

**CITY OF ABSECON**

**ORDINANCE 15-2018**

**AN ORDINANCE REPEALING THE EXISTING PROVISIONS OF THE CODE OF THE CITY OF ABSECON, CHAPTER 320 – TOWING, IN ITS ENTIRETY AND ENACTING THE FOLLOWING PROVISIONS IN ITS PLACE**

**NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF ABSECON CITY, NEW JERSEY** that Chapter 320 – Towing be amended as follows:

**Article I. General Provisions**

**§ 320-1. Purpose.**

- A. It is hereby declared and found that it is of vital importance to the traveling public that disabled vehicles be removed from the highways as promptly as possible, that delay in removal impedes the movement of traffic unnecessarily and causes motor vehicle accidents and that the towing of disabled motor vehicles in the streets of the City of Absecon is a matter affecting the public interest and consequently should be subject to supervision and administrative control for the purpose of safeguarding the public against fraud and exorbitant rates and similar abuses.
- B. The purpose of this ordinance is to establish, pursuant to N.J.S.A. 40A:11-5(1)(u) a list of towing contractors to provide basic towing and storage services for the City of Absecon on a rotating basis and to establish, pursuant to N.J.S.A. 40:48-2.49, regulations governing the operators engaged in non-preference towing and storage services in the City of Absecon and the rates charged for such services. Said services shall be provided under the supervision of the Chief of Police of the City of Absecon or his designee.
- C. In addition to the regulation of towing contractors which provide services to the City of Absecon, the regulation of private towing contractors is also appropriate for the protection and welfare of the public.

**§ 320-2. Definitions.**

As used in this chapter, the following terms shall have the meaning as indicated.

**ABANDONED VEHICLE**

Any vehicle which is parked along the highway or other public property or on any private property without the consent of the owner or other person in charge of the property for a period of more than 48 hours, or for any period without current registration or license plates, as required by law, or is positioned so as to constitute an obstruction to traffic.

**ABSORBENT**

A granulated or powder substance used to soak up fluids commonly found in the operation of motor vehicles.

**AFTER HOUR RELEASE**

An additional fee incurred by the vehicle owner for release of his vehicle after business hours. After hour release can only occur with mutual consent of the vehicle owner and the Municipal Towing Contractor.

**BASIC ENVIRONMENTAL CLEANUP**

The cleanup and removal of small quantities of fluids that are associated with the operation of a motor vehicle which leak on the ground.

**BASIC TOWING SERVICE**

The removal and transportation of a vehicle at the request or call of authorized personnel or members of the Police Department as may be required when a vehicle is abandoned, disabled, damaged in an accident, illegally parked, regained 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, as defined herein.

**COMMON INTEREST PROPERTY**

Semipublic roadways, driveways and parking areas in residential, common interest developments; common property of covenant-controlled communities and homeowner associations.

**DISABLED VEHICLE**

A motor vehicle which has been abandoned or rendered inoperable by mechanical failure or accident.

**EXTRAORDINARY SERVICE**

A charge for extra manpower, equipment or additional service that may be necessary to recover or tow a disabled vehicle. An Extraordinary Service charge is not to be routinely incurred.

**CITY OF ABSECON STORAGE FACILITY**

Any facility or location owned or under control of the City to which the Police Department may direct an impounded vehicle be removed.

**IMPOUNDMENT**

The act of storing and confining a motor vehicle upon an order of the Police Department at either the Towing Operator's storage area or at a City of Absecon Storage Facility as a result of abandonment, involvement in an accident, suspected criminal activity or any violation of the New Jersey Motor Vehicle Statutes which the Police may act upon.

**FLATBED**

A vehicle carrier equipped with a wheel lift and roll back/tilt bed with dual rear wheels capable of removing and transporting small trucks, full size vans or large passenger cars without damage.

**MOTOR VEHICLE ACCIDENT**

An occurrence in which a vehicle comes in contact with any other object for which the vehicle must be towed or removed for placement in a Storage Facility. This includes all situations which are accidental to one person even if caused by the intentional acts of another.

**MUNICIPAL TOWING CONTRACTOR**

A person, firm, corporation or partnership engaged in the business of providing Basic Towing Services, road service and storage services for motor vehicles, licensed under authority of this Chapter to provide towing services at the request of the Police.

**NONBASIC TOWING SERVICES**

All towing services, which are not Basic Towing Services, as defined herein.

