

**EAST PROSPECT BOROUGH
YORK COUNTY, PENNSYLVANIA**

ORDINANCE NO.: 2019 -#3

**AN ORDINANCE OF THE BOROUGH OF EAST
PROSPECT YORK COUNTY, PENNSYLVANIA
AMENDING THE BOROUGH'S ORDINANCE REQUIRING
LICENSES FOR AND REGULATIONS OF JUNKYARDS,
PROVIDING FOR NOTICES OF VIOLATION, AND
ENUMERATING PENALTIES FOR VIOLATIONS OF
SUCH ORDINANCE.**

WHEREAS, Section 1202(20)(i)(b) of the Pennsylvania Borough Code authorizes a borough council to enact ordinances to license and regulate the establishment and maintenance of junkyards, salvage yards and other places used and maintained for the collection, storage and disposal of used or second-hand goods and materials; and

WHEREAS, the Borough Council of East Prospect has determined it necessary to update and amend its ordinance providing for the license and regulation of junkyards and salvage yards within the Borough in order to protect and preserve the general health, safety, and welfare of the citizens of the Borough.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Borough Council of East Prospect Borough, York County, Pennsylvania, and by and through the authority of the same, as follows:

Section 1. The following language shall amend and replace the Borough's ordinance providing for the licensing and regulation of junkyards and salvage yards:

"JUNKYARDS"

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§1. Title.

This Ordinance shall be known and may be cited as the "East Prospect Borough Junkyard Ordinance."

§2. Definitions.

Unless otherwise expressly stated, the following words and phrases shall be construed

throughout this Ordinance to have the meanings herein indicated:

BOROUGH - East Prospect Borough, York County, Pennsylvania.

COUNCIL – The Borough Council of East Prospect Borough.

FARM MACHINERY - All types of machinery and equipment which were originally manufactured for farm use, which are retained on farm properties, either as operable equipment or for the purpose of salvaging repair parts.

JUNK - Any discarded material or article and shall include but not be limited to scrap metal, scrapped, abandoned, junked, damaged or wrecked motor vehicles, machinery, equipment, paper, glass, containers and structures. It shall not include, however, refuse or garbage kept in a proper container for the purpose of prompt disposal.

JUNK DEALER - Any person, as hereinafter defined, who shall engage in the business of selling, buying, salvaging and dealing in junk or who causes or permits damaged or wrecked motor vehicles to be stored upon premises owned or occupied by him and who maintains and operates a junkyard within the Borough of East Prospect.

JUNKYARD - Any lot, land, or structure, or part thereof, used primarily for the collection, storage, and/or sale of scrap metal or discarded material, or for the collecting, dismantling, storage, and salvaging of machinery, equipment, junked or inoperable motor vehicles, and/or for the sale of parts thereof. For all such uses, issuance of an annual license shall be required according to the provisions of this East Prospect Borough Junkyard Ordinance. This term shall include a “salvage yard” as well.

LICENSE - The permit granted to a person who accumulates, stores or disposes of junk, as hereinbefore defined.

MOTOR VEHICLE - All types of automobiles, trucks and tractors, including self-propelled machinery of all kinds with the exception of farm machinery.

PERSON - Includes any individual, partnership, association, firm, corporation or other legal entity.

§3. License Required; Renewal.

- A. No person shall engage in business as a junk dealer or maintain a junkyard without first having obtained a license from the Borough Council, for which license a fee set by Council by Resolution, from time to time, shall be paid to the Borough. The license shall be issued for the twelve-month period beginning July 1 and ending June 30 of the following year, and each license must be renewed annually on or before the first day of July of each year.

- B. At least 30 days prior to the expiration of the current existing license year, each licensee shall file a written application for renewal of his license with the Borough Zoning Officer which application shall contain an affidavit under oath by the licensee that he or she is not maintaining a junkyard within the Borough in violation of the terms of this Ordinance or the terms and conditions imposed by the Borough Council when the license was issued under the provisions of §5 of this Ordinance. Upon receipt of an application for renewal of a license, the Borough Council, Zoning Officer or their designee may inspect the premises of the applicant and the Borough Council shall have the right to grant or refuse a renewal of any license.

§4. Application for License.

The license provided for in this Ordinance shall be issued by the Borough Council 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. The written application for a license herein shall be accompanied by a form, every question of which must be answered, which form will be supplied by the Borough. The applicant shall also submit therewith a plat of the premises used or to be used in connection with such license. Application shall be made at the Borough Office or to the Borough Secretary.

