

**ORDINANCE #05-23**

**TOWING AND TOWING CONTRACTORS**

**AUTOMOBILE**

Shall mean a private passenger automobile, station wagon, or pickup truck.

**BASIC TOWING SERVICE**

Shall mean the removal and transportation of an automobile from a highway, street or other public or private road, or a parking area, or from a storage facility and other services normally incident thereto, but does not include recovery of an automobile from a position beyond the right-of-way or berm, or from being impaled upon any other object within the right-of-way or berm.

**INSIDE BUILDING**

Shall mean a vehicle storage facility that is completely indoors, having one or more openings in the walls for storage and removal of vehicles and that is secured by a locking device on each opening.

**OUTSIDE SECURED**

Shall mean an automobile storage facility that is not indoors and is secured by a fence, wall or other manmade barrier that is at least six feet high and is installed with a passive alarm system or a similar on-site security measure. The facility is to be lighted at night.

**OUTSIDE UNSECURED**

Shall mean an automobile storage facility that is not indoors and is not secured by a fence, wall, or other manmade barrier and all other storage facilities not defined above as inside building or outside secured.

**TOW VEHICLE**

Shall mean a vehicle equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under-reach equipment specifically designed by its manufacturer for the removal and transport of private passenger automobiles.

**TRUCK**

Shall mean any motor vehicle other than an automobile as defined above and which requires heavy duty towing.

§ 3-24.2 Removal of Motor Vehicles.

[Ord. No. 20-02 § 1]

Whenever a police officer orders the removal of automobiles from private or public property, the officer shall utilize the rotation lists established in subsection 3-24.3 of this section.

§ 3-24.3 Towing Contractors.

[Ord. No. 20-02 § 1; Ord. No. 23-03 § 1; Ord. No. 03-05 § 1; Ord. No. 03-06 § 1]

Towing contractors shall submit, no later than October 31 of each year, a detailed certification that the towing contractor meets the requirements of this section. Said certification shall be submitted to the Purchasing Official for his/her review and approval. Failure to submit the certification or failure to continue to abide by the requirements of this section shall subject the official tower to removal from the towing list. The application fee for the tower's list shall be \$100.

The Borough Council shall establish annually, by resolution, a list of automobile towing contractors and a list of truck towing contractors to be utilized by the Police Department on a rotating basis. An operator may, if qualified, be on both lists. Such lists shall be utilized by members of the Police Department on a non-exclusionary and nondiscriminatory basis.

§ 3-24.4 Availability.

[Ord. No. 20-02 § 1]

All towing service operators on the list shall comply with the following:

a. Road service must be available 24 hours a day, seven days a week. Towing services must respond to all service requests made. Service requests missed by the operator shall be reviewed by the Chief of Police and may be construed as a violation of this section.

b. Towing services must respond within forty-five minutes of receipt of the original phone call request by the Police Department.

c. Vehicle release shall be available during normal business hours, Monday through Friday, and 9:00 a.m. until 12:00 p.m., Saturday. During all other hours, and legal holidays, vehicles may be released. Refer to miscellaneous service fees.

d. All towers shall be located within ten (10) miles of the Borough of Jamesburg.

§ 3-24.5 Equipment Requirements.

[Ord. No. 20-02 § 1]

All towing operators shall meet the following equipment requirements:

a. For classification as an automobile towing service the operator must possess an adequate number of flatbed style tow trucks and hoist-type tow trucks to meet the requirements outlined in subsection 3-24.4.

b. For classification as a truck towing service, the contractor must, in addition to the equipment requirement set forth in subsection 3-24.5a, have an adequate number of vehicles capable of towing a fully loaded tractor trailer weighing 80,000 pounds to meet the requirements outlined in subsection 3-24.4.

c.

