

ORDINANCE #04-2019
AN ORDINANCE AMENDING CHAPTER 275 POLICE-PUBLIC TOWING, OF THE
CODE OF THE CITY OF MARGATE CITY, COUNTY OF ATLANTIC AND STATE
OF NEW JERSEY

NOW THEREFORE BE IT ORDAINED by the Commissioners of the City of Margate, County of Atlantic and State of New Jersey as follows:

SECTION 1. Margate City Code Chapter 275, Police –Public Towing, shall be amended as follows:

SECTION 2. Section 275-1, Definitions.

For the purpose of this chapter the following terms, phrases, words and their derivations shall have the meanings given herein:

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

BASIC TOWING SERVICE — The removal and transport 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.

COMMERCIAL VEHICLE — Any vehicle other than that as defined as an "automobile" pursuant to the definitions as contained in this chapter.

MOTOR VEHICLE ACCIDENT — An occurrence in which a private passenger automobile comes in contact with any other object for which the private passenger automobile must be towed or removed for placement in storage facility. This includes all situations which are accidental as to the owner or operator of the motor vehicle even if they were caused by the intentional acts of a perpetrator where the perpetrator was not the owner or operator of the motor vehicle.

PARKING — The standing or waiting on any private or quasi-public property of a vehicle.

TOW VEHICLE — Only those 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 motor vehicles.

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

SECTION 3. Section 275-2, Official towers to be appointed; towers' list; license required; term.

- A. The Mayor and Commission shall appoint persons or companies meeting the criteria set forth in this chapter and engaged in the business of offering the services of a motor vehicle towing or wrecker service, whereby damaged or disabled motor vehicles are towed or otherwise removed from the place where they are damaged or disabled, by use of a tow vehicle, as defined in this chapter. Such persons or companies shall be known as "official towers."
- B. Official towers shall be identified by means of a license that shall be issued in accordance with provisions of this chapter.
- C. Not less than 45 days prior to the beginning of each one-year term of official towers' licenses, the City shall advertise for applications for towing licenses for providing towing service pursuant to this chapter. The advertisement shall be published in the official City newspaper.
- D. All applicants shall submit their applications at least 30 days prior to the commencement date for each one-year period, and the applications shall be reviewed in accordance with the procedures set forth in this chapter. The award of a license to the successful applicants shall be subject to compliance with the license requirements of the chapter.

- E. Licenses issued thereafter shall be for a one-year period commencing on January 1 of the year in which it was issued and terminating one year on December 31 of the same year.
- F. Notwithstanding the provisions of this chapter that provide for a one-year term of the license, official towers shall subject no later than December 1 of each year that the towing license is in effect a detailed certification certifying that the official tower meets the requirements of this chapter in regard to the issuance of licenses. The certification shall be submitted to the Chief of Police for his review and approval. Failure to subject the certification or failure to continue to abide by requirements of this chapter in regard to the issuance of a towing license shall subject the official tower to revocation of the license in accordance with the procedures contained herein.

SECTION 4. Section 275-3, Services to be furnished.

- A. Official towers shall furnish adequate and proper wrecking, towing and storage to motor vehicles damaged or disabled within the limits of the City of Margate when requested to do so by the Chief of Police or his authorized designee.
- B. No official tower shall subcontract any work to be performed pursuant to this chapter without having first obtained prior written approval from the Chief of Police, except for the use of heavy equipment in time of emergency. Any official tower to whom approval to subcontract work has been given shall be responsible for the services performed by the subcontractor and shall remain liable for any violation of this chapter by the subcontractor.
- C. Removal and towing of vehicles.
- (1) In the event that the official tower has been summoned by the City for the purpose of towing a vehicle, and the owner of the vehicle arrives on the scene prior to the removal of the vehicle by the official tower, the owner may be charged by the official tower the drop fee listed in the rate schedule only if the vehicle in question has been actually hooked up.
 - (2) The official tower shall be responsible for the towing of any disabled City-owned vehicles when requested by the City and, if required, the changing of tires on those vehicles.
 - (3) The official tower will be responsible to clean up all broken glass and debris at the scene of accidents.
 - (4) Prior to the official tower towing any vehicle from any portion of the beach located in Margate City, he shall first contact the Police Department and secure from it permission to enter upon the beach and tow the vehicle. The official tower shall take all necessary steps to prevent damage to the beach, sand dunes, or bulkhead in towing any vehicle from the beach. The official tower shall be responsible for any damage occasioned to the beach, any dunes, vegetation, snow fence, bulkheads or any other structure located on or adjacent to the beach.
 - (5) The official tower shall have the right to utilize another towing contractor to perform towing services upon the beach, if the official tower believes his equipment is inadequate or insufficient to accomplish the towing. In the event that another towing contractor performs the towing, the fees shall be those specified in the contract, and said towing contractor shall comply with all the terms and conditions of the original contract.

