

ORDINANCE
REGULATING JUNK AND JUNKYARDS IN UPPER MIFFLIN TOWNSHIP
CUMBERLAND COUNTY PENNSYLVANIA

In order to promote and protect the health, cleanliness, sanitation, and general welfare of the residents of Upper Mifflin Township, Cumberland County, Pennsylvania, the Board of Supervisors of said township, pursuant to the authority of sections 1529, 1532, 1601 and 2101 of The Second Class Township Code (Pa. Stat. tit. 53, pt. X, ch. 141), hereby enacts and ordains:

SECTION 1 – Definitions

Unless otherwise expressly stated, the following words and phrases shall be construed, for the purposes of this Ordinance, to have the meanings herein indicated. Undefined terms within this Ordinance shall be construed as having their plain meaning:

- (A) Applicant – a person, as defined in Section 1H of this Ordinance, who has applied or will apply for a license, as defined by Section 1F of this Ordinance.
- (B) Board – refers to The Board of Supervisors of Upper Mifflin Township
- (C) Junk – any and all forms of waste, trash, scrap, discarded materials or articles or parts thereof. This definition shall also include, but not be limited to:
 - (i) scrap or corrugated metal;
 - (ii) used, scrapped, or abandoned building materials;
 - (iii) inoperable, scrapped, abandoned, or junked motor vehicles or parts thereof;
 - (iv) discarded or otherwise unused paper, paper products, glass, glass products, or containers; and
 - (v) inoperable machinery, appliances, furniture, farm equipment, or other similarly nonfunctional equipment.
- (D) Junk dealer – any person who shall engage in the business of selling, buying, salvaging, or dealing in junk or who maintains or operates a junkyard within the Township of Upper Mifflin.
- (E) Junkyard – an area of land, with or without buildings, used for the storage or sale of junk.
- (F) License – the permit granted by the Board of Supervisors to a person who operates a junkyard.
- (G) Licensee – a person, as defined in in Section 1H of this Ordinance, who has received a permit by the Board of Township Supervisors to operate a junkyard in Upper Mifflin Township.
- (H) Person – an individual person, persons, a partnership, an association, a corporation, a joint stock company, a trust, an unincorporated association, or any other group or legal entity.
- (I) Township – refers to Upper Mifflin Township.

SECTION 2 – Strictly prohibiting discard of junk or trash.

No person shall discard any manner of junk as defined in Section 1C of this Ordinance or any other manner of trash, rubbish, ashes, garbage, or other discarded articles of any kind whatsoever on or upon or within twenty-five (25) feet of any public road, bridge, or drainage facility within the Township.

SECTION 3 – License requirement.

No person shall operate as a junk dealer or establish or maintain a junkyard or dump upon any property, public or private, within the Township, without first paying a fee to obtain a license as provided and in accordance with the requirements of this Ordinance.

- (A) The fee shall be paid to the Township for the use of the Township.
- (B) The license shall be issued for the twelve-month period beginning January 1 and ending December 31 of each calendar year.
- (C) Each license must be renewed annually prior to the first day of January each year.

SECTION 4 – Application for and issuance of license.

- (A) The license provided for in this Ordinance shall be issued by the Board after written application shall be made by the person desiring to be licensed. The required details for the license shall be set by the Board and enumerated within a form made available to applicants by a representative of the Board.
- (B) Upon receipt of an application for a license, the Board shall issue or refuse to issue a license according to the terms of this Ordinance.
- (C) In the event the Board issues a license, the Board may impose upon the applicant 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.
- (D) Decisions to initially issue, renew, or deny licenses and any conditions attached thereto will be made during the Board’s monthly public meeting.

SECTION 5 – License fee.

The license fee shall be paid immediately upon issuance or renewal of the license. This fee, which may be amended from time to time by resolution of the Board, shall be as follows:

- (A) Operation of a junk yard or dump or automobile graveyard occupying one-fourth (1/4) of an acre or less: \$150.00 per year.
- (B) Occupying more than one-fourth (1/4) of an acre but not more than one (1) acre: \$300.00 per year.
- (C) Occupying more than one (1) acre: \$750.00 per year.

SECTION 5.1 – Fees for continuation of previous license(s).

