

**ORDINANCE NUMBER 2018 -21**

**CALLERY BOROUGH, BUTLER COUNTY, PENNSYLVANIA**

**AN ORDINANCE REGULATING JUNKYARDS AND AUTOMOTIVE  
DISMANTLERS AND RECYCLERS AND PROPERTY USED FOR THE  
COLLECTION, STORAGE AND DISPOSAL OF JUNK;  
REQUIRING INSPECTIONS AND LICENSES;  
PROVIDING FOR SUSPENSIONS AND REVOCATIONS OF LICENSES;  
AND PRESCRIBING PENALTIES FOR VIOLATIONS.**

**WHEREAS**, Borough council deems it to be in the best interests of the Borough to regulate junkyards and automotive dismantlers and recyclers, and property used for the collection, storage and/or disposal of junk, scrap, salvageable materials, junk vehicles, and other used or second-hand goods or materials so as not to cause unreasonable inconvenience, annoyance, or 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;

**WHEREAS**, Section 1202(20)(i)(B) of the Borough Code, as amended, authorizes boroughs to prohibit, license and regulate the establishment and maintenance of junkyards and automotive dismantlers and recyclers, and property used for the collection, storage, and disposal of used or second-hand goods and materials; and

**WHEREAS**, council desires to regulate junkyards and automotive dismantlers and recyclers, and property used for the collection, storage and/or disposal of junk and used or second-hand goods and materials in order to better protect the general health, safety, and welfare of the public.

**NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED**, pursuant to the authority vested by the Borough Code, that Chapter 53, Junkyards, of the Borough of Callery Code of Ordinances is hereby revised in its entirety to read as follows:

**CHAPTER 53  
JUNKYARDS**

**ARTICLE 1  
REQUIREMENTS AND REGULATIONS**

**§ 53-101. SHORT TITLE.**

This Ordinance shall be known and may be cited as "Callery Borough Junkyard Ordinance."

**§ 53-102. DEFINITIONS.**

(A) The following words and phrases when used in this Article shall have the following meanings, unless the context clearly means otherwise:

Abandoned (Abandonment) — A junkyard and/or automotive dismantler and recycler which license has not been renewed within sixty (60) days of notice to renew or which has not been used or operated for a period of twelve (12) months.

Automotive Dismantler and Recycler — Any establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles, or motor parts, or both.

Junk — Scrap, copper, brass, rope, rags, batteries, paper, trash, rubber debris, tires, waste, iron, steel and other old or scrap ferrous or nonferrous material, including wrecked, scrapped, ruined, dismantled, or junked motor vehicles, or parts thereof.

Junked Motor Vehicle — Any motor vehicle (whether automobile, bus, truck, semi-tractor, trailer, semi-trailer, recreational vehicle, motorcycle, motorized bicycles, scooters, or any other vehicle originally intended to be used on public highways and required to be licensed and/or registered by the Commonwealth or any other state) which meets at least one of the following conditions:

- (1) Is currently unregistered with the Commonwealth of Pennsylvania or any other state;  
or
- (2) Is currently without a valid inspection sticker issued by the Commonwealth of Pennsylvania or any other state; or
- (3) Is not operable or is not in condition for legal use on a public highway.

Junkyard — Any outdoor establishment, place of business, or activity which is maintained, used or operated for collection, storage, processing or sale of junk, scrap metal, or **three (3)** or more junked vehicles.

Person — Includes any natural person, firm, partnership, corporation, company, whether business, membership, religious, charitable, or otherwise, and any association, club, society, or other unit, organization or entity of any kind.

Screening — The use of any natural objects, plantings, embankments, fencing, walls or structures, or a combination of any of these, which will effectively hide any deposit of junk so as not to be visible from the street/highway, at all times of the year, by an occupant of a motor vehicle viewing from a height of 4 1/2 feet above the pavement.

Site — The property within the boundaries described in the application on which the junkyard and/or automotive dismantler and recycler business or activity is located or is proposed to be located.

