

**COUNTY OF GLOUCESTER**  
**AN ORDINANCE REPEALING CHAPTER 86A**  
**“TOWING AND STORAGE SERVICES,” IN ITS ENTIRETY, AND ADOPTING**  
**A NEW CHAPTER 86A “TOWING AND STORAGE SERVICES” IN THE**  
**BOROUGH OF CLAYTON**

**Ordinance No. 17-2013**

WHEREAS, N.J.S.A. 40:48-2.49, as amended by Chapter 142, P.L. 1991, permits a municipality to regulate by ordinance the removal of motor vehicles from private or public areas by operators engaged in such practice, including, but not limited to, the fees charged for such removal, the fees charged for storage following removal in accordance with Section 3 of P.L. 1987, C.127 (N.J.S.A.40:48-2.50), notice requirements, and the mercantile licensing of such operators, which ordinance shall set forth nondiscriminatory and non-exclusionary regulations governing operators engaged in the business of removing and storing motor vehicles, including, but not limited to:

1. A schedule of fees or other charges which an operator may charge vehicle owners for towing services, storage services or both;
2. Minimum standards of operator performance, including but not limited to standards concerning the adequacy of equipment and facilities, availability and response time, and the security of vehicles towed or stored;
3. The designation of a municipal officer or agency to enforce the provisions of the ordinance;
4. That such regulations and fee schedules of individual towing operators shall be made available to the public during normal business hours of the municipality; and

WHEREAS, Chapter 142, P.L. 1991 (“Local Public Contracts Law”) (N.J.S.A. 40A:11-1 et se.) provides that a municipality may, without public bidding, enter into towing contracts provided that such contracts be made pursuant to reasonable non-exclusionary and nondiscriminatory terms and conditions, which may include the

provision of such services on a rotating basis, at the rates and charges set by the municipality pursuant to Section 1 of P.L. 1979, C. 101 (N.J.S.A. 40:48-2.49); and

WHEREAS, it is considered to be in the best interest of the Borough of Clayton to regulate towing and storage services within the Borough of Clayton for those operators on the Borough of Clayton Police Department Tow List, to establish maximum rates for towing and storage services and to provide for the establishment of a non-preferential rotating list of licensed towers for provision of towing and storage services, the need for which services arise from motor vehicle accidents, or for the removal of motor vehicles from private or public property as authorized by the Police Department, or stolen vehicles; and

WHEREAS, this ordinance is intended to regulate towing facilities on the Borough of Clayton Tow List and not towing facilities in general; and

NOW THEREFORE BE IT FURTHER ORDAINED, by the Borough Council of the Borough of Clayton as follows:

## **ARTICLE I**

### **SECTION 1. DEFINITIONS**

The following words and term; used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise:

“License” means the period of 12 months from January 1<sup>st</sup> through December 31<sup>st</sup> of each year.

“Abandoned Vehicle” means any vehicle that is abandoned on or along any highway, other than a limited access highway, or other public property or on any private property without the consent of the owner or other person in charge of the property. A vehicle which has remained on or along any highway or other public property or on any private property without such consent for a period of more than 48 hours or for any period without current license plates shall be presumed to be an abandoned motor vehicle.

“Auto Repair Facility” means any public garage where motor vehicles are painted and/or repaired.

“Towing Service” means the removal and transportation of a motor vehicle from a highway, street, other public or private road, parking area, storage facility and from other off road locations such as fields, lakes, rivers and streams. This includes other services such as road side assistance.

“Borough” means the Borough of Clayton.

“Borough Clerk” means the Borough Clerk of the Borough of Clayton.

“Hazardous Substances” means the list of hazardous substances adopted by the Federal Environmental Protection Agency (EPA) pursuant to Section 101 of the “Comprehensive Environmental Response, Compensation and Liability Act of 1980,” P.L. 96-510 (42 U.S.C. Chapter 9601 et seq.), and amendments thereto, and those substances listed by the NJDEP as environmental hazardous substances pursuant to Section 4 of P.L. 1983, Chapter 315 (C. 34: 5A-4), and amendments thereto.

“Heavy Duty Tow” means a tow truck with dual wheels, capable of towing large trucks and shall meet the following minimum requirements: G.V.W. 30,000 lbs. / G.C.W.R. 80,000 lbs. / Boom rating 50,000 lbs. / Winch rating 50,000 lbs. / Cable size and length 5/8” and 200'. Borough or its agents in the removal or attempted removal of hazardous substances and disposal thereof; or costs for the taking of reasonable measures to prevent or mitigate damage, whether actual or threatened to the public health, safety or welfare.

“Discharge” means any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying, or clumping or hazardous substances into the water, lands or air of the State of New Jersey.

“Borough Council” means the Borough Council Members of the Borough of Clayton.

