

## Chapter 128

### PARKING, VEHICULAR

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[HISTORY: Adopted by the Council of the Borough of Berwick as indicated in article histories. Amendments noted where applicable.]

#### GENERAL REFERENCES

Code enforcement and administration — See Ch. 9.  
Police Department — See Ch. 41.  
Public parking lots — See Ch. 127.

Vehicles and traffic generally — See Ch. 158.  
Zoning — See Ch. 165.

ARTICLE I  
**Commercial Vehicles in Residential Districts**  
**[Adopted 9-29-1980 by Ord. No. 1144]**

**§ 128-1. Definitions.**

- A. Terms defined. As used in this article, the following terms shall have the meanings indicated:

**BOROUGH** — The Borough of Berwick.

**COMMERCIAL** — Vehicles used for hire for the transporting of goods, materials or persons.

**PERSON** — Any person, firm, partnership, association, corporation, company, organization or any other entity, incorporated or unincorporated, of any kind.

**RESIDENTIAL DISTRICTS** — Those areas of the borough delineated as residential districts in the Zoning Ordinance and maps of the borough.<sup>1</sup>

**VACATED or ABANDONED** — Any total cessation of use in existence by the owner or occupier for the period designated.

- B. Word usage. Words in the plural include the singular, and words in the singular include the plural.

**§ 128-2. Parking restrictions; exceptions.**

- A. From and after the date of passage of this article, it shall be unlawful for any commercial vehicle with a gross vehicle weight capacity (GVW) in excess of five tons to park upon any highway, street or alley in any residential district within the borough, except for delivery of goods for a period of time reasonably necessary to load or unload for delivery; provided, nevertheless, that this restriction of parking of certain commercial vehicles shall remain in effect so long as the borough provides a minimum of five parking stalls for said vehicles in a nonrestrictive area within the Borough of Berwick. **[Amended 11-16-1981 by Ord. No. 1153]**

- B. Exceptions.

- (1) Exception for use by owners of existing nonconforming properties is applicable when the borough fails to provide a minimum of five parking stalls for said vehicles in a nonrestrictive area within the borough.
- (2) The owners or occupiers of any existing nonconforming structure or property within any residential district shall be permitted to continue the use of street, highway and alley parking in the immediate area of the street, highway or alley which abuts the lot lines of said property or lot line upon which the nonconforming structure is located only when the Borough of Berwick does not provide designated nonrestrictive parking, upon the application for and issuance of a special permit for such

<sup>1</sup> Editor's Note: As to zoning generally, see Ch. 165, Zoning.

nonconforming structure or use by the borough's Code Enforcement Officer<sup>2</sup> pursuant to such reasonable rules and regulations for said permits as may be adopted.

- (3) The exception herein created shall terminate and end when the nonconforming structure, land or use becomes vacated, abandoned or ended for a period of six months.
- (4) The owners or occupiers of said nonconforming structures or land shall be responsible for obtaining and filing applications for the permit required herein and the payment of the cost thereof within three months of the effective date of this article.
- (5) Register of address and exact location of permitted nonconforming structure and use exceptions shall be maintained by the Code Enforcement Officer with copies to the Police Department<sup>3</sup> and Borough Manager.

### § 128-3. Violations and penalties.

- A. Any person or firm, persons or firms, corporation, partnership, association, organization or other entity violating any of the provisions of this article shall be subject to pay a fine of not less than \$25 and not more than \$300 and the costs of prosecution for each violation upon conviction thereof before a District Justice after the issuance by said Justice of a warrant or summons and service of same upon the alleged offender. [Amended 11-16-1981 by Ord. No. 1153]
- B. Each and every violation which continues for 24 hours from the time of charge by the issuing officer shall be considered as a separate and distinct violation.
- C. Any fines so levied shall be paid to the Borough Treasurer and deposited in the general account of the Borough of Berwick.

## ARTICLE II

### Public Parks and Playgrounds

[Adopted 1-12-1970 as Ch. 96, Art. IV, of the 1970 Code]

### § 128-4. Compliance with regulations.

It shall be unlawful for any person, firm or corporation, whether principal or agent, to fail to comply with the following regulations pertaining to driving in or parking in any of the public parks of the Borough of Berwick.

### § 128-5. Driving or parking prohibited.

No parking or driving of any motor vehicle shall be permitted at any time in any of the public parks or playgrounds or playfields of the Borough of Berwick.

<sup>2</sup> Editor's Note: As to the borough's Code Enforcement Officer, see Ch. 9, Code Enforcement and Administration.

<sup>3</sup> Editor's Note: As to the Police Department generally, see Ch. 41.

**§ 128-6. Violations and penalties.<sup>4</sup>**

Any person or persons, firm, partnership or corporation operating any motor vehicles or parking any motor vehicles in any of the public parks of the Borough of Berwick shall, upon conviction before the District Justice of the borough, be liable to and shall pay a fine or penalty of not more than \$300 for every such violation, for the use of the borough, and upon default in the payment of such fine or penalty, any person so convicted may be committed to the borough lockup or to the county jail in Columbia County for a period not exceeding 30 days.

**ARTICLE III****Fire Lanes**

[Adopted 5-15-1978 by Ord. No. 1124]

**§ 128-7. Establishment of fire lanes; parking unlawful.**

The Fire Chief of the Borough of Berwick and the Chief of Police of the Borough of Berwick shall have the authority to mark such fire lanes as may be reasonable and necessary on private property devoted to public use. Such fire lanes shall be those areas immediately adjacent to a building or buildings for a distance not less than 40 feet from said building or buildings on property such as shopping centers, bowling alleys, theaters, hospitals, churches and similar locations as may be deemed necessary by the Fire Chief and Chief of Police to ensure proper ingress and egress of Fire Department and emergency vehicles for the protection of persons and property herein described. Parking in such fire lanes shall be prohibited and such fire lanes shall be posted "no parking."

