

**BOROUGH OF MORTON
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2020-765

**AN ORDINANCE OF THE BOROUGH OF MORTON, DELAWARE COUNTY,
PENNSYLVANIA, ENACTING REGULATIONS TO CONTROL THE TOWING
OF VEHICLES WITHOUT THE OWNER'S CONSENT.**

WHEREAS, the Borough of Morton is a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania, including but not limited to the Borough Code; and

WHEREAS, the Legislature of the Commonwealth vests the Borough of Morton with the power and authority to make and adopt all such ordinances, bylaws, rules and regulations not inconsistent with or restrained by the Constitution and laws of this Commonwealth, as is expedient or necessary for the proper management, care and control of, inter alia, the Borough's finances, the maintenance of peace, good government, safety and welfare of the Borough, its trade, commerce and manufactures; and

WHEREAS, the Pennsylvania Motor Vehicle Code specifically authorizes municipalities to regulate towing without consent within the Borough.

NOW THEREFORE, be it enacted and ordained and it is hereby enacted and ordained by the Borough Council of Morton Borough as follows:

Section 1. From and after the passage of this Ordinance, Chapter 15 – Part 15 – Towing from Private Property, is hereby added to read as follows:

Part 15 - Towing from Private Property

§ 1501. Purpose And Intent.

The purpose and intent of this Part is to regulate towing rates and towing services as permitted by 75 Pa.C.S.A. § 3353; to provide for proper licensing of towing services and notice to the Morton Police Department where vehicles are towed from public or private property without the consent of the owner or operator of the vehicle by a towing service operating on behalf of an owner or lessee of private property, or by a towing service operating on behalf of the lienholder or lessee of the vehicle; and to avoid erroneous reports of stolen vehicles being submitted to the Morton Police Department.

§ 1502. Towing Costs And Hooking Fees; Storage Costs.

1. Passenger cars.

A. The cost of towing passenger cars which are hooked and removed from public or private premises shall not be in excess of a fee as set forth from time to time by resolution of the Borough Council for each crane tow or wheel lift. In all instances when a vehicle is hooked and the owner/operator of the vehicle returns prior to the vehicle being

removed, tow operator shall charge no more than the hooking fee as set forth from time to time by resolution of the Borough Council and shall release the vehicle to the owner/operator immediately upon receipt of the fee.

B. The daily cost of storage of any impounded passenger car, which cost is charged by any towing service operator with respect to any passenger car towed from Morton, shall not be in excess of a fee as set forth from time to time by resolution of the Borough Council. Said storage fee shall be chargeable immediately upon the placement of the vehicle into storage.

2. Vehicles other than passenger cars.

A. The cost of towing vehicles other than passenger cars shall not be in excess of a fee as set forth from time to time by resolution of the Borough Council. In all instances when such a vehicle is hooked and the owner/operator of the vehicle returns prior to the vehicle being removed, tow operator shall charge no more than the hooking fee as set forth from time to time by resolution of the Borough Council and shall release the vehicle to the owner/operator immediately upon receipt of the fee.

B. The daily cost of storage of any impounded vehicle other than a passenger car, which cost is charged by any towing service operator with respect to any such vehicle towed from Morton, shall not be in excess of a fee, as set forth from time to time by resolution of the Borough Council. Said storage fee shall be chargeable immediately upon the placement of the vehicle into storage.

3. For purposes of this Part, the term "passenger car" shall include all vehicles weighing less than 9,000 pounds.

§ 1503. Towing Unattended Vehicles From Public Or Private Property.

The provisions of this Part shall apply to the towing of any vehicle parked or left unattended on public or private property without the consent of the property owner or lessee, including but not limited to repossession of vehicles on behalf of a lienholder or lessor of a vehicle.

1. No towing service shall remove any vehicle that is parked or left unattended on private property unless the private property owner or property lessee consents in writing to such removal, except that (i) the Borough of Morton or anyone acting on its behalf or at its request; and (ii) repossession of vehicles on behalf of a lienholder or lessor of a vehicle shall be exempt from this provision.

2. In addition, any towing service shall first secure a license from the Borough of Morton prior to doing any towing from any public or private property located in Morton Borough. A license shall be obtained every calendar year, for a fee to be set from time to time by resolution of the Borough Council, upon completion of a Morton Police Department application containing, at a minimum, the following information.

A. Name, address and telephone number of the towing service. This telephone number shall be answered on a twenty-four-hour basis, seven days per week.

B. The name, business address and telephone number of all persons or entities having an ownership interest in the towing service.

C. The name, address and telephone number of all persons from whose property in the Borough of Morton the towing service is authorized in writing to remove vehicles.

D. The name, address and telephone number of the storage yard to which vehicles removed from private property in Morton Borough will be towed.

E. The name, address and telephone number of the bonding company and the name, address and telephone number of the bonding company agent through whom the bond required by this Part has been issued.

F. Any changes in any of the information required in Subsection 2(A) through (F) herein shall be reported in writing to the Borough of Morton Police Department within 24 hours of such change.

3. The Chief of Police, upon determining that any provision of this Part has been violated, 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 Public Safety Committee of Morton Borough Council, and shall be handled under the Local Agency Act. (See 2 Pa.C.S.A. § 551 et seq. and § 751 et seq.)

4. Authorized towing services shall:

A. Maintain a current surety bond with the Borough in the sum of \$10,000 and in form satisfactory to the Borough's Solicitor, conditioned upon the faithful performance by the towing service of its duties, under this Part, and to indemnify the owners of vehicles against loss, injury or damage to vehicles while in his custody. The surety bond shall be issued by a bonding company that is approved by the United States Department of the Treasury and/or by the Commonwealth of Pennsylvania.

