

**UNION CITY BOROUGH
ERIE COUNTY, PENNSYLVANIA
ORDINANCE NUMBER 1153**

**TOWING, IMPOUNDING AND DISPOSAL OF ABANDONED AND ILLEGALLY
PARKED VEHICLES AND VEHICLES WITH UNSETTLED PARKING VIOLATIONS**

AN ORDINANCE OF THE BOROUGH OF UNION CITY, ERIE COUNTY, COMMONWEALTH OF PENNSYLVANIA TO ESTABLISH THE TOWING, IMPOUNDING AND DISPOSAL OF ABANDONED AND ILLEGALLY PARKED VEHICLES AND VEHICLES WITH UNSETTLED PARKING VIOLATIONS; DEFINING CERTAIN TERMS; PROVIDING FOR AUTHORIZATION; AND VALIDITY

WHEREAS: the Borough Council of the Borough of Union City has determined that, to properly regulate the streets of the Borough, pursuant to section 1202(13) of the Borough Code, it is necessary to authorize the towing, impoundment and disposal of abandoned and illegally parked vehicles and vehicles with unsettled parking violations within the Borough; and

WHEREAS, section 1202(34) of the Borough Code authorizes the Borough Council to regulate the towing, impoundment and disposal of such vehicles, to charge appropriate fees for such actions, as well as to enter into contracts with third parties for the service; and

WHEREAS: the Pennsylvania Vehicle Code provides the Borough with the powers to adopt such regulations, see 75 Pa.C.S.A. §§7310 et seq. and 75 Pa.C.S.A. §3712; and

WHEREAS, the Borough Council finds it to be in the best interests of the Borough to adopt such regulations.

NOW THEREFORE, this 13th day of March, 2023, be it enacted and

ordained by the Borough Council of the Union City Borough, Erie County, Pennsylvania, as follows:

SECTION 1. RECITALS.

The recitals set forth above are incorporated herein as if more fully set forth.

SECTION 2. SHORT TITLE.

This article shall be known and may be cited as the "Towing, Impounding and Disposal of Abandoned and Illegally Parked Vehicles and Vehicles with Unsettled Parking Violations".

SECTION 3. PURPOSE.

The purpose of this Ordinance is to provide for a convenient and regulated towing system for the timely removal from public property of motor vehicles damaged, abandoned, illegally parked, seized, disabled or with unsettled parking violations on public rights-of-way or on public property within the Union City Borough. This ordinance does not extend to private property.

SECTION 4. AUTHORITY TO REMOVE AND IMPOUND.

(a) Public Property

- (1) Any vehicle parked on any of the highways, public rights-of-way or other public property in the Union City Borough, which is parked in violation of any provision of the law or of any ordinance of the city, immobilized due to collision, is subject to unsettled parking violations or abandoned in excess of 72 hours in accordance with the provisions of this article, may be removed under the provisions of this article; provided, however, no vehicle shall be towed away if, at the time of the intended removal, the owner or authorized person for the time being who is in charge thereof is present and expresses an intent to immediately remove such vehicle. Any vehicle with two (2) or more unsettled parking tickets or citations will be towed by police whether the owner or authorized user is present.
- (2) The Union City Borough Police Department or any officer of the Bureau is authorized to make the decision whether or not to remove any vehicle. Removal shall be done only by a towing company licensed by Union City Borough. Any vehicle removed shall be impounded in a storage facility.
- (3) Any operator or owner of a vehicle involved in a collision may request a specific towing service.
- (4) The authority of the Union City Borough Police Department to remove and impound abandoned, illegally parked vehicles or vehicles with two (2) or more unsettled parking violations shall not exceed the authority outlined in this Ordinance of Union City Borough.

SECTION 5. DEFINITIONS.

For the purpose of this article, the following definitions apply unless the context clearly indicates or requires a different meaning

AUTHORIZED PERSON. A person having permission from the vehicle owner to exercise care and/or control over a vehicle.

BOROUGH. The Union City Borough, County of Erie, Commonwealth of Pennsylvania.

BUSINESS. The physical location where employees report to work, equipment is stored and dispatched from, all company dealings take place, record keeping and daily activity and the like is performed. For purposes of this article, a BUSINESS shall have employees at that address

during normal business hours, which is defined as 8:00 a.m. to 5:00 p.m., Monday through Friday, exclusive of national holidays.

CHIEF OF POLICE. The Chief of Police of the Union City Borough Police Department or designee.

MOTOR VEHICLE. As defined in the Vehicle Code.

PERSON. An individual, firm, partnership, association, employee, corporation, company or organization of any kind.

