

## **CHAPTER 48**

### **WRECKERS AND VEHICLE TOWING ORDINANCE**

#### **1. Purpose.**

The City of Ellsworth is one of the largest customers for towing services in Hancock County. The City seeks to ensure that towing services used for police related towing meet minimum qualifications to ensure the safety and security of the public and their property while allowing for efficient and orderly towing. The City also seeks to ensure that qualified towers have equal access to business generated as a result of police tows.

#### **2. Towing Rotation List Established.**

**2.1.** A towing rotation list is hereby established. Any towing service holding a Statement of Qualification from the Chief of Police or his designee shall be eligible for inclusion on that list.

**2.2.** Any eligible towing service shall be included in the towing rotation list at the written request of that towing service submitted to the Chief of Police. That written request shall state that the towing service, and its owners its officers and employees, are familiar with the terms of this Ordinance and agree to be bound thereby.

**2.3.** The towing rotation list shall be used for all non-preference tows.

**2.4.** The Ellsworth Police Department shall call the towing service at the top of the towing rotation list for any non-preference tow. After being given or refusing a tow offer, the towing service will be placed at the bottom of the list.

**2.5.** The Ellsworth Police Department shall have the authority to call a towing service that outside of the towing rotation list in the following circumstances:

**2.5.1.** It is necessary to impound the vehicle for law enforcement purposes.

**2.5.2.** Public safety requires the immediate removal of the vehicle. Any towing service called under this section of the Ordinance shall be moved to the bottom of the towing rotation list.

**2.5.3.** An error is made by the Ellsworth Police Department in calling rotation. Any towing service erroneously called under this section of the Ordinance shall be moved to the bottom of the towing rotation list.

**2.5.4.** The vehicle to be towed is owned, leased or operated by the City of Ellsworth.

### **3. Application for Statement of Qualification.**

A towing service seeking a Statement of Qualification for inclusion in the towing rotation list shall submit an application therefore to the Chief of Police.

**3.1.** The following materials shall constitute a complete application.

**3.1.1.** Completed and signed application form.

**3.1.2.** The name, address and date of birth of each person employed as a driver or who otherwise has access to any secure storage area, or who is an owner, officer, partner or principal of the applicant.

**3.1.3.** A description of the location, size and security features of the secure storage area at which towed vehicles shall be stored and released. This description shall be sufficiently complete that the Chief of Police can determine whether the facility meets the requirements of this Ordinance.

**3.1.4.** A list of the towing equipment available to the operator that will be used for rotational towing.

**3.1.5.** The location of the release facility to which the public must come to claim towed vehicles.

**3.1.6.** A copy of the driver's license for each individual who will drive the applicant's vehicles. In the event a new driver is hired subsequent to an applicant's inclusion in the towing rotation list, that driver may not drive on towing rotation list tows until a copy of that license is submitted to the Chief of Police.

**3.1.7.** Proof of insurance in not less than the following amounts:

**3.1.7.1.** Garage keepers insurance insuring against loss to vehicles stored at the yard due to fire, theft, windstorm, vandalism and explosion, in an amount no less than twenty-five thousand dollars (\$25,000.00) with each vehicle suffering loss or damage being deemed a separate loss. This policy shall also insure against loss due to hoisting, lifting or towing of vehicles in the same amount.

**3.1.7.2.** Commercial liability insurance insuring the operation of the applicant's business for bodily injury or property damage in the amount of three hundred thousand dollars (\$300,000.00) combined single limit.

**3.1.7.3.** Vehicle liability insurance insuring each tow vehicle covering personal injury loss in the amount of three hundred thousand dollars (\$300,000.00), combined single limit, or such greater amount as shall be required by Maine law. Such policy shall also provide for property damage insurance in the amount of twenty-five thousand dollars. (\$25,000.00).

**3.1.8.** Each proof of insurance required by section 3.1.7 shall be accompanied by:

**3.1.8.1.** An endorsement by the carrier providing thirty (30) days prior written notice to the City of Ellsworth of any changes in coverage or cancellation of the policy.

