

**BOROUGH OF OAKLAND
BERGEN COUNTY, NEW JERSEY
ORDINANCE NO. 19-CODE-790**

**AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER IV "GENERAL LICENSING", SECTION 5
"TOWERS AND WRECKERS" OF THE CODE OF THE
BOROUGH OF OAKLAND**

BE IT ORDAINED by the Mayor and Council of the Borough of Oakland, County of Bergen, State of New Jersey, as follows:

Section 1.

Chapter IV "General Licensing, Section 5 "Towers and Wreckers" of the Code of the Borough of Oakland, be and is hereby repealed and replaced in its entirety as following:

4-5.1 Purpose.

To establish rules and regulations, pursuant to N.J.S.A. 40:48-2.49 et seq. and N.J.S.A. 56:13-7 et seq., in order to protect the property of and persons who operate a motor vehicle inside the Borough as well as to further promote the free flow of traffic in the Borough, it is desirable and necessary to adopt this section to ensure proper licensing, availability and other controls over persons and firms providing wrecker services at Police request.

4-5.2 Scope.

This provisions of this section shall apply to those businesses that engage in towing and storage of motor vehicles for the Borough of Oakland in accordance with this ordinance.

4-5.3 Definitions.

As used in this section:

Abandoned vehicle shall mean a motor vehicle which the owner or operator leaves on a public roadway and fails to notify the police or does not attempt to repair and remove the same within a reasonable period of time.

Absorbent shall mean a granulated or powdered substance used to soak up fluids used in the operation of motor vehicles. A bag or container of absorbent will be defined as weighing fifty (50) pounds.

Accident vehicle shall mean a motor vehicle which has been involved in an accident.

Basic environmental clean-up shall mean the cleanup and removal of small quantities of fluids used in the operation of a motor vehicle which leak onto the ground.

Basic towing service shall mean the towing of a vehicle or the removal and transportation of a vehicle from a highway, street or other public or private property.

Borough shall mean the municipal boundaries of Oakland and all land within.

Chief of Police shall mean the highest ranking sworn officer within the Oakland Police Department.

Cruising shall mean the operation of a tow truck in and upon a roadway within the Borough of Oakland to solicit vehicle towing and/or storage business except in response to a police request.

Disabled vehicle shall mean any motor vehicle which is unable to operate under its own power.

Heavy-duty towing shall mean the towing of any motor vehicle over ten Thousand (10,000) pounds and above gross vehicle weight.

Heavy-duty wrecker shall mean a tow truck with dual rear wheels and air brakes capable of towing and wheel lifting large vehicles damage-free and which meets the following minimum requirements:

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|----|-------------------------------------|----------------|
| a. | Gross vehicle weight (GVW): | 50,000 pounds. |
| b. | Gross vehicle weight rating (GVWR): | 50,000 pounds. |
| c. | Boom and winch rating: | 50,000 pounds. |
| d. | Cable size: | 5/8 inch. |
| e. | Cable length: | 200 feet. |
| f. | Wheel lift retracted rating: | 25,000 pounds. |
| g. | Wheel lift extended rating: | 12,000 pounds. |

Impoundment shall mean the storage of a motor vehicle upon the order of the Police Department at either the towing operator's storage area or at a Borough facility as a result of abandonment, involvement in an accident, suspected criminal activity and/or any violation of Title 39 of the New Jersey Statutes or municipal ordinances.

Licensed tow truck/wrecker shall mean any wrecker/tow vehicle licensed pursuant to the

provisions of this section.

Licensee shall mean any person, firm, partnership, association, corporation, company or organization of any kind that has been issued a license by the Borough, pursuant to this section, to provide wrecker/towing services to the Borough.

Light-duty towing shall mean the towing of any motor vehicle up to ten thousand (10,000) pounds gross vehicle weight.

Loaded mile shall mean distance in miles that a tow vehicle travels while towing a vehicle.