(B) In this Article, the singular shall include the plural and the masculine shall include the feminine and the neuter.

### § 53-103. LICENSE REQUIRED.

(A) General Rule. No person shall establish, maintain, use or operate a junkyard and/or automotive dismantler and recycler business, within the Borough without a valid junkyard license issued by the Borough.

(B) Licensing Period. The junkyard license will be effective from January 1st to December 31st of the license year. Failure to renew the license within sixty (60) days after notice of expiration will cause the junkyard and/or automotive dismantler and recycler to be classified as abandoned and require its removal at the expense of the owner.

(C) Application for License. To apply for a junkyard license, the applicant shall submit a complete license application package to the Borough, on a form provided by the Borough. The application package shall include, at a minimum, the following:

- (1) The name, address and telephone number of the applicant(s). If the applicant is business entity, the names, and business addresses and telephone numbers of all officers, directors, partners or natural persons having primary responsibility for the lawful day-to-day operation of the junkyard.
- (2) The name, address and telephone number of the owner(s) of the land on which the junkyard is to be located, along with written consent of the owner(s), if different from applicant.
- (3) The mailing address and Butler County Tax Map and Parcel Identification Number of the parcel on which the business will be operated.
- (4) A metes-and-bounds survey of the property showing the location of the property, together with a deed reference of the property, containing a layout of the proposed business, and showing sufficient detail to establish compliance with this Article, the Borough's Zoning and Subdivision and Land Development Ordinances, and all other applicable ordinances, laws, and regulations.
- (5) A complete site plan including specifications of all existing and proposed fencing, screening, water facilities, access driveways, sewage disposal systems, storm water management facilities, structures and off-road parking prepared by an engineer or land surveyor licensed to practice and perform such duties in the Commonwealth of Pennsylvania.
- (6) License Application Fee. A license application fee in an amount as determined, and amended, from time to time by council, by resolution, shall be paid, in full, to the Borough at the time the application is submitted to the Borough.
- (7) Any other information or documents in any format and in as many copies, as the Borough may from time to time require.

#### § 53-104. ISSUANCE OF LICENSE.

(A) Upon receipt of an application, the Borough or its designated agent shall visit the site to determine whether the proposed use of the site is in compliance with the requirements of this Article, the Borough's Zoning and Subdivision and Land Development Ordinances, and all other applicable laws, regulations, and ordinances.

(B) After the application package has been reviewed, the Borough shall notify the applicant if any modifications are required. Once the site plan and screening are approved by council, the applicant shall complete the approved screening within six (6) months from the date of approval. Upon notification that screening is complete, the Borough or its designated agent shall inspect and verify the effectiveness and compliance or noncompliance of the screening with the plan and the requirements of this Article, the Borough's Zoning and Subdivision and Land Development Ordinances, and all other applicable laws, regulations, and ordinances.

(C) After inspection and acceptance of the screening by the Borough, a junkyard license will be issued for the premises, in the name of the applicant(s), for the balance of the year. The annual license fee in an amount as determined, and amended, from time to time by council, by resolution, shall be paid, in full, to the Borough at the time the license is issued. In the event the license is issued on or after the first day of July in any year, the fee payable for the license for the remainder of the year shall be one-half the yearly rate.

(D) In the event the Borough or its designated agent determines that the application package is incomplete or additional information is required, the applicant will be notified, in writing, of the nature of the deficiency and/or the need to provide supplemental information. When the deficiency is corrected, or additional information is received, the Borough or its agent shall complete the review of the application package.

(E) In the event that the Borough or its designated agent determines that the property is not in compliance with all requirements, the application shall be denied. In the event the application is denied, the applicant shall be notified, in writing, of the reasons for the denial. **If the license is denied, Fifty Dollars (\$50)** of the application fee will be returned to the applicant. The remainder of the fee will be retained by the Borough to cover the costs of reviewing the application.