Licenses held prior to passage of this Ordinance may be renewed according to the fees previously required for renewal of junkyard licenses (less than 1/4 acre, \$10.00; 1/4 acre to less than 1 acre, \$25.00; more than one acre, \$50.00) provided that:

- (A) The licensed property was consistently, validly licensed prior, during, and after the passage of this Ordinance, without a lapse in the junkyard license;
- (B) The renewal is made by the same licensee who held the junkyard license for the property licensed in accordance with Section 5.1(A) of this Ordinance;
- (C) The renewing licensee does not seek transfer of the license within six months of renewal under this section; and
- (D) The renewing licensee does not engage in any other behavior inconsistent with this section, such that a renewing licensee would acquire renewal for a lower fee by way of a conflict of interest, change in business name, or any other deceptive acts meant to defeat the purpose of this Ordinance.

SECTION 6 – License limitation and transferability.

- (A) The license provided for in this Ordinance shall be for one (1) place of business only, and if any person, public or private, desires to operate in more than one (1) location in the Township, separate licenses must be obtained for each location.
- (B) No license, once issued by the Board, shall be transferable unless said transfer is approved by the Board and a transfer fee of \$80.00 paid to the Township.
- (C) No person shall be required to pay both a transfer fee and a license fee in the same year as the transfer is approved by the Board and transfer fee paid. Fees for the subsequent annual renewal of the license, once transferred, shall conform with Section 5 of this Ordinance.

SECTION 7 – Regulations; prohibited activities.

Every licensee under this Ordinance shall establish, maintain, and operate the licensed premises as hereinafter provided:

- (A) The licensee shall maintain a solid fence, or an evergreen screen, planted six (6) feet on center, or similar solid growing screening, which fence or screening shall extend along the road frontage of such licensed premises (except for no more than two (2) entrances and exits not more than fifteen (15) feet wide) set back a distance of twenty-five (25) feet from the edge of the right of way, and alongside lot lines for a longitudinal distance of twenty-five (25) feet from the front fence, and set back ten (10) feet from any side lot line, such fence shall be five (5) feet in height or screening capable of becoming five (5) feet in height.
- (B) No junk or abandoned vehicle shall be left along any public road or outside the fences referred to in this section.
- (C) No burning or melting of any type of material shall be permitted except in closed incinerators constructed for such purposes.
- (D) The licensed premises shall be so maintained so as to prevent the breeding of rats or other vermin and shall be kept mowed and free from the collection of stagnant water.
- (E) No licensed premises shall be maintained within eight hundred (800) feet of any school or church premises.

SECTION 8 – Violations and penalties.

- (A) Any person, public or private, violating any of the provisions of this Ordinance shall be brought before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The municipal solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa.R.Crim.P. No. 83(c) (relating to trial in summary cases). The Board may prescribe criminal fines not to exceed one thousand dollars (\$1,000) per violation and may prescribe imprisonment to the extent allowed by law for the punishment of summary offenses.
- (B) Each day during which a violation of this Ordinance is committed, maintained, or allowed shall constitute a new and separate offense.

SECTION 9 – Abatement of nuisance.

In addition to the penalties provided for in Section 8 hereof, the Board or any person, may institute proceedings in a court of equity to abate and remove said violation of this Ordinance if, in their opinion, said violation may constitute a nuisance.

SECTION 10 – Revocation of license and remedies available.

In the event any licensee shall operate in violation of the provisions of this Ordinance, the Board of Supervisors may immediately revoke said license and pursue either or both of the remedies provided in Sections 8 and 9 of this Ordinance.

SECTION 11 - Abatement after license revocation or nonrenewal.

In the event that a junkyard license is revoked or not renewed, the owner of the property shall within 90 (ninety) days of the end of the license period remove all junk from the property and as nearly as practicable shall restore the property to its prejunkyard condition.

SECTION 12 – Repealer, severability, and compliance with state and federal law.

- (A) All ordinances or resolutions, or parts of ordinances or resolutions, inconsistent herewith shall be, and the same are, hereby repealed.
- (B) Should any section or part or provision of any section of this Ordinance be declared invalid or unconstitutional by a Court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole, or of any other unaffected part or provision thereof; and the sections, or parts or provisions of any sections remaining, shall be and remain in full force and effect as though the section, part, or provision thereof declared invalid or unconstitutional had never been made a part of this Ordinance.
- (C) All provisions of this Ordinance are in compliance with applicable state and federal law. Any and all persons and entities affected by this Ordinance are likewise required to comply with applicable state and federal regulations; failure to do so will result in a violation of this Ordinance resulting in penalties allowed by this Ordinance and state and federal law.

SECTION 13

This ordinance shall become effective seven days after enactment.