“Dispatch Facility” means a place established to transmit requests for towing services. (i.e. Gloucester County Dispatch Communications Center).

“Zoning Officer” means an individual who is duly appointed by the Borough Council responsible for enforcing codes in the Borough of Clayton. It shall be the duty of the Code Enforcement Officer to carry out the provisions of the ordinances in the Borough of Clayton.

“Inside Buildings” means any portion of a towing facility that is completely indoors, having one or more openings in the walls for locking storage and removal of vehicles and is secured by a locking device on each opening.

“Junkyard” means any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of scrap metal or other scrap or discarded goods, materials, machinery, or two (2) or more unregistered / uninspected, inoperable vehicles or other type of junk. For purposes of this ordinance, an auto repair facility or a towing facility shall not be considered a junkyard.

“Licenses and Inspections” means the State of New Jersey Licenses and Inspections Agency.

“Motor Vehicle’s” includes all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks.

“Motor Vehicle Accident” means an occurrence in which a motor vehicle comes in contact with any other object including pedestrians for which the motor vehicle must be towed or removed from the scene thereof.

“Night Hours” means at the closing time of normal business hours anytime between 5:00 pm and 8:00 am, Monday through Friday including Weekends and Holidays.

“Outside Secured” means any portion of a towing facility that is not indoors and is secured by a fence, wall or other manmade barrier that is eight (8) feet high or as otherwise required by the Borough of Clayton Land Use and is installed with a passive

alarm system (e g., bell ringer located in the gate area to the enclosed facility) or a similar on-site security measure.

“Petroleum or Petroleum Products” means oil or petroleum of any kind and in any form, including but not limited to, oil petroleum, gasoline, kerosene, fuel oil, oil sludge, oil refuse, and oil mixed with other wastes.

“Police Hold Vehicles” means motor vehicles which are alleged to have been involved in illegal activity, involved in a fatal motor vehicle collision, or any vehicles designated by a Borough of Clayton Police Officer.

“Public Garage” means any building, structure, or property designed and used for equipping, adjusting, greasing, washing, polishing, servicing, or storing of motor vehicles, other than at a junkyard, operated for profit and for service to the public. For purposes of this ordinance, a public garage means any general repair garage, specialized repair garage, car wash, auto repair facility, or towing facility.

“Response Time” means not more than 20 minutes from the time of the initial request by the Gloucester County Dispatch Communications Center to the tow vehicle’s arrival at the site of the incident requiring tow services, all traffic regulations observed.

“Storage Charges For 24-hour Period” means the maximum allowable amount charged by a towing facility for the storage of motor vehicles for any 24-hour period or fraction thereof.

“Storage Facility” means a place for the storing of motor vehicles.

“Towing Operator” means any entity that operates a towing business or tow vehicle.

“Tow Vehicle” means those vehicles equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under-reach equipment specifically designed by the vehicle manufacturer for the transport of motor vehicles.

“Tow Vehicle’s Base of Service” means the tow operator’s principal place of business where the tow vehicle is stationed when not in use.

“Towing Facility” means any public garage that offers towing services.

**ARTICLE II**  
**LICENSING OF TOW VEHICLE OPERATORS**  
**FOR THE BOROUGH OF CLAYTON POLICE DEPARTMENT**  
**TOW LIST**

**SECTION 1. LICENSE REQUIRED**

Prospective tow list operators must have a duly licensed towing facility or auto repair facility meeting the requirements set forth in this ordinance.

**SECTION 2. APPLICATION PROCESS FOR THE POLICE DEPARTMENT TOW LIST**

A. License Application Data Required: An application for license shall be in writing, upon a license application form furnished by the Borough of Clayton, signed by the applicant and filed with the Chief of Police , said application shall contain the following information:

- (1) The name, business address, business name and telephone number of the towing operator.
- (2) The location of the towing operator’s towing facility.
- (3) The name of the towing operator's insurance company and insurance policy number. Proof of Insurance must be provided as required under the terms and conditions stated in Article 2, Section 4 herein.
- (4) The type, condition, and design of tow vehicle(s) and equipment available for service.
- (5) Communication availability including radio communications, and the location and availability of the dispatch center.
- (6) The name, address and driver's license number of each driver or operator of the tow vehicle(s).

(7) Proof that each vehicle to be licensed is duly registered and inspected by the State of New Jersey, Division of Motor Vehicles, as a tow vehicle.

B. If a corporation applies, the application shall be signed in the name of the corporation by the president and attested by the secretary.

C. Said application shall be duly verified by the applicant before a notary public or some other person duly authorized to administer oaths.

D. Each such application shall be accompanied by the full amount of the license fee hereafter prescribed.

E. No license shall be issued to a towing operator unless the applicant's towing facility is located within a zoning district where such use is permitted in accordance with the Borough of Clayton's Municipal Land Use Ordinance or unless a use variance has been obtained therefore, and any and all Planning Board or Zoning Board approvals and/or permits have been obtained therefore, or unless sufficient proofs are provided by the applicant that said facility was operated at its present location prior to adoption of the Land Use Ordinance of the Borough of Clayton.

