

ORDINANCE NO. 11-1

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF LYNN TOWNSHIP, LEHIGH COUNTY, PENNSYLVANIA, REGULATING THE ESTABLISHMENT, MAINTENANCE AND OPERATION OF JUNK DEALERS, JUNK YARDS, AND SCRAP YARDS WITHIN LYNN TOWNSHIP, PROVIDING FOR THE ISSUANCE OF LICENSES UNDER PRESCRIBED CONDITIONS, PRESCRIBING PENALTIES FOR VIOLATORS, PROVIDING FOR THE REVOCATION OF LICENSES IN THE EVENT OF NON-COMPLIANCE AND REPEALING PREVIOUS ORDINANCES.

WHEREAS, the Board of Supervisors ("Board") of Lynn Township ("Township") deem it to be in the best interest and general welfare of the residents of the Township to regulate junk dealers, junk yards and scrap yards and the accumulation of junked, scrap, and salvageable materials, so that these establishments and materials do not cause unreasonable inconvenience, annoyance, and injury to others in the legitimate enjoyment of their rights of person and property, and to protect the general health, welfare and safety of the community; and

WHEREAS, the Second Class Township Code, as amended, (53 P.S. Section 66532), authorizes Townships of the Second Class to regulate Junk Dealers, Junk Yards, and Scrap Yards; and

WHEREAS, the Board previously adopted Ordinance Nos. 64-3, 67-1 and 73-7, regulating the establishment and maintenance of Junk Dealers, Junk Yards and Scrap Yards; and

WHEREAS, the Board desires to more properly and more thoroughly provide for the establishment, maintenance and operation of Junk Dealers, Junk Yards and Scrap Yards consistent with its authority to protect the general health, safety and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Lynn Township as follows:

SECTION 1. TITLE. This Ordinance shall be known as "The Lynn Township Junk Dealer, Junk Yard and Scrap Yard Ordinance".

SECTION 2. DEFINITIONS. Except where otherwise indicated by context, the following definitions shall apply in the interpretation and enforcement of this Ordinance:

- A. Board of Supervisors - Supervisors of Lynn Township, Lehigh County, Pennsylvania.
- B. Salvage Yard - Another name for Junk Yard.
- C. Municipality - Shall mean the Township of Lynn, County of Lehigh, Pennsylvania.
- D. Person - Shall mean any natural or other person, firm, partnership, association, corporation, company or organization of any kind.
- E. Junk - Shall mean scrap, copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, iron, steel, and other old or scrap ferrous or non-ferrous material,

including wrecked, ruined, dismantled, abandoned, non-operable, disabled or junked motor vehicles or parts thereof, or motor vehicles no longer used as such.

F. Junk Yard - Shall mean yard, lot or place covered or uncovered, outdoors or in an enclosed building, containing junk as defined herein, upon which principally occurs one or more acts of buying, keeping, dismantling, processing, recycling, salvaging, selling or offering for sale, any such junk, in whole units or by parts for a business or commercial purpose, or for the storage of ten (10) or more junked motor vehicles outside of any building or enclosure, but shall not include a transfer station, licensed or permitted by the Commonwealth of Pennsylvania or a recycling center, licensed or permitted by the Township.

G. Preliminary Approval - Approval of the application by the Supervisors which permits the applicant to develop his yard as per the requirements of this Ordinance. Preliminary approval does not permit the applicant to operate the junk yard or accumulate junk in the approved location.

H. Junk Dealer - Another name for a licensee.

I. Licensee - Any person holding a valid, current license issued pursuant to this Ordinance or any predecessor Ordinance in the Township.

J. Junked Motor Vehicle - Shall mean any motor-driven vehicle, regardless of size, which is incapable of being self-propelled or is unable to move under its own power upon the public streets of the Township or is incapable of being utilized for its intended purpose; also included in this definition is any trailer, semi-trailer or any other article which would be classified as a vehicle under the Vehicle Code of Pennsylvania.

The term "junked motor vehicle" shall include any disabled, abandoned, non-operable, non-registered, wrecked, ruined or dismantled motor vehicle.

SECTION 3. LICENSE.

A. License Required. No person shall establish, operate or maintain or permit to be established, operated or maintained upon any property owned or controlled by him, a junk yard within the limits of the Township without having first secured a license from the Township, except as set forth elsewhere in this Ordinance. Such license shall be issued by the Township, or its representative, in accordance with this Ordinance.

