

ORDINANCE NO. / 3

AN ORDINANCE REGULATING JUNK DEALERS, THE ESTABLISHMENT AND MAINTENANCE OF JUNK YARDS AND SCRAP YARDS INCLUDING, BUT NOT LIMITED TO AUTOMOBILE JUNK OR GRAVE YARDS; PROVIDING FOR THE ISSUANCE OF LICENSES FOR ENGAGING IN BUSINESS AS A JUNK DEALER AND FOR OPERATING, ESTABLISHING AND MAINTAINING JUNK YARDS; AND PRESCRIBING PENALTIES FOR VIOLATORS AND REMEDIES FOR THE ABATEMENT OF NUISANCES.

BE IT ENACTED AND ORDAINED by the Township of Berwick, Adams County, Pennsylvania, pursuant to its authority and the authority granted by the Act of the Legislature approved May 1, 1933, P. L. 103, as amended, the Board of Supervisors of Berwick Township, Adams County, Pennsylvania, hereby enacts and ordains as follows:

SECTION 1. TITLE

This Ordinance shall be known, and may be cited, as "Berwick Township Junk Dealer and Junk Yard Ordinance."

SECTION 2. EFFECTIVE DATE

Except as otherwise herein specifically provided, this Ordinance shall become effective five (5) days after its adoption.

SECTION 3. DEFINITIONS

Unless the context clearly indicates otherwise, the following

words or phrases shall be construed in this ordinance to have the meanings below indicated:

(a) "Board," the Board of Supervisors of Berwick Township.

(b) The word "junk" as used in this Ordinance shall mean discarded or resalvageable materials, articles or things possessing value in part, gross or aggregate, and including, but not limited to; scrapped motor vehicles, equipment, and parts thereof, including motors, bodies of motor vehicles, tractor vehicles, scrap metal, tires from any vehicles, rags, paper, containers, scrapwood, trailers, and equipment which are inoperable and/or do not have current and valid inspection sticker as required by the motor vehicle laws of the Commonwealth of Pennsylvania, but not including garbage or other organic waste, or farm machinery provided said farm machinery is used in connection with a bona fide farming operation; provided, however, that any existing or future garage, service station or repair station in the Township may so long as the same is being operated principally for the repair, maintenance and service thereon of motor vehicles, may maintain thereon for a period of sixty (60) days only motor vehicles which do not have current and valid inspection stickers, and during which time said motor vehicles may be inoperable, but in the event that sixty (60) days elapse and said vehicles have not been repaired and a current and valid inspection sticker has not been

obtained, the same shall be hereby considered junk and subject to the provisions of this Ordinance.

(c) The word "junk dealer" as used in this Ordinance shall mean any person who shall engage in the business of selling, buying or dealing in junk in Berwick Township, and/or any person, as hereinafter defined, who establishes, maintains, uses or operates a junk yard, as hereinafter defined, within the Township of Berwick, and/or any person who shall store or keep upon his or another's premises, three (3) or more motor vehicles which are unlicensed and inoperable and do not have a current and valid inspection sticker as required by the motor vehicle laws of the Commonwealth of Pennsylvania.

(d) The word "junk yard" as used in this Ordinance shall mean any place, place of business or establishment maintained, used or operated for storing, accumulating, buying or selling junk on the outside of any building, edifice or structure; or, where the business of selling, buying or dealing in junk is carried on, or where three (3) or more motor vehicles are stored which are unlicensed, inoperable and do not have a current and valid inspection sticker as required by the motor vehicle laws of the Commonwealth of Pennsylvania.

(e) The word "license" as used in this ordinance shall mean the permit granted by Township to a junk dealer.

(f) The word "person" as used in this Ordinance shall mean any natural person, association, partnership, firm, corporation or any other business entity.

