

**BOROUGH OF BROOKHAVEN
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 831

AN ORDINANCE OF THE BOROUGH OF BROOKHAVEN, DELAWARE COUNTY, PENNSYLVANIA, PROVIDING FOR THE REPEAL OF ORDINANCE NO. 250 IN ITS ENTIRETY, ENACTED DECEMBER 13, 1965, AND CODIFIED AS CHAPTER 482 IN THE CODE OF THE BOROUGH OF BROOKHAVEN ENTITLED "JUNK, WRECKED AND ABANDONED VEHICLES" AND ENACTING IN ITS STEAD A NEW CHAPTER 482 ENTITLED "TOWING, IMPOUNDING AND STORAGE OF VEHICLES."

The Borough Council of the Borough of Brookhaven hereby enacts and ordains as follows:

482.01 Definitions.

For the purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Abandoned Vehicle: (1) 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:

- (i) The vehicle is physically inoperable and is left unattended on a highway or other public property for more than 48 hours.
- (ii) The vehicle has remained illegally on a highway or other public property for a period of more than 48 hours.
- (iii) The vehicle is left unattended on or along a highway or other public property for more than 48 hours and does not bear all of the following:
 - (A) A valid registration plate.
 - (B) A current certificate of inspection.
 - (C) An ascertainable vehicle identification number.
- (iv) The vehicle has remained on private property without the consent of the owner or person in control of the property for more than 24 hours.
- (v) The vehicle has remained on the private property of a salvor for 20 days.

(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.

Dismantled: To disconnect the pieces of, to destroy the integrity or functioning of, to strip of dress or covering.

Inoperable: any vehicle having missing parts, including tires, missing or damaged glass and deteriorated or removed metal components which prevents its mechanical function and includes motor vehicles, commercial and industrial vehicles and equipment, and major recreational equipment.

482.02- Authority to remove and impound vehicles; notice

(A)-The Chief of Police is hereby authorized, in accordance with the provisions of this chapter, to order the removal and impounding of any vehicle parked on any street, highway, or other public property within the Borough, provided that:

1. The vehicle has been abandoned, wrecked, dismantled, physically inoperable and left unattended on a highway or other public property for more than 48 hours.
2. The vehicle has remained illegally on a highway or other public property for a period of more than 48 hours.
3. The vehicle has remained on private property without the consent of the owner or person in control of the property for more than 24 hours.
4. Vehicles and equipment used, 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.

482.03-Towing and impoundment of certain illegally parked motor vehicles.

Any motor vehicle illegally parked and left unattended is hereby declared a public nuisance, per se, and may be towed and impounded without prior notice if:

- A.** The motor vehicle blocks a public or private driveway without the consent of the owner or person in control of the property.
- B.** The motor vehicle obstructs the movement of an emergency vehicle.
- C.** The motor vehicle obstructs or interferes with the use of a fire hydrant.

D. The motor vehicle is parked in violation of a posted parking regulation, where a temporary or permanent traffic sign indicates "Tow Away Zone" or words to that effect.

E. The motor vehicle is parked on a street or alley in a manner that obstructs pedestrian or vehicular traffic.

F. The motor vehicle is parked in violation of any other provision of this chapter that authorizes towing.

482.04 – Notice of Impoundment

1. Within 5 business days from the time of removal of any vehicle under the authority of this chapter, notice of the fact that such vehicle has been impounded shall be sent by the Chief of Police or his/her designee, to the owner of record of such vehicle at his or her last known address. Such notice shall designate the place from which such vehicle was removed, the reason for its removal and impounding and the pound in which it has been impounded.

482.05– Method of Service.

A. Notice shall be given by personal service, or by registered or certified mail, to the last known address of the owner. In the event that, after a diligent search, the address of either the property owner or the vehicle owner cannot be ascertained, the posting of the notice or copies thereof on the real property, vehicle, structure or area immediately adjacent thereto shall constitute sufficient notice.

