

Chapter 170

VEHICLES, ABANDONED

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[HISTORY: Adopted by the Borough Council of the Borough of Upland 9-16-1969 as Ch. 2 of the 1969 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances — See Ch. 129.
Property maintenance — See Ch. 143.

Vehicles and traffic — See Ch. 173.

ARTICLE I
General Purposes and Definitions
[Amended 10-13-2009 by Ord. No. 4-2009]

§ 170-1. General purpose.

The general purpose of this chapter is to:

- A. Protect the health, safety, morals and welfare of the citizens of Upland Borough by regulating the removal of abandoned, illegally parked, stored, wrecked, junked and stripped automobiles from both public and private property and to eliminate public nuisances caused by the storage, parking and accumulation of such abandoned or junked vehicles 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; and
- B. Eliminate the potential hazards to the people of Upland Borough caused by such vehicles which can harbor diseases, furnish shelter and breeding places for mosquitoes and other insects, and are a breeding ground and harbor for rats and other pests, and which can also have areas of confinement which cannot be opened from the inside such as trunk compartments and engine compartments and present potentially attractive physical dangers to the safety and well-being of children and other citizens.

§ 170-1.1. Definitions.

For the purposes of this chapter, the terms set forth herein are defined as follows:

ABANDONED VEHICLE —

- A. Any vehicle, whether covered or uncovered, that requires a registration tag to be lawfully operated on the street, including, but not limited to, a car, truck, motorcycle, trailer, recreational vehicle or camper, but which vehicle is not displaying a current state inspection certificate, if required, and/or registration tag or without a clearly discernible vehicle identification number (VIN), and being parked or permitted to stand on any public street or alley for a continuous period exceeding 48 hours unattended; or
- B. Any vehicle, whether covered or uncovered, that does not necessarily require a current registration tag to be lawfully operated, such as a boat, snowmobile, farm or construction equipment or all-terrain vehicle, but which vehicle is disabled, discarded, wrecked, junked or inoperative. This definition includes cars, trucks or motorcycles which are displaying a "classic" or "antique" tag but are inoperable or discarded or that have not been moved for a period of six months or longer.

COVER — Any cover/tarpaulin, constructed of any material, whether store purchased or produced by the owner or keeper of an abandoned or junked vehicle, used to cover such vehicles, which may or may not be in operational condition, and is used to cover, keep, store or leave on any vehicle, either on public or private property.

JUNKED VEHICLE — Any car, truck, motorcycle, trailer, recreational vehicle or camper, whether covered or uncovered, which has no valid registration tag and/or required certificate of inspection and has been stripped or partially disassembled so that it is inoperable or

immovable or that is incapable of being utilized for its intended purpose, and is parked or is permitted to stand on any public street or alley for 48 hours and/or on any private property for a continuous period in excess of 30 days.

NUISANCE — Parking, standing or storage of any abandoned or junked vehicle on any public or private property, cartway, alley, or street within the municipal limits of the Borough of Upland is hereby identified as, and is declared to be, a nuisance.

OWNER —

- A. The actual owner, agent or custodian of the real property on which an abandoned or junked vehicle stands or is stored, when applicable, whether an individual or partnership, association or corporation; or
- B. The owner of record of an abandoned or junked vehicle, as defined in this chapter.

PERSON — A natural person, firm, partnership, association, corporation, or other legal entity.

ARTICLE II Public Property

§ 170-2. Authority to impound vehicles.

Members of the Police Department are hereby authorized to remove a vehicle from a street or highway to the nearest garage or lot or other place of safety, or to a garage designated or maintained by the Police Department or otherwise maintained by the Borough, when such vehicle is parked on any of the streets, highways or public property of the Borough in violation of any provisions of law or of any ordinance of the Borough, provided that no vehicle shall be removed or impounded except in strict adherence to the following sections of this article.

§ 170-3. Approved storage garages or lots.

The Borough Council shall designate one or more storage garages or lots as approved storage garages or lots for the storage of impounded vehicles.

