

BOROUGH OF SPOTSWOOD

ORDINANCE No. 2023-10

ORDINANCE OF THE BOROUGH OF SPOTSWOOD, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, AMENDING PART II (GENERAL LEGISLATION), CHAPTER 209 (WRECKERS) OF THE CODE OF THE BOROUGH OF SPOTSWOOD.

WHEREAS, the Borough of Spotswood (the “Borough”) is a public body politic and corporate of the State of New Jersey, exercising public and essential government functions; and,

WHEREAS, the Borough Council for the Borough of Spotswood desires to amend Chapter 202, Article II of the Borough Code to read as follows (*note to codifier: additions are underlined and deletions are denoted by strikethroughs*):

§ 209-1. Purpose.

The purpose of this chapter is to provide criteria and standard operating procedures that are reasonably non-exclusionary and non-discriminatory in the selection and use of towing operators, on a rotational basis, for providing towing, road services, and the storage of vehicles, including but not limited to the towing of vehicles that are abandoned, disabled, illegally parked or stolen, involved in accidents and/or suspected or identified by the borough as being involved in criminal activities.

§ 209-~~21~~. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

ABSORBANT - Any group of products used to soak up spills or vehicle fluids. These would include oil dry, absorbent pads, socks, booms, etc.

ADMTNIST A TION CHARGE - A one-time fee for services, including but not limited to physical inspection, telephone, email and/or fax calls, copying of documentation and additional office paperwork beyond the initial towing bill.

AFTER HOURS RELEASE - Releasing vehicles after normal business hours.

APPLICANT - Any person who applies for a permit to engage in the activity of towing and storing motor vehicles at the direction of the borough pursuant to the provisions of this chapter.

AUTOMOBILE - A private passenger automobile of a private passenger or a station wagon type that is owned or hired and is neither used as a public or livery conveyance for passengers, nor rented to others with a driver; and a motor vehicle with a pick-up body, or delivery sedan, a van or a panel truck or a camper-type vehicle used for recreational purposes owned by an individual or by a husband or wife who are residents of the same household not customarily used in the occupation, profession or business of the insured, other than farming.

BASIC TOWING SERVICE - The removal and transportation of an automobile from a highway, street or other public or private road, or 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.

BOROUGH - The Borough of Spotswood.

BUSINESS LOCATION — A base of operation that is staffed during normal business hours every weekday and Saturdays, excluding holidays. The business must be clearly marked with signs identifying the name of the business and the hours of operation. The business location must include a fenced-in lot for the storage of towed vehicles and must meet the location requirements set forth in § 209-5A and B as applicable. In lieu of a fence, a well-lit storage lot which can be observed by passing patrol cars is acceptable. However, if Borough police officials determine at any time that the security of the lot is inadequate, it may require the installation of a security fence and/or additional lighting for the operator to maintain a police tow list wrecker license.

CALENDAR YEAR - The period between January 1 and December 31 in any given year.

CAR CARRIER - A tow vehicle outfitted with the following equipment:

1) Commercial manufactured chassis rated not less than ten thousand (10,000) pounds GVWR, or equally rated by a certified rating company.

2) One hydraulically powered winch with a pulling capacity of not less than four

(4) tons.

3) Fifty (50) feet of 3/8 cable

4) A hydraulically operated slide back or tilt bed which is at least seventeen (17) feet in length.

5) One (1) snatch block, four (4) ton capacity.

6) Tie down chains.

CLEAN UP - Removal and/or disposal of any debris left on roadway or property as result of a motor vehicle crash or recovery.

COLLISION WRAP/TARPING - Covering exposed areas from the weather elements or unauthorized access.

CONSUMABLES - Items necessary for the proper functioning of a motor vehicle, including, but not limited to gasoline, oil, antifreeze, transmission fluid and brake fluid.

CRUISING — Driving a wrecker along a public highway at a slow speed or in some other fashion obviously intended to solicit business.

DISABLED VEHICLE - A vehicle which has been abandoned, impounded, or rendered inoperable as a result of mechanical failure, involved in an accident or criminal activity. A vehicle, the location of which constitutes a hazard to the motoring public, shall be deemed disabled for the purpose of this chapter.

EXTRA PERSON/LABORER - Additional manpower needed to complete a recovery winching or towing of a vehicle, labor charged for additional manpower shall be based on a one person per hour basis.

HEAVY DUTY RECOVERY VEHICLE - A heavy duty tow vehicle outfitted with a commercially manufactured lifting apparatus with a minimum capacity of twenty-five (25) tons.

HEAVY DUTY TOWING - The removal and transportation from a highway, street or other private or public road or a parking area or from a storage area any of the following vehicles: school buses, step vans, mason-type dump truck, straight body truck, tractor trailer, large commercial buses, concrete mixers, tandem dump trucks, and any other vehicle with more than two (2) axles that an ordinary tow vehicle is not designed to handle.

HEAVY DUTY TOW VEHICLE -A tow vehicle outfitted with the following equipment:

1) Commercially manufactured wrecker with chassis, hydraulic in nature, with a capacity of not less than 26,001 pounds Gross Vehicle Weight Rating with under reach capabilities, and axle lift with minimum 25 ,000 pounds lift capability and 80 ,000 pounds tow capability.

2) Air brakes.

3) Air transfer system - means of controlling the air brakes of towed vehicle.

