

**BOROUGH OF PENNS GROVE
MAYOR AND COUNCIL**

ORDINANCE NO. 2019-13

AN ORDINANCE ESTABLISHING TOWING REQUIREMENTS

WHEREAS, N.J.S.A. 56:13-16 was adopted by the New Jersey Legislature which established to unlawful practices for towing companies; and

WHEREAS, the Borough of Penns Grove would like to add a towing ordinance to the Penns Grove Code in order to comply with N.J.S.A. 56:13-16.

NOW, THEREFORE, BE IT ORDAINED by the Borough of Penns Grove, County of Salem, and the State of New Jersey that Chapter 418 shall be added to the Code of the Borough of Penns Grove as follows:

Chapter 418 shall be entitled "Towing"

§ 418-1 Rotating list.

A. A list of towing vendors is hereby established to provide towing services for the Borough of Penns Grove on a rotating basis. The Police Department shall maintain the rotating list and determine the time period for each rotation. The list of vendors shall be determined by and under the direct supervision of the Chief of Police.

B. A vendor shall be placed on the rotating list in the order in which its application was approved. Each new vendor shall initially be placed last on the list.

C. If a vendor is called and for any reason does not or cannot perform the requested service, the next vendor on the list will be called to perform the towing service.

§ 418-2 Application and approval process.

A. A vendor seeking placement on the rotating list shall be required to submit an application and receive the approval of the Chief of Police.

B. All applicants are required to complete an application furnished by the Borough Clerk providing any and all information prescribed by the Chief of Police.

C. Each vendor must be able to demonstrate to the Borough that it is thoroughly qualified and experienced in the towing and removal of vehicles of all types and that it has adequate

facilities, equipment, expertise, licensing and personnel certified by Towing and Recovery Association of America to perform the services in a manner satisfactory to the Borough of Penns Grove Police Department.

D. The Borough of Penns Grove Police Department will conduct a background investigation of the vendor for approval of placement on the towing list. The applicant will be required to pay the associated fees.

E. Approval may be denied, suspended or revoked upon any of the following, but not limited to, circumstances:

(1) Submitting a fraudulent or misleading application.

(2) A criminal conviction of a named principal of the vendor.

(3) Failure to respond reliably and promptly to calls for assistance or any other unsatisfactory performance action which interferes with the proper operation of the rotating system maintained by the Police Department.

(4) Failure to utilize safe and adequate equipment as defined herein.

(5) Violation of motor vehicle laws and/or municipal ordinances.

Failure or refusal to tow or remove a motor vehicle when requested to do so by an appropriate municipal official.

(6) Failure or refusal to tow or remove a motor vehicle when requested to do so by an appropriate municipal official.

(7) Violations of the zoning ordinances or any other applicable ordinances or codes of the Borough of Penns Grove in conducting the towing business.

F. Once an applicant has been approved by the Chief of Police, the applicant shall be placed on the rotating list of towing vendors for a period of one year. The application shall be renewed annually upon the payment of the fee as set forth in Subsection G of this section.

G. A vendor seeking placement on the rotating list shall submit an application on an annual basis. The application shall be filed with the Chief of Police not later than December 15 in the year prior to which approval is sought. All applications shall be accompanied by a nonrefundable fee of \$100, which fee shall be payable to the Borough of Penns Grove.

§ 418-3 Regulations.

A. The Police Department in general and the Chief of Police in particular shall enforce the within provisions.

B. The Chief of Police is hereby authorized and empowered to establish, from time to time, written policies and procedures as may be reasonable and necessary to obtain compliance with the terms of this chapter and the laws of the State of New Jersey.

C. All regulations, policies and procedures shall be made available for inspection by the public at the Borough Clerk's office during normal business hours.

D. Complaints by motor vehicle owners of any tow contractor shall be referred to the Chief of Police, who shall promptly investigate and resolve any dispute.

§ 418-4 General requirements.

A. The applicant shall verify a minimum of three years of towing-for-hire experience either as an owner or principal at an established business. Verification will be done by the Chief of Police or designee.

