

**TOWNSHIP OF HAMILTON
COUNTY OF MERCER, NEW JERSEY**

ORDINANCE

No. **23-005**

1ST READING JANUARY 17, 2023

2ND READING & PUBLIC HEARING Feb. 7, 2023

WITHDRAWN _____ LOST _____

DATE TO MAYOR **February 22, 2023**

DATE RESUBMITTED TO COUNCIL _____

DATE EFFECTIVE **March 14, 2023**

APPROVED AS TO FORM AND LEGALITY



TOWNSHIP ATTORNEY

FACTUAL CONTENTS CERTIFIED TO BY



ABA TITLE

**ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF HAMILTON,
NEW JERSEY, PART II, GENERAL LEGISLATION, CHAPTER 468, TOWING**

Be It Ordained by the Council of the Township of Hamilton, in the County of Mercer and State of New Jersey, that the *Code of the Township of Hamilton, New Jersey, Part II, General Legislation, Chapter 468, Towing*, as amended and supplemented, be further amended and supplemented as follows:

Chapter 468

TOWING

§ 468-1 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ABANDONED VEHICLE

Any motor vehicle, automobile, omnibus, road tractor, trailers, truck, truck trailer and vehicle which has been continuously parked on any public street for a period of seven days or is so disabled as to constitute an obstruction to traffic, and the driver or person owning or in charge thereof neglects or refuses to move same to a place where it will not obstruct traffic or is found to be mechanically inoperative and is allowed to remain inoperative for a period of seven day or is parked for any period of time without the current year's registration, license plates, or inspection markers as required by law.

APPLICANT

Any person who makes formal application under this Chapter to the Township Clerk.

BASIC TOWING SERVICE

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

CRUISING

The driving of an unengaged wrecker to and from along a public street in any fashion calculated for the obvious purpose of soliciting business along the public street.

DECAL AND/OR INSIGNIA

Township furnished adhesive sticker showing proof of annual license to tow.

GARAGE

A building where motor vehicles are sheltered, stored, repaired and made ready for use, and it is specifically intended not to include within the meaning of this definition a gasoline service station used principally for furnishing gasoline, oil, lubrication service and minor services for automobiles.

GVWR

Shall mean gross vehicle weight rating.

HEAVY DUTY TOW

[Shall mean vehicles with a 26,001 pounds and greater GVWR.] As defined in the most recent Maximum New Jersey State Police Tower Rates Guide.

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.

LAND ALL TRAILER

A detachable trailer capable of hauling vehicles, machinery and/or equipment, commonly referred to as "low-boy."

LICENSED PREMISE/SITE

The licensed storage area under which the official tower conducts operations in accordance with the provisions of this section.

LIGHT DUTY TOW VEHICLE

[A private passenger vehicle less than 10,000 pound GVWR] As defined in the most recent Maximum New Jersey State Police Tower Rates Guide.

MEDIUM DUTY TOW VEHICLE

[Vehicles with a 10,001 pound to 26,000 pound GVWR] As defined in the most recent Maximum New Jersey State Police Tower Rates Guide.

MOTOR VEHICLE COLLISION

An occurrence in which a motor vehicle comes in contact with another object for which the motor vehicle must be towed or removed for placement in a storage facility. This includes all situations which are accidental licensed owner or operator insurance insured even if they were caused by the intentional acts of a perpetrator, where the perpetrator was not the insured or not otherwise involved with the insured.

OFFICIAL TOWER

A person or company licensed and summoned by the Township of Hamilton to tow and/or store vehicles whose licensed site meets the standards set forth in this section.

OUTSIDE SECURED

An automobile storage facility that is not indoors and is secured by a fence, wall or other man-made barrier that is at least six feet high and is equipped with a locked gate and shall have an alarm system or similar on-site security measure. The facility is to be lighted at night.

OUTSIDE UNSECURED

An automobile storage facility that is not indoors and is not secured by a fence, wall or other man-made barrier, and all other storage facilities not defined in this section as "inside building" or "outside secured."

PERSON

Includes corporations, companies, associations, societies, firms, partnerships and joint-stock companies, as well as individuals, and also includes all political subdivisions of this state or any agencies or instrumentalities thereof.

SHAREHOLDER

A shareholder shall be any person, company, or organization that holds stock in the company and owns a minimum of 1 share in a company's stock.

SPECIAL RECOVERY SERVICES

Any action that is not normally associated with roadside towing, winching, righting an overturned vehicle or other services required when a vehicle is not on any portion of a traveled roadway or shoulder. Winching a vehicle onto a flatbed, with damaged wheels or transmission is specifically excluded by this definition.

STORAGE CHARGES FOR TWENTY-FOUR-HOUR PERIOD

The maximum allowable amount to be charged by a storage facility for a twenty-four-hour period or fraction thereof. A new twenty-four-hour period begins at 12:01 a.m. Charges shall accrue beyond thirty days.

TOW LIST

Licensees performing towing service for the Township or called by a police officer who shall perform on a rotating basic.

TOW VEHICLE

A vehicle driven by mechanical power and employed for the purpose of towing, transporting, conveying or removing any and all kinds of vehicles, which are unable to be and actually are not operated under their own power, from the place where they are disabled to some other place. This shall also include the term 'wrecker'.

WINCHING

Repositioning a vehicle that has been overturned or is off the roadway or shoulder so as to accommodate the hooking and positioning of the vehicle onto the tow vehicle. Winching shall exclude the pulling of a vehicle onto a flatbed.

WRECKER

A vehicle driven by a mechanical power and employed for the purpose of towing, transporting, conveying or removing any and all kinds of vehicle which are unable to be and actually are not operated under their owner power from the place where they are disabled to some other place.

468-2 Licensing and Identification of Official Towers.

- A. The Township Clerk shall license persons or companies meeting the criteria set forth in §468-114 and engaged in the business of or offering the services of motor vehicle towing or wrecking whereby damaged or disabled and/or impounded motor vehicles are towed or otherwise removed from the place where they are damaged or disabled, and/or impounded by use of a tow vehicle, as defined herein. Such person(s) or company shall be known as an "official tower."
- B. Official towers shall be identified by means of a license, which shall be issued by the Township upon application and approval of application as hereinafter provided. Each licensed official tower shall also have issued by the Township, a decal or insignia for each vehicle used in the towing operation by the official tower and which shall be placed on each vehicle in a prominent portion of such vehicle as required by the Chief of Police or their designee. No vehicle or motorized equipment shall engage in towing vehicles unless such insignia or decal is affixed as set forth and the name of the official tower is permanently affixed to the vehicle. The decal shall remain on the vehicle during the licensed term. A new decal shall be issued upon approval of a re-application and re-inspection.

