

**BOROUGH OF NEW PROVIDENCE  
ORDINANCE NO. 2021-03**

**AN ORDINANCE OF THE BOROUGH OF NEW PROVIDENCE,  
COUNTY OF UNION, STATE OF NEW JERSEY  
AMENDING THE BOROUGH CODE, CHAPTER 243, "TOWING"**

BE IT ORDAINED by the Mayor and Council of the Borough of New Providence, County of Union, State of New Jersey that Chapter 243, "Towing", of the Borough Code is amended to read in full as follows:

**§ 243-1. Purpose.**

The purpose of this chapter is to provide for the non-discriminatory and non-exclusionary regulation of local towing and storage operators engaged in the business of removing and storing motor vehicles, pursuant to N.J.S.A. 40:48-2.49 and N.J.S.A. 56:13-1 through N.J.S.A. 56:13-23

**§ 243-2. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings:

**ADMINISTRATIVE FEE** — A one-time charge per vehicle for the purpose of compensating the Borough of New Providence for the preparation of the regulating and administrating the towing files and documentation and impounding of vehicles in the Borough of New Providence.

**AUTOMOBILE** — A private passenger automobile, station wagon, van, sport utility vehicle or pickup truck. Also includes motorcycles / mopeds / scooters / ATVs / UTVs / Snowmobiles.

**BASIC TOWING SERVICE** — 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.

**CHARGE CARD** — Means a credit card on an account for which no periodic rate is used to compute a finance charge.

**CLEAN UP** — Means the removal and/or disposal of any debris left in the roadway or property as a result of a motor vehicle crash or recovery.

**CONSUMER** — Means a natural person.

**CREDIT CARD** — Means any card, plate, coupon book, or other single credit device that may be used from time to time to obtain credit.

**CRUISING** — The driving of an unengaged wrecker to and fro along a public street, or on private/quasi-private property, at a slow rate of speed or in any other fashion calculated for the purpose of soliciting business in the Borough.

**DAYTIME HOURS** — From 8:00 a.m. until 6:00 p.m., prevailing time, Monday through Friday.

**DECOUPLING FEE** — Means a charge by a towing company for releasing a motor vehicle to its owner or operator when the vehicle has been, or is about to be, hooked or lifted by a tower, but prior to the vehicle having actually been moved or removed from the property.

**HAZMAT KIT** — Means a container/kit that contains absorbent pads, absorbent sock, other absorbent materials such as 'speedy dry' or spill pouches, putty/plugs, and disposal bags.

**IMPOUNDED FOR INVESTIGATION** — Any vehicle that is impounded for an official police investigation and processing will be towed at owner's expense directly to the New Providence Police impound yard unless otherwise directed by the officer in charge. The vehicle will remain until the investigation is completed by the New Providence Police Department and storage fees have been paid.

**INSIDE SECURED** — 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.

**MOTOR VEHICLE CRASH** — An occurrence in which an automobile comes in contact with any other object for which the automobile must be towed or removed for placement in a storage facility. This includes all situations which are accidental as to the insured even if they were caused by the intentional acts of a perpetrator where the perpetrator was not the insured or not otherwise involved with the insured.

**MOTOR VEHICLE** — Means 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.

**NIGHTTIME HOURS** — From 6:00 p.m. until 7:59 a.m., Monday through Friday, 12:01 p.m. until 7:59 a.m., Saturdays and Sundays, prevailing time.

**NON-CONSENSUAL TOW** — Means the towing of a motor vehicle without the consent of the owner or operator of the vehicle.

**OUTSIDE SECURED** — An automobile storage facility that is not indoors and is secured by a fence, wall or other man-made 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** — An automobile storage facility that is not indoors and is not secured by a fence, wall or other man-made barrier, and all other storage facilities not defined above as inside building or outside secured.

**PERSONS** — Includes an individual, sole proprietor, firm, partnership, association, corporation or other entity and the singular or plural and the masculine, feminine or neuter thereof, unless the contrary is clearly expressed.

**PRIVATE PROPERTY TOWING** — Means the non-consensual towing from private property or from a storage facility by a motor vehicle of a consumer's motor vehicle that is parked illegally, parking 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.39:4-56-25), provided that the abandoned vehicle is reported to the appropriate law enforcement agency prior to the removal and the vehicle is removed in accordance with section 1 of P.L. 1973, c.137 (C:39:4-56.6).

