

**AN ORDINANCE AMENDING CHAPTER 287 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF WHARTON, COUNTY OF MORRIS, STATE OF NEW JERSEY**

BE IT ORDAINED by the Governing Body of the Borough of Wharton that Chapter 287 is hereby amended as follows:

**§ 287-1. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**ABANDONED VEHICLE** — Any vehicle partially dismantled, not readily capable of operation under its own power, not currently used for transportation, not currently licensed, wrecked, or junked. Also, any vehicle whose owner has terminated the use and care of the vehicle and has either indicated by his words or actions an intent to leave it and no longer claim ownership of it or left it without making arrangements for storage with the owner, occupant or person in control of the premises on which it is located.

**ADMINISTRATIVE FEE** — Fee to be charged when the services provided are needed as a result of a motor vehicle accident. The administrative fee represents compensation to the tow operator for paperwork and phone calls with insurance companies and others in connection with the motor vehicle accident. The administrative fee is in addition to the basic towing service and any other associated fees.

**BASIC TOWING SERVICE** — The removal and transportation of a vehicle 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, including tarping. Basic towing service does not include consent tows, road services, or winching.

**CONSENT TOW** — The towing of a vehicle from the scene to anywhere other than the operator's garage or towing a vehicle from the operator's garage to a third location. Consent tows are outside the terms of this chapter. The fees for consent tows are to be determined by the operator and do not have to comply with the fees set forth herein.

**DEBRIS CLEANUP** — The cleanup of debris at the point of impact, the final resting point of the vehicle and the associated debris field. Debris cleanup includes the use of absorbents to soak up spills or vehicle fluids as permitted by law.

**HEAVY-DUTY WRECKERS** — Provision of basic towing services for a vehicle that weighs 26,000 pounds or more.

**LIGHT-DUTY WRECKERS** — Provision of basic towing services for a vehicle that weighs up to 10,000 pounds.

**MEDIUM-DUTY WRECKERS** — Provision of basic towing services for a vehicle that weighs 10,001 pounds to 25,999 pounds.

**OPERATOR** — A towing company that has been approved by the Borough Administrator and placed on the rotational list by the Chief of Police.

**ROAD SERVICE** — When an operator responds to a service call and makes repairs to a passenger vehicle on site without towing said vehicle back to the service garage. Repairs may include, but are not limited to, such activities as repairing flat tires, providing a jump start, and/or opening a locked vehicle.

**ROLLBACK TRUCK** — This vehicle shall be classified no lighter than 14,000 pounds gross vehicle weight.

**SECURED STORAGE FACILITY** — A facility that is inside a locked building or outside in a completely enclosed area with at least a six-foot fence, with at least one entrance and exit gate and is completely illuminated to safeguard the motor vehicles.

**SPECIALIZED EQUIPMENT** — Equipment needed for recovery of a vehicle that is not identified in this chapter.

**STORAGE FEES** — The maximum allowable amount to be charged by an operator for a twenty-four-hour period, or fraction thereof, for passenger vehicles. A new twenty-four-hour period begins at 12:01 a.m. Storage is charged per calendar day or any part thereof.

**TARPING** — Covering a motor vehicle to prevent weather damage.

**TOWING OPERATORS ROTATIONAL LIST (LIST)** — Schedule prepared by the Chief of Police of towing operators that were approved by the Borough Administrator, to be called by the Police Department for vehicle assistance.

**VEHICLE ACCESS CHARGE** — When the owner and/or insurance representative must be accompanied into the secured storage facility to inspect, remove personal belongings, adjust and/or take photographs or for removal of vehicle from the storage facility for pickup.

**WINCHING** — The process of moving a motor vehicle by the use of chains, nylon slings or additional lengths of which cable from a position that is not accessible for direct hookup for towing a motor vehicle. Winching also includes recovering a motor vehicle that is not on the road and righting a motor vehicle that is on its side or upside down, but does not include pulling a motor vehicle onto a flatbed tow truck.

**§ 287-2. Purpose; administration.**

- A. The purpose and intent of this chapter is to provide criteria and standard operating procedures that are reasonable, nonexclusionary and nondiscriminatory in the selection and use of towing operators, on a rotational basis, in 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, vehicles involved in accidents and/or those vehicles suspected or identified by the Borough as being involved in criminal activity.

- B. The Borough Administrator and the Chief of Police are hereby designated to administer and enforce all provisions of this chapter.