TOWING and IMPOUND CONTRACTOR(S). Those entities or individuals contracted by the Borough to provide towing and impounding services at the request of the Borough of Union City Police Department.

UNSETTLED PARKING VIOLATIONS. Any outstanding violations of the Union City Borough Parking Ordinances 1137 and 1150, as may be amended or supplanted, or the Pennsylvania Motor Vehicle Code for which citations have been issued or the citations have been filed with a Magisterial District Judge and summons have been issued to which either there has been no response or for which a warrant was issued, including adjudicated citations where the fine and costs imposed are unpaid.

VEHICLE CODE. Title 75 of the Pennsylvania Consolidated Statutes.

SECTION 6. SELECTION OF TOWING AND IMPOUND CONTRACTORS.

The Chief of Police and the Borough Manager are authorized to advertise a Request for Proposal, review such proposals for towing and impound contracts and make recommendation to Borough Council, for its review and approval, with each selected local towing and impound contractor(s) in accordance with the Union City Borough purchasing procedures. All terms, conditions and requirements shall be established pursuant to a Resolution of the council, as may be adopted from time to time.

SECTION 7. ANNUAL LICENSES REQUIRED.

A towing and impounding license is required for any towing company contracted by the Borough to tow and impound vehicles at the request of officers from the Union City Borough Police Department from roads, alleyways or highways, public rights-of-way or other public property within Union City Borough. The license fee shall be established pursuant to a Resolution of the Council, as may be adopted from time to time.

SECTION 8. DUTIES OF TOWING AND IMPOUNDING CONTRACTOR.

Contractor(s) will be responsible for fulfilling all duties and responsibilities as specified in the contract for services, including record keeping and reporting that information to the Union City Borough Police Department. Contractors will provide towing and impoundment services for Union City Borough including, but not limited to, motor vehicle accident tows as requested, removal of illegally parked or abandoned vehicle, towing of city owned vehicles, removal of any

vehicle requested by Union City Borough Police Department. The specifics of towing and impounding duties will be provided in the Request for Proposal.

SECTION 9. NOTICE TO OWNER; POLICE RECORDS.

The Union City Borough Police Officer directing the removal of any vehicle shall make a report as per department policy, giving all vehicle information and the location of where the vehicle was removed from along with the reason for its removal. The owner of record shall be notified, by first-class mail using the last known address or that address shown on the registration, that the vehicle has been towed and impounded. This will be done on the next business day after the removal, providing that the vehicle has not already been released from the impoundment lot.

SECTION 10. RECORD OF VEHICLES REMOVED/IMPOUNDED.

The Union City Borough Chief of Police or designee shall keep a record of all towed or impounded vehicles, and shall be able at all reasonable times to furnish the owners, operators or authorized persons with information as to the location of the storage facility where such vehicle(s) is/are impounded.

SECTION 11. OWNER/OPERATOR LIABLE FOR FINE/PENALTY.

The payment of towing and storage charges authorized by this article shall not operate to relieve the owner, operator or authorized person of any vehicle from liability for any fine or penalty for violation of any law or ordinance on account of which such vehicle was removed and impounded.

SECTION 12. CONDITIONS FOR RELEASE.

Before the owner, operator or authorized person, shall be permitted to remove an impounded vehicle from a designated impound lot, the owner, operator or authorized person, as evidenced by a valid power of attorney or notarized statement of the owner, shall appear at the Union City Borough Police Station during normal business hours and provide information as follows:

- (1) All costs and fees due pursuant to this Ordinance have been paid;
- (2) Present documentation that all costs and fees have been paid to the towing and impounding contractor, in full;
- (3) Present valid registration and insurance for the vehicle;
- (4) Present a valid driver's license;
- (5) Present documentation that all fines and costs relating to any traffic or non-traffic offenses under the Vehicle Code or Union City Borough Ordinances for which the vehicle was towed and impounded have been paid in full or that a payment agreement has been entered into between the owner, operator or authorized person of the vehicle and appropriate Magisterial District Judge office relating to fines and costs.

Upon fulfilling the items required above, Union City Borough Police chief or designee shall contact the towing and impound to authorize the release of the vehicle to the owner, operator or authorized user. Such authorization must be memorialized by the Chief of Police or designee.

For vehicles which require towing or hauling from the impound lot, in addition to the requirements set forth above, the towing or hauling vehicle must be properly licensed by the PUC.

Vehicles titled in the name of a business or other entity and not titled in the name of an individual may be released to an agent or other designee of the company, upon presentation of documentation evidencing the same, and upon payment of all applicable fees, fines and costs as set forth above.

Notwithstanding anything to the contrary in this Ordinance, if any vehicle or equipment is seized, held or impounded pursuant to a criminal investigation or prosecution, the vehicle or equipment shall not be released unless approval is received from the prosecuting District Attorney, Attorney General or United States Attorney.