4) Power take-off controlled winch with a minimum cable thickness of five-eighths (5/8) of an inch and two hundred (200) feet in length.

5) Amber emergency lights, with proper amber light permit.

6) Safety chains, minimum one-half (1/2) inch.

HEAVY WRECKER — A vehicle used to tow or remove other vehicles which have registered gross vehicle weights in excess of 10,000 pounds.

IMPOUNDMENT - The act of storing and confining a vehicle upon an order of the Police Department at either the tow operator's storage area or at a borough facility as a result of abandonment, involvement in an accident or suspected criminal activity.

INSIDE SECURED STORAGE FACILITY -A vehicle storage facility that is completely indoors, having one (1) or more openings in the walls for storage and removal of vehicles that is secured by a locking device on each opening.

LIGHT DUTY TOW VEHICLE - A tow vehicle outfitted with the following equipment:

1) Commercially manufactured chassis, rated capacity of not less than ten thousand (10,000) pounds GVWR, or equally rated by a certified rating company.

2) Commercially manufactured lifting apparatus with a minimum capacity of four (4) tons, or equally rated by a certified rating company.

3) Dual rear wheels.

4) Universal tow sling or wheel lift with System 7 safety chains.

5) One snatch block, three (3) ton rating.

MOTOR VEHICLE ACCIDENT -An occurrence in which a private passenger automobile comes in contact with any other object from which a private passenger automobile must be towed or removed for placement in a storage facility.

ON-CALL TOW LIST-A list of tow operators maintained by the Police Department of the Borough of Spotswood containing the names and addresses of tow operators who will be called on a rotating basis when the Police Department determines that the assistance of such services is required within the borough.

OPERATOR — Anyone who engages in the business of operating a wrecker or heavy wrecker. It is not necessary that the vehicle used is owned by the operator. A person who leases, borrows or otherwise obtains a wrecker or heavy wrecker shall be considered an "operator." However, the term does not include a person hired by another to drive a wrecker or heavy wrecker.

OUTSIDE SECURED STORAGE FACILITY -A vehicle storage facility that is not indoors and is secured by a fence, walls or other manmade barrier that is at least six (6) feet

high and is installed with a passive alarm system or a similar on-site security measure. The facility is to be lit at night. Such facilities shall maintain adequate lighting to protect stored vehicles from vandalism.

OUTSIDE UNSECURED - A vehicle 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 as inside building or outside secured.

OWNER - A person, firm or corporation who owns and/or operates a vehicle on the roads of the highways within the Borough of Spotswood, which vehicles, by reason of being disabled or being unlawfully upon said roads, requires towing services.

PERMIT - License to engage in the activity of towing and storing motor vehicles at the direction of the borough.

PERMIT HOLDER - Any person who obtained a permit to engage in the activity of towing and storing motor vehicles at the direction of the borough pursuant to the provisions of this chapter.

PERSON - Any individual, firm association, partnership or corporation or any group of two (2) or more of them or anyone acting on behalf of said person.

POLICE TOW LIST WRECKER LICENSE — Entitles a wrecker operator to be placed on the rotational police tow list.

RECOVERY -An action in which the tow operator utilizes his knowledge in a skillful manner to preserve the condition of the motor vehicle while bringing the automobile to a towable position. Such actions may include, but are not limited to, winching.

SERVICE CALL - Response to a call for aid to a disabled vehicle to include but not limited to a vehicle in need of consumables, need a flat tire fixed, keys locked in car, etc.

TOW OPERATOR - A person engaged in the business of towing and storing motor vehicles or offering the services of a tow vehicle and storage.

TOW VEHICLE - Those vehicles equipped with 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. Two vehicles shall include wreckers.

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

VEHICLE ACCESS CHARGE - Owner and/or insurance representative must be accompanied into the secured storage yard facility to inspect, remove personal belongings, adjust and take photographs.

WAITING TIME -Additional time a tow operator spends at the scene other than the time required for the actual tow and/or recovery. Examples of waiting time includes, but is not limited to, time spent waiting while EMS performs necessary services and/or police investigate the scene.

WINCHING — Hauling or hoisting a vehicle into position so as to enable a wrecker to attach, tow, or remove the vehicle and which operation is separate and distinct from customary hoisting of a vehicle onto a flatbed or rear of a wrecker.

WRECKER — A vehicle used to tow or remove other vehicles usually so damaged or disabled that they cannot proceed under their own power. It also refers to the operator of a wrecker as defined herein.

[Note to Codifier: Delete Section 209-3 through 209-12 of the Borough Code for the Borough of Spotswood and replace with the following:]

§ 209-3. Permit required.

It shall be unlawful for any person to engage in the activity of towing or storing motor vehicles at the direction of the borough without first having obtained a permit therefore in accordance with the requirements of this chapter. Nothing in this chapter shall be construed to

require a permit for the rendering of road service or for the provision of towing and storage services within the borough other than at the request of the borough.

§ 209-4. Application for permit.

A. Applications for permits required by this chapter shall be upon forms provided by the borough clerk, shall be signed and verified by the applicant, and shall set forth or be accompanied by the information set forth in Section 209-5 of this chapter. The original application and four (4) copies thereof must be filed with the Borough Clerk and shall be accompanied by the fee prescribed in the Section 209-6 of this chapter and the insurance certificate prescribed in Section 209-9 of this chapter.