**ORDINARY CARE**

Care that is normally given to protect a motor vehicle from further damage, including but not limited to usage of tarps for environmental protection and security protection for storage areas.

**OUTSIDE BUILDING 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, is lit at night, and has an area of at least 4,000 square feet.

**OWNER**

A person, firm, corporation or other entity that owns, leases and/or operates, parks or abandons a vehicle on the roads and highways within the City of Absecon, which vehicle by reason of being disabled or being unlawfully upon said roads requires towing services.

**PERSONAL BELONGINGS**

Property belongings to or under control of a vehicle owner that might be contained in a vehicle, but not including items attached to the vehicle.

**POLICE**

The City of Absecon Police Department.

**PRINCIPAL LOCATION**

Sufficient space at an auto-related business where the licensee shall conduct business associated with the towing and storage of vehicles under the authority of the towing license issued by the City of Absecon which is staffed during business hours and maintains a clean comfortable waiting area with toilet facilities.

**PRIVATE PROPERTY**

All roadways, driveways and parking areas not Common Interest Property or under the jurisdiction of a public body, as authorized by law, including business, commercial and institutional property.

**PRIVATE TOWING CONTRACTOR**

A person, firm, corporation or partnership engaged in the business of providing non-emergency, non-preference private towing services under the authority of this Chapter at the request of private property owners and common interest property associations. This includes towing from commercial business properties.

**RECOVERY/WINCHING**

Any vehicle that is recovered from a position beyond the right-of-way or berm of a roadway or from being impaled upon any other object within the right-of-way or berm. It shall also include the up righting of any vehicle which is overturned or on its side.

**ROUTINE CALLS FOR SERVICE**

Repairs that can be provided to a disabled vehicle without towing, including but not limited to, flat tire changing, jump starting and gasoline deliveries.

**STORAGE FACILITY**

A lawfully licensed area or lot where motor vehicles are kept, deposited or stored on a temporary basis.

**STORAGE FEES**

The maximum allowable amount of storage fees to be charged per twenty-four-hour period, as provided herein.

## **STORAGE SERVICES**

The housing or holding of vehicles by a licensee under authority of this Chapter.

## **TOW VEHICLE**

Vehicles equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under reach equipment specifically designed by its manufacturer for the removal or transport of vehicles.

## **UNCLAIMED VEHICLE**

Any vehicle towed by a licensed tower under this Chapter that is left unclaimed for a period of ten days.

## **VEHICLE**

Every device in, upon or by which a person or property is or may be transported upon a highway except devices moved by human power.

## **WAITING TIME**

Additional time a tow operator spends at the scene other than the time required for the actual tow and/or recovery.

## **WRECKER**

A tow vehicle with dual rear wheels capable of towing or wheel lifting vehicles.

## **§ 320-3. Administration and Enforcement.**

The Chief of Police, his designee and the Police Department of the City of Absecon are hereby designated to administer and enforce all provisions of this Chapter.

## **Article II. Municipal Towing Contractors**

### **§ 320-4. License Required.**

No Municipal Towing Contractor shall operate within the City of Absecon for towing and/or Storage Services unless the Municipal Towing Contractor has obtained a license issued by the City.

#### **A. Exemptions.**

- (1) No license shall be required for Private Towing Contractors.
- (2) No license shall be required to remove a vehicle without the consent of the vehicle owner, from private property, pursuant to N.J.S.A. 39:4-56.6

### **§ 320-5. Solicitation.**

- A. No towing service, whether licensed or unlicensed, shall respond to the scene of an accident or emergency for the purpose of towing a vehicle unless specifically notified by the Police or at the request of the vehicle owner. All persons, wreckers and Tow Vehicle operators are prohibited from soliciting business at the scene of accidents and emergencies within the City.

