

Abandoned Vehicles

Chapter 226, VEHICLES, ABANDONED

§ 226 1. Definitions.

For the purpose of this article, the following words and phrases when used in this article shall have, unless the content clearly indicates otherwise, the following meanings:

ABANDONED VEHICLE

A. A vehicle:

- (1) That is inoperable and left unattended on a highway or other public property for more than 48 hours.
- (2) That has remained illegally on a highway, street or on other public property for a period of more than 48 hours.
- (3) Without a valid registration plate or certificate of inspection or title left unattended on or along public property.
- (4) That is left unattended on or along a highway or other public property for more than 48 hours and does not bear all the following:
 - (a) A valid registration plate.
 - (b) A certificate of inspection.
 - (c) An ascertainable vehicle identification number.
- (5) That 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 does not interfere with the normal movement of traffic, shall not be considered to be abandoned.

PRIVATE PARKING LOT A parking lot open to the public or used for parking without charge or a parking lot used for parking with charge.

SALVOR A person engaged in the business of acquiring abandoned vehicles for the purpose of taking apart, junking, selling, rebuilding or exchanging the vehicles or parts thereof.

VEHICLE Every device in, upon or by which any person or property is or may be transported or drawn upon a highway or street, except devices used exclusively upon rails or tracks, specifically including but not limited to cars, buses, motorcycles and trucks.

WAREHOUSEMAN A person engaged in the business of storing goods for hire, as defined by the Uniform Commercial Code (UCC).

§ 226 2. Abandonment and stripping of vehicles.

A. No person shall abandon a vehicle upon any public property, highway, street or private property without the express or implied consent of the owner or person in lawful possession or control of the property.

B. It is unlawful for any person, except the owner or his agent or as otherwise provided in this article, to remove any part of an abandoned vehicle.

C. Penalties.

- (1) Any person violating Subsection A is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$50, plus all costs of disposing of the vehicle under the provisions of this article.
- (2) Any person violating Subsection B:
 - (a) For a first offense, is guilty of a summary offense punishable by a fine of not less than \$100 nor more than \$500.
 - (b) For a subsequent offense, is guilty of a misdemeanor of the third degree as defined by the Pennsylvania Crime Code.

§ 226 3. Removal of vehicle by or at discretion of police.

Any police officer may remove or cause to be removed by a salvor or warehouseman to his place of business or other place of safety any abandoned vehicle, after giving notice to the owner in accordance with this article.

§ 226 4. Notice to owner prior to removal.

A. Prior to removal of an abandoned vehicle bearing a registration plate by which the last registered owner of the vehicle can be determined, notice shall be sent by certified mail to the last registered owner of the vehicle, informing the owner that, unless the vehicle was moved to a suitable location within five days of the date notice is mailed, the vehicle will be removed under this section and held at a suitable facility where it may be reclaimed by the owner in accordance with the provisions of this article. If the abandoned vehicle does not bear an identifiable registration plate, the notice may be secured to the vehicle.

B. If, within five days of the date notice is mailed as required by Subsection A, the owner so requests, the owner shall be given an opportunity to explain to the police officer or Police Department why the owner believes the vehicle should not be moved. If the police officer or Police Department determines that the vehicle shall, nonetheless, be moved, the owner shall be given an additional 48 hours to move the vehicle or have it moved.

§ 226 5. Salvors permit; authority to remove vehicle; bond required.

A. The Police Department and/or the License and Permits Clerk may issue a permit to each salvor who is authorized and issue a certificate of authorization by the Pennsylvania Department of Transportation and who complies with the requirements of this article and/or Chapter 73 of the Pennsylvania Vehicle Code and is a vehicle salvage dealer as defined in Section 1337(c)(2) of the Pennsylvania Vehicle Code, and is in compliance with any/all City business license requirements.

B. Upon written request of a police officer or the Police Department or the Commonwealth of Pennsylvania Department of Transportation, a salvor shall take possession of and remove to a storage facility of the salvor any abandoned vehicle located within the City of Hazleton.

C. Any salvor possessing a certificate of authorization issued by the Commonwealth of Pennsylvania Department of Transportation and any/all business permits required by the Code of the City of Hazleton may be called upon to act by the Police Department, provided that the salvor obtains, keeps in effect and provides proof to the Police Department of a bond indemnifying the public and the City of Hazleton in the amount of no less than \$10,000.

§ 226 6. Application for salvor permit; qualifications.

A. Application for a salvor permit shall be made on the form prescribed by the Police Department or the City of Hazleton License and Permits Department, and the Police Department shall investigate the qualifications and fitness of the applicant and shall, if it determines that the applicant is capable of performing the duties of a salvor in a manner consistent with the public interest and such salvor meets Pennsylvania Department of Transportation requirements, report the same to the License and Permits Clerk, who shall forthwith issue the salvor permit upon payment of the permit fee, if any.

B. Every applicant shall have and maintain an established place of business. If the applicant has or intends to have one or more places of business or branch offices, the application shall contain complete information for such location.