F. The tow vehicle(s) shall comply with any and all state, federal and local laws, regulations and ordinances, pertaining to safety, lighting and towing equipment and shall be subject to inspection by the Chief of Police or a designee at any time.

G. An application shall not be deemed complete unless accompanied by:

(1) A Letter of Good Conduct from the Borough of Clayton Chief of Police verifying that the towing operator has:

(a) Provided proof of a current and valid driver's license for each driver or operator, and

(b) A letter of compliance from the Zoning Official for the facilities of the tow operator's base of service, dispatch and/or storage area that such facilities are not in violation of applicable land use ordinances. This also applies to any tow facility not within the Borough of Clayton.

(c) A Letter of Compliance from the Zoning Official or such other official as applicable representing the municipality having jurisdiction over the property of the tow operator that such property is not in violation of applicable property maintenance and health codes. This Compliance Letter shall include the dispatch facility and storage facility if not one and the same.

(d) All municipal taxes paid in full.

H. The Borough of Clayton shall have the right to verify the accuracy of the information supplied in the application by interviewing, investigating and inspecting all personnel, vehicles, equipment and storage areas proposed for utilization by the applicant, and to determine compliance with all applicable laws, regulations, and standards of performance required by this ordinance.

I. The deadline to submit an application is November 15th of the current year for consideration to be on the following year's tow list. Completed applications are to be delivered to the Chief of Police. Applications may be submitted at other times of the year if the number of regular duty towers on the approved list of towers falls below three (3).

J. The Chief of Police of the Borough of Clayton, or a designee, upon receipt of a completed application, shall confirm that an existing business can operate a towing business in its current zone, or if a new business can operate as a towing business in its planned location by reviewing the Zoning Officer's Letters of Compliance submitted with the application. If not, the Chief will deny the application. If the towing business can operate in the zone, the Chief will proceed with conducting a background investigation on the towing operator. This investigation shall include an inspection of the towing facility, the tow vehicle(s) and the towing operation, and inquiry into all relevant matters, to determine if the towing operator meets the requirements of all applicable laws, regulations, standards of performance and security of vehicles towed or stored as mandated by N.J.S.A. 40:48-2.49(1)(b).

M. The Police Department may request and obtain additional information from the Chamber of Commerce, Department of Weights and Measures and Consumer Protection of the applicable county and from any other appropriate sources.

N. The towing operator shall at no time transfer or assign a license or any part thereof, for any purpose whatsoever.

O. No individual shall operate a tow vehicle unless the State of New Jersey duly licenses that individual. Any change in Licensure of vehicle operators during the period of the license must be reported to the Police Department within 15 days of such change. Failure to report shall be basis for removal of the vehicle operator for the remainder of the year.

P. All tow operators drivers licenses shall be checked yearly in order to confirm their validity.

### SECTION 3. RECOMMENDATION OF APPROVAL OR DISAPPROVAL

A. Upon completion of the aforesaid investigation, the Chief of Police shall file a written report as to his findings and issue a recommendation of approval or disapproval with the Borough Clerk for Borough Council's approval or disapproval.

B. If the Chief of Police recommends that the towing operator not be approved, he shall complete a written report specifying the findings and the reasons for the recommendation of rejection. The Chief of Police will furnish a copy of the report to the towing operator by certified mail, and will provide a copy to the Borough Clerk.

C. Any towing operator who is denied a license based upon the findings and recommendations of the Chief of Police may after receipt of notification file an appeal within ten (10) days with the Borough Clerk. The Borough Clerk shall then schedule a hearing before the Borough Administrator. Upon completion of the hearing, the Borough Administrator shall file a written report as to his or her findings, and issue a recommendation of approval or disapproval with the Chief of Police and the Borough Clerk for Borough Council's approval or disapproval.

### SECTION 4. INSURANCE

In order to be included on the Borough of Clayton Police Department's Tow List, a towing operator shall submit proof of insurance with his/her application on or before

November 15th that its towing facility is insured by a reputable insurance company licensed to do business in the State of New Jersey with a standard general liability insurance policy designed to cover garage operations. Said insurance policy shall provide for minimum monetary limited for any single occurrence as follows:

- A. Automobile Liability in an amount not less than \$750,000.00 for light medium tow trucks and \$1,000,000.00 for heavy duty trucks.
- B. Workers Compensation as required by statute.
- C. Garage Keepers Legal Liability in an amount not less than \$100,000.00 per location.
- D. Garage Liability, including Cargo Insurance in an amount not less than \$100,000.00 per location.
- E. A Certificate of Insurance naming the Borough of Clayton as a certified holder for a one (1) year term with a thirty (30) day notice of Cancellation.