§5. Issuance of License.

After receipt of an application by the Borough, the Borough Council 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 effects of the proposed use upon the Borough, including environmental, economic and aesthetic. In the event that the Borough Council 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 the same.

§6. License Fee.

The license fee shall be paid immediately upon the issuance or renewal of a license. The amount of the license fee shall be calculated in accordance with a schedule set from time to time by Resolution of the Council.

§7. License Limitation.

No person licensed under this Ordinance shall, by virtue of one license, keep more than one (1) place of business within the Borough 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 within the Borough other than the place designated upon his or her license or maintain a

junkyard in any place other than the place designated upon his or her license.

§8. Transfer of License.

No license issued by the Borough Council shall be transferable by the licensee to any other person unless such a transfer is authorized by the Borough Council. Any person desiring to transfer the license shall notify the Borough Council, in writing, which notification shall be accompanied by an application for a license as described in §4 of this Ordinance by the transferee.

§9. Transfer Fee.

In the event that the Borough Council shall approve the transfer of a license, the transferee shall immediately pay to the Borough a transfer fee as set from time to time by resolution of the Borough Council.

§10. Records.

Every person licensed under this Ordinance shall provide and shall constantly maintain a record book, in the English language documenting a description of every article or material purchased or received, the date and hour of such purchase or receipt, and the name and address of the person(s) from whom such article or material was purchased or received. Such record book shall be subject to the inspection of any official of the Borough at all reasonable business hours. The record book may be maintained electronically and/or may be maintained at the principal office of the owner of the junkyard, provided that such records shall be made available to a Borough official within twenty-four (24) hours of the request to view the same.

§11. Delay in Disposal.

Every person licensed under this Ordinance shall keep and retain upon the licensed premises, for a period of 48 hours after the purchase or receipt thereof, all junk received or purchased by him or her, and he or she shall not disturb or reduce the same or alter the original form, shape or condition until such period of 48 hours shall have elapsed.

§12. Regulations.

Every person licensed under this Ordinance shall constantly maintain the licensed premises in accordance with any special provisions imposed by the Borough Council and in the manner prescribed by this section and any subsequent regulations adopted by the Borough Council.

- A. No license shall be issued for the use of a lot as a junkyard, unless said lot contains a minimum of five (5) acres. Further, the area of a junkyard lot that is occupied by the presence of junk shall not exceed a maximum of seven (7) acres. However, any junkyard existing and thereafter continuing as of the date of adoption of this Ordinance shall be permitted to continue at its existing size, subject to expansion as may be authorized by the Borough Zoning Ordinance.

- B. 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, vermin and/or mosquitoes.
- C. No garbage or other organic waste shall be stored in such premises.
- D. Motor vehicles:
1. Fluids: Whenever any motor vehicle shall be received in such premises as junk, all of the following fluids shall be drained and collected and reused, recycled or disposed of in conformance with current Pennsylvania Department of Environmental Protection regulations and guidelines. None of these fluids shall be disposed of into a septic system or public sanitary sewer system:
 - Drained crankcase oil
 - Hydraulic oil/fluid
 - Brake fluid
 - Oil recovered from steam cleaning
 - Gasoline
 - Antifreeze
 - Transmission fluid
 - Windshield Washer Fluid
 - Wastewater recovered from steam cleaning
 - a. Oil, antifreeze and gasoline should be drained and collected from junk motor vehicles, then reused, recycled or disposed of as residual or hazardous waste properly.
 - b. Anti-freeze should be recycled for reuse. Anti-freeze shall not be disposed into a septic system or the public sanitary sewer system.
 - c. Gasoline shall be drained from junk motor vehicles and may be used as vehicle fuel by the junkyard. If gasoline is to be stored at a junkyard, the tank must comply with Pennsylvania Storage Tank Regulations. If gasoline is not used by the junkyard, it must be disposed of as a hazardous waste.
 - d. Brake fluids, transmission fluids, hydraulic oils and similar fluids are hazardous wastes and must be managed as such.
 - e. Windshield washer fluid may be collected and reused.
2. Tires: Stored tires present a fire hazard and may become a breeding ground for mosquitoes. Tire management and permit requirements, available from DEP, including allowable stock pile measurements, fire lane size, storage time limitations, total waste tire site size restrictions about location of tires and effective emergency management shall be observed to avoid tire fire hazards. Tires shall be sent for recycling or energy recovery as soon as possible, but no less than monthly.

