

LEGAL NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE, that the Town Board of the Town of Poughkeepsie does hereby set the 19th day of June, 2019 as and for the date of a public hearing to be held at 7:00 p.m. at the Town Hall, Town of Poughkeepsie, One Overocker Road, Poughkeepsie, NY, to afford all interested parties an opportunity to be heard and seek public comment concerning the adoption of a Local Law amending Town of Poughkeepsie Code, by adding Chapter 199, entitled “ Towing”, which proposed Local Law amendments are available for review in the Town Clerks Office, between the hours of 8:00-4:00, Monday – Friday and also on our Town Website at www.townofpoughkeepsie.com, in the Public Hearings Section.

Felicia Salvatore, Town Clerk
Town of Poughkeepsie
May 23, 2019

RESOLUTION 5:22 - # 18 OF 2019

BE IT RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby set the 19th day of June, 2019 at 7:00 p.m. at the Town Hall, Town of Poughkeepsie, One Overocker Road, Poughkeepsie as and for the time, date and place of a public hearing to amend the Town Code by local law to add Chapter 199, entitled "Towing", and

BE IT FURTHER RESOLVED, that the proposed amendments are attached hereto as Exhibit A and incorporated herein, and the Town Board does hereby waive a verbatim reading of said amendments and does direct that said amendments be spread across the record as if they, in fact, had been read verbatim, and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby determine that this action is a Type II Action involving the ongoing administration of the Town and it requires no environmental review; and

BE IT FURTHER RESOLVED, that said local law, if adopted, shall take effect immediately upon filing with the Secretary of State.

Dated: May 22nd 2019
 Moved: Michael Cifone
 Seconded: William Carlos

Motion passes/ fails: Ayes 7 Nays 0

JEN/mem
 t-5/13/2019
 m-5/22/2019
PRESENT/ABSENT
PRESENT/ABSENT
PRESENT/ABSENT
PRESENT/ABSENT
PRESENT/ABSENT
PRESENT/ABSENT
PRESENT/ABSENT

	AYE	NAY	ABSTAIN
Councilman Renihan	<input checked="" type="checkbox"/>	___	___
Councilman Carlos	<input checked="" type="checkbox"/>	___	___
Councilwoman Lopez	<input checked="" type="checkbox"/>	___	___
Councilman Cifone	<input checked="" type="checkbox"/>	___	___
Councilman Woolever	<input checked="" type="checkbox"/>	___	___
Councilwoman Shershin	<input checked="" type="checkbox"/>	___	___
Supervisor Baisley	<input checked="" type="checkbox"/>	___	___

EXHIBIT A

Chapter 199

TOWING

Declaration of Purpose

It is hereby declared and found that it is of vital importance to the safety of the traveling public in the Town of Poughkeepsie that on occasions when vehicles must be removed from the roads and highways it should be done as promptly as possible. Such vehicles may include but are not limited to: having been involved in a motor vehicle accident; disabled; evidence in a criminal investigation; impounded by the Police Department; disabled or left unattended on the paved portion of any road in the Town of Poughkeepsie. The delay in removal of said vehicles results in retarding the movement of traffic unnecessarily and can cause secondary accidents. The towing of motor vehicles is therefore subject to Town Police Department supervision and administrative control at the scene of accidents and incidents to ensure public safety and to protect consumers from fraud, exorbitant rates and similar abuses.

The Town Board, by this local law establishes a rotational towing policy for use by the Town of Poughkeepsie Police Department. The rotational towing list will be maintained by the Chief of Police or his / her designee and supersedes all prior policies.

Establishment of Policy

It is the intent of the Town Board of the Town of Poughkeepsie to establish a fair and uniform policy for towing of vehicles from accident scenes or other incidents consistent with statutory and decisional law. The following issues have been taken into consideration in the development of this policy:

1. The needs of the public.
2. The needs of the Town Police Department.
3. The needs of the towing industry.

Tow companies participating in the Town towing program must demonstrate to the Police Department that they can give prompt, safe and professional service.

The needs of the public and the tow industry will be met by providing them with a consistent program for the equitable distribution of tow calls within the Town. This provides the towing industry with clear and concise requirements for continued service to the Town Police. This policy also allows for a fair and equitable means to resolve disputes between the tow companies and the Town Police, and the processing of consumer concerns.

This Chapter also establishes appropriate administrative procedures to deal with those companies who do not meet the standards set forth herein.

(Section 1) Criteria for Tow Companies for placement on the Town’s Rotational Tow List

The Town Board requires that any tow company which applies for a position on the Town of Poughkeepsie Police Rotational Tow List must meet the following standards:

