

BOROUGH OF AVALON
ORDINANCE NO. 1274

AN ORDINANCE OF THE BOROUGH OF AVALON, COUNTY OF ALLEGHENY AND COMMONWEALTH OF PENNSYLVANIA, PROHIBITING THE STORAGE OF JUNKED OR ABANDONED VEHICLES ON PUBLIC PROPERTY WITHIN THE BOROUGH; REGULATING THE STORAGE OF JUNKED OR ABANDONED VEHICLES ON PRIVATE PROPERTY WITHIN THE BOROUGH; SETTING FORTH DEFINITIONS; REGULATING THE USE OF PROPERTY TO MINIMIZE ADVERSE ENVIRONMENTAL CONSEQUENCES; PROVIDING FOR ENFORCEMENT; REQUIRING THE REMOVAL OF VIOLATIONS BY THE OWNER OR OCCUPANT OF THE PREMISES WHERE THE VIOLATION OCCURS, OR BY THE BOROUGH AT THE EXPENSE OF THE OWNER OR OCCUPANT; PRESCRIBING PENALTIES FOR THE VIOLATION THEREOF; REPEALING ALL INCONSISTENT ORDINANCES.

Findings of Borough Council

The following are the findings of the Borough Council of the Borough of Avalon (hereinafter "Council"):

WHEREAS, the Pennsylvania Municipalities Planning Code, (hereinafter "MPC"), the Act of July 31, 1968, P.L. 805, No. 247, art. I, § 101, as reenacted by the Act of December 21, 1988, P.L. 1329, No. 170, § 2, 53 P.S. § 10101, *et seq., as amended*, authorizes municipalities to adopt zoning ordinances to prohibit, regulate, restrict and determine uses of land including the protection and preservation of natural resources; 53 P.S. § 10603; and

WHEREAS, Council finds that there are significant opportunities to protect the environment and to reduce or prevent pollution in the Borough of Avalon (hereinafter "Borough"); and

WHEREAS, Council finds that junked and abandoned vehicles frequently leak vehicular fluids which are deadly to Borough pets and wildlife, pollute the soil of the Borough and potentially affects drinking water, are toxic to the environment, are unsightly and adversely affect the aesthetics of residential areas within the Borough; and

WHEREAS, Council finds that simply covering a junked or abandoned vehicle with a tarpaulin or merely moving such vehicles to another location within the Borough does not eliminate the toxic and detrimental effects of such vehicles; and

WHEREAS, Council finds that the following environmental impact restrictions are deemed to be reasonable measures to protect the health, safety and welfare of the residents of the Borough; and

WHEREAS, the Borough desires to protect the environment in the Borough by the prevention, reduction and elimination of pollution in the Borough, to minimize and to control the adverse effects of junked and abandoned vehicles and thereby protect the health, safety and welfare of the citizenry, to conserve the value of land and buildings and the character of surrounding neighborhoods, to deter the spread of neighborhood blight and to minimize the visual impact of junked and abandoned vehicles in the Borough; and

WHEREAS, a public hearing and proper advertisement of the same have been duly made.

SECTION 1: ENACTING CLAUSE.

Be it ordained and enacted by the Avalon Borough Council and it is hereby ordained and enacted by the authority of the same, that from and after the effective date of this Ordinance, the following Ordinance shall be in full force and effect in the Borough of Avalon.

SECTION 2: SHORT TITLE.

This Ordinance shall be known as the "Avalon Borough Abandoned and Junked Vehicle Ordinance."

SECTION 3: CONFLICT AND REPEALER OF OTHER ORDINANCES.

All ordinances or parts of ordinances are repealed insofar as they conflict with the provisions of this Ordinance; however, such repeal shall not affect any act done or any liability or violation accrued under any such prior ordinance herein repealed or superseded and all such liabilities or violations shall continue and may be enforced in the same manner as if such repeal or supersession had not been made; and any offense or violation committed and any penalty or forfeiture incurred under any such Ordinance herein repealed or superseded, may be prosecuted in the same manner as if this Ordinance had not been approved.

SECTION 4: RULES OF CONSTRUCTION.

