

ORDINANCE NO. 3474-18

**AN ORDINANCE AMENDING THE CODE
OF THE BOROUGH OF RUTHERFORD,
COUNTY OF BERGEN, AND STATE OF NEW JERSEY,
CHAPTER 125, ENTITLED "ABANDONED VEHICLES"**

BE IT ORDAINED by the Mayor and Council of the Borough of Rutherford, County of Bergen and State of New Jersey that those portions of Chapter 125 of the Code of the Borough of Rutherford Entitled "Abandoned Vehicles" set forth below are hereby amended as follows and that those portions of the Ordinances not set forth below shall remain unchanged:

Section 1. Chapter 125, of the Code of the Borough of Rutherford, New Jersey, is hereby amended as follows:

§ 125-1 Legislative findings.

It is hereby determined and declared that the abandonment or storage out of doors of any motor vehicle not currently in use for transportation and not currently licensed or registered, on any public streets or on any private lands within the Borough of Rutherford, is contrary and inimical to the public welfare in that such vehicles so abandoned or stored attract or may attract persons of tender years who, being so attracted, may play in and about them and be injured in so doing, and in that such vehicles so abandoned or stored out of doors, exposed to the elements, deteriorate and in themselves are unsightly and, deteriorating, become more unsightly and are detrimental to and depreciate the value of properties in the neighborhood where they are located and in the borough as a whole.

§ 125-2 Definitions.

A. The following terms, phrases and words used in and for the purpose of this chapter shall be deemed to have the following meanings:

ABANDONED VEHICLE

[Amended 11-6-1991 by Ord. No. 2627-91; 11-10-1998 by Ord. No. 2869-98; 12-29-1998 by Ord. No. 2881-98]

Any ~~motor vehicle, omnibus, road tractor, trailer, truck, truck-trailer and vehicle~~ **"vehicle"** as defined in this section which:

(1) Has been continuously parked in any public street or on any public land for a period of five days;

(2) Is so disabled as to constitute an obstruction to traffic, and the driver or person owning or in charge thereof neglects or refuses to move the same to a place where it will not obstruct traffic;

(3) Is so in need of repair as to render the same incapable of being readily operated under its own power and is allowed to remain in such condition for a period of five days, except where such storage is specifically authorized by chapter 131, Zoning, of the Code of the Borough of Rutherford; or

(4) Is found without one or more tires.

JUNK AUTOMOBILE or JUNK AUTOMOBILE BODY

Any automobile **“vehicle” as defined in this section** which is no longer in actual use as a motor vehicle or which is wholly unfit, without rebuilding or reconditioning for use in highway transportation or which has been discarded for use as a motor vehicle or otherwise abandoned.

PERSON

Any individual, firm, partnership, **association**, ~~or~~ corporation, **company, organization or entity of any kind, being the owner of such vehicle, or owner of the property on which the vehicle is located** or having any legal right in, of or to the motor vehicle or other vehicle as herein defined.

POLICE DEPARTMENT

The Police Department of the Borough of Rutherford.

PRIVATE PROPERTY

Includes all non-public residential and commercial real property within the Borough of Rutherford, including residential lots, multi-family dwellings, condominiums and townhouses, retail establishments, office buildings and commercial/industrial buildings.

PUBLIC PROPERTY

All property devoted to public use, including public roads, rights-of-way and property whereon public buildings are erected.

VEHICLE

With respect to private property, the term “vehicle” shall be defined to mean passenger automobiles, motorcycles, and commercial automobiles, as defined in the

Motor Vehicles and Traffic Regulations of the State of New Jersey, N.J.S.A. 39:1-1. Vehicle shall also include all parts, tools, tires and other vehicle accessories and equipment. With respect to public property, the term "vehicle" shall be defined to mean every device in, upon or by which a person or property is or may be transported upon a highway, including trailers, as these terms are defined in the Motor Vehicles and Traffic Regulations of the State of New Jersey, N.J.S.A. 39:1-1.

B. As used in this chapter, the terms "motor vehicle," "omnibus," "road tractor," "trailer," "truck," **and** "truck-tractor" ~~and "vehicle"~~ are intended to have the meanings stated and defined in N.J.S.A. 39:1-1 et seq.

§ 125-3 Abandonment of vehicles prohibited.

