

Chapter 13

Licenses, Permits, and General Business Regulations

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Part 1**Junkyards****§13-101. Title.**

This Part shall be known as the “Junk Dealer, Junk, Salvage, and Scrap Yard Ordinance.”

(*Ord. 1-69, 3/10/1969, §I*)

§13-102. Definitions.

For the purpose of this Part, the following terms shall have the meanings respectively ascribed to them in this Section, unless from the particular context it clearly appears that some other meaning is intended:

Junk—any old iron, steel, brass, copper, tin, lead, or other base metals; old or used building materials; old cordage, rags, fibers, or fabrics; old rubber; old bottles or other glass; bones; waste paper or other waste or second-hand materials which might be prepared to be used again in some form; old vehicle parts or an automobile which does not have a current Pennsylvania State inspection sticker and is not fit for immediate highway use; and any other second-hand materials or items not intended to be repaired for reuse.

Junk dealer—any person who shall engage in the business of collection, accumulating, storing, buying, selling, offering for sale, dismantling, disassembling, processing, treating, handling, or dealing in junk.

Junk, salvage, or scrap yard—any yard, lot, tract of land, or place containing junk as herein defined, whether such junk is covered or uncovered or located outdoors or in an enclosed building, where there occurs one or more acts of collecting, accumulating, storing, buying, selling, offering for sale, dismantling, disassembling, processing, or treating any such junk, in whole or by parts, for a business or commercial purpose; provided, however, that there shall be excluded from this definition all materials or objects accumulated by a person and held and used by such person as an integral part of his own manufacturing process.

Person—any individual, firm, partnership, association, corporation, company, or organization, institution, cooperative enterprise, or any other legal entity which is recognized by law as the subject of rights and duties. In a provision of this Part prescribing a fine, imprisonment, or penalty, or any combination of the foregoing, the term “person” shall include officers and directors of a corporation or other legal entity having officers and directors.

(*Ord. 1-69, 3/10/1969, §II; as amended by Ord. 3-88, 9/2/1988, §1*)

§13-103. Limitations.

From and after the effective date of this Part, it shall be unlawful for any person to engage or continue to engage in business as a junk dealer, or to establish or maintain or continue to operate or maintain, whether as an owner of land, a lessee, or otherwise, a junk, salvage, and scrap yard, within the limits of Township, except as provided in

this Part.

(*Ord. 1-69, 3/10/1969, §III; as amended by Ord. 3-88, 9/2/1988, §2*)

§13-104. License.

All persons presently engaged or intending to engage in business as a junk dealer, or operating or maintaining or intending to establish or maintain a junk, salvage, and scrap yard within the limits of the Township of Heidelberg, shall obtain a permit from the Heidelberg Township Board of Supervisors, which permit shall be granted for a period of 1 year, except all permits shall expire on December 31 of the year in which they are granted. No permit issued by the Heidelberg Township Board of Supervisors shall be transferrable by the licensee to any other person unless such transfer is authorized by the Board of Supervisors; subject, however, to full compliance with this Part.

(*Ord. 1-69, 3/10/1969, §IV; as amended by Ord. 3-88, 9/2/1988, §3*)

§13-105. Fee.

A fee in an amount as established from time to time by resolution of the Board of Supervisors shall be paid upon the issuance of a permit and upon such renewal of a permit. The aforesaid fee shall be used to process application for permits and to defer the expense of inspection necessary to insure compliance with this Part.

(*Ord. 1-69, 3/10/1969, §V; as amended by Ord. 2010-1, 4/8/2010*)

§13-106. Application and Issuance of License.

1. Every applicant for a license under this Part shall make written application, on a form prescribed by the Township, to the Heidelberg Township Board of Supervisors, and the applicant shall present the written consent of the owner of the land or property to be used as a junk, salvage, or scrap yard where the applicant is not the owner. Upon receipt of the application for a permit to establish a business as a junk dealer, the application shall be reviewed by the Planning Commission, and the Planning Commission shall make recommendations to the Board of Supervisors regarding compliance of the applicant with the provisions of this Part, the Zoning Ordinance [Chapter 27] and any other applicable ordinances of the Township. An application for a permit shall be accompanied by a plan and such other descriptive materials sufficient to clearly portray the intentions of the applicant. The plan shall indicate the boundaries of the premises on which the business is to be located. [*Ord. 2010-1*]

2. The Board of Supervisors of the Township of Heidelberg shall have the power to deny the issuance of a permit, or to revoke or refuse to allow the renewal of a permit, for noncompliance with the provisions of this Part, other applicable ordinances of the Township or statutes.

