended for use shall not be deemed within the foregoing definition, nor shall a vehicle which the owner thereof establishes by competent evidence as actually used for off-highway purposes be deemed within the foregoing definition, nor shall it include motor vehicles kept by farm operators for parts or for use in connection with their farming operations; AND PROVIDED FURTHER, that there shall be excluded from the above definition vehicles designated by the Commonwealth of Pennsylvania, Department of Transportation as being "classic vehicles" and/or "antique vehicles," to the following extent:

"Persons in the business of conducting antique and/or classic vehicle sales prior to the effective date of this Ordinance shall be permitted to maintain a total of five (5) inoperative classic and/or antique vehicles so long as they are capable of restoration, provided that no parts shall be sold from said classic or antique vehicles and, in addition thereto, five (5) operable classic and/or antique vehicles, so long as all such inoperative vehicles are being offered for sale."

- H. License. Shall mean the permit granted to a person who accumulates, stores or disposes of junk as hereinbefore defined.

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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 shall be paid to the Township Secretary for the use of the Township each and every calendar year. The license fee shall be in an amount set by resolution of the Board and may be revised by resolution from time to time. Such license must be renewed annually on or before the fifteenth (15th) day of March of each 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. The written application for license hereinbefore mentioned shall set forth in full the owner or owners of the premises used for the junkyard, the name of the junk dealer, the address of the junkyard and the size of the tract or lot upon which the junkyard is located. Applicant shall also submit therewith a survey print of the premises used or to be used in connection with such license showing clearly thereon all buildings to be used in connection with the operation of the business, the relationship in distances of each building to the setback lines as set forth in Section 9, Paragraph J, any and all buildings on all property adjoining the licensed premises, and the areas to be used for storage. Applicant shall provide sufficient information for the Township to determine that all applicable federal, state, county, and township requirements and regulations can be met by the proposed operation. The license obtained shall state the name of the person to whom such license is issued and the premises on which such business is to be conducted. Such license shall be posted conspicuously upon the premises licensed thereunder.

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 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, including the Zoning status, the character of the properties located nearby, and the effect of the proposed use upon the township, both economic and aesthetic. 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. Any person receiving a license under this ordinance shall be deemed to have agreed to comply with the terms of the license and that any deviations therefrom shall constitute a violation of the ordinance.

SECTION 6. 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.

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SECTION 7. Transfer of License. No license issued by the Board shall be transferable by the licensor 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 described in Section 4 of this ordinance by the transferee. 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 current license fee set by resolution of the Board as provided in Section 3 above..

SECTION 8. 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 and hour of such purchase and the person from whom such article or material was purchased or received. Such book and all junk received, purchased or handled by the person licensed shall at all times be subject to the inspection of any official of the Township.

SECTION 9. Regulations. Every person licensed under this ordinance shall constantly maintain the licensed premises in accordance with any special provisions imposed by the Township and in the manner prescribed by this section and any subsequent regulations adopted by the Township.

- 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 waste, and no paper, rubbish, rags or other flammable articles or materials shall be stored in such premises.
- C. 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. Outdoor storage shall be conducted to control mosquito propagation during warm weather. Controls may include use of tarps, indoor storage screens, or spraying.
- D. All junk kept, stored, or arranged on the licensed premises shall at all times be kept, stored and arranged within the junkyard in a neat and orderly manner in keeping with the standards of the trade. Storage piles shall not exceed ten (10) feet in height.
- E. There shall be provided at least a fourteen (14) foot wide accessway which shall be clear and free at all times to provide for access to all parts of the premises for firefighting and other safety or emergency purposes.
- F. No burning shall be permitted on the licensed premises. Each junk yard shall have available in proper working condition equipment that will control, contain, and suppress fires or other hazards.

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- G. Waste generated by the salvage or junk yard operation shall be managed in accordance with all applicable Township Ordinances and federal and state regulations including the Solid Waste Management Act, the Clean Streams Law, and the Air Pollution Control Act of the Commonwealth of Pennsylvania. Except as provided hereunder, no storage of explosive, radioactive, toxic, highly flammable or otherwise hazardous materials shall be permitted.
1. Automotive fluids (including gasoline, oil, antifreeze, brake, transmission fluids, and similar fluids), freon, and other flammable or toxic substances shall be removed from any junk or other items stored on the premises and shall be properly containerized and stored. Such materials shall not be released into the air or deposited on or into the ground or watercourses and shall be transported and disposed of or recycled in accordance with applicable state and federal regulations.
 2. Automotive batteries shall be removed from junked vehicles and properly stored until they are disposed of or recycled.
 3. Removal of such fluids, batteries, and other hazardous materials shall take place on an impervious surface where they can be properly contained without danger of spilling or being transported into the ground.
- H. Where whole or processed tires are stored outdoors, each waste tire pile shall meet the following requirements:
1. Individual tire storage piles shall not cover a surface area of greater than one-thousand (1,000) square feet.
 2. Corridors of at least fifty (50) feet in width shall be maintained as firebreaks on all sides of tire piles. No point in the pile shall be more than twenty-five (25) feet from a firebreak. Firebreaks shall be kept free from obstructions that could limit access in the event of an emergency and vegetation shall be maintained below six (6) inches.
- I. Any activity or operation within the junkyard likely to generate significant noise or vibration, including but not limited to the crushing of vehicles or other material, shall be limited to the hours of 7 a.m. to 5 p.m.
- J. The premises to be licensed shall be set back a minimum distance of seventy-five (75) feet from the edge of the right-of-way of all streets or roads and a minimum distance of seventy-five (75) feet from all other adjoining property lines, except where a greater setback is required under the applicable provisions of the Hereford Township Zoning Ordinance. The area between the setback line and other property lines shall at all times be kept clear of debris and at all times neatly trimmed and mowed.

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- K. On any and all premises licensed under this Ordinance, there shall be erected and maintained along all boundary lines a fence of at least ten (10) feet in height. The fence, the type of which must meet the approval of the Board and the erection of which shall be a condition to the issuance or re-issuance of the license, may be of a manufactured type such as wood or cement block with the condition that it shall be opaque or it may have a living type such as a row of evergreens. In the event the Township shall require a living type fence to effect the purpose of this Ordinance as set forth in Section 5, there shall be planted and maintained three (3) rows of evergreens eighteen (18) feet in depth all along the property lines of the premises. In each row, the plants shall be at least three feet (3') when planted and no greater than six feet (6') from center to center. In the case of existing junk yards, the required fence shall be erected, or, if the living type, planted and completed within six (6) months of the effective date of this Ordinance.
- L. All vehicles associated with the operation of the junkyard business shall be parked within the fenced enclosure.

SECTION 10. Violations. Any person who shall violate any of the provisions of this Ordinance shall be subject to the enforcement provisions, fines and civil penalties prescribed in Ordinance No. 1998-7 of the Township of Hereford.

SECTION 11. Abatement of Nuisances. In addition to the remedies provided in Section 10 above, any continued violations of this Ordinance shall constitute a nuisance in fact or which shall in the opinion of the Board constitute nuisance may be abated by proceeding against the violator in a Court of Equity for relief.

SECTION 12. Severability. If any section of this ordinance shall be found to be invalid the other sections of the ordinance shall not be affected thereby.

SECTION 13. Construction. As used herein, the masculine singular shall include the plural as well as the feminine and neuter, singular and plural.

SECTION 14. Repealer. All ordinances or part of ordinances inconsistent with this Ordinance are hereby repealed insofar, but only insofar as, the same are inconsistent herewith.