



TITLE #: 36

Ordinance #: 02-01-12-036

Date: 12-01-2012

**ORDINANCE ESTABLISHING PARKING REGULATIONS for
the STREETS and ROADWAYS within the CORPORATE
LIMITS of the TOWN of CHESWOLD**

DESCRIPTION: This ordinance shall be known as the “Town of Cheswold Parking Ordinance”, as it establishes standards for parking areas covered by this ordinance and is herein sometimes referred to as the Town Parking code and shall apply to and include the entire corporate limits of the Town of Cheswold, Delaware, Kent County – State of Delaware.

FINAL AUTHORITY: The provisions of this Ordinance shall apply except where it may conflict with the parking law of the Cheswold Land Use Ordinance, in which case the authority of the Cheswold Land Use Ordinance shall apply. In all conflict circumstances the motor vehicle laws concerning parking regulations of the State of Delaware shall apply.

Section 1. PURPOSE

This ordinance is intended to protect the public safety, health and welfare, on existing streets and all future streets, as hereinafter provided, by:

- A. Establishing parking standards for existing and future streets within the Town of Cheswold, and for safe thoughtful parking patterns along said streets;
- B. Fixing the parking responsibilities of owners, operators and occupants of all vehicles and;
- C. Providing for administration, enforcement and penalties and;
- D. Limiting commercial vehicle parking on Town of Cheswold streets.

Section 2. APPLICABILITY

The provisions of the Town Parking Code shall apply to existing and future streets within the Town of Cheswold.

The provisions are designed to eliminate or prevent sub-standard parking conditions while providing adequate requirements for emergency vehicular traffic; eliminating unsafe conditions and overcrowding and ensuring proper line of sight for drivers.

Every portion of a street used or intended to be used for parking purposes shall comply with the provisions of this ordinance.

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Section 3. DEFINITIONS & WORD USAGE

3.1 Definitions - As used in this ordinance, the following terms shall have the specified meaning:

3.1.1 Chief of Police -

shall mean the highest ranking Police Officer of the Town of Cheswold.

3.1.2 Commercial Vehicle -

shall mean a vehicle of a type required to be registered in the state or federal government and/or used or maintained for the transportation of persons or property for hire, compensation or profit, except taxicabs.

3.1.3 Disabled Person or Accessible Vehicle -

shall mean a vehicle which is displaying a special handicapped registration plate on the rear of the vehicle issued pursuant to Title 21 Delaware Code §2134 (or any future corresponding provision of law), a vehicle displaying a special handicapped ID parking card in the windshield such ID card issued pursuant to Title 21 Delaware Code §2135 (or any future corresponding provision of law), or a plate or permit issued under a similar provision in another jurisdiction.

3.1.4 Motor Vehicle -

shall mean any vehicle which is self propelled, except farm tractors and electric personal assistive mobility devices.

3.1.5 Off Highway Vehicles, (OHVS) –

shall mean any motor driven off road vehicle capable of cross country travel without benefit of a road or trail.

3.1.6 Park/Parking –

shall mean to bring a vehicle to a stop and leave remaining in one (1) place in excess of five (5) minutes.

3.1.7 Parking Permitted Except Where Otherwise Prohibited by Law –

shall mean parking is permitted under this ordinance, unless it is prohibited by Title 21 – State of Delaware Code : Motor Vehicles.

3.1.8 Person –

shall mean any individual, partnership, corporation, joint venture or legal entity of whatever nature.

3.1.9 Police Officer -

shall mean any certified person employed by the Police Department of the Town of Cheswold and holding the title of Police Officer.

3.1.10 Private Road or Driveway –

shall mean every road or driveway not open to the use of the public for the purpose of vehicular travel.

Section 3. DEFINITIONS & WORD USAGE- “continued”

3.1.11 Roadway -

shall include all streets, alleys, highways, lanes, and avenues within the Town of Cheswold.

3.12 Streets –

shall mean all roadways and include roadways with those titles specified in the roadway definition and those titled court, drive, place, road, terrace, boulevard and circle and any roadway or street not yet officially named.

3.13 Towing –

shall mean the act of removing vehicles from public roadways.