(*Ord. 1-69, 3/10/1969, §VI; as amended by Ord. 3-88, 9/2/1988, §4; and by Ord. 2010-1, 4/8/2010*)

§13-107. Existing Establishments.

No junk, salvage, and scrap yard in existence on the effective date of this Part shall expand or extend its business beyond the boundaries presently occupied by the junk

presently existing on the premises, except in conformity with §13-108 hereof. A junk, salvage, or scrap yard in existence on the effective date of this Part shall be required to obtain a permit for continued existence.

(*Ord. 1-69, 3/10/1969, §VIII; as amended by Ord. 3-88, 9/2/1988, §6*)

§13-108. Regulations.

Every junk dealer licensed under this Part, shall maintain the licensed premises in accordance with the following provisions:

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 or vermin.

B. The license issued under this Part 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," 35 P.S. §6018.101 *et seq.*

C. Whenever any motor vehicle shall be received as junk in the licensed junk, salvage, or scrap yard premises, all gasoline shall be drained and removed therefrom.

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 firefighting and inspection purposes. There shall be at least 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. The junk, salvage, or scrap yard premises to be licensed shall be set back a minimum distance of 100 feet from the right-of-way lines of all abutting streets, roads, or highways, a minimum distance of 100 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 50 feet from property lines of all adjacent properties, and a minimum distance of 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.

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

G. In no event shall any junk be kept, stored, or accumulated on a junkyard premises, nor any structure be erected to be used in connection with a junkyard, within 500 feet of any existing church, cemetery, school, playground, restaurant, motel, or other place of public use or accommodation. Provided, that nothing contained in this subsection shall apply to existing structures used in connection with junkyards presently established and operating which are otherwise in compliance with the provisions of this Part or to any junk presently kept, stored, or accumulated thereon.

H. Screening, consisting of a solid fence, or chain-link fencing surrounded by 6-foot high arborvitae or other suitable vegetation set 3 feet apart, shall be provided for any junk, salvage, or scrap yard which is within 500 feet of the nearest edge of the right-of-way of an abutting public road, street, or highway. Such screening shall be constructed, erected, and/or maintained at a height of not less than 6 feet; shall be controlled by the setback provisions of paragraph .F hereof; and, shall be completed within 12 months after the effective date of this Part. Provided, that if in the sole and exclusive opinion of a majority of the Board, it should appear that the owner and/or operator of the junk, salvage or scrap 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 paragraph, 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 the said owner or operator requesting such an extension of time.

I. No two or more vehicle or major parts thereof may be stacked on top of one another.

J. A person licensed under this Part 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, and which shall be of a size sufficient to accommodate one parking space for the junk dealer operating the junk, salvage, or scrap 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:

- (1) For junkyards of less than 15,000 square feet—3 spaces.
- (2) For junkyards more than 15,000 square feet, but less than 40,000 square feet—6 spaces.
- (3) For junkyards more than 40,000 square feet—12 spaces.

(*Ord. 1-69, 3/10/1969, §IX; as amended by Ord. 3-88, 9/2/1988, §7; and by Ord. 2010-1, 4/8/2010*)

§13-109. Enforcement.

1. Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

2. The right to proceed in a court of equity for an injunction, either temporary or permanent, is hereby preserved and pursuit of any remedy or remedies, either consecutively or simultaneously, shall not be construed as an election of remedies.

(*Ord. 1-69, 3/10/1969, §X; as amended by Ord. 3-88, 9/2/1988, §8; by Ord. 2-89, 8/4/1989; and by Ord. 2010-1, 4/8/2010*)

Part 2**Community Antennae Systems****§13-201. General.**

No person, partnership, corporation, association, or firm shall engage in the business of providing a community antenna system, commonly known as a television cable service, within the Township of Heidelberg, Lehigh County, Pennsylvania, without having first complied with the provisions of this Part.