B. On or before November 1st of each and every calendar year in which any person engages or will engage in the activity of towing or storing motor vehicles within the borough at the direction of the borough, such person shall file an application and pay a fee in the manner and amount set forth herein for a permit for the following calendar year. Applications received after November 1 shall not be considered for the upcoming calendar year and shall instead be considered for the next year.

C. Upon expiration or revocation thereof, the license shall be null and void.

§ 209-5. Application requirements.

An application for a towing permit shall set forth or be accompanied by the following information:

A. Name and address of the applicant, if an individual; the name and address of each partner, if a partnership; the name, date and state under which organized, if a corporation, and if a foreign corporation, whether the same is authorized to do business in the State of New

Jersey. A corporate applicant shall indicate the names of directors, principal officers and local representatives and their business addresses.

B. For each tow vehicle utilized by the tow operator in conducting his business, the year, make, model, vehicle identification number, type of vehicle, proof of registration and proof of insurance for the vehicle.

C. The address at which the tow vehicle(s) shall be regularly garaged.

D. The address and telephone number at which the tow operator shall be reached on a regular basis to provide service at the request of the borough.

E. The location, size and security features of the storage lot or space in which towed vehicles will be stored, including the number of spaces available and a designation of the lot as either "inside secured storage facility", or "outside secured storage facility".

F. A listing of the tow operator's current fee schedule for towing and storage services.

G. A listing of all equipment used or to be used in the towing operation.

H. A listing of all personnel who are authorized by the applicant to provide services on behalf of the applicant.

I. Storage facilities must be in compliance with all applicable codes, municipal ordinances and be properly zoned for the use of towing and storage of vehicles.

J. All towing operators and their drivers shall be fully trained, knowledgeable in the operation of all required equipment and necessary tools to perform all facets of the safe and efficient removal of all types of motor vehicles regardless of the physical condition of the vehicle.

K. All wrecker operators and their agents and/or employees are required to wear reflectorized traffic safety vests when working at the scene.

§ 209-6. Application Fee.

Each applicant for a permit must submit an application fee in the amount of \$100 with the application. This fee shall be applied to the costs incurred by the Borough for the processing of the application and for inspection of the tow vehicle(s) and equipment contained therein.

§ 209-7. Application Review.

A. The Borough Clerk shall forward all completed applications to the Chief of Police, who shall conduct or cause to be conducted such investigation as he deems necessary to determine the truth and accuracy of the information contained in the application and whether the applicant meets the following minimum standards:

- 1) either the applicant nor any tow vehicle operator has any criminal convictions or prior motor vehicle infractions which might adversely affect the safety or welfare of public.
- 2) The applicant has the ability to respond to any request for assistance within the allotted time allowed.
- 3) The applicant can provide on-call towing services twenty-four (24) hours per day, seven (7) days per week.
- 4) The tow trucks and equipment are in safe and sound condition and in compliance with all applicable federal, state and local laws, rules and regulations.
- 5) The applicant has the ability to perform mechanical inspections of and minor repairs to disabled vehicles.
- 6) The applicant owns or has a valid lease to a storage facility, in an area legally zoned for such use, and such storage facility includes a minimum of ten (10) outside spaces and an inside secured facility for storage of impounded vehicles within ten (10) miles of the Borough's boundaries.
 - a) A heavy-duty tow operator owns or has a valid lease to a storage facility within fifteen (15) miles of the Borough's boundaries.
- 7) The applicant is in compliance with and/or has the ability to comply with all other requirements and standards set forth in this chapter.

B. Within thirty (30) days of receipt of the application, the Chief of Police shall give a written recommendation to the Borough Council that the application be approved or denied. If the Chief of Police recommends disapproval of the application, he shall set forth reasons for same.

§ 209-8. Issuance of permit.

A. Upon approval of the application by the Borough Council, a permit, valid for a duration of one (1) calendar year, shall be issued by the Borough Clerk.

B. Each permit shall be valid for a duration of one (1) calendar year and shall not be transferable to any other person.

C. The permit holder shall be solely responsible for renewing the permit prior to the termination of the calendar year in accordance with the provisions of this chapter.

D. Within ten (10) days of the issuance of the permit, the Borough Clerk shall send a copy of the permit to the Police Department. Within five (5) days of receipt of a copy of the permit, the permit holder shall be placed on the on-call tow list established in Section 209-11 of this chapter.

E. At the time of the initial permit period for the 2023 towing year, there shall be a maximum of 10 permits issued. The permit holders who are currently on the list shall remain on said list at the time of implementation of this recently adopted ordinance so long as they adhere to all of the requirements of the towing ordinance in its entirety. The number of permits issued will be grandfathered above a new threshold of 7 permits until permit holders choose not to renew, are not allowed to renew, or are removed for failure to comply with the requirements of this ordinance. If in the event there are more qualified towers than the seven permits to be issued, a review of the applications will be conducted by the Chief of Police and the Traffic Safety Division to determine the best qualified applicant to fill the remaining openings on the list for the permit period.

§ 209-9. Insurance.

