

ORDINANCE NO. 314

*
*
*

**AN ORDINANCE OF THE BOROUGH OF BERLIN
DEFINING ABANDONED VEHICLES, PROHIBITING THE
STORAGE THEREOF ON PUBLIC OR PRIVATE PROPERTY
WITHIN THE BOROUGH, PROVIDING FOR THE REMOVAL
AND IMPOUNDMENT THEREOF AND IMPOSING PENALTIES
FOR VIOLATIONS.**

*
*
*

BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Berlin and it is hereby **ORDAINED AND ENACTED** by the Authority of the same as follows:

Section I. *Short Title.*

This Ordinance shall be known and cited as the "Borough of Berlin Abandoned Vehicle Ordinance".

Section II. *Definitions.*

When used in this Ordinance, the following words and phrases shall have the meanings as set forth in this section, except in those instances where the context means clearly indicates a different meaning:

A. "Abandoned Vehicle" –

1. Any vehicle of unknown ownership left upon a street or alley of the Borough or on public or private property within the Borough for five (5) or more consecutive calendar days without being moved or removed;
2. Any wrecked vehicle;
3. Any vehicle incapable of being moved or removed under its own power;
4. Any vehicle with one or more deflated tires, or without a tire or tires, or upon blocks or jacks;
5. Any vehicle without a current registration plate and current inspection sticker, if that vehicle is required by law to be registered and inspected for operation on the streets and roads of the Commonwealth;
6. Any vehicle without windows or with broken glass windows or which in any other way constitutes a hazard to public safety by reason of its condition or its location.

B. "Calendar Day" – a period of twenty-four (24) consecutive hours as measured from the hour 12:00 a.m. to the hour 12:00 a.m. next following.

C. "Enclosed Building" – a permanent structure having at least four (4) exterior walls, a roof and one (1) or more doors, such that the contents thereof may be completely enclosed therein.

D. "Enforcement Officer" – any member of the Berlin Borough Police Department and any person designated by Borough Council by motion or resolution to enforce this Ordinance.

- E. **“Person”** – any natural person, an association of persons, a partnership, corporation, limited liability company or any other organization recognized by law as a legal entity.

Section III. *Unlawful Acts.*

It shall be unlawful for any person to keep or maintain an abandoned vehicle upon public property or upon the streets and alleys of the Borough. It shall be unlawful for any person to permit an abandoned vehicle to be kept or maintained upon the private property of the person or upon private property occupied by that person, except within the walls and confines of an enclosed building.

Section IV. *Exceptions.*

The provisions of this Ordinance shall not apply to:

- A. Dealers in automobiles licensed by the Commonwealth;
- B. Persons regularly engaged in the full-time business of collision or automotive repairs; provided, however, that the vehicle in question is in the process of repair and is not being periodically or continuously dismantled for parts.

Section V. *Notice to Remove.*

Upon receipt of report of any abandoned vehicle, the enforcement officer shall cause to be delivered to the owner thereof, if the owner be known, written notice to remove the abandoned vehicle within forty-eight (48) hours of the date of the notice. Upon receipt of report of any abandoned vehicle kept or maintained upon private property, whether the owner is known or unknown, the enforcement officer shall also cause to be delivered to the owner of that private property or the occupant thereof, if not owner-occupied, a written notice to remove the abandoned vehicle within forty-eight (48) hours of the date of the notice.

Section VI. *Enforcement.*

If the owner of an abandoned vehicle cannot be determined, or if the owner of the abandoned vehicle or the owner of the private property, or the occupant thereof, if not owner-occupied, fails, refuses or neglects to remove the abandoned vehicle within forty-eight (48) hours of the date of the written notice, the enforcement officer may have the abandoned vehicle removed and impounded.

Section VII. *Violations and Penalties.*

- A. Any person violating the provisions of this Ordinance, either as the owner of an abandoned vehicle, or the owner of private property where an abandoned vehicle is kept or maintained, or the occupant of private property where an abandoned vehicle is kept or maintained, shall upon conviction thereof before a District Magistrate be sentenced to pay a fine of not less than One Hundred (\$100.00) Dollars nor more than Three Hundred (\$300.00) Dollars, the costs of prosecution and the cost of removal and impoundment, if the vehicle has been removed and impounded.
- B. Each calendar day an abandoned vehicle remains upon public property, or upon a street or alley of Berlin Borough, or upon private property after written notice is given to the owner of the vehicle, or the owner of the private property, or the occupant thereof, shall constitute a separate violation of this Ordinance. It shall not be a defense to prosecution for violation of this Ordinance that one (1) or more of the owner of the vehicle, the owner of the private property where it is kept or maintained, or the occupant thereof, has been charged or convicted of the same violation.

Section VII. *Implied Consent.*

Any person who owns or occupies private property in the Borough of Berlin shall be deemed to have given consent to entry upon that property by the enforcement officer for the limited purpose of inspecting any vehicle the enforcement officer has reasonable grounds to believe to be an abandoned vehicle and for the limited purpose of removing and impounding any vehicle the enforcement officer has reasonable grounds to believe to be an abandoned vehicle.

Section IX. *Effective Date.*

This Ordinance shall be and become effective on the 8th day of July, 2004.

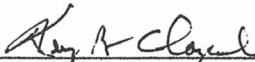
Section X. *Repealer and Severability.*

All Ordinances or parts of Ordinances inconsistent herewith shall be and are hereby repealed. If any section or part of this Ordinance is found to be invalid by a Court of competent jurisdiction, such finding shall not affect the validity of any other section or part of this Ordinance not so invalidated.

Adopted by the Berlin Borough Council, enacted and ordained this 8th day of July, 2004.

ATTEST

BOROUGH OF BERLIN



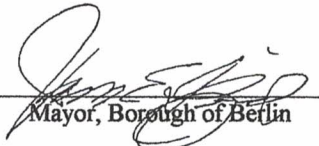
Executive Borough Secretary



Borough Council President

(SEAL)

Approved this 8th day of July, 2004.



Mayor, Borough of Berlin