

BOROUGH OF ALPINE
ORDINANCE NO. 798

**AN ORDINANCE ENACTING CHAPTER 210 OF
THE BOROUGH CODE OF THE BOROUGH OF
ALPINE ENTITLED "TOWING AND STORAGE"**

BE IT ORDAINED by the Mayor and Council of the Borough of Alpine, Bergen County, New Jersey as follows:

WHEREAS, the State of New Jersey recently amended the Predatory Towing Prevention Act, to clarify the applicability to commercial motor vehicles and the charging of reasonable fees for certain non-consensual towing.

WHEREAS, the governing body of the Borough of Alpine desires to have a set fee schedule to prevent towing companies from charging excessive fees and, hereby amends the Municipal Code to add a new chapter to establish application requirements, procedures and rates for towing operators seeking to provide wrecking, towing, storage and emergency service within the Borough of Alpine at the request of the Police Department.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Alpine in the County of Bergen as follows:

Chapter 210 of the Borough of Alpine Code is hereby enacted which shall be entitled "Towing and Storage" and shall read as follows:

§ 210-1 Definitions. As used in this chapter, the following terms shall have the meanings indicated:

DISABLED VEHICLE - A vehicle which has been abandoned, impounded or rendered inoperable as a result of a mechanical failure or involvement in an accident. A vehicle, the location of which constitutes a hazard to the motoring public, shall be deemed disabled for the purposes of this chapter.

EMERGENCY DUTY CALL LIST - An annual list kept by the Borough of Alpine containing the names of towing operators who have been approved pursuant to this chapter.

OWNER - A person, firm or corporation who owns and/or operates a vehicle on the roads and highways within the Borough of Alpine, which vehicle by reason or being abandoned or disabled on the public roadways of the Borough of Alpine requires towing services.

TOWING – The moving or removing from public or private property or from a storage facility, by a motor vehicle of a motor vehicle that is damaged as a result of an accident or otherwise disabled, is recovered after being stolen, or is parked illegally or otherwise without authorization, parked at a time at which such parking is not permitted or otherwise parked without authorization, or the immobilization of or preparation for moving or removing of such motor vehicle, for which a service charge is made, either directly or indirectly. Dues or other charges of clubs or associations which provide towing services to club or association members shall not be considered a service charge for purposes of this definition.

TOWING OPERATOR - A person, firm or corporation engaged in the business of providing wrecking, towing and storage services for vehicles towed and duly authorized by the Borough to engage in said activities.

WRECKER - A vehicle driven by mechanical power and employed for the purpose of towing, transporting, conveying or removing any and all kinds of vehicles or parts of vehicles which are unable to be operated under their own power.

§ 210-2 Application for placement on emergency duty list.

A. Towing operators who seek to provide wrecking, towing, storage and emergency road service within the Borough of Alpine to motor vehicle owners at the request of the Police Department shall submit an application to be approved by the Chief of Police upon forms prepared and provided by the Chief of Police. If chosen, in accordance with the procedures set forth in this chapter, the towing operator will be placed on the annual emergency duty call list to be maintained at the Police Department. The emergency duty call list shall expire on December 31 of each year. Any towing operator on the prior year's list will have to file a new application to be approved for placement on the new emergency duty call list.

B. The application shall include as a minimum the following information:

- (1) The name of the firm.
- (2) Owner(s) of the firm.
- (3) The address of the primary place of business.
- (4) The corporate mailing address.
- (5) Telephone numbers of the firm and owner(s) of the firm.
- (6) A listing of all vehicles to be used.
- (7) Proof of heavy duty wrecker availability.
- (8) Proof of insurance.
- (9) An executed Indemnification and Hold-Harmless Agreement.
- (10) Certificate of occupancy from the municipality where operation is located.
- (11) The responsible party for records maintenance.
- (12) A listing of all drivers.
- (13) Payment of a \$200 nonrefundable application fee.

§210-3 Requirements of approval. The Chief of Police shall approve an application when he finds that the following requirements have been met by the applicant:

A. The insurance policies required herein have been obtained by the towing operator and approved by the municipality's risk manager.

B. The towing operator's wrecker(s) have been properly licensed and conform to state motor vehicle laws. All wreckers must display New Jersey commercial license plates.

C. The towing operators company name, address and telephone number are permanently displayed on both sides of the wrecker.

D. A cost list setting forth the maximum fees charged for towing, storage and road service within the Borough of Alpine is conspicuously displayed on or in the wrecker used by the towing operator.

E. The towing operator shall clearly demonstrate the ability to respond within 20 minutes from receipt of the emergency duty call.