A. Prior to the issuance of the permit, each tow operator shall deliver to the Borough Clerk a certificate of insurance which certificate shall name the borough as an additional

insured. The certificate shall provide evidence that the tow operator carries the following insurance coverage:

1. Comprehensive General Liability- in an amount not less than two million (\$2,000,000.00) dollars companies single limit covering bodily injury and property damage liability, including but not limited to personal injury, products liability, independent contractor, and completed operation coverage.
2. Automobile Liability - coverage in minimum limits of five hundred thousand (\$500,000.00) per accidental occurrence and the aggregate for bodily injury and property damage. This insurance must all include adequate coverage to protect the owners of private vehicles that are in the care, custody and control of the Borough Operator, Said coverage must provide at least twenty thousand dollars (\$20,000.00) in minimum coverage for any damages or loss arising out of theft to vehicle content, the vehicle itself or to losses due to fire or explosion.
3. Excessive Liability (Umbrella Forms)- a minimum of five hundred thousand dollars (\$500,000.00)/five hundred thousand dollars (\$500,000.00) for bodily injury and property damage combined.
4. Workers Compensation - as required by state law.

B. The General Comprehensive Liability Insurance required pursuant to Section 209-9(1) of this chapter shall provide for the indemnification of the borough to the fullest extent permitted by law and that the borough shall be defended, indemnified and held harmless from and against any and all claims, suits, judgments and amounts, whatsoever, including without limitations, cost, litigation expenses, counsel fees and liabilities with respect to injury to or death of any person or persons whatsoever or damage to property of any kind by whomever owned arising out of or caused or claimed to have been caused in whole or in part by the negligent acts or omissions of the tow operator or other person directly or indirectly employed by the tow operator while in the performance of rendering any services pursuant to the scope of this chapter.

§ 209-10. Equipment specifications.

A. The tow operator shall have specialized towing equipment in good repair which meets the following specifications.

1. Emergency lights which flash and are capable of being visible one-fourth of a mile away and of sufficient height to be seen over the towed vehicle.
2. Fire extinguisher, five (5) pound carbon dioxide or dry powder or equivalent.
3. Clean-up equipment including brooms, shovels and debris containers.
4. Steering lock bars
5. Amber light permit
6. Twenty (20) pounds of absorbent material for motor vehicle fluid spills.
7. Portable bar lighting (heavy duty only)
8. Reflective traffic vest.
9. Reserved
10. At least one (1) car carrier capable of removing certain types of damaged vehicle or those, which by design cannot be removed by conventional wreckers without sustaining additional damage.
11. Communication equipment between vehicles and their dispatchers via cell phone or other device.
12. All chains and binders which may be needed.
13. Any and all tools which may be needed.
14. The tow operator shall submit a copy of its equipment list in its application to the tow list.

B. All equipment must meet applicable state standards and shall be subject to periodic inspection by the borough.

§ 209-11 On Call Tow List.

A. The Chief of Police shall maintain a list of those tow operators holding a valid permit to respond to a call from the Borough Police Department. In order to be included on the on-call tow list, a tow operator must hold a valid towing permit and meet all of the requirements of this chapter.

B. Calls to tow operators on the on-call tow list shall be made on a nondiscriminatory rotating basis pursuant to the procedures established by the Chief of Police. Nothing herein shall permit the Chief of Police or his designee from calling a tow operator out of sequence or seeking the services of a tow operator not on the on-call list if the circumstances require specialized equipment or if in the interest of public safety to require so.

C. The fees to be charged for towing and storage services shall be set forth in Section 209-13 of this chapter. The borough shall not be held liable for the cost of any towing and/or storage services unless those services are performed on a municipal vehicle.

D. Inclusion on the on-call tow list shall be automatically revoked upon expiration or revocation of the tow operator's permit. The Chief of Police may also suspend a tow operator's inclusion on the on-call tow list for such a period of time he considers appropriate for violations of this chapter, after a hearing of such violations. Suspensions may be appealed pursuant to the procedures set forth in Section 209-21.

E. All vehicles towed at the request of the borough must be removed to an approved storage facility unless the owner or operator of the vehicle specifically requests that it be towed to another destination. Any Borough Police Officer at the scene shall be responsible for making the final determination as to the towing destination.

§ 209-12 Performance Standards.

A. Maintenance of place of business. Light and medium duty tow operators shall maintain a principal place of operation within 10 miles of the Borough boundaries as a property owner or holder of a valid lease. A heavy-duty tow operator shall maintain a principal place of operation within 15 miles of the Borough boundaries. Tow operators shall comply fully with all of the zoning, land use and property maintenance codes of the municipality in which the tow operator's business is located.

1. Each place of business will provide and maintain the following:

- a. One tow operator allowed per base of service or storage facility.
- b. A store front including signage displaying the business name, address and phone number.
- c. A person in the office to greet customers rendering service.
- d. A waiting area for patrons use.
- e. A properly maintained and working restroom for patrons.

Failure to comply with such codes may subject the tow operator to suspension from the on-call tow list by the Chief of Police.

B. Availability of services. The tow operator must be available and capable of providing towing services on a seven (7) day per week, twenty-four (24) hour per day basis for the entire geographic area of the borough.

C. Response time. The tow operator must meet the following response times within the Borough of Spotswood:

1. Light duty.

- a. Days: Between the hours of 8:00 a.m. and 4:30 p.m., seven days a week the tow operator must respond to a call within 25 minutes.