B. Provide certificates of insurance as follows: in the minimum amount of \$500,000 combined single limit for hired autos, non-owned autos; \$100,000 for each personal injury; and \$50,000 per occurrence for garage keeper's liability.

C. Comply with the provisions of the Pennsylvania Vehicle Code (See 75 Pa.C.S.A. § 101 et seq.) with respect to the removal and storage of vehicles from private property or the removal and impoundment of vehicles from public property.

D. Notify the Morton Borough Police Department by telephone or in person of the removal of a vehicle from public or private property at or before the time of such removal and provide a description and license number of the vehicle thus removed and notify the Borough of Morton Police Department of the removal of the vehicle in writing within six hours after removal of the vehicle from private property on a form provided by the Morton Police Department.

E. Provide the Borough of Morton Police Department with a true and correct copy of each and every contract between the towing service and the owner and/or lessee of any private property with respect to the removal of vehicles from private property within the Borough.

F. Display the name of the towing service or the person operating it, together with a valid phone number therefor, by signs on both sides of the tow truck.

G. Maintain, during off hours, either a telephone operator, answering service or telephone message 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.

5. 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 by the owner of the lot as follows:

A. Within a private lot containing fewer than 20 parking spaces, a sign, at least two feet by two feet in size, will be posted in a clearly visible location approximately eight feet above ground level, explicitly indicating that all unauthorized vehicles will be towed at the owner's expense. It will indicate the name and phone number of the towing agency, the hours of operation and the towing and storage fees.

B. Within a lot containing 20 or more parking spaces, the property owner shall prepare a site plan, subject to the approval of the Chief of Police, showing signage readily visible from all directions. Such signs, clearly indicating that all unauthorized vehicles will be towed at the owner's expense, shall thereafter be posted and maintained pursuant to the approved site plan.

C. In the event that the Pennsylvania Motor Vehicle Code provides for a more demanding standard with regard to signs and posting of signs, said standards shall be followed.

§ 1504. Registration Plate Used As Evidence.

In any proceeding for a violation of the provisions of this Part, the registration plate, if any, displayed on such motor vehicle shall be prima facie evidence that the owner of said motor vehicle was either operating said motor vehicle or was in operation and control of said motor vehicle at the time of said violation.

§ 1505. Violations And Penalties.

1. Any violation of any provision of this Part shall be punishable by the following: a fine not to exceed \$1,000 or 30 days' imprisonment. Each day that a violation continues shall be deemed a separate offense.

2. In addition to the monetary penalties provided above, a person or entity who has committed three or more violations of this Part may be subject to one or more of the following penalties:

A. Revocation of any towing license issued by the Borough, with no refund.

B. Immediate seizure of any towing or other vehicle used in the commission of the third or later violation of this Part, which vehicle shall be released upon full payment of all accrued monetary penalties.

C. The owner of any towing or other vehicle which is seized pursuant to this Part shall be entitled to seek a hearing on the issue of seizure before a Magisterial District Judge or Judge of the Court of Common Pleas within one business day if practicable.

3. Each violation of any part of this Part shall count as a single violation.

4. The penalties set forth in this Part are in addition to, and do not replace or supplant, any other remedies which may be available to the Borough or to any private person under this Part or any other civil or criminal law. By way of example and not of limitation, this Part shall not preclude any private person from bringing a civil action against any person or entity for the wrongful conversion of any vehicle that is towed in violation of this Part.

§ 1506. Application of Part to Repossessors.

The requirements of this Part shall not apply to repossession of vehicles on behalf of lienholders. However:

1. This exemption only applies to the actual repossession of vehicles on behalf of lienholders, and does not provide an exemption for any other towing activity that is conducted within the Borough. When not engaged in repossession activity, persons and entities engaged in the business of towing vehicles must comply in all respects with the requirements of this Part.

2. A person or entity which is engaged in repossession of a vehicle on behalf of a lienholder shall, at least one hour prior to beginning the repossession, notify the Morton Police Department of intention to repossess the vehicle; give the Morton Police Department the name of the vehicle owner and the address at which the vehicle repossession is going to take place; and present proof of the right to repossess the vehicle.

§ 1507. Appeal Process.

Any person who has requested in writing an increase in towing, hooking or storage fees and who has been denied, or if no decision has been made within 30 days of the request, shall have the right to appeal in writing to the Borough Council within 30 days of the denial or of the expiration of 30 days after the request if no decision is rendered. The Borough Council shall set a hearing date within 30 days of receiving such appeal request. At such hearing, the applicant is entitled to be heard and present evidence on its behalf. The Borough Council shall render a decision on the request within 15 days following the date of the hearing.

Section 2. Severability.

The provisions of this ordinance are severable, and if any section, sentence, clause, part, or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, or parts of this Ordinance. It is hereby declared to be the intent of the Borough Council that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional sections, sentence, clause, part, or provision had not been included therein.

Section 3: Repealer.

All resolutions or ordinances, or parts thereof, which are inconsistent herewith, are hereby repealed to the extent of the inconsistency.

Section 4: Adoption.

This ordinance shall be effective immediately.

ENACTED AND ORDAINED this 24th day of June, 2020.

BOROUGH OF MORTON:

Michelle Miller
Michelle Miller,
Council President

APPROVED this 24 day of June, A.D., 2020

Thomas App
Thomas App,
Mayor of Morton Borough

Attest: Martha Preston
Martha Preston,
Borough Secretary