In the construction of this Ordinance, the rules and definitions contained in this Section shall be observed and applied, except when the context clearly indicates otherwise:

- A. Words used in the singular shall include the plural, and the plural the singular.
- B. Words used in the past or present tense shall include the future tense.
- C. Words used in the masculine gender shall include the feminine and neuter.
- D. The word "shall" is always mandatory and is not discretionary.
- E. The word "may" is permissive.
- F. That the Borough intends to favor the public interest as against any private interest.
- G. The headings prefixed to sections and other divisions of this Ordinance shall not be considered to control but may be used to aid in the construction thereof.
- H. General words shall be construed to take their meanings and be restricted by preceding particular words.

SECTION 5: DEFINITIONS.

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein:

- A. **"ABANDONED OR JUNKED VEHICLE."** Any motor vehicle or parts thereof, as defined in the Vehicle Code of the Commonwealth of

Pennsylvania, which is inoperable as defined herein, and which is stored or kept outside of a fully enclosed building.

- B. **“BOROUGH.”** The term shall mean the Borough of Avalon.
- C. **“DISMANTLED OR PARTIALLY DISMANTLED VEHICLE.”** The term shall mean any motor vehicle or part thereof, as defined in the Vehicle Code of the Commonwealth of Pennsylvania, which has been rendered inoperable because a part or parts has or have been removed therefrom.
- D. **“INOPERABLE.”** As applied to motor vehicles under this Chapter:
 - 1. A motor vehicle that does not have a current registration plate or a current inspection sticker; or
 - 2. A motor vehicle that does not have the required number of wheels or tires, does not have one (1) or more of its doors or windows, does not have an engine or does not have a battery or lacks any part which is necessary to self-propel it.
- E. **“MOTOR VEHICLE.”** A vehicle which is self-propelled except one which is propelled solely by human power or by electric power obtained from overhead trolley wires, but not operated upon rails.
- F. **“OR PARTS THEREOF.”** When used in the clause with “abandoned or junked vehicles” or “dismantled or partially dismantled vehicles,” the term shall mean a component of a vehicle, including but not limited to bumpers,

doors, fenders, tires, windows or windshields, motors, transmissions, axles or suspension frames, chassies, or any other component of a vehicle which is either wrecked, discarded, dismantled, partially dismantled or inoperative as well as including pieces or portions thereof.

- G. **"PERSON."** The term shall include both natural and artificial persons, associations, partnerships, firms or corporations. When used in the clause imposing a fine or imprisonment, the term "person" as applied to a partnership or association shall mean any member thereof and as applied to a corporation shall mean the president, vice-president, secretary, treasurer or other high managerial agent thereof. The term shall also include all owners of the property on which a violation occurs including co-owners, a husband and wife, as well as joint owners. Both an owner and a tenant are jointly responsible for compliance with the terms of this ordinance if the owner knowingly allows the premises to be used for a prohibited purpose.
- H. **"PRIVATE PROPERTY."** The term shall mean real property which belongs to or is owned, controlled or used by any person, association, partnership, firm or corporation, whether owned or leased and not constituting public property. For purposes of this ordinance, the term shall also include that portion of any public right-of-way adjacent to the property line which is not improved with a cartway for public travel.

- I. **"PUBLIC PROPERTY."** The term shall mean real property which is owned by a municipal or governmental entity, though not necessarily a place devoted solely to the uses of the public, but shall include any public street, private street, highway, road, alley, bridge, park, playground, vacant lot, stream, creek, public building or similar place within the Borough of Avalon which is open to the public or to which the public or a substantial group has access.
- J. **"SALVOR."** A person engaged in the business of acquiring abandoned vehicles for the purpose taking apart, recycling, selling, rebuilding or exchanging the vehicle or parts thereof.
- J. **"SCREENED."** When used within this Ordinance, the use of any natural objects, plantings, embankments, fencing, walls or structures or a combination of any of these, which will effectively hide any junked or abandoned vehicle, dismantled or partially dismantled vehicle, or parts thereof, so as not to be visible from the highway or abutting properties at all times of the year or by an occupant of a motor vehicle viewing from a height of 4 ½ feet above the pavement.
- K. **"VALUELESS EXCEPT FOR SALVAGE."** A vehicle which is inoperable or unable to meet the vehicle equipment and inspection standards under Part IV (relating to vehicle characteristics) of the Vehicle Code of the Commonwealth of Pennsylvania, 75 Pa.C.S. § 4101, *et. seq.*, to the extent that

the cost of repairs would exceed the value of the required vehicle. The term does not include a vehicle which would qualify as an antique or classic vehicle under the Vehicle Code except for its lack of restoration or maintenance.