482.06 – Abandoned Vehicles

No person shall park, store or leave any vehicle of any kind in a wrecked, junked, stripped or abandoned condition, or any vehicle, whether occupied or not, in a place where its presence constitutes a hazard, either on public streets or places or on private property, and no owner of a vehicle, or owner or occupant of any property, shall cause or permit such vehicle to be left upon any public street or place or privately owned property, unless the same is authorized in conjunction with the business properly operated thereon pursuant to the Zoning Code and other laws of the Borough.

482.07 – Right to hearing.

Within three days after receiving a notice as provided for in §§ 482.04 and 482.05, the party or parties affected may request a hearing before any Magisterial District Judge of the Borough. The Justice, after a hearing, shall affirm or withdraw the notice or order.

482.08 – Failure to Request hearing.

If a hearing is not requested within three days, the notice shall become an order, and the parties affected shall forthwith proceed to remove or have removed the vehicle in question with all due dispatch from the property in question in accordance with the notice and order.

482.09 – Notice of hearing.

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

482.10 – Noncompliance; remedy of Borough.

A. If the violation complained of has not been remedied within the period required by the order, the Borough shall, through its own agents, contractors and/or employees, remedy the violation and charge the cost thereof to the vehicle owner or the real property owner on whose property the vehicle is located. Such costs shall, after written demand and refusal or failure to pay after 30 days, constitute a lien on the realty, which shall be filed by the Borough Solicitor upon receipt of all necessary information from the Chief of Police or his/her designee.

B. Such remedy shall be in addition to the penalty provided in § 482.22

482.11 – Removal of Abandoned, Inoperable Vehicles.

A. Police officers of the Borough are hereby authorized to remove or direct the removal of abandoned, or inoperable vehicles from the streets or highways of the Borough.

The owner of the property on which the vehicle is stored or parked, or the owner of the vehicle, or both, shall be notified by the investigating officer, of the vehicle's removal.

482.12 – Designation of Storage Garages; Bond Requirements

1. The Chief of Police shall have the authority to designate storage garages and areas as pounds for the storage of impounded vehicles after the owners of such garages or areas comply with all of the provisions of this chapter.

2. The owner of every approved storage garage or area shall post bond in the amount of \$10,000, 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, and the owner of such garage or area shall agree to comply with all the provisions of this chapter and to indemnify and save the Borough harmless from any loss, injury or

damage occurring after the towing service, his or her agents, servants or employees, have agreed to impound the vehicle.

482.13 – Authorized Towing Services Shall:

1. Maintain a current bond with the Borough in the sum of \$10,000 in form and with corporate surety satisfactory to the Borough Solicitor, conditioned upon the faithful performance and discharge by the towing service of his duties as bailee of removed vehicles and to indemnify the owners of vehicles against loss, injury or damage while in his custody.
2. Towing services must provide certificates of insurance as follows: in the minimal amount of \$500,000 combined single limit for any auto, hired autos, non-owned autos; \$100,000 for each personal injury; and garage-keepers' liability in the amount of \$50,000 per occurrence.
3. Comply with the provisions of the Pennsylvania Vehicle Code with respect to the removal and storage of vehicles from private property or the removal and impoundment of vehicles from public property.
4. Make payment of any final judgment for personal injuries or property damage rendered with respect to the performance of services regulated by this article.
5. Notify the Brookhaven Borough Police Department of the removal of a vehicle from private property within two hours of such removal and provide a description and license number of the vehicle thus removed.
6. Provide the Brookhaven Borough Police Department with a true and correct copy of each and every contract between the applicant and another with respect to the removal of vehicles from private property within the Borough.
7. Display the name of the service or the person operating it, together with a valid phone number therefor, by signs on both sides of the tow truck.
8. Maintain during off hours either a telephone operator, answering service or telephone machine to provide owners or operators of towed vehicles with necessary information as to the cost, the required method of payment and the procedure for claiming the towed vehicle.
9. Charge for storage only at a single rate per twenty-four-hour period when the vehicle is in the towing services yard, commencing when the vehicle is actually placed into storage. (For example: A vehicle placed in storage at 11:00 p.m. would be charged one-

day storage, provided the vehicle remained in storage for a full twenty-four-hour period ending at 11:00 p.m. the following night, and would be charged an additional one-day storage for each full twenty-four-hour period it remained in storage thereafter).