~~It shall be unlawful for any person to abandon or suffer to permit the abandonment of any motor vehicle, omnibus, road tractor, trailer, truck or truck-trailer or other vehicle, as defined herein, out of doors upon any public or private lands in the Borough of Rutherford or in any public street or between the right-of-way lines of any public right-of-way therein. Nothing herein contained shall be deemed to prohibit the placing, keeping or storage of any such vehicle in an enclosed garage, barn or other building.~~

- A. No person shall park, abandon, leave, keep or otherwise store any vehicle on private property in the Borough of Rutherford, for a period of more than 30 days, except in an enclosed garage, barn or other building.**
- B. No person shall park, store, abandon or otherwise keep any motor vehicle on public lands, except as expressly permitted by parking regulations or as authorized by an officer of the Rutherford Police Department.**
- C. Any owner of a property located within the Borough of Rutherford who allows or causes an abandoned vehicle to remain on their property in violation of this ordinance shall be subject to the same fines and penalties as the owner of said vehicle as set forth below.**

§ 125-4 Junked vehicles.

No person shall place, keep or store any junk automobile or junk automobile body, as heretofore defined in this chapter, on any public or private property within the Borough of Rutherford, unless same is in an enclosed garage, barn or other building.

§ 125-5 ~~Time limit~~ Exceptions.

The prohibition on the on the outdoor storage of vehicles on private property as set forth in Section 125-3 (A) shall be subject to the following exceptions:

- A. Vehicles that have a current registration and display proper license plates such as to be operable on the public highways in the State of New Jersey.**
- B. Is stored in an enclosed garage, barn or other building.**

- C. **Vehicles properly registered as historic vehicles pursuant to the rules and regulations of the New Jersey Division of Motor Vehicles.**
- D. **New or used automobile dealers that are licensed by the State of New Jersey for the purpose of displaying vehicles for sale to the general public and have received zoning approval will be exempt from this chapter as long as they hold a current dealer's license and do not retain vehicles on their lot that are not salable vehicles.**
- E. **Licensed service stations (repair garages) and auto body repair shops will also be exempt from the provisions of this chapter as long as they are licensed by the State of New Jersey for the type of business they are conducting, have received zoning approval for the area where they are operating, and parking on the site is limited to those vehicles of employees, those vehicles which are involved in repairs or servicing at the station and those commercial vehicles accessory and necessary to the operation of the service station per §131-34G of the Borough Code. No other parking shall be permitted nor shall parking be permitted on unpaved areas per §131-34G of the Borough Code. They shall maintain a neat and orderly lot and limit the number of vehicles that are being kept on the lot for repairs, according to the size of the available space.**

~~If any motor vehicle, omnibus, road tractor, trailer, truck or truck-trailer or other vehicle, as defined in this chapter, shall be abandoned on private lands for 10 days or more, it shall be presumed that the owner or tenant in possession of said land has abandoned it or permitted or suffered it to be abandoned there.~~

§ 125-6 Impoundment of vehicles.

A. Whenever any officer of the Police Department of the Borough of Rutherford finds any **"vehicle" as defined in § 125-2** ~~motor vehicle, omnibus, road tractor, trailer, truck or truck-trailer or other vehicle~~ which has been abandoned, kept or stored contrary to the provisions of this chapter on any public ~~or private~~ property, such member of the Police Department shall remove same or secure the removal of the vehicle to a storage place designated by the Mayor and Council of the Borough of Rutherford. Such vehicle shall first be retained in impoundment until the person owning the same shall first pay the reasonable cost of the removal and storage which may result from such removal before regaining possession of the vehicle. The abandonment of any vehicle shall be without liability to the Borough of Rutherford.

B. Whenever any vehicle is impounded as provided in this section, the Chief of Police or some member of the Police Department acting for him **or her** shall, within five days of the date of the impoundment, notify the registered owner in writing by registered mail at the last known address of the owner of the removal of such vehicle, the reason for its removal and the location of the vehicle.

§ 125-7 Sale of impounded vehicles.

