

AN ORDINANCE CHAPTER NO. 43, VEHICLES, ABANDONED, OF THE CODE OF THE BOROUGH OF WYALUSING, COUNTY OF BRADFORD, COMMONWEALTH OF PENNSYLVANIA.

The purpose of this Ordinance is to regulate Vehicles as authorized under the Borough Code found at 53 P.S. § 46202, Specific powers.

(5) Nuisances and dangerous structures. To prohibit and remove any nuisance, including but not limited to accumulations of garbage and rubbish and the storage of abandoned or junked automobiles and to prohibit and remove any dangerous structure on public or private grounds, or to require the removal of any such nuisance or dangerous structure by the owner or occupier of such grounds, in default of which the borough may cause the same to be done, and collect the cost thereof, together with a penalty of ten per cent of such cost, in the manner provided by law for the collection of municipal claims, or by action of assumpsit, or may seek relief by bill in equity.

The Borough of Wyalusing hereby ordains and enacts as follows:

ARTICLE I, Illegally Parked Motor

§ 1. Vehicles considered to be illegally parked.

A. A motor vehicle parked on any of the streets or alleys in Wyalusing Borough without a current inspection sticker or a current license plate shall be defined as being illegally parked.

B. A motor vehicle that is not in good working order and has been parked on any of the streets or alleys in Wyalusing Borough exceeding a period of 48 hours shall be defined as illegally parked.

§ 2. Illegal parking prohibited; violations and penalties.

A. The illegal parking of vehicles as hereinabove defined is hereby prohibited.

B. Any person, firm or corporation who or which shall violate or fail to comply with any of the provisions of this article shall, upon conviction, be sentenced to pay a fine of not more than \$600 and costs of prosecution and, in default of payment of such fine and costs, be imprisoned for a term not exceeding 30 days.

C. Each period of 24 hours during which a person, firm, association or corporation violates the provisions of this article shall be a separate offense.

ARTICLE II Junk or Abandoned Vehicles

§ 3. Purpose and intent.

It is the purpose and intent of this article to promote and protect the public health and to prevent the accumulation of junk as defined in this article; to prevent the development of potential public health nuisances through the accumulation of unsanitary conditions; in residential zones; to protect the safety and general welfare of the public by eliminating unattractive nuisances and unsafe conditions; and to protect property values of adjacent property owners by regulating the storage of inoperable motor vehicles in accordance with the Borough Code.

§ 4. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ANTIQUE MOTOR VEHICLE -- A motor vehicle, but not a reproduction thereof, manufactured more than 25 years prior to the current year, which has been maintained in or restored to a condition which is substantially in conformance with manufacturer's specifications. This vehicle has to be registered and licensed by the Commonwealth of Pennsylvania and also inspected once a year.

BUILDING -- Any structure having a roof supported by columns or walls, used for shelter, housing or enclosure of persons, animals or property.

CLASSIC MOTOR VEHICLE -- A self-propelled vehicle, but not a reproduction thereof, manufactured more than 10 years prior to the current year and, because of discontinued production and limited availability, determined by the Department to be a model or make of significant value to collectors or exhibitors and which has been maintained in or restored in conformity with manufacturer's specifications and appearance. This vehicle has to be registered and licensed by the Commonwealth of Pennsylvania and also inspected once a year.

JUNK -- Discarded materials, articles or things possessing possibly some value. It shall include but not be limited to scrapped and inoperable motor vehicles and parts thereof. It shall include garbage or other organic waste or objects or materials accumulated on any premises as the by-product of a legitimate business.

JUNK MOTOR VEHICLE -- A motor vehicle, including but not limited to an automobile, truck, all-terrain vehicle, motorcycle or snowmobile, that is so worn, deteriorated, obsolete, dismantled or disassembled as to make it inoperable or unusable in its existing condition and/or a motor vehicle which has become incapable of being operated due to mechanical defects and/or because it is not licensed and/or does not have a current valid inspection sticker as required by the Motor Vehicle Laws of the Commonwealth of Pennsylvania.

MOTOR VEHICLE REPAIR SHOP -- A facility for automobile repair, automobile body repair, an automobile gas station for motor vehicle repair or a truck repair shop that is already established or is a new business complying with Chapter 173, Zoning, and whose primary purpose is the repair of motor vehicles.

MOTOR VEHICLE WRECKING -- The storage, maintenance or dumping of a partially dismantled or junk automobile or the parts of a junk automobile.

PERSON -- Any natural person, association, partnership, firm or corporation.

§ 5. Restrictions.