Medium-duty flatbed shall mean a vehicle carrier equipped with a wheel lift and roll back/tilt bed with dual wheels capable of removing and transporting small trucks, full-size vans or large passenger cars damage-free and which meets the following minimum requirements:

- a. GVW: 18,000 pounds.
- b. Winch rating: 8,000 pounds.
- c. Cable size: 3/8 inch.
- d. Bed length: 17 feet.
- e. Bed width: 7 feet (inside side rails).
- f. Wheel lift retracted rating: 6,000 pounds.
- g. Wheel lift extended: 3,000 pounds.

Medium-duty towing shall mean the towing of any motor vehicle ten thousand (10,000) pounds to sixteen thousand (16,000) pounds gross vehicle weight.

Medium-duty wrecker shall mean a tow truck with dual rear wheels capable of towing and wheel lifting small truck damage-free and which meets the following minimum requirements:

- a. GVW: 18,000 pounds.
- b. Boom rating: 16,000 pounds.
- c. Winch rating: 16,000 pounds.
- d. Cable size: 3/8 inch.
- e. Cable length: 200 feet.

f. Wheel lift retracted rating: 6,000 pounds.

g. Extended rating: 3,000 pounds.

Motor vehicle includes all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles, motorized scooters, motorized wheelchairs and motorized skateboards. Motor vehicle includes commercial motor vehicles as defined in R.S. 39:1-1.

Non-consensual towing means the towing of a motor vehicle without the consent of the owner or operator of the vehicles, regardless of the reason for the tow.

Ordinary care shall mean that care which is normally used to protect a motor vehicles from further damage, including, but not limited to the use of tarps for environments protection and security protection for storage areas.

Outside secured storage facility shall mean any motor vehicle storage facility that is not located within an enclosed structure and that conforms to the following minimum standards:

a. The entire outside storage area shall be enclosed by a fence of sturdy construction at least eight (8') feet high which may include one (1') foot of barbed wire, with at least one (1) lockable gate for ingress and egress, in accordance with Oakland local zoning regulations. In the event the licensee is from another town, their local zoning laws shall take precedence.

b. All entry points shall have a locking device.

c. The area shall have adequate lighting to protect stored vehicles from vandalism.

d. The towing operator shall submit proof that he owns or leases an area, for the storage of a minimum of twenty (20) vehicles, within a fifteen (15) minute response time to any call for towing or service within the Borough of Oakland. Said proof shall include the deed or deeds to the property or the leases to the same. The minimum storage area shall be exclusive of any other obligations on the part of the towing operator.

Owner shall mean a person, firm, corporation or partnership who owns and/or operates a motor vehicle on the roads within the Borough of Oakland.

Person shall mean any natural person, firm, partnership, association, corporation, company or organization of any kind.

Police shall mean the Borough of Oakland Police Department.

Principal location shall mean the licensed place of business of the towing operator. The towing

operator shall maintain a place of business where trucks, in response to police requests, are normally kept. The impound area shall be located adjacent to, or be part of, the principal location and shall comply with the local zoning ordinances. The principal location must be staffed during business hours and shall maintain a clean, comfortable waiting area with toilet facilities and an accessible phone for use by patrons. Current tow operations grandfathered into this.

Private Property Towing means the non-consensual towing from private property or from a storage facility by a motor vehicle of a motor vehicle that is parked illegally, parked during a time at which such parking is not permitted, or otherwise parked without authorization, or the immobilization of or preparation for moving or removing of such motor vehicle, for which a service charge is made, either directly or indirectly. This term shall not include the towing of a motor vehicle that has been abandoned on private property in violation of Section 1 of P.L. 1967, c. 305 (C:39:4-56.5), provided that the abandoned vehicle is reported to the appropriate law enforcement agency prior to removal and the vehicle is removed in accordance with Section 1 of P.L. 1973, c. 137 (C:39:4-56.6).

Recovery shall mean the procedure in which the tow operator applies his knowledge in a skillful manner to preserve the condition of the motor vehicle while moving the vehicle to a towable position; can be achieved by several actions that may include but are not limited to winching and rigging.