Whenever any vehicle impounded by the Police Department shall remain unclaimed **by the owner or person entitled thereto** for a period of 90 days, **or if the cost of removal, storage, fine and/or Court costs remain unpaid**, ~~the vehicle shall be sold under the direction of the Chief of Police at public auction to the highest bidder. Such action held shall take place after notice of such sale has been given at least seven days prior thereto by one publication in the newspaper circulated in the Borough of Rutherford and upon the mailing of a copy of said notice to the owner of the vehicle by registered mail at least seven days prior to the sale.~~ **the Chief of Police may cause the vehicle to be sold or disposed of, as provided by N.J.S.A. 39:10A-1, et seq.** The address of the owner as shown on the records of the State Division of Motor Vehicles shall be deemed sufficient for the purpose of this chapter.

§ 125-8 Violations on Public Property.

Whenever a violation of this Chapter occurs on Borough property or any public roads or right of ways within the Borough of Rutherford, enforcement of this Chapter shall be exclusively by the Rutherford Police Department, in accordance with the following standards:

- A. If a vehicle constitutes or may constitute a traffic hazard to the public, it may be removed by a licensed towing operator to the place of business of the tow operator until the owner shall come to claim it.
- B. If a vehicle is parked on public property due to it becoming mechanically disabled during operation, the owner/operator shall be afforded a reasonable opportunity to arrange for its removal by a towing service of the owner's choice, provided the owner timely alerts the Rutherford Police Department when the vehicle becomes inoperable, and the same is not creating a hazard.
- C. The owner or person entitled to possession of any vehicle removed from public property shall be responsible for all reasonable costs of removal and storage in conjunction with recovering possession of the vehicle.
- D. Enforcement as set forth in this section with respect to violations on public property shall be in addition to the authority of the Police Department to issue Summonses for any applicable violations of the motor vehicle laws of the State of New Jersey.

§ 125-9 Violations on private property

Whenever a violation of this Chapter occurs on private property within the Borough of Rutherford, enforcement of this Chapter shall be by the Zoning Officer and/or the Construction Code Official.

§ 125-10 8 Violations and p Penalties.

[Amended 11-6-1991 by Ord. No. 2627-91]

~~Any person who violates any provision of this chapter shall, upon conviction, be punished by a fine of not less than \$100 nor more than \$500 or by imprisonment for a term not exceeding 90 days, or both, at the discretion of the Municipal Judge, and each day that said violation shall continue shall be deemed a separate offense.~~

A Any person who shall violate any provision of the restrictions on the parking and storage of vehicles on private property as set forth in this Chapter, shall upon conviction thereof, be subject to the following penalties:

- 1. A fine of not more than \$100.00 for a first offense.**
- 2. For a second offense, the fine shall be not less than \$100.00 nor exceed \$500.00.**
- 3, For a third and subsequent offense, the fine shall be \$1,000.00 or imprisonment for a term of not more than 30 days, or both.**

B. Any owner of a property located within the Borough of Rutherford who allows or causes an abandoned vehicle to remain on their property in violation of this ordinance shall be subject to the same fines and penalties as the owner of said vehicle as set forth above.

C. The imposition of a penalty or penalties for any violation shall not excuse or be deemed to permit to continue, and all such persons convicted shall be required to correct or remedy such violations within a reasonable time. If said violations are not corrected within 10 days following conviction, the prohibited condition shall be deemed a separate offense hereunder.

§ 125-11 -9 Declaration of nuisance.

A continuance of a violation or a noncompliance with the provisions of this chapter shall be deemed a nuisance and the Mayor and Council of the Borough of Rutherford shall have the right to apply to the courts of this state for injunctive relief or other relief, in addition to the penalties imposed herein.

125-12. Effect of Other Provisions.

This Chapter shall not be deemed to limit any other remedy or enforcement of remedy provided by state statute or local ordinance. **If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.**

Section 2. Any Ordinances or parts thereof inconsistent herewith shall be amended and supplemented to conform to the provisions contained herein.

Section 3. If any part of this Ordinance is declared unconstitutional or illegal by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

Section 4. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

ATTEST:

Margaret M. Scanlon

Margaret M. Scanlon, Borough Clerk

BOROUGH OF RUTHERFORD

Joseph DeSalvo Jr.

Joseph DeSalvo Jr., Mayor

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Mayor and Council at a meeting held on September 11, 2018.

Margaret M. Scanlon

Margaret M. Scanlon, Borough Clerk