B. The applicant or agent shall not have received a criminal conviction within the last seven years involving stolen or embezzled vehicles, fraud relating to the towing business, stolen property, or any other offense of a similar nature. All applicants and/or agents must submit to a criminal history check in compliance with the New Jersey State Police, Records and Identification Section, SBI Form 212B.

C. The principal location of the applicant must be staffed during business hours and shall maintain a clean, comfortable waiting room and toilet facilities.

D. The method of towing, transporting, or recovering a vehicle pursuant to this chapter shall be performed consistent with the applicable manufacturer's ratings including, but not limited to, the following:

- (1) Chassis gross vehicle weight rating.
- (2) Chassis combined gross vehicle weight rating.
- (3) Boom capacity rating.
- (4) Winching capacity rating.

E. The applicant shall represent that its trucks and equipment are safe, properly equipped, sound mechanically, and suitable for intended use (N.J.S.A. 39:3-1 et seq. and 49 CFR 393). The vendor may be subject to inspection by trained/certified New Jersey State Police Commercial Vehicle Inspection personnel.

F. The vendor shall file a list of rates and charges for each type of service provided by each towing and recovery unit. The filed rates may be adjusted at any time upon request by the vendor and notification to the Penns Grove Police Department.

G. It is the responsibility of the vendor to recover all charges for vehicle towing and recovery operations from the vehicle owner or the owner's insurance carrier. Neither the Penns Grove Police Department or the Borough of Penns Grove shall be responsible for collecting any fees that are owed to the vendor.

H. It is the responsibility of the vendor to remove all debris and/or cargo from the incident scene directly and/or use a subcontractor and in compliance with the cargo handling procedures as set forth in this chapter.

§ 418-5 Response times/location.

A. Upon receiving notification from the communication center, the vendor shall be allowed 15 minutes maximum response time from the vendor's principal location. In the event that the vendor is unable to respond in the allotted time, the next vendor on the rotating list will be notified.

§ 418-6 General operation.

A. The vendor shall be available 24 hours a day, seven days a week, including holidays.

B. The vendor shall not use answering machines or beepers to receive calls from a communications center dispatcher.

C. The vendor shall accept at least two major credit cards and shall not charge the patron for its use.

D. The vendor shall not remove any vehicle from any roadway without proper authorization.

E. The vendor shall answer routine calls for service in addition to calls for towing.

F. The vendor shall be reasonably responsible for clearing the roadway of debris, except hazardous materials. Hazardous materials may be defined as any dangerous or unknown substance which the vendor has not been properly trained or licensed to dispose.

G. The vendor shall notify the communications dispatcher when unable to respond to a call or when unable to meet the response time requirement. The vendor shall also immediately notify the communications dispatcher when unable to respond or when unable to meet the response time requirements of a previously accepted call.

H. The vendor shall not assign calls to other tow companies.

I. When patrons do not have funds available for payment, the vendor shall tow the patron's vehicle to the vendor's storage facility until payment arrangements have been made.

J. The vendor and company representatives shall cooperate and communicate with the police officer in charge and other emergency service personnel at incident scenes.

K. The vendor must post, in a conspicuous manner, a copy of its approved service rates.

L. The vendor or its agent must be available to surrender property from towed vehicles during normal business hours and on Saturday, 9:00 a.m. to 12:00 noon.

M. All drivers/operators must possess a valid New Jersey driver's license.

N. The vendor must have inside repair facilities with an ample inventory of parts.

O. The vendor must maintain individual written records for impounded vehicles. These records will indicate full vehicle information, odometer reading, date and time towed and released. Impounded vehicles will not be released without authorization from the Penns Grove Police Department.

P. The Penns Grove Police Department shall be responsible for attempting to notify the owner of an abandoned vehicle that it has been towed within 10 calendar days of the tow. In the event the towed vehicle is not removed within seven calendar days by the owner, the vendor shall be responsible for notifying the Penns Grove Police Department in writing of this situation. Failure of the vendor to make notification as previously stated herein shall limit the storage charge to seven calendar days only.

