

BOROUGH OF JERMYN

ORDINANCE NO. ~~1-92~~ 1-92

AN ORDINANCE GOVERNING AND REGULATING THE STANDING AND/OR PARKING OF UNLICENSED, UNREGISTERED OR ABANDONED AUTOMOBILES AND MOTOR VEHICLES WITHIN THE BOROUGH.

By the powers granted to the Borough of Jermyn by the Borough Code, 53 P.S. Section 45101 et. seq., and by the Vehicle Code of the Commonwealth of Pennsylvania, 75 Pa.C.S.A. 101 et. seq., be it enacted and ordained by the Council of the Borough of Jermyn, Lackawanna County, Pennsylvania, and it is hereby enacted and ordained by the authority of the Jermyn Borough Council as follows:

Section I. Title.

This ordinance shall be known as the "Parking Ordinance Regarding Unlicensed, Unregistered or Abandoned Vehicles."

Section II. Policy.

Pursuant to its authority under the Vehicle Code of the Commonwealth of Pennsylvania, 75 Pa.C.S.A. 101 et. seq., and pursuant to its authority under 53 P.S. Section 46202(3) to impose fines and penalties; pursuant to its authority under 53 P.S. Section 46202(6) to make such regulation as may be necessary for the health, safety, and general welfare of its citizens, as well as for the beauty, convenience, comfort and safety of the Borough; pursuant to its authority under 53 P.S. Section 46202(17) to regulate the streets, public squares, common grounds, sidewalks and curbs and pursuant to its authority under 53 P.S. 4202(74) to make and adopt any ordinance necessary for the proper management, care and control of the Borough of Jermyn and its finances, and for the maintenance of the peace, good government, safety and welfare of the Borough of Jermyn and its trade, commerce and manufactures, the Borough of Jermyn enacts the

instant ordinance. It is the desire and intent of the Jermyn Borough Council to ensure that the health, safety, morals, general welfare and cleanliness and the beauty, convenience, comfort and safety of the Borough of Jermyn and its residents is in the best possible condition for both safety and financial reasons. It is the desire of the Jermyn Borough Council to prohibit and make illegal the parking or letting of unlicensed, unregistered or abandoned vehicles within the Borough of Jermyn boundary limits. Therefore, in order to protect its citizens, the Jermyn Borough Council enacts the within ordinance.

Section III. Definitions.

A. **BOROUGH** - The term "Borough" shall mean the Borough of Jermyn, Lackawanna County, Pennsylvania, the Mayor of the Borough of Jermyn, the Jermyn Borough Council and any duly authorized member or agent of any of the above.

B. **STREET** - In addition to the definitions of "Street" contained in the Borough Code at 53 P.S. Section 45111 and 53 P.S. Section 46701, which definition is incorporated herein by reference, and the term "Street" shall mean public street, avenue, road, boulevard, highway, place, court or other public place located in the Borough of Jermyn and established for the use of vehicles.

C. **VEHICLE** - In addition to the definition of "Vehicle" contained in the Pennsylvania Motor Vehicle Code at 75 Pa.C.S. Section 102, which definition is incorporated herein by reference, the term "Vehicle" shall mean all motor vehicles using Borough streets, including all public and private transportation conveyances, trucks and other powered vehicles. And the term "Vehicle" shall mean every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks, as defined in the Vehicle Code of the Commonwealth of Pennsylvania, 75 Pa.C.S.A. Section 102.

D. **MOTOR VEHICLE** - The term "Motor Vehicle" shall mean a vehicle which is self-propelled except one which is propelled solely by human power or by electric power contained from overhead trolley wires, but not operated upon rails.

E. **PARK, PARKED or PARKING** - The terms "Park, Parked or Parking" shall mean the halting of a vehicle or motor vehicle, whether occupied or not, except momentarily for the purpose of and while actually engaged in loading or unloading property or passengers. And the terms "Park" or "Parking" shall mean (1) the temporary storing of a vehicle, whether occupied or not, off the roadway; (2) the halting of a vehicle, whether occupied or not, except momentarily for the purpose of and while actually engaged in loading or unloading property or passengers, as defined in the Vehicle Code of the Commonwealth of Pennsylvania.

F. **ABANDONED VEHICLE**

1. The term "Abandoned Vehicle" shall mean a vehicle (other than a pedal cycle) 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 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 any of the following:

1) a valid registration plate,

2) a certificate of inspection, or

3) an ascertainable vehicle identification number, or

D. the vehicle has remained on private property without the consent of the owner or person in control of the property for more than 48 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.

