

## ORDINANCE NO: 2008-06

### AN ORDINANCE ALLOWING FOR THE REMOVAL AND IMPOUNDING OF CERTAIN VEHICLES; AND SETTING FINES, PENALTIES AND ENFORCEMENT PROCEDURES.

BE IT ENACTED AND ORDAINED, by the Board of Supervisors of Hamiltonban Township, Adams County, Pennsylvania, and it is hereby enacted and ordained by said Board as follows:

#### Section 101. Applicability and Scope.

This Ordinance is enacted under the authority of 75 Pa C.S. Section 6109 (A-22) of the Pennsylvania Motor Vehicle Code and gives authority to the Township to remove, tow and impound:

- (i) Vehicles parked illegally or abandoned on or along any highway or public property within the Township of Hamiltonban.
- (ii) Vehicles which are parked in such a manner as to interfere with traffic or pose a hazard to others.

#### Section 102. "Abandoned Vehicle" Defined.

1. A vehicle shall be presumed to be abandoned under any of the following circumstances:
  - a. The vehicle is physically inoperable and is left unattended on a highway or other public property for more than 48 hours.
  - b. The vehicle has remained illegally on a highway or other public property for a period of more than 48 hours.
  - c. 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:
    - (1) A valid registration plate.
    - (2) A certificate of inspection.
    - (3) An ascertainable vehicle identification number.
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 the manner which does not interfere with the normal movement of traffic, shall not be considered to be abandoned.

Section 103. Removal of Vehicle by or at Direction of Police.

1. Whenever any police officer of the Township finds a vehicle in violation of the provisions of the Township Ordinances or State Vehicle Code relating to stopping, standing and parking, or abandoned in excess of 48 hours without being moved, the officer may move the vehicle, or cause the vehicles to be moved, or require the driver or other person in charge of the vehicle to move the vehicle, to a position off of the roadway where the vehicle will not interfere unduly with the normal movement of traffic or constitute a safety hazard.

2. Any police officer of Hamiltonban Township may remove, or cause to be removed to the Township impounding area, any vehicle found upon a highway or on public property under any of the following circumstances:

- a. Report has been made that the vehicle has been stolen or taken without the consent of its owner.
- b. The person or persons in charge of the vehicle are physically unable to provide for the custody or removal of the vehicle as a result of intoxication or for any other physical reason.
- c. The person driving or in control of the vehicle is arrested for an alleged offense for which the officer is required by law to take the person before an issuing authority without unnecessary delay.
- d. The vehicle is parked in violation of any appropriate sections of the Pennsylvania Motor Vehicle Code or the Ordinances of Hamiltonban Township relating to prohibition of parking in specified places except for overtime parking.
- e. The vehicle has been abandoned as defined herein.
- f. The vehicle is parked in such a location as to be deemed by the officers as a traffic hazard, is blocking or interfering with access rights of any private individual or the public in general or under such circumstances where the health, safety and welfare of the traveling public or persons in the immediate vicinity would be adversely affected.

Section 104. Designation of Approved Storage Garages: Bonding; Towing and Storage.

Removal and impounding of vehicles under this, or any other Ordinance, shall be done only by approved storage garages that shall be designated from time to time by resolution of the

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Township Supervisors. Every such garage shall submit evidence to the Township that it is bonded or has acquired liability insurance in an amount satisfactory to the Township as sufficient to indemnify owners of impounded vehicles against loss or damage to those vehicles while in the custody of the garage keeper for the purpose of towing or storage. The approved storage garage shall submit to the Township its schedule of charges for towing and storage of vehicles under this Part, and, when the schedule is approved by the Township, those charges shall be adhered to by the approved storage garage. No charges shall be demanded of, or collected from, any person whose vehicle is removed or impounded under this Part by any approved storage garage other than as set forth on its schedule of charges, as approved by the Township. The Township shall delete from its list of approved storage garages any garage that makes any unapproved charge in connection with any vehicle removed or impounded under this Part.