- A. No person shall maintain or keep any junk, which includes garbage or other organic waste, or objects or materials accumulated on any premises as a by-product of a legitimate business.
- B. No person shall maintain or keep a junk motor vehicle within Wyalusing Borough unless said junk motor vehicle is kept or maintained wholly within a building having four walls and a roof as defined in this article.
- C. No person shall maintain or conduct motor vehicle wrecking within Wyalusing Borough unless the same shall be maintained or conducted wholly within a building having four walls and a roof.
- D. A junk motor vehicle will be allowed to be parked on the exterior premises of a motor vehicle repair shop until the repairs are effected, but in no case for more than a period of 60 days unless one or more of the following conditions exist: a pending civil lawsuit, a pending criminal lawsuit or an insurance investigation and the property owner has verified the same with the Wyalusing Borough Ordinance Enforcement Officer.
- E. For purposes of this chapter, it shall be unlawful for any person to store any junked, abandoned or discarded vehicle in the open on private or public property

within Wyalusing Borough. It shall be considered a public nuisance as being hazardous to the health, safety and welfare of the residents if said vehicle is leaking fluids; has broken glass; has jagged metal, plastic or wooden material protruding from the vehicle; is a place for the breeding of rodents and other animals; is an attractive nuisance for children to be injured on; contains the storage of combustible fuels; contains the storage of poisonous liquids; and/or is improperly supported so that if the support collapses it could result in harm or injury; and if the location of the vehicle would impede emergency and/or fire and rescue efforts to a property because of the inability to move the vehicle in the case of an emergency or fire.

F. When it is determined that a motor vehicle is abandoned or junked and creates a nuisance, the Borough may notify the owner to remove said nuisance. If said owner fails to remove said nuisance, the Borough may cause the same to be done, and collect the cost thereof, together with the penalty of 10% of such cost, in the manner provided by law for the collection of municipal claims, or by action of assumpsit, or may seek relief by bill in equity.

§ 5.1. Investigation of premises.

The Ordinance Enforcement Officer, on routine inspection or upon receipt of a complaint, may enter upon private property to investigate a suspected junked motor vehicle or motor vehicle accessories stored or maintained in violation of this article and record the make, model, style and identification numbers and its situation and condition.

§ 5.2. Notice.

A. Notice of removal. Whenever the Building Inspector, Ordinance Enforcement Officer or any member of his Department finds or is notified that any junked or abandoned motor vehicle or motor vehicle accessories have been stored or permitted to remain on any private property or public street or highway within the Borough and in violation of the provisions of this article, the Ordinance Enforcement Officer shall send by certified or registered mail a notice to the owner of record or person having custody of such motor vehicle or accessories, if such owner can be ascertained by the exercise of reasonable diligence, and also to the owner of the private property, as shown on the tax assessment records of the Borough, on which the same is located, to remove the junked or abandoned motor vehicle, trailer or motor vehicle accessories within 30 days. Such notice shall contain the following additional information:

(1) Nature of complaint;

- (2) Description and location of the motor vehicle and/or motor vehicle accessories;
- (3) Statement that the motor vehicle or motor vehicle accessories shall be removed from the premises no later than 30 days from the date of notification;
- (4) Statement that removal from the location specified in the notification to another location upon which such storage is not permitted is prohibited and shall subject the person to additional penalties;
- (5) Statement that if removal is made within the time limit specified, notification thereof shall be given in writing to the Building Inspector or Ordinance Enforcement Officer; and
- (6) Statement of the penalties provided for noncompliance with such notice.

B. Notice of removal during snow emergency. The Borough Ordinance Enforcement Officer may direct that a vehicle parked in a location prohibited during a snow emergency may be towed immediately. The pretowing notice provisions contained in this section shall not be required. Thereafter, the salvor will comply with the notice provisions of this article.

§ 5.3. Failure to remove.

When the owner of the property or the owner of the vehicle fails to remove the junk motor vehicle from the private property or public street or highway within the Borough, the Borough Ordinance Enforcement Officer may cite the violator and request the Ordinance Enforcement Officer to provide a written request to the permitted salvor to remove the vehicle in compliance with the law.

§ 5.4. Duty of salvor. (See 75 Pa. C.S.A. § 7301.)

A. The salvor shall comply with all of the necessary requirements of the Pennsylvania Motor Vehicle Code, Abandoned Vehicles and Cargo, 75 Pa. C.S.A. § 7301 et seq.

B. The salvor, upon written request of the Ordinance Enforcement Officer, shall take possession of and remove to the storage facility of salvor any abandoned vehicle located within 30 miles of the place of business of the salvor.

§ 5.5. Reports to Department of possession of abandoned vehicles. (See 75 Pa. C.S.A. § 7304.)

Any salvor taking possession of an abandoned vehicle shall, within 48 hours after taking possession, report to the Department of Motor Vehicles the make, model, vehicle identification number, and registration plate number of the abandoned

vehicle, the name and address of the owner or person who abandoned the vehicle, if known, together with any other information or documents which the Department of Motor Vehicle may by regulation require. The report shall include a statement whether the vehicle is valueless except for salvage. Where the report indicates the vehicle is valueless except for salvage, the salvor shall include a photograph of the vehicle to be prepared in a manner prescribed by the Department of Motor Vehicles. A report by the salvor that a vehicle is valueless except for salvage shall be verified by the Ordinance Enforcement Officer, which authorized transfer of the vehicle to the salvor.

§ 5.6. Notice to owner and lienholders of abandoned vehicles. (See 75 Pa. C.S.A. § 7304.)