**ROAD SERVICE** — Assisting a motor vehicle without towing or hookup. Service such as providing fuel (plus cost of fuel), jump start, change flat tire (with available spare), simple opening of vehicle lockout, etc.

**STORAGE** — Means the storage of a consumers vehicle at the towing operators storage yard. Storage fee's shall be calculated per calendar day beginning 24 hours after the tow. Each day begins at 12:01 a.m. and ends at 11:59 p.m.

**TOW VEHICLE** — Only those vehicles equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under-reach equipment specifically designed by its manufacturer for the removal or transport of private passenger automobiles.

**TOW VEHICLE'S BASE OF SERVICE** — The towing operator's principal place of business where the tow vehicle is stationed when not in use.

**TRUCK** — Any motor vehicle other than an automobile as defined above and which requires heavy-duty or medium duty towing.

**VEHICLE IMMOBILIZATION DEVICE** — Means any object or mechanism that is attached to a vehicle that does not allow or prevents movement of the vehicle, i.e., wheel clamps, car boots, etc.

**WINCHING** — Moving a vehicle by use of the cable or winch from a position that is not accessible for direct hookup by conventional means of loading onto a tow vehicle. It shall not include pulling a motor vehicle onto a tilt bed or car carrier or lifting a vehicle with a conventional tow sling.

**YARD TOW** — The removal of the vehicle from the towing operator's storage yard for the benefit of another towing operator who is taking the vehicle from the storage site and whose tow vehicle is physically unable to gain access to the vehicle while it is inside the storage yard.

### **§ 243-3. Towing regulations.**

**(A)** Removal of motor vehicles. Whenever a police officer orders the removal of automobiles from private or public property, the officer shall utilize the rotation lists established in § 243-3C of this chapter.

**(B)** An officer may allow the driver of a vehicle involved in a motor vehicle crash or a disabled motor vehicle to arrange for their own selection of a wrecker to tow said vehicle, provided that such a request does not impair traffic and will not require the officer to remain at the scene after his normal responsibility is concluded.

**(C)** Towing operators.

**(1)** Every three years the Borough Council shall establish by resolution a list of licensed towing operators pursuant to § 243-7 to be utilized by the Police Department on a rotating basis. Such list shall be utilized by members of the Police Department on a non-discriminatory basis. Only those towing operators who meet the minimum standards of operator performance set forth in this chapter shall be included on such list. The list may be modified by Council at any time.

- (2)** Applications by towing operators shall be filed with the Borough Clerk between February 1 and March 15 of the year preceding the renewal of the three-year towing operator list.
- (3)** Application.
- (a)** Towing service owners applying for Police Department towing must submit to a criminal background investigation after authorizing the police to do so (N.J.S.A. 53: 1-20.5 et seq.). The required criminal history check for towing service owners will include the disclosure of any crime or lower disorderly persons offense or local ordinance offense as well.
- (b)** Additionally, all employees of a towing service applying for police towing who will be operating towing equipment involved in police towing shall be required to submit for a criminal background check after authorizing the police to do so (N.J.S.A. 53: 1-20.5 et seq.).
- (4)** Equipment. All towing operators shall meet the following requirements:
- (a)** Must possess two flatbed-style tow vehicles, one hoist-type tow vehicle with a sling and wheel lift, one medium duty tow vehicle, and one heavy-duty tow vehicle capable of towing a fully loaded tractor-trailer weighing 80,000 pounds.
- (b)** All tow vehicles must carry the following equipment:
- Shovel.
  - Fire extinguisher.
  - Jumper cables.
  - Tire-changing equipment and portable air tank.
  - Jack and hammer.
  - Pry bar or similar tool.
  - 'Speedy Dry' or similar liquid absorbent and disposal container.
  - Push broom.
  - Two-way radio communication system or cellular telephone.
- (c)** 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 as required by N.J.S.A. 39:3-50(d).
- (d)** All towing vehicles must carry a copy of the rate schedule established by the Borough of New Providence. Said schedule must also be displayed in a conspicuous manner at the operator's place of business.
- (5)** Facilities. Each operator must have a storage lot and place of business within the Borough of New Providence, or within a three-mile radius of the

Borough of New Providence corporate limits. The storage lot must be gated with the ability to lock entrances/exits. The towing business and storage lot must comply with all zoning ordinances and regulations in the municipality in which they are located.