**3.1.8.2.** An endorsement holding the City of Ellsworth, its officers, agents and employees, harmless from all claims whether direct, for contribution, or subrogation.

**3.1.9.** The lapse or cancellation of any insurance coverage required by section 3.1.7 shall be grounds for immediate suspension from the towing rotation list until proof of adequate coverage is provided to the Chief of Police in the manner specified in Section 3.1.6 and 7, above.

**3.2.** Upon receipt of a complete application the Chief of Police shall conduct an investigation of the applicant to determine that the applicant, its facilities, employees and agents comply with the terms of this Ordinance. This investigation shall be conducted within thirty days (30) of the receipt of a complete application.

**3.3.** The Chief of Police shall deny a Certificate of Qualification to any applicant where:

**3.3.1.** The applicant fails to file a full and complete application.

**3.3.2.** The applicant furnishes false information in its application;

**3.3.3.** The applicant lacks the facilities or equipment required by this Ordinance;

**3.3.4.** Any person employed as a driver or who otherwise has access to any secure storage area, or who is an owner, officer, partner or principal of the applicant who has been convicted in any state or federal court of a felony or a crime of dishonesty or moral turpitude.

**3.3.5.** The applicant, or any person who is an owner, officer, partner or principal of the applicant, is or was an owner, officer, partner or principal of a towing service that is currently suspended or removed from the towing rotation list.

**4. Service Standards for Towers Participating in the Towing Rotation List.**

**4.1.** Towing services shall maintain and operate a secure storage area and release facility located within the City of Ellsworth or within a radius of five miles (5) of the Ellsworth City Hall.

**4.2.** There shall be no public access to any secure storage area. Any secure storage area shall be separated from any motor vehicle repair area by a wall and locked door or fence and locked gate.

**4.3.** Towing services shall permit the Chief of Police to inspect the premises at random during normal business hours to determine whether the towing service complies with the requirements of this Ordinance. Such inspections shall be only for this purpose and shall not be conducted for any other purpose without proper warrant or lawful reason therefore.

**4.4.** Towing services shall maintain records relating to towing rotation list tows as required by the Chief of Police. These records shall be available for inspection by the Chief of Police during normal business hours.

**4.5.** Towing services shall submit copies of all towing rotation list tow receipts to the Chief of Police within fifteen days (15) of the end of each calendar quarter (March 31, June 30, September 30 and December 31). Any failure to comply with this requirement shall result in the immediate suspension of the towing service from the towing rotation list without prior notice. The suspension shall continue until the first business day following the submission of the required receipts to the Chief of Police.

**4.6.** No vehicle that has been towed in a towing rotation list tow, or any part thereof or item contained therein, shall be removed from the secure storage area or the possession of the towing service until the vehicle is reclaimed by the owner/operator. Any person who seeks to remove any vehicle or part thereof or item therein, prior to reclaiming the vehicle, shall first obtain the written permission of the Chief of Police.

**4.7.** Towing services shall not make any repairs to a towed vehicle without the written consent of the owner.

4.8. Towing services shall maintain a 24-hour business telephone.

**5. Towing Vehicle Standards.**

5.1. All towing services shall have a two-way radio or cellular telephone in each wrecker.

5.2. All wreckers shall be properly registered and inspected, and shall at all times meet Maine State inspection standards.

5.3. All wreckers shall be equipped with fire extinguishers, emergency lights and equipment for the removal of debris from an accident scene.

5.4. All wreckers shall have the towing service name and telephone number stenciled on each door in letters at least three inches in height.

5.5. Towing services shall permit the Chief of Police to inspect any wreckers at random during normal business hours or at any time the wrecker is operating to determine whether the towing service complies with the requirements of this Ordinance. Such inspections shall be only for this purpose and shall not be conducted for any other purpose without proper warrant or lawful reason therefore.