**§ 128-8. Authority to prohibit parking.**

Whenever the Fire Chief of the Borough of Berwick and the Chief of Police of the Borough of Berwick shall determine that parking of motor vehicles upon any public or private street, lane, alley or private parking lot is liable to interfere with the operations of the Fire and/or Police Departments or hamper egress of occupants from buildings in case of fire or emergency, parking in such areas shall be prohibited and said areas shall be posted "no parking."

**§ 128-9. Parking in disregard of signs.**

No person or firm shall park a motor vehicle, other type of vehicle or trailer in disregard of any sign erected pursuant to the provisions of this article.

**§ 128-10. Definition; requirements for buildings with walks.**

For the purpose of this article, the term "building" shall be construed to mean the exterior surface of the vertical wall of the structure excluding any marquee, portico, mansard roof or similar appendages, except in the case of covered or noncovered walks which extend from the

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<sup>4</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

wall for a distance of more than 15 feet, in which event a fire lane shall be established for 30 feet from the edge of walks.

**§ 128-11. Violations and penalties.<sup>5</sup>**

Any person violating any of the provisions of this article, upon conviction thereof before a District Justice, shall be fined a sum not to exceed \$300 for each offense, together with costs of prosecution, and in default of payment thereof, shall be committed to imprisonment for a period of not more than 30 days. Each day or portion thereof during which such violation shall continue shall be deemed a separate offense and punishable as such.

**ARTICLE IV**  
**Impoundment of Illegally Parked Vehicles**  
**[Adopted 1-12-1970 as Ch. 96, Art. II, of the 1970 Code]**

**§ 128-12. Parking or storage restrictions.**

- A. No vehicle shall stand or be parked upon any street, highway or public property of the Borough of Berwick unless the same bears a motor vehicle license evidencing that it has been currently registered as a motor vehicle under the provisions of the Motor Vehicle Code.<sup>6</sup>
- B. No vehicle shall be stored upon any street in the borough. As used herein, "stored" shall mean any parking of a vehicle in one place upon any street, highway or public property of the Borough of Berwick continuously for over 72 hours.

**§ 128-13. Authority to remove and impound.**

Any vehicle parked or stored upon any public street, highway or public property of the Borough of Berwick in violation of the provisions of § 128-12 of this article or in excess of the time or in violation of the manner provided in any ordinance of the Borough of Berwick or by the Motor Vehicle Code of the Commonwealth of Pennsylvania<sup>7</sup> or any statute thereof, or on any street, highway or public property where parking is prohibited under the authority of any ordinance of the Borough of Berwick or the Motor Vehicle Code of the Commonwealth of Pennsylvania or of any statute thereof, is hereby declared to be a nuisance, and such nuisance may be summarily abated by the removal of the vehicle by or under the direction of the Chief of Police of the Borough of Berwick, by means of towing or otherwise, to a motor vehicle pound herein established, provided that no vehicles shall be removed or impounded except in strict adherence to the provisions of this article.

<sup>5</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

<sup>6</sup> Editor's Note: See 75 Pa.C.S.A. § 101 et seq.

<sup>7</sup> Editor's Note: See 75 Pa.C.S.A. § 101 et seq.

**§ 128-14. Approved storage garages.**

The following are hereby designated as approved storage garages as a pound for the storage of such impounded vehicles:

- A. Brown Motors, 1127 Pine Street, Berwick, Pennsylvania.
- B. James Comstock, 1544 Orange Street, Berwick, Pennsylvania.

**§ 128-15. Bonding of garages.**

Every such approved storage garage shall post a bond in the amount of \$5,000, to be filed with the Borough Secretary, for the indemnifying of the owner of any such impounded vehicle against the loss thereof or injury or damage thereto while in the custody of said poundkeeper.

**§ 128-16. Towing and storage charges.**

The following are hereby fixed and established as the charges that shall be made for the towing and storage of any vehicle removed and impounded under the authority of this article:

- A. Towing charges: \$10.
- B. Storage charges: \$1 per day.

**§ 128-17. Notifying owners of vehicle impoundment.**

Within 12 hours from the time of removal of any vehicle under authority granted by this article, notice of the fact that such vehicle has been impounded shall be sent by the Chief of Police of the borough to the owner of record of such vehicle. Such notice shall designate the place from which the vehicle was removed, the reason for its removal and impounding and the pound in which it shall have been impounded.

**§ 128-18. Payment of charges without protest.**

The payment of any towing and impounding charges authorized by this article shall, unless such payment shall have been made under protest, be final and conclusive and shall constitute a waiver of any right to recover the money so paid.

**§ 128-19. Effect of payment of charges under protest.**

In the event that any towing and impounding charges so imposed shall be paid under protest, the offender shall be entitled to a hearing before a District Justice or court of record having jurisdiction, in which case such defendant shall be proceeded against and shall receive such notice as is provided by the Motor Vehicle Code in other cases of summary offenses and shall have the same rights as to appeal and waiver of hearing.

**§ 128-20. Records.**

The Chief of Police shall keep a record of all vehicles impounded 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 vehicle.

**§ 128-21. Liability for fine or penalty.**

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

**§ 128-22. Restriction upon removal of vehicles.**

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

**§ 128-23. Legal remedies.**

In the event any impounded vehicle is not, after reasonable notice, claimed or released by the payment of the aforementioned specific towing and storage charges by the owner or someone in his behalf, then the poundkeeper shall resort to his other legal remedies to dispose of the same.