468-3 Services to be Provided.

The official tower shall furnish adequate and proper towing, wrecking, and storage service to damaged or disabled motor vehicles within the limits of the Township when requested to do so by the Chief of Police or their designee. The official tower shall be available to render service 24 hours per day, seven days per week with a maximum 20 minute response time. No official tower shall subcontract or assign any work performed by the official tower under the provisions of this Chapter.

468-4 License period; Expiration; Renewal; Revocation

Each official tower's license shall be in effect for a period of one year and shall expire on December 31. The commencement date of the license shall be January 1 of the year of its issuance. Each applicant for an official tower's license shall apply for such license on or before September 1 of the year prior to the expiration of the existing license. The Chief of Police or their designee shall conduct their review and render a report to the Township Clerk recommending either the approval or denial of the application within 45 days of receipt of the application from the Township Clerk.

The license shall not be transferable or assigned and may be subject to revocation for any of the following reasons:

- A. If it is subsequently determined that the applicant knowingly and with intent to deceive made false, misleading or fraudulent statements of material fact in the application or in any other document required pursuant to this section.
- B. Violation of any federal or state law or municipal ordinance or regulation relating to the operation of a motor vehicle or the provision of towing services.
- C. Violation of any rule or regulation promulgated by the New Jersey Department of Insurance.
- D. Violation of any of the provisions of this section.

468-5 Application for Official Tower License

Applications for an official tower license shall be made to the Township Clerk upon a form provided by the Township Clerk and shall contain the following information:

- A. The name, business address, including the principal place of business verified by the State of New Jersey Division of Taxation and the address of the location that is to be licensed pursuant to this Chapter, telephone number and federal tax identification number. When the official tower is owned and operated by an individual, the name, social security number, residential and business address, business email, and telephone number(s) of such individual shall be provided. When the official tower is a corporation or partnership, the application shall contain the names, residences, email addresses, telephone numbers, date of birth, social security number of all persons owning any interest in the official tower. In the event that the official tower is conducting business operating under a trade or business name, the applicant shall submit a certificate of such name as proof that such name has been appropriately filed with the County Clerk's Office of Mercer County and/or with the Secretary of State of New Jersey.
- B. Any such information as may be required by the Township Clerk or designee concerning the personnel, vehicles, equipment and storage facilities of such applicant, as hereinafter provided, showing that the applicant meets the minimum standards of performance as defined in §468-9 herein
- C. A certificate(s) of insurance evidencing adequate insurance coverage as hereinafter provided. If insurance expired within 30 days of issue of license, a renewal policy from insurance agent must be included.
- D. No applicant shall make multiple applications to Hamilton Township under secondary/multiple businesses in order to have multiple spots on the Hamilton towing list. No vehicle may be listed on more than one application, nor can there be a transfer of vehicles between towers. Any violation of this subsection shall void all current applications and forfeit the tower's ability to file during the following calendar year.
- E. Vehicles:
 - 1. All towing vehicles must be listed on the application, including the make and model number, year of vehicle, vehicle identification number (VIN), license plate number and any and all other information that the Township Clerk may deem necessary.
 - 2. No vehicle may be listed on more than one application, nor can there be a transfer of vehicles between towers.
 - 3. All vehicles **MUST** be operational and be able to satisfactorily pass a DOT inspection at time of [application] operation.
 - 4. Decals and/or Insignia are not transferable to any other vehicles.
 - 5. Each vehicle must show name and contact information of licensed company on the outside of the vehicle.
 - 6. A complete list, including dates of service, of all other municipalities, state agencies and/or governmental entities for which the applicant is, or has been, an official tower or held a towing permit from. No applicant shall be eligible for approval or appointment as an official tower of the Township of Hamilton unless that applicant shall have been an official tower with a minimum of three years' experience in municipal towing in any municipality in the State of New Jersey.
 - 7. A complete list of all actions taken against the applicant by a governmental entity for which the applicant's alleged violation of any towing ordinance or regulation while towing as a licensed or permitted tower for that governmental entity. If the applicant's towing license or permit has been revoked, suspended or denied, the applicant shall list each time, what governmental entity was involved and a brief description of the event(s) that led up to the revocation, suspension and/or denial of a towing license or permit.
 - 8. Suspension or revocation of a license, and/or the prior denial of an application affecting the applicant, from this municipality or any county or State agency granting such license may be cause for denial of a license under this section.

F. Every tow vehicle shall be equipped with the following:

1. At least three advanced warning devices or flares of a type to be visible for a distance of not less than 1,000 feet from the disabled vehicle.
2. Approved warning lights/devices, brake and light connections for towed vehicle and safety chains. Flashing amber light bars must be used at all times while servicing the vehicle and be visible for a distance of not less than 1,000 feet from the disabled vehicle. An Amber Light Permit as required by State law must be acquired by the applicant, and submitted with the application.
3. Extra chains and cable for pulling or securing a towed vehicle.
4. At least one heavy-duty broom, a shovel, a crowbar or pry bar, a set of jumper cables, a flashlight, one two-pound or larger fire extinguisher of dry chemical type, one dozen flares or similar warning devices for placement at the scene of an accident or behind a disabled vehicle, at least 10 pounds of dry sand or a drying compound for gasoline and oil spilled on the roadway and containers for removal thereof and a sufficient quantity and types of tools to enable the tow vehicle operator to perform proper and adequate emergency repair services for the tow.
5. Safety vests must be worn by tow personnel when they are performing services on the roadways. In accordance with the following specifications, safety vests shall meet the ANSI Specifications for American National Standard for High Visibility Safety Apparel. The vest shall have a minimum background area of 0.5 m² (775 in²) material of either fluorescent yellow-green. Fluorescent orange/red, or fluorescent red in color and a minimum of 0.13m² (201 in²) retroreflective materials in a contrasting fluorescent color red, orange/red, or yellow/green. The retroreflective material shall have contiguous areas encircling the torso, placed in such a manner to provide 360° of visibility.