The insurance company must be an approved carrier licensed to do business in the State of New Jersey. The aforesaid insurance policy shall also be written as to include coverage for the property owned by others which is in the care, custody or control of the licensed towing operator, including the perils of transportation for any motor vehicle in the possession or control of the towing operator. The Garage Keepers Legal Liability shall include comprehensive and collision coverage. Said insurance policy shall provide that the insurance company will pay on behalf of the Borough for any and all claims against the Borough resulting from the operations of the towing operator including any and all attorney fees.

The insurance coverage shall provide that the insurance policy may not be canceled or materially changed without (30) day's prior written notice to the Chief of Police of the Borough of Clayton Police Department.

The towing operator shall agree in writing to assume the defense of and indemnify and hold harmless the Borough, its elected officials, boards, commissions, officers,

employees and agents, from all suits, actions, damages or claims to which the Borough may be subjected of any kind and nature whatsoever resulting from, caused by, arising out of or as a consequence of the provision of towing, storage and/or emergency services provided by the towing operator pursuant to this ordinance. Tow operators shall enter into a Hold Harmless Agreement in a form to be approved by the Borough Solicitor prior to being included on the towing list. The Chief of Police will include a Hold Harmless Agreement in his notification to the towing operator if his/her application is approved by the Borough Council as outlined below.

#### SECTION 5. LICENSING PROCEDURE

Upon the receipt and review by the Chief of Police of a completed application, and upon the filing by the Chief of Police of a written report of findings resulting from the investigation of the applicant and a recommendation of approval, the Chief shall give the application to the Borough Clerk for inclusion as an agenda item for the year-end Council Closeout meeting for the governing body's consideration. If the Borough Council has determined to approve the granting of such license, it shall do so by resolution. Upon the adoption of such resolution, the Chief of Police shall issue a license certificate, which shall state the purpose for which the license is granted, the owner name, business name, the base of service address of the licensee, and the date of its expiration, which said license certificate shall be signed by the Chief of Police.

#### SECTION 6. LICENSE TERM

All licenses issued under this chapter shall be effective for the period of one year. The license shall begin on January 1st and end on December 31st (midnight). All licenses shall expire automatically.

#### SECTION 7. FEES

A non-refundable fee of \$150.00 shall be submitted simultaneously with all applications.

## SECTION 8. VIOLATIONS AND PENALTIES

A. A license may be revoked or suspended at any time for just cause, by the Borough of Clayton, for violations of any provisions of this chapter, or for violations of New Jersey state law.

### ARTICLE III POLICE DEPARTMENT TOW LIST

#### SECTION 1. GENERAL PROVISIONS

A. All towing operators, in order to provide services in non-preference motor vehicle accidents or for the removal of motor vehicles from private or public property, as may be authorized by the Police Department, must be licensed by the Borough of Clayton in accordance with this ordinance.

B. Towing operators must meet the 20-minute response time to be eligible for inclusion on the Borough of Clayton Police Department Tow List.

C. The list of licensed towing operators shall be maintained by the Police Department and shall be utilized on a rotation basis. The rotation shall be on a monthly basis beginning on 12-midnight Saturday night and ending one month later at 12-midnight Saturday night, unless otherwise specified by the Police Department or in the event of emergency conditions.

D. Licensed tow operators shall be subject to the minimum standards of the performance rules and regulations of the Clayton Borough Police Department including safety, availability, and compliance with the procedures established by this ordinance.

E. If the Chief of Police determines that a towing operator is unable or unwilling to fulfill the requirements of this ordinance or the Statutes and Regulations of the State of New Jersey, the Chief of Police shall document his determination in a written report. He will send this report to the tow operator by certified mail and will give a copy of the report to the Borough Clerk for Borough Council's review of his recommendation for removal. The tow operator has 10 days to file a written appeal if in disagreement with the Chief of

Police's recommendation of removal. If the tow operator chooses to appeal, the tow operator shall submit a request in writing to the Borough Clerk, who will then schedule a hearing before Borough Council.

F. Upon receipt of the notification by the Chief of Police that the tow operator has been recommended for removal from the tow list, the tow operator shall cease towing of vehicles on behalf of the Borough of Clayton pending a final decision from the Borough Council.