(F) Upon issuance of the license, it shall continuously be displayed upon the premises in a conspicuous location.

#### § 53-105. LICENSE RENEWAL.

(A) Each licensee shall file a written application for license renewal with the Borough within sixty (60) days after the date of the Borough's notice of expiration.

(B) Upon receipt of a renewal application, on forms provided by the Borough, the Borough or its designated agent shall inspect the licensed premises. The renewal application may be denied if the application is incomplete and/or the inspection reveals that the property is not in compliance with the provisions of this Article and all other applicable laws, regulations, and ordinances. The

denial shall be in writing and shall contain the reasons for the denial. The applicant shall have a period of thirty (30) days from the date of the notice of denial to renew the license to cure any deficiencies.

(C) Renewal applications shall be accompanied by the appropriate annual license renewal fee in the amount as stated in the Borough's Fee Schedule, as determined from time to time by council, by resolution.

(D) Renewal applications will be accepted from November 1st through December 15th of the year for which the current license was issued.

(E) Failure to make application for license renewal for the subsequent calendar year will constitute an abandonment, as defined by this Article, and will subject a licensee to the applicable penalties and/or to revocation of its right to continue the junkyard and/or automotive dismantler and recycler activity.

#### **§ 53-106. TRANSFER OF LICENSE.**

(A) No license may be transferred by a licensee to any other person unless such a transfer is authorized, in advance and in writing, by council. Any person desiring to transfer a license shall notify the Borough, in writing, which notification shall be accompanied by the transferee's complete application package and application fee.

(B) No license shall be transferred by a licensee to another property.

(C) Any person desiring to obtain a license for a second property shall submit a complete license application package for the second parcel and pay the application fee to the Borough. Upon approval of the second license, subject to the **Section 53-104**, above, the permittee shall immediately surrender the first license, pay the annual license fee for the second license to the Borough, and immediately cease and remove all business activities on the first parcel at the expense of the licensee.

#### **§ 53-107. REGULATIONS.**

(A) Every person licensed under this Article shall constantly maintain the licensed property in accordance with the following regulations and any subsequent regulations adopted by council:

- (1) The property shall be maintained at all times so as not to constitute a nuisance or a menace to the health of the community or to residents nearby or provide a place for breeding rodents, vermin, or insects.
- (2) No garbage, organic waste, paper, rubbish, rags or other flammable articles or materials shall be stored on the property.
- (3) All gasoline, oil, antifreeze, transmission fluid and other automotive fluids shall be completely drained from junk vehicles before vehicles are stored on the premises.

(13) Where approved screening has been constructed or where it exists naturally, no additional junk may be deposited outside the initial screened-off area unless additional screening, approved by council, is installed prior to the deposit. All additional screening shall be installed at the expense of the owner.

(B) License Revocation. Abandonment or failure to constantly maintain the licensed property in accordance with this Article may result in revocation of the license. Council shall notify the licensee, in writing, that failure to complete remedial action within thirty (30) days of the date of the notice will constitute cause for revocation of the license. In the event the licensee refuses or fails to take timely remedial action, council shall determine the actions necessary to enforce the provisions of this Article.

#### **§ 53-108. ADDITIONAL REGULATIONS.**

Council may from time to time adopt such additional regulations, as it deems necessary, to carry out the provisions of this Article upon written notice to existing licensees affected by such additional regulations.

#### **§ 53-109. MUNICIPAL INSPECTIONS AND LICENSE SUSPENSIONS.**

(A) The Borough or its designated agents may, at any reasonable time, enter upon any premises licensed under this Article to conduct inspections to ensure that all provisions of this Article are being complied with. If the inspection discloses that a violation exists, a notice of violations shall be sent to the licensee stating the nature of the violation, order corrective actions to be taken within thirty (30) days from the date of the notice and inform the licensee that these regulations will be enforced if timely corrective action is not taken.