**§ 320-6. Application procedures and qualifications criteria for providing Basic Towing, Recovery and Storage Services at the direction of the City of Absecon Police Department (Municipal Towing Contractor).**

A. License application. The license application shall include:

- (1) The complete legal business name, business address and principal location address.
- (2) The complete home address, home telephone number, date of birth and social security number of the applicant, if a sole proprietorship, or the complete home address, home telephone numbers, dates of birth and social security numbers of principal officers and partners if the applicant is a corporation or partnership.
- (3) Photocopies of all registrations of every Tow Vehicle to be operated by the applicant. If the Tow Vehicle is leased, the applicant is required to submit a lease agreement.
- (4) Names, addresses and telephone numbers of any lien holders on the principal location.
- (5) Name, address and telephone number of the insurer and photocopies of each certification of insurance, which shall confirm insurance coverage as provided herein through the term of the license year.
- (6) Photocopies of the current driver's license for each person who will provide services under the license, along with their social security numbers.
- (7) Evidence to demonstrate that the applicant applying for the license has at least five years' experience in the field of towing and storage of vehicles.
- (8) Proof that the applicant has a principal location and storage facility within ten miles of the City of Absecon.
- (9) The applicant shall provide an agreement that upon the issuance of a license the Municipal Towing Contractor shall indemnify the City of Absecon against all claims of a third party relating to the towing and/or storage service of the licensee.
- (10) The applicant shall certify that the information given in the application is true and correct.
- (11) Applications will be processed according to the order in which the City Clerk receives them.

B. Investigation and inspection.

- (1) Applications received by the City Clerk shall be referred to the Chief of Police. The Chief of Police or his designee shall initiate an investigation to be made of the applicant and of its proposed business operation and shall perform inspections of the vehicles to be licensed.
- (2) A criminal history and driver's license check shall be performed on all persons who will provide services under the license. Each applicant will pay all fees required by the State of New Jersey for criminal history record information.

- (3) The City of Absecon recognizes that the Municipal Towing Contractor must be trustworthy in that it is safeguarding vehicles belonging to others. Therefore, to protect the public interest, the City may disqualify any applicant where an employee, owner, officer or partner has been convicted of a crime (including disorderly person's offenses) or any violation that would indicate that the applicant may not be responsible to perform in the best interest of others.
- (4) The City of Absecon recognizes that Tow Vehicle operators must also be drivers who abide by the state's motor vehicle laws. Accordingly, the City may disqualify any Tow Vehicle operator having one or more convictions within three years of the date of application or renewal thereof for any moving violation of the motor vehicle laws of this state which the Chief of Police or his designee determines will negatively impact upon the ability of the Tow Vehicle operator to safely and properly perform the services listed in this Chapter. If the applicant is already licensed, any conviction for any moving violation which the Chief of Police or his designee determines will negatively impact upon the ability of the Tow Vehicle operator to safely and properly perform required services will result in the disqualification of the Tow Vehicle operator from performing duties associated with this Chapter.
- (5) The Municipal Towing Contractor shall notify the Police in writing of any criminal charges (including disorderly person's offenses), motor vehicle offenses or ordinance violations that are issued against the Municipal Towing Contractor or its employees during the term of the license. Failure to make the proper notification to the Police may result in the revocation of the license.
- (6) The Chief of Police shall have a reasonable period of time after the receipt of the completed application to complete the investigation and inspection and submit a written report to the City Clerk. The report shall include recommendations that the applicant be accepted, denied or accepted with conditions.
- (7) All persons employed during the term of the license shall comply with the requirements of §320-6 A (6) and B (2) above.

#### C. Issuance of licenses and fees.

- (1) Upon written notification by the Chief of Police that an application has been approved, the City Council shall, at a public meeting and by resolution, consider the issuance of a license.
- (2) Upon approval by the City Council, the City Clerk shall issue a license to the Municipal Towing Contractor under this Chapter.
- (3) A yearly application fee of \$400 shall be payable to the City of Absecon.
- (4) All towing licenses will be issued for a period of one year beginning January 1 of each year and expire on December 31. Applications for license renewals are to be completed and returned to the City Clerk by September 15 for the following calendar year.
- (5) Licenses are property of the City and cannot be assigned, leased, shared, transferred or sold to another person, corporation or proprietorship under any circumstances.
- (6) The Municipal Towing Contractor shall not represent that he is a servant, agent or employee of the City with respect to any service performed under the license, but is an independent contractor and shall not hold himself out as an employee or representative of the City of Absecon or of its departments.

- (7) The City of Absecon may issue a temporary Municipal Towing Contractor license in the event that the Chief of Police determines that it is in the best interest of the City to do so. A temporary license shall be valid for the remainder of the current license year.
- (8) In the event of an emergency in which no licensed Municipal Towing Contractor is available to perform required towing or recovery services, the Chief of Police may arrange for such services through an unlicensed towing contractor.