§ 170-4. Garage to post bond. [Amended 12-10-1996 by Ord. No. 9-1996]

Every such approved storage garage shall post a bond in the amount of \$5,000, to be filed with the Borough Secretary, for the indemnification of the owner of any such impounded vehicle against the loss thereof or injury or damage thereto while in the custody of said poundkeeper.

§ 170-5. Towing and storage charges fixed. [Amended 11-6-1975 by Ord. No. 5-1975; 12-10-1996 by Ord. No. 9-1996]

The charges that shall be made for the towing and storage of any vehicle removed and impounded under the authority of this article shall be as set forth from time to time by the Borough Council.

§ 170-6. 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 24 hours' notice of the intended removal and impounding to the violator.

§ 170-7. Police to notify owners of impounded vehicles.

Within 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 garage or lot in which it shall have been impounded.

§ 170-8. Effect of payment of towing and impounding charges without protest.

The payment of any towing and impounding charges authorized by this article 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.

§ 170-9. 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 District Justice 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.

§ 170-10. 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.

§ 170-11. Owner or operator of vehicle remains liable for fine or penalty.

The payment of towing and storage charges shall not operate to relieve the owner or operator of any vehicle from liability for any fine or penalty for the violation of any law or ordinance on account of which said vehicle was removed and impounded.

§ 170-12. Restrictions upon removal of vehicles.

No vehicle shall be removed under the authority of this article 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**

§ 170-13. Covers prohibited. [Amended 10-13-2009 by Ord. No. 4-2009]

It shall be unlawful to cover any car, truck, motorcycle, trailer, recreational vehicle, camper, boat, snowmobile, farm or construction equipment or all-terrain vehicle with a cover of any type, whether said vehicle or vehicles are located on public or private property. Covering any identified vehicle or vehicles is deemed to be a violation of this chapter and will classify said vehicle or vehicles as an "abandoned vehicle" as defined in this chapter.

§ 170-14. Notice to owners.

If the Police Department or the Borough Secretary or any of their authorized agents find that a violation of this article exists, the Police Department or the Borough Secretary shall notify 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 said owners to remove said vehicle or vehicles within five days thereof or any other reasonable time as the conditions warrant.

§ 170-15. Method of notice.

Notice shall be given by personal service or registered 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 said notice or copies thereof on the real property, vehicle, structure or area immediately adjacent thereto shall constitute sufficient notice.

§ 170-16. Owner may request hearing.

Within two days after notice, the party or parties affected may request a hearing by filing a written request with the Borough Secretary.

§ 170-17. Failure to request hearing.

If a hearing is not requested within the two-day period, 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.

§ 170-18. Notice of hearing.

On proper request, a hearing on the matter shall be given forthwith and where more than one party is involved, it shall be the duty of the party requesting said hearing to notify all other parties affected or interested of the time and place of the impending hearing.

§ 170-19. 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 Upland 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 costs shall, after a proper demand and refusal or a failure to pay after 30 days, constitute a lien on said realty which shall be filed by the Solicitor on receipt of all information.

§ 170-20. Emergency powers.

Nothing in this article 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 Upland 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.

§ 170-21. Applicability. [Amended 12-10-1996 by Ord. No. 9-1996]

The provisions of 75 Pa.C.S.A. § 7301 et seq. concerning the place of storage, towing and charges therefore and the bonding provisions and the recording of any removal and impounding shall be followed in any procedure under this chapter, where the same do not conflict with any provision of this chapter.

ARTICLE IV
Violations and Penalties

§ 170-22. Violations and penalties. [Amended 11-6-1975 by Ord. No. 5-1975; 7-12-1988 by Ord. No. 7-1988]

Any person who shall violate any provision of this article shall, upon conviction before any District Justice, be punished by a fine of not more than \$600, plus costs of prosecution or, in default thereof, by imprisonment for not more than 30 days. Each days' failure to comply with any provision of this article as aforesaid shall constitute a separate violation.