Rotating list shall mean the list of towers prepared by the Chief of Police from which, each month, the on-duty tower for the month is designated.

Storage day shall mean any twenty-four (24) hour day or any portion thereof, with a new day beginning at 12:00 midnight.

Storage services shall mean the storage and/or holding of vehicles indoors or outdoors by a licensee under the authority of this chapter.

Towing means the moving or removing, from public or private property or from a storage facility, by a motor vehicle of a motor vehicle that is damaged as a result of an accident or otherwise disabled, is recovered after being stolen, or is parked illegally or otherwise without authorization, parked during a time at which such parking is not permitted, or otherwise parked without authorization, or the immobilization of or preparation for moving or removing of such motor vehicle, for which a service charge is made, either directly or indirectly. Dues or other charges of clubs or associations which provide towing services to club or association members shall not be considered a service charge for purposes of this definition.

Towing operator shall mean a person, firm, corporation or partnership engaged in the business of providing towing, road service and storage services for motor vehicles.

Unclaimed vehicle shall mean any vehicle towed by a licensed tower pursuant to this section that

is left unclaimed for a period in excess of seven (7) calendar days.

Unloaded mile shall mean the distance in miles traveled by a tow vehicle to a disabled vehicle or the distance in miles traveled by a tow vehicle after dropping off a vehicle out of town at the customer's request.

Vehicles shall mean every device in or upon or by which a person or property is or may be transported upon a highway.

Waiting time shall mean additional time that a tow operator spends at the scene, other than the time required for the actual tow and/or recovery. Examples of waiting time may include but are not limited to emergency medical services (EMS) which must be performed and/or police investigations.

Winching shall mean the process of moving a motor vehicle, by the use of a cable, from a position that is not accessible for direct hookup by conventional means for loading onto a tow vehicle. Winching is not pulling a vehicle onto a tilt bed or carrier, nor lifting a motor vehicle with a conventional tow sling.

Wrecker/tow truck shall mean a vehicle driven by mechanical power and employed for the purpose of towing, transporting, conveying, recovering or removing any and all kinds of motor vehicles which are unable to be and actually are not operated under their own power from any vehicle (s) which the Police Department has ordered to be impounded. A tow vehicle must be manufactured by a two-truck manufacturer that is nationally recognized by the towing industry.

4-5.4 Licensing.

a. Towing operators meeting the qualifications set forth below shall submit an application, in writing, to the Police Department to be considered to placement on a rotating list of towing operators. There shall be a maximum of two (2) towers on the list per year. In establishing the list, first consideration shall be given to those persons or firms who are presently utilized by the Police Department for this service.

b. All applicants for a towing license, in order for the application to be deemed complete, must provide the following:

1. The complete legal business name, business address, principal location address and Department of Transportation (DOT) number.

2. The complete home address, home telephone number, date of birth and social security number of the applicant, if a sole proprietorship, or the complete home addresses, home telephone numbers, dates of birth and social security numbers of the principal officers and/or partners if the licensee is a corporation or partnership.

3. Photocopies of all registrations of every tow vehicle to be operated by the applicant. If the tow vehicle is leased, the applicant is required to submit a copy of the lease agreement.
4. The names, addresses and telephone numbers of any persons possessing any liens and/or encumbrances on the principal location.
5. The name, address and telephone number of the applicant's insurance carrier and photocopies of each certificate of insurance issued by the carrier.
6. Photocopies of all towing vehicle operator's current driver's licenses, along with their social security numbers.
7. Evidence demonstrating that the applicant has at least five (5) years of personal experience in the field of towing and storing of vehicles.
8. Proof that the applicant has a principal location within a five (5) miles radius of the center of the Borough of Oakland.
9. Proof that the applicant's principal location meets all zoning requirements applicable to the jurisdiction in which it is located.
10. Proof that the applicant can guarantee a fifteen (15) minute response time on all calls with the exception of delays caused by unexpected traffic or unusual conditions.
11. The applicant shall provide an affidavit that the information given in the application is true and correct.
12. The applicant shall provide an agreement that, upon issuance of a license, the licensee shall indemnify and hold harmless the Borough of Oakland, its agents, servants and/or employees from and against all claims of a third party relating to the towing and/or storage service of the licensee.
13. Application will be processed according to the order in which they were filed with the Police Department.