**Section 105. Towing and Storage Charges.**

The Township shall have the right to collect an administrative charge of Forty Dollars (\$40.00) in addition to the actual costs of towing of the vehicle, and the sum of Twenty-Five Dollars (\$25.00) per day or fraction thereof for all vehicles moved and impounded. The owner of the vehicle shall be liable and responsible for payment of such fees and costs together with all towing and storage fees and costs. No vehicle shall be removed from the impounded area or any approved storage garage until such items are paid.

**Section 106. Notice to Owners of Impounded Vehicles.**

Within 12 hours from the time of removal of any such vehicle from a street or highway for impounding, the Police Officer of the Township shall send notice in writing, by personal service if feasible or by certified mail, return receipt requested, of that fact to the owner(s) of record of the impounded vehicle, designating the place from which said vehicle was removed, the reason for its removal and impounding, the pound in which it has been impounded and the location thereof, the towing and storage charges incurred and to be incurred, the procedure to be utilized to retrieve the vehicle from impoundment, to necessity of paying such towing and storage charges prior to the release of the impounded vehicle, and the necessity/advisability of retrieving the impounded vehicle as soon as possible.

**Section 107. Records of Vehicles Removed and Impounded.**

Hamiltonban Township shall cause a record to be kept of all vehicles impounded under this Ordinance and shall be able at all reasonable times to furnish the owner or agents of the owner of those vehicles with information as to the place of impoundment of the vehicle.

**Section 108. Restrictions Upon Removal of Vehicle.**

No vehicle shall be removed under the authority of this Ordinance unless, at the time of the intended removal, the owner or the person for the time being in charge of the vehicle is present, is physically capable of removing the vehicle, and expresses a willingness and intention to remove the vehicle immediately.

**Section 109. Effect of Payment of Towing and Storage Charges.**

The payment of the towing and storage charges hereinbefore provided for, shall, unless payment is made "under protest", be final and conclusive, and shall constitute a waiver of any right to recover the money so paid. If payment of any towing or storage charge or administrative fee is made "under protest", the offender shall be entitled to a hearing before the District Justice. Payment of the towing and storage charges and the administrative fee shall not relieve the owner or driver of any vehicle from liability for any fine or penalty for the violation of the provision of this chapter for which the vehicle was removed or impounded.

**Section 110. Reports and Disposition of Unclaimed Vehicles.**

If after a period of 15 consecutive days the vehicle in storage remains unclaimed, a report shall be filed with the Pennsylvania Department of Transportation, in accordance with §7311 of the Pennsylvania Vehicle Code, by the person having legal custody of the vehicle. If the Vehicle has not been claimed after 30 days, the vehicle may be transferred to a licensed salvor who will then be responsible for filing the proper reports and disposing of the vehicle in accordance with the provisions of Chapter 73 of the Pennsylvania Vehicle Code (75 Pa. C.S.A. §101 et seq., as amended).

Section 111. Penalty.

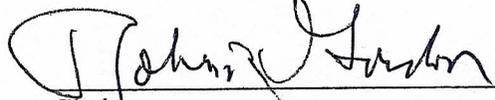
Any owner of a vehicle impounded under the authority of this Ordinance who fails to claim and pay the towing charges and storage charges for the vehicle within Ten (10) days of the date of the towing/impounding shall be guilty of violating this Ordinance and upon conviction thereof in a summary offense before the District Magistrate shall, in addition to having to pay the storage charges, towing costs and administrative fees, be sentenced to pay a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) and/or undergo imprisonment for a period of not more than Thirty (30) days.

ENACTED AND ORDAINED as an Ordinance of the Township of Hamiltonban, Adams County, Pennsylvania, this 5 day of August, 2008.

ATTEST:

HAMILTONBAN TOWNSHIP  
BOARD OF SUPERVISORS

  
Secretary  
LuAnn M. Dille

By:   
Chairman  
Robert L. Gordon