- b. Nights: Between the hours of 4:30 p.m. and 8:00 a.m. seven days a week the tow operator must respond to a call within 35 minutes.
2. Medium/heavy duty: Medium/Heavy duty tow operator must respond to a call within 45 minutes.
3. Response time determination is to be initiated when the police call requesting towing is completed. Where the police cannot reach the next eligible tow operator on the list or the tow operator fails to appear within the response times delineated in this section, that tow operator shall be deemed to have forfeited his turn and the next succeeding tow operator on the list shall be called.
 - a. 90% of all calls referred must be answered within the response time outlined above. Not more than 10% of the calls will be answered within an additional 10 minutes (day or night). No response will be later than 45 minutes, whether day or night, except for large vehicle response time delineated in Section 116-12C(1)(c). The performance standard will be reviewed periodically. Where the response time of the tow operator is found to exceed the standards delineated in this section, the tow operator will be removed from the on-call tow list for a period of at least six months. Said tow operator shall remain suspended from the list until it is shown, to the satisfaction of the Chief of Police, that effective steps necessary to implement procedures to ensure compliance with the foregoing performance standards have been undertaken.
 - b. Ninety percent (90%) of all calls referred must be answered within the response time outlined above. Not more than ten percent (10%) of the calls will be answered within an additional ten (10) minutes (day and night). No response will be later than forty-five (45) minutes, weather day or night, with the exception of large vehicle response time delineated in Section 209-12C(1)(c). The performance standard will be reviewed periodically. Where the response time of the tow operator is found to exceed the standards delineated in this section, the tow operator will be removed from the on-call tow list for a period of at least six (6) months. Said tow operator shall remain suspended from the list until it is shown, to the satisfaction of the Chief of Police, that effective steps necessary to implement procedures to ensure compliance with the foregoing performance standards have been undertaken.
 - c. If a towing entity fails to answer the phone/respond to a minimum of 70% of the calls they are called for (including Police Vehicle Tows), they will not be allowed to renew their application the following year.

D. Registered towing personnel. The tow operator must register all

personnel who are authorized by the tow operator to provide services on behalf of the tow operator. This registration must include for each person:

1. Name, residence and telephone number.
2. New Jersey Drivers License Number and expiration date.
3. Social security number
4. Signed statement by each person setting forth their understanding that the background check will be performed by the Police Department, the results of which will be used by the Police Department in determining the eligibility of the towing and storage contractor for inclusion on the on-call tow list.
5. The tow operator must update this registration as necessary to insure that it remains current.

E. Cleanup of debris. Each towing operator, prior to the departure from the scene where it performed towing services, shall clean and clear the streets of any customary debris resulting from any accident at such scene and shall at all times carry the necessary equipment to perform such cleaning services to the satisfaction of the police officer on scene.

F. Storage. Storage shall be provided for all vehicles towed until claimed by the owner or disposed of in accordance with applicable law. The tow operator shall provide adequate land areas sufficient to store a minimum of 10 vehicles. Those existing operators who lease storage facilities from another tow operator shall lease a land area sufficient to store a minimum of 10 additional vehicles in excess of the 10 spaces required for the towing operations of the leasing tow operator. The lease agreement shall not exceed the one-year period set forth in Section 209- 12(A)(1) of this chapter. Each storage area must be either an indoor secured storage facility or an outdoor secured storage facility. The storage facility must be located within 10 miles of the Borough.

G. Information to be displayed on vehicle: There shall be permanently displayed on the right and left sides of each tow vehicle utilized by the tow operator, the following information:

1. The vehicle number
2. The rates charged
3. The name, address and telephone number of the Tow Operator.

H. Cruising. No driver of a towing vehicle shall engage in cruising as defined in this chapter or otherwise interfere with the progress of traffic on public highways. No towing vehicle owner shall attempt to divert patrons of one garage to another garage. No towing vehicle owner shall demand or receive any commission, gratuity or other payment other than the agreed upon fee for towing a disabled vehicle.

§ 209-13 Rates.

A. Standard Towing.

1. The Standard towing rates (up to 8,000 lbs). The maximum rates and charges that may be charged by the permit holder for basic towing services rendered to a motor vehicle under this chapter, are as follows:
 - a. Monday-Friday 6:00 a.m.-5:59 p.m.: \$150.00
 - b. Monday-Friday 6:00 p.m.-5:59 a.m.: \$175.00
 - c. Weekends and Holidays: \$175.00
 - d. Clean-up Fee: \$75.00 plus \$22.00 per bag of oil absorbent.
 - e. Wait Time: \$100.00 per hour after 30 minutes on scene.
 - f. Recovering/Winching: \$125.00 per hour plus tow fee.
 - g. Extra person: \$100.00 per person/per hour.

2. The rates delineated in Section 209-13A(l) apply only to the towing of a disabled passenger vehicle from a point within the borough to a destination also within the borough. Should the owner of the vehicle request the tow operator to tow the vehicle to a point outside the borough, the rate is to be predetermined by mutual agreement.
3. There shall be no other towing charges in addition to those delineated in this section, including but not limited to charges for flat bedding and additional labor.
4. The rates delineated in Section 116-13A(l) apply only to basic towing services. Recovery charges and serious motor vehicle accident charges will be based upon individual requirements for equipment, personnel and conditions encountered.
5. Tow vehicles transporting multiple vehicles at one time may charge the applicable fee for each vehicle transported.
6. The rates delineated in Section 209-13A(l) shall be exclusive of any other repair service costs provided by the tow operator, including, but not limited to, such activities as repairing flat tires or installing new and/or spare parts to a disabled vehicle. The tow operator shall be permitted to charge an additional fee based upon the tow operator's prevailing hourly labor rates and charges for parts or materials. In such situations, it shall be the responsibility of the tow operator to first inform the owner and/or operator of the motor vehicle of the hourly labor rates and the estimated cost for parts, materials and labor prior to the performance of the road repair services.