4-5.5 Investigation and Inspection by Police.

- a. Applications received by the Police Department shall be provided to the Chief of Police within five (5) business days of receipt. The Chief of Police or his designee shall initiate an investigation to be made of the applicant and of its proposed business operation and shall perform inspections of the vehicles to be licensed.
- b. As part of the Chief of Police's investigation of the license application, a criminal

background check, including submission of fingerprints or other identifying information to the State Bureau of Identification, and driver's abstract will be performed on all persons listed in the application.

- c. The licensee and all employees must be trustworthy in that the licensee must safeguard vehicles and personal property belonging to others as well as secure and protect evidence when a vehicle is impounded by the police due to an accident investigation or criminal activity. Therefore, to protect the public interest, the Borough may disqualify any applicant wherein an employee, owner, principal, agent and/or officer has been convicted of a crime involving moral turpitude or excessive moving violations or a substantial violation under this section.
- d. The Chief of Police shall, within thirty (30) days after the receipt of the completed application, complete the investigation and inspection and submit a written report to the Borough Clerk. The report shall include recommendations that the applicant be accepted or denied.
- e. The licensee shall notify the Police Department in writing of any criminal charges, motor vehicle offenses or ordinance violations that are issued against the licensee or its employees during the term of the license. Failure to make the proper notification to the Police Department may result in the revocation of the license.

4-5.6 Issuance of Licenses; Fees; Term of License.

- a. Upon written notification by the Chief of Police to the Borough Clerk that an application has been reviewed and the police investigation has been completed, the Borough Council shall, at a public meeting, consider the issuance of a license.
- b. Upon approval by the Borough Council, the Police Department of the Borough of Oakland shall issue a license to the licensee pursuant to this section.
- c. All towing licenses will be issued for a period of one (1) year beginning January 1 of each year and expiring on December 31. Applications for license and license renewal are to be completed and returned to the Police Department by September 1 of each year for a license for the following calendar year. Licenses or renewals filed after September 1 will not be accepted for the following calendar year.
- d. The annual license fee shall be Five Hundred (\$500.00) dollars.
- e. Licenses are the property of the Borough of Oakland and may not, under any circumstances, be assigned, leased, shared, transferred or sold to another person, corporation or proprietorship.

- f. Upon the issuance of the license, the licensee may, during the term of the license, advertise and place on his equipment that the licensee is an authorized police tower for the Borough of Oakland.

4.5-7 Rotating List; Cruising Prohibited.

- a. The towing operator must be able to provide twenty-four (24) hours a day, seven (7) days a week towing services for the Borough, on a rotating basis, at the direction of the Chief of Police or his designee.
- b. The Chief of Police or his designee shall establish a monthly rotating list. A tower that wishes to change his assigned month due to vacation or conflict may do so with the approval of the Chief of Police or his designee.
- c. The on-duty tower shall be called for the removal and storage of the disabled vehicle. In the event that the on-duty tower is unable to respond to calls or to respond in a timely manner due to unusual conditions, the next tower on the rotating list shall be called.
- d. Cruising by a towing company's vehicles is not permitted.

4-5.8 Insurance Requirements.

- a. The towing operator shall provide and maintain the following types of insurance coverage to be obtained from insurance companies licensed to do business in the State of New Jersey and shall provide the Borough with certificates of insurance evidencing proof of the following required coverages:

1. Automobile liability in an amount not less than \$1,000,000.00 for bodily injury per person, \$3,000,000.00 for bodily injury per accident and \$500,000.00 for property damage per accident.
 2. Workers' compensation as required by statute.
 3. Garage keeper's liability in an amount not less than \$500,000.00 per claimant and \$1,000,000.00 for more than one claimant.
 4. Garage liability in an amount not less than \$2,000,000.00 combined single limit.
 5. Comprehensive general liability in an amount not less than \$2,000,000.00.
- b. Policies shall be endorsed to provide collision coverage for vehicles in tow.
 - c. On all policies except workers' compensation, the Borough shall be named as an additional insured.