- (6) Availability and response time. Each operator must be available 24 hours a day, seven days a week, and must respond within 20 minutes during daytime hours and 30 minutes during nighttime hours of the original telephone call request by the Police Department.

**§ 243-4. License fees, terms.**

- (A) The length of the license shall be for a three-year period. Each year shall require passage of background check by owners and employees.
- (B) The license shall not be transferable to another owner without approval of the Borough of New Providence and posting of proper fee.
- (C) The Borough Council shall set the fees for the three-year period for towing and storage by resolution.
- (D) The application fee will be \$500 for the three-year term of the license.
- (E) All complaints referring to towing service shall be directed to the Police Department by the applicant and/or his/her employees.
- (F) It is the responsibility of the applicant to notify the Borough of New Providence at once upon cancellation of business insurance.
- (G) The Borough of New Providence shall not be responsible for insurance coverage to the applicant.

**§ 243-5. Insurance.**

- (A) The applicant shall provide insurance by a state approved licensed carrier and must indemnify the Borough of New Providence.
- (B) The applicant shall maintain insurance coverage as set forth herein during the entire length of the towing contract.
- (C) The applicant shall provide a certificate of insurance indicating the applicant has the minimum coverage of insurance as follows:
  - (1) Automobile liability in an amount not less than \$1,000,000 combined single limit.
  - (2) Workers' compensation for all employees.
  - (3) Garage keepers' liability in an amount not less than \$60,000 per location.
  - (4) Garage liability in an amount not less than \$1,000,000 combined single limit.
  - (5) Comprehensive general liability to provide complete protection to the borough against any and all risks of loss or liability.
  - (6) Policies endorsed to provide collision coverage for vehicles in tow.
  - (7) The Borough shall be named as an additional insured.

(8) Theft insurance on stored vehicles.

(D) The applicant shall also provide the Borough of New Providence with a hold harmless agreement, in a form satisfactory to the Borough Attorney.

**§ 243-6. Fees established/Acceptability of payment.**

(A) The fee schedule for all towing services, storage, and administrative services shall be established by the Borough Council by resolution. See 243-10.

(B) Use of a hazmat kit by a license tower associated with the cleanup of fluid spills is \$350.00 per kit.

(C) Acceptability of payment. For services rendered, or to redeem a motor vehicle from storage, the operator shall accept in payment either cash, a check issued by an insurance company, a valid debit card, or a valid major credit card or charge card subject to the provisions of subsection 1. of this section.

(1) The operator may request additional identification before proceeding with repairs or towing. Unless the owner of the vehicle is unable to produce such identification, or the operator has a bona fide reason to believe the card or other identification is fictitious, altered, stolen, expired or revoked or not valid for any other cause or is clearly offered with intent to defraud the issuer, the debit card, charge card or credit card shall be deemed an acceptable form of payment in lieu of cash if the operator ordinarily accepts the card at his place of business. Nothing in this act shall preclude payment by a motorist in the form of check or money order, if this form of payment is acceptable to the operator.

**§ 243-7. Issuance of towing operator licenses.**

The Borough Council shall by public resolution authorize the issuance of towing operator licenses upon the recommendation of the Chief of Police and after consideration of the applications submitted in conformity with this chapter.

**§ 243-8. Regulations for towing service operators.**

(A) Release of impounded vehicles. No impounded vehicle is to be released without proper authorization from the New Providence Police Department. Vehicle release arrangements must be available from the hours of 8:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 12:00 noon Saturday (excluding New Jersey state and Federal holidays). Release authorization shall be obtained by the vehicle owner (or his designee) from the New Providence Police Department. The owner of the vehicle (or his designee) shall provide the tow operator with a copy of the police departments release authorization form prior to any vehicles release. In instances where the towed vehicle is stored in police custody, an invoice for the towing service provided will be left with the vehicle, as well as the keys for said vehicle. The Police Department will retain custody of both the invoice and keys for all vehicles held in police custody

(B) Insurance; indemnity.

(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 identify the coverage provided and shall provide that such insurance shall not be changed or canceled 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.