All tow vehicles must carry the following equipment:

1. Push broom.
2. Shovel.
3. Fire extinguisher.
4. Jumper cables.
5. Tire changing equipment.
6. Jack.
7. Hammer.
8. Pry bar or similar tool.
9. Speedy dry or similar liquid absorbent.

d. All towing vehicles must have amber emergency warning lights mounted on the vehicle so as to warn approaching traffic of their presence. The size and location of these lights must conform to New Jersey Division of Motor Vehicle standards. The operator must have an amber light permit.

e. All towing vehicles must carry a copy of the rate schedule set forth in subsection 3-24.8. Said schedule must also be displayed in a conspicuous manner at the operator's place of business.

#### § 3-24.6 Inspection of Equipment.

[Ord. No. 20-02 § 1]

All equipment must be maintained in good working order and be available for periodic inspection by a member of the Jamesburg Police Department.

#### § 3-24.7 Driver Requirements.

[Ord. No. 20-02 § 1]

a. The operator shall employ a sufficient number of employees to comply with the minimum operator requirements.

b. No person shall be employed by the operator for this service unless he has obtained a record check and has been approved by the Chief of Police. A conviction of a criminal offense or suspension of a driver's license within the past year shall be a cause for disqualification as a driver.

c. All drivers of the operator shall be over the age of 18 years and must have a valid New Jersey State driver's license.

d. The operator shall, at the time of his application, submit to the Borough, the names, addresses and driver license numbers of all proposed drivers and employees who will be rendering services on behalf of the operator. In order to keep information current, the contractor shall be required to submit any and all changes of drivers to the Chief of Police immediately upon the change.

e. The service, equipment, and personnel are subject to periodic inspections and approval by the Borough.

f. Complaints of any kind, relative to service, overcharging, theft of parts, damage to towed or stored vehicles, discourteous treatment and the like shall be referred to the Chief of Police for

investigation. Such complaints may be cause for imposition of the penalties enumerated under subsection 3-24.16 of this section.

§ 3-24.8 Towing and Storage Fee Schedule.

[Ord. No. 20-02 § 1]

The fees shall be as set forth in the Borough Schedule of Fees Ordinance as found on file in the office of the Borough Clerk.

§ 3-24.9 Release of Impounded Vehicles.

[Ord. No. 20-02 § 1]

No impounded vehicle is to be released without proper authorization from the Police Department. Vehicle release must be available as set forth in subsection 3-24.4c of this section. The operator may dispose of abandoned vehicles in accordance with the provisions of N.J.S.A. 39:10A-8 et seq.

§ 3-24.10 Abandoned or Unclaimed Vehicles.

[Ord. No. 20-02 § 1]

a. Any vehicle which is not claimed by the owner within fifteen (15) days of impoundment shall be reported by the operator storing the vehicle to the Police Department, pursuant to N.J.S.A. 39:10A-1 through 7.

b. After expiration of the fifteen-day (15) period, the Police Department shall make application for title to the Division of Motor Vehicles as per standing general orders. Vehicles which remain unclaimed after all requirements of the general orders are met shall be auctioned off to recover towing costs, pursuant to N.J.S.A. 39:10A-1 through 7.

c. Any operator found to be disposing of vehicles in violation of this procedure will be charged with misapplication of entrusted property (N.J.S.A. 2C:21-15) and will be prohibited from providing service for Jamesburg.

d. Titles shall be processed in accordance with New Jersey laws and regulations. A fee of \$75 will be paid to the Borough by the towing service for processing a clear title. No fee will be paid to the Borough by the towing service for processing of a junk title.

§ 3-24.11 Rights of Owners.

[Ord. No. 20-02 § 1]

a. The owner of any vehicle towed shall have the right to remove property belonging to him or her from the stored vehicle unless a "Police Hold" is marked on the towing form.

b. The vehicle owner or his or her representative shall have the right to take photographs of stored vehicles.

§ 3-24.12 Insurance; Indemnity.

[Ord. No. 20-02 § 1]

Each operator on the approved lists shall furnish the Borough Clerk with a certificate of insurance from an insurance company satisfactory to the Borough. Each certificate of insurance shall not be changed or cancelled without giving 10 days' prior written notice to the Borough by

certified mail, return receipt requested. Specific reference to the rotating lists of towing operators shall be made on all policies of insurance.

