

ORDINANCE NO. A04-3

**AN ORDINANCE TO AMEND THE CODE
OF THE TOWN OF BRIDGEVILLE, DELAWARE,
BY ADDING PROVISIONS REGULATING
ABANDONED OR INOPERABLE VEHICLES**

WHEREAS, abandoned and derelict vehicles are unattractive and detract from the appearance of The Town of Bridgeville; and

WHEREAS, the Commissioners of The Town of Bridgeville wish to improve the appearance of the town in order to attract and keep residents and businesses; and

**NOW, THEREFORE, THE COMMISSIONERS OF BRIDGEVILLE
HEREBY ORDAIN:**

Section 1. Amend the Code of Bridgeville by adding the following Chapter, entitled "Abandoned, Wrecked, Dismantled, or Inoperable Vehicle Ordinance":

§ 201-1. Title.

This Chapter shall be known and may be cited as the "Abandoned, Wrecked, Dismantled or Inoperable Vehicle Ordinance".

§ 201-2. Definitions.

For the purposes of this Chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

ABANDONED VEHICLE - Any vehicle which is left unattended on public property for a period in excess of 72 hours under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

PERSON - Any person, firm, partnership, association, corporation, company or organization of any kind.

PRIVATE PROPERTY - Any real property in the town which is privately owned and which is not defined as public property herein.

PUBLIC PROPERTY - Any real property in the town which is owned by a governmental body and includes buildings, parking lots, parks, streets, sidewalks, rights-of-way, easements and other similar property.

TOWN - The Town of Bridgeville.

VEHICLE - A machine propelled by power other than human power designated to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery and shall include, without limitations, automobiles, trucks, trailers, motorcycles, tractors, buggies, wagons, lawn mowers and boats.

WRECKED, JUNKED, DISMANTLED OR INOPERATIVE VEHICLE - Any vehicle, the condition of which is wrecked, junked, dismantled, partially dismantled, is in such a state of disrepair to be incapable of being operated in the manner for which it was designed, or from which the wheels, engine, transmission or any substantial part thereof have been removed, regardless of whether said vehicle bears a current registration.

§ 201-3. Wrecked, dismantled or inoperative vehicles on public property prohibited.

No person shall abandon or leave any wrecked, dismantled or inoperable vehicle, whether attended or not, upon any public property within the town for a period of time in excess of 72 hours. The presence of such vehicle, or parts thereof, on public property is hereby declared to be a nuisance which may be abated in accordance with the provisions of this Chapter. The temporary or intermittent movement or removal of such vehicle shall not be deemed to interrupt the running of the 72 hour period. This section does not apply to vehicles parked or stored on public property by the town.

§ 201-4. Abandonment of vehicles on public property prohibited.

A. No person shall abandon or leave unattended any vehicle (not otherwise prohibited as a wrecked, dismantled or inoperable vehicle, even if bearing a current registration) upon any public property within the town for a period of time in excess of two weeks under such circumstances as to cause such vehicle reasonably to appear to have been abandoned. The presence of such vehicle under such circumstances is hereby declared to be a public nuisance which may be abated in accordance with the provisions of this Chapter. This section does not apply to vehicles parked or stored on public property owned by the town.

B. Any person may notify the Bridgeville Police Department, in writing, of the fact that they will be absent from the town or otherwise unable to move their vehicle for an extended period of time (as specified therein) and, in such event, that person's vehicle shall not be deemed to be in violation of this section of this Chapter until the expiration of two weeks from the time specified by the written notice to the Bridgeville Police Department. Provided, however, that nothing in this subsection shall excuse such persons from compliance with

other town ordinances regulating the parking and/or storage of vehicles on public property in the town.

§ 201-5. Wrecked, dismantled or inoperable vehicles on private property prohibited: exceptions.

A No person shall park, store, leave or permit the parking, storing or leaving of any wrecked, dismantled or inoperable vehicle of any kind, whether attended or not, upon any private property within the town in excess of 15 days. The temporary or intermittent movement or removal of such vehicle shall not be deemed to interrupt the running of the 15 day period. The presence of such vehicles, or parts thereof, on private property is hereby declared a public nuisance which may be abated in accordance with the provisions of this Chapter.

