

BOROUGH OF AVALON
CAPE MAY COUNTY
NEW JERSEY

ORDINANCE No. 788-2019

SUBJECT: AN ORDINANCE AMENDNG AND SUPPLEMENTING THE CODE OF THE BOROUGH OF AVALON TO WIT: CHAPTER 8 (TRAFFIC) PERTAINING TO A DESIGNATED CONSTRUCTION ZONE; TO AMEND THE DEFINITION OF “CONSTRUCTION VEHICLE” AND AUTHORIZING THE POSTING OF SIGNAGE FOR CONSTRUCTION ZONES; AND CHAPTER 20 PERTAINING TO CONSTRUCTION ZONES.

WHEREAS, certain amendments to the Code of the Borough of Avalon have been recommended and Borough Council has duly considered those recommendations and has determined to amend and supplement the Code of the Borough of Avalon as herein provided.

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL of the Borough of Avalon, in the County of Cape May and State of New Jersey as follows:

SECTION 1. Chapter 8 (Traffic) of the Code of the Borough of Avalon is amended and supplemented and shall hereafter provide as follows:

8-3 TOW-AWAY. [No change or modification]

8-4 PENALTIES.

Unless another penalty is expressly provided by New Jersey Statute, every person convicted of a violation of a provision of this chapter or any supplement thereto shall be liable to a penalty as prescribed by law or such penalty as established in Section 1-5 of this Code. (Ord No. 788-2019).

NEW SECTION TO BE ADDED AS FOLLOWS:

8-28 RESTRICTED PARKING IN DESIGNATED CONSTRUCTION ZONES; UNAUTHORIZED VEHICLE MAY BE TOWED AT OWNER’S EXPENSE.

Whenever the Borough has designated a Construction Zone at an active construction site within the Borough, in accordance with the provisions of Chapter 20 of this Code, parking shall be restricted to the following:

Cross Reference: Section 29-2.16

1. Construction vehicles only which are owned, leased or operated by a General Building Contractor or Subcontractor, craftsman or repairman (hereafter collectively “CONTRACTOR”) who is/are at the time actively involved in the construction activity. Any such vehicle shall be plainly and permanently marked with the Contractor’s name, state contractor’s license number, and telephone contact number. (Ord No. 788-2019)

“Construction vehicles” shall mean a “commercial motor vehicle” used for commercial purposes on the highways, such as the transportation of goods, wares and merchandise, excepting such vehicles as are run only upon rails or tracks and vehicles of the passenger car type used for touring purposes or the carrying of farm products and milk, as the case may be. (N.J.S.A. 39:1-1). The term shall also mean and include any of the several type vehicles mentioned in Section 8-16.3 of this Code whenever such vehicle is used, either directly or indirectly, in the construction process. (Ord No. 788-2019)

2. **“Construction equipment”** which shall include equipment which is being actively used in the construction activity and which is not licensed or otherwise permitted to operate independently on the streets and highways of this State and which must be transported to a construction site by means of another motor vehicle which is licensed for operation of the streets and highways of this State. Construction equipment shall also include dumpsters which continue to require a Borough permit to be placed in the Borough Street even in that area designated as a Construction Zone. Other examples of construction equipment may include, but not limited to **loaders, excavators, boom lifts, sky lifts, front end loaders, skid steers and other similar type equipment.** Construction equipment does not include portable toilets which must be located on the actual construction site in accordance with the provisions of Chapter 20 of this Code. (Ord No. 788-2019)

3. The Contractor shall be responsible for erecting signs to be provided by the Borough and to be erected at the outer limits of each construction zone. **Such signs shall be maintained by the Contractor throughout the construction process.** Such signs shall indicate that parking within such construction zone is limited to authorized vehicles and equipment only, that is, only those vehicles and equipment specified in subparagraphs (1) and (2) hereof. Such signs shall be **removed by the Contractor** upon application for a temporary or final certificate of occupancy (Ord No. 788-2019)

4. The owner, lessee or operator of any unauthorized vehicle parked in the construction zone shall be in violation of this chapter and, upon conviction, shall be liable for such penalties as prescribed in Section 1-5 of this Code. In addition, any unauthorized vehicle shall be subject to being removed **by any police officer or code enforcement officer who may provide for such removal. The owner of any unauthorized vehicle which is towed from a Construction Zone shall bear the reasonable costs of removal and storage, which may result from such removal before regaining possession of the vehicle.** (Ord No. 788-2019)

SECTION 2. Chapter 20 (Building and Construction) of the Code of the Borough of Avalon is amended and supplemented and shall hereafter provide as follows:

20-2.16 CONSTRUCTION ZONE

2-16.1 CONSTRUCTION ZONE

(Ord No. 788-2019)

- a. [No change or modification]
- b. [No change or modification]
- c. Such construction zone shall be marked and identified with reflective cones or other similar type markings consistent with the Manual on Uniform Traffic Control Devices. **In addition, each construction zone shall be marked by signage provided by the Borough indicating that parking is restricted to construction vehicles and equipment only. Such signs shall be erected and maintained by the Contractor in accordance with the provisions of Chapter 8 Section 8-28 of this Code.** (Ord No. 788-2019)
- d. [No change or modification]
- e. [No change or modification]
- f. SPECIAL PROVISIONS FOR CERTAIN CONTRACTORS, SUBCONTRACTORS AND OTHER CRAFTSMEN.
[No change or modification]
- g. LIMITATION ON CREATION OF CONSTRUCTION ZONE
[No change or modification]

20-2.17 Enforcement. [formerly §20-7.11]

[No change or modification]

20-2.18 Power to adopt Rules and Regulations

[No change or modification]

20-2.19 to 20-2.23 RESERVED

[No change or modification]

20-2.24 Violations and Penalties. [formerly §20-7.12] [No change or modification]

SECTION 2. REPEALER. All Ordinances or parts of Ordinances which are in conflict or inconsistent herewith are hereby repealed to the extent of such inconsistency or conflict only.

SECTION 3. SEVERABILITY. If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

SECTION 4: EFFECTIVE DATE: This Ordinance shall take effect immediately upon final adoption and publication as required by law.

NOTICE OF PENDING ORDINANCE

The Ordinance published herewith was introduced and passed on first reading of the Municipal Council of the Borough of Avalon on April 10, 2019. It will be further considered for second reading, public hearing and final adoption at a meeting of said Council to be held on the 24th day of April, 2019 in the Meeting Room of the Municipal Building, Avalon, New Jersey at 4:15 p.m. and during the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's Office in said Municipal Building to the members of the general public who shall request the same.

C. DANIELLE NOLLETT, Borough Clerk