- (2)** The applicant shall provide the minimum coverage of insurance as defined in § 243-5.
  - (3)** Each operator shall also provide the Borough of New Providence with a hold harmless agreement to 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 resulting from the operator's performance.
  - (4)** Each operator shall have an on-hook vehicle rider on their towing insurance policy. This rider will provide insurance should the towed vehicle become uncoupled from the tow truck during towing operations.
  - (5)** The applicant shall maintain insurance for the entire length of the towing contract and provide certificate of insurance on an annual basis to the Borough Clerk.
- (C)** Enforcement. The Police Department is designated to enforce the provisions of this chapter in accordance with due process of law. In carrying out the provisions of this chapter, the Police Chief is hereby authorized to adopt additional reasonable regulations which are not inconsistent with this chapter.
- (D)** Abandoned or unclaimed vehicles.
- (1) Any vehicle which is not claimed by the owner within 30 days of impoundment shall be reported by the towing operator storing the vehicle to the Police Department, pursuant to N.J.S.A. 39:10A-1 through 39:10A-7.
  - (2) After expiration of the thirty-day period, the Police Department shall make application for title to the Division of Motor Vehicles as per standing general orders. Vehicles that 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 39:10A-7.
  - (3) 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 services to the Borough of New Providence.
- (E)** Public inspection. This chapter, all regulations adopted by the Police Chief, and the fee schedules of individual tow operators shall be available to the public during normal business hours.
- (F)** Removal of towed vehicles; location for storage.
- (1) A vehicle that is removed by a towing company under this chapter, in which the Police Department has a duty to impound said vehicle for investigative or security reasons, shall be towed and stored at a location designated by the police officer in charge, until all investigations are completed and/or proper paperwork to support the release of the motor vehicle back to the owner or his designee are presented for Police Department approval.
  - (2) A vehicle that is removed by a towing company that the Police Department has no interest in (i.e. disabled motor vehicle or one that is involved in a crash without further Police Department investigation required) may be towed back to the towing operator's facility, or to a location of the vehicle owner's choice, provided the towing operator is in a position to comply with such a request.

**§ 243-9. Violations and Penalties.**

- (A) It is an unlawful practice to violate any provision of this ordinance.
- (B) Complaint and hearing. The governing body shall have the right to suspend or revoke any towing privileges issued pursuant to this section for good cause upon written complaint of the Police Chief. In the event that a towing operator fails or refuses to follow call out schedule or refuses to retain the proper equipment, personnel or facilities necessary to perform the services required for towing operators, or that the services performed are not satisfactory or violate any provision of this section, rule or regulation duly adopted, the Police Chief shall file a written complaint with the governing body that there is probable cause for revocation or suspension. Written notice of such complaint and the basis of the complaint shall be given to the towing operator and said operator shall be entitled to a hearing before the governing body prior to final determination of the complaint by the governing body.
- (C) Penalties.
- (1) Any operator who violates any section of this chapter, in addition to any other penalties provided by law, 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 operator commits a fourth offense, its right to provide towing services to the Borough shall be permanently revoked, and the towing operator shall be removed from the list of approved operators.
  - (2) Any operator who violates the operator rate schedule shall receive a fine of \$250 and suspension of towing privileges for one month. A second violation will result in a fine of \$400 and suspension of towing privileges for six months. A third violation will result in a fine of \$500 and permanent revocation of towing privileges.
  - (3) In all cases, if an operator overcharges a vehicle owner, the excess moneys paid shall be returned by the operator to the owner within 10 business days.
  - (4) A towing operator may be removed from the list adopted pursuant to § 243-3, 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 chapter or applicable regulations, an operator may be removed from the list by the Chief of Police pending action by the Borough Council.
  - (5) Violators who are licensed as an automobile repair facility will be reported to the Division of Motor Vehicles. Insurers may also report violators under the provisions of N.J.S.A. 17:23-8 to N.J.S.A. 17:23-15.