(Ord. 2-71, 7/2/1971, §I)

§13-202. Requirements.

No poles, cables, equipment, or wires for the construction, maintenance, and operation of community antenna systems shall be installed or the installation thereof commenced on any existing pole within the Township of Heidelberg until the proposed location, specifications, and manner of installation of such cables, equipment, and wires shall have been set forth upon a plot or map showing the existing poles, streets, alleys, or highways within the Township of Heidelberg where such installations are proposed and submitted in writing by any person, firm, partnership, or corporation desiring to operate a community antenna system, to the Heidelberg Township Planning Commission and approved by the Planning Commission and the Board of Supervisors.

(Ord. 2-71, 7/2/1971, §II)

§13-203. Installation and Maintenance.

In the installation of maintenance of such poles, cables, equipment, and wires, there shall be no interference with the public use of any street, alley, or highway more than necessary to enable the performance and the installation of maintenance work with proper economy and efficiency and the judgment of the Township of Heidelberg shall be deemed binding in this connection. When necessary, in order not to interfere unduly with traffic or the rights of the traveling public, the Supervisors of Heidelberg Township may determine the hours when such work shall be performed and fix a time when such work shall be completed.

(Ord. 2-71, 7/2/1971, §III)

§13-204. Responsibility of Antennae System.

The erection of any poles shall be subject to the consent and supervision of the Board of Supervisors and shall be at the operator's own cost and expense and the operator shall replace and properly repave that portion of any street pavement which may have been displaced or damaged by it and all replacement of street paving shall be in conformity with the specifications as set forth by the Supervisors of Heidelberg Township.

(Ord. 2-71, 7/2/1971, §IV)

§13-205. Placement of Poles, Equipment, Cables, and Wires.

All poles and equipment, cables and wires so attached to existing poles shall be

erected or constructed in a good safe order and condition and in accordance with the best engineering practices and safety requirements. Wires shall, in general, be placed only where service poles for light, telephone, and power lines have been or will be installed so as to preserve the prevailing character of neighborhoods and to maintain clear unobstructed streets as much as possible. Where a street crossing is necessary for transmission or home service lines, a minimum vertical height above the curb of 18 feet shall be maintained.

(Ord. 2-71, 7/2/1971, §V)

§13-206. Compliance.

The operator of the community antenna system and its successors, shall at all times fully indemnify, protect, and save harmless the Township of Heidelberg, its agents, servants, and employees from and against all claims, actions, suits, damages, and charges and against all loss and necessary expenditures arising from the erection, construction, or maintenance of the said works, or from the neglect or failure to maintain its said works in good order and condition. In the event there shall be failure or refusal to comply at any time with any part of this Part, or in the event that the business of the operator of the community antenna system and its successors should be discontinued voluntarily or involuntarily, then and in any said events said operator and its successors shall, at its own cost and expense, remove its said equipment, cables, and wires, erected or attached to such existing poles.

(Ord. 2-71, 7/2/1971, §VI)

§13-207. Approval by Board of Supervisors.

The privilege of constructing, maintaining, and operating a community antenna system within the Township of Heidelberg shall be granted by a resolution of the Board of Supervisors, which permission shall be exercised and maintained subject to the approval of the Board of Supervisors and may be refused upon said operator.

A. Failing to maintain its poles, cables, wires, and equipment erected pursuant to said ordinance across, through, in, and along the public streets, alleys, and highways within the limits of the Township of Heidelberg, County of Lehigh, and Commonwealth of Pennsylvania, in good and safe order and condition.

B. Failing to remove its cables, wires, and equipment from across, through, in, and along the public streets, alleys, and highways within the limits of the Township of Heidelberg, County of Lehigh, and Commonwealth of Pennsylvania, in accordance with this Part.

(Ord. 2-71, 7/2/1971, §VI)

§13-208. Nonexclusive Rights.

Any rights granted under this Part shall not be construed to be an exclusive grant to any one operator or a community antenna system so as to prevent the granting of similar privileges to others.