A vehicle which is inoperable or unable to meet the vehicle equipment and inspection standards of Part IV (relating to vehicle characteristics) to the extent that the cost of repairs would exceed the value of the required vehicle shall be presumed to be valueless except fo salvage but the presumption is rebuttable by a preponderance of the evidence.

- L. **“VEHICLE.”** Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks. The term does not include a self-propelled wheel chair or an electrical mobility device operated by and designed for the exclusive use of a person with a mobility-related disability.
- M. **“VEHICLE SALVAGE YARD.”** Any land or structure which a salvor uses for a salvaging operation of two or more unlicensed, inoperative vehicles. Salvaging includes the storage and sale of vehicular parts or vehicles.
- N. **“VEHICULAR FLUIDS.”** A substance or liquid used frequently in motor vehicles such as gas, oil or antifreeze.

SECTION 6: PRESUMPTION OF ABANDONMENT.

- A. A vehicle shall be presumed to be abandoned under any of the following circumstances, but the presumption is rebuttable by a preponderance of the evidence:
1. The vehicle is physically inoperable and is left unattended on a highway or other public property for more than 48 hours.
 2. The vehicle has remained illegally on a highway or other public property for a period of more than 48 hours.
 3. The vehicle is left unattended on or along a highway or other public property for more than 48 hours and does not bear all of the following:
 - a. A valid registration plate.
 - b. A certificate of inspection.
 - c. An ascertainable vehicle identification number.
 4. The vehicle has remained on private property without the consent of the owner or person in control of the property for more than 48 hours.
- B. Vehicles and equipment used or to be used in construction or in the operation or maintenance of highways or public utility facilities which are left in a manner which do not interfere with the normal movement of traffic shall not be considered to be abandoned.

SECTION 7: STORING OR KEEPING TO BE A NUISANCE.

It shall be unlawful for any person, owner or lessee to store, maintain, accumulate or keep any abandoned or junked vehicle, dismantled or partially dismantled vehicle, or a vehicle valueless except for salvage, or parts thereof, in violation of this Ordinance and the same is hereby declared to be a nuisance and is prohibited.

SECTION 8: STORAGE OF INOPERABLE MOTOR VEHICLES.

A. Residential Districts

1. No person shall keep, maintain or store and no person in charge of or in control of any premises or private property, whether as owner, lessee, tenant, occupant or otherwise, shall allow any abandoned or junked vehicle, dismantled or partially dismantled vehicle, or wrecked, junked, discarded or otherwise inoperable motor vehicle, or a vehicle valueless except for salvage, or parts thereof, to remain outside an enclosed structure on public or private property in any residential district longer than ten (10) days.
2. No person shall keep, maintain or store any motor vehicle which is leaking any vehicular fluids outside an enclosed structure in any residential district.

B. Commercial and Industrial Districts

1. No person shall keep, maintain or store and no person in charge of or in control of any premises or private property, whether as owner, lessee, tenant, occupant or otherwise, shall allow any abandoned or junked vehicle, dismantled or partially dismantled vehicle, or wrecked, junked, discarded or otherwise inoperable motor vehicle, or a vehicle valueless except for salvage, or parts thereof, to remain on public or private property in a commercial or industrial district longer than ten (10) days unless screened so as not to be visible from the highway or abutting properties at all times of the year.
2. No person shall keep, maintain or store any motor vehicle which is leaking any vehicular fluids outside an enclosed structure in any commercial or industrial district.

SECTION 9: SALVAGE YARDS.

An abandoned or junked vehicle, dismantled or partially dismantled vehicle, or wrecked, junked, discarded or otherwise inoperable motor vehicle, or a vehicle valueless except for salvage, or parts thereof, held or stored upon the property of a salvor in a vehicle salvage yard or by a person engaged in the business of servicing, repairing, storing or disposing of such motor vehicles, in conformity with the Zoning Laws of the Borough of Avalon, shall not be a violation of this Ordinance if and only if:

- A. Such business is in full compliance with the Act of June 17, 1976, P.L. 162, No. 81, § 1, et seq., as amended, 75 Pa.C.S. § 7301 (relating to salvors) as well as Chapter 253 of the Pennsylvania Code, 67 Pa.Code § 253.1, et seq., which establishes rules governing the qualifications and duties of salvors.
- B. Each year upon renewal, such business shall provide the Borough Building Inspector a valid copy of its license or certificate of authorization from the Commonwealth of Pennsylvania.
- C. The certificate of authorization is displayed in its place of business.
- D. All such vehicles or parts thereof in the salvage yard are screened so as not to be visible from the highway or abutting properties at all times of the year.
- E. All such vehicles or parts thereof are not leaking vehicular fluids.
- F. The salvage yard is located in an I-Industrial District.