#### D. Tow Vehicle requirements

- (1) A Municipal Towing Contractor must own or lease for use two tow vehicles (one of which must be a medium-duty flatbed.)
- (2) The following equipment shall be carried on all tow vehicles:
  - (a) Push Broom.
  - (b) Shovel.
  - (c) Fire Extinguisher.
  - (d) Jumper cables or jump box.
  - (e) Tire changing equipment.
  - (f) Pry bar and hammer.
  - (g) Absorbent.
- (3) All Tow Vehicles must have properly authorized amber emergency warning lights mounted so as to warn approaching traffic of their presence.
- (4) All Tow Vehicles must comply with all applicable laws and safety standards.
- (5) The Municipal Towing Contractor must maintain a twenty-four-hour telephone service for Police contact. All responding Tow Vehicles must have two-way communication via radio or cellular phone.
- (6) All trucks utilized by the Municipal Towing Contractor shall have permanent identification on both the driver's side and passenger's side doors with at least three-inch letters painted thereon stating the name, address and telephone number of the owner or operator of said Vehicle. Plastic or any other removable type identification sign shall not be acceptable.
- (7) Prior to hooking a Vehicle, the Police must be notified so as to verify that the Vehicle is not listed as stolen or missing.
- (8) No other means of restraint to a Vehicle shall be utilized other than removal from the property. Booting in not permitted.

#### E. Storage Facility requirements.

- (1) All Vehicles stored under this Chapter shall be stored and protected with ordinary care to protect the Vehicle from further damage. All Vehicle storage will be on one level.

- (2) There shall be no unescorted access to the storage area by the general public. Storage areas shall be posted against unauthorized entry.
- (3) The Police shall have access to any part of the storage area, 24 hours a day, seven days a week, for the purpose of inspection or investigation. Under this provision, access means a representative of the Municipal Towing Contractor must be available to provide entry.
- (4) No Vehicles towed by the Municipal Towing Contractor shall be stored outside of the storage facility.
- (5) The Municipal Towing Contractor shall maintain regular hours for the release of a Vehicle from storage a minimum of eight hours a day, Monday through Friday (excluding New Jersey state holidays) and four hours on Saturday. Hours shall be conspicuously posted at the Municipal Towing Contractor's principal location and the Storage Facility.

### **§320-7. Towing and Storage of Vehicles.**

- A. The Municipal Towing Contractor shall be responsible for Basic Towing Services on a twenty-four-hour, seven-day-a-week basis during the term of its license.
- B. Municipal Towing Contractors will be placed on call on a rotating basis as determined by the Chief of Police.
- C. The Municipal Towing Contractor shall be required to respond to all City requests for towing services within 20 minutes, unless unusual traffic conditions exist. In any event, the Municipal Towing Contractor shall arrive in a reasonable time. Repeated late arrivals without satisfactory cause shall constitute grounds for which the Chief of Police may consider the Municipal Towing Contractor in violation of this Chapter and may be grounds for immediate suspension or revocation of a license.
- D. Nothing in this Chapter shall prevent the owner or operator of a Vehicle from contacting a tow or wrecker of his own choice to remove the vehicle from the public streets of the City after it has become disabled or otherwise inoperable unless the police officer on the scene determines that public safety requires the Vehicle be immediately removed from the scene, at which time the on-call Municipal Towing Contractor will be summoned.
- E. All owners or operators of any disabled Vehicle may request the Municipal Towing Contractor to remove the disabled Vehicle to a garage or workshop of their own choosing, provided that payment or arrangements for payment for services has been made and the Municipal Towing Contractor is willing to do so.
- F. Municipal Towing Contractors licensed under this Chapter shall accept a minimum of two major credit cards, 24 hours a day.
- G. Municipal Towing Contractors shall be responsible for the towing of Vehicles from the public streets, public alleys, public rights-of-way, public easements, avenues, thoroughfares, public or quasi-public places, including parks and playgrounds, or any other City, county or state owned facility, as directed by the Police.
- H. The Municipal Towing Contractor shall remove Vehicles for storage to either the Municipal Towing Contractor's Storage Facility or the City of Absecon Storage Facility, as directed by the Police.