B. This section shall not apply to:

- (1) Any vehicle enclosed within a building on private property in such a manner that it is not visible from without such enclosure.
- (2) Any vehicle held in connection with a business enterprise lawfully licensed by the appropriate governmental agency for the servicing and repair of such vehicles and property operated in an appropriate business zone pursuant to Chapter 234, Zoning.

§ 201-6. Order for removal.

A. On public property. Whenever it comes to the attention of the Bridgeville Police Department that any nuisance as defined in § 201-4 of this Chapter appears to exist on public property, it shall cause a written order to be affixed to the vehicle, declaring the existence of the nuisance and ordering whosoever had an interest in the vehicle to comply with this Chapter by removing said vehicle within 72 hours of the notice.

B. On private property. Whenever it comes to the attention of the Bridgeville Police Department that any nuisance as defined in § 201-5 appears to exist on private property, it shall, in addition to affixing an order to the vehicle itself as provided in § 201-6A above, deliver a copy of said notice to the owner and occupant of the property. If a copy cannot be delivered to the owner and occupant, a copy of the order shall be left at the property with a duplicate copy sent to the owner and occupant by certified mail, return receipt requested.

C. Form of order. Any orders required under § 201-6A or B above shall contain the following information:

- (1) A description of such vehicle, including the make, year, model, color and registration number if known.
- (2) The location of such vehicle.
- (3) The date and time that the order was affixed to the vehicle.
- (4) An order for removal within 72 hours from the time the order was affixed to the vehicle.
- (5) That upon failure to comply with the order for removal, the Bridgeville Police Department shall remove or cause to be removed such vehicle.
- (6) That the owner of the vehicle and/or the owner or occupant of the property upon which such vehicle is located may request a hearing before the Commissioners at which hearing they may introduce such witnesses and evidence as they deem necessary relevant to the issue of whether the vehicle constitutes a nuisance as defined herein. The order shall that any request for a hearing shall be in writing, addressed to the Town Manager and filed within 72 hours (not counting the weekends or holidays) following the affixing of the order on the vehicle under § 201-6A or B above.

§ 201-7. Hearing procedures.

- A. Upon receiving a request for a hearing pursuant to § 201-6 (C) (6), the Commissioners shall set the hearing for the next regular meeting of the Commissioners and shall, in addition to placing it upon the meeting agenda, give notice to the person requesting the hearing and the Bridgeville Police Department. No other notices are required.
- B. At such hearing, the Bridgeville Police Department shall produce evidence relevant to the issue of whether or not the vehicle is a nuisance in violation of this Chapter. The person requesting such hearing shall then be permitted to introduce such witnesses and evidence as he or she desires relevant to that issue.
- C. All witnesses shall be placed under oath. Strict rules of evidence shall not be required, but the Commissioners may accept any relevant evidence of a probative nature which, in its opinion, is such as could reasonably be relied upon by persons of common sense and procedure.
- D. At the conclusion of such hearing, the Commissioners shall determine, by majority vote, whether or not they find that the vehicle constitutes a nuisance in violation of this Chapter. Such determination, with a brief statement of the

findings upon which that decision was made, shall be entered in the minutes of meeting.

§ 201-8. Removal of vehicles.

Within the time for removal set forth in the order for removal, or within 72 hours of the hearing at which the Commissioners determine that the vehicle is a nuisance in violation of this Chapter, the owner of the abandoned, wrecked, dismantled or inoperable vehicle and (if on private property) the owner or occupant of the private property on which the same is located, any or all of them, shall cause the removal of the vehicle. If the violation is not remedied within the time set forth herein, the Bridgeville Police Department is hereby authorized to remove or have removed such vehicle from the premises. Except for the Bridgeville Police Department and employees of the town working in concert with the Bridgeville Police Department, such vehicles shall be removed only by wreckers or towing services duly licensed by the State of Delaware. It shall be unlawful for any person to interfere with, hinder or refuse to allow the Bridgeville Police and/or any person acting in concert with or at the direction of the Bridgeville Police Department to enter upon private property for the purpose of removing a vehicle under the provisions of this Chapter.