468-6. Insurance; Indemnification and Hold Harmless Agreement.

- A. An official tower shall maintain, during the life of its license, insurance policies of the type and with the minimum limits indicated below and in a form satisfactory to the Township. An official tower shall provide a certified copy of the policies and/or certificates of insurance satisfactory to the Township with initial application. All policies and/or certificates shall be submitted to the Township Clerk for review and approval by the Department of Law.
1. Garage Liability Insurance. Limit of liability shall not be less than \$1,000,000 combined single limit (bodily injury and property damage) per occurrence including premises operations and products/completed operations.
 2. Automobile Liability Insurance. Limit of liability shall not be less than \$1,000,000 combined single limit (bodily injury and property damage) per occurrence.
 3. General Property Damage and Liability Insurance. Limit of liability shall not be less than \$1,000,000 combined single units.
 4. Garagekeeper's Insurance. Physical damage insurance policies shall be specifically endorsed to provide direct primary insurance, where applicable, for vehicles in tow, possession of, or storage on property owned or controlled by the tower. Limit of said coverage shall be not less than \$500,000.
 5. Excess Umbrella Insurance. Limit of liability shall be not less than \$1,000,000 providing protection in excess of the \$1,000,000 garage, auto liability coverage and general property damage and liability coverage.
 6. Workers' Compensation Insurance. New Jersey statutory coverage, including employer's liability coverage.
- B. On all liability policies, the Township shall be added as an additional insured, and insurance policies and/or certificates shall indicate such coverage as primary coverage notwithstanding any insurance carried by the Township.

- C. An official tower shall indemnify the Township and the public against any loss due to injuries, accident or damages of any character whatsoever where any such damage is the result of an act or omission of the official tower, its agents or employees in or due to the execution of the work called for under the contract.
- D. Certified copies of all insurance policies provided above or certificates thereof satisfactory to the Township of Hamilton shall be provided with the application. Each such policy or certificate shall contain a provision that it is not subject to material change, cancellation or nonrenewal unless 30 days' prior written notice via certified mail/return receipt shall have been given to the Township of Hamilton by the tower's insurer. All insurance policies or certificates must be received 30 days prior to commencement of any work.
- E. The providing of any insurance required herein does not relieve an official tower of any of the responsibilities or obligations assumed by the official tower for which the tower may be liable by law or otherwise.
- F. If any policies contain deductible or co-payments, it shall be the responsibility of the official tower to pay such sums at the same time a claim is settled by the official tower's insurance company.
- G. If any policies contain limits of liability with an aggregate limit, the official tower or official tower's insurance company shall provide the Township quarterly during the policy period a statement evidencing the limits of liability required under the contract to be in force.
- H. Policies of insurance required by this section shall be maintained in full force and effect at all times. At the discretion of the Township, in the event that any coverage is cancelled, terminated or coverage decreased in amount, same shall constitute a material breach of the license and the tower shall be immediately removed from the official towers list until such time as required coverage is reinstated. The certificate or certificates and declaration pages shall provide that the policies shall not be changed or cancelled until 30 days' prior written notice has been given to the Township.
- I. All policies shall be written by either a company licensed to do business in the State of New Jersey or a New Jersey eligible Surplus Lines Company, with a minimum Best rating A-VII (A minus seven). Same shall be written on an ISO (Insurance Services Office) form or better.
- J. Official towers shall enter into a hold harmless agreement in a form to be prepared by the Attorney for the Township prior to being included on the official towers list. Applicants shall agree, in writing, to assume the defense of and indemnify and hold harmless the Township, its elected officials, boards, commissions, officers, employees and agents from all suits, actions, damages or claims to which the Township may be subject to any kind and nature whatsoever resulting from, caused by, arising out of or as a consequence of the provision of towing, wrecking, storage and/or emergency services provided at the request of this Township pursuant to this section.

468-7 License application fee.

[A.] Application(s) for light-medium duty operation, heavy duty operation and abandoned vehicle licenses under this chapter shall be accompanied by an application fee as set forth in Chapter 215, Fees, of the Township Code, payable to the Township to cover the administrative expenses incurred by the Township in processing the application. An additional fee as set forth in Chapter 215, Fees for every vehicle for which an identifying decal is issued. All fees must be included in full with the application and are nonrefundable.

§ 468-8 Investigation of applicant for license; approval procedure.

- A. Upon receipt of a complete application, the Township Clerk shall forward a copy to the Chief of Police or their designee for their review, investigation and recommendation. The review by the Chief of Police or their designee(s) shall consist of the following:
 - (1) Inspection/investigation of personnel inclusive of fingerprinting[.];
 - (2) [v]Vehicles[, and];
 - (3) [e]Equipment; [and]
 - (4) [t]To verify the accuracy of the information contained in the application and to determine compliance with applicable laws and regulations in the standards of performance required by this chapter.

Failure to provide all documents for submission will result in the application being denied for the upcoming term.