F. The towing operator shall have the following minimum equipment available:

The equipment to be used by the towing operator shall meet the following requirements:

(1) All equipment must be of the type, condition and design to efficiently perform the work required by the **Borough of Alpine**.

(2) A licensee, when filing an application and at all times while holding a license under this chapter, shall own or lease for use in performing the services required by the license the following pieces of equipment

(a) Regular wrecker service: a minimum of two (2) trucks (two flatbed tow trucks and one wrecker).

(b) Heavy-duty wrecker service: a minimum of one heavy-duty wrecker. It shall not be a requirement that each operator maintain a heavy-duty wrecker. Only those operators that maintain a heavy-duty wrecker in addition to the regular wrecker service equipment shall be placed on the heavy-duty wrecker call-out list.

(3) Every tow or flatbed vehicle shall be properly licensed and registered with the New Jersey Division of Motor Vehicles. All vehicles shall display New Jersey commercial license plates. If required, vehicles shall have a valid inspection certificate.

(4) Every tow vehicle or flatbed vehicle shall be equipped, at a minimum, 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 degrees when in use and visible at a minimum distance of 500 feet during daylight hours. The size and locations of these lights must conform to the New Jersey Division of Motor Vehicle standards.

(b) Safety tow lights or magnetic tow lights affixed on tow vehicles at night, red colored, when other lights not available.

(c) Extra chains and cable for pulling or securing a towed vehicle.

(d) At least one heavy-duty broom, a shovel, a crowbar or prybar, 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 a motor vehicle crash or behind a disabled vehicle, and a sufficient quantity and types of tools to enable the tow vehicle operator to perform proper and adequate emergency repair services for the tow.

(5) Every tow vehicle shall be in compliance with any and all applicable 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 structural or other change may be made to an inspected vehicle or equipment unless prior written approval is obtained from the Borough of Alpine.

(6) Every tow vehicle employed by the official tower pursuant to this chapter shall display the official tower 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.

G. The requirements of this chapter and all other laws, statutes and ordinances have been satisfied.

H. The \$200 application fee has been paid.

I. All other requirements appended to the application for approval have been satisfied.

§210-4 Emergency duty calls; towing operator list.

A. The towing operator must be able to provide, 24 hours a day, seven days a week, towing services for the Borough, on a rotating basis, at the direction of the Chief of Police or his designee.

B. The Chief of Police or his designee shall assign call-out months from the rotating list. A tower that wishes to change his assigned month due to vacation or conflict may do so with the approval of the Chief of Police or his designee.

C. The Chief of Police or his designee shall prepare two lists:

- (1) Light-duty/medium-duty towing and recovery.
- (2) Heavy-duty towing and heavy recovery.

D. The on-duty tower shall be called for the removal and storage of the disabled vehicle. In the event that the on-duty tower is unable to respond to calls or to respond in a timely manner due to unusual conditions, the next tower on the rotating list shall be called.

E. Cruising by a towing company's vehicles is not permitted.

§210-5 Charges for towing and related services. The towing operator's charges for towing and related services provided pursuant to this chapter shall not exceed the maximum charges as set forth on the fee schedule as referenced in §210-12 for removal and storage of vehicles set forth herein. The towing operator shall provide a copy of the cost list to the owner of the vehicle towed.

§210-6 Cleanup incidental to towing services. The towing operator shall, at the time of removing any motor vehicle in response to a police request, remove from the public or private roads or highways all vehicle debris or material in the area surrounding the vehicle, in accordance with the instructions of the senior police officer on the scene. Such cleanup shall be performed by the towing operator without charge to the Borough of Alpine or the vehicle owner. Failure to provide these services satisfactorily may be cause for suspension or removal from the approved towing operator list as provided by this chapter. This does not include hazardous materials.

§210-7 Service performed on behalf of vehicle owners. The towing operator shall, if called by the Borough of Alpine, charge vehicle owners for service which it renders. In no instance shall the towing operator look to the Borough of Alpine for payment of services performed pursuant to this chapter. This chapter shall not reduce or diminish the rights of the towing operator with regard to the owner under applicable statutes.

§210-8 Powers and duties of Chief of Police. The Chief shall have the right at all times to inspect all wreckers and storage facilities providing services. Should the Chief at any time determine that the equipment or storage facilities being used do not comply with the requirements of this chapter, he shall have the power and authority to direct the immediate correction or repair of the same within a specified period of time. The Chief of Police is also hereby authorized and empowered to establish and publish from time to time such additional rules and regulations, not inconsistent herewith, as may be reasonable and necessary in carrying out the provisions of this chapter.

§210-9 Suspension and removal from call list; appeals.

