

Borough of Susquehanna Depot
Susquehanna County, Commonwealth of Pennsylvania

Ordinance No. 475

AN ORDINANCE AUTHORIZING THE REMOVAL OF VEHICLES BY OR AT THE DIRECTION OF POLICE OFFICERS FROM HIGHWAYS, BRIDGES, CAUSEWAYS AND TUNNELS IN THE BOROUGH OF SUSQUEHANNA DEPOT; PROVIDING PROCEDURES FOR THE REMOVAL OF VEHICLES BY OR AT THE DIRECTION OF POLICE OFFICERS; ESTABLISHING DUTIES OF POLICE OFFICERS AND SALVORS IN THE REMOVAL OF ABANDONED VEHICLES FROM ROADWAYS; CITING THE AUTHORITY FOR THE ENACTMENT OF THE ORDINANCE; REPEALING ANY ORDINANCE, OR PART THEREOF, IN CONFLICT WITH THE ORDINANCE.

WHEREAS, after investigation Susquehanna Depot Borough Council has determined that the existence of Abandoned vehicles and Nonrepairable vehicles on any street, alley or other public way or right of way within the boundaries of the Borough of Susquehanna Depot is dangerous to the welfare, health and safety of the public and of Borough residents; and

WHEREAS, Susquehanna Depot Borough Council has determined that it is necessary to enact an Ordinance to regulate the removal of Abandoned Vehicles and Nonrepairable Vehicles from any street, alley or other public way or right of way within the boundaries of the Borough of Susquehanna Depot,

NOW THEREFORE BE IT, AND IT IS HEREBY ORDAINED AND ENACTED by the Borough Council of the Borough of Susquehanna Depot, Susquehanna County, Commonwealth of Pennsylvania as follows:

Section 1
Short Title

This document shall be known and cited as the "Borough of Susquehanna Depot Abandoned Vehicle Ordinance".

Section 2
Definitions

As used in this Ordinance, the following terms shall have the meaning indicated:

Abandoned vehicle –

1. A vehicle (other than a pedalcycle) shall be presumed to be abandoned under any of the following circumstances, but the presumption is rebuttable by a preponderance of the evidence:
 - a. The vehicle is physically inoperable and is left unattended on a highway or other public property for more than 48 hours.
 - b. The vehicle has remained illegally on a highway or other public property for a period of more than 48 hours.
 - c. 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:
 - i. A valid registration plate.
 - ii. A current certificate of inspection.
 - iii. An ascertainable vehicle identification number.
 - d. The vehicle has remained on private property without the consent of the owner or person in control of the property for more than 24 hours.
2. 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.

Borough – Susquehanna Depot Borough.

Borough Council – Council of Susquehanna Depot Borough.

Department – The Department of Transportation of the Commonwealth.

Highway – The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. The term includes a roadway open to the use of the public for vehicular travel on grounds of a college or university or public or private school or public or historical park

Section 3
Removal of vehicle by or direction of police

- A. **Unattended vehicle obstructing traffic.** – Any police officer may remove or cause to be removed to a place of safety any unattended vehicle illegally left standing upon any highway, bridge, causeway or in any tunnel, in such position or under such circumstances as to interfere unduly with the normal movement of traffic or constitute a safety hazard.
- B. **Removal to garage or place of safety.** – Any police officer may remove or cause to be removed to the place of business of the operator of a wrecker or to a nearby garage or other place of safety any vehicle found upon a highway under any of the following circumstances:
1. Report has been made that the vehicle has been stolen or taken without the consent of its owner.
 2. The person or persons in charge of the vehicle are physically unable to provide for the custody or removal of the vehicle.
 3. The person driving or in control of the vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before an issuing authority without unnecessary delay.
 4. The vehicle has been abandoned as defined in this Ordinance. The police officer shall comply with the provisions of subsection C of this Section and Section 4 of this Ordinance.
- C. **Notice to owner prior to removal.** –
1. Prior to removal of an abandoned vehicle bearing a registration plate, current certificate of inspection or vehicle identification number plate by which the last registered owner of the vehicle can be determined, the police department shall send a notice by certified mail to the last registered owner of the vehicle informing the owner that unless the vehicle is moved to a suitable location within seven 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 75 Pa. C.S. §7306, as amended, or its successor. If the abandoned motor vehicle does not bear an identifiable registration plate, current certificate of inspection or vehicle identification number plate, the notice may be secured to the vehicle.
 2. If, within the seven-day period, the owner so requests, the owner shall be given an opportunity to explain to the police officer or Department why the owner believes the vehicle should not be removed. If the police officer or Department determines that the vehicle shall, nonetheless, be removed, the owner shall be given an additional 48 hours to remove the vehicle, have it removed or demand a hearing, which shall conform to the requirements of 2 Pa. C.S. Ch. 5 Subch. B (relating to practice and procedure of local agencies). The police officer or Department shall

Nonrepairable vehicle – An abandoned vehicle under paragraph (1)(c) of the definitions of “abandoned vehicle” which is incapable of safe operation for use on roadways or highways and which has no resale value except as a source of parts or scrap only, a salvage vehicle issued a nonrepairable or nonrebuildable vehicle document by another state or a vehicle which a salvor or vehicle salvage dealer designates as a source for parts or scrap or which the owner irreversibly designates as a source for parts or scrap. Such vehicles may not be issued a certificate of title or certificate of salvage.