- B. At the expense of the applicant, the applicant shall also cause each of its drivers to have a III (Interstate Identification Index) background check performed at a State-approved facility prior to that driver performing any towing services in the Township. The Tower must provide copies of all background checks performed to the Township.
- C. A copy of a certified complete driver history abstract as issued by NJ Division of Motor Vehicle Commission shall be provided with the application.
- D. A copy of the application shall also be forwarded to the Zoning Officer who shall perform an inspection of the storage area to verify the accuracy of the information contained in the application and to determine compliance with the applicable zoning laws and regulations in the standards of performance required by this chapter.
- E. An applicant may be included on the official towers list upon final determination that:
 - 1. The applicant has not knowingly and with intent to deceive or made any false, misleading or fraudulent statements of material in fact in the application or in any other document required pursuant to this Chapter.
 - 2. The applicant has met the standards in this Chapter and has furnished the required Hold Harmless Agreement and Certificate(s) of Insurance.
 - 3. The application has been reviewed by the Chief of Police or their designee and has submitted a favorable report.
- F. Background check; disqualification.
 - 1. No principal, shareholder, employee, or agent of the applicant shall have been convicted within the last seven years of any indictable offense or any offense involving stolen or embezzled vehicles, fraud relating to the towing business, stolen property, or any other offense of similar nature.
 - 2. Applicant hereby agrees that it will supply the Township any information, and will execute or have executed at the Township's request any document(s) necessary to enable a criminal background check to be performed on its principals, shareholders, employees or agent and to have that information provided to the Township. Applicant further agrees to ensure that, upon the Township's request, the necessary process is undertaken and completed. If it is determined by the Township that a principal within the company/corporation or any employee or shareholder of the corporation shall have criminal record information existing on file that violates the terms set forth below, the applicant will immediately be given notice and five days to take appropriate action as set forth by the Township. In the event that the Township requests that a principal/employee be disqualified from employment because of the reasons set forth herein, applicant agrees to be bound by and conform to this request. Applicant understands and further agrees that failure to take the action set forth by the Township will preclude the applicant being considered and/or will constitute a material breach of the license and may result in suspension or termination.
 - 3. Disqualification will be warranted if the criminal history check reveals a conviction
 - a. Any indictable crime involving danger to a person;
 - b. Against the family, children or incompetents.
 - c. Any other indictable crime or
 - d. Involving a violation of any nature regarding work on any contract with the State, any State agency or any county or municipality for the provision of services similar to the services to be provided by this license.
 - 4. In any other state or jurisdiction, for conduct which, if committed in New Jersey, would constitute any of the crimes or offenses included in this subsection.
 - 5. Notwithstanding the above provisions, a principal/employee shall not be disqualified hereunder on the basis of any conviction disclosed by a criminal history record check, upon the recommendation of the Chief of Police, if the individual has affirmatively demonstrated to the Township clear and convincing evidence of his rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the Township shall consider:

- a. The nature and responsibility of the individual's prospective position;
- b. The nature and seriousness of the offense;
- c. The circumstances under which the offense occurred;
- d. The date of the offense;
- e. The age of the principal/employee when the offense was committed;
- f. Whether the offense was repeated;
- g. Social conditions which may have contributed to the offense; and
- h. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional, academic or vocational education, successful participation in correctional work-release programs, or the recommendation of persons who have supervised the principal/employee.
- i. Written notice of the approval or denial of the application shall be provided to the applicant within seven days by the Township Clerk.

§468-9 Minimum Personnel Requirements.

Official towers shall have available, at all times, a minimum of two drivers to provide the services required by this section. All drivers employed by official towers to provide the services required by this section shall meet the following requirements and be subject to the following regulations. They shall:

- A. Be competent and able to provide minimum road services for disabled vehicles.
- B. All drivers of vehicles over 26,001 pounds are required to have a commercial driver's license (CDL) by the State of New Jersey and/or Federal regulations are required to furnish such license for the purpose of this section.
- C. Obey all traffic laws and regulations.
- D. Not have been convicted of an indictable degree crime in the State of New Jersey or the equivalent felony of any other state within the past ten years, at the discretion of the Township.

§468-10 Minimum Standards of Performance.

To qualify for inclusion on the list of official towers, applicants must meet the following minimum standards:

- A. Minimum Vehicle Requirements:
Every official tower shall maintain and have available to render services, a minimum of one regular tow vehicle with wheel lift, two flatbed vehicles, one medium-duty towing vehicle of at least 15,000 pounds gross vehicle weight. Registration documents shall be provided to the Township certifying registration is the same or better than the gross vehicle weight (GVW) of the vehicles, as plated on the vehicle.
- B. Minimum Vehicle Requirements – Heavy Duty:
Every official tower (heavy) shall maintain at least one heavy-duty towing vehicle of at least 35,000 pounds gross vehicle weight. Registration documents shall be provided to the Township certifying registration is the same or better than the gross vehicle weight (GVW) of the vehicles, as plated on the vehicle.
- C. Vehicles Classes.
 1. Heavy duty tow vehicles of 25,000 pounds gross vehicle weight or more must be equipped with a boom with a 20 ton minimum boom rating or inch assembly mounted on the cassis, a tow sling or tow bar and a wheel lift assembly or under reach capability. The winch assembly must have 100 feet of at least five-eighths-inch steel cable attached to a motor-driven winch.
 2. Flatbed vehicles must be equipped with a winch or hydraulically operated bed with slides or tilts to accommodate the transporting of vehicles.

§468-11 Standards of Tow Vehicle; Minimum Equipment And Reporting Requirements

- A. Every tow vehicle shall have cellular phone capability and/or radio capability with a dispatching center on a twenty-four-hour basis.
- B. Every tow vehicle or flatbed vehicle shall comply with any and all State, Federal and local laws, regulations and ordinances pertaining to safety, lighting and towing equipment requirements and shall be subject to inspection by the Chief of Police or their designee at any time. All inspections shall be scheduled by the Police Division and performed at Police Headquarters, Hamilton, NJ. Where applicable, all permits required by other agencies than the Township shall be provided to the Township upon request.
- C. Every tow vehicle or flatbed vehicle shall display the official tower's decal and have the name of the official tower, by a permanently affixed or painted sign prominently displayed on the vehicle in such manner so as to conform to the provisions of N.J.S.A. 39:4-46. Such demarcations shall be placed on the outside door panels of the vehicle. The sign shall be at least three inches in height and diameter, be visible to the naked eye and the names must be the same on both panels.
- D. Within ten calendar days at the end of each month, the official tower shall submit to the Township Clerk, a copy of all closed itemized invoices for services rendered to any owner or operator of a damaged or disabled vehicle on a form of invoice. The official towers invoice shall contain the invoice number, name and address of the [person] owner/operator of the vehicle towed; the make and model of vehicle towed; plate number; and, the in date of the tow and the out date of the tow. Only fees applicable [in Chapter 215] in accordance with the most recently adopted maximum New Jersey State Police Tower Rates Guide shall appear on said invoice, and there shall be one invoice per vehicle towed. The invoice shall be a [four] three part copy to be distributed as follows:
 - 1. One to the licensee/official tower;
 - 2. One to the customer; and
 - 3. One to the Township Clerk.
 - [4. One to the Police Officer at the scene]

§468-12 Issuance of license.

