ORDINANCE 1-94

## JUNKYARD ORDINANCE

### SECTION 1

Short Title. This ordinance shall be known and may be cited as the West Caln Township Junkyard and Refuse 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 West Caln Township, Chester County, Pennsylvania.

C. Junkyard. Shall mean any place where any junk as hereinafter defined, is stored, disposed of, or accumulated in excess of twelve (12) hours during any consecutive 7-day period of time. In addition, a "junkyard" shall include any place where more than one currently unregistered or uninspected motor vehicle shall be parked, kept or stored.

D. Board. Shall mean the Board of Supervisors of West Caln Township.

E. Junk. Shall mean any discarded material or article and shall include but not be limited to, scrap metal, scrapped or abandoned machinery, equipment, paper, glass, containers, and structures. In addition, "junk" shall mean motor vehicles no longer used as such or motor vehicles which are kept for the purpose of scrap metal or stripping of parts or motor vehicles which are unregistered or uninspected or motor vehicles which are in a state of major disassembly, disrepair or in the process of being stripped or dismantled.

F. Junk dealer. Shall mean any person, as hereinafter defined, who shall engage in the business of selling, buying, salvaging, and dealing in junk and who maintains and operates a junkyard within the Township of West Caln.

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

## SECTION 3

A. **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 in accordance with the schedule hereinafter set forth shall be paid to the Township for the use of the Township. The license shall be issued for the twelve month period beginning June 1, and ending June 1, of the following year, and each license must be renewed annually on or before the first day of June of each year. A separate license shall be maintained for each junkyard.

B. **Renewal of License.** Renewal of any junkyard license upon the expiration of such license, or after revocation, shall require conformity with all the requirements of the original licensing and the requirements of this ordinance. All renewal applications shall contain a certification that the applicant, during the preceding term of the applicant's license, did fully comply with and did maintain the licensed premises in full compliance with the provisions of this ordinance.

## SECTION 4

A. **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. Such license shall state the name of the person to whom such license is issued and the premises on which such business is to be conducted, or such junkyard is to be maintained. Such license shall be posted conspicuously upon the premises licensed thereunder.

B. **Contents of Application.** An applicant for license under this ordinance shall file with the Township Secretary a written application signed by himself, if an individual, by all partners, if for a partnership, and by the President or Chief Operating Officer of a corporation or other organization, upon forms provided by the Township Secretary for that purpose, together with the license fee as hereinafter prescribed. The application shall be sworn to by each of the signers before a Notary Public or officer authorized by law to administer oaths and shall include the following information or material:

(a) name, resident address, and telephone number of each individual owner, partner, or if a corporation or other organization, of each officer or director;

(b) trade names used during the previous five years by the applicant and each person signing the application, along with the location of prior establishments;

(c) names and addresses of employers of each person signing the application in the previous five years;

(d) the trade name and address of the business on behalf of which application is made and its telephone number, if assigned;

(e) the name, resident address, and telephone of each person employed or intended to be employed in the business as of the time the application is filed;

(f) exact address or location of the place where the business is or is proposed to be carried on, plus a survey of the entire premises and the actual premises to be used in connection with the business giving courses and distances in degrees and feet and showing all material features of the premises, including, but not limited to, adjoining roads, property lines, streams, buildings, and uses;

(g) a description of the materials with which any building to be used in connection with the licensed business are, or are to be made; a sketch giving distances, showing the location of such buildings on the business premises; and a diagram or plan giving distances and heights, showing floors, exits, entrances, windows, ventilators, and walls;

(h) A description of the nature of the business in which the applicant intends to be engaged (For example, storage, scrap metal, salvage, etc.);

(i) The date on which business is to commence or has commenced;

(j) A "Phase I" environmental survey conducted in compliance with American Society for Testing and Materials ("ASTM") Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, ASTM Standard E1527;

(k) If the applicant shall deal with motor vehicles, machinery or equipment, a plan of disposal of environmentally sensitive materials including but not limited to oil, fluids, tires and batteries.

(l) A certification that the applicant has not received any notices of violation of any environmental rules, regulations, ordinances or statutes from any governmental

authority, local, county, state or federal which remain uncorrected at the time of the application.