## SECTION 2. SERVICES TO BE PERFORMED BY LICENSED TOWING OPERATORS

A. Licensed towing operators agree to provide the following services on a 24 hour basis:

- (1) Removal and transporting of motor vehicles involved in a motor vehicle accident where the owner or operator of the motor vehicle when appropriate has not made a preference for the towing of the vehicle.
- (2) Removal and transporting of a motor vehicle from private or public property as may be authorized by the Police Department or Code Enforcement Official of the Borough of Clayton.
- (3) Removal and disposal from the Borough or private property motor vehicles which, pursuant to State law and regulations, would be subject to the jurisdiction of the Clayton Borough Police Department. Such vehicles shall be moved to such location as specified by the Clayton Borough Police Department.
- (4) The storage of a motor vehicle removed and transported from the scene of a motor vehicle accident

B. A towing operator responding to a tow shall be responsible for all site cleanup related to a motor vehicle accident, including the pick-up and removal of all debris from the scene of the accident and containment of any hazardous fluids from the vehicle prior

to tow, in accordance with the laws of the State of New Jersey, and all services as defined by State regulations and Article 1 herein.

It is understood that the responsibility of the tow operator as established above in no way relieves the vehicle owner of their responsibility for the cleanup and removal of any debris or spilled fluids coming from their vehicle.

C. A towing operator shall provide either one boom tow truck with a wheel lift or winch rollback or one boom tow truck with a wheel lift, capable of transporting the vehicle to be removed without additional damage. The transported vehicle shall not exceed the carry weight or capacity of the carrying vehicle.

D. The towing operator shall ensure the proper utilization and deployment of safety devices as more particularly defined in Article III, Section 3 herein.

E. If a licensed towing operator is unable to handle a particular situation for whatever reason, the Borough of Clayton Police Department shall have the right to use whatever means necessary to accomplish the removal, transporting and storage of motor vehicles.

F. Any tow operator intending to use subcontractors must identify them on his or her application. No towing operator shall subcontract any work to be performed pursuant to this ordinance without having first obtained prior written approval from the Borough of Clayton Police Department. Any towing operator to whom approval to subcontract work has been given shall be responsible for the services performed by and the acts and omissions of the subcontractor, and shall remain liable for any violation of this ordinance by the subcontractor.

### SECTION 3. RESPONSIBILITY OF TOWING OPERATORS ON POLICE DEPARTMENT TOW LIST

A. The towing operator shall provide a towing facility of sufficient size to accommodate not less than twenty-five (25) passengers vehicles and one (1) tractor and trailer, and not less than eight hundred (800) square feet of inside storage facilities to hold and protect "police hold" vehicles. At no time shall any automobile towed by a towing

operator be stored at any other location, except where a vehicle is towed at the request of the owner to a specific location.

B. The towing facility shall be staffed by the licensed towing operator during normal business hours of 8am to 5pm Monday through Friday and include twenty-four hour telephone service, seven days per week during the week in which the licensed facility is on call.

C. The towing operator shall provide tow vehicles capable of handling the transporting of motor vehicles as defined in Article I of this Ordinance, and equipped to provide regular towing service. 14,000 pounds to 15,000 gross vehicular weight is regular towing service. 15,000 pounds gross vehicular weight and above is heavy towing service. Carry weight shall not be less than 4,000 pounds or less than that needed to carry the transported vehicle safely.

D. Each tow vehicle or flatbed vehicle shall be equipped with towing and safety equipment, warning devices such as lights, flares and flags to warn other automobile operators of the presence of a disabled automobile, and mechanics tools to perform complete emergency work, including but not limited to the following:

E. All tow operators shall be required to wear a reflective jacket or vest when towing vehicles on the roadway and all times shall exercise extreme caution and due safety.

(1) At least one (1) amber rotating beacon or strobe light mounted on the highest practical location of the vehicle, which when in use shall be visible from three hundred sixty (360) degrees at a distance of not less than five hundred (500) feet during daylight hours.

(2) One (1) snatch block per winch.

(3) Safety tow lights or magnetic tow lights for towing vehicles at night. Safety tow lights, red in color, shall be mounted in the rear of the vehicle being towed.

- (4) Ample chains and cables for pulling or securing a towed vehicle. The working limit of cable shall be noted to include a minimum pulling capacity of 2500 pounds, (3/8 inch cable).
- (5) At least one (1) broom, shovel, crowbar or prybar, jumper cables, flashlight, fire extinguisher or dry chemical type having capacity of not less than two (2) pounds, one dozen (2) flares or similar warning devices for placement at the scene of an accident or behind a disabled vehicle, not less than ten (10) pounds of dry sand or a drying compound for gasoline and oil spilled onto the roadway, and tools sufficient to enable the tow vehicle operator to perform proper and adequate emergency repair services for the tow.
- (6) Back up alarms on all tow trucks.

F. All tow trucks must be in compliance with all safety equipment requirements as listed in N.J.S.A.39: 3-1 et seq. and 49 CFR 393.

G. No changes may be made to tow vehicles or equipment without prior written approval of the Borough of Clayton Police Department

H. Each tow vehicle shall display two stickers issued by the Department of Licenses and Inspections on the upper left and right side of the driver's door panel and shall have the name and number of the licensed tow operator displayed on the vehicle in such manner and of such lettering as to conform to the provisions of N.J.S.A. 39:4-46.