- I. Vehicles towed to the Municipal Towing Contractor's storage facility will incur charges as set forth in this Chapter.
- J. Vehicles removed to the City of Absecon Storage Facility will incur only applicable towing fees, not storage charges. Prior to release of a vehicle from the City of Absecon Storage Facility, the City will require the owner to satisfy his obligations to the Municipal Towing Contractor.
- K. In the event the Police direct the Municipal Towing Contractor to move the Vehicle from the City of Absecon Storage Facility to its storage facility, the owner of the Vehicle will incur the cost of the additional tow and storage fees commencing the date the Vehicle is moved. The Municipal Towing Contractor that provided the original service will be requested to provide the secondary service.
- L. The owner of the Vehicle towed shall have the right to remove his personal belongings from the stored Vehicle during normal business hours unless the Police direct otherwise.
- M. The owner or agent of the owner of the Vehicle has the right to photograph the stored vehicle during normal business hours.
- N. If the stored Vehicle is being held as evidence, any removal of personal belongings and/or photographs will be witnessed and documented by an officer of the Police.
- O. When the Municipal Towing Contractor has been contacted to remove a disabled Vehicle by the Police and then the owner or operator of that Vehicle appears prior to the Municipal Towing Contractor's arrival and requests his own towing service, the Municipal Towing Contractor cannot charge for the response.
- P. The Municipal Towing Contractor shall be responsible to clean up and remove all broken glass and debris at the scene of an accident pursuant to N.J.S.A. 39:4-56.8b.
- Q. The Municipal Towing Contractor will also be responsible for Basic Environmental Cleanup.
- R. In the event that an emergency arises and the on-call Municipal Towing Contractor cannot provide adequate service when requested by the Police, another Municipal Towing Contractor will be contacted to respond.
- S. If no Municipal Towing Contractor can perform the required service, the Police may contact any available towing contractor with the proper equipment to perform the activity. The fees for Vehicles that require this extraordinary service shall be reasonable and customary, based upon the prevailing rate in the industry. Whenever applicable, it shall be the responsibility of the towing contractor to first inform the owner or operator of the estimated total cost prior to the performance of any towing service.
- T. Municipal Towing Contractors may not charge any owner for any damage to his tow equipment or storage facilities resulting from any towing operation.
- U. Prior to towing any Vehicle, the Municipal Towing Contractor shall remove or secure anything that may fall from the disabled Vehicle while being towed.
- V. Pursuant to N.J.S.A. 39:4-56.6, the Municipal Towing Contractor shall be responsible for the public sale or auction of any vehicle abandoned at the Municipal Towing Contractor's Storage Facility. The City of Absecon shall only be responsible pursuant to N.J.S.A. 39:10A-1 et seq., for abandoned and unclaimed vehicles at a City of Absecon Storage Facility.

## § 320-8. Rates and Charges.

- A. The rates on the "City of Absecon Towing and Storage Rate Schedule", annexed hereto and set forth below, represent the maximum rates permitted under this Chapter. It shall be unlawful for any Municipal Towing Contractor to charge a rate in excess of the rates prescribed for the services regulated herein.
- B. There shall be no mileage charge for any Vehicle towed under this Chapter from the point of service back to the Municipal Towing Contractor's Storage Facility or the City of Absecon Storage Facility. If the owner or operator designates the Vehicle to be towed to another location, then the Municipal Towing Contractor can only charge for loaded mileage outside the boundaries of the City.
- C. Separate fees are incurred for each recovery action.
- D. Municipal Towing Contractors may not charge any fees other than as set forth in the following schedule:
- (1) Basic Towing Service (two axles)
    - (a) Under 8,500 pounds gross vehicle weight: \$135
    - (b) Additional axle: \$25
    - (c) Rate per mile out of the City: \$3
  - (2) Basic Towing Service (two axles)
    - (a) Between 8,500 pounds and 26,000 pounds gross vehicle weight: \$210
    - (b) Additional Axle: \$35
    - (c) Rate per mile out of City: \$4
  - (3) Basic Towing Service, over 26,000 pounds gross vehicle weight (heavy duty): \$260
    - (a) Rate per mile out of City: \$5
  - (4) Basic Towing Service, motorcycle/motorized bicycle: \$100
    - (a) Rate per mile out of City: \$3
  - (5) Recovery of Vehicle
    - (a) Vehicle under 8,000 pounds gross vehicle weight: \$75
    - (b) Vehicle between 8,000 pounds and 16,000 pounds gross vehicle weight: \$100  
Fees for vehicle over 16,000 pounds gross weight shall be reasonable and customary, based on prevailing rates in the industry.
  - (6) Extraordinary Service charge: \$65 per hour
  - (7) Basic cleanup, including glass, debris and fluid: \$35, plus \$10 per bag of absorbent used.