(m) Such other information as the Township Manager or the Board shall find reasonably necessary to effectuate the purposes of this ordinance and to arrive at a fair determination of compliance with the terms of this ordinance.

## SECTION 5

A. **Investigation.**

(a) Upon receipt of an application for a junk dealer's license as provided herein, the Township Secretary shall furnish copies of same to the Board, Chief of Police, the Fire Marshall and the Manager of the Township.

(b) The Chief of Police shall approve the application if he finds that the applicant's business responsibility and moral character is satisfactory and that all agents or officers of the applicant, if any, who will take part in the operations of such business are of good character and reputation and capable of operating the business in a manner consistent with the public health, safety, and good morals.

(c) The Fire Marshall shall approve the application if he finds the proposed or existing premises and equipment conform with the requirements of this ordinance and all applicable fire prevention laws.

(d) The Manager shall approve the application if he finds the proposed or existing buildings or equipment with which the junkyard is being or is to be operated conform to the requirements of the Township Building Codes and the requirements of the Township Zoning Ordinance.

(e) If any of the findings provided for in the previous sub-paragraphs are unfavorable to the applicant, the Township Manager shall, within 30 days after the filing of the application, notify the applicant that his application is disapproved and that no license will be issued. Upon request, he shall furnish the applicant with a brief written statement of the grounds upon which the application was disapproved. If the findings in the above sub-paragraphs are favorable to the applicant, the Board shall further consider the application as set forth in this Ordinance.

B. **Issuance of License.** Upon receipt of an application by the Township Secretary and the approvals of the Chief of Police, the Fire Marshall and the Township Manager, the Board shall issue a license or shall refuse to issue a license to the person applying therefor 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, 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.

**SECTION 6**

A. **License fee.** The License Fee shall be paid immediately upon the issuance or renewal of a license. The license fee shall be $300.00.

All fees for licenses under this Ordinance shall be subject to periodic review by the Board of Supervisors, who, by Resolution duly passed, may from time to time, adopt a fee schedule modifying the amounts payable for licenses under this ordinance.

**SECTION 7**

**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.

**SECTION 8**

**Transfer of License.** No license issued by the Board shall be transferable or assignable by the licensee to any other person by agreement, will, intestacy or otherwise, unless such a transfer or assignment 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. The provisions of this ordinance pertaining to the initial application for a license shall apply to the transfer of a license as though the license transfer shall be an initial application for approval.

## SECTION 9

**Transfer Fee.** In the event the Board shall approve the transfer of a license the transferee shall immediately pay to the Township a transfer fee of Five Hundred ($500.00) Dollars.

## SECTION 10

**Records.** Every person, licensed under this ordinance, 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 or receipt, and the person from whom such article or material was purchased, received or handled by such person shall at all times be subject to the inspection of any official of the Township.

## SECTION 11

**Delay in Disposal.** Every person licensed under this ordinance shall keep and retain the upon licensed premises for a period of forty-eight (48) hours after the purchase or receipt thereof, all junk received or purchased by him, and he shall not disturb or reduce the same or alter the original form, shape or condition until such period of forty-eight (48) hours shall have elapsed.

## SECTION 12

**Regulations.** Every person licensed under this ordinance shall constantly maintain the licensed premises in accordance with any special provisions imposed by the Board and in the manner prescribed by this section and 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 of residents nearby or a place for the breeding of rodents and vermin. No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitos. In addition, weeds and vegetation on the premises, other than trees, shall be kept at a height of not more than six (6) inches.

B. No garbage or other organic waste shall be stored in such premises.

C. Whenever any motor vehicle, machinery or equipment shall be received in such premises as junk, all gasoline, oil, air conditioning refrigerant or any similar potentially hazardous substance shall be drained and removed

therefrom. Disposal or storage of such liquids shall be in a manner deemed acceptable to the Board upon advice from the Township Engineer or Fire Marshall; such liquids shall not be deposited into the ground.

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

Gasoline in an amount not exceeding ten (10) gallons may be stored above ground in said junkyards provided the same be placed in containers approved by the Board. (All other gasoline which is kept in the premises shall be stored underground, which underground storage must be approved by the Board.)

