

OFFICIAL

BOROUGH OF AVALON

ORDINANCE NO. 1109

AN ORDINANCE OF THE BOROUGH OF AVALON, COUNTY OF ALLEGHENY AND COMMONWEALTH OF PENNSYLVANIA PERMITTING THE REMOVAL OF ILLEGALLY ABANDONED, PARKED, STORED, WRECKED, JUNKED OR STRIPPED AUTOMOBILES FROM BOTH PUBLIC AND PRIVATE PROPERTY; FIXING TOWAGE AND STORAGE CHARGES; FIXING NOTICE FOR REMOVAL AND IMPOUNDING; FIXING FINES AND PENALTIES FOR VIOLATION THEREOF.

BE IT ORDAINED AND ENACTED by the Council of the Borough of Avalon and it is hereby ordained and enacted by and with the authority of the same as follows:

ARTICLE I

General Purposes

SECTION 1. Purpose

The purpose of the ordinance is to protect the health, safety, morals and welfare of the citizens of the Borough by causing the removal of abandoned, illegally parked, stored, wrecked, junked and stripped automobiles from both public and private property and to abate public nuisances caused by the storage of, parking of and accumulation of such automobiles which are detrimental to the health, safety, morals and welfare of the citizens of the Borough and which constitute a peril to highway and traffic safety.

ARTICLE II

Public Property

SECTION 1. Authority to Impound Vehicles

Employees of the Police Department, assisted by private towing service operators, are hereby authorized to remove a vehicle, boat and/or boat carrier from a street or highway to the lot designated or maintained by the Borough when such vehicle is parked on any of the streets, highways, alleys or public property of the Borough in violation of any provisions of law or of any Ordinance of the Borough; provided: no vehicle shall be removed or impounded except in strict adherence to the following sections of this Ordinance.

SECTION 2. Approved Storage Lot.

The Borough Council shall designate one (1) lot as approved storage lot for the storage of impounded vehicles, said lot to be located on New Brighton Road, Avalon, Pennsylvania and designated as "Avalon Borough Pound".

SECTION 3. Storage Lot to Post Bond.

The Borough shall post a bond in the amount of Ten Thousand (\$10,000.00) Dollars, to be filed with the Borough Secretary-Manager for the indemnification of the owner of any such impounded vehicle against the loss thereof or injury or damages thereto while in the custody of said designated storage lot in the Borough.

SECTION 4. Towing and Storage Charges Fixed.

The following are hereby fixed and established as the charges that shall be made for the towing and storage of any vehicle removed and impounded under the authority of this Ordinance:

A. Towing: Twenty-five (\$25.00) Dollars per vehicle.

B. Service Charge: Twenty-five (\$25.00) Dollar Service Charge per vehicle, as provided by the laws of the Commonwealth of Pennsylvania.

C. Storage: Three (\$3.00) Dollars per day or any fraction thereof.

All accumulated charges shall be paid in cash and a proper receipt issued, before any towed or impounded vehicle is released. Proof of ownership of vehicle shall be required in addition to payment.

SECTION 5. Notice of Intended Removal and Impounding.

In any case where the violation is not causing immediate harm, and in the discretion of the Police Department, the Police Department shall give five (5) days' notice of the intended removal and impounding, either by Certified Mail or by affixing a Notice to the vehicle if it has no identifiable license plate.

SECTION 6. Police to Notify Owners of Impounded Vehicles.

Within twelve (12) hours from the time of removal of any vehicle under authority granted by this section, notice of the fact that such vehicle has been impounded shall be sent by the Police Department to the owner of record of such vehicle. Such notice shall designate the place from which said vehicle was removed, the reason for its removal and impounding, and the lot in which it shall have been impounded.

SECTION 7. Effect of payment of Towing and Impounding Charges Without Protest.

The payment of any towing and impounding charges authorized by this Ordinance shall, unless such payment shall have been made "under protest", be final and conclusive, and shall constitute a waiver of any right to recover the money so paid.

SECTION 8. Effect of Payment of Charges Under Protest.

In the event that any towing and impounding charges so imposed shall be paid "under protest", the offender shall be entitled to a hearing before a Magistrate or court of record having jurisdiction, in which case such defendant shall be proceeded against and shall receive such notice as is provided by The Vehicle Code in other cases of summary offenses, and shall have the same rights as to appeal and waiver of hearing.

SECTION 9. Records of Vehicles Removed and Impounded.

The Police Department shall keep a record of all vehicles impounded and shall be able at all times to furnish the owners or agents of the owners thereof with information as to the place of storage of such vehicles.

SECTION 11. Restrictions Upon Removal of Vehicles.

No vehicle shall be removed under the authority of this Ordinance if, at the time of the intended removal thereof, the owner or person for the time being in charge of such vehicle is present and expresses a willingness and intention to remove such vehicle immediately.

ARTICLE III

Private Property

SECTION 1. Abandoned Vehicles.