**§ 243-10. Towing and storage fees.**

- (A) Fee schedule for consensual towing is as follows;



### ROADSIDE REPAIRS AND SERVICES

CARS (LIGHT) ROADSIDE REPAIRS	\$90.00 PER HOUR PLUS PARTS
CARS (LIGHT) (Jump start/Battery Change, Flat Tire Change, Lock Out, Fuel)	\$65.00 PLUS COST OF PARTS/FUEL
TRUCKS (MEDIUM / HEAVY) ROADSIDE REPAIRS	\$175.00 PER HOUR PLUS PARTS
TRUCKS (MEDIUM / HEAVY) (Jump start/Battery Change, Flat Tire Change, Lock Out, Fuel)	\$110.00 PLUS COST OF PARTS/FUEL

### TOWING – Basic

LIGHT DUTY- up to 10,000 lbs.	HOOK-UP \$150
MEDIUM DUTY- 10,001-16,000 lbs.	\$250.00 PER HOUR
HEAVY DUTY- 16,001 and above	\$500.00 PER HOUR
DECOUPLING FEE (IF TOW IS NOT PERFORMED)	½ OF BASIC RATE

### ON-HOOK MILEAGE

LIGHT DUTY	\$6.00 / PER LOADED MILE (No mileage charge shall be applied if the vehicle is towed to a location within the Borough of New Providence or back to the tow operators storage yard)
MEDIUM DUTY	\$8.00 / PER LOADED MILE
HEAVY DUTY	\$10.00 / PER LOADED MILE

### RECOVERY / WINCHING (In Addition to Towing – per truck including driver)

LIGHT/ MEDIUM DUTY 10,001-16,000 lbs.	\$175.00 PER ½ HOUR
HEAVY DUTY 16,001 and above	\$600.00 PER HOUR

### SPECIALIZED RECOVERY EQUIPMENT

ROTATOR / CRANE RECOVERY UNIT	\$1200.00 PER HOUR
TRACTOR WITH LANDOLL TRAILER OR DETACH TRAILER	\$450.00 PER HOUR
TRACTOR / TRANSPORT HAULER ONLY	\$250.00 PER HOUR
REFRIGERATED TRAILER W/ TRACTOR	\$450.00 PER HOUR

BOX TRAILER W/ TRACTOR	\$400.00 PER HOUR
AIR CUSHION UNIT	\$1000.00 PER HOUR
LIGHT TOWER	\$250.00 PER HOUR
PALLET JACK	\$200.00 FLAT RATE
ROLLERS	\$200.00 FLAT RATE
ANY OTHER SPECIALIZED EQUIPMENT	\$250.00 PER HOUR
LOADER / BACKHOE / TELESCOPIC HANDLER / BULLDOZER / BOBCAT	\$300.00 PER HOUR EACH
FORKLIFT	\$300.00 PER HOUR
DUMP TRUCK / DUMP TRAILER W/ TRACTOR	\$350.00 PER HOUR
ROLL-OFF WITH CONTAINER	\$350.00 PER HOUR PLUS DISPOSAL
RECOVERY SUPERVISOR VEHICLE	\$150.00 PER HOUR
SCENE SAFETY EQUIPMENT, COMMUNICATION EQUIPMENT, TRAFFIC MANAGEMENT EQUIPMENT, ETC.	\$250.00 PER HOUR EACH TYPE USED
RECOVERY SUPPORT VEHICLE / TRAILER ADDITIONAL RECOVERY EQUIPMENT	\$350.00 PER HOUR

LABOR - ALL LABOR MIN OF 1 HOUR

ACCIDENT MINOR CLEAN-UP AND DISPOSAL OF DEBRIS	\$75.00 PER HOUR ONE HOUR MINIMUM TO INCLUDE ABSORBANT MATERIALS USED
RECOVERY SUPERVISOR AND / OR LEVEL III RECOVERY SPECIALIST	\$225.00 PER HOUR *Charges limited to one per incident
CERTIFIED TOWING OPERATOR	\$125.00 HOUR PER MAN
MANUAL LABORERS	\$100.00 PER HOUR PER MAN

STORAGE – PER CALENDAR DAY (INSIDE RATES TWO TIMES OUTSIDE RATE)

CARS / LIGHT TRUCKS -10' X 20' SPACE	\$45.00 PER DAY
TRUCKS (DUAL WHEELS) / SINGLE AXLE	\$90.00 PER DAY

TRACTOR/ DUMP TRUCK/ TRACTOR AND TRAILER COMBO/ TRAILERS	\$125.00 PER UNIT PER DAY
BUSES	\$150.00 PER DAY
ROLL-OFF	\$125.00 PER DAY FOR EACH
CARGO / ACCIDENT DEBRIS / LOAD STORAGE / VEHICLE COMPONENTS 10' x 20' SPACE	\$45.00 PER SPACE USED PER DAY
RENTAL OF ANY TOW COMPANY SUPPLIED TRAILER POST INCIDENT	\$500.00 PER DAY