I. Towing operators and their employees shall provide all services required by this ordinance at all times and shall be subject to the following requirements:

- (1) Possess sufficient knowledge, skill and ability to provide minimum road services for disabled vehicles and to adequately remove a vehicle from an accident scene without causing additional damage to the vehicle.
- (2) Not be mentally or physically impaired.
- (3) Obey all traffic laws, statutes, regulations and ordinances promulgated by the State of New Jersey and the Borough of Clayton.

(4) Be subject to inspection by the Chief of Police or a designee and shall be approved by the Chief of Police prior to rendering any services pursuant to this article.

J. The tow vehicles provided by the towing operator shall be of such type and design to properly and safely perform all towing services required by this ordinance and shall at all times comply with New Jersey Statutes and Regulations and be subject to inspection by the Chief of Police or designee.

K. All drivers of tow vehicles shall possess at all times a valid New Jersey driver's license and a Commercial Driver's License where applicable, which shall be subject to inspection by the Chief of Police. Said operator shall obey all traffic laws and shall comply with all Statutes and Regulations of the State of New Jersey and of the Borough of Clayton.

L. The tow vehicles provided by the towing operator shall be geographically located so as to permit a response time within 20 minutes.

M. The towing fees and storage fees established by the towing operator shall be conspicuously posted at the towing facility owned or operated by the towing operator, which fees shall not exceed the fees set forth in this ordinance.

N. At all times the towing operator shall maintain the towing facility in a clean and orderly fashion. Reasonable measures shall be taken by the towing operator to prevent vandalism, theft or damage to automobiles stored therein.

O. In the event that automobiles, which are towed and stored by the towing operator, are abandoned or unclaimed by the owners thereof, the towing operator shall make no claim against the Borough, its agents or employees. Only those vehicles towed from private property or public right-of-way under authorization of either the Code Enforcement Official or the Police Department, not including accident vehicles, shall be disposed of by the Borough pursuant to N.J.S.A. 39:10A-1 or other appropriate State Statutes or State Regulations.

P. The towing operator operating pursuant to this ordinance is an independent contractor and in no sense an agent, servant or employee of the Borough. Said operator shall at all times maintain direct supervision, management and control over all of its employees and personnel engaged in the operation or services performed pursuant to this ordinance.

Q. The Borough shall not be responsible for the acts of the towing operator in performing the services contemplated by this ordinance. The towing operator agrees to save and hold harmless the Borough from all manner of liability as a result of its actions or omission, whether of a negligent or intentional nature.

R. Towing operators approved for tow list eligibility shall be required to fulfill tow requests of the Zoning Official and/or the Police Department of the Borough of Clayton. Failure or refusal to remove a vehicle pursuant to directive of the Borough of Clayton shall be cause for removal from the approved tow list.

S. The tow operator shall be responsible for ensuring the proper, safe and secure storage of all vehicles towed. The tow operator shall be liable for any and all damage incurred by such vehicles while in transit to or while stored in or at the facilities of the operator.

#### SECTION 4. TOWING FACILITIES

A. Every tow operator on the Police Department Tow List shall maintain an inside building and outside secured storage area meeting the following requirements:

- (1) The storage area shall be capable of storing not less than twenty-five (25) passenger vehicles and one (1) tractor and trailer. The area shall have not less than eight hundred (800) square feet of inside storage facilities to hold and protect "police hold" vehicles.
- (2) The storage area shall be located either within the limits of the Borough or at such location outside of the Borough as to facilitate a response time of not more than 20 minutes.

- (3) Outside storage areas shall be fully enclosed by a fence of sufficient security to prevent trespassing having a height of eight (8) feet, or as otherwise required by the Borough of Clayton Land Use Ordinance, with at least one (1) lockable gate for ingress and egress and shall be lighted from dusk to dawn. (If the storage facility included more than one access point, then all access points must be secured with appropriate gate and lock.) Fences that existed prior to adoption of this ordinance shall be permitted, however, if such fences are replaced, the new fence shall be eight (8) feet in height or as otherwise required by the Borough of Clayton Land Use Ordinance.
- (4) The storage facility shall be available to the Clayton Borough Police Department twenty-four (24) hours a day, three hundred and sixty-five (365) days per year and shall be open to the public on weekdays during normal business hours and for limited but reasonable hours on Saturday. The operator shall specify the hours on which the facility will be open to the public on weekends. The storage facility shall release a stored vehicle to the owner thereof on such date as shall have been requested by said owner during normal business hours, after receiving the written tow release from the Clayton Borough Police Department, storage charges shall not accrue beyond the requested date of release.
- (5) The tow operator shall have an employee on duty during all hours in which the storage facility is open.
- (6) The tow operator shall not charge a release fee or other charge for releasing vehicles to their owners after normal business hours or on weekends.