- (8) Storage fees per calendar day (commencing 12 hours after the request for tow)
  - (a) Outside Building Secured
    - [1] Under 8,000 pounds gross vehicle weight: \$25
    - [2] Up to 16,000 pounds gross vehicle weight: \$30
  - (b) Inside Building Secured
    - [1] Under 8,000 pounds gross vehicle weight: \$30
    - [2] Up to 16,000 pounds gross vehicle weight: \$40  
Fees for vehicle over 16,000 pounds gross weight shall be reasonable and customary, based on prevailing rates in the industry.
  - (c) Notwithstanding anything in this section to the contrary, no fee for storage may be levied against the owner of any Vehicle that is being held or stored due to an order of any law enforcement or firefighting agency during the time period that such order is in effect. Once the order has been lifted, the Police shall send a certified letter to the owner of the Vehicle notifying that individual or entity that the order has been lifted. Storage charges may be imposed at the rates set forth in this chapter beginning on the fourth day after the date the certified letter has been acknowledged as received by owner or someone acting on his/her behalf.
- (9) Owner access to Vehicle. Any owner requesting access to the owner's Vehicle at the Storage Facility to retrieve items from the Vehicle may be charged a fee of \$35 per hour prorated in increments of 15 minutes.
- (10) After-hours release fee: \$35.

E. An administrative fee of \$25 shall be charged for the processing of a tow release prepared by the Police. Such fee is to be paid by the owner of the Vehicle and collected by the City of Absecon prior to a release being issued.

### **§ 320.9. Insurance and Indemnity.**

The Municipal Towing Contractor shall have in effect, prior to application and at all times during the term of the license, the following insurance:

- A. Garagekeeper's liability must be maintained in the amount of \$500,000 for any one claimant and \$1,000,000 for more than one claimant, along with \$500,000 coverage for property damage for any one event.
- B. Automobile insurance must be maintained and it must be issued by an insurance corporation authorized to transact business in the State of New Jersey. The policy must insure every Tow Vehicle operator against liability imposed by law for damages arising out of bodily injury, including death, sustained by any person and injury or destruction of property, including the loss of use thereof, caused by accident and arising out of the ownership, maintenance or use of the Tow Vehicle of the Municipal Towing Contractor. The amount of the limits of liability coverage to be offered by such policy shall not be less than \$1,000,000 combined single limit.

- C. Workers' compensation insurance insuring the obligation of the Municipal Towing Contractor under the New Jersey Workers' Compensation and Occupational Disease Laws.
- D. The Municipal Towing Contractor shall supply a certificate of insurance to the City Clerk which describes each policy of insurance and identifying the City of Absecon as an additional insured party. Each certificate of insurance shall contain a provision that no cancellation of the policy shall become effective until after the expiration of 15 days' written notice of such proposed cancellation forwarded by the insurance company to the City Clerk.

### **§ 320-10. Recordkeeping.**

- A. The Municipal Towing Contractor shall prepare and issue to the Owner/operator of a Vehicle a written invoice for services rendered under this Chapter. The invoice shall reflect the date, time, location of service, the employee that performed the service, and that the service was performed at the direction of the Police. A copy of the invoice shall be retained by the Municipal Towing Contractor and filed in a manner that coincides with his normal business practice and will allow immediate access to such records when requested by the Police.
- B. The Municipal Towing Contractor has discretion to establish the method of payment and forfeits all mechanical lien rights once it physically releases a Vehicle from its custody. The City will not be held liable for or assist the Municipal Towing Contractor to collect any unpaid fees that were incurred under the provisions of this Chapter.
- C. The Municipal Towing Contractor shall incur the cost of and shall post the rate schedule listed in this Chapter in a conspicuous location at the Municipal Towing Contractor's principal location where payment of fees is transacted.
- D. The Municipal Towing Contractor shall incur the cost of preparing a payment rate circular for fees listed under this Chapter and shall distribute this rate circular to all customers at no cost.
- E. The Municipal Towing Contractor shall not release any Vehicle impounded under this Chapter without written release from the Police. The release form must be attached and filed with the invoice.
- F. All records, payment invoices and other documentation resulting from the Municipal Towing Contractor's compliance with this Chapter must be kept by the Municipal Towing Contractor for a period of two years.