Q. The Chief of Police shall have the discretion to determine the maximum number of vendors needed for the Borough of Penns Grove.

§ 418-7 Driver requirements.

A. The vendor shall submit a list of drivers with copies of their New Jersey driver's licenses. This information will be submitted to the Penns Grove Police Department for background checks. Background checks will be the responsibility of the vendor/owner.

B. The vendor shall notify the Chief of Police or designee concerning any changes in employee status, including additions and deletions.

C. Drivers shall behave in a professional manner.

D. Each driver must obtain a Level 2 National Driver Certification or equivalent. Each new hire must obtain his or her certificate within nine months from start of employment. Each driver must possess a commercial driver's license (CDL) and must also comply with 49 CFR 391.51.

E. Each recovery supervisor must obtain a Level 3 National Driver Certification or equivalent within nine months from start of employment and must have received training in an industry-recognized recovery course. Although all personnel on the recovery scene do not need recovery training, each recovery supervisor must meet the listed requirements.

F. All certifications will be verified and maintained at the Penns Grove Police Department.

§ 418-8 Insurance requirements.

A. Each vendor shall be required to purchase, maintain and provide during the time of service on the rotating list proof of insurance, including the certificate(s) furnished by a reputable insurance company licensed to do business in the State of New Jersey, containing the following coverage with liability limits as set forth below:

(1) Garage liability/comprehensive general liability insurance policy in an amount not less than \$3,000,000 combined single limit covering bodily injury and property damage liability including, but not limited to, personal injury, products liability (where applicable), independent contractor and completed operation coverage.

(2) Garage keeper's legal liability insurance policy in an amount not less than \$100,000. Said policy must include both comprehensive and collision, and an endorsement to include "on hook."

(3) Automobile liability insurance policy in an amount not less than \$3,000,000 combined single limit covering bodily injury and property damage liability including, but not limited to, owned, no owned and hired vehicles.

(4) Worker's compensation insurance as required by law, including but not limited to statutory New Jersey workers' compensation benefits and employers' liability of at least \$100,000.

(5) Excess umbrella liability. In the event that garage liability and/or automobile liability cannot be purchased up to the required three-million-dollar limit, an excess liability or umbrella liability policy must be purchased to effect a total liability limit of \$3,000,000. Excess or umbrella liability policies will not be required for garage keeper's policies that meet or exceed the one-hundred-thousand-dollar minimum limit.

B. The garage liability and automobile liability policies shall name the Borough of Penns Grove as an additional insured and certificate holder.

C. The vendor shall execute an agreement to hold harmless, indemnify and defend, at the vendor's expense, the Borough, its employees and officials from any and all claims, demands, suit or action for personal injury or property damage brought against the Borough, its employees and officials for any activities which arise out of any services performed hereunder.

D. Copies of the above-mentioned documents will be maintained at the Penns Grove Police Department.

§ 418-9 Storage requirements.

A. The lot must display a certificate of occupancy for related business.

B. The vendor must be equipped to provide proper, safe and secure storage for all vehicles that are towed and stored. The Chief of Police or designee will conduct an annual inspection of the storage facility.

C. Impounded vehicles shall only be released upon proper authorization of the Penns Grove Police Department. The vendor shall assume responsibility for all impounded vehicles released without authorization.

D. Personal property is considered to be any item that is not directly affixed to the vehicle. Such items shall be released to the owner upon request during normal business hours at no charge.

E. Each storage facility must be:

(1) Located in close proximity to the vendor.

(2) Secured by a minimum six-foot barrier sufficient to deter trespassing and/or vandalism.

(3) Staffed or available for access between the hours of 8:00 a.m. and 6:00 p.m. Monday through Friday, and Saturday, 9:00 a.m. to 12:00 noon, excluding legal holidays.

(4) Sufficient in size to accommodate all vehicles towed at the request of the Penns Grove Police Department.