- d. All policies must contain a provision requiring notification to the Borough of any policy cancellation or revision at least thirty (30) days prior to either cancellation or revision.
- e. The towing operator shall provide an excess or umbrella liability insurance policy in the amount of \$2,000,000.00.

4-5.9 Equipment Requirements.

- a. The equipment to be used by the towing operation shall meet the following requirements:

- 1. All equipment must be of the type, condition and design to efficiently perform the work required by the Borough of Oakland.

- 2. A licensee, when filing an application and at all times while holding a license under this chapter, shall own or lease for use in performing the services required by the license the following pieces of equipment:

- (a) Regular wrecker service: a minimum of two (2) trucks (one (1) light-duty wrecker, one (1) medium-duty flatbed, one (1) medium-duty wrecker, one (1) heavy-duty wrecker).

- (b) Heavy-duty wrecker service: a minimum of one (1) heavy-duty wrecker. It shall not be a requirement that each operator maintain a heavy-duty wrecker. Only those operators that maintain a heavy-duty wrecker in addition to the regular wrecker service equipment shall be placed on the heavy-duty wrecker call-out list. If no heavy-duty wrecker, tower must show agreement with heavy-duty wrecker tower.

- b. The following safety equipment shall be carried on all towing trucks:

- 1. Chains and tie-downs to secure vehicles.
 - 2. A snatch block.
 - 3. An auxiliary safety light kit to be placed on the rear of a towed vehicle that does not have functioning taillight flashers.
 - 4. Rotating or flashing amber emergency lights mounted on top of the truck. (A state-issued permit is required and must be in the truck.)
 - 5. Two (2) white work lights facing from the rear of the truck.
 - 6. One (1) shovel and broom.
 - 7. A total of fifty (50) pounds of absorbent.

8. Jumper cables or a jump box.
9. A steering wheel tie-down.
10. A toolbox with assorted hand tools normally used to conduct emergency roadwork, and towing.
11. Two (2) reflectorized traffic safety vests.
12. One (1) five (5) pound A-B-C rated dry powder fire extinguisher.
13. One (1) flashlight.

c. Every towing firm shall ensure that personal protective equipment is provided, used, and maintained whenever it is necessary by reason of hazards of processes or environment encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation, or physical contact. More specifically, the towing firm shall provide a reflectorized traffic safety vest which shall be properly worn as the outside garment by all employees performing work while on a roadway twenty-four (24) hours a day.

d. The towing operator shall provide all trucks with a shovel, broom and other equipment necessary to clean up broken glass and debris from the scene of any accident to which they are summoned. The towing operator shall be responsible for the subsequent cleanup. Each truck shall have a minimum of fifty (50) pounds of absorbent for oil and/or any other liquid, except gasoline, that might be spilled onto the roadway as a result of an accident. If gasoline is spilled as a result of any accident, it shall be the responsibility of the Police Department to notify the Fire Department for immediate removal. Absorbed liquids, other than gasoline, shall be removed from the roadway by the tower, placed in plastic bags and then placed in the towed vehicle by the towing operator and shall be disposed of by the owner of said vehicle.

e. All trucks used by the towing operator shall be kept in a clean, good-working condition. The towing operator shall have displayed on all of his trucks in such a manner and of such lettering as conforms to the provisions of N.J.S.A. 39:4-46.

f. Each towing operator shall furnish the following information with respect to the aforementioned trucks: the make, model, year and registration number of each truck and the DOT number. A photostatic copy of each registration and insurance card shall also be included. For leased trucks, the towing operator shall be required to furnish a copy of each lease. Only trucks listed shall be used by the towing operator.

4-5.10 Storage Area Requirements.