- A. Upon approval of the application as herein provided, the Township Clerk shall issue for the applicant an official tower's license for each tow vehicle or flatbed vehicle to be utilized in providing services pursuant to this section by submitting such to the Chief of Police or designee for issuance to the official tower(s).
- B. Said licenses and identifying decal/insignia is to be affixed by the Chief of Police or their designee which shall be displayed on the tow vehicle or flatbed vehicle at all times.

§468-13 Hours of service, communications equipment

- A. [All licensees must maintain an office with regular business hours. The office shall be open a minimum of eight hours a day, five days a week.] All official towers must maintain an office with regular business hours to the public between 8 a.m. and 6 p.m. at least five days a week and 3 hours on weekends, excluding Federal holidays. The schedule of hours shall be filed with the Municipal Clerk. Any change or amendment to the schedule of hours shall be filed with the Municipal Clerk within five days of the change.
- B. To ensure the timely release of a vehicle, the tower shall release a vehicle to the owner of the vehicle and/or designee no later than two hours from the vehicles arrival at the tower's facility or within one hour of being contacted by the owner and/or designee of the vehicle that wishes to take possession of said vehicle during regular business hours. A tow receipt containing an itemization of all fees must be provided for every transaction.

§468-14 Standards of Storage Facility; Minimum storage requirement; Protection and storage of towed vehicles

- A. Every official tower shall maintain an inside building and outside secured storage area "Licensed Site" meeting the following requirements:
 - 1. All official towers must have sufficient storage area on their own premises to store towed vehicles at the licensed site. This area must be over and above the requirement that is in effect for parking for the site. No vertical stacking of vehicles is permitted. Each tow vehicle must be stored at the official tower's licensed site. A driver must be on call [at the licensed site] twenty-four (24) hours a day, seven (7) days a week to respond to a call for towing during the

[tower's rotation] rotation list. Official towers located with the Township cannot store vehicles on the thoroughfares of the Township, whether under the auspices of the Township, County of Mercer or State of New Jersey without Township approval. Storage of vehicles on the thoroughfares of other municipalities wherein Township towers are located at subject to the requirements of those municipalities.

2. The location of the storage area shall be located within the limits of the Township or must be within five miles from the border of the Township. Lettering on yard location must be a minimum of 10 inches tall, visible from the roadway. The sign must be properly affixed to fence structure or building; plastic ties are unacceptable.
3. The storage area shall have appropriate signage subject to the following minimum requirements:
 - i Name of towing company
 - ii Letters 10 inches in height.
 - iii Visible from the roadway where located
 - iv Properly affixed to building or fence with proper hardware
4. The storage area shall be fenced with fencing at a minimum of six feet in height. The fenced area shall be no less than 5,000 square feet in area dedicated solely to the operation of the tow company at the licensed site. No other business or tow company shall use the storage area designated. The storage area shall have a suitable gate and be installed with a locking device or a similar on-site security measure. The facility is to be lighted at night.
5. A certificate of occupancy must be furnished with the application indicating that the licensed site is legally zoned for towing and storage of vehicles or is subject to land use approval permitting such use in accordance with the requirements set forth herein.
6. [The storage facility shall be available from at least 8:00 a.m. until 6:00 p.m. Monday through Friday and from at least 8:00 a.m. to 1:00 p.m. on Saturday.] All official towers must maintain an office with regular business hours to the public between 8 a.m. and 6 p.m. at least five days a week and 3 hours on weekends, excluding Federal holidays. The applicant shall prominently display the hours with proper signage during which the facility will be open. The facility/building must be sufficiently staffed and equipped to allow for the prompt intake and release of vehicles. The building shall be within sight distance and/or within 500 feet of the entrance of the storage area. On the application for a towing license, the applicant shall list all business hours required pursuant to the subsection for the calendar year of the license in question, which shall not be changed during the calendar year. [The building must be staffed during times of operation and at a minimum while on towing rotation and three days thereafter.]
7. The official tower shall not charge any additional fee or other charge for releasing vehicles to their owners during normal business hours or for moving a vehicle from one location to another in the storage area.
8. A official tower must make reasonable accommodation for after-hours release of stored vehicles. The official tower may charge for after-hours release in accordance with the most recently adopted maximum New Jersey State Police Tower Rates Guide.
- [8]9. The applicant shall, with its application, submit proof of ownership or a complete copy of the lease of the storage area.
- [9]10. The official tower shall be responsible for ensuring the proper and safe storage of all vehicles towed pursuant to this section. The official tower shall be liable for any damage incurred by such vehicles while in transit to or while stored in the storage areas.
- [10]11. Towing rates must be displayed prominently at the licensed site.
- [11]12. All storage of vehicles shall be at the licensed site.
- [12]13. Inside storage shall be capable of storing no less than two vehicles with each having an overall length of 245 inches long by 96 inches wide per license.

- B. Video surveillance of the storage area shall be available to the enforcement agency within 24 hours of a request to review footage. Security footage shall be kept for a minimum of 30 days.

§468-15 Register of licensees; drivers' identification card

- A. The Township Clerk shall keep a register of the names of all those owning or operating wreckers accepted under the license provided for in this chapter, together with the license number and the description of such wreckers and the date and complete record of inspections made of them.
- B. All drivers must obtain an official tower identification card and maintain a safe driving record. Such identification card shall be presented to the officer(s) at the scene for verification that the individual is a licensed and approved tower for the official towing company.
- C. Every person licensed under this chapter shall make a record in a record book kept solely for such purpose the details of each disabled vehicle towed, serviced or transported, together with full information concerning the details surrounding the hiring, the names of the owners of the towed vehicle and of the patron engaging him, and the charges paid for his services. The record book described in this section shall be open for inspection at all times by any duly authorized representative of the Township

§468-16 Service rates; written notice of fee.