SECTION 10: RELOCATION OF CITED VEHICLES PROHIBITED.

After a warning is issued or a citation filed, it shall be unlawful for any person to relocate an abandoned or junked vehicle, dismantled or partially dismantled vehicle, or a vehicle valueless except for salvage, or parts thereof, to another location in Avalon Borough unless in full compliance with this Ordinance.

SECTION 11: NOTICE TO REMOVE VIOLATIONS --- FAILURE TO COMPLY.

The Borough Manager, or his or her designee, and Avalon Borough police officers are hereby authorized and directed to give notice, by personal service or United

States mail, to the owner or occupant, as the case may be, of any premises or location where violations of this ordinance exist, directing and requiring such owner or occupant to remove or eliminate such violation within ten (10) days after the issuance of the notice. If any person shall neglect, fail or refuse to comply with such notice within the period stated therein, such person shall be subject to the penalties provided in this ordinance for the violations hereof, and in addition, the proper officers of the Borough may remove such violation of this ordinance; and the costs thereof together with any additional payment authorized by law, may be collected by the Borough from such person in the manner provided by law and upon the neglect, failure or refusal to pay the costs of removal, the proper officers of the Borough may cause a lien to be filed against the property.

SECTION 12: COVERING OF ABANDONED OR JUNKED VEHICLE, OR PARTS THEREOF, NOT ABATEMENT OF VIOLATION.

Covering or draping a tarpaulin, car cover or other covering over an abandoned or junked vehicle, a dismantled or partially dismantled vehicle, or a vehicle valueless except for salvage, or parts thereof, is not an abatement of a violation of this Ordinance and does not constitute compliance with Section 8 of this Ordinance.

SECTION 13: VIOLATIONS AND PENALTIES.

Any person who shall violate any section of this ordinance or knowingly permit his or her property to be used in violation of any provision of this ordinance, shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 and costs of

prosecution, per day for each and every offense, and, in default of payment of any fines or costs imposed, may be sentenced to a period of incarceration not exceeding ten (10) days in the Allegheny County Jail. Whenever such person shall have been notified that he or she is committing such a violation of this Ordinance, each day that he or she shall continue such violation after such notification shall constitute a separate offense punishable by a like fine or penalty.

SECTION 14: JUDICIAL RELIEF.

If the Borough shall deem it necessary to abate a nuisance or nuisances under this ordinance, nothing herein shall prevent the Borough of Avalon from instituting proceedings and seeking relief in the courts of equity to abate said nuisance or nuisances.

SECTION 15: SEVERABILITY.

The provisions of this ordinance shall be severable. If any provision, section, clause, sentence, phrase or word of this ordinance is for any reason held unconstitutional, invalid or illegal by any court of competent jurisdiction, said holding shall not affect the validity of any other portion of this ordinance. It is hereby declared as legislative intent that this ordinance would have been enacted had such unconstitutional, invalid or illegal portion not been included. The Borough of Avalon does not intend to violate the Constitution of the Commonwealth of Pennsylvania or the Constitution of the United States of America.

SECTION 16: REPEALER.

Any ordinance or part of an ordinance conflicting with the provisions of this ordinance be and the same is hereby repealed to the extent that such ordinance or provision thereof is in conflict with this ordinance.

SECTION 17: EFFECTIVE DATE AND REVIEW.

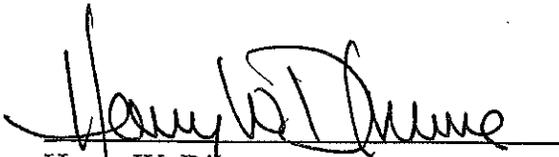
This ordinance shall take effect immediately upon its enactment.

ORDAINED AND ENACTED into law this 20th day of August,

2002.

ATTEST:

BOROUGH OF AVALON


Harry W. DiMore,
Secretary

By 
Edward Klicker
President
Borough Council

SEAL

Examined and approved by me this 20th day of

August, 2002.


Daniel K. Bricmont, Esq., Mayor