A. General rule. Except as provided in 75 Pa. C.S.A. § 7309 (relating to salvaging of vehicles valueless except for salvage), the Department, upon receipt of notice that an abandoned vehicle has been taken into possession pursuant to this article, shall notify, by certified mail, return receipt requested, the last known registered owner of the vehicle and all lienholders of record that the vehicle is abandoned.

B. Contents of notice. The notice shall:

- (1) Describe the make, model, title number, vehicle identification number and registration plate number of the abandoned vehicle, if known.
- (2) State the location where the vehicle is being held.
- (3) Inform the owner and any lienholders of their right to reclaim the vehicle within 30 days after the date of the notice at the place where the vehicle is being held by the salvor, upon payment of all towing and storage charges and the fee authorized in 75 Pa. C.S.A. § 7306 (relating to payment of costs upon reclaiming vehicle).
- (4) State that the failure of the owner or lienholder to reclaim the vehicle is deemed consent by the owner to the destruction, sale or other disposition of the abandoned vehicle and of all lienholders to dissolution of their liens.

C. Notice by publication. If the identity of the last registered owner and of all lienholders cannot be determined with reasonable certainty, the contents of the notice set forth in Subsection B shall be published one time in one newspaper of general circulation in the area where the vehicle was abandoned. The notice may contain multiple listings of abandoned vehicles. Notice by publication locally shall be the responsibility of the salvor. The notice shall have the same effect as notice sent by certified mail.

§ 5.7. Payment of costs upon reclaiming vehicle. (See 75 Pa. C.S.A. § 7304.)

In the event the owner or lienholder of an abandoned vehicle reclaims the vehicle, the reclaiming party shall pay the costs for towing and storage, plus a fee of \$25, of which \$10 shall be transmitted to the Department by the salvor.

§ 5.8. Authorization for disposal of unclaimed vehicles. (See 75 Pa. C.S.A. § 7304.)

The Department shall, after the expiration of 30 days from the date of notice sent by certified mail to the registered owner and all lienholders of record or 30 days after publication of notice, where applicable, and upon receipt of a written statement from the holder of the vehicle that the abandoned vehicle has not been reclaimed by the owner or lienholder within the thirty-day period, authorize the disposal of the abandoned vehicle in accordance with the provisions of this article.

§ 5.9. Public sale of unclaimed vehicles with value. (See 75 Pa. C.S.A. § 7304.)

A. General rule. If an abandoned vehicle having value has not been reclaimed as provided in this article, the vehicle shall be sold at a public auction.

B. Title of purchaser. The salvor shall give the purchaser a sales receipt and shall apply to the Department for a title which shall be free and clear of all previous liens and claims of ownership.

C. Disposition of proceeds. From the proceeds of the sale of the abandoned vehicle, the salvor shall be reimbursed for the costs of towing, storage, notice and publication costs and expenses of auction. The remainder of the proceeds of a sale shall be held for the owner of the vehicle or record lienholder for 60 days from the date of sale, and if not properly claimed, shall then be paid to the Department and transmitted to the State Treasurer for deposit in the Motor License Fund.

§ 5.10. Salvaging of vehicles valueless except for salvage. (See 75 Pa. C.S.A. § 7304.)

A. Application for certificate of salvage. If an abandoned vehicle is valueless except for salvage, the salvor shall note that fact in the report to the Department required in 75 Pa. C.S.A. § 7304 (relating to reports to Department of possession of abandoned vehicles) and shall apply for issuance of a certificate of salvage as provided for in 75 Pa. C.S.A. § 1117 (relating to vehicle destroyed, dismantled, salvage or recycled).

B. Notice and issuance of certificate. If the identity of the last registered owner cannot be determined with reasonable certainty and it is impossible to determine with reasonable certainty the identity and addresses of any lienholder, no notice shall be required. Under such circumstances, the Department shall, upon receipt of the report by the salvor pursuant to 75 Pa. C.S.A. § 7304, issue a certificate of salvage as provided in 75 Pa. C.S.A. § 1117.

C. Reimbursement of expenses of salvor. Upon receipt within six months of evidence that a salvor has removed an abandoned vehicle upon the request of a Ordinance Enforcement Officer, the Department shall pay to the salvor from the Motor License Fund the sum of \$15 for the expenses incurred in the removal and towing of the abandoned vehicle. No portion of the fifteen-dollar payment or any separate consideration shall be reimbursed or paid to any government agency or municipality by the salvor.

D. Rights of owners and lienholders. Issuance by the Department of a certificate of salvage for a vehicle salvaged under this section shall operate as notice by publication locally and shall be the responsibility of the salvor. The notice shall have the same effect as notice sent by certified mail.

§ 6. Violations and penalties.

A. Any person, firm or corporation who or which shall violate or fail to comply with any of the provisions of this article shall, upon conviction, be sentenced to pay a fine of not more than \$600 and costs of prosecution and, in default of payment of such fine and costs, be imprisoned for a term not exceeding 30 days.

B. Each period of 15 days during which a person, firm or corporation violates the provisions of this article shall be a separate offense.

§ 7. Abatement of nuisances.

In addition to the remedies provided in § 6, any continued violations of this article may be abated by the Borough by proceeding against the violator in a court of equity for relief.

THIS ORDINANCE shall take effect immediately upon adoption.