The towing operator shall have a storage area that meets the following requirements:

- a. The outside area used for storage of vehicles shall be paved or stoned.
- b. Signs which readily identify the storage facility and which comply with all applicable laws and local zoning regulations shall be installed.
- c. No towed vehicle shall be parked upon a public or private street or sidewalk. Said vehicle shall be stored by the towing operator within the licensed storage area so provided.
- d. The entire outside storage area shall be enclosed by a fence of sturdy construction at least eight (8') feet high which may include one (1') foot of barbed wire, with at least one (1) lockable gate for ingress and egress in accordance with Oakland local zoning regulations. In the event the licensee is from another town, their local zoning laws shall take precedence.
- e. The impound area shall be properly lighted from dusk to dawn and must be properly safeguarded from vandalism and/or theft.
- f. The Borough of Oakland Police Department shall be granted access to any part of the impound area at any time, day or night, for the purpose of inspection and/or investigation. This shall include indoor and outdoor areas.
- g. A small storage area shall be set aside for vehicles that may be involved in a police incident. In addition, the indoor secured area shall be provided for at least one vehicle, when requested by the police.
- h. The towing operator shall conspicuously post at his place of business the fee schedule for storage and towing of vehicles.
- i. There shall be no piling of vehicles.
- j. The storage area shall be located adjacent to or be part of said licensed principal location and shall comply with the local zoning ordinances.

4-5.11 Towing Operator Personnel.

The employees of the towing operator shall meet the following requirements:

- a. An employee of the towing operator shall under no circumstances be deemed an agent, servant and/or employee of the Borough or represent to the public that he/she is an employee of the Borough of Oakland.
- b. No person shall be employed by the towing operator unless he/she has obtained a record check and has been approved by the Borough of Oakland Police Department.

c. The towing operator and his employees are prohibited from collecting or attempting to collect a fee, commission, pay or charge other than as provided for in this section.

d. The name of the individual tow truck employee shall be listed on the towing ticket/receipt.

e. The towing operator shall indicate the number of employees who will be on the day shift and the number to be assigned to the night shift, on a seven-day-a-week basis to the Chief of Police.

f. The towing operator shall provide the Police Department with a list of said personnel and copies of each operator's commercial driver license (CDL) and social security number.

g. No towing operator shall employ, directly or indirectly, any employee of the Oakland Police Department.

h. No cruising by personnel shall be permitted.

i. The licensee shall be responsible for basic environmental cleanup and may charge the owner of the vehicle involved in the actual spill a fee.

j. The licensee shall be responsible for roadway cleanup, which shall include, but not be limited to, removing broken glass and debris at the scene of an accident, as per N.J.S.A. 39:4-56.8b, and may charge the owner of the vehicle that created the debris a fee.

k. The police officer at the scene of an accident or disabled vehicle shall be in complete charge and shall be responsible to guarantee that the scene is properly cleared and safe for traffic to resume safely.

4-5.12 Rates and Fees.

A. Towing fees and other charges shall conform with the New Jersey State Police Towing Rates published and updated on an annual basis.

B. Additional rate provisions:

(1) The towing rate shall be calculated based on the total distance traveled from the tow vehicle's base of service to the job site and return by way of the shortest available route. Fractions shall be rounded up to the nearest whole mile.

(2) Tow vehicles transporting multiple vehicles at one time shall receive applicable fees for each vehicle transported.

(3) The storage fees are the maximum storage charges per twenty-hour (24) hour period.

(4) Every operator of a towing service shall, prior to the actual towing or storage of any vehicle, give the owner a written estimate of costs and a written receipt when paid upon request.

C. Fees for non-consensual tows shall only be charged in accordance with the Predatory Towing Protection Act.

4-5.13 Records and Inspection.