C. Before issuing a salvor permit, the Police Department shall require the applicant to furnish and maintain a bond indemnifying the public and Police Department in the amount of a minimum of \$10,000. An individual bond for each place of business is not required, but all places of business shall be covered by the said bond.

D. Salvor permits shall be issued for a period of one year and shall be subject to annual renewal.

§ 226 7. Suspension of salvor permits.

A. The Police Department, the Code Enforcement Officer and/or the City of Hazleton shall supervise salvors and, after providing an opportunity for a hearing, shall suspend the permit of any salvor whose business is not properly operated, which has violated or failed to comply with any of the provisions of this article or regulations adopted by the Department of Transportation. A suspended permit shall be returned to the City of Hazleton or Police Department immediately, except that an appeal from suspension as provided in Subsection B shall operate as a supersedeas of any suspension by the Department.

B. Any person whose salvor permit has been denied or suspended under this article shall have the right to appeal to the court vested with jurisdiction of such appeals by or pursuant to Title 42 of Purdon's Pennsylvania Statutes (relating to judiciary and judicial procedure). The court shall set the matter for a hearing upon 30 days' written notice to the Police

Department and take testimony examining all the facts of the case and determine whether the petitioner is entitled to a salvor permit or is subject to the suspension of the salvor permit under the provisions of this article.

C. Any person or business whose salvor permit has been denied, suspended or revoked under this article shall have such denial, suspension or revocation and the reasons therefor reported to the Pennsylvania Department of Transportation.

§ 226 8. Reports to Department of Transportation of possession of abandoned vehicles.

Any salvor taking possession of an abandoned vehicle pursuant to this article shall, within 48 hours after taking possession, report to the Pennsylvania Department of Transportation the make, model, vehicle identification number and registration plate number of the abandoned vehicle and 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 may by regulation require. The report shall include a statement whether the vehicle is valueless except for junk. Where the report indicates the vehicle is valueless except for junk, the salvor shall include a photograph of the vehicle to be prepared in the manner prescribed by the Pennsylvania Department of Transportation. The report by a salvor that a vehicle is valueless except for junk shall be verified by the Police Department, which authorized the towing of the vehicle by the salvor.

§ 226 9. Notice to public by salvors.

The salvor shall provide to the Pennsylvania Department of Transportation any and all notices required by the Vehicle Code. In addition, any and all notices which are required to be published in a newspaper of general circulation, or other publication, in the area where the vehicle was abandoned shall be the responsibility of the salvor, and any and all costs of such public notice shall be included in the cost of towing and storage. Any and all costs associated with advertising under this article shall be the sole and exclusive responsibility of the salvors, and the City shall not be required to reimburse for any such costs. Any such public notice shall have the same effect as notice sent by certified mail.

§ 226 10. Payment of costs upon reclaiming vehicle.

In the event that 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 in the amount set forth in Chapter 24, Fees, of which \$10 shall be transmitted to the Pennsylvania Department of Transportation by the salvor in accordance with Section 7306 of the Pennsylvania Vehicle Code. EN The reclaiming party shall further provide the salvor with proof of payment of any and all fines and penalties due under this article prior to the salvor releasing the claimed vehicle.

§ 226 11. Authorization for disposal of unclaimed vehicles.

The Pennsylvania Department of Transportation 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 the 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.

§ 226 12. Public sale of unclaimed vehicles with value.

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

C. From the proceeds of the sale of the abandoned vehicle, the salvor shall be reimbursed for the costs of towing, storage, notice and publication and the expense of auction, and the City of Hazleton shall be paid the appropriate fine and/or penalties. The remainder of the proceeds of the 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 Police Department and transmitted to the City Administrator for deposit in the general fund.

§ 226 13. Junking of vehicles valueless except for junk.

If an abandoned vehicle is valueless except for junk, the salvor shall note that fact in the report to the Pennsylvania Department of Transportation as required by Section 7304 of the Pennsylvania Vehicle Code and shall apply for issuance of a certificate of junk as provided for in Section 1117 of the Pennsylvania Vehicle Code. EN

§ 226 14. Penalty for violations by salvor.

A. Any salvor violating any of the provisions of this article shall be guilty of a summary offense, punishable as set forth in

Chapter 1, Article II, Violations and Penalties.

B. For violation of any of the provisions of this article, the salvor shall be subject to suspension of the privilege to receive abandoned vehicles under this article.

ARTICLE II, Nuisances

§ 226 15. Definitions and word usage.

A. As used in this article, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

LESSEE Owner, for the purpose of this article, when the lessor holds the lessee responsible for maintenance and repairs.

MOTOR VEHICLE Any type of mechanical device, propelled by a motor, in which persons or property may be transported upon public streets or highways and including trailers or semitrailers pulled thereby.

NUISANCE Any condition, structure or improvement which shall constitute a threat or potential threat to the health, safety or welfare of the citizens of the City of Hazleton.