3.14 Trailer –

shall mean and include a mobile home, park trailer, travel trailer, house trailer, office trailer, camping trailer or any vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

3.15 Unattended Vehicle -

shall mean a vehicle that has the engine running and does not have any operator on board or within the immediate proximity. (*See State of Delaware Title 21 – Section 4182*)

3.16 Vehicle -

shall mean every device in, upon or by which any person or property is or may be transported or drawn upon a public roadway, excepting devices moved by human power or used exclusively upon stationary rails or tracks and excepting electric trackless trolley coaches and electric personal assistive mobility devices, excepting OHVS.

3.2 Word Usage - As used in this Ordinance, the following terms shall have the specified meaning:

3.2.1 Words used in the present tense include the future.

3.2.2 The singular includes the plural, and the plural includes the singular.

3.2.3 Unless otherwise expressly stated, where terms are not defined under the provisions of this ordinance, they shall have ascribed to them their ordinary accepted meaning or such as the context herein may imply.

3.2.4 Whenever the words, “roadway”, “motor vehicle”, “alley”, “highways”, “lanes” or “avenues”, are used in this ordinance, they shall be construed as though they were followed by the words, “or any part thereof”.

Section 4. INTREPRETATION and ENFORCEMENT

4.1 The provisions of this ordinance shall be interpreted and enforced by the Police Department of the Town of Cheswold, in order to minimize threat to the health, safety and general welfare of the residents and vehicle owners.

Section 5. ADMINISTRATION and ENFORCEMENT

5.1 Except as may otherwise be provided by State statute, no Police Officer, Agent or Employee of the Town of Cheswold charged with the enforcement of this ordinance shall be rendered personally liable for any damage that may accrue to persons or property, as a result of any act required or permitted in the discharge of duties under this ordinance.

5.2 No person who institutes or assists in the prosecution of a criminal proceeding under this ordinance shall be liable for damage, unless such person acted with actual malice and without reasonable grounds for believing that the person accused or prosecuted was guilty of an unlawful act or omission. If such person is proved to have acted with malice, said person will be financially responsible for any financial debt accrued by the Town of Cheswold.

5.3 Any civil suit brought against any Police Officer, agent or Employee of the Town of Cheswold as a result of any act required or permitted in the discharge of duties under this ordinance shall be defended by the Town Solicitor, until the determination of the proceedings thereof.

Section 6. CONFLICT of INTEREST

6.1 No Police Officer or Employee who has an official duty in connection with the administration and enforcement of this ordinance shall engage in any activity, which is inconsistent with the public interest and the Police Officer's official duties.

Section 7. RECORDS

7.1 The Police Officer shall keep or cause to be kept records concerning the enforcement of the provision of this ordinance.

Section 8. Unlawful Acts

8.1 It shall be unlawful for any person, firm or corporation to park any motor vehicle in conflict with or in violation of any of the provisions of this ordinance.

Section 9. STOPPING, STANDING or PARKING in SPECIFIC PLACES

9.1 No person shall stop, stand, or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic controlled device in any of the following places:

9.1.1 On a sidewalk.

9.1.2 In front of a public or private driveway.

9.1.3 Within 15 feet of a fire hydrant.

9.1.4 On a crosswalk.

9.1.5 Within 20 feet of a crosswalk at an intersection.

9.1.6 Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of the roadway.

Section 9. STOPPING, STANDING or PARKING in SPECIFIC PLACES – “continued”

9.1.7 Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly sign posted.

9.1.8 Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking a vehicle would obstruct traffic.

9.1.9 On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

9.1.10 At any place where official signs prohibit stopping, standing, or parking.

9.1.11 Within 50 feet of the nearest rail or railroad crossing unless a different length is indicated by traffic control devices.

9.1.12 At any place where such parking, standing, or stopping obstructs the free passage of other traffic.

9.1.13 Upon the roadway of any highway when it is practical to stop, stand, or park off the roadway.

9.1.14 Whenever a curb is marked yellow or a yellow line is placed at the edge of a roadway or shoulder.

9.2 UNAUTHORIZED VEHICLE MOVEMENT

No person shall move a vehicle not owned by such person into any area prohibited under subsection (8.1) of this section or away from a curb such as is unlawful.

Section 10. HANDICAP/DISABLED PARKING

10.1. Prohibited Conduct.

No person shall park any vehicle other than a vehicle of the handicapped in any area under the control of and designated by the State Department of Transportation, by the Town, or by the owner(s) or lessee(s) of private property in the Town as a handicapped parking zone and conspicuously marked as such.