- A. For purposes of this section, storage charges "per [twenty-four-hour period] calendar day" means the maximum allowable amount to be charged by a storage facility for a twenty-four-hour period [or fraction thereof, which period commences with the time of the initial tow and runs for consecutive twenty-four-hour periods thereafter]. [There shall be no fee for the first twenty-four hour period of a towed motor vehicle.] There shall be a prorated fee from the time of the initial tow until 12:00 a.m. After such time, a per calendar day rate shall take effect. All storage rates must follow the most recently adopted maximum New Jersey State Police Tower Rates Guide.
- B. Towing rates shall include the total distance traveled from the tow vehicle's base of operations to the job site and return by way of the shortest route possible. Tow vehicles transporting multiple vehicles at one time shall charge the applicable fee for each vehicle transported. No person shall be liable to any tow operator who tows or stores an automobile for any fees in excess of this chapter:
- C. [With the exception of light-duty, basic towing service fees (first hour, additional time prorated at fifteen-minute intervals).]
 - [(1)Light-duty: \$110 (flat rate).]
 - [(2)Medium-duty: \$175 (per hour, per truck).]
 - [(3)Heavy-duty: \$300 (per hour, per truck).]
 - [(4)For conveying a passenger vehicle to other than the tower's facility (e.g., owner's home, another garage), an additional fee of \$4 per mile may be charged for all distances in excess of five miles for that portion of the distance in excess of five miles. All other vehicles, other than passenger vehicles, shall be at an additional fee to be negotiated between the tower and the owner for all distances in excess of five miles for that portion of the distance in excess of five miles.]

Official towers engaged for the Township of Hamilton shall not charge a fee in excess of the most recently adopted maximum New Jersey State Police Rates. No charges may be imposed for road side service and labor categories as listed in the rate guide, except for accident clean-up and disposal of debris may be charged at \$60 per hour plus the cost of absorbent material used as promulgated in the Township's Allowable Rates-Towing Service guide listed under Additional Service at paragraph (3a).

- D. [Recovery and/or winching service fees (first hour; additional time prorated at fifteen-minute intervals).]
 - [(1) Light-duty: \$150.]
 - [(2) Medium-duty: \$250.]
 - [(3) Heavy-duty: \$400.]

Official towers must provide itemized invoices for only services rendered that conforms with the most recently adopted New Jersey State Police Tower Rates Guide.

- E. [Specialized recovery equipment (per hour, unless provided otherwise).]
 - [(1) Rotator/crane recovery unit: \$1,200.]
 - [(2) Tractor with Landoll trailer or Detach trailer: \$450.]

- [(3) Tractor/transport hauler only: \$250.]
- [(4) Refrigerated trailer with tractor: \$450.]
- [(5) Box trailer with tractor: \$400.]
- [(6) Air cushion unit: \$1,000.]
- [(7) Light tower: \$250.]
- [(8) Pallet jack: \$200 flat rate.]
- [(9) Rollers: \$200 flat rate.]
- [(10) Any other specialized equipment: \$250.]
- [(11) Loader/backhoe/telescopic handler/bulldozer/Bobcat: \$300.]
- [(12) Forklift: \$300.]
- [(13) Dump truck/dump trailer with tractor: \$350.]
- [(14) Roll-off with container: \$350 per hour plus disposal.]
- [(15) Recovery supervisor vehicle: \$150.]
- [(16) Scene safety equipment/communication equipment/traffic management equipment: \$250 per hour, per each type used.]
- [(17) Recovery support vehicle with trailer/additional recovery equipment: \$350.]

The Township of Hamilton shall be charged at a rate of fifty (50) percent of the most recently adopted maximum New Jersey State Police Tower Rates Guide.

F. [Storage (per 24-hour period as defined above).]

[(1)Outdoor.]

- [(a) Light-duty: \$35 (per day).]
- [(b) Medium-duty: \$75 (per day).]
- [(c) Heavy-duty: \$100 (per day).]

[(2)Indoor.]

- [(a) Light-duty \$50 (per day).]
- [(b) Medium-duty \$100 (per day).]
- [(c) Heavy-duty \$200 (per day).]

After the first hour, all hourly billable rates shall be charged in half hour increments.

G. [Vehicle yard removal fee:]

- [(1)Light-duty: \$40.]
- [(2)Medium-duty and heavy-duty: \$55.]

Charges for all official tows are inclusive of the operator(s). An official tower may not separately charge for an operator(s) that drives/operates the towing equipment or manual labors.

H. [Cleanup fee:]

- [(1)Roadway cleanup (includes sweeping the road and removal of vehicle parts from motor vehicle accident scenes): \$50.]
- [(2)Basic cleanup: \$25 per fifty-pound bag of absorbent and plastic bags for removal.]
- [(3)Tarping/crash wrap: \$40 flat rate.]

Every operator of a wrecker shall give the driver of the vehicle being towed a written notice listing the fee to be paid and the name and address of the tower. A copy of this notice shall be given to the police officer in charge or to the Chief of Police if no officer is present. If the driver is not available, the operator shall give the officer in charge or the Chief of Police two copies of the

notice. The form of this notice must be approved by the Chief and will be printed at the expense of the tower. All disputes as to fares shall be determined by the Chief of Police. The police officer at the scene shall report any disputes to the Chief.

- I. [For conveying vehicles from a point within the Township to a point outside the Township, or vice versa, the rate is to be predetermined by documented mutual agreement.]
- J. Waiting time. Waiting charges shall not begin until 30 minutes after the arrival of the wrecker at the scene, and shall be prorated into 30 minute increments, and must be acknowledged in writing by the police officer at the scene.]
 - [(1) Light-duty and medium-duty: \$50 per hour.]
 - [(2) Heavy-duty: \$100 per hour.]
- [K. Every operator of a wrecker shall give the driver of the vehicle being towed a written notice listing the fee to be paid and the name and address of the tower. A copy of this notice shall be given to the police officer in charge or to the Chief of Police if no officer is present. If the driver is not available, the operator shall give the officer in charge or the Chief of Police two copies of the notice. The form of this notice must be approved by the Chief and will be printed at the expense of the tower. All disputes as to fares shall be determined by the Chief of Police. The police officer at the scene shall report any disputes to the Chief.]
- [L. Every Township tower, when requested by the Police Department, shall perform an inspection of the motor vehicle and provide a report to the Police Department as to the condition of such motor vehicle at no charge to the Township or to the owner or operator of the disabled motor vehicle.]

