

Abandoned and Junked Motor Vehicles

2003-1

VEHICLES, ABANDONED

[HISTORY: Adopted by the Board of Supervisors of Upper Augusta Township amending Ordinance 1965-2 (Regulation of Junkyards).

GENERAL REFERENCES

Zoning – See Zoning Ordinance

Findings:

The outdoor storage of abandoned, junked, discarded or unlicensed vehicles upon private property within Upper Augusta Township is hereby declared to be detrimental to the health, safety and general welfare of the community, aesthetically unattractive and detracting from the enjoyment of the environment by said residents, tending to depreciate neighborhood property values, and is an infringement on their properties and homes. The same also constitutes a potential nuisance to the children of the community and may imperil their safety. The fuel tanks of abandoned, junked or discarded vehicles containing gasoline or gasoline fumes constitute an ever-present danger of explosion. The abandoned, junked or discarded vehicles also contain broken glass and sharp metal edges, and such vehicles usually are stored or abandoned with batteries containing harmful acids. The control of the outdoor storage of abandoned, junked or discarded vehicles is therefore regulated for the preservation of the health, safety and general welfare of the community.

Definitions:

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

ABANDONED VEHICLE -- The intent of the owner shall be determined by the physical condition of the vehicle; statements of the owner as to its abandonment; the length of time since the vehicle has last been used on the highway; whether the vehicle is currently licensed, registered or inspected; and other relevant facts. With respect to a vehicle not required to be licensed or a vehicle not usually used on public highways, the intent of the owner shall be determined by the physical condition of the motor vehicle, the length of time since it was last used for the purpose intended, any statement as to its abandonment by the owner and other relevant facts.

ANTIQUE MOTOR VEHICLE -- A motor vehicle, but not a reproduction thereof, manufactured more than twenty-five (25) years prior to the current year. Vehicles licensed as antiques may not be used for regular transportation and in general are limited to use in parades and shows.

CLASSIC MOTOR VEHICLE -- A motor vehicle, but not a reproduction thereof, manufactured more than fifteen (15) years prior to the current year and which, because of discontinued production and limited availability, is considered to be a model or make of significant value to collectors or exhibitors and which has been maintained in or restored or will be maintained in or restored to a condition which is substantially in conformity with the manufacturer's specifications and appearance.

COMMERCIAL GARAGE -- Any business licensed to repair motor vehicles or any part thereof.

DISCARDED VEHICLE(S) -- Any vehicle(s) which the owner thereof, as established by the surrounding circumstances, relinquishes ownership and possession of and any vehicle(s) the owner of which cannot be found after due and reasonable inquiry.

ENCLOSURE -- A completely enclosed privacy-type structure or fence constructed of wood, metal or masonry, which shall be at least six (6) feet in height and not more than eight (8) feet in height and of such construction and type that an ordinary person of ordinary height and eyesight cannot see into the "enclosure." Such "enclosure" shall be adequately maintained so as not to create an eyesore to the community.

ENFORCEMENT OFFICER -- The Code Enforcement Officer(s), the Zoning Officer, the Building Inspectors or any peace officer or police officer whose powers and duties are within or include Upper Augusta Township.

JUNK VEHICLE -- Any vehicle which, for any reason, is incapable, without repair, of being moved or propelled by application of internal power, if it is a vehicle originally designed to be propelled by internal power, or is incapable, without repair, of being drawn or towed, if it is a vehicle originally designed to be towed or drawn from behind an internally powered vehicle, and, as adjudged by the standards of an ordinary reasonable man, is unsightly in appearance because of the existence of one (1) or more conditions, such as but not limited to the following: deterioration by rust of the body; deterioration of the exterior finish of the vehicle; broken windows; absence of component parts of the vehicle (such as fenders, panels, doors, bumpers, headlights, hood, trunk door, tires, wheels, grille, roof or tailgate); physical damage (such as dents, cracks, scraps or holes) to component parts of the vehicle; and absence of interior components (such as seats, dashboard or interior door moldings), or is incapable of being moved or propelled, drawn or towed without repair as provided for hereinabove and has remained situate on any real property for a period in excess of thirty (30) days.