Each operator must have bodily injury liability, property damage liability, employers liability and motor vehicle liability coverages with combined policy limits of \$1,000,000. Each approved operator must also have statutorily required workers' compensation coverage.

Each operator shall indemnify and save the Borough harmless from all damages and claims for damages which may be made by any person for bodily injury or property damages as a result of the operator's performing pursuant to this section.

If the Certificate of Insurance expires during the calendar year, the tower shall provide an updated Certificate within thirty (30) days after the expiration. Failure to provide this Certificate shall be an automatic removal from the towing list for the remainder of the calendar year.

§ 3-24.13 Enforcement. Ord. No. 20-02 § 1]

The Police Department is designated to enforce the provisions of this section in accordance with due process law.

§ 3-24.14 Public Inspection.

[Ord. No. 20-02 § 1]

This section and the fee schedule of individual towers shall be available to the public during normal business hours.

§ 3-24.15 Operator Dealings with the Public.

[Ord. No. 20-02 § 1]

a. In all of his dealings with the public in connection with the contract, the operator is expected always to act in a professional manner and at all times to be courteous and respectful toward members of the public, as well as representatives of the Borough of Jamesburg. While members of the public, especially those whose cars may have been towed or impounded, may at times resort to strong language, threats and unbecoming behavior toward the operator, the operator is expected to exercise restraint and not to respond in kind and thereby reflect unfavorably on the Borough of Jamesburg and/or the Police Department.

b. Repeated reports of discourteous behavior by the operator, which can be substantiated and documented, may be considered by the Borough as sufficient cause for termination of the contract.

§ 3-24.16 Violations and Penalties.

[Ord. No. 20-02 § 1]

a. Any contractor who violates any subsection of this section, except subsection 3-24.10, Abandoned or Unclaimed Vehicles, shall be subject to suspension of towing privileges for one month for a first offense, three months for a second offense and six months for a third offense. If the contractor commits a fourth offense, its right to provide towing services to the Borough shall be permanently revoked.

b. Any contractor who violates the Operator Rate Schedule shall receive a fine of \$100 and suspension of towing privileges for one month. A second violation will result in a fine of \$250 and suspension of towing privileges for six months. A third violation will result in a fine of \$500 and permanent revocation of towing privileges. A periodic inquiry of customer billing, to ensure contractor is conforming to rate schedule may be performed by a member of the Borough Police Department.

c. In all cases, if a contractor overcharges a vehicle owner, the excess moneys paid will be returned by the contractor.

d. A towing operator may be removed from the annual list by resolution of the Borough Council if its performance is determined to be unreliable or inadequate. If there is a breach of any of the provisions of this section or applicable regulations, an operator may be removed from the list by the Chief of Police pending action by the Borough Council.

§ § 3-24.17 Severability.

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

**ORDINANCE #05-23**

RECORD OF VOTE:

FIRST READING: January 18, 2023

COUNCIL MEMBER	MOTION TO INTRODUCE	2nd	VOTE
Council Member Emens			X
Council Member Goletz			X
Council Member Rampacek		X	X
Council Member Rutsky			X
Council Member Taylor	X		X
Council President Spillane			X
Mayor Lowande			

PUBLICATION: January 27, 2023  
 SECOND READING: February 15, 2023  
 PUBLIC HEARING: February 15, 2023

COUNCIL MEMBER	MOTION TO OPEN	2nd	VOTE	MOTION TO CLOSE	2nd	VOTE	MOTION TO ADOPT	2nd	VOTE
Council Member Emens			Y			Y			Y
Council Member Goletz			Y			Y			Y
Council Member Rampacek		Y	Y		Y	Y	Y		Y
Council Member Rutsky			AB			AB			AB
Council Member Taylor	Y		Y	Y		Y			Y
Council President Spillane			Y			Y		Y	Y
Mayor Lowande									

Y = YES    N = OPPOSED    A = ABSTAINED    AB = ABSENT

APPROVED:

ATTEST:

  
 Marlehe Lowande, Mayor

  
 Susan Boulogne, Registered Municipal Clerk