(Ord. 2-71, 7/2/1971, §VII)

§13-209. Permission from Entities and Persons to Use Poles, Facilities, or

Property.

Nothing herein shall be interpreted as meaning that the Township of Heidelberg conveys or gives the right to use the now existing poles or facilities or property of any utility, railroad, or private corporation, person, or partnership, without first obtaining written permission from said parties, which written permission shall be filed with the Secretary of Heidelberg Township before any erection or field work is performed.

(*Ord. 2-71, 7/2/1971, §IX*)

§13-210. Removal of Poles, Equipment, Cables, and Wires.

If at any time the facilities being used are ordered removed by the Supervisors of Heidelberg Township or by the utility, railroad, private corporation, person, or partnership now using such facilities and such facilities are not removed, then, upon 60 days notice from the Township of Heidelberg, the said wires, equipment, and cables being used at such location, shall be removed at the expense of the operator of the community antenna system and its successors within said time as ordered and the Supervisors of Heidelberg Township shall have the right to declare any and all privileges granted, withdrawn and forfeited.

(*Ord. 2-71, 7/2/1971, §X*)

§13-211. Filing of Contracts.

Certified copies of any existing or future contracts by and between the operator of the community antenna system and its successors, with any public utility servicing the Township of Heidelberg shall be filed with the Secretary of the Township prior to the commencement of any construction, maintenance, or installation of any equipment, cables, or wires of any kind whatsoever.

(*Ord. 2-71, 7/2/1971, §XI*)

§13-212. Duties of Antennae System.

Any operator of any community antenna system shall, under its seal and by its proper officers, within 30 days from the date of this Part granting permission, signify in writing its acceptance of all the terms, conditions, regulations, and restrictions of this Part.

(*Ord. 2-71, 7/2/1971, §XII*)

§13-213. Fees and Time Constraints.

All persons, firms, or corporations engaged or intending to engage in the business of operating a community antenna system shall be granted permission from the Supervisors of the Township of Heidelberg, which permission shall be granted subject to the terms of this Part and for a period of 5 years. All grants may be renewed under the provisions of this Part for additional periods of 5 years. A fee in an amount as established from time to time by resolution of the Board of Supervisors shall be paid upon the issuance of the initial grant of permission and a fee in an amount as established from time to time by resolution of the Board of Supervisors shall be paid for each renewal of the grant of permission.

(*Ord. 2-71, 7/2/1971, §XIII; as amended by Ord. 2010-1, 4/8/2010*)

§13-214. Filing of Schedule of Uniform Tariffs.

There shall be filed with the Secretary of Heidelberg Township a schedule of uniform tariffs covering installations and hook-up charges for both commercial and residential buildings and service charges relating thereto and any subsequent charges in said tariffs, together with rules, regulations, and contract forms applicable to Township residents.

(Ord. 2-71, 7/2/1971, §XIV)

§13-215. Fines and Penalties.

Any person, firm, or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 2-71, 7/2/1971, §XV; as amended by Ord. 2010-1, 4/8/2010)

Part 3**Small Wind Energy Systems****§13-301. Title.**

This Part shall be referred to as the “Heidelberg Township Small Wind Energy System Ordinance.”

(Ord. 2009-3, 3/12/2009, §I)

§13-302. Purpose.

The purpose of this Part is to:

A. Oversee the permitting of small wind energy systems.

B. Preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a small wind energy system.

(Ord. 2009-3, 3/12/2009, §II)

§13-303. Definitions.

In this Part:

Landowner—a legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other having a proprietary interest in land.

Rotor diameter—the cross-sectional dimension of the circle swept by the rotating blades.

Small wind energy system—a wind energy system that:

- (1) Is used to generate electricity.
- (2) Has a total height of 100 feet or less.

Total height—the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.

Wind energy system—equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other components used in the system.

Wind generator—blades and associated mechanical and electrical conversion components mounted on top of the tower.

Wind tower—the monopole, freestanding, or guyed structure that supports a wind generator.

(Ord. 2009-3, 3/12/2009, §III)

§13-304. Permitted Use.

A small wind energy system shall be an accessory use in all zoning districts.