A. The Chief of Police shall have the power to suspend a towing operator from the emergency duty call list for a period of 30 days for failing to comply with any section of this chapter. A subsequent violation by the towing operator will result in the towing operator's permanent removal from the emergency duty call list. The Chief of Police shall investigate all complaints made by property owners for losses to their vehicles, complaints for excessive charges and incomplete cleanup, pursuant to this chapter.

B. An appeal of a removal by the Chief of Police may be filed with the Borough Clerk within 10 calendar days of the Chief's decision. Upon the filing of an appeal, a hearing shall be held by the Alpine Borough Council within 30 calendar days after the receipt of the appeal. The Alpine Borough Council shall render its determination within 20 calendar days of the conclusion of the final hearing date, and its determination as rendered shall be final and conclusive.

§210-10 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 suspension and removal from the emergency duty call list.

§210-11 Indemnification. All towing operators who have been authorized by the Borough agree to defend, at the towing operator's expense, and to hold harmless and indemnify the Borough of Alpine, its elected officials, boards, officers and employees from any and all obligations, expenses and/or damages arising out of any claim, demand, suit or action which may hereafter be asserted against the Borough of Alpine for loss or damages to personal property, for personal injury or for any other damages in connection with the awarding or rendering of services pursuant to this chapter. The towing operator shall execute an Indemnification and Hold-Harmless Agreement in the form provided by the Borough as part of their application.

§210-12 Storage of towed vehicles.

The towing operator shall have a storage facility that meets the following requirements:

A. The outside storage facility used for storage of vehicles shall be paved or stoned.

B. The outside storage facility shall provide a minimum of 3,000 square feet of storage space.

C. All storage facilities shall be located within five to ten (5-10) miles of the Borough of Alpine Municipal Building located at 100 Church Street, Alpine, New Jersey 07620. In no event shall a storage facility be located outside the State of New Jersey.

D. Signs which readily identify the storage facility and which comply with all applicable laws and local zoning regulations shall be installed.

E. No towed vehicle shall be parked upon a public or private street or sidewalk. Said vehicle shall be stored by the towing operator within the licensed storage area so provided.

F. The entire outside storage area shall be enclosed by a fence or sturdy construction, a wall or other manmade barrier that is at least seven feet high which may include one foot of barbed wire, with at least one lockable gate for ingress and egress, in accordance with local zoning regulations.

G. The impound area shall be properly lighted from dusk to dawn and must be properly safeguarded from vandalism and/or theft.

H. The Borough of Alpine Police Department shall be granted access to any part of the impound area at any time, day or night, for the purpose of inspection and/or investigation. This shall include indoor and outdoor areas.

I. There shall be no unescorted access to the aforementioned impound area by the public. Said area shall be posted in accordance with Borough of Alpine Police Department regulations.

J. A small storage area shall be set aside for vehicles that may be involved in a police incident. In addition, an indoor secured area shall be provided for at least one vehicle, when requested by the police. These vehicles may contain, or are themselves, evidence needed for potential criminal or civil cases. These vehicles shall not be removed from the safe and secure inside storage area until written permission is obtained from the Borough of Alpine Police Department.

K. The towing operator shall conspicuously post at his place of business the fee schedule for storage and towing of vehicles. Reference to this Chapter shall be posted on the fee schedule.

L. There shall be no piling of vehicles.

M. The storage area shall be located adjacent to, or be part of, said licensed principal location and shall comply with the local zoning ordinances. Use of satellite storage facilities by the towing operator is prohibited.

N. All wreckers owned or leased by the towing operator shall be stored at the principal location as listed on the Application.

O. The towing operator shall provide reasonable accommodations for after-hours release of stored motor vehicle and shall not charge a release fee or other charge for the release of motor vehicle to their owners during their normal business hours or on weekends.

P. The towing operator shall be responsible for ensuring the proper and safe storage of all vehicles towed pursuant to this chapter. The official tower shall be liable for any damage incurred by such vehicles while in transit to or while in storage areas.

§210-13 Fee schedule for removal and storage of vehicles. Fees for towing and storage of private passenger vehicles, damaged in an accident or recovered after being stolen, may not exceed the fees established by the Garden State Towing Association, Inc.

A. Pursuant to law, the fee schedules are reviewed by the Garden State Towing Association, Inc. on an annual basis and may be revised if necessary. In the event that the fee schedules are revised by the GSTA, the revised fees shall be the maximum fees that may be charged by official towers, and this chapter shall be amended accordingly.

B. If the towing operator is called to the scene by the Police Department of the Borough of Alpine in accordance with this chapter, fees for towing and storage of private

passenger vehicles, other than those damaged in an accident or recovered after being stolen, shall be set forth in www.gsta.org/statepolicerates.html.