B. Licensee with Multiple Locations. Any licensee establishing, operating or maintaining a junk yard at more than one location shall be required to have in effect a separate license for each such location.

C. Licensing Period; Renewal; Posting. Each license issued pursuant to this Ordinance shall be valid for a period of not more than one (1) year from the date of issuance. Each such license shall be subject to annual renewal provided applicable fees, fines and penalties have been paid and provided the junk yard continues to be operated and maintained in accordance with the provisions of this Ordinance. A current license shall be conspicuously displayed or posed upon the licensed junk yard at all times.

SECTION 4. CONTENTS OF APPLICATION FOR LICENSE. Every person seeking a license under this Ordinance shall make written application to the Township on a form to be provided by the Township.

The application shall include the following information:

A. The name and address of the applicant, if the applicant is a natural person; but if the applicant is another entity, the names and address of all officers, directors, partners or natural persons having primary responsibility for the lawful day-to-day operation of the junk yard or scrap yard.

B. The names and addresses of the owner or owners of the land upon which the junk yard is to be laid out.

C. Written consent of the owner or owners of the property, if different from the applicant.

D. A metes and bounds survey of the property showing the location of the property, together with a deed reference to the property, containing a layout of the proposed junk yard, and showing sufficient detail to establish compliance with this Ordinance, and the Township Subdivision and Land Development Ordinance and all other applicable Ordinances, laws and regulations. A junk yard or scrap yard shall have a minimum of 10 acres and a maximum of 20 acres, and shall front on a public road or have access to a public road by a right-of-way of at least 30 feet in width. Where a proposed junk yard fronts on or has access to a state highway, a Commercial Highway occupancy permit must be obtained from the Pennsylvania Department of Transportation.

E. Plans and specifications for all fencing, water facilities, screening, access driveways, sewage disposal system and storm water management.

F. Any other information, in any format and in as many copies, as the Township may from time to time require.

SECTION 5. PRELIMINARY APPROVAL. Any person wanting to establish, operate or maintain of a junk yard within the Township must seek a preliminary approval of an application by submitting an initial application and application fee in such an amount as may be prescribed by the Board after which:

A. The Board, or its designee, shall review the application and plans for completeness and for compliance with this Ordinance, other Township Ordinances and regulations and, any state or federal laws or regulations.

B. The Board, or its designee, shall inspect the site, 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 effect of the proposed use upon the Township, with specific reference to the general health, safety and welfare of the public and the residents of the Township.

C. The Board, in its sole discretion, may hold a public hearing on the application.

D. The Board of Supervisors may impose, in addition to the general requirements set forth in this Ordinance, such other terms and conditions as it may deem necessary to carry out the spirit and intent of this Ordinance and to effect the protection of the general health, safety, and welfare of the public and the residents of the Township.

E. After completion of the above items, and the determination by the Board that the applicant's plans and representations comply with this Ordinance and all other applicable Ordinances, laws, rules and regulations, the Board shall issue in writing a "preliminary approval" of the site.

F. Preliminary approval shall be in writing, and shall contain a statement that the application and plans as submitted are acceptable to the Board without modification; or shall contain a detailed and itemized list of other terms, conditions and requirements which must be met if the application is to be finally approved.

G. Preliminary approval shall commit the Township to issue a license, pursuant to this Ordinance, only after the site is, in fact, in complete compliance with the terms of the preliminary approval and the requirements of this Ordinance.

H. No junk yard, scrap yard or junk dealer shall conduct business on the site until a license is issued.

I. It shall be solely the obligation of the applicant to communicate to the Township, within the preliminary approval period, that the site has been made to fully comply with this Ordinance and the terms, conditions and requirements of the preliminary approval.

J. Preliminary approval shall be valid for not more than six (6) months, after which, if the site is not in fully compliance with this Ordinance and all other terms, conditions and requirements of the preliminary approval, the preliminary approval shall be revoked by the Board, and the Township shall not thereafter be required to issue a license automatically, at the expiration of six (6) months.

SECTION 6. APPLICATION FOR LICENSE RENEWAL. After a license has been issued for a junk yard in order to continue the operation and maintenance of such junk yard, the licensee shall be required to apply for license renewal, and pay a fee in such amount as may be prescribed by the Board, on a form to be provided by the Township. Such application for renewal shall be filed with the Township within such time as to

allow the Township an opportunity for on-site inspection of the junk yard prior to the date on which the license must be renewed; but in no event shall such application be filed fewer than sixty (60) days before the expiration of the current license. The Board shall, from time to time, establish rules and regulations governing the application for and issuance of renewal licenses.

