



**LUZERNE COUNTY COUNCIL
PUBLIC HEARING
May 09, 2023
Council Meeting Room
Luzerne County Courthouse
200 N. River Street
Wilkes-Barre, PA 18701
AND
Video/Teleconference via ZOOM**

5:50 PM CALL TO ORDER

PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

ROLL CALL

PUBLIC COMMENT ON PROPOSED ORDINANCE Adopting a Parking Ordinance in Hanover Township

This is an opportunity for members of the public to address the Council on the matter listed on the Agenda. Each speaker shall have three (3) minutes to address Council. Speakers may not yield or transfer their time to another speaker.

Those attending in person are asked to complete and submit a Speaker Card to the Clerk of Council before the first speaker is called.

Those attending virtually are asked to refer to the Public Meetings Online page of County's Website at <https://www.luzernecounty.org/1279/Public-Meetings-Online> for more information on how to participate in Public Comment via technology.

ADJOURNMENT

ORDINANCE NO. 2023-__

**An Ordinance of Luzerne County Council Adopting
a Parking Ordinance in Hanover Township**

WHEREAS, Luzerne County is currently lacking a “Parking Ordinance” to provide a legal basis for enforcement of parking violations and regulate parking to provide a safer environment for all licensed motor vehicle operators on County owned roads and property; and

WHEREAS, a proposed Luzerne County Parking Ordinance would provide legal authority to any law enforcement authorities having jurisdiction within Hanover Township to enforce vehicle parking laws and regulations on County owned roads, cartways, adjacent easements, and rights-of-way within Hanover Township; and

WHEREAS, enforcement under the Parking Ordinance would be financially self-supportive through the collection of fines from ticketed violators; and

WHEREAS, it is in the best interests of Luzerne County to adopt a Parking Ordinance to enforce parking violations on County owned roads and property within Hanover Township.

NOW, THEREFORE, BE IT HEREBY ENACTED AND ORDAINED BY LUZERNE COUNTY COUNCIL, as follows:

The Luzerne County Parking Ordinance, as set forth below, shall hereby be implemented and the Hanover Township Police Department, having agreed to enforce this Ordinance through the issuance of parking tickets to violators, shall be permitted to cite violators with such fines being collected pursuant to Pennsylvania law.

LUZERNE COUNTY PARKING ORDINANCE

The Parking Ordinance shall regulate parking of all vehicles on all Luzerne County roadways or other property within Hanover Township pursuant to the restrictions set forth below.

1. Parking Violations.
 - (a) Parking Prohibited at All Times.

No person shall park, or cause to be parked, a vehicle, whether attended or unattended, on any Luzerne County owned property, road, cartway, adjacent easement, or right-of-way where notice is clearly posted that parking is prohibited at all times.

- (b) Parking Prohibited Certain Hours.

No person shall park, or cause to be parked, a vehicle, whether attended or unattended, on any Luzerne County owned property, road, cartway, adjacent easement, or right-of-way where notice is clearly posted that parking is prohibited during certain specified hours or days.

(c) Time Limit Parking.

No person shall park, or cause to be parked, a vehicle, whether attended or unattended, on any Luzerne County owned property, road, cartway, adjacent easement, or right-of-way where notice is clearly posted that parking is prohibited during certain hours or for longer than the time indicated in said posting.

(d) Special Purpose Parking Zones.

It shall be unlawful for any person to park a vehicle, whether attended or unattended, in any special purpose parking zone established by Luzerne County except as specifically provided for said zone.

(e) Declaration of Snow or Ice Emergency; Snow Emergency Routes.

(1) Declaration of Snow and Ice Emergency.

In order to facilitate movement of traffic and to combat the hazards of snow and ice on the snow emergency routes named pursuant to this Ordinance, the Sheriff of Luzerne County, in his or her discretion, may declare a snow and ice emergency ("Snow Emergency"). Information on the existence of a Snow Emergency may be given by the County through radio, newspaper or other available media, and information on the termination of the emergency may be given by use of the same media. In the absence of the declaration of a snow and ice emergency, a snow and ice emergency will be deemed to exist at any time within twenty-four (24) hours after a snowfall resulting in an average accumulation in, about or on said snow emergency route of one (1) inch or more.

(2) Parking and Driving Restrictions.

After a Snow Emergency is declared, it shall be unlawful, at any time during the continuance of the emergency, for any person to park a vehicle, or to allow a vehicle to remain parked, in any posted Snow Emergency route designated pursuant to this Ordinance.