C. Fees for all other types of vehicles other than private passenger vehicles, pursuant to Subsections A and B of this section, shall be determined in accordance with this section.

(1) The following maximum fee schedule for towing services shall be as set forth in www.gsta.org/statepolicerates.html

(2) The fee schedule for storage services shall be as set forth in www.gsta.org/statepolicerates.html

(3) The fees set forth for non-passenger vehicles in this section are maximum charges that shall apply for basic towing services. The towing operators, however, shall be allowed for winching and wrecking services over and above the basic towing services additional fees per hour for light-duty wrecker, per hour for medium wrecker and per hour for heavy-duty wrecker, as set forth in www.gsta.org/statepolicerates.html. There shall be no additional charges for any other services, including but not limited to waiting time, clean-up costs and additional labor when only basic towing services, as defined, are provided, www.gsta.org/statepolicerates.html.

D. All towing operators shall post the fees for such services in a prominent and visible location at the storage facility and shall accept as payment cash, credit card, debit card, charge card or insurance company check for all services.

§210-14 Insurance requirements.

No towing operator shall be called by the Police Department unless the towing operator has submitted as part of the application a certified copy of the required insurance policies or a certificate or certificates of insurance, in a form approved by the borough's risk management consultant, evidencing that there is in effect insurance policies with the following coverage:

A. Garage Liability Insurance. Limit of liability shall not be less than \$500,000 combined single limit (bodily injury and property damage) per occurrence, including premises operations and products/completed operations.

B. Automobile Liability Insurance. Limit of liability shall not be less than \$500,000 combined single limit (bodily injury and property damage) per occurrence.

C. Garagekeepers Legal Liability Insurance. Physical damage insurance policies shall be specifically endorsed to provide a "direct primary" insurance, where applicable, for vehicles in tow, possession of, or storage on property owned or controlled by the contractor. Limit of said coverage shall be not less than \$100,000.

D. Excess Umbrella Insurance. Limit of liability shall be not less than \$1,000,000 providing protection in excess of the \$500,000 garage and auto liability coverage. Note: This requirement may be waived if the limits of liability in Subsections A and B above are not less than \$1,500,000 combined single limit.

E. On all liability policies, the municipality shall be added as an additional insured, and certified copies of insurance policies and insurance certificates shall indicate such coverage as primary coverage notwithstanding any insurance carried by the municipality.

F. Workers' Compensation Insurance. New Jersey statutory coverage, including employer's liability coverage with a limit of at least \$500,000/\$500,000/\$500,000.

G. The contractor shall indemnify the municipality and the public against any loss due to injuries, accidents or damages of any character whatsoever where any such damage is the result of act or omission of the contractor, his agents or employees in or due to the execution of the work called for under the contract.

H. The applicant shall provide the municipality with certified copies of insurance policies or certificates of insurance, evidencing the coverages required above. Such certified copies of insurance policies or certificates shall provide that the municipality shall be given at least 30 days' prior written notice of any cancellation of, intention not to renew or material change in such coverage by certified mail, return receipt. Certified copies of insurance policies or certificates must be provided before commencing work in connection with the contract. Failure to submit this shall subject the contractor to immediate disqualification. The municipality shall also have the right to review those insurance policies of the contractor upon request if it accepts certificates of insurance.

I. The providing of any insurance required herein does not relieve the contractor of any of the responsibilities or obligations assumed by the contractor for which the contractor may be liable by law or otherwise.

J. If any policies contain deductibles or copayment, it shall be the responsibility of the contractor to pay such sums at the same time a claim is settled by the contractor's insurance company.

K. If any policies contain limits of liability with an aggregate limit, the contractor or the contractor's insurance company shall provide the municipality quarterly during the policy period, a statement evidencing the limits of liability required under this contract to be in force.

L. Failure to provide and continue in force such insurance as required above shall be deemed a material breach of the contract and shall cause an immediate termination thereof.

M. All policies shall be written in a company licensed in the State of New Jersey, Best's rated A-VII (A minus seven). They shall be written on an ISO (Insurance Service Office) form or better.

BE IT FURTHER ORDAINED that all Ordinances of the Borough of Alpine that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

BE IT FURTHER ORDAINED that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such

adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED that upon final adoption and publication as required by law, this ordinance shall become effective September 30, 2020.

INTRODUCED: August 26, 2020

ADOPTED: _____ by roll call vote as follows:

ATTEST:

APPROVED:

STEPHANIE WEHMANN, Borough Clerk

PAUL H. TOMASKO, Mayor