3. Batteries: Batteries shall be disposed of in accordance with applicable solid waste and environmental laws, rules, regulations and ordinances. Disposal of lead acid batteries at landfills is prohibited. If batteries are cracked and/or leaking, they need to be placed in sealable five gallon buckets and managed as hazardous waste per Pennsylvania DEP guidelines. Any spills shall be cleaned up promptly.
 4. Parts: All parts that are to be removed from a motor vehicle shall be removed within six (6) months of the motor vehicle arriving at the junkyard; thereafter the remaining body and/or frame shall be removed from the junkyard.
 5. Permitted Number of motor vehicles: No junkyard shall at any time contain more than Five hundred (500) motor vehicles.
 6. Stacking/Racking: Motor vehicles may not be stacked upon one another. Vehicles may be racked up to three (3) vehicles high provided that the racking shall be set back at least fifteen (15) feet from the interior of the fencing around the licensed premises. The maximum height of the racked vehicles shall not exceed fifteen (15) feet in height. For purposes of this ordinance, the term "racking" shall be construed to mean that vehicles may be placed within a series of structural supports, both vertical and horizontal, such that up to three (3) vehicles may be placed in a vertical column, one above the other, with the lowest vehicle being placed on the ground and the upper vehicles resting on horizontal supports, but in no event shall any vehicle be placed on top or stacked on top of another vehicle.
- E. Drums/Containers: The junkyard shall not accept, as junk or for disposal, drums containing any type of waste material. All drums or containers that are accepted, as junk or for disposal, shall be empty and shall have been completely cleaned of previous contents. Junkyards may accept drums or containers containing material to be used in the operation of the junkyard, such as waste oil for heating purposes.
- F. Appliances (White Goods): Refrigerant gases from refrigerators, freezers and air conditioners must be captured and recycled or disposed and shall not be vented to the air. Older appliances may contain capacitors with polychlorinated biphenyls (PCBs) which must be managed in accordance with the requirements of the Toxic Substances Control Act.
- G. Wastewater Runoff: When steam cleaning engines and parts, steam (water) use must be kept to a minimum and collected as wastewater and disposed of properly.
- H. 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. With the exception of motor vehicles which may not be stacked, junk shall be kept in piles no higher than five (5') feet.

- I. 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.
- J. With the exception of existing junkyards, the area to be licensed as a junkyard shall be set back a minimum distance of 100 feet from the right-of-way lines on all streets or roads and a minimum distance of 75 feet from all other property lines. The area between the setback line and the right-of-way line of all streets and roads and all other property lines shall be, at all times, kept clear and vacant of junk. Existing junkyards with licenses as of the effective date of this Ordinance may continue in their current location and with their current setbacks even to the extent that such setbacks are less than those set forth herein.
- K. When the Borough Council shall deem it necessary and desirable, the premises to be licensed shall, at the setback lines, be enclosed by a fence of height, type and style to be determined by the Borough Council or by evergreen screen plantings, or both. The Borough Council 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.
- L. No open burning of waste materials or tires is permitted.
- M. With the exception of the height, type and style of fences and/or screening provided for in (K) above, junkyards shall comply in all other respects with the requirements for a junkyard set forth in the East Prospect Borough Zoning Ordinances.

§13. Violations.

- A. Any person who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$600.00 plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation. In addition, if any licensee shall have been found liable on two occasions of any violation of this Ordinance, the Borough Council shall have the power to revoke the license granted under the authority of this Ordinance.
- B. All judgment, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Borough.

§14. Abatement of nuisances.

In addition to the remedies provided in §13 above, any continued violations of this Ordinance which shall constitute a nuisance or which shall in the opinion of the Council constitute a nuisance may be abated by proceeding against the violator in a court of equity for relief.”

Section 2. Severability.

The provisions of this Ordinance are severable, and if any section, clause, sentence, part, or provision herein shall be deemed or held to be illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision or determination shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of this Ordinance.

Section 3. Repealer; Effective Date.

The provisions of any prior Ordinance(s) which is or are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency. This Ordinance shall become effective immediately upon adoption by the Council and approval by the Mayor of the Borough of East Prospect.

ENACTED AND ORDAINED by the Borough Council of East Prospect Borough this 6th day of November, 2019.

Attest:

EAST PROSPECT BOROUGH COUNCIL

Mindy K Barshinger
Mindy Barshinger, Borough Secretary

BY:

Donald Barshinger
Donald Barshinger, President

(SEAL)

APPROVED this 6th day of November, 2019.

Matthew Mann
Matthew Mann, Mayor