5.6. All wreckers shall be equipped with some means of removing a vehicle without wheels.

**6. Tow Scene Activities.**

6.1. Towing services participating in the towing rotation list are expected to accept all kinds of work. Three refusals to provide towing services within any ninety day (90) calendar period without good cause therefore shall constitute a violation of this Ordinance.

6.2. Wreckers called on a towing rotation list shall respond on the scene within thirty minutes (30) of receipt of a request from the police department for service. Any tow that is not able to respond within this period shall notify the police dispatch within fifteen minutes (15) of the request from the police department.

**6.3.** Vehicles must be towed, not driven, to the storage lot or other destination. Upon the request of the owner/operator of the vehicle and the approval of the police department, the towing service shall tow the vehicle to the owner's preferred location.

**6.4.** Towing services shall, at the time of payment, give a towing rotation list tow receipt to the owner/operator or each vehicle towed in a towing rotation list tow. The receipt shall be printed with the towing service's name, address and telephone number, and shall itemize the cost of towing, mileage fees, storage fees and any other additional fees or costs. A copy of each receipt shall be provided to the Chief of Police as required by section 4.5, above.

**6.5.** The wrecker operator or other employee of the towing service shall clean the scene of all non-hazardous vehicular debris resulting from the accident. All debris shall be removed to the satisfaction of the police officer in charge of the scene prior to the wrecker leaving the scene.

**6.6.** No towing service owner, officer, employee or agent shall, while engaged in any towing activity, engage in any loud argument, fight or other disturbance; harass, threaten or assault another person; intentionally, knowingly or recklessly damage, destroy or threaten to damage or destroy the property of another; or in any other manner engage in conduct detrimental to the orderly and efficient towing of vehicles.

**6.7.** The solicitation of towing business at the scene of any accident or emergency is prohibited unless the police or the owner/operator of the vehicle to be towed called or summoned the towing service to the scene. This prohibition applies regardless of whether the police department has arrived or been called. <sup>1</sup>This section is not meant to prohibit tow services from stopping to render assistance in their normal course of travel when coming upon a disabled motorist.

## **7. Release of Vehicles.**

**7.1.** Any vehicle impounded by the police department shall not be released to the owner/operator without the prior approval of the Chief of Police. Such vehicles shall be labeled "Police Hold" on the tow receipt.

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<sup>1</sup> Added by vote of City Council 9/19/2005

All other vehicles may be released to the owner/operator or his agent provided that proof of ownership is shown and the appropriate fees due the towing service have been paid. Towing services shall release a vehicle within two hours (2) of the satisfaction of these conditions and the owner/operator's request.

7.2. The towing service shall advise vehicle owner/operators prior to the release of a vehicle, if there is an additional charge for releases after 6:00 pm, that a daily storage fee will be charged for vehicles left for more than twelve hours (12), and if cash is the only accepted means of payment.

7.3. The police department shall be notified of any vehicles that remain unclaimed for a period of more than thirty days (30) by forwarding a copy of the towing receipt to the Chief of Police. The towing service shall handle unclaimed vehicles only in accordance with state statute.

**8. Administrative Provisions.**

8.1. The service rates and fee charges are established below. Any dispute about charges shall be submitted to the City Manager for resolution. The decision of the City Manager is final. The owner/operator of a towed vehicle shall not be obligated to pay any charge unless they have been given a copy of the towing rotation list tow receipt as required by Section 6.4, above.

8.2. <sup>2</sup>Service charges:

Light duty tows (GVW less than 12,000 lbs) <sup>1</sup>	Standard	Accident
Day rate (8:00 am to 6:00 pm)	\$50	\$60
Night rate (6:00 pm to 8:00 am)	\$60	\$75
Outside storage <sup>2</sup>	\$25	
Inside storage <sup>2</sup>	\$35	
Mileage	\$2.50 per loaded mile	
Time > one hour in fifteen minute increments <sup>3</sup>	\$80 \$20/ 15 min.	\$120/hr roll over \$30/ 15 min
Day service call	\$40	
Night service call	\$50	
<sup>1</sup> A dual rear wheel vehicle built on a full-sized chassis is not considered a		

<sup>2</sup> Amended by vote of City Council 9/19/2005

"light duty tow" regardless of GVW.