2. Definitions. Words and phrases, when used in this section, shall have the meanings ascribed to them in the Vehicle Code of the Commonwealth of Pennsylvania, except as otherwise defined in this Section:

(a) County-The County of Luzerne.

(b) Person – A natural person, firm, partnership, association, or corporation.

(c) Enforcement Officer – Hanover Township Police Department or Luzerne County Sheriff's Department or any other party authorized by Luzerne County to issue citations for violation of the Parking Ordinance.

(d) Signs- Any device, marker, board, plate, posting, or other display designed for the purpose of regulating parking or informing of parking regulations.

(e) Parking Control Device - Any signs, signals, markings, or devices placed or erected, whether permanently or temporarily, by authorized agencies for the purpose of guiding, directing, safeguarding, warning or regulating parking.

(f) Vehicle- Any device in, upon or by which any person or property is or may be transported or drawn upon a public street or highway.

3. Obedience to Enforcement Officers.

(a) Enforcement officers shall have the power and authority to direct vehicles to park in specified areas for purposes of avoiding or relieving parking congestion during an emergency and/or to enforce temporary parking restrictions incident to repairs and improvements upon Luzerne County property.

(b) Violations of this subsection shall be prosecuted as delineated herein.

4. Damages to Signs or Parking Control Devices.

(a) No unauthorized person shall deface, change the wording of, discard, destroy or throw away Signs or Parking Control Devices.

(b) Violations of this subsection shall be prosecuted as delineated.

5. Notice of Violation; Prima Facie Proof; Payment Instructions and Appeal Rights.

For offenses which violate the terms and provisions of this Parking Ordinance, enforcement officers, after making note of the license number of the offending vehicle (and the name of the offender where possible), may issue a citation for parking violation containing sufficient information so as to notify the offender of the violation, the ordinance and section number(s) which have been violated and the amount of the fine and penalties to be paid in the event of conviction of said violations. In addition, the parking violation citation shall provide notice to the offender of his or her or its right to settle or appeal the citation as set forth herein, as well as instructions on how to do so.

The fact that a vehicle is illegally parked and is registered in the name of a person, firm or corporation shall be considered prima facie proof that such person, firm or corporation was in control of the vehicle at the time of the violation.

Persons cited under this Ordinance may pay their fine directly to the Luzerne County Treasurer's Office.

Original jurisdiction for all appeals stemming from all violations in this Parking Ordinance shall be vested in the court of the Magisterial District Judge where the alleged violation occurred. A person who receives a citation under this Parking Ordinance shall have the right to plead not guilty and request a hearing before said Magisterial District Judge.

The plea of not guilty shall be filed by the alleged offender to the Magisterial District Judge's Office within fifteen (15) business days of the issuance of the citation under this Ordinance. In addition to the penalties set forth herein, the Magisterial District Judge shall have the right to assess the same fees and court costs as are assessed for other summary offenses under the Pennsylvania Motor Vehicle Code.

Persons found guilty of violating any section of this Ordinance by the Magisterial District Judge shall have the right to file a summary appeal to the Luzerne County Court of Common Pleas within thirty (30) days and be subject to the same hearing procedure and assessment of fees and costs as appeals instituted under the Pennsylvania Motor Vehicle Code.

6. Prosecution of Violations of the Pennsylvania Motor Vehicle Code.

Nothing contained herein shall be construed or interpreted to prohibit or restrain any law enforcement officer from prosecuting violations of the Pennsylvania Motor Vehicle Code where applicable, nor shall anything contained herein be construed or interpreted as being in lieu of any term or condition of the Pennsylvania Motor Vehicle Code, but rather shall be in addition to the provisions thereof.

7. Penalties for Parking Violations.

Any person who violates any provision of this Ordinance shall, upon conviction, be sentenced to pay a fine of not more than twenty-five (\$25.00) dollars, unless the violation relates to handicapped parking, in which case a fine will be no more than fifty (\$50.00) dollars, in addition to costs and fees if paid within five (5) business days of the date of the citation.

Any fines not paid within five (5) business days of the date of citation shall double to fifty (\$50.00), unless the violation relates to handicapped parking in which case it will double to one hundred (\$100.00) dollars, in addition to costs and fees. For purposes of doubling the fines in this Section, the first business day after the citation's issuance shall mark the beginning of the time accrual period.