JUNKYARD -- Any place of storage or deposit permitted by the township where two (2) or more unlicensed, old or secondhand motor vehicles no longer intended or in condition for legal use on the public highways are held, whether for the purpose of resale of used parts therefrom; for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same; or for any other purpose. Such term shall include any place of storage or deposit for such purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk two (2) or more such vehicles. See also Ordinance 1965-2.

OPEN STORAGE -- Storage other than in screened storage or in a completely enclosed structure constructed of wood, masonry, metal or other synthetic structural materials.

OWNER OF PRIVATE PROPERTY -- The legal owner, contract purchaser, tenant, lessee, occupant, subtenant, trustee, bailee, receiver or assignee of premises or real property located

within Upper Augusta Township.

OWNER OF VEHICLE -- The person having the property and/or title to a vehicle, including a person entitled to the use and possession of a vehicle subject to a security interest of another person, and also including any lessee or bailee of a vehicle having the use thereof under lease or otherwise.

PERSON -- An individual, firm, partnership, association, corporation, company or organization.

REPAIR SETTLEMENT -- Determination by whatever means, including settlement of a claim, arbitration or legal action, that any person other than the owner of a vehicle is liable to pay or will pay for the repair of damage to a vehicle resulting from any vehicular accident.

SCREENED STORAGE -- Storage enclosed by trees, shrubs, fences and/or buildings, rendering contents of the storage area not readily visible at eye level from the property's boundaries or from public roads bordering and/or traversing the property.

TOWNSHIP -- All areas within Upper Augusta Township, both publicly and privately owned.

UNLICENSED VEHICLE -- Any vehicle which may be licensed or registered for operation on public highways and which has not been registered during the preceding six (6) months or is not currently registered and not in a condition for legal use on the public highways. A vehicle which is in a condition to receive a current Commonwealth of Pennsylvania motor vehicle inspection sticker shall be deemed to be in a condition for legal use on the public highways.

VEHICLE -- Any means of transport or conveyance operated, driven, drawn or capable and intended to be operated, drawn or driven upon a public highway by a power other than muscular power. A "vehicle" shall include but not be limited to automobiles, motorcycles, motorbikes, buses, all types of trailers, including trailers used for storage, trucks, tractors, mobile homes, other than those legally in use in an authorized mobile home park, recreational vehicles, snowmobiles, all-terrain vehicles and jitneys or any other contraption originally designed and intended for travel on the public highways. Antique motor vehicles are exempt from inspection requirements as delineated by the Commonwealth of

Pennsylvania

WRECKER -- Any business licensed to tow or haul other motor vehicles.

Open storage restricted:

It shall be unlawful for any person, firm or corporation, either as a private property owner, vehicle owner, occupant, lessee, agent, tenant or otherwise, to openly store or deposit or cause or permit to be openly stored or deposited an abandoned, junked, discarded or unlicensed vehicle or vehicles or parts or pieces thereof on any private property within Upper Augusta Township, except as permitted in junkyards or by this Ordinance, unless such vehicle or part or piece thereof is stored or deposited in a completely enclosed building or fence or screened storage or such vehicle or part or piece thereof is under repair, reconstruction or refurbishing by the owner thereof, who must actually be residing upon the premises where such repair, reconstruction or refurbishing is being done. Such vehicle or part or piece thereof must be maintained and protected so as not to create a safety hazard or nuisance to surrounding property owners and shall not remain on the premises for more than thirty (30) days, but not on a public highway right-of-way.

Inspections:

The Upper Augusta Township Zoning Officer or Code Enforcement Officer shall have the right to enter and inspect, at any reasonable hour, any premises on which vehicle(s) are openly stored and to inspect such vehicle(s) to determine if the same are a hazard to the health and welfare of the community. This right of entry shall not be limited in any way by the existence or lack of existence of a request, authorization or other consent or approval of entry for inspection.