**\*\* STORAGE BILLED PER CALENDAR DAY\*\***

**ADDITIONAL SERVICES/ NOTES**

FUEL / HAZ-MAT / CARGO SPILLS CLEAN-UP AND DISPOSAL	\$350.00 PER SPILL KIT USED
HAZMAT AND TRASH RECOVERY	SURCHARGED 10%
SUBCONTRACTOR MARK-UP	10%
ADMINISTRATIVE CHARGE (ONLY AFTER 3 <sup>RD</sup> VISIT TO VEHICLE)	CARS ONLY - \$50.00
ADMINISTRATION CHARGE	MEDIUM / HEAVY TRUCK - \$200.00
AFTER HOURS RELEASE	\$75.00
NOTIFICATION DOCUMENTATION FEE	\$50.00
TARPING / WRAPPING VEHICLE	\$90.00 PER CAR \$250.00 PER TRUCK
FUEL SURCHARGE (MEDIUM/HEAVY DUTY ONLY)	10% of TOTAL INVOICE
YARD TOW	\$55.00

- (B) Fee schedule for non-consensual towing (shall apply to both public and private property).

**TOWING - Basic**

LIGHT DUTY- up to 10,000 lbs.	\$150.00
MEDIUM DUTY- 10,001-16,000 lbs.	\$400.00
HEAVY DUTY- 16,001 and above	\$750.00
DECOUPLING FEE (IF TOW IS NOT PERFORMED)	½ OF BASIC RATE

STORAGE – PER CALENDAR DAY

CARS / LIGHT TRUCKS	\$45.00 PER DAY
TRUCKS	\$90.00 PER DAY

- (C) Salvage title. If the New Providence Police call out a duty wrecker for accident or impound, and the vehicle has no value (salvage), and the owner fails to respond for payment, then the Borough of New Providence will obtain title to the vehicle for salvage. The towing company will absorb the storage charge until the vehicle title is conveyed to the towing company by the Borough of New Providence to discard the vehicle.

**§ 243-13. Towing from private property. (non-consensual)**

- (A) It shall be an unlawful practice for any private property towing company or for any other towing company that provides non-consensual towing services within the Borough of New Providence:
- (1) To give any benefit or advantage, including a pecuniary benefit, to any person for providing information about motor vehicles parked for unauthorized purposes on privately owned property or otherwise in connection with private property towing of motor vehicles parked without authorization or during a time at which such parking is not permitted;
  - (2) To fail, when so requested by the owner or operator of a vehicle subject to non-consensual towing, to release a vehicle to the owner or operator that has been, or is about to be, hooked or lifted but has not actually been moved or removed from the property when the vehicle owner or operator returns to the vehicle, or to charge the owner or operator requesting release of the vehicle any fees in excess of those established under section 243-10(B) of this ordinance.
  - (3) To refuse to accept for payment in lieu of cash or an insurance company check for towing or storage services a debit card, charge card or credit card if the operator ordinarily accepts such card at his place of business, unless such refusal is authorized in accordance with section 4 of P.L.2002, c.67 (C.56:13-4) as amended by section 21 of P.L.2007, c.193; or
  - (4) To monitor, patrol, or otherwise surveil a private property for the purposes of identifying vehicles parked for unauthorized purposes and towing a motor vehicle parked for an unauthorized purpose from such private property without having been specifically requested to tow such vehicle by the owner of the property.
  - (5) Unattended vehicles cannot be towed from private parking lots, unless:
    - (1) There is a sign posted at all vehicular entrances to the property stating:
    - (2) The purpose for which parking is authorized;
    - (3) The times when parking is permitted;
    - (4) That unauthorized parking is prohibited and unauthorized vehicles will be towed at the owner's expense;

- (5) The name of and the contact information for the towing company and the address of the storage facility, which must be secure and located within a reasonable distance of the property, to which the vehicle will be towed;
  - (6) The charges for the towing and storage and the times during which the vehicle may be redeemed; and
  - (7) Contact information for the Division of Consumer Affairs (1-800-242-5864)
- (B) Vehicle immobilization devices such as wheel clamps, car boots, or any other object or mechanism that prevents the movement of a vehicle are prohibited from being used by a non-consensual tow operator within the Borough of New Providence.
- (C) Notification. In order to preserve and maintain efficient use of law enforcement resources, and to prevent false claims of vehicle theft, every towing company that engages in the non-consensual towing of a vehicle from private property shall notify the New Providence Police Department immediately upon removal of the vehicle from any private property within the Borough of New Providence.