10. Police tow contract will be awarded by Council on a yearly basis (Calendar Year) unless necessary to change sooner.

A. Signs on private lots. No person shall remove or cause to be removed a vehicle parked on a private lot without authorization unless signs are posted as follows:

1. A sign, at least three feet by two feet in size, shall be placed at every entrance to a private lot clearly indicating that the parking lot is private, that unauthorized vehicles will be towed at the owner's expense, the name and phone number of the towing agency, the hours of tow operation and the towing and storage fees. The posted towing fee shall be an all-inclusive fee. No additional fees beyond the posted towing and storage fees may be charged to the owner.

2. That within every private lot additional signs at least 18 inches by 12 inches in size are to be posted approximately eight feet above ground level, clearly indicating that all unauthorized vehicles will be towed at the owner's expense. Such signs shall be placed and thereafter maintained to be readily visible to operators from all directions as follows:

(a) One sign shall be posted for every four parking spaces, or alternatively;

(b) Signs shall be posed pursuant to a site plan prepared by the owner and approved by the Chief of Police, or his designee. Thereafter the Police Department will inspect private lots for which a license has been issued to a towing service to ensure that they are in compliance with signage regulations.

482.14 – Towing costs; Hooking Fees

1. Police towing services. The costs for towing services ordered by the Police Department for passenger cars and trucks with a **gross vehicle weight of 10,000 pounds or less**, to be paid and received by any authorized towing service or approved towing service, shall be due upon a vehicle being hooked and removed from the premises and shall not be in excess of the **flat rate of \$125.**

2. Response time for tow when requested by police shall be 20 minutes or less

3. Victims of criminal acts, whose vehicle needs to be towed will be free of charge, when on order of police for an active criminal investigation.

4. Accident scene clean up flat fee of **\$75.00.**

5. The costs for towing services ordered by the Police Department for vehicles with a **gross vehicle weight in excess of 10,000 pounds**, to be paid and received by any authorized towing service or approved towing service, shall be due upon the tow vehicle's arrival at the tow scene and **shall not be in excess of \$200, flat rate per hour**.

6. Hooking fees. In all instances, when a vehicle is hooked and the owner/operator returns prior to the vehicle being removed from the property, private tow operators shall charge no more than the **flat rate of \$85** as a hooking fee and shall release the vehicle.

7. Tow providers will provide payment options (cash, credit card, etc.) to those whose vehicles are towed.

482.15 – Storage Costs

1. The **cost of storage** of any passenger car or truck with a **gross vehicle weight of 10,000 pounds registered gross vehicle weight (RGVW) or less**, to be paid to and received by any towing service, when impounded at the direction of the Police Department, shall be at the rate of **\$50 per each full twenty-four-hour period** commencing when the vehicle is actually placed into storage. (For example: A vehicle placed in storage at 11:00 p.m. would be charged one-day storage, provided the vehicle remained in storage for a full twenty-four-hour period ending at 11:00 p.m. the following night, and would be charged an additional one-day storage for each full twenty-four-hour period it remained in storage thereafter).

2. The **cost of storage** of any impounded truck or other **heavy vehicle with a gross vehicle weight in excess of 10,000 pounds**, to be paid to and received by any towing service, **shall be at the rate of \$75 per twenty-four-hour period** commencing when the vehicle is actually placed into storage. (For example: A vehicle placed in storage at 11:00 p.m. would be charged one-day storage, provided the vehicle remained in storage for a full twenty-four-hour period ending at 11:00 p.m. the following night, and would be charged an additional one-day storage for each full twenty-four-hour period it remained in storage thereafter).

