

## CHAPTER 10

### HEALTH AND SAFETY

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*[added by Ord. No. 071408, 7/14/08]*

## Part 1

### Fences and Walls

§101. Nuisances Prohibited. The erection of a fence or wall in violation of the provisions of this Part is hereby declared a nuisance. In addition to the other penalties provided for herein, the Township shall be entitled to pursue any proceedings in a court of law or equity for restriction or elimination of said nuisance and enforcement of the terms of this Part. [Ord. 1-101088, 10/10/1988, §I]

§102. Zoning Ordinance. Provisions of this Part shall, to the extent inconsistent therewith, supercede The Zoning Ordinance of Clay Township. [Ord. 1-101088, 10/10/1988, §II]

§103. Definitions. As used herein the following terms shall have the following definitions.

- a. Decorative Fence. A fence surrounding a flower garden, rock garden, vegetable garden or similar facility that is no higher than eighteen (18) inches or a rail type fence along one side of a property no higher than four (4) feet or a corner post with rail fencing extending from the corner post no longer than fifteen (15) feet in length.
- b. Fences and Walls. Permanent fence, wall, hedge, and trees used as a hedge.
- c. Farms. Any tract of land containing twenty-five (25) acres more or less used predominantly for farming purposes. [amended Ord. 10-14-02-A, 10/14/02, §1]

[Ord. 1-101088, 10/10/1988, §III]

#### §104. Prohibited Acts.

- a. No fence or wall in excess of forty-eight (48) inches in height shall be permitted in any front yard (as that term is defined under The Zoning Ordinance of Clay Township) at any place in the Township of Clay.
- b. No fences or walls in excess of sixty (60) inches in height shall be permitted in any rear or side yards (as those terms are defined in The Zoning Ordinance of Clay Township) at any place in the Township of Clay.
- c. Except as to farms, no fence or wall shall be located within any ultimate street right-of-way at any place in the Township of Clay.
- d. As to farms, no fence or wall shall be located any closer than the lesser (closer) of the Township's or State's right-of-way or seven (7) horizontal feet from the edge of the paved cartway.
- e. No fence or wall of any type that shall in any fashion block or

significantly inhibit sight through said fence or wall shall be constructed within any clear sight triangle at any road intersection at any place in the Township of Clay.

- f. Notwithstanding the foregoing, Decorative Fences shall be permitted within the front yards at any place in the Township of Clay.
- g. No person shall erect any fence or wall (excluding, however, Decorative Fences) without first having acquired a permit from the Township's Permit Officer. No fee shall be charged for the permit to be issued by the Township Permit Officer.
- h. No fences shall be constructed or maintained that is solid at any place in the Township of Clay. As used herein the term "Solid" prohibits the erection and maintenance of a fence which does not have an open area to solid area ration of at least two to one. [Ord. 1-101088, 10/10/1988, §IV]
- i. All fences shall be located a minimum of three (3) feet from all side and rear lot lines, unless applicant presents to the Township's Permit Officer a written verification (in a format acceptable to the Township) from all adjoining property owners, permitting said fence to be closer to the said lot lines. [Added by Ord. 06-14-93, 06/14/1993, §I]

§105. Exceptions. The Board of Supervisors, following a hearing, may grant exceptions to the foregoing requirements upon proof presented that the imposition of the aforesaid requirements would impose an unreasonable and unnecessary burden upon the property owner and there are unique physical circumstances relating to the premises that justify such a request. [Ord. 1-101088, 10/10/1988, §V]

§106. Permit Fees. Permit fees shall be set, from time to time, by Resolution of the Clay Township Board of Supervisors. [amended by Ord. 10-14-02-A, 10/14/02, §2]

§107. Farms. As to farms, a permit must be obtained prior to the erection of a permanent fence or wall. No permit is required for the erection of a non-permanent fence on a farm. Farms are exempt from the permit fee required pursuant to Section 106. [amended by Ord. 10-14-02-A, 10/14/02, §3]

§108. Violation and Penalties. Any person violating any of the terms of this Part, including, but not limited to, the failure to acquire a required permit in advance of erection of a fence or wall, shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, be fined Twenty-Five Dollars (\$25.00) per day for violation, and shall pay all court costs and reasonable attorney fees incurred by the Township. [Ord. 1-101088, 10/10/1988, §VI as amended by Ord. 061096, 06/10/1996, §1] [amended by Ord. 10-14-02-A, 10/14/02, §4]

§109. Validity. If any part or section of this Part is determined to be illegal or unconstitutional in any respect, the remaining part shall remain in effect. It is the intent of the

Board of Supervisors that the remaining part or section would have been adopted in the absence of the illegal or unconstitutional portion. [Added by Ord. 061096, 06/10/1996, §3]  
*[amended by Ord. 10-14-02-A, 10/14/02, §5]*

## Part 2

### Junk Yards

§201. Title: This Part shall be known and may be cited as “Clay Township Junkyard and Refuse Ordinance.” [Ord. 2, 09/02/1966, §1]