8. Removal and Impounding of Certain Vehicles.

(a) Applicability and Scope.

This section is enacted under authority of Title 75 Section 6109(a)(22) of the Pennsylvania Motor Vehicle Code which gives authority to law enforcement officers to remove and impound vehicles that are parked illegally on any property, road, cartway, adjacent easement, or right-of-way of Luzerne County in violation of any provisions of this Ordinance.

(b) Authority to Remove and Impound.

The Luzerne County Sheriff's Department and the Hanover Township Police Department are hereby authorized to remove and tow away, or have removed and towed away by a commercial towing service, any vehicle unlawfully parked on any duly designated and posted snow emergency route or otherwise illegally parked in violation of this Ordinance. Towing and Storage.

(c) Removal and impounding of vehicles under this Ordinance shall be done only by approved towers and storage garages that shall be designated from time to time by the Sheriff of Luzerne County. Every such garage shall submit evidence to the Sheriff of Luzerne County that it is bonded or has acquired liability insurance in an amount satisfactory to the Sheriff of Luzerne County 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 tower and storage garage shall submit to the Sheriff of Luzerne County its schedule of charges for towing and storage of vehicles under this Ordinance and when the schedule is approved by the Sheriff of Luzerne County, those charges shall be adhered to by the approved tower and storage garage. No different schedule of charges shall be adopted without the approval of the Sheriff of Luzerne County and no different charges shall be demanded of or collected from any person whose vehicle is removed or impounded under this Ordinance by any approved tower or storage garage. The Sheriff of Luzerne County shall delete from its list of approved towers and storage garages any garage that makes any unapproved charge in connection with any vehicle removed or impounded under this Ordinance.

(d) Any motor vehicle removed and towed away under this Ordinance shall be stored in a safe place and shall be restored to the owner or operator of said motor vehicle upon payment of the towing fee if said owner or operator of said motor vehicle makes claim for restoration of possession within twenty-four (24) hours after the time such car was removed and towed, plus such storage charges as may be charged for each additional twenty-four (24) hours or fraction thereof beyond the initial twenty-four (24) hour period that said motor vehicle is in storage.

(e) In all cases where a vehicle is removed and towed under authority of this Ordinance, the law enforcement authority who ordered the towing shall immediately thereafter make any reasonable effort to ascertain the name(s) of the record owner of said vehicle and within twelve (12) hours of ascertaining said name of the record owner shall attempt to notify said owner by telephone of the removal and towing of their motor vehicle, the location where said vehicle is being stored and the procedures and costs of re-claiming said vehicle. In addition, the enforcement authority within twelve (12) hours after ascertaining the names of the record owner(s) shall forward written notice to the last known record address of said owner(s) which notice shall contain the information set forth above.

(f) In the event any vehicle removed or towed under the authority of this Ordinance remains unclaimed for ten (10) days following the date said vehicle is removed and towed, said vehicle shall be deemed abandoned shall thereafter be disposed of pursuant to the Pennsylvania Motor Vehicle Code.

9. Notification of Removal and Impounding.

Whenever a vehicle is removed under authority granted by this Ordinance, notice of that fact shall also be sent by Luzerne County to the owner of record of the vehicle. The notice shall designate the place from which the vehicle was removed, the reason for its removal and impounding and the garage in which it was impounded. Said notice shall be sent before the close of business on the first business day after the vehicle is removed via Certified or Registered U.S. First Class Mail, Return Receipt Requested.

10. Effect of Payment of Towing and Storage Charges.

The payment of any towing and storage charges authorized by this Ordinance 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 charges is made under protest, the offender shall be entitled to a hearing before a District Magisterial Judge. Payment of towing and storage charges 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.

11. Records of Vehicles Removed and Impounded.

The Luzerne County Sheriff’s Department 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 the agent of the owner(s) of those vehicles with information as to the place of storage of the vehicle.

12. Restrictions Upon Removal of Vehicles.

No vehicle shall be removed under the authority of this Ordinance if prior to removal of said vehicle the owner, or the person for the time being in custody of the vehicle, removes the vehicle from the improper parking position.

13. Effective Date. This Ordinance shall become effective fifteen (15) days after enactment.

Enacted by County Council, this ____ day of _____, 2023.

LUZERNE COUNTY COUNCIL

AYES:
NAYS:

Attest:

Kendra Radle, Chair

Sharon Lawrence, Clerk of County Council

John Lombardo, Vice-Chair