(5) Secure for all vehicles in custody, proportionate to the history and level of crime and/or vandalism in the area.

§ 418-10 Fee Schedule for Non-Consensual Law Enforcement Tow.

A. All towing vendors may charge a fee up to the amount established by the New Jersey State Police for Non-consensual Law Enforcement Tows for non-toll roads.

§ 418-11 Equipment requirements.

A. A vendor must present for service a minimum of two trucks, consisting of a flatbed and a wrecker, which meet the following minimum requirements:

(1) Ten thousand pounds GVWR minimum commercially manufactured wrecker and chassis.

(2) Minimum wheel lift capacity of 3,000 pounds.

(3) Minimum winch capacity of 8,000 pounds.

(4) Three-eighths-inch-by-one-hundred-foot cable or OEM specifications.

- (5) Two safety chains, 3/8 inch by 10 feet high test.
- (6) Two tow chains, 3/8 inch by 10 feet high test with J&T hooks, and grab hooks.
- (7) Three-ton snatch block.
- (8) Trailer ball hitch attachment.
- (9) Motorcycle towing equipment.
- (10) Amber emergency lights with proper amber light permit from State of New Jersey.
- (11) Two flood or work lights to the rear of the wrecker.
- (12) Two-way radio or cellular phone.
- (13) Assortment of tools.
- (14) Jumper cables.
- (15) Flashlight, fire extinguisher, first aid kit.
- (16) Gas can.
- (17) Lug wrench and jack.
- (18) Broom and shovel, road flares, triangles or road cones.
- (19) Fourteen thousand five hundred pounds GVWR minimum commercially manufactured flatbed and chassis 17 feet or longer hydraulically operated slide back or tilt bed.
- (20) Three-eighths-inch-by-fifty-foot cable or OEM specifications.
Four safety chains, 3/8 inch by 10 feet high test.
- (22) One bridle chain, high test with J hooks, and grab hooks.
- (23) One four-ton snatch block.
- (24) Assortment of wood blocks and boards.

B. In addition to the requirements of Subsection A of this section, vendor must present for service a minimum of one additional truck, which meets the following minimum requirements:

- (1) One 35,000 pounds GVWR minimum commercially manufactured wrecker and chassis.

(2) Meeting state and federal DOT requirements governing commercial motor vehicles.

(3) Air brakes.

(4) Air transfer system for the controlling of the brakes of the towed vehicle.

(5) Axle lift with a minimum lift capacity of 25,000 pounds and a tow capacity of 80,000 pounds.

(6) Two safety chains, 1/2 inch by 10 feet alloy.

(7) Two tow chains, 5/8 inch by 10 feet alloy.

(8) Axle lift safety straps or equivalent retention device.

(9) Amber emergency lights with proper amber light permit from the State of New Jersey.

(10) Two flood or work lights to the rear of the wrecker.

(11) Tow light bar or magnetic tow lights.

(12) Two-way radio or cellular telephone.

(13) Assortment of wood blocks or boards.

(14) Assortment of tools.

(15) Flashlight.

(16) T-Bolts/maxi release pins.

(17) Angle iron.

(18) First aid kit.

(19) Fire extinguisher.

(20) Broom and shovel.

(21) Road flares, triangles and road cones.

C. The vendor must have the capability to tow a minimum of three vehicles at the same time.

D. The vendor will be permitted to tow a vehicle over 10,000 pounds gross vehicle weight (GVWR) for disabled vehicles only.

§ 418-12 Recovery duty.

A. Includes service for all accidents, recovery, and winching incidents for any vehicle over 10,000 pounds GVWR or any vehicle that has dual wheels.

B. The vendor must meet the following minimum requirements:

(1) Two thirty-five-thousand-pound GVWR minimum commercially manufactured wrecker and chassis with wheel lift. All wreckers must be fully hydraulic. Mechanically or electronically operated wreckers and/or fifth wheel hookups will not be permitted.

(2) Oshkosh or Sterling-type crane can be substituted for one mechanical boom wrecker.