§468-17 Utilization of List of Official Towers; Rotating Call List

- A. Official towers shall be perform on a rotating basis. The rotating system is to be used in the assignment of towers in such areas where the owner or driver of a motor vehicle declares or is unable to indicate any specific choice of a tower to remove the vehicle. When the owner or driver of the disabled motor vehicle indicates a choice of a specific tower owner, that tower shall be called, and no tower shall be assigned from the rotation list. No person shall respond to the scene of a disabled vehicles except upon notification by the officer in charge in Police Headquarters or upon request of the driver or owner of the disabled motor vehicle.
- B. Such additional rules and regulations regarding the rotation of towers as may be promulgated under this chapter by the Municipal Clerk shall take effect immediately after service of a copy thereof on holders of all appropriate licenses for towers in the Township, which service may be made by addressing the copy to the licensees by ordinary mail at their last known address. If pursuant to the rules and regulations for rotation of towers adopted under this chapter the Police Division summons a tower to the scene of a disabled vehicle for the purpose of removing the vehicle, and the summoned wrecker shall arrive at the scene, the owner or driver of the disabled vehicle shall use the services of the summoned tower.
- C. In the establishment of a rotation system of assignment of towers, separate lists shall be set up for light/medium duty towers, heavy duty towers, and abandoned vehicles. The assignment of a call from the heavy duty list of a heavy duty tower shall be in addition to, and not in limitation of, the rights of such heavy duty tower owner to participate on a rotating basis in the light/medium duty call list.
- D. The Township shall request service only from official towers; provided, however, that if no emergency or road hazard exists, the Chief of Police or their designee shall allow the owner of the motor vehicle to call the tower of their choice. If the response exceeds 30 minutes by the wrecker chosen, the next official tower from the rotation list shall be called.
- E. During adverse weather conditions, heavy traffic conditions or emergency conditions, official towers shall give priority to requests from the Township over any other requests which may be received by the official towers.

§468-18 Authority to prescribe additional regulations; inspections; correction of unsafe equipment.

The Chief of Police shall establish reasonable rules and regulations for the inspection and operation of wreckers and for the design, construction, maintenance and condition of fitness for the safe conduct of the wrecker service business in accordance with the standards in this chapter. A licensee under this

chapter shall maintain all wreckers in a condition of safety for the transportation and hauling of disabled vehicles. The Chief shall have the right at all times to inspect all such licensed wreckers and shall maintain a record, in writing, of the report of all such inspections. If at any time the Chief of Police shall deem the equipment inadequate or unsafe, he shall have the power to demand immediate correction, and if not corrected to the full satisfaction of the Chief, shall then have the power to immediately suspend the license in the interest of protection of the public health, safety and welfare, after a due process hearing is had before the Chief of Police upon the nature and circumstances of the violation.

§468-19 Abandoned/Unclaimed Vehicle Responsibility

- A. Official tower must maintain written records for impounded and abandoned towed vehicles. The record shall indicate year, make, model, color, odometer reading, date and time towed and released. Impounded vehicles shall not be released without written HTPD authorization.
- B. All vehicles found by the Police Division to be abandoned shall be towed to the licensee's storage facility. These vehicles will be towed at [the] a rate [set forth in Chapter 215, Fees.] that is in accordance with the most recently adopted maximum New Jersey State Police Tower Rates Guide.

§468-20 Response time; missed calls; refused calls.

- A. A licensee under this chapter shall arrive at the scene of the accident within 20 minutes of the call for service, unless a longer response time is approved by the Police Division.
- B. If the tower on call is dispatched for a towing service and arrived on the scene of the accident within the specified response time, the tower shall be given the tow or paid the towing fee by the owner, regardless of whether the owner has subsequently requested another tower be dispatched.
- C. If the licensee misses and/or refuses three calls within a thirty-day period, the tower's license may be suspended for a period to be determined by the Township. The Police Division shall provide the Township Clerk by the tenth day of each month, a monthly tow service vehicle log. Written notification will be given by the Township Clerk for each missed and refused call. There will be no refund of licensee fees for suspended licenses.
- D. If the tower is called by the police and the vehicle to be towed does not require a tow before the tower arrives, there will be no fee charged, and the tower will not be charged with a call but will receive the next tow call.
- E. Refusal to respond to any service request shall result in the licensee/contract tower being skipped for their next regular rotation call. Subsequent offenses of this section shall be addressed by the Township Clerk and the Chief of Police or their designee.

§468-21 Enforcement Agency; Violations and penalties; suspension or revocation of license.

- A. Any person, firm or corporation who shall violate any provision of this chapter shall, upon conviction thereof, be punished by the penalties set forth in Chapter 1, General Provisions, § 1-2, Violations; penalties, of the Township Code in addition to the penalties established by this Chapter upon conviction. Each violation of any of the provisions of this Chapter and each day the same is violated shall be deemed and taken to be a separate and distinct offense.
- B. In addition to the penalty provided in Subsection A of this section, any license issued under this chapter may be revoked or suspended or renewal denied, after notice and opportunity to be heard in accordance with Chapter 285, Licenses and Permits, of the Code of the Township of Hamilton, for violation of the provisions of this chapter or of any rules and regulations established thereunder or for violation of the provisions of any federal or state law or any local ordinance, including but not limited to the Zoning Ordinance of the Township.
- C. The Township Clerk shall be the enforcement agency. The Business Administrator or their designee shall have the authority to hear complaints against any official tower whether brought by Township representatives, the public and/or other official towers. Any and all complaints lodged against a towing agent in the Township by another towing agent shall be put in writing. The complaint will be forwarded to the Township Clerk who will forward a copy to the Business Administrator.
- D. In the event that a complaint (of a noncriminal nature) is received by the Township, involving the improper or unsatisfactory performance of services by an official tower or damage to a motor vehicle while in the custody of the tower, the procedure as established in Chapter 285 shall be followed.