§ 201-9. Notice of removal.

A. Within five days of the removal of such vehicle, the Bridgeville Police Department shall give written (by certified mail, return receipt requested) to the registered owner of the vehicle, if known, and also to the owner or occupant of the private property from which the vehicle was removed, that said vehicle has been impounded and stored for violation of this Chapter. The notice shall give the location of where the vehicle is stored and the costs being incurred for removal and storage.

B. The Bridgeville Police Department shall also contact the Delaware Division of Motor Vehicles and such other agencies and departments of government in this and other states as are reasonably necessary to ascertain the names and addresses of other persons with record of interest in the vehicle, including lien holders. Such other persons shall be given notice in the same manner as stated in Subsection A.

C. Notice under this section shall contain the following information:

- (1) Year, make, model and serial number of the vehicle.
- (2) The name and address of the last known registered owner of the vehicle, if available.

- (3) The vehicle registration number and the title registration number of the vehicle, if available.
- (4) The date on which the vehicle was removed.
- (5) The location at which the vehicle is being stored. The notice shall also advise the persons to whom it is given that the vehicle is subject to all the provisions of the Delaware "garagemen's lien" statute, that under the terms thereof, it is subject to being sold at public sale unless reclaimed, and that the person who is entitled to possession of the vehicle may reclaim it upon payment of all charges incurred in the removal and storage of vehicle.

D. If unable to identify properly the last registered owner of any vehicle, or if unable to obtain with reasonable certainty the names and addresses of the owner of the other interested parties, including lien holders, it shall be sufficient notice under this section to publish the notice described in Subsection C once in a newspaper of general circulation in The Town of Bridgeville. Such notice by publication may contain multiple listings of vehicles.

§ 201-10. Disposition of motor vehicles.

Any person who tows, removes, stores or keeps a vehicle at the direction of the Bridgeville Police Department acting under the provisions of this Chapter shall, from the time of taking possession thereof, be entitled to all rights, remedies and authority as provided under the Delaware "garagemen's lien" statute, 25 Del. C. Chapter 39, as it may be amended from time to time hereafter, or any future corresponding provision of law. In exercising such rights, remedies and authority, such persons shall be governed, in all respects, by the terms of that statute.

§ 201-11. Liability for towing and storage expenses.

In the event that the town should be or become liable for all or any portion of the expenses incurred in the removal and storage of such vehicle, the town may:

- A. Recover the same from the owner of the vehicle and/or the owner of the private property from which it was recovered in an action for debt; or
- B. Add that amount to the tax bill of the person owning the private property from which such vehicle has been removed. If occupied by a person other than the owner of that property, the occupant shall be primarily responsible and the town shall not seek to recover from the owner of the property (either in an action at law or by tax collection proceedings) before it exhausts reasonable efforts

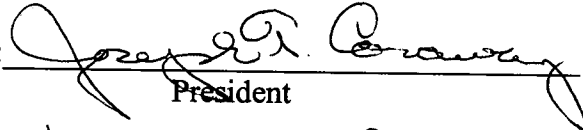
to recover from the occupant, but this shall not prohibit the town from joining both the property owner and the occupant in one action debt.

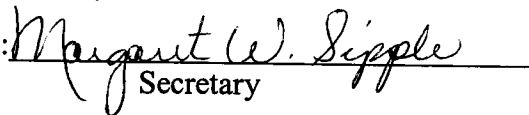
§ 201-12. Violations and penalties.

Any person knowingly causing or permitting a nuisance to exist in violation of this Chapter shall forfeit and pay a fine of not more than \$100 plus costs of prosecution. Each day following the expiration of the 72 hour period for removal shall constitute a separate offense.

Section 2. This Ordinance shall become effective upon its adoption by a majority of all Commissioners.

COMMISSIONERS OF BRIDGEVILLE

By: 
President

Attest: 
Secretary

1st Reading: March 22, 2004
2nd Reading: April 12, 2004
Adopted: April 12, 2004

Synopsis

The Commissioners of Bridgeville desire to cause the removal of abandoned and inoperable vehicles from the town, whether on public or private property. Abandoned vehicles are a nuisance that detract from the appearance of the town.