OWNER The actual owner, agent or custodian of the property on which motor vehicles are stored, whether individual or partnership, association or corporation.

PERSON Natural person, firm, partnership, association, corporation or other legal entity.

B. In this article, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

§ 226 16. Motor vehicle nuisance is prohibited.

It shall be unlawful for any person, owner or lessee to maintain a motor vehicle nuisance upon the open private grounds of such person, owner, or lessee within the City of Hazleton. A motor vehicle nuisance shall include any motor vehicle which is:

- A. Unable to move under its own power;
- B. A vehicle bearing no official inspection sticker or a sticker not currently valid; or
- C. A vehicle which does not possess a current and valid registration, and has any of the following physical defects:

- (1) Broken windshields, mirrors or glass with sharp edges.
- (2) One or more flat tires or tubers which could permit vermin harborage.
- (3) Missing doors, windows, hood, trunk or other body parts which could permit animal harborage.
- (4) Any body parts with sharp edges, including holes resulting from rust.
- (5) Missing tires resulting in unsafe suspension of the motor vehicle.
- (6) Upholstery which is torn or open which could permit animal and/or vermin harborage.
- (7) Broken headlamps or tail lamps with sharp edges.
- (8) Disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or loose in the or on the vehicle.
- (9) Protruding sharp objects from the chassis.
- (10) Broken vehicle frame suspended from the ground in an unstable manner.
- (11) Leaking or damaged oil pan or gas tank which could cause fire or explosion.
- (12) Exposed battery containing acid.
- (13) Inoperable locking mechanisms for door or trunk.
- (14) Open or damaged floor boards, including trunk and firewall.
- (15) Damaged bumpers pulled away from the perimeter of the vehicle.
- (16) Broken grill with protruding edges.
- (17) Loose or damaged metal trim and clips.
- (18) Broken communication equipment antennas.
- (19) Suspended on unstable supports.
- (20) Such other defects which could threaten the health, safety and welfare of the citizens of the City of Hazleton.

§ 226 17. Storage of motor vehicle nuisances restricted.

A. Any person, owner or lessee who has one or more vehicle nuisances as defined in § 226 16 above may store such vehicle in the City of Hazleton only in strict compliance with the regulations provided herein. Such person, owner or

lessee must first apply for a permit for either temporary or permanent storage and pay a fee to the City of Hazleton such as may be provided from time to time by resolution of the Council of the City of Hazleton. The motor vehicle nuisance must be stored within a garage or other enclosed building or outside within an opaque fence at least six feet high, which fence is locked at all times when unattended. Motor vehicle nuisances may also be stored outside in an area enclosed by a chain link fence, at least six feet high, screened by shrubbery around the perimeter to the height of the fence, with an obstructed gate capable of admitting fire or emergency equipment. Such gate shall remain locked at all times when unattended. In addition, all gas and oil or other flammable liquid shall be removed from the motor vehicle and it shall be kept free of vermin infestation while being stored. The total area of storage of motor vehicle nuisances may not exceed 200 square feet.

B. Nothing herein shall be construed to permit the storage of motor vehicle nuisances contrary to the provisions of Chapter 245, Zoning.

§ 226 18. Inspection; notice to comply.

A. The Code Enforcement Officer is hereby empowered to inspect grounds on which motor vehicles are stored to determine if there is compliance with the provisions of this article. If noncompliance with the provisions of this article constitutes a nuisance, or if any condition, structure or improvement poses a threat to the health, safety or welfare of the public, he shall issue a written notice to be served by registered or certified mail upon the owner of said premises or, if the owner's whereabouts or identity is unknown, by posting the notice conspicuously upon the offending premises.

B. Said notice shall specify the condition or structure or improvement complained of, and shall require the owner to commence to remove or otherwise rectify the condition or structure or improvement as set forth therein within 10 days of mailing or posting of said notice and, thereafter, to fully comply with the requirements of the notice within a reasonable time.

§ 226 19. Authority to remedy noncompliance.

If the owner of grounds on which motor vehicles are stored does not comply with the notice to abate the conditions within the time limit prescribed, the City of Hazleton shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus 10% of all costs. The City of Hazleton, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing.

§ 226 20. Hearing.

A. Any person aggrieved by the decision of the Code Enforcement Officer may request and shall then be granted a hearing before the Council of the City of Hazleton, provided that he files with the Council, within 10 days after notice of the Code Enforcement Officer's decision, a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. The hearing shall commence not later than 30 days after the date on which the petition was filed unless postponed for sufficient cause.

B. After such hearing, the Council shall sustain, modify or overrule the action of the Code Enforcement Officer.

§ 226 21. Violations and penalties.

In addition to any other sanction or remedial procedure provided, the penalty for violation of this article shall be in accordance with Chapter 1, Article II, Violations and Penalties, of this Code. Each day that a violation of this article continues shall constitute a separate offense.

§ 226 22. Remedies not mutually exclusive.

The remedies provided herein for the enforcement of this article, or any remedy provided by law, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of the Council of the City of Hazleton.