- E. The enforcement agency shall give written notice of said complaint, by certified mail, return receipt requested to the official tower against whom the complaint is made. The official tower shall make a written response to such complaint within five calendar days from receipt of the written notice. Copies of the notice of complaint and written response shall be provided to the Business Administrator.
- F. [The Business Administrator after hearing the matter shall have the authority to (1) for the first violation, immediately suspend the official tower's license for a period of up to 10 days; (2) suspend the official tower's license for a period of 90 days for the second or third violation and (3) revoke the offending tower's license for more than three violations. Any contestation of such decision by the Business Administrator shall be made by way of appeal to the Council within 14 calendar days of the notice of said suspension or revocation. The Council shall then conduct a hearing regarding the appeal of the suspension or revocation at the next public Council meeting or within 30 calendar days of the tower's notice of appeal. Any suspension will be for the remainder of the tow week, and at a minimum the following rotation.] The Business Administrator after hearing the matter shall have the authority to invoke disciplinary action according to set policy. Any contestation of such decision by the Business Administrator shall be made by way of appeal to the Council within 14 calendar days of the notice of said suspension or revocation. The Council shall then conduct a hearing regarding the appeal of the suspension or revocation at the next public Council meeting or within 30 calendar days of the tower's notice of appeal. Any suspension will be for the remainder of the tow week, and at a minimum the following rotation.
- G. If, after considering the matter and the findings by the Business Administrator, the Council shall determine that there is good and sufficient cause for suspension or revocation of the official tower's license, the tower shall surrender said license to the enforcement agency within one calendar day.
- H. Failure to surrender the license upon suspension or revocation shall constitute a violation of this section, subject to all legal action available to the Township, including permanent removal from the official towers list.
- I. Nothing contained herein shall prevent or limit the right of any person to commence or maintain an action for damages or any other relief directly against an official tower in a court of competent jurisdiction. Upon the second suspension within one towing term, said towing agent shall be revoked for the remainder of the term.
- J. If the licensee cannot, at any time, meet any provisions of this chapter, the licensee shall inform the Township Clerk in writing. If in the opinion of the Township Clerk the licensee's failure to meet the specifications of this chapter was the fault of the licensee, the licensee shall be liable for a fine of not less than \$100 per day for each day any provision of this chapter was not met.

§468-22 Public availability of regulations and fee schedule. Miscellaneous Provisions

- A. Copies of this section and the schedule of fees that may be charged by official towers shall be made available to the public during normal business hours at the Township Hall. Copies shall also be made available to the public at each official tower's place of business.
- B. All official towers shall post, in a prominent place at each storage area clearly visible to the public, a schedule of fees that may be charged for all services, provided that the same is pursuant to this section.
- C. The Township reserves the right to make periodic unannounced inspections of the personnel, vehicles, equipment, records, and storage areas of all official towers.
- D. Each official tower shall keep and maintain adequate and complete records showing all vehicles towed, stored and released, all services rendered and all fees charged and collected. All records shall be available for inspection by the Township at any time during normal business hours. Records shall be kept and maintained by the official tower at one central location and shall be retained for a period of seven years. Records may be written, printed or computerized as long as the requirements of this subsection are met.
- E. Neither the Township nor the tower shall be construed in any manner whatsoever to be an employee of the other, nor shall any employee or agent furnished by any party be construed to be an employee or agent of the other party. Inclusion on the official towers list shall not be construed or considered as a joint venture, partnership, association, contract of employment or profit-sharing agreement.
- F. The official tower shall, at all times, be solely responsible for the conduct of its employees and reporting of any changes to the Township Clerk.
- G. No official tower shall park any commercial vehicle as per the Land Use Legislation, Chapter 550-

312G on private property. Any sustained violation may result in penalties pursuant to Chapter 468-21 after a disciplinary hearing.

- H. All Township vehicles towed by any licensee shall be towed to the Hamilton Township Department of Public Works.

§468-23 Limitation of fees for storage of removed vehicles.

- A. A limit, per day, for the first 30 days of storage of a removed vehicle or found abandoned by the police and towed at their direction and stored at a tower's facility, may be charged to the Township for the storage of the vehicle. The daily limit [is included in Chapter 215, Fees.] shall be in accordance with the most recently adopted maximum New Jersey State Police Tower Rates Guide.
- B. A limit, per day, for the 31st day of storage and any day thereafter of a removed vehicle, whether said vehicle is found abandoned by the police and towed at their direction and stored at a tower's facility for the storage of the vehicle. The daily limit [is included in Chapter 215, Fees.] shall be in accordance with the most recently adopted maximum New Jersey State Police Tower Rates Guide..
- C. A maximum limit per removed vehicle, whether said vehicle is owned by the Township of Hamilton or found abandoned by the police and towed at their direction and stored at a tower's facility, may be charged for the storage of the vehicle regardless of the duration of the storage. The maximum limit [is included in Chapter 215, Fees.] shall be in accordance with the most recently adopted maximum New Jersey State Police Tower Rates Guide.

TOWNSHIP OF HAMILTON
COUNTY OF MERCER, NEW JERSEY

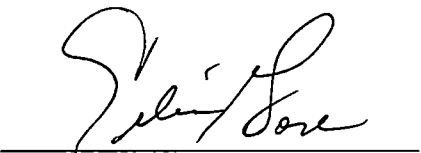
ORDINANCE

No. 22-005

ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF HAMILTON, NEW JERSEY, CHAPTER 468, TOWING, AND REPEALING THE PREVIOUS SECTION IN ITS ENTIRETY

Any Ordinance or Ordinances in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.


PRESIDENT


MUNICIPAL CLERK

RECORD OF VOTE													
First Reading							Second Reading						
COUNCIL	AYE	NAY	NV	AB	ORD	SEC	COUNCIL	AYE	NAY	NV	AB	ORD	SEC
PASQUALE "PAT" PAPER0, JR	✓					✓	PASQUALE "PAT" PAPER0, JR.	✓					✓
NANCY PHILLIPS .				✓			NANCY PHILLIPS				✓		
RICHARD L. TIGHE, JR.	✓				✓		RICHARD L. TIGHE, JR.	✓				✓	
ANTHONY P. CARABELLI, JR.	✓						ANTHONY P. CARABELLI, JR.	✓					
CHARLES F. WHALEN	✓						CHARLES F. WHALEN	✓					
X - Indicates Vote A.B. - Absent N.V. - Not Voting ORD. - Moved SEC. - Seconded													

REJECTED _____
APPROVED ✓
RECONSIDERED BY COUNCIL _____
OVERRIDE VOTE AYE _____ NAY _____
JEFFREY S. MARTIN, MAYOR 2/22/2023 DATE