### **§ 320-11. Conduct of Municipal Towing Contractors and Employees.**

- A. At all times the Municipal Towing Contractor and his employees will present a neat appearance and act in professional and courteous manner when interacting with the public and the Police.
- B. All Tow Vehicles shall be operated in accordance with all existing traffic regulations and statutes and in a safe and prudent manner. Tow Vehicle operators must request Police assistance whenever their activities will obstruct or impede traffic flow.
- C. The investigating officer and/or supervisor at the scene shall maintain complete charge of the incident scene (excluding actual towing operations), and all tow operators shall comply with the officer's instructions.

## **§ 320-12. License Enforcement.**

- A. The Chief of Police or his designee shall investigate and keep a record of all complaints that are received regarding the provisions of this Chapter.
- B. The Chief of Police has the authority to suspend any license at any time for criminal activity (including disorderly person's offenses), violation of applicable motor vehicle laws or violations of this Chapter.
- C. The Chief of Police or his designee shall oversee all Tow Vehicles used by Municipal Towing Contractors to ensure that they are kept in a safe condition. The Chief of Police or his designee may inspect any Tow Vehicles at any time. If the Chief of Police or his designee finds the equipment inadequate or unsafe, the Chief of Police or his designee may demand immediate correction and/or suspend the Municipal Towing Contractor's license.
- D. The Chief of Police is authorized and empowered to establish additional rules and regulations as may be necessary and reasonable to govern the issuance and the operation of towing services and storage facilities. Such rules and regulations shall be issued in writing to all Municipal Towing Contractors.
- E. Any Municipal Towing Contractor who violates any section of the Chapter, in addition to any other penalties provided by law, shall be subject to suspension of towing privileges for one month for a first offense, three months for a second offense and permanent revocation for a third offense.
- F. In addition to the previous subsection, the Chief of Police may immediately revoke the Municipal Towing Contractor's license for any offense grievous in nature.
- G. After such revocation, the licensee may request a public hearing before City Council. The licensee must notify the City Clerk, in writing, of a request for a hearing within 20 days of the revocation notice issued by the Chief of Police.
- H. In all cases and in addition to any other penalty, if a Municipal Towing Contractor overcharges a Vehicle owner, the Municipal Towing Contractor will return the excess money paid.

## **§ 320-13. Complaints by Owners of Vehicles.**

Any complaint or dispute by an Owner of a Vehicle that is towed or stored without the Owner's consent pursuant to the provisions of this Chapter shall be submitted to the Chief of Police or his designee, who shall promptly investigate and resolve any dispute.

## **Article III. Private Towing Contractors**

### **§ 320-14. Private Towing.**

- A. All trucks utilized by a Private Towing Contractor shall have permanent identification on both the driver's side and passenger's side doors with at least three-inch letters painted thereon stating the name, address and telephone number of the owner or operator of said Vehicle. Plastic or any other removable type identification sign shall not be acceptable.
- B. Prior to hooking a Vehicle, the Police must be notified so as to verify that the Vehicle is not listed as stolen or missing.
- C. No other means of restraint to a Vehicle shall be utilized other than removal from the property.
- D. Booting is not permitted.

**§ 320-15. Violation.**

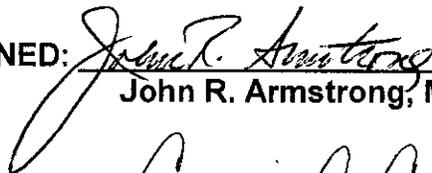
- A. Unless another penalty is expressly provided for by New Jersey statute, any violation of this Chapter shall be subject to a fine not exceeding \$2,000 or imprisonment for not more than 90 days or a period of community service not exceeding 90 days.

**BE IT FURTHER ORDAINED** that:

1. Any Ordinance or parts of ordinances, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of any such inconsistency.
2. This ordinance shall take effect upon final adoption and publication as required by Law.

**DATED: December 6<sup>th</sup>, 2018**

**SIGNED:**

  
\_\_\_\_\_  
John R. Armstrong, Mayor

**ATTEST:**

  
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Carie A. Crone, RMC, Municipal Clerk

Passed on first reading at a regular meeting of the Municipal Council held on November 15<sup>th</sup>, 2018. Laid over and advertised for public hearing and final adoption on December 6<sup>th</sup>, 2018. Notice is hereby given that the foregoing Ordinance was approved for final adoption by the Municipal Council of the City of Absecon at a regular meeting held on December 6<sup>th</sup>, 2018.