Owner – A person, other than a lienholder, having the property right in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.

Pedalcycle – A vehicle propelled solely by human-powered pedals or a pedalcycle with electric assist. The term does not mean a three-wheeled human-powered pedal-driven vehicle with a main driving wheel 20 inches in diameter or under and primarily designed for children six years of age or younger.

Person – A natural person, firm, copartnership, association or corporation.

Police officer – A natural person authorized by law to make arrests for violations of law.

Roadway – That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the sidewalk, berm or shoulder even though such sidewalk, berm or shoulder is used by pedalcycles. In the event a highway includes two or more separate roadways the term “roadway” refers to each roadway separately but not to all such roadways collectively.

Salvage vehicle – A vehicle which is inoperable or unable to meet the vehicle equipment and inspection standards under Title 75, Part IV (relating to vehicle characteristics) to the extent that the cost of repairs would exceed the value of the repaired vehicle. The term does not include a vehicle which would qualify as an antique or classic vehicle except for its lack of restoration or maintenance.

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

Shall – Indicates that an action is required or prohibited.

In this Ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

inform the owner of the right to a hearing by delivering to the owner a notice warning the owner that, unless the vehicle is removed or a hearing is demanded, the owner shall be subject to the provisions of 75 Pa. C.S. §7306, as amended, or its successor. If, as a result of the hearing, it is determined that the vehicle will be removed, the owner shall be given an additional 48 hours to remove the vehicle or have it removed. The hearing shall be before the Borough's Codes Enforcement Officer.

3. The provision for notice set forth in this subsection is applicable only if the vehicle is abandoned upon a highway and is not in violation of subsection A of this Section. Notice under this subsection C is in addition to any other notice requirements provided in Title 75 Pa. C.S.A., Part IV, Chapter 73.
 4. Subsection C of this Section does not apply to nonrepairable vehicles.
- D. Police officers may immediately remove or direct removal of any vehicle abandoned or presumed to be abandoned from any roadway, including the roadway's berm or shoulder, to the nearest point off the roadway where the vehicle will not interfere with or obstruct traffic.
- E. In carrying out the provisions of subsection D of this Section, no liability shall attach to the police officer or, absent a showing of gross negligence, to any person acting under the direction of the police officer for damage to a presumed abandoned vehicle or damage to or loss of any portion of the contents of the vehicle.

Section 4

Duty of police officers and salvors

- A. Police officers shall process all vehicles presumed to be abandoned.
- B. Police officers shall complete an abandoned vehicle information report on a form prescribed by the Department on each vehicle declared abandoned. The report shall include the make, model, vehicle identification number, registration plate number, name and address of the owner or person who abandoned the vehicle, if known, and any other information the Department may require. The report shall also indicate the vehicle's status as a vehicle with value, a salvage vehicle or a nonrepairable vehicle. The report shall include the name, signature and badge number of the police officer and the name of the respective police department. The report shall serve as an authorized written request for a licensed salvor to remove, possess and further process the abandoned vehicle.
- C. Upon receipt of the written abandoned vehicle information report from a police officer, a salvor shall take possession of and remove to the storage facility of the salvor any abandoned vehicle located within thirty (30) miles of the place of business of the salvor.

The salvor shall also indicate on the abandoned vehicle information report the vehicle's status as a vehicle with value, a salvage vehicle or a nonrepairable vehicle.

- D. The provisions of Title 75 Pa. C.S.A., Part IV, Chapter 73, as amended, or its successor, shall be incorporated herein by reference to the extent not in conflict with the provisions of this Ordinance.

Section 5

Authority

The Borough Council has authority to enact this Ordinance pursuant to the following:

1. 8 Pa. C.S. §1202;
2. 75 Pa. C.S. §3352
3. 75 Pa. C.S. §7303.1
4. 75 Pa. C.S. § 6102; and
5. 75 Pa. C.S. §6109.

Section 6

Repealer

All Ordinances, or parts thereof are hereby repealed in so far as they are in conflict with the terms of this Ordinance.

Section 7

Miscellaneous Provisions

Nothing contained in this Ordinance or any provision thereof shall be interpreted as prohibiting or limiting any other right or cause of action the Borough may have, in law or in equity, against any party for any violation of the terms of this Ordinance or matters related thereto.

All other sections and provisions of previous ordinances which are not amended or changed by this Ordinance, and are not inconsistent with the terms and provision set forth herein, are hereby ratified and reaffirmed and shall remain in full force and effect.

ENACTED AND ADOPTED by the Council this 11th day of January, 2017.

Attest:

Margaret Biegert
Margaret Biegert, Secretary

Susquehanna Borough Council:

By: Deborah Zayas
Deborah Zayas, Council Vice-President

Approved this 11th day of January, 2017.

Nancy Hurley
Nancy Hurley, Mayor

I hereby certify that the foregoing ordinance was advertised in the
on _____, 201____, a newspaper of general circulation in the municipality, and was
duly enacted and approved as set forth at a regular meeting of the Susquehanna Borough Council
held on _____, 201____.

Margaret Biegert, Secretary