- a. The towing operator shall maintain records of all vehicles towed, stored and released by it. Records shall be kept for a four-year period. These records shall include the name of the responding officer, name of towing employee, the date and time of towing, destination towed, vehicle tag number and State, vehicle identification number, make, model, color and year of vehicle, itemized charges to the owner of the vehicle and the disposition of the vehicle and date thereof.
- b. The towing operator shall maintain a record of all property found anywhere in the towed vehicle, including the trunk and glove compartment when open and where a key is available.
- c. The Borough of Oakland shall, upon request, have access to any and all of these records. The Police Department shall conduct an annual audit of each tow operator's records and provide a written report to the Borough Clerk's office.
- d. The licensee shall notify the Oakland Police Department, in writing, of any vehicle that is left unclaimed for a period in excess of seven (7) calendar days.
- e. The licensee shall prepare and issue to the owner/operator a written itemized invoice for all services rendered under this section. The invoice shall reflect the date, time, location and the employee that performed the service and that the service performed was at the request of the Borough of Oakland Police Department. A copy of the invoice shall be retained by the licensee and filed in a manner that coincides with the licensee's current filing methods that will allow immediate access to such record when requested by the Borough of Oakland Police Department.
- f. The licensee must permit payment of fees by the use of at least two (2) major credit cards. The Borough will not be held liable for, or assist the licensee in the collection of any unpaid fees that were incurred under the provisions of this section.

4-5.14 Rules and Regulations.

- a. The licensee placed on the towing list shall be available to respond to a call in accordance with the towing rotation schedule established by the Chief of Police.
- b. All licensees shall respond to a call in any part of the Borough within fifteen (15) minutes. If a licensee does not respond within fifteen (15) minutes of a call, the licensee next on the list shall be called and entitled to provide services as needed, and the first licensee shall lose any claim to compensation.
- c. All drivers and operators of the licensee shall be properly licensed to operate a motor vehicle within the State of New Jersey and are subject to driver's license checks by the Borough Police Department at the time of registration and at least on an annual basis thereafter. All towing vehicles shall be properly registered and inspected in accordance with any applicable law.
- d. All vehicles must be towed in a safe manner.
- e. All licensees shall be capable of providing reasonable roadside services to disabled vehicles such as, but not limited to, jump-starting, changing of flat tires, and providing fuel. Such services will only be performed if they can be done so safely as determined by the police officer on the scene.
- f. Upon request, all licensees shall make available a copy of its basic rates and a business card to all owners and operators of motor vehicles which will be towed.
- g. All licensees shall not remove any motor vehicle which has been abandoned or involved in an accident in any public roadway without first notifying the Borough Police Department.
- h. The Police Department shall not call a towing service to remove a vehicle from private property.
- i. All licensees shall notify the Police Department of all vehicles found by the towing service to have been abandoned and not claimed within seven (7) calendar days after being stored. The Police Department shall, upon notification, expeditiously process the vehicle in accordance with the New Jersey Motor Vehicle Code concerning abandoned and unclaimed motor vehicles.

4-5.15 Rights of Owners/Operators of Motor Vehicles Required to be Towed.

- a. If a motor vehicle operator or owner wishes to have his vehicle towed by a particular towing service, their request shall be honored, providing the police officer in charge at the scene has not determined that the motor vehicle in question is not involved in the following:

- 1. The vehicle is not being impounded.

2. The motor vehicle will not be removed in an expeditious or safe manner.
 3. The motor vehicle will jeopardize the public safety, in which case the motor vehicle operator or owner shall be required to utilize a compensated dispatch towing service.
 4. An emergency situation exists requiring immediate towing services and the authorized police supervisor at the scene, in his/her sole discretion, determines that such service can be obtained more quickly from a firm other than the primary towing firm.
- b. The owner or operator of any motor vehicle required to be towed or stored shall have the right to remove all personal items and effects from the motor vehicle unless the police department has placed a police hold on any such items.
 - c. The motor vehicle owner or his representative shall have the right to take photographs of any stored vehicle for insurance purposes.
 - d. Upon request of the motor vehicle owner or his representative, a towing service shall provide a detailed and itemized bill for all services rendered.

4-5.16 Education of Drivers.

