

ORDINANCE #2013-22

AN ORDINANCE REVISING AND RESTATING CHAPTER 600 OF THE REVISED
GENERAL ORDINANCES OF THE TOWNSHIP OF LOWER

WHEREAS, Chapter 600 of the Revised General Ordinances of the Township of Lower governs rules and regulations with regard to the practice of automobile towing and storage in the Township of Lower; and

WHEREAS, because of the numerous changes to the "Towing" Ordinance over the past few years, it is the intent of this Council to revise and restate Chapter 600 in its entirety.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Township Council of the Township of Lower, County of Cape May, State of New Jersey the following be the revised Chapter 600 of the Revised General Ordinances of the Township of Lower:

Section 1.

**CHAPTER 600
TOWING AND STORAGE**

§ 600-1 Purpose.

The purpose of this chapter is to establish pursuant to N.J.S.A. 40A:11-5(1)(u) a list of licensed towing contractors to provide towing and storage services to the public, the Township and Police Department on an equitable rotating basis in a safe, efficient, and convenient manner and to establish, pursuant to N.J.S.A. 40:48-2.49, regulations which set towing and storage rates and govern towing contractors engaged in the business of towing and storing vehicles.

§ 600-2 Definitions.

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

BASIC TOWING SERVICE

The removal and transportation of any vehicle at the request of authorized personnel or Police Department as may be required when abandoned, disabled, damaged in accidents, illegally parked, recovered after being stolen or, in cases of emergency, 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 a vehicle 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.

CHIEF OF POLICE

The Chief of the Police Department or his/her designee.

INSIDE BUILDING

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 which has been approved by the Chief of Police.

NONBASIC TOWING SERVICES

All towing services which are not basic towing services.

1st 10/7/13
2nd 10/21/13
off 11/1/13

OUTSIDE CONTRACTOR

An individual, corporation, partnership, association, trust or any other entity which may or may not be on the rotary list which provides towing services by aiding a towing contractor who is performing towing services pursuant to this chapter.

OUTSIDE SECURED

A vehicle 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 and adequately lighted at night, which has been approved by the Chief of Police.

PERSON

An individual, corporation, partnership, association, trust or any other entity.

POLICE DEPARTMENT

The Lower Township Police Department.

STORAGE FACILITY

An outside secured or inside building area or located within the Township's corporate boundary line used to store towed vehicles which has been approved by the Chief of Police.

TOWING COMPANY

An individual, corporation, partnership, association, trust or any other entity which is engaged in the business of towing vehicles.

TOWING CONTRACTOR

A towing company which is placed upon the rotary list that performs towing services for the Township.

TOWNSHIP

The Township of Lower, County of Cape May, State of New Jersey.

TOWNSHIP STORAGE FACILITY

A storage area or lot owned by the Township, if any.

TOW VEHICLE

Only those vehicles equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under-reach equipment specifically designed by their manufacturer for the removal or transport of private passenger automobiles. Tow vehicles fall into two weight classifications under state regulations, each with defined insurance limits:

- A. Light-/medium-duty tow vehicles have a gross weight of less than 32,000 pounds and are required by state regulation to carry minimum liability insurance coverage of \$750,000; and
- B. Heavy-duty tow vehicles have a gross weight of 32,000 pounds or more, and are required by state regulation to carry a minimum liability insurance coverage of \$1,000,000.

VEHICLE

Any vehicle or motor vehicle as defined by N.J.S.A. 39:1-1 et seq.

§ 600-3 Rotary list.