It shall be unlawful to park, store or leave any vehicle of any kind in a wrecked, junked, stripped or abandoned condition, or any automobile, whether occupied or not, in a place where its presence constitutes a hazard on private property, or for the owner of such automobile or vehicle, or the owner or occupant of any property, to allow, permit or suffer the same to be left upon any privately owned property unless the same be authorized in conjunction with a business properly operated, pursuant to the zoning laws, when adopted, and other laws of the Borough. Such business, however, shall not park, store or leave any kind of wrecked, junked, stripped or abandoned vehicle on any street, highway, alley or public property without being subject to the provisions of Article II of this Ordinance.

SECTION 2. Notice to Owners.

If the Police Department or the Borough Secretary-Manager, or any of their authorized agents, find that a violation of this Ordinance exists, the Police Department or the Borough Secretary-Manager shall notify, by Certified Mail or by affixing a notice to the vehicle, the owner of the property on which the vehicle is stored or parked, or the owner of the vehicle, or both, of the violation and order either or both of the said owners to remove said vehicle or vehicles within five (5) days thereof.

costs shall, after a proper demand and refusal or a failure to pay after thirty (30) days, constitute a lien on the said realty, which shall be filed by the Solicitor on receipt of all information.

SECTION 8. Emergency Powers.

Nothing in this Ordinance shall prevent duly authorized police officials from removing from private property, without notice, any attended or unattended automobile or vehicle, the presence of which constitutes a hazard or threat to the life, health, safety, welfare and morals of the citizens of the Borough of Avalon and which is imminently dangerous and, in the opinion of the authorized police officials, constitutes a nuisance which gives rise to the existence of emergency conditions.

SECTION 9. Applicability of Article II.

The provisions of Article II, concerning the place of storage, towing and charges therefor, and the bonding provisions and the recording of any removal and impounding shall be followed in any procedure under Article III where the same do not conflict with any provisions of Article III.

ARTICLE IV

Certification by Police Officials

SECTION 1.

Before any salvors may be ordered to remove any abandoned vehicle, police officials must certify that they have complied with the notification requirements as set forth in this Ordinance and as required by the laws of the Commonwealth of Pennsylvania.

ARTICLE V

SECTION 1. Unclaimed Vehicles.

If an impounded vehicle is unclaimed within seven (7) days of notice to owner, as provided in Article II, Section 6, it shall be disposed of by the Borough of Avalon in accordance with the provisions of the laws of the Commonwealth of Pennsylvania.

SECTION 3. Method of Notice.

Notice shall be given by personal service or Certified Mail to the last known address of the violator. In the event that, on diligent search, the address of either the property owner or vehicle owner cannot be ascertained, the posting of the said notice or copies thereof, on the real property, vehicle, structure or area immediately adjacent thereto shall constitute sufficient notice.

SECTION 4. Owner May Request Hearing.

Within five (5) days after notice, the party or parties affected may request a hearing by filing a written request with the Borough Secretary-Manager as to why the vehicle shall not be removed.

SECTION 5. Failure to Request Hearing.

If a hearing is not requested within the five-day period, the said notice shall become an order and the parties affected shall proceed to remove or have removed the vehicle or vehicles in question from the property in question in accordance with the notice and order.

SECTION 6. Notice of Hearing.

On proper request, a hearing on the matter shall be given forthwith and, where more than one (1) party is involved, it shall be the duty of the party requesting the said hearing to notify all other parties affected or interested of the time and place of the impending hearing. If the request is denied after hearing, the party or parties involved shall be given an additional forty-eight (48) hours to arrange for its removal.

SECTION 7. Failure to Act; Imposition of Costs

If the violation complained of shall not have been remedied within the period as required by the order, the Borough of Avalon shall, through its own agents, contractors and/or employees, remedy the violations and charge the costs thereof to the real property owner on whose property the vehicles are located. Said

ARTICLE VI

General Provisions

SECTION 1. Violations and Penalties.

Any person who shall violate any section of this Ordinance shall, upon conviction before a District Magistrate, pay a fine of not less than Five (\$5.00) Dollars, nor more than Fifty (\$50.00) Dollars or, in default thereof, be imprisoned for a period not exceeding ten (10) days. Each day's failure to comply with the order shall constitute a separate offense for each vehicle in violation thereof.

SECTION 2. Severability.

If any provisions of this Ordinance shall be held to be unconstitutional or illegal, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been adopted had such unconstitutional or illegal provisions not been included herein.

SECTION 3. Repeal of Inconsistent Ordinances.

All Ordinances or parts of Ordinances inconsistent herewith be and they are hereby repealed.

ATTEST:

BOROUGH OF AVALON

Rosa J. Costa
Secretary

BY Edwin R. Lewis
President of Council

THIS ORDINANCE EXAMINED AND APPROVED
BY ME THIS 17th DAY OF August, 1977.

Harry J. DiLore
MAYOR