

ORDINANCE NO. 167 OF 1996

AN ORDINANCE AMENDING ORDINANCE NO. 28 OF THE TOWNSHIP OF PYMATUNING, MERCER COUNTY, PENNSYLVANIA, ENTITLED "AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF CERTAIN TRAFFIC REGULATIONS IN THE TOWNSHIP OF PYMATUNING, MERCER COUNTY, PENNSYLVANIA, PROVIDING FOR THE INSTALLATION OF APPROPRIATE SIGNS TO GIVE NOTICE THEREOF AND REPEALING PRIOR ORDINANCES RELATING TO TRAFFIC REGULATIONS", BY PRESCRIBING PARKING REGULATIONS FOR CERTAIN TOWNSHIP HIGHWAYS AND ROADS AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

WHEREAS, it is necessary for the protection of the public and in the interest of the general welfare of the Township of Pymatuning that parking be regulated on certain Township roads, highways or other public property within the Township of Pymatuning; and

WHEREAS, it is the desire of the Board of Supervisors of the Township of Pymatuning, Mercer County, Pennsylvania, to establish an orderly system whereby the safety and welfare of the public and of the Township and its citizens can be protected; and

WHEREAS, the Pennsylvania Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, Title 75 Pa.C.S. grants authority and power to local authorities to regulate the stopping, standing or parking of vehicles upon streets or highways within the physical boundaries of such local authorities.

NOW, THEREFORE be it enacted and ordained by the Board of Supervisors of Pymatuning Township, Mercer County, Pennsylvania, under and by virtue of the authority contained in the Second Class Township Code and the Pennsylvania Vehicle Code, and IT IS HEREBY ENACTED AND ORDAINED by and with the authority of same as follows:

SECTION 1. That Section 3 of Ordinance No. 28 shall be amended by the addition of the following language:

Definitions and Interpretations: The following words and phrases, when used in this Ordinance, shall have the meaning ascribed to them in this Section, except where the context clearly indicates or requires a different meaning. The singular shall include the plural and the masculine shall include the feminine.

(a) "Authorized Township Official" shall mean the following elected or appointed officers or employees of the Township of Pymatuning:

Township Supervisors;
Township Police Chief;
Township Secretary; and
Township Road Foreman.

(b) "Emergency" shall mean a situation or occurrence of a serious nature demanding immediate discretionary action for the protection of the safety and general welfare of the public.

(c) "Hazard" shall mean any state of events which may or does reasonably constitute a danger, peril or risk to the general public.

(d) "Highway" shall mean every way or place, of whatever nature, open to the use of the public as a matter of right, for purposes of vehicular traffic, excluding roadways, driveways or other access upon grounds owned by private persons. The term shall also have the meaning ascribed to it in the Pennsylvania Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, as amended, and its supplements and further amendments, except in those instances where the context clearly indicates a different meaning.

(e) "Parking" shall mean the standing of a vehicle, except a police or fire department vehicle, or ambulance, whether occupied or not, upon a road or highway otherwise than temporarily for the purpose of and while actually engaged in loading or unloading persons or property, or in obedience to traffic signs or signals. The term shall also have the meaning ascribed to it in the Pennsylvania Vehicle Code, Act of June 17, 1976,

P.L. 162, No. 81, as amended, and its supplements and further amendments, except in those instances where the context clearly indicates a different meaning.

(f) "Road" shall mean all streets, lanes, alleys, lots or other ways or places of ingress, egress, cartage, storage or parking open to the use of the public as a matter of right, excluding roadways, driveways, or other access upon grounds owned by private persons.

(g) "Sign" shall mean a notice conveying information, order or direction to the public and conforming to the official sign requirements of the Commonwealth of Pennsylvania.

(h) "Snow or Snowfall" shall mean a physical or meteorological condition resulting in the precipitation of snow which accumulates on roads and highways and is of sufficient depth or severity or of such physical characteristic to constitute a hazard.

(i) "Township" shall mean the Township of Pymatuning, Mercer County, Pennsylvania.

(j) "Vehicle" shall mean any device, in, upon, or by which any person or property is or may be transported or drawn upon a public highway, including, without limitation, automobiles, trucks, station wagons, vans, utility trailers, tractors, truck tractors, motor homes, mobile homes, motorcycles, motor omnibuses, machinery, trailers, semi-trailers, farm tractors, agricultural and husbandry machinery and implements and other wheeled equipment. The term and examples shall include whatever meaning or further meaning is or may be ascribed to them in the Pennsylvania Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, as amended, and its supplements and further amendments, except in those instances where the context clearly indicates a different meaning.