- A. This chapter hereby establishes a rotary list of towing contractors to provide basic and nonbasic towing and storage services for the Township on a rotating basis. No towing contractor shall be placed upon or permitted to remain on the rotary list unless licensed in accordance with the terms of this chapter. The Police Department will maintain the rotary list and determine the time period for each rotation and dispatch towing contractors in the order they appear on the rotary list. The list of towing contractors shall be determined by and under the direct supervision of the Chief of Police.
- B. A towing contractor shall be placed on the rotary list in the order in which its application is approved. Each new towing contractor shall initially be placed last on the list.
- C. If a towing contractor is called and for any reason does not, or is unable to perform the requested towing service, the next towing contractor on the list will be called and shall provide towing services. If no towing contractor on the rotary list is able to perform towing services when necessary, the Township shall have such service performed by an outside contractor.
- D. Any owner or operator of a vehicle receiving towing services may request a specific towing company. The Police Department is authorized to contact the requested towing company and shall not be required to comply with the provisions of this chapter, provided the requested towing company is capable of rendering towing services within a reasonable time, and is capable of cleaning and removing all vehicular debris from the area of the motor vehicle accident scene. In the event the requested towing company is also a towing contractor, the towing contractor's place in the rotary list shall not be affected.
- E. In the event the Police Department determines that an emergency or hazardous condition exists that must be remedied immediately, the Police Department shall take control of the management of the emergency or hazardous condition and the towing procedures necessary to effect the remedy. The officer may request a towing contractor or any towing company without regard to the rotary list. In the event a towing contractor is requested out of order on the rotary list, that towing contractor shall forfeit their next turn on the rotary list to the next towing contractor.
- F. The Police Department shall determine the order in which vehicles will be towed from the scene.
- G. No towing contractor shall appear on the rotary list more than once. A person having an ownership interest in a towing contractor that is on the rotary list, shall disqualify any other towing company in which that same person has an ownership interest from being on the rotary list, unless, each towing company in which the person owns an interest can satisfy the following criteria:
 - (1) is a separate entity registered with the State of New Jersey or other state;
 - (2) utilizes and maintains a separate storage facility at a separate location and operates its towing business from a separate location;
 - (3) maintains a separate insurance policy;
 - (4) the tow vehicles used by the towing contractor are registered to that towing contractor.
- H. No towing contractor shall lease its tow vehicles to another towing contractor or otherwise enter into any business relationship the purpose of which is to receive multiple listings on the rotary list.

§ 600-4 Application and licensure; investigation; inspection; revocation of license; renewal fee.

- A. Any towing company seeking placement on the rotary list shall be required to submit an application to and receive the approval of the Police Department before issuance of a towing contractor's license.
- B. All applicants are required to complete an application furnished by the Township Clerk, providing any and all information required by the Chief of Police as well as any supplemental information requested by the Chief of Police thereafter.
- C. All applicants seeking placement on the rotary list pursuant to this chapter and any person who will be operating a tow vehicle on behalf of the applicant shall be properly licensed by the New Jersey Motor Vehicle Commission, possess safe driving records and be of good moral character. The applicant shall also provide his or her driver's license abstract and information as well as for each person who will be operating a tow vehicle. The Police Department shall conduct a background investigation and has the discretion to deny a license to any applicant(s) or employee(s) who does not meet the applicable standards in this chapter.
- D. If the applicant is approved by the Police Department, the Chief of Police shall furnish a report to the Township Council with his recommendations, and the Township Council may then approve or disapprove the application, in its sole and absolute discretion.
- E. A license may be revoked at the discretion of the Chief of Police for good cause, including but not limited to:
 - (1) Unsatisfactory performance.
 - (2) Violation of any of the provisions of this chapter or the rules and regulations promulgated hereto.
 - (3) Submission of an application containing any materially false or misleading statement or information.
- F. Licenses shall be renewed annually from January 1 to December 31 of the succeeding year.
- G. All applications shall be accompanied by a nonrefundable fee of \$500.

§ 600-5 Towing and storage area requirements; performance standards.

All towing contractors shall be required to comply with the following provisions:

- A. To reduce response time for the safety and welfare of the public and Police Department and to ensure the adequacy and security of storage facilities, maintain a place either an inside building or outside secured storage facility within the Township, which storage facility shall be of sufficient size to accommodate the Township's needs and subject to any and all provisions contained in this chapter and ordinances of the Township and further subject to inspection by the Police Chief or his or her designee.