B. Standard Storage

1. Standard storage (up to 8,000 lbs). The maximum rates and charges that may be charged by the permit holder for basic towing services rendered to a motor vehicle under this chapter are as follows:
 - a. Outdoor: \$60.00 per day.
 - b. Indoor: \$90.00 per day.
 - c. Administration Fee: \$50.00 (accidents only).
 - d. Vehicle Access Fee: \$75.00 (accidents only).
 - e. Covering/Tarping \$90.00 (one time charge).
 - f. After hours release: \$75.00
2. Storage fees are for each twenty-four-hour period or fraction thereof. The

first day of storage commences 12 hours after the vehicle is towed to the storage facility.

3. The tow operator shall give the owner of a vehicle a written itemized receipt for the fee paid. Upon receipt of payment the tow operator shall have the customer sign the receipt and provide a copy of the signed itemized receipt to the customer.
4. The rates and charges outlined in Section 209-13A and 209-13B apply to, but are not limited to, towing and storage necessitated by a motor vehicle accident, by a disabled motor vehicle or by a motor vehicle impound. No person shall be liable to any permit holder for any towing or storage fees in excess or in addition to those set forth in the fee schedule established in Sections 209-13A and 209-13B.
5. Prior to hook-up or flat bedding of a motor vehicle, the tow operator shall present a business card to the owner or operator of the vehicle. The business card must contain the name, address and telephone number of the tow company.
6. Except for vehicles deemed "police impounds" in accordance with Section 209-14 of this Code, no tow operator shall refuse to accept from any automobile owner or operator payment for services or parts thereof in the form of a major credit card (American Express, Visa, Master Card) or a personal in-state check provided that the operator has received no indication challenging the validity of either the credit card or the personal check. With respect to police impounds, a tow operator may refuse to accept from any automobile owner or operator payment for services or parts thereof in the form of a major credit card or a personal check and require the owner or operator to pay for services with cash.

C. Standard Service calls.

1. The Standard road service. The maximum rates and charges that may be charged by any permit holder for a service call are as follows:
 - a. Passenger cars, tire change, jump start: \$125 per hour plus parts.
 - b. Trucks (medium/heavy duty): \$175 per hour plus parts.

D. No person shall be liable to any permit holder for any service call fees in excess or in addition to those set forth in the fee schedule established in Section 209-13C.

E. Pursuant to N.J.S.A 40:48-2.54, the owner of any motor vehicle whose motor vehicle is towed and /or stored other than at the owners request, may send complaints and/or report disputed fees in writing to the Chief of Police. The Chief of Police shall arrange for investigation of the owner's allegations and report the outcome of the investigation

to the owner within thirty (30) days of the borough's receipt of the written complaints.

§ 209-14 Police Impounds.

Motor Vehicles which are stolen, abandoned, involved in a crime, involved in a fatal accident or accidents which, in the judgment of police may become fatal, shall be considered police impounds. The Chief of Police shall designate where such police impounds shall be towed

§ 209-15 Unclaimed Vehicles.

The tow operator shall submit to the Police Department the following information on vehicles unclaimed for a period of over fifteen (15) days:

- A. The year, make, model, color, and vehicle identification number.
- B. A copy of a certified letter advising owner of the vehicle's location and circumstances surrounding same.
- C. A photograph of vehicle.
- D. The odometer reading of the vehicle.

Upon request, the Police Department shall supply the tow operator with the name and address of the owner of the vehicle.

§ 209-15.1. Junk Title Certificate

A tow operator, who has in his possession a vehicle which has been abandoned or unclaimed for a period of 15 business days or more, which is inoperable or cannot be put in safe operational condition except at a cost in excess of the value of the vehicle, may apply to the State of New Jersey for a Junk Title Certificate. In order to apply for a Junk Title Certificate the tow operator shall:

- A. Provide notice to the Police Department of its possession of the vehicle in accordance with Section 209-15 of the Spotswood Borough Code.

B. Notify the owner and lien holder (if applicable) by certified mail that the tow operator is in possession of the abandoned or unclaimed vehicle; the amount of any lien on the vehicle that the tow operator claims and the daily storage fees.

C. Request that the Police Department complete a check with the National Crime Information Center (NCIC) to determine if the vehicle is stolen.

D. Provide to the Police Department a completed copy of the New Jersey Motor Vehicle Commission Form OS/SS-87- "Report of Possession of Abandoned Vehicle by Public Agency and Request for a Junk Title" to be signed by an authorized representative of the Spotswood Borough Police Department and proof that the notice required by this section has been sent to the owner and lien holder (if applicable).

E. All required documents shall be mailed to the New Jersey Motor Vehicle Commission along with a check or money order for \$2 made payable to NJ MVC.

F. The Spotswood Borough Police Department will maintain a record of all Junk Title Certificates and shall turn the original Junk Title Certificate over to the requesting tow operator.

§ 209-15.2. Standard Title Certificate.