(Ord. 2009-3, 3/12/2009, §IV)

§13-305. Standards.1. *Setbacks.*

A. A wind tower for a small wind system shall be independent of any structure and shall be located a minimum distance of 100 percent times the total height from any property line, except a common property line of wind tower owner, and/or street ultimate right-of-way line.

B. No part of the wind tower shall be located within any required front yard.

2. *Access.*

A. All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.

B. The wind tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 15 feet above the ground.

3. *Minimum Height.* The minimum height shall be 25 feet measured as the vertical distance from the ground level to the tip of a wind generator blade when the tip is at its lowest point.

4. *Electrical Wires.* All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground. All electrical components shall conform to relevant and applicable local, State and National codes and relevant and applicable international standards.

5. *Lighting.* A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.

6. *Appearance, Color and Finish.* The wind generator and tower shall be a white or gray color.

7. *Signs.* All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road shall be prohibited.

8. *Code Compliance.* A small wind energy system including tower shall comply with all applicable provisions of the Uniform Construction Code [Chapter 5, Part 1], latest revision, as adopted by the Township.

9. *Utility Notification and Interconnection.* Small wind energy systems that connect to the electric utility shall comply with the applicable laws and rules and regulations of the Pennsylvania Public Utility Commission.

10. The design of the wind energy system shall conform to the applicable industry standards, including those of the American National Standards Institutes. The owner shall submit certificates of design compliance obtained by the equipment manufactures from Underwriters Laboratories, or other similar certifying organizations.

11. Wind energy system shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar system) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.

12. The landowner shall avoid any disruption of radio, telephone, television or similar signals, and shall mitigate any harm caused by the wind energy system.

13. When a building is necessary for storage cells or related mechanical equipment, the building must not exceed 144 square feet in area, and shall not be located within any required front, side, or rear yards.

14. The resultant energy harnessed from the wind shall only be used on the property on which the wind energy system is located and not used or sold to for the direct use on other parcels. Energy may also be sold or otherwise transferred back to the power company if not completely used on the subject property.

15. The wind energy system shall be subordinate to and located on the same lot occupied by the principal use to which it relates.

16. The wind energy system shall comply with all other applicable regulations. Land development approval may not be required under the Heidelberg Township Subdivision and Land Development Ordinance [Chapter 22] of a single wind energy system.

(Ord. 2009-3, 3/12/2009, §V)

§13-306. Permit Requirements.

1. *Building Permit.* A building permit shall be required for the installation of a small wind energy system. The building permit shall be issued in accordance with this Part and any Township ordinance relating to the issuance of permits.

2. *Fees.* The application for a building permit for a small wind energy system must be accompanied by the fee required for a building permit for an accessory use.

(Ord. 2009-3, 3/12/2009, §VI)

§13-307. Abandonment.

1. The landowner shall, at his expenses, complete decommissioning of the wind energy system within 12 months after the end of the useful life of the wind energy system. It shall be presumed that the wind energy system is at the end of its useful life if no electricity is generated for a continuous period of 12 months.

2. Decommissioning of the wind energy system shall include removal of the wind tower, the wind generator, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, and any other associated facilities. Disturbed earth shall be graded and re-seeded.

(Ord. 2009-3, 3/12/2009, §VII)

§13-308. Modification and Waivers.

1. A landowner seeking a waiver or modification of the minimum standards required by this Part shall submit to the Township a request in writing that states (A) the specific Section(s) of this Part involved; and, (B) the reasons for the request. The Board of Supervisors shall, in writing, grant or deny the waivers or modifications of the specific recommendations of this Part.

2. The landowner must demonstrate to the satisfaction of the Board of Supervisors that with respect to each request for a waiver or modification that literal

compliance with the mandatory provisions of this Part is:

- A. Unreasonable.
- B. Causes undue hardship because of peculiar conditions pertaining to the land in question, provided that the purpose and intent of this Part is observed.
- C. Unnecessary because an alternate standard can be demonstrated to provide equal or better results.

(Ord. 2009-3, 3/12/2009, §VIII)

§13-309. Penalties.

Any person, firm, or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to a pay a fine of not less than \$300 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 2009-3, 3/12/2009, §IX; as amended by Ord. 2010-1, 4/8/2010)