- B. All tow vehicles used by towing contractors which are utilized to render services under this chapter must be principally garaged within the confines of the Township.
- C. Comply with all Township Ordinances, pay all taxes, assessments, licensing fees or fines when due, comply with the requirements of Title 39, Chapter 3, Article 3 of the New Jersey Statutes, and all regulations governing tow vehicles promulgated by the New Jersey Motor Vehicle Commission or any other law or regulation of any State, federal or other governmental agency, department, division or commission having jurisdiction.
- D. Any person who operates a tow vehicle must be at least 18 years of age, possess a valid driver's license, and comply with the applicable provisions of this chapter and no person shall be permitted to operate a tow vehicle where such operator has accumulated six or more points or committed three or more moving violations pursuant to N.J.A.C. 13:19-10.1 or the conviction of a "serious traffic violation," as defined in N.J.S.A. 39:3-10.11, within any two-year period.
- E. Storage facilities; hours; transporting vehicles.
 - (1) Towing contractors shall deposit and store towed vehicles only at a storage facility located within the Township, unless the owner or operator of the vehicle requests otherwise.
 - (2) After normal business hours and on weekends and holidays, the towed vehicle shall be taken to the towing contractor's storage facility and arrangements shall be made with the owner to have the vehicle transported to the owner's requested destination as soon as possible.
 - (3) The towed vehicle owner or designated agent shall first make arrangements with the towing contractor in person or by phone in advance to arrange for payment or to take possession of the vehicle.
 - (4) All storage facilities shall be open and have personnel available on site for the owner to recover the vehicle between the hours of 8:00 a.m. through 5:00 p.m. Monday through Friday and personnel available by appointment on weekends and holidays between the hours of 8:00 a.m. and 5:00 p.m.
 - (5) No towing contractor shall unreasonably deny access to a vehicle by an owner or his or her agent for the purposes of removing personal property, including but not limited to: wallets; purses; car seats. The towing contractor may deny access to a vehicle to prevent removal of fixed objects, including but not limited to: car stereos; speakers; and seats.
 - (6) No towing contractor shall request or demand any person to sign any document requiring the owner or operator of a vehicle involved in a motor vehicle accident to have the vehicle repaired at any specific location or body shop.
 - (7) All storage facilities shall have appropriate security and protection for the towed vehicle and shall be in compliance with all state and Township laws, ordinances and regulations. Appropriate security and protection shall mean an area approved by the Chief of Police that provides at a minimum, for an outside secured area, a locked, six-foot-high fenced-in area with a passive alarm system or a similar on-site security system that is adequately illuminated at night, and for an inside building storage area, at a minimum a locking device on each opening to the exterior with a passive alarm system or a similar on-site security system.

- F. Towing services must be provided on a twenty-four-hour, seven-days-per-week basis. Towing contractors will be contacted by radio or mobile phone and all tow vehicles must be on the site of the event within 15 minutes of receiving the call from the Police Department and must clean and remove all vehicular debris from the area of a motor vehicle accident.
- G. All towing contractors shall give priority to requests for towing services made by the Township over requests made by other parties during adverse weather conditions or other emergency conditions.
- H. The Chief of Police shall promulgate, adopt and enforce such other reasonable rules and regulations for towing contractors and storage facilities deemed appropriate, which shall be subject to the review and approval of the Township Council.

§ 600-6 Towing and storage fee schedule.

- A. The following fees are established as the maximum rates which can be charged for towing and storage of motor vehicles.

(1) The following is the fee schedule for basic towing services:

- a) Towing services provided during the day, 8:00 a.m. to 6:00 p.m.: flat fee of \$125.
- b) Towing services provided at night, 6:00 p.m. to 8:00 a.m., weekends or on New Jersey State holidays: flat fee of \$150.

(2) The following is the fee schedule for nonbasic towing services:

- a) Charges for the use of jacks and dollies: \$10 over regular tow.
- b) Charges for each beach tow: \$25 over regular tow.
- c) Winching/uprighting: \$2.25 per foot per cable.
- d) Cleanup: \$30.
- e) Any required additional labor: \$25 per hour per person.
- f) In the event that a towing contractor requires assistance from outside contractors, such as the Township or a towing contractor using heavy equipment, such outside contractors will be paid a fair rate and all sums due pursuant to this subsection shall be payable to the towing contractor in addition to his fee, and reimbursed to the outside contractor by the towing contractor. Any rate dispute shall be arbitrated by the Chief of Police or his designee.
- g) In the event that the nonbasic towing services involve unusual circumstances in which the services provided are extraordinary such as, without limitation, lifting a vehicle from an embankment or a vehicle which has descended over a pier or sea wall, the towing contractor shall contact the on-call police officer in charge of traffic control to explain the circumstances involving the nonbasic towing services and request approval for charging amounts which are in excess of the fees set forth herein. If the on-call police officer in charge of traffic preapproves

such additional charges, the towing contractor shall be permitted to bill such additional charges for the nonbasic towing services. If the rate is disputed by the person owning the vehicle or otherwise being charged for the towing services, such a dispute shall be submitted to the Chief of Police or his designee for a determination of whether the rate is fair and reasonable, and such determination shall be binding upon the towing contractor.

- h) Towing of Township vehicles: \$50.
- i) Towing of motorcycles: \$125.
- j) The fee for hookup (if a vehicle has been hooked up and ready to tow and then claimed by its owner) shall be \$60.
- k) Standby time. If a tow operator is called to the scene of an accident or theft-related tow and is required to wait at that scene prior to removing the vehicle, this by direction of the Police Department, a fee of \$50 shall be imposed.

(3) The following is the daily fee schedule for storage services:

- a) Inside building: \$30.
- b) Outside secured facility: \$25.
- c) Storage within Township lot: \$20.

B. There shall be no additional charges, other than those provided in the schedule, including but not limited to flatbedding, waiting time and additional labor.