(3) Meeting state and federal DOT requirements governing commercial motor vehicles.

(4) Air brakes.

(5) Air transfer system-the controlling of the brakes of the towed vehicle.

(6) At least one truck shall have an axle lift with 25,000 pounds minimum lift capacity and 80,000 pounds tow capacity.

(7) Fifty-thousand-pounds minimum winch capacity.

(8) Fifty-thousand-pounds minimum boom capacity.

(9) Five-eighths-inch-by-two-hundred-foot cable or OEM specifications.

(10) Two safety chains one-half-inch-by-eight-foot alloy.

(11) Two tow chains 1/2 inch by 10 feet and four chain binders.

(12) Four winching chains one-half-inch-by-eight-foot alloy.

(13) Four tie down chains 5/16 inch by 10 feet and four chain binders.

(14) Two recovery straps six inches by 20 feet or longer.

(15) Axle-lift safety straps or equivalent retention device.

- (16) Two scotch blocks or recovery stiff legs mounted into body of truck.
- (17) Two twelve-ton snatch blocks.
- (18) Amber emergency lights with proper amber light permit from the State of New Jersey.
- (19) Two flood or work lights to the rear of the wrecker.
- (20) Two-way radio or cellular telephone.
- (21) Assortment of wood blocks and boards.
- (22) Assortment of tools.
- (23) Flashlight.
- (24) Angle iron.
- (25) Tow light bar or magnetic tow lights.
- (26) T-bolts/maxi release pins.
- (27) Hydraulic bottle jack.
- (28) First aid kit.
- (29) Fire extinguisher.
- (30) Broom and shovel.
- (31) Road flares, triangles or road cones.
- (32) Additional equipment either owned or subcontracted.
- (33) One air cushion recovery system including starter cushions, with motor-driven air pump, with lifting capacity of 100,000 pounds.
- (34) One semi-tractor with fifth wheel.
- (35) One Lowboy or Landall-type equipment-hauling trailer with minimum hauling capacity of 40,000 pounds.
- (36) One relief trailer or truck capable of transferring loads off damaged trucks.

§ 418-13 Suspensions; termination; appeals.

A. The Chief of Police is empowered to suspend or remove vendors from the towing list for three failures to respond on a timely basis, failure to demonstrate the skills necessary to perform tows or recoveries in a safe, prompt and efficient manner, or excessive, unresolved customer complaints.

B. Termination may occur if the application is fraudulent, an indictable conviction of the owner, the owner's insurance is cancelled, or if there is evidence indicating a pattern of consumer fraud or any serious violation as determined by the Chief of Police.

C. The vendor may appeal any disciplinary action to the Penns Grove Borough Committee. The sanctions of the Chief of Police will not be stayed pending appeal.

§ 418-14 Cargo-handling procedures.

A. Where the driver, owner, or his representative is capable of action on his own, the police officer will make it clear to him that responsibility for safeguarding or disposal of property rests with him and that it must be disposed of promptly. The police officer will instruct the driver to remain with the disabled or wrecked vehicle until the vehicle and cargo are off the roadway and in a place of safety designated by the driver or owner of the vehicle.

B. Where the driver, owner or his representative is not able to take over himself, but the vehicle and its contents can be handled expediently by a wrecker, the police officer will advise the authorized vendor called to tow the disabled or wrecked vehicle to take charge of the vehicle and its contents.

C. In all such cases involving the handling, safeguarding and disposal of such property, where police officers rather than the owners or drivers must take charge, the owner or some other responsible party will be promptly notified by the Penns Grove Police Department.

D. If there is a load spillage on the roadway which the wrecker, in the opinion of the Penns Grove Police Department, cannot handle, NJDOT maintenance crews or the Public Works Department (on nonstate highways) shall be notified. Cargo shall not be disposed of by maintenance crews. The Penns Grove Police Department shall have sole authority to dispose of cargo that is in the best interest of the public.