(g) "Screening," as used in this Ordinance shall mean the use of any natural objects, plantings, embankments, fencing, walls or structures, or a combination of any of these, which will effectively hide any deposit of junk so as not be visible from the road, street or highway, at all times of the year, by an occupant of a motor vehicle viewing from a height of 4-1/2 feet above the pavement.

(h) "Township," as used in **this** Ordinance shall mean "Berwick Township, Adams County, Pennsylvania. In this Ordinance the singular shall include the plural and the masculine shall include the feminine and the neuter.

SECTION 4. LICENSE

No person shall engage or continue to engage in business as a junk dealer or establish or operate a junk yard in the Township except as authorized by the Ordinance and **without first** having obtained a license therefor from the **Board**. The license shall be issued for a term of one year beginning January 1, and ending December 31 the same year, and shall be renewed annually on or before **the first day of**

January of each year. Such license shall state the name of the person to whom the license is issued and the location of the junk yard premises used or intended to be used, and shall be posted conspicuously upon such premises.

SECTION 5. APPLICATION FOR LICENSE

Application for a license or any renewal thereof shall be made and filed in writing by the proposed licensee with the Secretary of the Board, on a form supplied by the Board. The application shall include the following information:

(a) Name, address, and length of residence at such address of the applicant.

(b) Address of the premises upon which such business is to be conducted or upon which such junk yard is to be established or operated.

(c) Name of the owner or owners of said premises if other than the applicant.

(d) Whether applicant has been convicted within a period of three years prior to the filing of such application of any crime

involving the unlawful taking, receipt, use or other disposition of a motor vehicle, or a part or parts thereof.

(e) Statement that applicant will comply with the provisions of this Ordinance and any regulations adopted pursuant to this Ordinance.

(f) (For renewal applications) Statement that applicant, during the proceeding term of his license, complied with and maintained his premises in conformity with the provisions of this Ordinance.

(g) Description of the premises upon which the junk yard is to be established or operated, showing the following:

- (i) All set-back lines.
- (ii) Structures erected thereon.
- (iii) Dwellings erected upon adjacent premises and proximity thereto.
- (iv) Deed reference for the premises.

If the applicant is a partnership or association the applicant shall furnish the above information for every member thereof. If the applicant is a business corporation, 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 the applicant is a partnership or association, and by the President and Secretary if the applicant is a business corporation. A separate application shall be required for each junk yard conducted by a junk dealer.

SECTION 6. ISSUANCE OF LICENSE.

The Board, upon receipt of an application for license under this Ordinance, shall determine within sixty (60) days from receipt of said application, whether or not a license shall be issued or a renewal thereof shall be granted 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 of the property adjacent thereto and the effect of the proposed use, taking into consideration the health, welfare and safety of the residents of the Township and any potential hazard which may result to adjacent properties and structures thereon or to the citizens of the Township. No license shall be issued until the requisite license fee has been paid, as established in Section 7B of this Ordinance.

All licenses shall be issued for a term of one (1) year. No abatement of the annual license fee shall be made for any cause whatsoever. All licenses must be renewed annually. Applications for renewal must be in writing in such form as may be required and

accompanied by the license fee. Renewal applications are subject to complete re-examination and consideration by the Board of Supervisors of Berwick Township, or its agents, for continued compliance with the terms of this Ordinance. All licenses shall be issued upon the condition that the same may be summarily revoked in the event the said licensee be found to have given any false information or in any way misrepresented any material fact upon which the issuing authority has relied in granting such license. No refunds will be given in such case. No license will be issued for the use of a tract of land in excess of twenty (20) acres, excluding set back areas.

SECTION 7. BOND AND LICENSE FEE

A. A bond in the amount of Ten Thousand (\$10,000.00) Dollars shall accompany every application for license. The bond shall be executed by a surety company authorized by the Laws 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 of Ten Thousand (\$10,000.00) Dollars. The bond shall be renewed and refiled annually not later than January 5, of each year. The bond shall be executed in favor of the Township of Berwick and

shall be for one (1) year. It shall be the condition of the bond that if upon and after the issuance of such license the said licensee shall fully and faithfully observe and comply with the provisions of this Ordinance and any rules or regulations promulgated by virtue hereof by the Township Board of Supervisors, then the obligation of said bond shall be void; otherwise, it shall remain in full force, virtue and effect.