Section IV. Removal of Vehicle by or at Direction of Police.

1. Business and Residence Districts - Whenever any police officer finds a vehicle in violation of any of the provisions of this Ordinance or of the Vehicle Code, the officer may move the vehicle, or cause the vehicle to be moved, or require the driver or other person in charge of the vehicle to move the vehicle, to a position off the roadway where the vehicle will not interfere unduly with the normal movement of traffic or where the vehicle will not constitute a safety hazard.

2. 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.

3. 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, or otherwise parked or standing, under any of the following circumstances:

A. Report has been made that the vehicle has been stolen or taken without the consent of its owner.

B. The person or persons in charge of the vehicle are physically unable to provide for the custody or removal of the vehicle.

C. 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.

D. The vehicle is in violation of the Vehicle Code (relating to prohibitions in specified places) except for overtime parking.

E. The vehicle has been abandoned as defined herein. The officer shall comply with the provisions of the Vehicle Code.

4. Notice to Owner Prior to Removal-

A. Prior to removal of an abandoned vehicle bearing a registration plate, certificate of inspection or vehicle identification number plate by which the last registered owner of the vehicle may 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 (7) days of the date notice is mailed, the vehicle will be removed under this Ordinance and held at a suitable facility where it may be reclaimed by the owner in accordance with the provisions of this Ordinance and of the Vehicle Code. If the abandoned motor vehicle does not bear an identifiable registration plate, certificate of inspection or vehicle identification number plate, then the notice may be secured to the vehicle.

Section V. Severability and Amendment.

If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance, so long as it remains workable minus the invalid portion.

Section VI. Repeal of Conflicting Ordinances.

The within Ordinance supersedes and repeals all former and prior Ordinances or parts thereof which conflict or are inconsistent with the provisions of this Ordinance and to the extent that any prior or existing Ordinances of the Borough of Jermyn are inconsistent with the terms of the within Ordinance, said inconsistent Ordinances or parts thereof are hereby repealed.

Section VII. Effective Date.

This ordinance shall become effective thirty (30) days from the date of its enactment herein.

Section VIII. Applicability and Scope.

This Ordinance is enacted under authority of Section 6109(a-22) of the Vehicle Code, and gives authority to the Borough of Jermyn to remove and impound those vehicles which have been abandoned or are not legally entitled to operate or park on the streets and highways of the Commonwealth under authority of the Vehicle Code.

Section IX. Effect of Payment of Towing and Storage Charges.

The payment of any towing and storage charges authorized by this Ordinance shall, unless payment is made "under protest", be final and conclusive, and shall constitute a waiver of any right to recover the money so paid. If payment of any towing or storage charges is made "under protest", then the offender shall be entitled to a hearing before a district justice. Payment of towing and storage charges shall not relieve the owner or driver of any vehicle from liability for any fine or penalty for the violation of the provision of this Ordinance for which the vehicle was removed or impounded.

Section X. Reclamation Costs.

In order to reclaim his vehicle, the owner shall pay towing and storage costs, plus a twenty-five dollar (\$25.00) fee of which ten dollars (\$10.00) shall be transferred to the Pennsylvania Department of Transportation by the garage to which the vehicle was taken.

Section XI. Records of Vehicles Removed and Impounded.

The Borough of Jermyn shall cause a record to be kept of all vehicles impounded under this Ordinance and shall be able at all reasonable times to furnish the owners or the agents of the owners of those vehicles with information as to the place of storage of the vehicle.

Section XII. Restrictions upon Removal of Vehicles.

No vehicle shall be removed under the authority of this Ordinance or of the Vehicle Code if, at the time of the intended removal, the owner or the person for the time being in charge of the vehicle is present and expresses a willingness and intention to remove the vehicle immediately.

Section XIII. Penalty.

Any person who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than Three hundred (\$300.00) Dollars together with all fines and costs of storing or disposing of the vehicle under provisions of the Vehicle Code, modified or reenacted by the General Assembly of Pennsylvania.

ENACTED AND ORDAINED THIS 12th DAY OF FEBRUARY 1998.

BOROUGH COUNCIL OF THE
BOROUGH OF JERMYN

Deborah Morcom (SEAL)
DEBORAH MORCOM
Manager

Philip Marrara
PHILIP MARRARA
President

EXAMINED AND APPROVED THIS 12 DAY OF FEBRUARY 1998.

BY: *James W. Buckingham*
JAMES BUCKINGHAM
Mayor