SECTION 5. Section 275-4, Application process.

- A. Applications for inclusion on the official towers' list shall be made to the Mayor and Commission upon a form prepared by the Chief of Police and approved by the City Attorney and shall contain all of the following information:
- (1) The name, residence and business address and telephone number of the owner of the towing company. If the owner is a corporation, the application shall contain the name, residence and business address and telephone number of every stockholder owning more than 10% of the issued stock.
 - (2) Such information as may be required by the Mayor and Commission concerning the personnel, vehicles, equipment and storage facilities of such application, as hereinafter provided, showing that the applicant meets the minimum standards of performance.

(3) A certificate or certificates of insurance evidencing adequate insurance coverage as hereinafter provided.

(4) The names and addresses of two business references who have known the applicant for at least two years.

(5) Certification that the applicant will be able to provide towing services anywhere in the City with a maximum response time of 20 minutes, except when extraordinary circumstances occur.

(6) Certification that the applicant will be available for service on business premises 24 hours a day and that it will abide by the fees contained in or referred to in this section.

(7) Consent to certification that will consent to appointment of the City Clerk as the applicant's true and lawful attorney for the purpose of acknowledging service out of any court of competent jurisdiction to be served against the applicant.

(8) Towing company storage facility shall be no further the 4.5 miles from the Margate City Police Department.

B. The applicant shall submit completed duplicate applications to the City Clerk, who shall forward a copy to the Chief of Police for his review and approval. The review by the Chief of Police shall consist of the following:

(1) A background check to determine if either the applicant or the applicant's personnel have been convicted of a criminal offense or have had their drivers' licenses suspended or revoked within the past year. Conviction of a criminal offense or suspension of drivers' license within the past year shall be a cause for disqualification from inclusion on the official towers' list.

(2) An inspection of the personnel, vehicles and equipment proposed to be utilized by the application to verify the accuracy of the information contained in the application and to determine compliance with applicable laws and regulations and the standards of performance required by this chapter.

C. An applicant may be included on the official towers' list by the Mayor and Commission, by resolution adopted at a regular public meeting, when, from a consideration of the application and from such other information as may otherwise be obtained, they find that all of the following circumstances exist:

(1) The applicant has not knowingly and with intent to deceive made any false, misleading or fraudulent statements of material 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 certificates of insurance.

(3) The application has been reviewed and approved by the Chief of Police.

(4) Neither the applicant nor the applicant's personnel have been convicted of a criminal offense or had their drivers' license suspended within the past year.

D. The Chief of Police shall conduct his review and render a report to the Mayor and Commission recommending either approval or denial of the application. The Mayor and Commission shall take action with regard to the application after receipt of the report of the Chief of Police. The applicant or its representative shall be given notice of the date on which the Mayor and Commission will consider the application and shall be permitted to appear and be heard at that time.

E. Written notice of the approval or denial of the application shall be provided to the applicant within seven days of the decision of the Mayor and Commission.

F. If the Mayor and Commission fail to take action within 30 days of receipt of a complete application, the application shall be deemed to have been denied.

SECTION 6. Section 275-5, Licenses; fees.