SECTION 13. OWNER LIABLE FOR FINE OR PENALTY; EFFECT OF PAYMENT WITHOUT PROTEST.

The payment of the towing and storage charges shall not operate to relieve the owner, operator or authorized person from liability for any fine or penalty for violation of any law or ordinance on account of which the vehicle was impounded; and provided further that, payment of such charges, unless made "Under Protest" shall be final and conclusive, and shall constitute a waiver of any right to recover the money paid for towing and impounding.

SECTION 14. PAYMENT OF TOWING AND IMPOUNDING CHARGES UNDER PROTEST.

In the event that towing and impounding charges are paid "Under Protest", the offender or owner, operator or authorized person shall be entitled to a hearing, pursuant to a civil complaint filed by the offender or owner, operator or authorized person, before the Magisterial District Judge having jurisdiction for the location from which the vehicle was towed. Such civil complaint shall be filed pursuant to and in compliance with the Rules of Civil Procedure Actions and Proceedings before Magisterial District Judges.

If the Magisterial District Judge finds for the owner, operator or authorized person, the Magisterial District Judge shall certify such finding to the Union City Borough Chief of Police and the towing and impounding contractor. The towing and impounding contractor shall repay those moneys paid by the vehicle owner, operator or authorized user at the time the impounded vehicle was released. If the Union City Borough Police is at fault in connection with the towing and impounding of the vehicle, the Union City Borough Police shall reimburse the towing and impounding contractor for the services provided.

SECTION 15. SALE OF IMPOUNDED OR ABANDONED VEHICLES NOT REDEEMED.

If the owner, operator or authorized person fails, within 30 days after the mailing of the notices provided by this article to redeem his or her property, the Union City Borough may proceed to collect those moneys due under this article for storage and towing as authorized by law and pursuant to this article before the Magisterial District Judge with jurisdiction over the impound lot. The Magisterial District Judge judgment may be enforced by the Union City Borough Chief of Police for sale of the vehicle pursuant to this article and law.

All monies received in excess of any fees due shall be remitted to the owner of the vehicle in accordance with this Ordinance, unless the vehicle is abandoned as defined by 75 Pa.C.S.A. §102. If the vehicle is abandoned as defined by 75 Pa.C.S.A. §102, all moneys in excess of such fees shall be remitted to the Pennsylvania Department of Transportation in accordance with provisions of 75 Pa.C.S.A. §7308. With respect to abandoned vehicles as defined by 75 Pa.C.S.A. §102, the towing and impoundment contractors shall comply with the provisions of Ch.73 of Title75 of the Pennsylvania Consolidated Statutes.

SECTION 16. MAXIMUM FEE SCHEDULE FOR TOWING AND IMPOUND SERVICES; TOW AND IMPOUNDMENT SERVICES REGULATIONS

The fees for towing and impoundment services provided at the Union City Borough's request by licensed towing and impoundment contractor(s) will be established pursuant to Resolution of the council, as may be adopted from time to time and provided in the Request for Proposal.

SECTION 17. IMPOUND FEES AND REGULATIONS

Impound fees and regulations will be established pursuant to a Resolution of the Union City Borough Council, as may be adopted from time to time and provided in the Request for Proposal.

SECTION 18. SCHEDULE OF FEE REVIEW.

All charges and fees authorized by this article shall be reviewed by the Union City Borough Chief of Police and Borough Manger yearly and recommendations shall be made to Union City Borough Council and shall be established pursuant to a Resolution of the Council, as may be adopted from time to time and provided in the Request for Proposal.

SECTION 19. SEVERABILITY

The provisions of this Ordinance are severable. If any sentence clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

SECTION 20. REPEALER

Any Ordinances, rules, or resolutions, or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 21. EFFECTIVE DATE.


This Ordinance shall become effective immediately upon its approval by the Mayor or as soon as may be otherwise permitted by applicable law.

DULY ENACTED AND ORDAINED this 13th day of March, 2023, by the Borough Council of the Union City Borough, Erie County, Pennsylvania, in lawful session duly assembled.

ATTEST:



Cindy Wells, Borough Manager



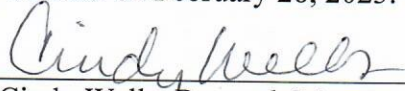
Riley Cross, President

APPROVED



Mayor

I certify that the above is a true copy of the Union City Borough, Erie County, Pennsylvania, Ordinance No. 1153, adopted by the Union City Borough Council on March 13, 2023, and advertised in the Corry Journal on February 28, 2023.



Cindy Wells, Borough Manager

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