SECTION 7. GENERAL OPERATING REQUIREMENTS. The following general requirements shall apply to all junk yards licensed in accordance with the provisions of this Ordinance:

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

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

C. All junk shall be stored and arranged so as not to interfere with the natural drainage of the land and shall be so stored and arranged as to prevent the accumulation of stagnant water and to facilitate access for fire-fighting purposes.

D. Maintenance shall be such that any adjacent stream or body of water shall not be polluted or damaged by the drainage or dumping of organic or inorganic waste materials or waste substances.

E. Junk shall be stored in piles within the enclosed area not exceeding eight (8) feet in height within fifty (50) feet of screening or fencing line. Junk shall be permitted to be piled not exceeding twelve (12) feet in height in the remaining area of the junk

yard. Junk shall be arranged so as to permit easy access to all such junk for fire-fighting purposes.

F. No combustible material of any kind not necessary or beneficial to the licensed business shall be kept on the premises, nor shall the premises be allowed to become a fire hazard.

G. No oil, grease, tires, gasoline, tar, petroleum products, shingles or other similar material or junk shall be burned within a junk yard at any time.

H. The licensee shall permit inspection of the business premises by the Township or its appointed representative at any reasonable time.

I. Any property not provided for and approved by the Township with the licensee shall not be utilized for junk yard operations.

J. All oil, antifreeze, gasoline, transmission fluid and other vehicular fluids shall be drained from all vehicles before such vehicles are stored as scrap in the junk yard; and all such fluids shall be properly containerized, stored, transported and disposed of in the manner or manners prescribed by or consistent with regulations promulgated by the Pennsylvania Department of Environmental Protection in Title 25, Chapter 75, Pa. Code relating to solid waste management, and in regulations promulgated by the United States Environmental Protection Agency at 40 CFR, Subchapter I. Parts 240-280, relating to solid waste, or any other applicable laws or regulations pertaining to solid waste or solid waste management.

K. All spare tires not being used for a useful purpose must be covered by a tarpaulin and not left exposed to the weather or enclosed within a structure.

SECTION 8. PHYSICAL CHARACTERISTICS.

A. The area used for a junk yard shall be completely enclosed with a solid board or metal fence, or a mound of ground, with a minimum height of ten (10) feet; or by a screen of trees; or by a combination of the above, as approved by the Board. All fences and screening shall be of sufficient height to screen the junk yard from view of adjacent properties and highways. All fences and screening proposed must be approved by the Board, who may approve such fencing or screening as may be deemed necessary in view of natural contours, features and requirements. Tree screening utilized shall follow the following guidelines:

1. A minimum of two rows of trees, shrubs or other vegetation, not less than fifty (50%) percent evergreen materials, shall be planted to produce the effective visual barricade.
2. At least two different species of trees, shrubs or other vegetation shall be utilized. Selected species shall exhibit different tolerances to insect and disease.
3. Species selected must be capable of producing the effective visual barrier, ten (10) feet in height, within five (5) years of planting.
4. Prompt replacement of any dead species shall be required.

B. The required fencing and screening shall be set back the following minimum distance from the property line or street:

1. Solid fencing - 25 feet from street right-of-way and 25 feet from all property lines.
2. Tree screening - 25 feet from the street right- of-way and 25 feet from all property lines.

The area between the property line or street right-of-way and the fence or tree screening shall be kept clean and vacant at all times.

C. All entrances and exits into and from the salvage yard shall have gates which shall be closed and locked when the junk yard is not in operation. All entrances must meet the site distance requirements of the Department of Transportation, and the Township Subdivision and Land Development Ordinance.

D. Sufficient on site parking shall be provided for loading and unloading vehicles as well as for employee and customer parking.

E. It shall be the responsibility of the junk yard owner or operator to maintain the screening established by it, doing such painting and repairs as to keep any fences, walls or other structural material in good appearance. Plant material shall be watered, pruned, cultivated and mulched, treated for insect and disease control, and given any required maintenance to keep all plants in healthy condition. Dead plants shall be removed immediately and shall be replaced during the next spring or fall planting season. Replacement plants shall be at least as large as the initial plants and of the same species and quality, unless approval for substitution is received from the Township.

F. Failure to maintain screening shall result in the revocation of the junk yard license.

SECTION 9. EXTENSION OR ENLARGEMENT OF EXISTING JUNK YARDS. Any person wishing to extend or enlarge the area of an existing junk yard shall make application for a new license in accordance with the provisions of this Ordinance, and will be required to comply with all provisions of this Ordinance as if he were applying for a license for a new junk yard.