B. The Borough of Clayton shall not be responsible for processing of licensure and other documents required by the State of New Jersey with regard to vehicles left abandoned at a repair facility. Vehicles left abandoned at a repair facility, including those involved in accidents, are the responsibility of the repair facility, per N.J.S.A.39:10A-8.

**SECTION 5. FEES**

A. When performing services under the Police Tow List to tow and/or store a motor vehicle, the towing charge and storage charge shall not exceed those charges as set forth in this ordinance. These are maximum fees that may be charged.

B. The fee schedule is effective at the time of adoption of this ordinance is as follows:

**TOWING:**

<u>Days</u>	Amount	Amount
	Light Duty	Heavy Duty
Tow Fee- First mile or less	\$110.00	\$450.00 – per hour (Payable in 15 minute increments)
Each additional mile	\$4.00	

<u>Nights, Weekends and New Jersey State Holidays</u>	Amount	Amount
	Light Duty	Heavy Duty
First mile or less	\$110.00	\$450.00 – per hour
Each additional mile	\$4.00	

<b><u>STORAGE:</u></b>	Amount	Amount
	Light Duty	Heavy Duty
<u>Inside Building</u>		
Storage Facility Capacity Per Vehicle / Per Day	\$75.00	\$75.00
<u>Outside Secured</u>		
Storage Facility Capacity Per Vehicle / Per Day	\$50.00	\$50.00

**ADDITIONAL FEES:**

Cleanup	\$45.00 – per hour
Oil Dry	\$15.00 – per bag

Debris Bag for Parts/ Stay Dry	\$3.00 per bag
Winching Fee	\$95.00/hr – Basic (1 hr min.)
Heavy Duty Laborer	\$65.00 – per man / per hour
Heavy Duty Support Vehicle	\$125.00 – per / hour
Vehicle Rollover	\$125.00
Lot Fee for Non Drivable Vehicles	\$45.00
Bed Cleanup for Fluids	\$35.00
Labor for Extreme Situations	\$85.00 /per hr
Extra Tow Vehicle If Needed	\$95.00 / per hr

Note: Motorcycle tows are 1.5 times the rates for towing.

- A. The fees set forth on the schedules for towing rates are the maximum charges that shall apply to a motor vehicle for basic towing services.
- B. The towing rates shall be calculated based on the total distance traveled from the tow vehicle's base of service to the job site and return, by way of the shortest available route. Fractions shall be rounded up to the nearest whole mile.
- C. Tow vehicles transporting multiple motor vehicles at one time may charge the applicable fee for each such vehicle transported.
- D. When towing services are otherwise required, the Day rate shall apply when the vehicle is transported (pickup and delivery) entirely between the hours of 8:00 A.M. and 6:00 P.M., Monday through Friday, except New Jersey State Holidays. The Night, Weekend and Holiday rate shall otherwise apply.
- E. The Chief of Police shall post fees available to the public, during normal business hours along with a copy of this ordinance and the fee schedules of licensed towing operators.
- F. Payment from the public shall include credit cards.

## SECTION 6. MISCELLANEOUS

- A. The Zoning Official/Code Enforcement Officer shall be responsible for the enforcement of the provisions of this ordinance pertaining only to storage facilities.
- B. The Borough of Clayton Police Department may authorize the towing and storage of motor vehicles located on public streets or public property which are unregistered, abandoned, illegally parked, or which are permitted to be towed and stored pursuant to State Statute or State Regulations.
- C. A tow operator shall not tow motor vehicles located in the public right-of-way or on private property unless authorized to do so by the owner of the vehicle, or by the Police Department or Zoning Office. This ordinance, however, does not preclude a towing operator licensed by the Borough or State from towing motor vehicles located on private property in accordance with State licensure privileges.
- D. Motor vehicles which remain unclaimed by the owner or other person having legal right thereto shall be disposed of pursuant to the applicable provisions of Title 39 of the New Jersey Statutes. The last known owner of an abandoned vehicle, or the owner of the property from which an abandoned vehicle is removed, shall be responsible for all towing fees or charges, storage fees or charges, road service fees or charges, and any other fees permitted by law.
- E. The Borough shall make periodic inspections of facilities, equipment and service and, upon request, shall be provided full access to equipment or property. Such inspections shall be made quarterly, semi-annually, or annually, as determined by the applicable Borough official, but in no case shall such inspections be made less than annually.
- F. The Clayton Borough Police Department, responsible for enforcement of this ordinance, shall establish a procedure to process complaints received by the Police Department regarding any licensed towing operator including, without limitation, charging of fees in excess of those permitted hereunder, or damage to vehicles, and to notify a vehicle owner of the location the motor vehicle towed. The Internal Affairs Division of the Police Department will investigate any complaints. Any fee not

specifically covered in this ordinance, shall have a “reasonableness test” applied for the purpose investigating the complaint.