<sup>2</sup>Note: The first day of storage may be charged if the vehicle is held in excess of 12 hours. Subsequent storage may be charged after the initial 24-hour period for any part of each subsequent 24-hour period.

<sup>3</sup>Time charges may be assessed for time at the scene, only. Time will not be assessed for time spent going to or returning from a tow, nor shall time be assessed in addition to mileage.

**8.3.** The following shall be grounds for suspension or removal from the towing rotation list:

**8.3.1.** The occurrence of any condition that would require the Chief of Police to deny an application for a Certificate of Qualification pursuant to Section 3.3;

**8.3.2.** Violation of any provision of this Ordinance during any towing rotation list tow;

**8.3.3.** Violation of Sections 6.6 or 6.7 at any time;

**8.3.4.** A failure to comply with any provision of this Ordinance that expressly contains a penalty of suspension for non-compliance.

**8.4.** Suspension and removal shall be imposed in accordance with the following provisions:

**8.4.1.** Any suspension imposed pursuant to Section 8.3.1 shall continue until the towing services re-applies for and receives a new Certificate of Qualification.

**8.4.2.** Any suspension imposed pursuant to Section 8.3.4 shall continue as set forth in the provision imposing a suspension.

**8.4.3.** Any suspension imposed pursuant to Section 8.3.3 shall be for:

**8.4.3.1.** Thirty days (30) for a first violation within any 18-month period.

**8.4.3.2.** Sixty days (60) for a second violation within any 18-month period.

**8.4.3.3.** One hundred and twenty days (120) for a third violation within any 18-month period.

**8.4.3.4.** Removal for at least one year for a fourth violation occurring within any 18-month period, or for a sixth violation occurring in any three-year period.

**8.5.** The City Manager shall serve as the hearing officer for the purposes of Section 8.3.

**8.6.** Any towing service participating in the towing rotation list may appeal a suspension or removal from the towing rotation list to the Ellsworth Board of Appeals within fifteen days of the suspension. There shall be a fee of one hundred dollars for this appeal.

**8.7.** Any suspension or removal imposed pursuant to Sections 8.3.2 or 8.3.3 shall be stayed during the pendency of the appeal. Any suspension imposed pursuant to Sections 8.3.1 or 8.3.4 shall not be stayed.

## **9. Severability.**

In the event any provision or portion of this Ordinance is held to be unlawful or unconstitutional by any court of competent jurisdiction, the remaining provisions or portions of the Ordinance re declared to be severable and shall not be thereby invalidated.

## **10. Definitions**

**Accident:** Any situation wherein a vehicle is damaged or disabled, regardless of amount, such that towing services are desirable or required.

**Emergency:** Any situation wherein a police officer or any other law enforcement officer or emergency official determines that public safety or welfare requires the towing of a vehicle. An emergency includes an arrest scene where the police determine that a vehicle must be towed.

**Chief of Police:** The Chief of the Ellsworth Police Department or his designee.

**Police Department or Officer:** The Ellsworth Police Department and its officers.

**Non-preference tows.** Tows where the owner/operator of the vehicle expresses no preference for the services of a particular towing company that is reasonably available, or the owner/operator is unable or unwilling to express such a preference.

**Secure storage area:** An internal secure storage area contained within a fully enclosed building. An external secure storage area that is fully fenced and gated.

**Service call:** A call for services that do not involve towing, such as gas, locked vehicle or flat tire calls.

**Towing rotation list tow receipts:** Receipts for tows required by Sections 4.5 and 6.4 of this Ordinance.

A TRUE COPY  
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