**§ 287-3. Application procedure.**

It shall be the responsibility of the Borough Administrator or his designee, with the advice of the Chief of Police, to approve all applications for towing operators, to be utilized on a rotational basis for the purpose of providing emergency towing, road and storage services to the owners of motor vehicles utilizing Borough roads when he determines that the following requirements have been met by the applicant. On forms prepared by the Borough, and provided by the Borough Administrator or his designee, all towing operators shall submit written documentation that they are in compliance with the qualification requirements set forth in this chapter and as specifically listed below:

- A. Submission to the Borough Administrator of a certificate of insurance in accordance with the requirements set forth in § 287-8 below.
- B. Submission to the Borough Administrator of a Disclosure of Investment Activities in Iran form to be provided by the Borough.
- C. Submission to the Borough Administrator of the appropriate affirmative action evidence as required by N.J.S.A. 10:5-31 et seq., and N.J.A.C. 17:27.
- D. Submission to the Borough Administrator of a valid business registration certificate issued to them by the State of New Jersey pursuant to N.J.S.A. 52:32-44; as well as copies of a W-9 and tax identification number for tax purposes.
- E. Submission to the Borough Administrator of the names and contact information for at least four business references.
- F. **Annual** submission to the Borough Administrator of the names, addresses and driver's license numbers of all proposed drivers and employees who will be rendering services known at the time of the application. **Each towing company shall ensure that all drivers and operators of towing vehicles shall be properly licensed to operate a motor vehicle within the State of New Jersey. Each towing company shall obtain a certified NJ driving history abstract for each of their drivers/operators and provide the certified abstract results to the Borough Administrator and/or the Wharton Borough Police Department on an annual basis. NJMVC**

information can be obtained on the NJMVC website by completing a Driver History Abstract request form (D.O. #21) for a certified driving abstract. Submission to the Borough Administrator of certified copies by the business owner of current MVC abstracts for the last five years and All owners, drivers and operators shall submit to a criminal history check via third party vendor Identogo for fingerprinting backgrounds using service code 2F17ZY. eriminal name check for all operators, officers and employees. Subsequent to the original fingerprinting process the same applicant for yearly renewal may use the name check form SBI-212B located on the NJSP Criminal History Record Request website at [NJPortal.com/njsp/212b](http://NJPortal.com/njsp/212b), rather than completing the outside vendor process. Additionally, all owners, employees and drivers shall submit a Wharton Borough Waiver, Consent and Release allowing the Police Department to conduct a background investigation.

Any applicant that has a criminal conviction within the last five years for any violent crime, or any indictable offense that involved a stolen or embezzled vehicle, fraud related to the towing business, stolen property or a similar offense, including burglary, theft or controlled dangerous substances shall be deemed disqualified hereunder and shall not be permitted to render towing services.

Neither the MVC abstracts nor the criminal name check can be older than 30 days from the date of the application. In order to keep information current, all operators will be required to submit updated rosters of drivers, within a reasonable period not to exceed 30 calendar days of a new hire, to the Chief of Police along with the necessary MVC abstracts for the last five years and a criminal name check for all new drivers.

- G. Submission to the Borough Administrator of a detailed listing of all equipment to be used while performing services under this chapter. The listing shall include the type of vehicle, the storage location of vehicles and whether the vehicle is owned or leased.
- H. All operators shall submit to the Borough Administrator a list of the lifting capacities of the devices for types of vehicles.
- I. Submission to the Borough Administrator of the size, location and security features of a secured storage area for all vehicles towed by the operator.

**§ 287-4. Rotational list and supervision.**

- A. Following the approval of applications by the Borough Administrator, it shall be the Chief of Police's responsibility to establish a towing operators rotational list. The Police Department shall call the operators in

sequential order as set forth by the Chief so that each operator will be given the opportunity to respond to individual calls as received by the Borough. The Police Department shall have the right to call the next operator on the list should an operator fail to respond to a call within 20 minutes during the day and 30 minutes at night or if the first operator called cannot be reached by telephone or advises that he is unable to respond. The final decision on the operator called shall be within the discretion of the shift commander based on individual emergent need such as vehicle location, traffic, volume of police calls for assistance and proximity of the operator to the vehicle location.