G. The Police Department shall have the right to store at its own facilities motor vehicles towed at its direction or confiscated in suspected crimes. All licensed towing operators shall extend storage to the Borough of Clayton Police Department at no cost and, if so requested, shall provide separate storage space for exclusive use of the Police Department also at no cost.

Abandoned vehicles or vehicles confiscated by the Police Department are to be stored as authorized by the Police Department to assure protection of the vehicle and to provide security of said vehicle until appropriately disposed of by the Police Department.

H. All tow company owners will be permitted to apply for junk and abandoned titles for vehicles that are unclaimed for a minimum of 30 days. The tow company owner will be responsible for completing all the required paperwork and any and all fees associated with this process as defined under the provisions of 39:10A-1. The Borough will send to the New Jersey Division of Motor Vehicles all completed paperwork after it has been verified. All titles approved by the New Jersey Division of Motor Vehicles will be then turned over to the tow company owner who applied.

I. All towing operators shall provide adequate public posting of charges at their primary place of business and storage facility.

J. Towing operators shall not pile vehicles or park towed vehicles on public streets or sidewalks.

K. All towing operators shall maintain a record of each motor vehicle towed, stored, and released, and of all services rendered. Such records shall be maintained at one central location and retained for a period of not less than five (5) years.

L. Pursuant to the Spill Compensation and Control Act, including N.J.S.A. 55:10-23.11(g)c, any person in anyway responsible for a discharge of petroleum or hazardous substances shall be strictly liable, jointly and severally, without regard to fault, for all costs of cleanup and removal of the discharge from the public right-of-way and private

property within the area of the spill. The tow operator and/or facility owner shall be responsible for the cleanup and removal of any spill or discharge of petroleum or hazardous substances at its storage facility. The facility owner may choose to take action against the vehicle owner for the cost of such cleanup and removal. The responsible party shall contact the NJDEP Action Line to report any spills or leaks as required by N.J.S.A.53:10-23.11(e).

Whenever any petroleum or hazardous substances are discharged on public property or within the public right-of-way, the Health Department may, in its discretion, act to remove or arrange for the removal of such discharge, or may direct the responsible party to remove or arrange for the removal of such discharge. The County Environmental Health Department shall monitor compliance with any cleanup directives. Pursuant to N.J.S.A.58:10-23.11(f), any person who fails to comply with a cleanup directive shall be liable to the Borough in an amount equal to three (3) times the cost of such removal

ATTEST:

BOROUGH OF CLAYTON

Christine Newcomb  
Christine Newcomb, Clerk

BY: [Signature]  
Tom Bianco, Mayor

### CERTIFICATION

I, Christine Newcomb, Clerk of the Borough of Clayton County of Gloucester, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the Borough of Clayton held on 9-12-13 and will be considered for final passage and adoption at a subsequent meeting, 11-14-13, at which time any person interested therein will be given an opportunity to be heard.

Christine Newcomb  
Christine Newcomb, Clerk

**PUBLIC NOTICE**

**BOROUGH OF CLAYTON**

**SUMMARY OF ORDINANCE 17-2013**

**AN ORDINANCE REPEALING CHAPTER 86A "TOWING AND STORAGE SERVICES," IN ITS ENTIRETY, AND ADOPTING A NEW CHAPTER 86A "TOWING AND STORAGE SERVICES" IN THE BOROUGH OF CLAYTON**

The purpose of this Ordinance is to repeal the existing Towing and Storage Services Section and adopt a new Chapter 86A "Towing and Storage Services" to regulate towing operators and towing storage facilities in the Borough of Clayton.

A copy of this Ordinance can be obtained without any cost, by any member of the general public in the Borough Clerk's office within the Borough of Clayton in the Municipal Building, 125 North Delsea Drive, Clayton, New Jersey, during normal business hours, Monday through Friday from 8:00 a.m. to 4:00 p.m.

This Ordinance was introduced at a meeting held on the 12<sup>th</sup> day of September, 2013. It is scheduled for a public hearing and final adoption at a meeting of the Mayor and Council of the Borough of Clayton beginning at 7:00 p.m. on the 14<sup>th</sup> day of November, 2013, at the Municipal Building, 125 N. Delsea Drive, Clayton, New Jersey.

Christine Newcomb, Municipal Clerk  
Borough of Clayton

**17-2013**

**NOTICE OF ADOPTION**

**AN ORDINANCE REPEALING CHAPTER 86A  
"TOWING AND STORAGE SERVICES," IN ITS ENTIRETY AND  
ADOPTING A NEW CHAPTER 86A "TOWING AND STORAGE  
SERVICES: IN THE BOROUGH OF CLAYTON**

The foregoing Ordinance was finally adopted by the Mayor and Council of the Borough of Clayton on November 14, 2013.

Christine Newcomb  
Borough Clerk