B. Every junk dealer shall pay an annual license fee for every license or renewal thereof issued hereunder. No abatement of the annual license fee shall be made for any cause whatsoever. No refund will be given in the event of the revocation of a license fee by the Board. The amount of the license fee shall be calculated in accordance with the following schedule by a determination of the amount of land to be used by the junk dealer for a junk yard, excluding all setback areas:

(a)	Less than 15,000 square feet	\$100.00
(b)	More than 15,000 square feet, but less than 40,000 square feet	150.00
(c)	More than 40,000 square feet	200.00

SECTION 8. LICENSE LIMITATION

No person licensed under this Ordinance as a junk dealer shall, by virtue of one license, establish, maintain, use or operate more than one junk yard within the Township. No person shall engage in business as a junk dealer in any place other than the place designated upon his license or maintain a junk yard in any place other than the place designated upon his license.

SECTION 9. TRANSFER OF LICENSE

No license issued by the Board shall be transferable or assignable by agreement, will, intestacy, or otherwise.

SECTION 10. REGULATIONS

Every junk dealer licensed under this ordinance shall constantly maintain the licensed junk yard premises in the manner prescribed by this Section and by any subsequent regulations adopted by 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 to residents nearby or a place for the breeding of rodents and vermin.

(b) The license issued under this Ordinance shall not be authority for the storage, handling, processing, or disposing of

wastes regulated under Act 241 of 1968, known as "Pennsylvania Solid Waste Management Act."

(c) Whenever any motor vehicle shall be received as junk in the licensed junk yard premises, all gasoline, oil, antifreeze, transmission fluid, shall be drained and removed therefrom. Said fluids shall be removed from the premise by a licensed hauler. All vehicle batteries shall be removed and stored in a safe, indoor facility.

(d) Junk shall be stored and arranged in a neat and orderly fashion 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 and inspection purposes. There shall be at last sixteen (16) feet open space between each row of junk. Junked motor vehicles may be stored end-to-end (a double row) for purposes of application of this spacing requirement.

(e) Every licensee hereunder shall keep and retain upon the licensed premises, for a period of forty-eight (48) hours after the purchase, acquisition or receipt thereof, every item or article of junk so purchased, acquired, or received by him and placed on the licensed premises. The licensee shall not disturb or reduce or alter the original form, shape or condition of the same until such period of

forty-eight (48) hours shall have elapsed.

(f) A junk dealer licensed under this ordinance shall not engage in burning of any material, junk, fluids, or any other substances upon the property.

(g) The junk yard premises to be licensed shall be set back a minimum distance of one hundred fifty (150) feet from the right-of-way lines of all abutting streets, roads or highways, a minimum distance of five hundred (500) feet from any existing dwelling house erected upon premises adjacent to the licensed premises but in any event not less than a minimum distance of hundred (100) feet from the property lines of all adjacent properties, and a minimum distance of one hundred (100) feet from any river, stream, run, creek, floodplain or other natural watercourse in the Township. The area between the setback line and such right-of-way lines, other property lines and natural watercourses, shall be at all times kept clear and vacant, free of weeds, debris, and junk, including any motor vehicle incapable of meeting State inspection requirements.

(h) No gasoline, oil or any other hazardous liquid or substance shall be stored less than a minimum distance of one hundred (100) feet from any river, stream, run, creek, marsh or other natural watercourse in the Township.

(i) In no event shall any junk be kept, stored or accumulated on a junk yard premises, nor any structure be erected to be used in connection with a junk yard, within five hundred (500) feet of any existing church, cemetery, school, playground, restaurant, motel or other place of public use or accomodation. Provided, nothing contained in this subsection shall apply to existing structures used in connection with junk yards presently established and operating which are otherwise in compliance with the provisions of this ordinance or to any junk presently kept, stored or accumulated thereon.