3. Vehicles towed on police order are to be released by the towing agency, without question, as long as the vehicle owner presents a valid tow release, issued by the Brookhaven Borough Police Department. Personal belongings in a towed vehicle are to be released to the owner upon request. The tow agency shall not refuse to relinquish the requested items to the owner, nor charge a fee for such retrieval.

482.16 – Towing unattended vehicles from private property.

The following regulations shall apply to the towing of vehicles parked or left unattended on private property without the consent of the property owner:

A. No towing service shall remove vehicles parked or left unattended on private property without the consent of the property owner. In addition, the towing service must be issued a license by the Borough authorizing them to do so. The license shall be issued for a fee. Fees, shall be renewed annually and shall be issued by the Brookhaven Borough upon completion of a Department application form containing, as a minimum, the following information:

(1) The name and address of the towing service.

(2) The name and business address of all persons or entities having an ownership interest in the towing service.

(3) The name and address of all persons from whose property in Brookhaven Borough the towing service is authorized to remove vehicles.

(4) The address of the storage yard where vehicles removed from private property in Brookhaven Borough will be towed.

(5) The name of the bonding company and the name and address of the bonding company agent through whom the bond required by this section has been issued.

B. The Chief of Police, upon determining that any provision of this section has been violated, and in addition to any other penalties provided herein, may revoke a license issued hereunder together with the right to reapply for a subsequent license, for a period of up to two years. Appeal from such revocation shall be to the Police Committee of the Brookhaven Borough Council.

482.17 – Effect of payment charges under protest.

In the event that any towing and impounding charges imposed are paid under protest, the offender shall be entitled to a hearing before a magistrate or court of record having jurisdiction, in which case such defendant shall be proceeded against as in other cases of summary offenses and shall have the same rights as to appeal and waiver of hearing.

482.18 – Records of vehicles removed and impounded.

A record of all vehicles impounded shall be documented in the RMS and shall be able, at all reasonable times, to furnish the owners or agents of the owners thereof with information as to the place of storage of such vehicles.

482.19 – Liabilities for fines and penalties.

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 a violation of any law or ordinance on account of which the vehicle was removed and impounded.

482.20 – Restrictions upon removal of vehicles.

No vehicle shall be removed under the authority of this chapter 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.

482.21 – Impounding, confiscating and repossessing vehicles.

No person shall impound, confiscate, repossess or remove any vehicle from within the limits of the Borough unless, in advance of such action:

- (A) The owner has been notified;
- (B) The Chief of Police has been notified; or
- (C) Such act or action is through legal process of a court of the Commonwealth.

482.22 – Violations and penalties.

Any person, firm, association or corporation who violates any provision of this article, upon conviction thereof, shall be subject to a fine or penalty not exceeding \$600 for each and every offense. Such fines or penalties shall be collected as like fines or penalties are now by law collected and shall be in addition to any other penalty provided for herein.

482.23 – Effective Date.

This Ordinance shall become effective five (5) days after the adoption thereof.

482.24 – Repeal.

Ordinance No. 250, enacted December 13, 1965, and codified as Chapter 482 in the Code of the Borough of Brookhaven entitled "Junk, Wrecked and Abandoned Vehicles" is hereby repealed in its entirety.

ENACTED AND ORDAINED into law by the Borough Council of the Borough of Brookhaven, Delaware County, Pennsylvania, this _____ day of _____, 2023.

BOROUGH OF BROOKHAVEN

By: 
TERRY HELLER, PRESIDENT

ATTEST:


JOHN U. WILWERT, JR.
BOROUGH SECRETARY

EXAMINED AND APPROVED this 9 day of JANUARY, 2023.


DENISE LESLIE, MAYOR