(B) The Borough or its designated agents may suspend any license upon failure of the licensee to comply with, or to maintain the property in compliance with any provision or requirement of this Article. The written suspension notice shall notify the licensee of any section or sections of this Article which are being violated and shall provide the licensee with a reasonable period of time within which to complete remedial actions. If the licensee fails or refuses to take timely corrective measures the matter shall be referred to council for license revocation and/or prosecution.

(C) The notices 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 by registered mail to the licensee's address shown on the application.

#### **§ 53-110. PENALTIES FOR VIOLATIONS.**

(A) It shall be unlawful for any person to be in conflict with or in violation of any of the provisions of this Article.

(B) Council shall have the power and duty to enforce the provisions of this Article.

(C) Enforcement as a Summary Offense. This Article regulates health, fire, public safety, and air pollution. As such, enforcement of this Article shall be by action brought before a magisterial district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Borough solicitor may assume charge of the prosecution without the consent of the District Attorney as permitted under the Pennsylvania Rules of Criminal Procedure No. 83(c) (relating to trial in summary cases).

(D) Any person who violates any provision of this Article or any amendment thereto, upon conviction thereof in a summary offense proceeding before a magisterial district justice, shall pay a fine of not less than Six Hundred Dollars (\$600) and not more than One Thousand Dollars (\$1,000) per violation. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this Article which is found to have been violated. In addition, the court may award the Borough its court costs and reasonable attorney fees incurred in the enforcement proceedings. All fines and penalties collected shall be paid over to the Borough treasurer.

(E) Enforcement in Equity. In addition to or in lieu of other remedies, the Borough, by means of a complaint in equity, may take such other lawful action as is necessary to prevent or remedy any violation, or bring an action to enjoin any violation of this Article in the Court of Common Pleas of Butler County.

#### **§ 53-111. MUNICIPAL LIABILITY.**

The Borough and its agents, officials, and representatives shall not, under any circumstances be liable or responsible for damages caused to any person, property, or waterway by reason of the provisions of this Article, or by reason of the conduct any business activity in compliance or non-compliance with the terms and provisions of this Article. The person or party responsible for any such damages shall be solely responsible for any and all claims, damages, and/or pollution caused as a result or consequence of the business activity.

#### **§ 53-112. CONFLICTS WITH OTHER LAWS.**

Any regulations of the Commonwealth of Pennsylvania or the government of the United States of America pertaining to junkyards or automotive dismantler and recycler businesses shall supersede the regulations promulgated by this Article where such regulations are more stringent than the regulations of this Article.

#### **§ 53-113. REPEALER.**

Ordinance Number 47, adopted December 3, 1964, as amended, and all other ordinances or parts thereof which are in conflict with this Article are hereby repealed.

#### **§ 53-114. SEVERABILITY.**

The provisions of this Article are severable, and if any clause, sentence, subsection, section, article or part thereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder

thereof but shall be confined in its operation and application to the clause, sentence, subsection, section, article or part thereof rendered. It is hereby declared to be the intent of the council that this Article would have been adopted if such illegal, invalid or unconstitutional clause, sentence, subsection, section, article or part thereof had not been included therein.

**§ 53-115. EFFECTIVE DATE.**

This Article shall become effective five (5) days after adoption.

**ENACTED AND ORDAINED**, this the 5<sup>th</sup> day of November 2018, by Callery Borough council in public session duly assembled.

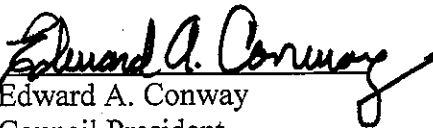
ATTEST:

  
Linda M. Wearing  
Borough Secretary

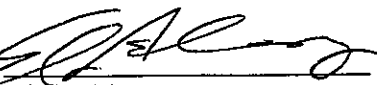
(SEAL)



**CALLERY BOROUGH**

By:   
Edward A. Conway  
Council President

**APPROVED**

By:   
Ed Ashley  
Mayor

Date NOV. 5, 2018