(j) A fence shall be provided for any junk yard which is within five hundred (500) feet of the nearest edge of the right-of-way of an abutting public road, street or highway. Such fence shall be constructed, erected and/or maintained at a height of not less than nine (9) feet and be of a chain link construction with steel support posts; shall be controlled by the setback provisions of subsection (g) hereof; and shall be completed within six (6) months after the effective date of this Ordinance. Provided, if in the sole and exclusive opinion of a majority of the Board, it should appear that the owner and/or owners and/or operator of a junk yard situated within the Township has clearly demonstrated that he is making a continuing bona fide effort to comply with the screening provisions of this

subsection, then and in such event the Board may, in its sole discretion, grant an extension of time to such owner or operator for the completion of such screening, upon receipt of a written letter from said owner or operator requesting such an extension of time.

(k) The land area between the above provided chainlink fence or wall or gate and any public highway, street, avenue or adjacent dwelling house shall be implanted with evergreens which shall be cultivated to reach sufficient height so as to provide a screen or barrier about said premises. The evergreens should be of a variety capable of attaining a continuous height of nine (9) feet within three (3) years, and planted along such fence or wall.

(l) A sign must be posted as to hours of business at the entrance of the junk yard. Said hours of business shall be limited to the hours between 7 a.m. and 9 p.m. , prevailing time, Monday through Saturday.

(m) The junk yard area shall be maintained so as to keep all grass and weeds mowed.

(n) The license under which the junk yard is operated shall at all times be conspicuously posted on the licensed premises, and the operating requirements as herein provided shall be complied with.

(o) No two or more vehicles or major parts thereof may be stacked on top of one another.

(p) A person licensed under this Ordinance shall provide designated off--street parking and loading facilities from a single entrance off any adjacent street, road or highway, which facilities shall have, at a minimum, a stone and gravel base, with blacktop or macadam surface and which shall be of a size sufficient to accommodate one parking space for the junk dealer operating the junk yard and an additional space for each employee of such junk dealer plus a sufficient number of additional spaces based upon the estimated number of patrons or customers to be served, but in any event not less than:

- (i) For junk yards of less than 15,0000 square feet - 3 spaces
- () For junk yards more than 15,000 square feet, but less than 40,000 square feet - 6 spaces
- (iii) For junk yards more than 40,000 square feet -12 spaces

(q) No junk, scrap, or vehicle bodies, motors or any other item of junk as defined in this Ordinance shall be stored, maintained, situate, placed or otherwise located within one hundred (100) feet of any river, stream, run, creek flood plain, ditch or any other natural water course within the boundary lines of Berwick Township.

(r) The ingress and egress to said property shall be from a state or township maintained road or highway; said ingress and egress shall be a minimum of eighteen feet wide containing a stone and gravel base and with a blacktop or macadam surface. The construction of said ingress and egress shall be of the same type and substance as provided for roadways in the Berwick Township Subdivision Ordinance.

SECTION 11. BUSINESS

No Licensee hereunder, nor any person, shall operate upon any of the streets, roads, alleys and ways of the Township of Berwick, whether from a vehicle or upon foot, as a scavenger or an itinerant buyer or seller of junk. No licensee hereunder shall engage in business as a junk dealer in any place other than the place designated upon his license. No more than one (1) license will be issued to any one junk dealer. The license issued shall be nontransferrable.

SECTION 12. CONVICTION

No license or renewal thereof shall be issued to any person who has been convicted of a violation of any of the terms and provisions of this Ordinance within any one license period, one (1) year.