- B. The Chief shall maintain due vigilance over all operators to make certain that the tow trucks and other related vehicles and equipment are maintained in a safe working condition for transporting and hauling disabled vehicles. The Chief or his duly designated representative shall have the right, at all times, to inspect all towing vehicles and related equipment which perform services pursuant to this chapter.**

**§ 287-5. Operator performance standards.**

- A. Nontransferable. Operators shall not assign, transfer, convey, sublet or otherwise dispose of the contract, or any part thereof, to anyone other than another tower on the Borough's rotational list, without the prior written consent of the Borough.**
- B. Compliance with applicable laws. Operators shall comply with all New Jersey State and federal laws as they pertain to the performance under this chapter.**
  - (1) Operators shall comply with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities.**
- C. Performance and drivers. Each operator must be able to demonstrate to the satisfaction of the Borough that the operator is thoroughly qualified and experienced in the towing and removal of vehicles of all types, and that he/she has the facilities, equipment, expertise, licensing, personnel and storage areas to perform the services required by this chapter in a manner satisfactory to the Borough.**
  - (1) The Borough reserves the right to disqualify from consideration any application by an operator who was declared in default on a previous contract with the Borough.**
  - (2) All operators shall employ a sufficient number of employees to comply with the operator's and Borough's minimum operational**

requirements.

- (3) **No person shall be employed by an operator for work for the Borough under this chapter unless approved by the Chief of Police subsequent to a driver history and criminal background check.**
  - (4) **All drivers of all operators shall be over the age of 18 years and must have a valid, current driver's license and CDL where required.**
  - (5) **All employees of the operator shall wear uniform clothing with a clear designation (patch or stitching) indicating the employee's first name and a clear designation of the name of the operator company.**
  - (6) **The service, equipment, and personnel of all operators will be subject to periodic inspections and approval by the Borough.**
  - (7) **The operator on call pursuant to the list shall be responsible for towing of vehicles on a twenty- four-hour basis, seven days a week.**
  - (8) **The operator shall respond promptly to all requests for towing service by the Borough. The operator shall respond and be present at the towing location within 20 minutes of receipt of notice of towing, between the hours of 8:00 a.m. and 4:30 p.m., and within 30 minutes between 4:31 p.m. and 7:59 a.m., unless heavy or unusual traffic conditions within or outside the Borough prevent the operator from arriving within the above time periods. In that event, the operator shall arrive in a reasonable time given allowance for said traffic conditions. Failure to arrive promptly as provided herein may subject the operator to suspension or removal from the list pursuant to § 287-10.**
  - (9) **As part of the basic towing service, the operator shall remove and tow to the storage facility all vehicles described by the Borough of Wharton Police Department which include, but are not limited to, abandoned, illegally parked, disabled, involved in accidents, suspected of involvement in criminal activity, or otherwise confiscated. The decision on when a vehicle is abandoned, illegally parked, disabled, involved in an accident or suspected of involvement in criminal activity shall be made by the Borough of Wharton Police Department, and the operator shall have no responsibility for the decision.**
- D. Records of inspections. All operators shall record all vehicles towed on billing forms as soon as possible after each vehicle is towed. All personal property shall remain in the vehicle.**
- E. Rights of owners. The owner of any vehicle towed shall have the right to remove property belonging to him from the stored vehicle unless a police hold is marked on the towing form and/or vehicle.**

- (1) A vehicle owner or his representative shall have the right to take photographs of stored vehicles for insurance purposes.**
  - (2) Complaints of any kind, relative to service, overcharging, theft of parts, damage to towed or stored vehicles, discourteous treatment, and the like, shall be referred to the Chief of Police for investigation.**
  - (3) The Borough's on-call operator must be used for towing services unless, at the discretion of the police officer on scene, the vehicle(s) to be towed are not blocking the roadway or otherwise causing a public hazard. In which case, a vehicle owner may summon a towing operator other than the on-call operator to tow, store, or otherwise provide services to the vehicle owner. Said service will be provided at no cost whatsoever to the Borough. The servicing tower is not subject to the rates specified by virtue of this chapter. In the interest of public safety, customer requests for a specific towing vendor shall not be honored at crash and recovery scenes.**
- F. Emergency services. In addition to the service herein outlined, all operators are required to be on call and available to provide services to the Borough during storm events, periods of snow emergencies, traffic emergencies, disasters, and any acts of God, and for any other reason when so designated by the Borough Administrator and/or the Chief of Police or their duly authorized representatives.**
- (1) Emergency service will begin when the Chief of Police or his authorized designee notifies the operators that all operators must be on call due to an emergency and shall end when he terminates the emergency status by calling the operators.**
  - (2) The operator may, during the emergency, designate temporary areas owned or leased by him or subcontractors, with the approval of the Chief of Police or his representative, for the storage of disabled vehicles in said area. During said emergencies, the operator shall be entitled to charge the rates included in this chapter to the owners of the vehicles so removed.**
- G. Dealing with the public. In all of his/her dealings with the public in connection with the contract, the operator is expected to act in a professional manner and at all times to be courteous and respectful toward members of the public as well as representatives of the Borough of Wharton. While members of the public, especially those whose cars may have been towed or impounded, may at times resort to strong language, threats, and unbecoming behavior toward the operator, the operator is expected to exercise restraint and not to respond in kind. Repeated reports to the Borough of Wharton Police Department of discourteous behavior by the operator, which can be substantiated and documented,**