Notice to Correct:

After the Zoning Officer or Code Enforcement Officer has determined that an abandoned, junked or unlicensed vehicle(s) or discarded parts thereof is openly stored or deposited or is permitted to be openly stored or deposited on a parcel of property in violation of this chapter, he shall give written notice, by personal service or by registered or certified mail, on the owner of the abandoned, junked or unregistered vehicle(s) or discarded parts thereof or on the owner of any private property on which the vehicle(s) is openly stored. Such notice shall direct the person so served, regardless of the ownership of the vehicle(s) if the property owner or tenant is served, to terminate the open storage of such vehicle(s) within the township within ten (10) days of receipt of said notice.

Citations:

In the event of noncompliance with the provisions of this Ordinance and after ten (10) days have elapsed from receipt of the written notice provided for in this Ordinance, the Zoning Officer or Code Enforcement Officer may issue a citation, returnable to the District Magistrate Court at a date and time as specified on the citation. The citation shall specify the alleged Ordinance violation, the date and time and a description of the vehicle(s) involved, a copy of which shall be forwarded to the District Justice and shall be accompanied by an information form detailing the violation and attempts made by the Zoning Officer or Code Enforcement Officer to achieve compliance.

Alternative notice:

If the provisions of the foregoing sections are believed to be violated, the Zoning Officer or Code Enforcement Officer(s) may serve a written notice, either personally or by registered or certified mail, upon the owner, occupant or person having charge of such private property to comply with the requirements of this chapter. The Zoning Officer or Code Enforcement Officer(s) may determine ownership of any parcel of land in Upper Augusta Township from the current assessment roll of the township and may serve written notice upon the owner thereof by mailing such notice to the owner at the address listed on the current assessment roll. If the Zoning Officer or Code Enforcement Officer(s) is unable to determine the ownership or address of the owner of said private property, such notification may be made by publishing the same in the official newspaper of the town for two (2) consecutive weeks. The notice shall be in substantially the following form: "To the owner, occupant or person having charge of land within Upper Augusta Township briefly described as follows: (Here describe the subject property.) "Notice is hereby given that an abandoned, junked, discarded or unlicensed vehicle is stored or deposited on the above-described property in Upper Augusta Township. This vehicle must be removed therefrom or placed within screened storage or enclosure within ten (10) days from the date of this notice; provided, however, that if this notice is served on you by publication, said vehicle shall be removed within twenty-four (24) days from the first publication date of this notice. "If such vehicle is not removed, placed in screened storage or enclosure on or before the expiration of said ten (10) days from the date hereof or on or before the expiration of said twenty-four (24) days from the date of this notice in the event that it is served on you by publications, you are hereby summoned to appear before the Board of Supervisors of Upper Augusta Township, at m. o'clock, on the day of, 20....., at which time a hearing will be held to determine why Upper Augusta Township, acting through its duly authorized agents, servants, officers and employees, should not enter upon said property and

remove and cause said vehicle to be destroyed. In the event that the Board of Supervisors directs that said vehicle be removed and destroyed the expense incurred by Upper Augusta Township shall be assessed against said property and shall constitute a lien thereon and be collected in the manner provided by law. "Dated: " Zoning Officer/Code Enforcement Officer "Upper Augusta Township"

Enforcement:

The Zoning Officer or Code Enforcement Officer may enforce this Ordinance either by issuing a citation returnable in District Magistrate Court, or by removing said vehicle pursuant to the provisions of this Ordinance or by invoking both enforcement provisions.

Antique or classic motor vehicles:

An antique or classic motor vehicle that is in the process of being restored may be kept out of doors upon the premises of the owner of said vehicle for a period of twelve (12) months to allow the restoration to be completed, provided that the vehicle is stored behind the required front yard on an adequately maintained surface in the side or rear yard and is at least ten (10) feet from the property line, and provided further that such vehicle or any component part thereof is covered with a tarpaulin or custom cover made for vehicles or is otherwise hidden from public view with proper screening.