- A. Upon approval of the application as herein provided and payment of the required fees, the City Clerk shall issue the applicant an official tower's license for each tow vehicle or flatbed vehicle to be utilized in providing services pursuant to this chapter.
- B. The licenses, which shall be in a form approved by the Mayor and Commission, shall be displayed on the tow vehicle or flatbed vehicle at all times.
- C. The licenses shall be valid for the one-year period as set forth in the chapter, shall be nontransferable and shall be subject to revocation by the Mayor and Commission for any of the following reasons:
- (1) 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 chapter.
 - (2) Unsatisfactory service provided pursuant to this chapter.
 - (3) Failure to annually certify compliance with the requirements of this chapter as required by § 275-2F.
- D. Every license granted shall entitle the licensee to operate the towing facility or to drive a tow truck for a period of one year.
- E. The mercantile license fees are as follows:

Name of License	Fee
Towing operator	\$300
Tow truck employee	\$100

- F. Licenses shall not be transferable from one vehicle to another without the consent of the Chief of Police. Consent may be granted at the sole discretion of the Chief, if the licensee demonstrates that the transferee vehicle complies with all of the requirements of this chapter.

SECTION 7. Section 275-6, 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.

- (1) Every official tower shall maintain and have available to render services required by this chapter a minimum of one regular tow vehicle and one flatbed vehicle.
- (2) Vehicle classes:
 - (a) Regular tow vehicles must be equipped with a boom or winch assembly mounted on the chassis, a dolly assembly, a tow sling or wheel lift assembly and at least 100 feet of either three-eighths-inch or seven-sixteenths-inch cable attached to motor-driven winch.
 - (b) Flatbed vehicles must be equipped with a winch or hydraulically operated bed which slides or tilts to accommodate transporting of vehicles.
- (3) All equipment shall comply with all state and federal regulations, and all vehicle operators shall possess a CDL license for over 26,000 pounds.
- (4) Each applicant shall submit, along with its application, proof of ownership or lease of the vehicles which will be utilized to provide services pursuant to this chapter.

B. Minimum equipment requirements.

(1) Every tow vehicle or flatbed vehicle shall be equipped with the following:

- (a) At least one amber rotating beacon or strobe light mounted on the highest practical location of the vehicles, visible from 360° when in use and visible at a minimum distance of 500 feet during daylight hours.
- (b) One snatch block per winch.
- (c) Safety tow lights or magnetic tow lights for towing vehicles at night, amber colored.
- (d) Extra chains and cable for pulling or securing a towed vehicle.
- (e) 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 drying compound for gasoline and oil spilled onto the roadway and a sufficient quantity and types of tools to enable the tow operator to perform proper and adequate emergency repair services for the tow.

(2) 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 his designee at any time. No changes may be made in said vehicles or equipment unless prior written approval is obtained from the City.

(3) Every tow vehicle or flatbed vehicle shall display the official tower's license and shall have the name of the official tower displayed on the vehicle in such manner and of such lettering as conforms to the provisions of N.J.S.A. 39:4-46.

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

- (1) Be competent mechanics able to provide minimum road service for disabled vehicles.
- (2) Have a valid driver's license having no restrictions or conditional endorsements other than a condition requiring the wearing of eyeglasses.
- (3) Be mentally alert and present a neat appearance at all times.
- (4) Obey all traffic laws and regulations.
- (5) Be subject to inspection by the Chief of Police of the City and shall be approved by the Chief prior to rendering any services pursuant to this chapter.
- (6) Not have been convicted of a crime nor had their driving privileges suspended or revoked within the past year.

SECTION 8. Section 275-7, Utilization of the official towers' list.

A. Official towers shall be placed on the official towers' list at the beginning of each one-year period in accordance with the procedures as set forth in this chapter. The official towers shall rotate on the list for one week at a time or for such a period as designated by the Chief of Police in accordance with his rule-making authority under this chapter. Unless otherwise changed by the Chief of Police under his rule-making authority, the one-week rotation shall commence at 12:00 midnight Wednesday and terminate at 11:59 p.m. the following Tuesday.