§202. Definitions: Unless otherwise expressly stated, the following words and phrases shall be construed throughout this Part to have the meanings herein indicated:

- a. Person. Shall include any partnership, association, firm, corporation, municipality, school district or other entity.
- b. Township. Shall mean Clay Township, Lancaster County, Pennsylvania.
- c. Board. Shall mean the Board of Supervisors of Clay Township.
- d. Junkyard. Shall mean any place any junk as hereinafter defined is bought, sold, stored, accumulated, wrecked, salvaged, dealt in, or disposed of.
- 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, structures, etc. It shall not include, however, refuse or garbage kept in properly closed container for the purpose of prompt disposal nor include organic wastes normally incident to agricultural operations. The presence of three (3) or more unlicensed motor vehicles outdoors on the same property shall constitute a presumption of “junk” unless the owner shall show that the vehicles are there for some purpose other than for junk.
- f. Junk Dealer. Shall mean any person, as hereinafter defined who shall engage in the business of buying, selling, storing, accumulating, wrecking, salvaging, dealing in or disposing of junk, or any person who shall keep upon the premises of such person or any other person junk within the Township of Clay.
- g. License. Shall mean the permit granted to a person who buys, sells, deals in, stores, wrecks, salvages, accumulates or disposes of junk as hereinbefore defined. [Ord. 2, 09/02/1966, §2]

§203. Required License: No person shall act as a junk dealer or maintain a junkyard—either commercial or private for profit or not for profit—without first having obtained a license from the Board. The fee for the license shall be in accordance with the schedule hereinafter set forth in Section 206 and shall be paid to the Township for the use of the Township. Such license shall be issued for the twelve (12) month period, beginning September 1 and ending August 31, of the year of issue, which license shall not be effective beyond the annual renewal date therefor. Each license must be renewed annually on or before the first day of September of each successive year. [Ord. 2, 09/02/1966, §3]

§204. Application for License: The license provided for in this Part 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; the nature of the operation; and such other information as the Board may deem necessary for the proper consideration of the application. Applicant shall also submit therewith a plot plan of the premises used or to be used in connection with such license. The written application for license hereinabove mentioned shall be accompanied by a form, every question of which must be answered, which form will be supplied by the Board. *[Ord. 2, 09/02/1966, §4]*

§205. 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 therefor after an examination of the application and taking into consideration the suitability of the property proposed to be used for the purpose of the license, the character of the properties located nearby, and the effect of the proposed use upon Township—including, economic, health, public safety, esthetic and other effects. 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 Part as may be deemed necessary to carry out the spirit and intent of its Ordinance. Such license shall be posted conspicuously upon the premises licensed thereunder. *[Ord. 2, 09/02/1966, §5]*

§206. License Fee: The license fee shall be paid immediately upon the issuance or renewal of a license. The initial fee shall be pro-rated quarterly from date of issue. The amount of the license fee shall be calculated in accordance with the following schedule as determined by the actual land to be used by the person to whom the license is issued, excluding all set-back areas:

- a. Less than 14,000 square feet--\$50.00
- b. More than 15,000 square feet but less than one acre--\$100.00
- c. One acre or more--\$200.00

No license shall be issued for the use of a tract of land in excess of five (5) acres, excluding set-back areas. *[Ord. 2, 09/02/1966, §6]*

§207. License Limitation: No person licensed under this Part shall, by virtue of one license, keep more than one junkyard for the purpose of buying, selling, dealing in, storing, receiving, collecting, salvaging, wrecking, disposing of or accumulating 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 place designated upon his license. *[Ord. 2, 09/02/1966, §7]*

§208. Transfer of License: No license issued under this Part shall be transferable from one person to another except when the ownership of a licensed premises shall be changed. In any such case the new owner shall apply for a transfer of such license to him and shall pay a transfer fee of Ten (\$10.00) Dollars. *[Ord. 2, 09/02/1966, §8]*

§209. 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 Ten (\$10.00) Dollars. *[Ord. 2,*

09/02/1966, §9]

§210. Records: Every person licensed under this Part 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 or receipt or acceptance of any junk a description of every article or materials purchased, received or accepted by the licensee, the date and hour of such purchases, receipt or acceptance, and the person from whom said article or material was purchased, received, accepted or handled by such licensee. This record shall at all times be subject to the inspection of any official of the Township. [Ord. 2, 09/02/1966, §10]

§211. Delay in Disposal: Every person licensed under this Part shall keep and retain upon the licensed premises for a period of forty-eight (48) hours after the purchase or receipt thereof all junk received, accepted or purchased by the licensee; and the licensee shall not disturb or reduce the same or alter the original form, shape or condition or permit the same to be done by anyone else until such period of forty-eight (48) hours shall have elapsed. [Ord. 2, 09/02/1966, §11]

§212. Regulations: Every person licensed under this Part 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 resolution of the Board.