C. The above towing charges shall not apply when the operator of a motor vehicle elects to be towed to a destination other than the licensed storage facility. In such cases, the towing charges shall be mutually agreed upon between the operator of the vehicle and the towing contractor.

§ 600-7 Charge for service; payment method.

The towing and storage fees set forth for basic towing service and those billed for nonbasic towing service are the amounts that the towing contractor will charge to the vehicle owner or its representative. The Township shall never be responsible for payment of any towing and storage charges which may have been incurred by reason of instructions from the Police Department, except for Township-owned vehicles. The towing contractor shall accept all major credit cards, including, without limitation, MasterCard, Visa and American Express.

§ 600-8 Insurance.

A. Towing contractors shall be required to purchase and maintain, during the time of service on the rotary list, proof of insurance furnished by an insurance company with a B+ or better rating as published in the most recent edition of "Best Insurance Key Rating Guide," which is licensed to do business in the State of New Jersey. The minimum coverage and liability limits shall be as follows:

- (1) Comprehensive general liability insurance: The limit of liability shall not be less than \$1,000,000 combined single limits (bodily injury and property damage) per occurrence and \$1,000,000 aggregate, including premises operations and products/completed

operation or such other amounts as may be required by the Township Council in its sole and absolute discretion.

(2) Automobile liability insurance: The limit of liability shall be not less than \$1,000,000 combined single limits (bodily injury and property damage) per occurrence and \$1,000,000 aggregate, with a deductible of not greater than \$1,000 or such other amounts as may be required by the Township Council in its sole and absolute discretion.

(3) Garagekeeper's legal liability insurance: The limit shall be not less than \$300,000, with a deductible not greater than \$1,000, or such other amounts as may be required by the Township Council at its sole and absolute discretion.

(4) Workers compensation insurance as required by law.

B. On all liability policies, the Township shall be named as additional insured, and insurance certificates shall indicate such coverage.

C. Insurance coverage shall indemnify, to the extent permitted by law, the Township and the public against any loss due to injuries, accidents or damages of any character whatsoever, where any such damage is the result of act or omission of the towing contractor, its agents or employees in or due to the execution of the work called for under this chapter.

D. Liability insurance policies shall be specifically endorsed to provide On Hook and collision insurance for vehicles in tow, which amounts shall be subject to approval by the Township Council.

E. Towing contractors shall provide the Township with the certificates of insurance and the actual copies of the policy endorsements that name the Township as an additional insured.

F. The provision of any insurance required herein does not relieve the towing contractor of any of the responsibilities or obligations assumed by the towing contractor for which the towing contractor may be liable by law or otherwise. All vehicles and personnel utilized by the towing contractor to execute the work under this chapter shall have the above prescribed coverage.

§ 600-9 Indemnification.

Each towing contractor will indemnify and hold harmless the Township, to the extent permitted by law, from any and all claims for personal injury or property damage against the Township arising out of the operation of said towing contractor's towing or storage services under this chapter. The contractor will further defend the Township at the towing contractor's expense, in connection with any claim, demand, suit or action brought against the Township arising out of any services performed under this chapter.

§ 600-10 Violations and penalties.

Any person who violates any section of this chapter shall, upon conviction thereof, be subject to imprisonment not exceeding 90 days and/or a fine of not less than \$100 nor more than \$1,000.

Section 2. The above revised Ordinance is intended to replace and supercede all previous provisions set forth under said code sections.

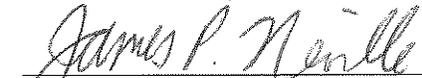
Section 3. All other Ordinances in conflict or inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 4. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be effected thereby and shall remain in full force and effect, and to this end, the provisions of this Ordinance are hereby declared to be severable.

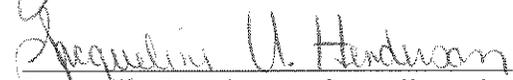
Section 5. This Ordinance shall take effect twenty (20) days after final passage and publication as provided by law.



Thomas Conrad, Councilmember



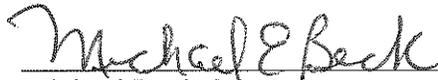
James Neville, Councilmember



Jacqueline Henderson, Councilmember

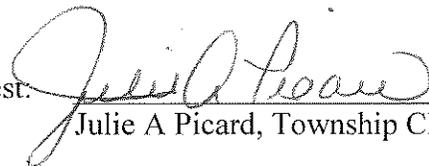


Norris Clark, Deputy Mayor



Michael Beck, Mayor

Adopted: Oct 31, 2013

Attest: 

Julie A Picard, Township Clerk