B. The City shall request wrecking, towing and storage services from each official tower in rotation. When called, the tower shall advise the dispatcher if a vehicle is available and the estimated time of arrival. If no tow vehicle is available or if, in the discretion of the City official making the request, the response time is insufficient under the circumstances to properly protect the public health, safety or welfare, the next official tower on the list shall be called for that particular towing event. The official tower who is at the top of the list,

however, shall remain on the top of the list for any subsequent calls until that tower's one-week period at the top of the list is finished.

C. All requests for service shall be made by the Chief of Police or his official designee.

D. During adverse weather conditions, heavy traffic conditions or emergency conditions, official towers shall give priority to requests from the City over any other requests which may be received by the official towers.

SECTION 9. Section 275-8, Hold harmless agreement.

The applicant shall agree, in writing, to assume the defense of and indemnify and hold harmless the City, its elected officials, boards, commissions, officers, employees and agents from all suits, actions, damages or claims to which the City may be subjected of any kind and nature whatsoever resulting from, caused by, arising out of or as a consequence of the provisions of towing, wrecking, storage and/or emergency services provided at the request of the City pursuant to this chapter. Official towers shall enter into a hold harmless agreement in a form to be prepared by the City Attorney prior to being included on the official towers' list.

SECTION 10. Section 275-9, Insurance.

A. No person shall be included on the official towers' list unless and until such person has provided to the City a certificate or certificates of insurance evidencing that there is in effect the following insurance coverages:

(1) Automobile liability insurance in an amount not less than \$1,000,000 combined single limits.

(2) Workers' compensation as required by law.

(3) Sufficient comprehensive general public liability insurance to protect the City from any liability loss or damage arising out of the activities to be conducted. Such insurance shall be in the minimum amount of \$1,000,000 for each person and \$3,000,000 for each accident.

B. Policies of insurance shall contain endorsements to provide collision coverage for vehicles in tow.

C. Policies of insurance shall be written by insurance companies authorized to do business in the State of New Jersey. Insurance companies shall be acceptable to the City and shall have at least a B+ rating by a recognized rating service.

D. The City of Margate City shall be named as an additional insured on all policies of insurance provided pursuant to this chapter. All certificates of insurance shall provide that the policies may not be canceled or terminated or the coverage decreased without 30 days' written notice to the City.

E. Policies of insurance required by this chapter shall be maintained in full force and effect at all times. In the event that any coverage is canceled, terminated, interrupted or decreased in amount, the tower shall be removed from the official towers' list until such time as the required coverage is reinstated or replaced.

SECTION 11. Section 275-10, Towing and storage fee schedule; releases; damage to be reported. [Amended 8-7-2003 by Ord. No. 2003-11]

A. The following are the approved fees:

- (1) Transporting of illegally parked, impounded or disabled motor vehicle 7,000 gross volume weight or less: \$100.
- (2) Transporting of illegally parked, impounded or disabled motor vehicle exceeding 7,000 gross volume weight but less than 12,000 gross volume weight: \$200.
- (3) Transporting of illegally parked, impounded or disabled motor vehicle exceeding 12,000 gross volume weight: \$350.
- (4) Transporting of motor vehicle 7,000 gross volume weight or less from accident scene to include cleaning and removal of area debris: \$125.
- (5) Transporting of motor vehicle exceeding 7,000 gross volume weight but less than 12,000 gross volume weight from accident scene, to include cleaning and removal of debris: \$225.
- (6) Transporting of motor vehicle exceeding 12,000 gross volume weight from accident scene to include cleaning and removal of debris: \$375.
- (7) Extra winching service: \$100 per hour.
- (8) Drop fee (vehicle must be hooked to collect drop fee): 50% of applicable tow fee.
- (9) Towing of all City-owned vehicles within the limits of Atlantic County: no charge.
- (10) Towing of all City-owned vehicles outside the limits of Atlantic County: \$2 per mile.
- (11) Storage Lot: \$30 per day.
- (12) Emergency after-hours release fee: \$25.