A tow operator who has in his possession a vehicle which has been abandoned or unclaimed for a period of 20 business days or more, which can be put in safe operational condition at a cost not to exceed the value of the vehicle or the owner of the vehicle owes payment to the tow operator in excess of the value of the vehicle, may apply to the State of New Jersey for a Standard Title Certificate so that the vehicle may be sold at auction or have ownership of the vehicle transferred to the tow operator to satisfy the tow operator's Lien on the vehicle. In order to apply for a Standard Title Certificate the tow operator shall:

A. Provide notice to the Police Department of its possession of the vehicle in

accordance with Section 209-15 of the Spotswood Borough Code.

B. Notify the owner and lien holder (if applicable) by certified mail that the tow operator is in possession of the abandoned or unclaimed vehicle; the amount of any lien on the vehicle that the tow operator claims and the daily storage fees.

C. Request that the Police Department complete a check with the National Crime Information Center (NCIC) to determine if the vehicle is stolen.

D. Provide the Police Department with a completed copy of the New Jersey Motor Vehicle Commission Form OS/SS-89- "Report of Possession of Abandoned Vehicle" to be signed by an authorized representative of the Spotswood Borough Police Department.

E. All required documents shall be mailed to the New Jersey Motor Vehicle Commission along with a check or money order for \$3 made payable to NJ MVC.

F. The tow operator shall deliver the vehicle to the Borough of Spotswood Department of Public Works for storage, or such other location as directed by the Police Department, until vehicle is put up for auction.

G. After the Borough of Spotswood receives a Standard Title Certificate from the Motor Vehicle Commission, the vehicle will be auctioned off by the Borough at the next public auction of Borough property.

H. After the vehicle is offered for auction any lien owed to the tow operator will be satisfied between the Borough of Spotswood and the tow operator either by the proceeds from the auction or possession of the vehicle if no qualifying bid is received at the auction.

§ 209-16. Arrangements by person responsible for automobile.

Nothing contained in this chapter shall prevent a person responsible for an automobile disabled upon the public streets or highways within the Borough of Spotswood to arrange for the

prompt removal of the vehicle from the scene of an accident or disablement by wrecking or towing services of his/her own selection .The person responsible would be advised of the ability to select such towing service at the required time of removal, providing such person is present, fully conscious and capable of taking prompt action. However, if the circumstances are such that the Chief of Police or his designee deems it not in the best interest of the public to allow said person to select his own towing service, then the person shall not be afforded the opportunity to do so.

§ 209-17. Administration and Enforcement.

The Chief of Police and the Police Department are hereby designated to administer and enforce all provisions of this chapter.

§ 209-18. Regulations and Procedures.

The Chief of Police shall promulgate such rules, regulations and procedures, not inconsistent with the chapter, as may be reasonable and necessary to carry out the provisions of this chapter. Copies thereof shall be provided to all permit holders and shall be made available to the public, along with copies of current fee schedules, during business hours.

§ 209-19. Revocation and Suspension of Permit.

A. The Chief of Police may suspend or revoke a towing permit for the following reasons:

1. False or materially inaccurate information in the application, or a change of circumstances which would have caused disapproval of the application if existing at the time of approval.
2. Failure to comply with any of the requirements of this chapter, any additional regulations promulgated by the Chief of Police, or any state, federal or local law relating to motor vehicle operation.
3. Unsatisfactory service which jeopardizes public safety. More than three (3) unexcused failures to respond and/or substantiated complaints within a calendar year shall be considered for grounds of revocation.

4. Any holder of a towing permit who has had the permit suspended or revoked shall not be eligible to reapply for a towing permit for a period to be determined by the Chief of Police. Said period of ineligibility shall not exceed five (5) years.

B. Prior to suspending or revoking a permit, the Chief of Police shall give the permit holder seven (7) days written notice specifying the grounds upon which the permit is proposed to be suspended or revoked and an opportunity to be heard.

§ 209-20. Violations and Penalties.

Any person who violates any of the provisions of this chapter or who fails to comply with a requirement of this chapter shall, for each such violation or offense, upon conviction thereof be punished by a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) or imprisoned for a term not to exceed ninety (90) days, or both. Each and every violation of this chapter or each and every day that the violation shall be permitted to continue shall be construed as a separate and distinct violation hereof. The Police Department of the Borough of Spotswood is specifically designed as the enforcement officer to serve and execute the process for violation of this chapter. For any violation of any zoning rules or regulations, the Borough of Spotswood Zoning and Code Enforcement Officer shall have the authority to enforce the provisions of this chapter, in accordance with due process of law.

§ 209-21. Appeals.

Any person aggrieved by the action of the Chief of Police or the Borough Clerk in the denial of an application for a permit, in the suspension or revocation of a permit or in the suspension from the on-call tow list, may appeal to the Borough Council by filing a written request for a hearing with the Borough Clerk, setting forth the grounds for the appeal. Said request must be filed within fourteen (14) days after notice of the action complained of has been mailed to the person at the address listed on the most recent application. The council shall set a time and

place for a hearing on such appeal and notice shall be served upon the applicant or permit holder via regular and certified mail at least five (5) days prior to the hearing.

§ 209-22. Severability.

If any section, subsection, clause or phrase of this chapter is held to be constitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter.

§ 209-23. Heavy duty towing and heavy duty recovery.

In addition to Sections 209-1 through 209-22, the following shall apply to any tow operator providing heavy duty towing and/or recovery services in the borough:

A. Heavy duty recovery equipment. Any new tow operator providing heavy duty recovery services must own, and have available, at least two (2) heavy duty tow vehicles. In addition to the equipment required in Section 209-10, any tow operator providing heavy duty recovery services in the borough is required to have available the following equipment.