- a. Such premises shall at all times be maintained so as not to constitute a nuisance or a menace to the health, safety and welfare of the community or of the residents nearby or a place for the breeding of rodents and vermin.
- b. No garbage or other organic waste shall be stored in such premises.
- c. Whenever any motor vehicle or any part thereof shall be received upon such premises as junk, all gasoline and oil shall be drained and removed therefrom. Gasoline in an amount not exceeding ten (10) gallons may be stored above ground in said junk yards provided the same be placed in containers approved by the Board. All other gasoline which is kept in the premises shall be stored under ground, 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 junk yard as described in the application for the license hereunder and as limited under paragraph (d) above.
- f. A person licensed under this Part shall not burn more than one motor vehicle or its equivalent at any one time. No oil, grease, tires, gasoline or other similar material that might be dangerous or tend to produce obnoxious smoke or odors shall be burned within a junk yard at any time. Burning of vehicles must be attended and controlled at all times and be

conducted between sunrise and sunset. However, all fires upon the premises must be at a location of at least three hundred (300) feet from any right-of-way line of any street or road and at least two hundred (200) feet from all property lines of adjoining property owners,. Fires closer than three hundred (300) feet from the right-of-way line of any street or road or closer to any property line of any other property owner than two hundred (200) feet are strictly prohibited as dangerous, obnoxious, and detrimental to the health of the residents of the Township.

- g. The premises to be licensed shall be set back a minimum distance of seventy-five (75) feet from the right-of-way lines on all streets or roads and a minimum distance of seventy-five (75) 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, clean, neat, and vacant. However, this shall not prohibit trees or similar large growth nor shall it prohibit the maintenance of a landscaped area in lieu of a vacant area.
- h. When the Board shall deem it necessary and desirable, the premises to be licensed shall at the set back lines be enclosed by a fence of type and style to be determined by the Board or by evergreen screen plantings, or both. The Board may set forth the fence and planting requirements at the time of the issuance of a license or at the time of renewal or transfer of a license.

*[Ord. 2, 09/02/1966, §12]*

§213. Violations: Any person who shall violate any of the provisions of this Part shall upon conviction thereof by a summary proceeding be sentenced to pay a fine of not more than One Hundred (\$100.00) Dollars and the costs of prosecution, provided that each day's violation of any of the provisions of this Part shall constitute a separate offense. *[Ord. 2, 09/02/1966, §13]*

§214. Abatement of Nuisances: In addition to the remedies provided in Section 213 above, any continued violations of this Part 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 competent court. The cost of any abatement shall be recovered against the owner and/or occupier of the land in the same manner provided by law for the recovery of fines and penalties. *[Ord. 2, 09/02/1966, §14]*

§215. Cost of Abatement: The cost of any abatement shall be recovered against the owner and /or occupier of the land in the same manner provided by law for the recovery of fines and penalties. *[Ord. 2, 09/02/1966, §15]*

§216. Conflicting Ordinances: It is the intent of the Part to control should any of its provisions be more strict than any part heretofore adopted or hereafter adopted. The most strict provisions shall apply in all instances whether contained in this Part or in any other Part. *[Ord. 2, 09/02/1966, §16]*

§217. Cumulative Remedy: All remedies provided in this Part shall be cumulative and

shall be enforced in the same manner provided by law for the recovery of funds and penalties.  
*[Ord. 2, 09/02/1966, §17]*

§218 Validity: Invalidation of any of the provisions of this Part by a competent court of record shall not effect or impair the remaining provisions hereof. [Ord. 2, 09/02/1966, §19]

Part 3

Nonsmoking Policy

§301. Smoking Prohibited in Specified Cases. No person shall smoke or carry a lighted cigar, cigarette, or pipe in any of the Clay Township Municipal Buildings or Parks.

§302. Definitions. As used herein the following terms shall have the following definitions:

- a. Board: Shall mean the Board of Supervisors of Clay Township.
- b. Municipal Buildings. Shall mean those buildings owned or occupied by the Township used in providing municipal services, including, but not limited to, the Township Office Building, the police administrative office building and all maintenance buildings and surrounding parking lots.
- c. Park or Municipal Park: Shall mean all parks and recreational facilities and surrounding parking lots owned by the Township.
- d. Person. Shall include any individual.
- e. Smoking. Shall mean the lighting, holding or carrying or emitting or exhaling of smoke from a pipe, cigar, cigarette of any kind.
- f. Township. Shall mean Clay Township, Lancaster County, Pennsylvania.

§303. Enforcement. The Township Manager, the Township Police Department, the Board of Supervisors, and others specifically designated by the Board shall have the power to enforce the provisions of this Ordinance.

§304. Penalties. Penalties for the violation of this Article shall be as follows:

- a. First offense in any one year: A fine of \$25.00, plus costs.
  - b. Second offense: A fine of \$50.00, plus costs.
  - c. Third and subsequent offenses: A fine of \$75.00, plus costs.:
- [added by Ord. No. 071408, 7/14/08]