- (a) Monday through Thursday, 11:00 p.m. to 8:30 a.m.
- (b) Saturday, Sunday and holidays, 5:00 a.m. to 8:30 a.m.

- (13) Labor and additional equipment: \$50.

B. Accident and impounded vehicles (not to include illegally parked vehicles) will be released Monday through Friday, 8:00 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m.

C. No charge for towing of any motor vehicle or impounding of motor vehicle for police investigative purposes at the direction of the Chief of Police or his designee.

D. Official police towers shall respond to releases within 30 minutes of being notified or the Chief of Police, or his designee, may waive the towing fee and release the vehicle.

E. All damage to towed vehicles is to be reported immediately.

SECTION 12. Section 275-11, City's responsibility for towing and/or storage fees.

- A. The City will not be responsible to the official tower for the collection or payment of any charges for towing regardless of where the vehicle is stored, regardless of by whom the vehicle was towed, and regardless of the reason for towing, inclusive of but not limited to abandonment, accidents, traffic violations, theft or police investigations.
- B. The City will not be responsible to the official tower for any charges due and owing from a vehicle, nor will it assist the official tower in collecting any towing and/or storage charges for any vehicle, whether it has been stolen, abandoned or involved in an accident or traffic violations and regardless of where the vehicle is stored.

SECTION 13. Section 275-12, Miscellaneous provisions.

- A. Copies of this chapter 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 City Municipal Building. 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 the fees that may be charged for all services provided pursuant to this chapter.
- C. The City reserves the right to make periodic unannounced inspections of the personnel, vehicles, equipment and storage areas of all official towers.
- D. The relationship between an official tower and the City is one of an independent contractor. Neither party 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.
- E. The municipality shall not be liable or responsible for compensating the official towers for any of the services performed under this chapter unless those services are performed for the City vehicles. Compensation shall be the responsibility of the owner of the tow motor vehicle, and the official tower shall proceed directly against the owner.
- F. The official tower shall, at all times, be solely responsible for the conduct of its employees.
- G. 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 City 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.

SECTION 14. Section 275-13, Dispute resolution and license revocation.

- A. In the event that a complaint is received by the City involving the improper conduct or actions of the tower or unsatisfactory performance of services by an official tower, excessive charges or damage to a motor vehicle while in custody of the tower, written notice of the same shall be provided by the City Clerk to the official tower involved. The towershell have the opportunity to respond, in writing, within five days.
- B. Within 14 days of receipt of the tower's response or within 21 days of receipt of the complaint, if no response is received, the matter shall be presented by the City Clerk to the Mayor and Commission.
- C. The Mayor and Commission shall consider the matter at a regular public meeting and may request that the complainant and the tower involved appear and give testimony regarding the complainant.
- D. If, after considering the matter, the Mayor and Commission shall determine that one of the causes for revocation of the official tower's license as set forth in § 275-5C exists, the license shall be revoked and the tower shall surrender the same to the City Clerk within one day.
- E. Failure to surrender the license upon revocation shall constitute a violation of this chapter.
- F. 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.

SECTION 15. Section 275-14, Violations and penalties.

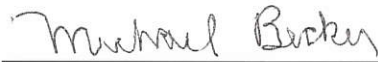
- A. Any person who shall violate any of the provisions of this chapter shall, upon conviction be punished by a fine not to exceed \$1,000; and each violation of any of the provisions of

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 fine provided above, a violation of any of the provisions of this chapter shall be cause for revocation of the official tower's license.

SECTION 16. All ordinances or parts of ordinances inconsistent with any terms of this ordinance are hereby repealed to the extent of such inconsistency only.

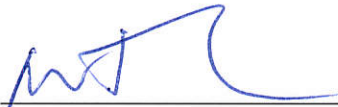
SECTION 17. This ordinance shall take effect upon its final passage and publication as required by law.



Michael Becker, Mayor



John Amodeo, Commissioner



Maury Blumberg, Commissioner

Board of Commissioners of the
City of Margate, New Jersey

Introduction: April 18, 2019

Enactment: May 2, 2019