- 1) Air cushion recovery system
- 2) One (1) semi-tractor with fifth wheel.
- 3) One (1) Lowboy or Landall type equipment hauling trailer with a minimum hauling capacity of forty thousand (40,000) pounds.

B. Subcontractors. At time of application to the tow list the vendor shall submit a copy of the written contracts with all subcontracted recovery services. Vendors shall subcontract only to those service providers on the on-call list maintained by the Chief of Police in accordance with Section 209-23D. Insurance certificates for all subcontractors must be on file at the vendor's place of business. All subcontracted service providers shall work under the supervision of the vendor and must comply with the provisions of Section 209-1 et seq.

C. On-call list. The Chief of Police shall maintain separate on-call lists for heavy duty towing and for heavy duty recovery, which shall be maintained and utilized in accordance with Section 209-11.

D. Heavy duty towing.

(1) Heavy duty towing rates (8,001 lbs. and up): The maximum rates and charges that may be charged by the permit holder for heavy duty towing services rendered to a motor vehicle under this chapter are as follows:

- a. Medium duty 8,001 - 18,000 lbs.: \$250 per hour.
- b. Heavy duty 18,001 - 26,000 lbs.: \$350 per hour.
- c. 26,001 lbs. and above: \$500 per hour.
- d. Tractor with landoll/lowboy trailer service: \$450 per hour.
- e. Rotator/crane service: \$1,200 per hour.
- f. Clean-up fee: \$75 plus \$22 per bag of oil absorbent.
- g. Wait time: \$100 per hour after 30 minutes on scene.
- h. Recovery/winchng up to 18,001 lbs.: \$350 per hour/per truck/plus tow fee.
- i. Recovery/winchng over 18,001 lbs.: \$600 per hour/per truck/plus tow fee.
- j. Extra person: \$100 per person/per hour.
- k. Tractor/transport hauler only: \$250 per hour.
- l. Refrigerated trailer with tractor: \$450 per hour.
- m. Box trailer with tractor: \$400 per hour.
- n. Air cushion unit: \$1,000 per hour.
- o. Light tower: \$250 flat rate.
- p. Pallet jack: \$200 flat rate.
- q. Rollers: \$200 flat rate.
- r. Any other specialized equipment: \$250 per hour.
- s. Loader/backhoe/bulldozer/telescopic handler/bobcat: \$300 per hour each.
- t. Forklift: \$300 per hour.
- u. Dump truck/dump trailer with tractor: \$350 per hour.
- v. Roll off with container: \$350 per hour plus disposal.
- w. Recovery supervisor vehicle: \$150 per hour.
- x. Recovery support vehicle/trailer: \$350 per hour.
- y. Scene safety equipment, communication equipment, traffic management equipment, etc.: \$250 per hour each type used.
- z. Additional recovery equipment: \$350 per hour.

(2) Recovery charges involving serious motor vehicle accidents and recoveries will be based upon individual requirements for equipment, personnel and conditions encountered.

After the first hour, all hourly billable rates will be charged in half hour increments. Charges for all trucks/recovery equipment are inclusive of the operator. You may not separately charge for an operator that drives/operates the truck/recovery equipment.

(3) In the event that it is necessary to unload a vehicle's cargo prior to or after towing, an agreement shall be reached between the contractor and the owner of the vehicle or the owner's agent or representative as to the charge for said service. No written agreement is necessary in an emergency situation. The Chief of Police or his designee shall determine when an emergency exists.

E. Heavy Duty Road Service (8,001 lbs. and up):

1) The maximum rates and charges that may be charged by the permit holder for heavy duty towing services to a motor vehicle under this chapter are as follows:

- a. Medium Duty 8,001 to 18,000 lbs.: \$90/day;
- b. Heavy duty, 18,001 to 26,000 lbs.: \$100 per day.
- c. Heavy duty, 26,001 to 80,000 lbs.: \$125 per day.
- d. Roll-off: \$125 per day each.
- e. Cargo/accident/load storage/vehicle components: \$45 per space used per day.
- f. Rental of any tow company supplied trailer post incident: \$500 per day.
- g. Administrative fee (medium/heavy duty): \$100.
- h. Covering/Tarpping: \$250 per truck.
- i. After hours release: \$75.
- j. Fuel/hazmat/cargo spills/trash recovery: surcharged 10%.
- k. Vehicle access charge: \$100.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Spotswood as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The above-referenced section of the Borough Code for the Borough of Spotswood shall be amended as set forth above.

Section 3. All ordinances or parts thereof inconsistent with the provisions of this ordinance are hereby repealed above.

Section 4. Each section, subsection, sentence, clause, and phrase of this ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and if any finding or holding of any such portion of this ordinance is declared to be unconstitutional, void, or ineffective for any cause, or reason, that finding or holding shall not affect any other portion of this ordinance.

Section 5. The Borough Clerk is hereby directed, upon adoption of this ordinance, after a public hearing thereon, to ensure public notice of the passage thereof.

Section 6. This ordinance shall be in full force and effect from and after its adoption and publication as required by law.

Dated: November 8, 2023

ATTEST:

NICHOLAS LEGAKIS
Council President

JENNIE SERVIS
Acting Municipal Clerk