may be considered by the Borough as sufficient cause for suspension or removal from the list pursuant to § 287-10 below.

**§ 287-6. Equipment regulations.**

- A. All leased and rented equipment must be permanently located at the operator's lot at all times.**
- B. Each piece of equipment must meet the minimum standards set forth herein. Equipment that cannot meet these minimum standards shall not be used to perform services under this chapter.**
- C. The operator is solely responsible for the safety, maintenance and operation of each piece of equipment used to perform services under this chapter.**
- D. All operators shall provide a minimum of four vehicles to comply with the terms of this chapter, at least one of which must be a hydraulic truck, and at least two must be flatbed trucks.**
- E. All tow vehicles shall be equipped with the following, at a minimum:**
  - (1) Two-way radios or cell phones.**
  - (2) Chains to secure vehicles to the flatbed.**
  - (3) Equipment necessary to tow motorcycles.**
  - (4) Wheel lifts with safety straps to prevent damage to the towed vehicles.**
  - (5) Steering locks for towing vehicles from the rear.**
  - (6) Absorbent materials utilized to absorb liquid spills which, if left on the roadways, could create hazardous conditions.**
  - (7) Broom and shovel.**
  - (8) Snatch blocks.**
  - (9) Lockout tools.**
  - (10) Equipment to jump-start a vehicle.**

**§ 287-7. Storage facilities.**

- A. Each operator shall maintain a principal place of business operation and a secured storage facility within five miles of the Borough of Wharton.**
- B. Towed vehicles may not be stored upon a public street or alley; they must be stored by the operator within the secured storage facility.**
- C. The operator shall be responsible for each vehicle in its storage area until**



final disposition and removal as ordered by the Borough. All vehicles, regardless of condition, must be stored singly and so arranged to permit inspection and subsequent removal when the vehicle is retrieved, sold or otherwise removed. Adequate walkway inspection space must be provided at all times.

- D. The operator must provide a secured storage facility (inside and/or outside).

§ 287-8. Insurance and indemnification.

- A. Submission of certificate of insurance. All towing operators shall submit a certificate of insurance to the Borough Administrator, which certificate shall name the Borough as an additional insured. The certificate shall provide evidence that the towing operator carries the following insurance coverages in accordance N.J.A.C. 13:45A-31.3 and N.J.S.A. 54:13-12.

- (1) In the case of each light-medium duty tow truck, motor vehicle liability insurance coverage for the death, injury to persons or property for each accident or occurrence in the amount of at least \$750,000 single limit; and in the case of each heavy-duty tow truck, motor vehicle liability insurance coverage for the death of or injury to persons and damage to property for each accident or occurrence in the amount of at least \$1,000,000 single limit. ~~Automobile liability: combined single limit coverage in the minimum amount of \$750,000.~~
- ~~(2) Garage liability: a minimum of \$750,000 for each occurrence.~~
- ~~(3) A towing company shall also secure and maintain, for every tow truck, insurance that covers garage keepers' legal liability in the amount of \$100,000, and "on-hook" coverage, either as an endorsement on the insurance required by (1) above or in the amount of \$100,000. ÷ a minimum of \$45,000 for each occurrence.~~
- (4) Workers' compensation insurance.

- B. The towing operators agree that to the fullest extent permitted by law, they shall defend, indemnify and hold harmless the Borough from and against any and all claims, suits, judgments and demands whatsoever, including, without limitation, 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 towing operators or any other person directly or indirectly employed by the towing operators while in the performance of rendering any services pursuant to the scope of this chapter.

§ 287-9. Towing and storage fees.