- a. Tow-truck drivers shall have and maintain a valid driver's license for the tow vehicle that they operate. Drivers that operate heavy duty wreckers shall have the following endorsements on their commercial driver's license:
 1. Hazardous materials endorsement.
 2. Double and triple-trailer endorsement.
- b. Within two (2) years of the effective date of this section, all tow-truck drivers that operate tow vehicles must obtain the Towing and Recovery Association of America (TRAA) National Driver Certification Level 1 or other nationally recognized certification. Drivers that operate the heavy-duty tow truck must obtain the Level 2 certification.
- c. New employees shall have one (1) year from their date of hire to obtain the TRAA Level 1 Certification or other nationally recognized certification. During the initial year of employment, they may perform services as listed under the provisions of this section provided that the licensee documents that he has trained the employee in the proper use of the equipment he will operate.
- d. To perform any recovery operation, the licensee must have at least one (1) employee certified as a TRAA Level 3 or other nationally recognized certification.

4-5.17 Enforcement.

- a. All complaints received by the Borough regarding a towing operator's performance under the provisions of this section shall be investigated by the Chief of Police or his designee and resolved to the satisfaction of all parties. In the event that the complaint cannot be resolved to the mutual satisfaction of the parties, the matter shall be submitted to the Business Administrator or his designee. The decision of the Business Administrator or his designee shall be final.
- b. The towing operator shall at all times comply with this section, or the Borough shall remove the towing operator from the rotating basis after written notification from the Police Department and an opportunity for a hearing conducted by the Business Administrator.
- c. The Chief of Police is hereby designated to enforce the provisions of this section in accordance with due process of law.
- d. The Chief of Police shall investigate and keep, and maintain for a period of five (5) years, a record of all complaints that are received regarding the provisions set forth in this section.
- e. The Chief of Police has the authority to suspend any license at any time for criminal activity, Title 39 violations or any violation(s) of this section. When a license is suspended, the Chief of Police shall forward a full report to the Mayor and Council within fifteen (15) business days after said suspension. If the licensee objects to the determination of the Chief of Police, the licensee may request a hearing before the Council. The licensee must notify the Borough Clerk in writing of a request for a hearing within twenty (20) days of the suspension notice issued by the Chief of Police. The Council, at the conclusion of the hearing, may affirm or reverse the decision of the Chief of Police.
- f. The Chief of Police shall oversee all licensed wreckers to ensure that they are kept in a safe condition. The Chief of Police may inspect any and all licensed wreckers at any time. If at any time the Chief of Police may demand immediate correction and suspend the wrecker license until such time as the violation is corrected. Once a wrecker license is suspended, all identifiers listing the wrecker as a Borough of Oakland police wrecker shall be removed from the wrecker by the licensee.

4-5.18 Violations and Penalties.

- a. Any person or towing operator who violates the provisions of this section shall, upon conviction, be fined as follows:

1. First offense: not less than one hundred (\$100.00) dollars nor more than five hundred (\$500.00) dollars.

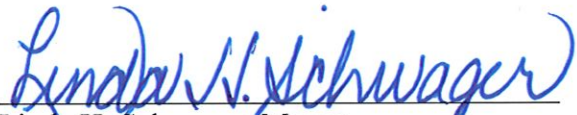
2. Second or subsequent offenses within a one-year period: not less than five hundred (\$500.00) dollars nor more than one thousand (\$1,000.00) dollars.

b. In addition to any penalties that may be imposed by the Municipal Court, the Borough Council may, after conducting a hearing regarding the violation(s), terminate the license issued pursuant to this section for repeated violations of this section.

c. The Borough further reserves the right to impose sanctions and/or terminate a towing firm's participation in this program for failure to perform any aspect of this section properly and/or fail to properly respond to calls for service. Any such failure without good cause will be cause for sanctions and/or termination of participation in this program.

Section 2. If any section, paragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

Section 3. All ordinances or parts of ordinances of the Township heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.


Linda H. Schwager, Mayor

ATTEST:


Lisa M. Duncan, Borough Clerk

This is to certify that this is a true copy
as adopted by the Mayor and Council
of the Borough of Oakland at a meeting
held on September 25, 2019

Borough Clerk 