SECTION 13. PENALTY

Any applicant whose initial or renewal application for license shall be denied for cause as hereinbefore specified, and every person who shall engage or continue to engage in business as a junk dealer in violation of any of the terms and provisions of this Ordinance or who shall keep or store upon his or other premises three (3) or more motor vehicles which are unlicensed, inoperable and have no valid current inspection sticker, without first having obtained a license therefor, shall within thirty (30) days after registered notice of such event, remove and clear from the premises or junk yard all junk therein as defined in this Ordinance. If, within such period of thirty (30) days, such denied applicant or violator fails to fully comply with the provisions of this section and the Township is required to do any work or expend any labor in the place or stead of such person, the cost therefor, plus twenty (20%) per centum thereof shall be paid by such denied applicant or violator and the Township may collect such actual cost plus twenty (20%) per centum from the bond required by Section V of this Ordinance. All such property remaining upon such premises after such period of thirty (30) days 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 said denied applicant.

SECTION 14. RECORDS

Every licensee hereunder shall provide and shall at all times keep and maintain records, in the **English language**, of the time of his purchase, acquisition or receipt of **junk**, a full and complete description, including trade names, serial or manufacturer's numbers, of 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 article or item of **junk** was purchased, acquired, or received. Such written records shall at all times be subject to the inspection of the supervisors and/or the police department of this Commonwealth for just cause. Such records shall be retained upon the licensed premises, for a period of five (5) years after the purchase, acquisition or receipt thereof, every item or article of **junk** so purchased, acquired, or received by him and placed on the licensed premises. The licensee shall not disturb or reduce or alter the original form, shape or condition of the same until such period of forty-eight (48) hours shall have elapsed.

SECTION 15. INSPECTIONS

Every **junk** yard premises maintained or proposed to be maintained within the Township shall be subject to inspection during reasonable

hours of the day by any member of the Board or a duly authorized agent thereof, , who shall be and hereby is authorized to make regular inspections of the junk yard premises of every licensee or proposed licensee hereunder for the purpose of determining whether said licensee has maintained and operated or will maintain and operate his premises in full compliance with the provisions of this Ordinance and such further regulations as may hereafter be adopted by the Township regulating and licensing junk dealers and the establishment and maintenance of junk yards. The Board or its duly authorized agent shall forthwith prosecute any discovered violation of this Ordinance.

SECTION 16. VIOLATIONS

Any person who violates any of the provisions of this Ordinance shall, upon conviction thereof by a summary proceeding, be sentenced to pay a fine of not less than One Hundred (\$100.00) Dollars nor more than Three Hundred (\$300.00) Dollars and the costs of prosecution; and in default thereof , shall be committed to the Adams County prison for a period of not more than thirty days for each separate offense. Each day's violation of any of the provisions of this Ordinance shall constitute a separate offense.

SECTION 17. ABATEMENT OF NUISANCES

In addition to the remedies provided in Section 12 above, any continued violations of this Ordinance constituting a nuisance in fact or which shall, in the opinion of the Board, constitute a nuisance, may be abated as such by proceedings against the violator by action in equity or law.

SECTION 18. SEVERABILITY

The provisions of this Ordinance shall be severable, and if any provisions thereof shall be held to be unconstitutional, invalid or illegal, by any court of competent jurisdiction, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as the intent of the Township that this Ordinance would have been enacted had such unconstitutional, invalid or illegal provisions not been included herein.

SECTION 19. REPEAL

All Ordinance or parts of Ordinances heretofore enacted, or intended so to be, in conflict herewith shall be and the same are hereby repealed. PROVIDED, HOWEVER: That a junk dealer actively operating a junk yard on the effective date of this Ordinance shall be

permitted to operate under the terms of the pre-existing Berwick Township Junk Yard Ordinance, which is intended to be superseded by this Ordinance through December 31, 1986.

SECTION 20. The Township of Berwick may take any appropriate action at law 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.

ENACTED AND ORDAINED this JOth day of Maas k, 1986.

Attest:

BOARD OF SUPERVISORS OF
BERWICK TOWNSHIP

ALA

By: *[Signature]*
Majore V. Garrett
Ver Hall