SECTION 2: Parking shall be prohibited at all times in the following locations:

1. Three Hundred Ninety (390') feet south from Township Road No. 635, along the easterly berm of State Route 18.

2. Five Hundred Twenty-Five (525') feet north from Township Road No. 635, along the easterly berm of State Route 18.

3. Three Hundred Seventy-Five (375') feet north from Township Road No. 635, along the westerly berm of State Route 18.

4. Seven Hundred (700') feet south from Township Road No. 635, along the westerly berm of State Route 18.

5. Five Hundred Eighty (508') feet south from State Route 4012, along the easterly berm of State Route 18.

6. Three Hundred Eighty (380') feet north from Township Road No. 651, along the westerly berm of State Route 18.

7. Two Hundred (200') feet south from Tenth Street, along the easterly berm of State Route 18.

8. Two Hundred (200') feet south from the entrance drive to Speir's Shadeland Estates along the easterly berm of State Route 18.

SECTION 3: Temporary Parking Restrictions On Other Roads and Highways:

(a) Whenever, in the reasonable discretion of two (2) Township Supervisors (i) a hazard exists due to a snowfall or other climatic condition; or (ii) an

emergency exists; or (iii) parking restrictions are reasonably necessary to facilitate public works or the conduct of public events; said officials, either of them or any authorized Township Official designated by them, shall notify the Road Foreman to restrict parking on the roads and highways identified in this Ordinance or Ordinance No. 28 and/or other roads and highways of the Township pursuant to the provisions of this Ordinance.

(b) Within a reasonable period of time after notification pursuant to the above paragraph (a), the Road Foreman, or any person officially acting in his stead, shall cause signs to be posted at the hereinafter designated locations along the roads and highways, which signs shall:

(i) Restrict all parking along any and all sections of any one or more roads or highways during a proscribed period; or

(ii) Restrict parking to only one side of any or all sections of any one or more roads or highways during a proscribed period.

(iii) Order all vehicles to adhere to the stated parking restrictions until the conditions causing the restrictive parking along said posted roads or highways are satisfactorily resolved.

(iv) Be posted at least three (3) hours prior to the anticipated time period during which time parking is to be restricted.

(v) Indicate that vehicles parked in violation of the posted restrictions may be towed and fines imposed upon the owners, operators or custodians pursuant to this Ordinance.

(c) The Township Road Foreman shall have the sole discretion to determine whether parking shall be restricted on both sides of a road or highway or on one side of a road or highway.

SECTION 4: Location of Signs: All signs posted on any road or highway pursuant to this Ordinance shall be posted, to the extent practicable, at a convenient and conspicuous location near both ends of each road and highway and at one or more interim points, and shall be posted at such heights and at such other locations as may be required under applicable law.

SECTION 5: Erection and Removal of Signs: All signs shall be erected under the direction of the Road Foreman who shall also be responsible for the prompt removal of same, at appropriate times.

SECTION 6: Penalty for Violation: Any owner, operator or custodian of any vehicle parked in violation of this Ordinance, shall, upon conviction, be subject to a fine of Fifteen (\$15.00) Dollars for every violation, plus cost of said proceeding, and upon failure to pay such fine and cost shall be imprisoned in the Mercer County Jail for not more than one (1) day.

SECTION 7: Removing and Impounding of Illegally Parked Vehicles:

(a) The Chief of Police or, in his absence from duty, the ranking police officer then on duty is hereby authorized to remove and impound, or to order the removal and impounding of any vehicle parked on any road or highway in violation of this Ordinance.

(b) All vehicles so removed and impounded shall be towed to one of the following approved storage garages, and none other, which approved storage garage shall be pounds for the storage for impounded vehicles:

(c) Each of the above storage garages as pounds shall post and maintain a bond in amounts adequate for the indemnification of the owner of any vehicle impounded pursuant to this Ordinance against the loss thereof, or injury or damage thereto, while in the custody of such poundkeeper.

(d) The towing charge shall be as follows:

(i) \$ 35.00 per day between the hours of 6:00 a.m. to 6:00 p.m. prevailing time; and

(ii) \$ 50.00 per day between the hours of 6:00 p.m. to 6:00 a.m. prevailing time.