SECTION 10. ASSIGNMENT AND TRANSFER. No license issued under this Ordinance shall be assigned or transferred to any other person without the express written authorization of the Board. Any person wishing to transfer or assign such license shall make a written request to do so, directed to the Board and setting forth the name and address of the transferee and the date the transfer is expected to be effective. Such written request shall be submitted together with a transfer fee, the amount of which shall, from time to time, be determined by the Board; and such transfer fee shall not be returned, whether or not the transfer or assignment of the license is authorized. Such written request must be submitted at least sixty (60) days prior to the date the transfer is expected to be effective.

SECTION 11. REVOCATION AND SUSPENSION OF LICENSE. The Board shall suspend any license issued hereunder upon failure of any licensee to comply with, or to maintain compliance with, or for violation of any provision, standard or requirement of this Ordinance. The Township shall notify the licensee, in writing of any section or sections of this Ordinance which the Township or its representative believes to have been violated. Any notice provided for herein may also identify a reasonable period of

time within which the licensee may effect compliance without prosecution. Any notice provided for in this section may be served personally upon the licensee; or may be posted conspicuously upon the property for which the license has been granted; or may be posted conspicuously at the address of the licensee as shown on the application; or may be sent to the licensee by certified or registered mail to the address shown on the application.

SECTION 12. FEES. Application fees, renewal fees, transfer fees and any other fees shall be established, from time to time, by Resolution of the Board of Supervisors.

SECTION 13. RULES AND REGULATIONS. The Board may, from time to time review or alter the rules and regulations, the application form, renewal application form, and any other forms reasonable and necessary to the proper and effective administration of this Ordinance.

SECTION 14. VIOLATIONS. It shall be unlawful for any person to violate any of the provisions of this Ordinance. It shall further be unlawful for any person to establish, operate or maintain a junk yard, scrap yard or junk dealership after a preliminary approval has been granted but before a license has been issued. It shall be unlawful for any person to misrepresent material facts in any application or renewal application submitted under this Ordinance. It shall be unlawful for any applicant or licensee to fail to notify the Township if said licensee is ever cited by County, State or Federal Authorities for alleged violations of law, rules or regulations relating to the operation of junk yards.

SECTION 15. INSPECTIONS. The Board or its duly authorized representative, shall be permitted to enter and inspect the premises of any licensee or any applicant for preliminary approval at any reasonable time and with no notice.

SECTION 16. PENALTY FOR VIOLATION. Any violation of this Ordinance or failure to comply with any provision or provisions of this Ordinance shall constitute a summary offense. Any person, partnership or corporation who or which 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 \$1,000.00, and in default of payment of any fine levied hereunder, such person, the members of such partnership or the officers and directors of such corporation, shall be liable to imprisonment for not more than ninety (90) days. Each day that a violation of this Ordinance exists shall constitute a separate offense. All fines collected for the violation of provisions of this Ordinance shall be paid over to the Township.

SECTION 17. REPEALER. Ordinance Nos. 64-3, 67-1, and 73-7 are hereby repealed in their entirety, except as to any junk yard, salvage yard or junk dealer possessing a current valid license issued under those Ordinances, which shall be exempt from all new provisions of this Ordinance so long as said license is continuously renewed.

SECTION 18. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and an independent provision, and such holding shall not affect the validity of the remaining portions hereof. It is hereby declared to be the intent of the Board that this Ordinance

would have been adopted had such unconstitutional, illegal, or invalid section, subsection, sentence, clause, phrase or portion not been included herein.

SECTION 19. WAIVER. The Board may, in their sole discretion, waive a provision or requirement of this Ordinance under exceptional circumstances, but only where the waiver will not distort the overall concept of a regulated junk yard as contained herein, and will not adversely affect the general health, safety and welfare of the public.

SECTION 20. EFFECTIVE DATE. This Ordinance shall become effective five (5) days after the adoption thereof.

ORDAINED AND ENACTED, this 10th day of February 2011 in lawful session duly assembled.

ATTEST:

BOARD OF SUPERVISORS OF
LYNN TOWNSHIP

Tommy White
Secretary

By: Brian C. Dietrich
Brian C. Dietrich, Chairperson

By: Kermit E. Delong, Jr.
Kermit E. Delong, Jr., Vice-Chairperson

By: David C. Najarian
David C. Najarian, Member