Presumption of violation:

There shall be a presumption that a person who has received the notice prescribed by this Ordinance has openly stored or deposited or caused or permitted to be openly stored or deposited an abandoned, junked, discarded or unlicensed vehicle described in said notice.

Storage by wreckers and commercial garages:

- A. A wrecker or commercial garage may store abandoned, junked or unlicensed vehicle(s) or part thereof on any one (1) site within Upper Augusta Township, provided that such storage is confined in an enclosed area and such vehicle(s) may not be stored for more than thirty (30) days, and provided further that the business operation of the wrecker or commercial garage is permitted by all applicable zoning laws or regulations, including rights under any nonconforming uses and including any limitations, restrictions or conditions established according to law by the Board of Supervisors, the Zoning Hearing Board or any court of competent jurisdiction, and provided that the vehicle(s) is not stored at any time on a public highway right-of-way.
- B. Where a repair settlement is pending in good faith, the foregoing time

periods shall not start to run until a repair settlement has been made, but in no event to exceed sixty (60) days from the date said vehicle(s) is(are) first stored upon the premises.

- C. In the event that any abandoned, junked or unlicensed vehicle or part thereof is stored at any wrecker or commercial garage and such wrecker or commercial garage is restrained from allowing the owner to move said vehicle from the location of such wrecker or commercial garage by reason of a legal detainer or order of any federal, state, county or local government agency or body, the thirty-day period of time as provided for in Subsection A hereinabove shall not commence to run until said legal detainer or order is released or vacated.

Farm, Commercial or Industrial vehicles:

Any vehicle being used in farming, commercial or industrial operations shall be exempted from the provisions of this chapter, provided that:

- A. The vehicle is being used on private property and is being held for continuing operation on private property and is not being held primarily for nonoperating purposes.
- B. The vehicle, if not in a condition for legal operation on public highways, is in a condition so that it can be operated and so that such operation on private property will not be unduly dangerous to the operator, passengers or others.
- C. The vehicle is in such condition that there is no sharp metal, broken glass or other condition which would endanger children who might be attracted to play around the vehicle.

Penalties for offenses:

A violation of this Ordinance shall be punishable by a fine of at least fifty dollars (\$50.) and not more than two hundred fifty dollars (\$250.) per violation or by imprisonment for up to fifteen (15) days, or by both. A violation of this Ordinance shall also subject the violator to a civil penalty of the greater of one hundred dollars (\$100.) per separate violation or the township's costs of inspection, service of notice, removal, towing and permanently disposing of such vehicle, less any criminal monetary fine which may have been imposed. Each abandoned, junked, discarded or unregistered vehicle stored in violation of this Ordinance shall constitute a separate violation. Each day that such separate violation shall continue or be carried on shall constitute an additional separate violation, for which the court may impose an additional fine and continuing fine until the vehicle(s) is(are) removed or enclosed.

Construal of provisions:

This Ordinance has been enacted to supplement and to be read in conjunction

with the motor vehicle and traffic laws of the Commonwealth of Pennsylvania.

Repeal:

In so far as provisions of this Ordinance conflict with previous Ordinances adopted by the Board of Supervisors of Upper Augusta Township .the provisions of this Ordinance shall prevail and conflicting provisions of previous Ordinances are hereby repealed.

Severability:

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors of Upper Augusta Township, that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

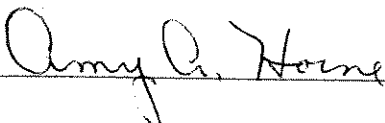
Effective Date:

This Ordinance shall become effective January 1, 2004.

ADOPTED into an Ordinance this 17th day of November, 20 03, by the Board of Supervisors of Upper Augusta Township in lawful session duly assembled.

Board of Supervisors
Upper Augusta Township

(Seal)



Secretary