#### **§ 243-14. Effect of rights of motor vehicle owner.**

- (a) Nothing in this article shall abrogate or in any way diminish the rights of the vehicle owner or operation to make his own selection of tow vehicle, except where it presents a real or immediate hazard to safety or would in any way interfere with a police investigation.
- (b) The vehicle owner or his or her representative shall have the right to take photographs of stored vehicles.
- (c) Applicable sections of this article may in certain circumstance be superseded by state statute and the New Jersey Administration Code.

#### **§ 243-15. Removal of Vehicles.**

The Police Department shall have the power to direct wreckers to remove vehicles

- (a) There is obstruction of a public right-of-way or private property.
- (b) A vehicle has been vandalized or presents a fire or safety hazard or an attractive nuisance.
- (c) An abandoned vehicle bears no discernible registration or identification data.
- (d) A vehicle is not licensed and/or registered.
- (e) A vehicle is not operable.
- (f) A vehicle is violating any emergency no-parking provisions as set forth in the Code of the Borough of New Providence.
- (g) Permitted or required by law.

#### **§ 243-16. Availability of Records.**

Every towing company that is licensed by the Borough of New Providence to perform services on the police departments on-call list, and any towing company that performs private property or other non-consensual towing, shall retain and make available for inspection for a period of three years, invoices, job orders, logs, claims for reimbursement from insurance companies

and other documentation relating to all consensual and non-consensual towing services performed and rates charged for the services performed within the Borough of New Providence.

### **§ 243-17. General provisions.**

- (A) The Borough of New Providence assumes no liability in collecting of bills for towing services.
- (B) The applicant shall keep records of all towing for a period of three years or each year of contract, if not renewed, as to who was towed, vehicle plate number, vehicle identification number, location of event, amount charged and date and time of call.
- (C) The applicant shall not use a satellite storage yard not named in the application.
- (D) The applicant shall not impose any penalty on a customer for service during normal working hours relating to pickup of vehicle left for safekeeping.
- (E) The applicant shall be responsible for the conduct of his/her employees. The borough accepts no responsibility for their actions, nor are they agents of the borough.
- (F) The schedule for towing and storage fees shall be in accordance with this chapter pursuant to N.J.S.A. 40:48-2.49.
- (G) The Borough of New Providence shall utilize the rotating list of towing contractors for the towing of abandoned or junk vehicles. The collection of fees for towing these vehicles shall be the sole responsibility of the towing contractor. The Borough of New Providence shall not be liable for these towing fees.
- (H) The Borough of New Providence assumes no responsibility for the storage of abandoned vehicles taken in for safekeeping. The Police Department shall assist the applicant in title research for proper destruction of said vehicles.
- (I) These regulations as well as related fee schedules are available to the public during normal business hours at Borough Hall.
- (J) The Chief of Police is the municipal officer or agency appointed to enforce the provisions of this chapter in accordance with due process of law required by N.J.S.A. 40:48-2.49(c).
- (K) The Chief of Police or designee may institute additional reasonable rules, regulations, requirements, or standards if deemed necessary and under emergency or exigent circumstances may suspend the use of the rotating on-call list.

### **§ 243-18. Severability.**

If any section, subsection, clause or provision of this ordinance shall be adjudged unconstitutional or to be ineffective in whole or in part, to the extent that it is not adjudged unconstitutional or is not ineffective it shall be valid and effective and no other section, subsection, clause or provision of this ordinance shall on account thereof be deemed invalid or ineffective, and the applicability or invalidity of any section, subsection, clause or provision of this ordinance in any one or more instances or under any one or more circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance or under any other circumstances.

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ADOPTION: February 9, 2021

BOROUGH OF NEW PROVIDENCE  
COUNTY OF UNION  
STATE OF NEW JERSEY

Allen Morgan, Mayor

Attest:

Wendi B. Barry, Borough Clerk