D. 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, and to facilitate access for fire-fighting purposes.

E. All junk kept, stored, or arranged on the licensed premises shall at all times be kept, stored and arranged within the junkyard as described in the application for license hereunder and as limited under paragraph (D) above.

F. No junk or other material shall be burned on the premises.

G. The premises to be licensed shall be set back a minimum distance of twenty-five (25) feet from the right-of-way lines on all streets or roads and a minimum distance of twenty-five (25) feet from all other property lines. The area between the set back line and the right-of-way line and all streets and roads and all other property lines shall be at all times kept clear and vacant.

H. No space not covered by the license shall be used in the licensed business.

I. The area on the premises where junk is kept, other than indoors, shall be enclosed, except for entrances and exits, with a solid, vertical masonry or metal wall of uniform design, texture and structure or fence of heavy duty steel and supported upon steel posts of a minimum height of 6 feet measured from the ground level. Entrances and exits shall not be wider or more numerous than reasonably necessary for the conduct of the licensed business. The Board of Supervisors may, in their discretion, waive the requirements of this subsection

12 I in the event the configuration, topography or other features of the property make the requirements of this subsection 12 I inapplicable or unnecessary.

J. The licensee shall permit inspection of the business premises by the Township Manager, or his duly appointed designee, or the Chief of Police, or any member of the Township Police Department, the Fire Marshall, or any member of the Township Fire Department, at any reasonable time.

K. No item of junk shall be stored, maintained, situated, placed or otherwise located within any designated flood plain area or within 100 feet of any river, stream, run, creek, irrigation ditch or other natural water course.

**SECTION 13**

**Revocation; Violations.**

A. The Board of Supervisors of the Township may and is hereby authorized to suspend or revoke a license for failure of the licensee to comply with, or to maintain compliance with, or for a licensee's violation of, any provision standard or requirement of this ordinance. Within five (5) days exclusive of Saturdays and Sundays, the Board of Supervisors shall notify the licensee of its intended action. Such notice to the licensee shall contain an itemization of the section or sections of this ordinance alleged to have been violated, along with a sufficient summary of the alleged violation to put the licensee on notice of the allegations made. The notice herein required shall be personally delivered to the licensee, or shall be sent to the licensee by certified or registered mail, at the licensee's last known address, as contained on the application for license. The notice to the licensee shall, in addition to the requirements set forth above, contain a hearing date, which date shall be not less than five (5) nor more than thirty (30) days from the date of the notice, and shall further advise licensee of his right to be represented by counsel.

B. All decisions of the majority of the Township Supervisors shall be considered adjudications under the Local Agency Law.

C. The Board of Supervisors or the Township Manager may, and are hereby authorized to, institute summary proceedings, in accordance with the applicable Rules of Court for violations of this ordinance. This action shall be brought in the name of the Township and any person convicted of operating a junkyard who does not have a

current valid license, has a license which is under suspension or revocation, or violates any other provisions of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than $300 and costs of prosecution and, in default of such fine and costs, the person shall undergo imprisonment for not more than thirty (30) days. A separate offense shall be deemed committed on each date on which, or during which, a violation occurs or continues.

**SECTION 14**

**Abatement of Nuisances.** In addition to the remedies provided in Section 13 above, any continued violations of this ordinance which shall constitute a nuisance in fact or which shall in the opinion of the Board constitute a nuisance may be abated by proceeding against the violator in a court of equity for relief.

**SECTION 15**

**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 16**

**Repealer.** All ordinances or parts of ordinances in conflict conflicting with any of the provisions of this ordinance are hereby repealed insofar as the same affects this ordinance, including but not limited to, any prior ordinances.

**Effective Date:** This ordinance shall become effective five (5) days after final passage and approval by the Board of Supervisors.

**ORDAINED AND ENACTED** finally into law by the Board of Supervisors of the Township of West Caln this 10TH day of JANUARY, A. D., 1994.

BOARD OF SUPERVISORS
TOWNSHIP OF WEST CALN
Chester County, Pennsylvania

Attest:

Secretary

Chairman

Supervisor

Joseph P. Ness

Supervisor