E. In the event of spillage of perishable goods (food, drugs, alcohol) the County Department of Health shall be notified by the Penns Grove Police Department, requesting one of their inspectors report to the scene to inspect the goods and take such action as appropriate.

F. If, in the opinion of the Penns Grove Police Department, after consultation with the authorized vendor, the cargo must be unloaded before the vehicle can be removed, the following procedure shall be followed:

(1) It is imperative that any vehicle disabled or involved in an accident be removed as quickly as possible. This also applies to a vehicle that is on the shoulder or overturned in a ditch or berm. To accomplish this, the trucking company shall assume as much responsibility as possible. The off-loading of cargo must begin no less than one hour after the communication center dispatcher is notified.

(2) The communication dispatcher will contact the company and make all arrangements for trucks and manpower at the scene. The Police Officer in charge of the scene will make arrangements to remove the vehicle and its cargo by the best possible means. The order of preference is as follows:

(a) Company truck and company manpower.

(b) Company truck, authorized vendor manpower.

(c) Towing vendor truck and manpower.

(d) Towing vendor truck and NJDOT or Public Works maintenance manpower.

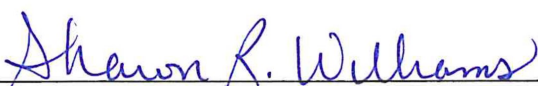
(e) NJDOT or Public Works maintenance trucks and NJDOT or Public Works maintenance manpower.

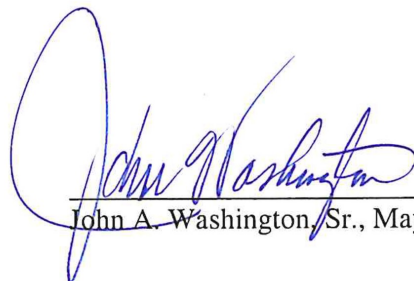
(3) Should the NJDOT or Public Works be involved with the off-loading of the cargo, a maintenance supervisor shall dispatch the necessary personnel and equipment and, under the direction of that supervisor, shall unload the cargo. It shall not be disposed of by the NJDOT or Public Works unless or until abandonment by the owner is established. The Penns Grove Police Department shall have sole authority to dispose of the cargo in the best interest of the public. Police Department shall have sole authority to dispose of the cargo in the best interest of the public.

G. In the event of a spillage of petroleum products, the protocol of the Penns Grove Fire Department and Office of Emergency Management shall be followed.

THIS ORDINANCE shall take effect according to law. All other Ordinances or part of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

ATTEST:


Sharon R. Williams, Municipal Clerk

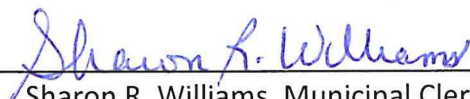

John A. Washington, Sr., Mayor

INTRO: Oct. 1, 2019

Council	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
Leon						
Oliver						
Pasquale						
Poindexter						
Scott						
Washington, Jr.						

CERTIFICATION

Notice: The above ordinance was introduced and passed on the first reading at the meeting of the Mayor and Council of the Borough of Penns Grove in the County of Salem held on October 1, 2019 and will be considered for final passage at a meeting to be held by the Mayor and Council at Borough Hall, 1 State Street, Penns Grove, New Jersey at 7:00 p.m. on October 15, 2019 at which time any interested person will be given an opportunity to be heard.


Sharon R. Williams, Municipal Clerk

FINAL: Oct. 15, 2019

Council	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
Oliver			X			
Pasquale			X			
Poindexter	X		X			
Scott			X			
Washington, Jr.		X	X			

CERTIFICATION

Notice: The above ordinance was introduced and passed on the first reading at the meeting of the Mayor and Council of the Borough of Penns Grove in the County of Salem held on October 1, 2019 and was adopted, after a public hearing was held by the Mayor and Council at Borough Hall, 1 State Street, Penns Grove, New Jersey at 7:00 p.m. on October 15, 2019.


Sharon R. Williams, Municipal Clerk