(iii) Use of Tilt Bed Truck \$ 75.00.

(e) The storage charges shall be as follows:

(i) \$ 7.50 per day.

(f) Neither the Township nor any of its officers or employees shall be held responsible for any damage to any vehicle occurring as a result of towing, impounding or storage of such vehicle parked in violation of this Ordinance.

(g) Within twelve (12) hours from the time of removal of any vehicle parked in violation of this Ordinance, notice of said removal shall be sent by the Chief of Police, or in his absence from duty, the ranking police officer then on duty, to the record owner of each such vehicle and shall designate the place from which the vehicle was removed, the reason for its removal and impounding, and the pound in which it has been impounded. A notice shall be deemed sent when addressed to the record owner and sent by first-class United States Mail, postage prepaid and deposited in any mail facility in Mercer County, Pennsylvania.

(h) The payment of any towing or impounding charges, in full or in part, authorized by this Ordinance, shall, unless payment shall have been made "under protest", be final and conclusive and shall constitute a waiver of any right to recover the monies so paid.

(i) In the event that any towing or impounding charges are paid "under protest", the defendant shall be entitled to a hearing before a District Justice, or court of record having jurisdiction, in which case the defendant shall be proceeded against and receive such notice as is required under the Pennsylvania Vehicle Code Act of June 17, 1976, P.L. 162, No. 81, as amended, or Pennsylvania Rules of Court for Summary Offenses, and shall have the same rights to appeal and waiver of hearing.

(j) No vehicle shall be removed under the authority of this Ordinance, if, at the time of the intended removal thereof, the owner or person then in charge of said vehicle is present and expresses a willingness and intention to immediately remove said vehicle. If, however, despite said presence or expression of willingness, said vehicle is not actually removed within thirty (30) minutes after the time of the intended removal, the presence and expression of willingness and intent aforesaid shall be conclusively deemed false and misleading and shall have no force or effect. Further, nothing herein contained shall be construed to relieve the owner, operator or custodian of said vehicle of the payment of any charges and fees which the Township may be legally obligated to pay to the person or entity summoned to tow said vehicle.

(k) No tow operator, owner, employee, or any person or firm summoned to remove any vehicle shall be considered an agent of the Township.

(l) No approved storage garage or pound or its operator, owner or employee shall be considered an agent of the Township.

SECTION 8: The provisions of this Ordinance, so far as they are the same as those of Ordinances and Regulations now in full force and effect, prior to the enactment of this Ordinance, are intended as a continuation of such Ordinances and Regulations, and not as new enactments. The provisions of this Ordinance shall not affect any act done or liability incurred nor shall they affect any suit or prosecution pending or to be instituted to enforce any right or penalty or to punish any offense or offenses under the authority of any of those repealed Ordinances, Regulations, or parts thereof.

SECTION 9: Severability. The provisions of this Ordinance shall be severable, and if any of its provisions shall be held to be unconstitutional, or illegal, such decision shall not affect the validity of any of the remaining portions of this Ordinance. It is hereby declared a legislative intent that this Ordinance would have been adopted had such unconstitutional or illegal provision not been included therein. The invalidity of any section, clause, sentence or provision contained in this Ordinance shall not affect the validity of any other section, clause, sentence or provision of this Ordinance which can be given effect without such invalid part or parts.

SECTION 10: Repealer. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance shall be and the same are hereby repealed.

SECTION 11: Effective Date. This Ordinance shall become effective five (5) days after its adoption.

ENACTED AND ORDAINED, this 11th day of April, 1996, by the Supervisors of the Township of Pymatuning, Mercer County, Pennsylvania, in Lawful Session, duly assembled.

ATTEST:

Jayne E. Leventy
Township Secretary

PYMATUNING TOWNSHIP, MERCER COUNTY,
PENNSYLVANIA

By: Joseph A. Selnekovic
Joseph A. Selnekovic
George J. Fiedler, Jr.
George J. Fiedler, Jr.
Richard F. Sherwood
Richard F. Sherwood

CERTIFICATION OF ADOPTION

I hereby certify the foregoing to be an exact copy of an Ordinance adopted by the Supervisors of Pymatuning Township, Mercer County, Pennsylvania, at a regular meeting of the Board held on the 11th day of April, 1996.

Jayne E. Leventy
Township Secretary