- C. The following fees to be paid by the motor vehicle owner directly to the operator represent the maximum fees permitted under this chapter and set in accordance with the annual Garden State Maximum Towing Association, Inc. rate for maximum New Jersey State police rates. These rates are subject to change yearly without amendments to the ordinance in accordance with the Garden State Towing Association, Inc. published rates.
- D. It shall be unlawful for any operator to charge a fee in excess of the fees prescribed in this section for the services regulated therein. For all fees that are hourly rates, there is a one-hour minimum and beyond the first one hour, the fee will be assessed in thirty-minute increments.
- (1) Additional labor (as needed), per person: ~~\$95~~ \$125 per hour/ per person.
  - ~~(2) Administrative fee: flat fee of \$35.~~
  - (3) After-hours vehicle release fee: flat fee of ~~\$45~~ \$85.
  - (4) Basic towing service by a light-duty wrecker: ~~flat fee of \$135~~ \$155 hook up.
  - (5) Basic towing service by a medium-duty wrecker: ~~flat fee of \$250.~~\$300/hour.
  - (6) Basic towing service by a heavy-duty wrecker: ~~flat fee of \$450.~~ \$500/hour.
  - (7) Debris cleanup: ~~flat fee of \$75~~ per hour.
  - (8) Light-duty Road service charge: ~~\$85~~ per hour \$150 per hour plus parts.
  - (9) Heavy-duty road service charge: \$200 per hour plus parts.
  - (10) Storage rate: ~~\$35~~ \$50 per day for passenger vehicles.
  - ~~(11) Vehicle access charge: flat fee of \$50.~~
  - (12) Winching charge by a light-duty wrecker: ~~\$175~~ \$350 per hour in ½ hour increments.
  - (13) Winching charge by a medium-duty wrecker: ~~\$275~~ \$350 per hour in ½ hour increments.
  - (14) Winching charge by a heavy-duty wrecker: ~~\$500~~ \$650 per hour in ½ hour increments.
- E. The rates applied to towing services performed under this chapter shall

be posted in a conspicuous place, visible to the public at the operator's storage facility and principal place of business.

- F. All fees are subject to New Jersey State laws, including, but not limited to, N.J.S.A. 39:10A-1(c), which provides that when a vehicle is abandoned due to the death or incapacitation of the driver or any passenger, the person storing the vehicle shall charge the owner of record or the security interest holder no more than \$100 for the first 72 hours after the vehicle is placed on the premises.
- G. Consent tows and the use of specialized equipment to perform a recovery service are permissible and are outside the terms of this chapter.
- H. In no instance shall the operator request payment from the Borough for any services rendered to the owners of private vehicles, except, however, in those cases where the Police Department authorizes the removal of a Borough-owned vehicle.
- I. Towing of any and all disabled Borough vehicles shall be covered under the pricing listed in this chapter.
- J. The operator shall prepare a bill for towing charges for each vehicle towed, consistent with the rate schedule of towing services in this chapter. Prior to the release of any vehicle by the operator from the storage facility, the operator shall obtain payment for its towing fee and storage as indicated on said bill.

**§ 287-10. Suspension or removal from list for noncompliance.**

- A. The Chief of Police shall have the power to suspend an operator from the towing operators rotational list for a period of up to 30 calendar days for failure to comply with any provision of this chapter. A subsequent violation may result in the permanent removal of an operator from the towing operators rotational list for a twelve-month period. An operator may appeal the Chief's ruling of either a suspension or a permanent removal. In such cases, an appeal may be filed with the Borough Administrator within 10 business days of the Chief's decision. The Borough Administrator shall render his determination within 20 business days. The Borough Administrator's determination, as rendered, shall be final and conclusive under this chapter.
- B. In addition, failure to comply with the Borough's Zoning, Land Use<sup>1</sup> and Property Maintenance<sup>2</sup> codes or failure to pay municipal taxes may subject any operator to suspension from the towing operators rotational list upon request to the Chief of Police from the Borough's Construction Code Official, Zoning Officer, Health Officer, or Tax Collector. Any operator suspended from the towing operators rotational list for any

**violation of the Borough's Zoning, Land Use and Property Maintenance codes shall have the right to due process and appeal as set forth in Subsection A above.**

**§ 287-11. Release of impounded vehicles.**

**No impounded vehicle shall be released without proper authorization from the Wharton Borough Police**

**All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed only to the extent of such inconsistency.**

**This ordinance shall take effect on the noted effective dates after final passage and publication as required by law.**

**First Reading: November 18, 2024  
Second Reading: December 9, 2024**

**BOROUGH OF WHARTON**

**ATTEST:**

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**Gabrielle Evangelista,  
Borough Clerk**

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**WILLIAM J. CHEGWIDDEN,  
MAYOR**