Section 11. PARKING in FIRE LANES

11.1 Prohibited Conduct.

No person shall stop, stand, or park a vehicle in any place which has been designated and property identified as a fire lane pursuant to regulations of the State Fire Marshall or in an area designed for a fire hydrant or standpipe connection except in compliance with the directions of a Police Officer or traffic control device.

Section 11. PARKING in FIRE LANES *“continued”*

11.2 Enforcement by Towing.

Any Police Officer of the Town of Cheswold is hereby authorized to remove or cause to be removed and stored at the owner’s expense any unattended vehicle left standing wholly or partially within a fire lane or any unattended vehicle left standing in a location so as to cause an obstruction to the accessibility to a fire lane, fire hydrant, or standpipe connection.

Section 12. POSITIONING of VEHICLE: OBEDIENCE to MARKINGS

12.1 Marked Streets

All vehicles are hereby required to be parked on the streets of the Town according to street markings designated for that purpose.

12.2 Unmarked Streets

On the streets that are not marked all vehicles are required to park parallel to and not more than 12 inches from the curb to the right side of the street.

Section 13. COMMERCIAL TRUCKS, TRAILERS and OTHER HEAVY EQUIPMENT

13.1 Residential Parking Restriction

No trailers, commercial vehicle or other heavy equipment, designed or used from hauling or transportation, or used for dwelling purposes shall be regularly parked or stored in the vicinity of any lot in a residential zone, unless such lot is zoned commercial or industrial.

13.2 Non-Residential Parking Restriction

No trailers, commercial vehicle or other heavy equipment, shall be parked or stored in the vicinity of any lot in a non-residential zone; nor shall any of the same be parked or stored in said vicinity for more than a four, (4), hour loading or unloading period, unless such lot is zoned commercial or industrial.

13.3 Weight Limitation

No person shall park or allow to remain parked any truck, trailer, or mobile heavy construction equipment, or other vehicles licensed by this State or any other State as a commercial vehicle in excess of one, (1), ton on any public street, road, alley, or way within the limits of the Town of Cheswold, except as provided in subsequent sections of this Ordinance.

13.4 Weight Limit Exception

No commercial vehicle, truck, trailer, or mobile heavy construction equipment, shall be parked out-of-doors overnight in a residential zone, provided, however, unless it is has a rated capacity of three quarter (3/4), ton or less, and is owned or used by a resident of the premises to go to and from business, which one, (1), vehicle may be parked or garaged overnight on any premises within a residential zone.

Section 13. COMMERCIAL TRUCKS, TRAILERS and OTHER HEAVY EQUIPMENT

– “continued”

13.5 Time Restriction

Overnight parking provided for in Section 12.4, shall consist of continuous parking for a duration of six, (6), hours between the hours of eleven, (11), p.m., and seven, (7), am prevailing time.

13.6 Exclusions

13.6.1 – Emergency or Service Vehicles

Excluded from the restrictions of Section 12 are emergency or service vehicles while actually engaged in emergency or service calls.

13.6.2 – Authorized Vehicles

Section 12 restrictions shall not apply to vehicles parked in parking spaces approved for such size vehicles by the Town of Cheswold on a site plan at sites, such as hotels, motels, restaurants, truck terminal, automobile sales and/or repair shops, or loading docks.

Section 14. UNATTENDED MOTOR VEHICLES

13.1 Requirements

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key, and effectively setting the brake thereon; and when standing upon any grade, turning the front wheels to the curb or side of the highway.

Section 15. VIOLATIONS; FINES & PENALTIES

15.1 Handicap Parking Violation Fee

15.1.1 First Offense - \$100.00

15.1.2 Second Offense - \$200.00

15.2 Convictions

15.2.1 Any person convicted of violating the provisions of this Ordinance as it applies to towing shall be deemed guilty of a violation, and upon conviction before any court of competent jurisdiction shall be penalized as follows:

15.2.1 First Offense - \$20.00

15.2.2 Second Offense - \$25.00

15.2.3 Third Offense - \$50.00

Section 15. VIOLATIONS; FINES & PENALTIES “continued”

15.2 Convictions “continued”

15.2.2 For purposes of determining whether a violation of this Ordinance is a second, third or subsequent offense, only violations occurring within 180 days immediately prior to the violation in question and resulting in convictions will be counted.

15.2.3 Each day that a violation of this Ordinance or any provision thereof continues shall be considered as a separate offense and penalties shall be imposed accordingly.

15.3 Summons for Unattended Vehicle

A summons in an appropriate form, to be adopted by the Town, may be attached to an unattended vehicle found in violation of Section 13, by any Police Officer authorized to make arrests for violations of this Ordinance, in lieu of the arrest of the operator of such vehicle.

15.4 Owner Prima Facie Liable

If any vehicle found by such police officer to be in violation of Section 13 is unattended at the time the violation is discovered and the identity of the operator is not otherwise apparent, the person whose name such vehicle is registered as owner shall be held prima facie responsible for such violation.

15.5 Liability for Costs

The registered owner of a towed vehicle shall be responsible for payment in full of all removal and storage costs absent a decision by a magistrate that no probable cause existed for towing.

15.6 Release of Vehicle

Subsequent to a decision by the magistrate that probable cause existed for towing or in the absence of a request for a hearing by the registered owner following proper notice, the Town Police Department shall release the vehicle to the registered owner or to a person legally entitled to its possession upon payment in full of all removal and storage costs and upon a showing of proof of ownership or proof of the right to possession of the vehicle.

Section 16 – Existing Violations

This Ordinance shall not affect violations of any other Ordinance, code or regulations of the State of Delaware or municipality existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be enforced to the full extent of the law under the provisions of such Ordinances, codes or regulations in effect, at the time the violation was committed.

Section 16. SPECIAL PERMIT PARKING

16.1 Special permit parking shall be allowed in the following manner:

- 16.1.1** A special event or occasion held at a resident's home where several motor vehicles will be present may apply for a special parking permit to allow temporary parking, which would not otherwise be permitted on the street(s), near the home of the resident.
- 16.1.2** Only Town of Cheswold residents may apply for a permit.
- 16.1.3** A resident must apply at Town Hall at least one week prior to the event.
- 16.1.4** The Town Clerk, or designee, will supply a permit application, which must be filled out completely with the requested information.
- 16.1.5** The permit will be forwarded to the Police Department for review and approval.
- 16.1.6** If approved by the Police Department, the permit will be returned to the administrative office.
- 16.1.7** The applicant will be notified with regard to the approval or denial of the special parking permit request.
- 16.1.8** In the case of the denial, the applicant will be advised of the reason for the denial.
- 16.1.9** Only one, (1), free special parking permit will be issued per calendar year per Cheswold resident.
- 16.1.10** Any subsequent request for a special parking permit will be assessed a \$25.00 fee.
- 16.1.11** If an event or occasion is held without a special parking permit, parking restrictions and penalties based on this Ordinance will apply.
- 16.1.12** If an event or occasion is declared a public nuisance by a responding Police Officer of the Town of Cheswold, the permit will be revoked and the resident will not be granted another permit for a calendar year from the date of the violation.

Section 17. EFFECTIVE DATE

This ordinance and the rules, regulations, provisions, requirements, orders, administration and management and matters established and adopted hereby shall take effect and be in full force and effect from July 1, 2012 and after the date of its final passage and adoption.

Ordinance No. 02-01-12-036 entitled, Town of Cheswold Parking Ordinance was duly adopted by a majority vote of the Cheswold Town Council at the Council meeting held on June 4, 2012, at which a quorum was present.

I, Donald F. Tinari, Mayor of the Town of Cheswold, do hereby certify that the foregoing is a true and correct copy of the Act passed by affirmative vote of all elected Members of the Cheswold Town Council on June 4, 2012.

Certified: _____
Mayor Donald F. Tinari

Date: June 4, 2012

ATTEST: _____
Secretary/Treasurer Theon E. Callender

Date: June 4, 2012

Agreed: _____
Vice-Mayor Kenneth H. Brown

Date: June 4, 2012

Agreed: _____
Councilperson Sonia Gassaway

Date: June 4, 2012

Agreed: _____
Councilperson Linda Perry

Date: June 4, 2012

Agreed: _____
Councilperson Mildred Johnson

Date: June 4, 2012

NOTARIZED: _____
Town Clerk Shadina Jones

Date: June 4, 2012

Sponsored by: Greg Donophan, Captain of Police
Co-Sponsored by: Theon E. Callender – Councilperson