1. A valid Certificate of Insurance naming the Town of Poughkeepsie as certificate holder and as additionally insured with the following minimum coverage required:
 - a. Light Duty List:
 - i. General Auto Liability \$1,500,000 each occurrence
 - ii. On-Hook Direct Primary \$100,000 each occurrence
 - iii. Garage Keepers Legal Liability \$1,000,000 each occurrence
 - iv. Worker’s Compensation NYS requirements and all drivers must have workers compensation coverage
 - b. Heavy Duty List:
 - i. General Auto Liability \$3,000,000 each occurrence
 - ii. On-Hook Direct Primary \$500,000 each occurrence
 - iii. Garage Keepers Legal Liability \$1,000,000 each occurrence
 - iv. Worker’s Compensation NYS requirements and all drivers must have workers compensation coverage
2. All tow companies must have an established commercial address (no PO boxes or office fronts) and have been in business a minimum of five years prior to application.
3. All tow companies doing business in the form of a limited liability partnership, partnership, limited liability company, corporation or other form of organization must provide evidence of good standing with the NYS Department of State to confirm that the listed entity is the same as the one identified in the license and insurance and to avoid duplication of listings. In addition:
 - a. Each towing company, including any DBA under which it may appear, may submit only one application for listing.
 - b. Each application must include the company’s USDOT or NYSDOT number.
 - c. Each application shall include the company’s Federal Identification Number.
 - d. Each application shall include a New York State Sales Tax Identification Number.
 - e. Each application shall list all persons and entities having an ownership interest in the Applicant.
4. All towing companies must maintain a valid inspection and registration for each of their towing vehicles. The companies must provide the following to the Town of Poughkeepsie Police:
 - a. A list of all tow vehicles to be used in the Town of Poughkeepsie, with their VIN and NYS Registration Numbers.

- b. A list of all drivers who will be operating said vehicles, with driver's license ID numbers.
5. All towing companies must own, lease or sublease either a lighted, fenced and locked outdoor area or an indoor locked vehicle storage facility in which to store towed vehicles. The facility shall prevent unauthorized access to the towed/stored vehicles. Such storage facility shall be in compliance with applicable zoning and building codes requirements and shall be located within the Town of Poughkeepsie or within two miles of the Town of Poughkeepsie.
 - a. The vehicle storage facility shall be under the control of the applicant and shall not be used by any other towing company.
 - b. All records required by this Chapter must be maintained at the Tow Company office or the vehicle storage facility.
 - c. All towing companies shall staff available at the vehicle storage facility or available by telephone to provide for vehicle redemption between the hours of 9am to 5pm Monday through Friday, and 9am to 12pm on Saturday. Towing companies shall provide for after-hours and holiday release on one hour prior notice to the towing company, which can charge up to an additional \$50 for an after hours or holiday release.
6. All tow companies listed on the Town's Rotational Tow List must make their facilities and equipment available for scheduled inspections by the Town of Poughkeepsie Police Department. Records kept at their facility must include copies of their tow truck drivers' NYS Drivers Licenses with Tow endorsement; all tow vehicle registrations; vehicle inspections and vehicle insurance cards.

In addition to scheduled inspections of the tow company facilities, the Town of Poughkeepsie Police Department has the right to inspect any and all tow trucks used by any company listed on the Town Rotational Tow List, insurance documentation and any operator's license at any time.

7. Placement on the Town's rotational Tow list creates no property right or interest in the towing company or its owners, and a listing is not transferrable.
8. No transfer of an ownership interest in an entity on the rotational list, whether for consideration or otherwise, maybe made without the prior written consent of the Chief of Police or his/her designee, who is hereby authorized to conduct a background check and such other inquiry as maybe required to assure continuing compliance with this Chapter.

(Section 2) Tow Truck Driver Requirements

1. Light Duty List:
 - a. Each tow company on the Light Duty List shall have a minimum of two drivers, either full time or part time to respond with a tow truck or flatbed truck when necessary.

- b. Each tow truck operator shall maintain a valid operator's license and the following endorsements:
 - i. Tow Endorsement;
 - ii. Proper classification for the vehicle being driven to and from the scene with proper endorsement (i.e. air brake) if necessary.
2. Heavy Duty List:
- a. Each tow company on the Heavy Duty List shall have a minimum of two drivers, either full time or part time to respond with tow trucks and/or support vehicle when necessary.
 - b. Each tow truck operator shall maintain a valid CDL-A license and the following endorsements:
 - i. Tow endorsement;
 - ii. Proper endorsement including tankers, hazardous materials, doubles and triples etc.
3. The Town of Poughkeepsie Police Department reserves the right to require or conduct background checks on any tow truck company owner or tow truck operator of any tow companies listed on the Town of Poughkeepsie Police Rotational Tow List, at any time. Town of Poughkeepsie Police Department reserves the right to require or conduct background checks of any applicant for a position on the Town of Poughkeepsie Police Rotational Tow List.

(Section 3) Equipment Required

All towing companies must maintain adequate equipment to perform the required towing tasks. All trucks and equipment will adhere to all applicable New York State and Federal laws and regulations.

- 1. Light Duty List for towing vehicles up to 9,999 pounds
 - a. Light Duty List Towing companies shall have the following equipment:
 - i. A minimum of one tow truck with a minimum 6,000 pound lifting boom on the rear of the truck and a 6,000 pound power winch equipped with a minimum of 75 feet of 3/8" wire or synthetic rope. Tow truck shall have a gross vehicle weight rating (GVWR) of at least 10,000 pounds.
 - ii. A flatbed truck with a minimum gross vehicle weight rating (GVWR) of at least 15,000 pounds with at least 50' of 3/8" wire or synthetic rope.
 - iii. All trucks are to be equipped with:
 - 1. A broom.
 - 2. A shovel.
 - 3. Speedi dry or equivalent oil absorbent product.
 - 4. Minimum Grade 7 recovery chains, straps and safety chains.
 - 5. Minimum one snatch block per wire or synthetic rope line.
 - 6. Warning lights or strobes visible 360 degrees that comply with New York State Law, specifically NYSVTL § 375-41 (3) Colored and Flashing Lights
 - 7. Auxiliary mounted rear tail and stop lights

2. Heavy Duty for towing vehicles 10,000 pounds and over
 - a. Heavy Duty List Towing companies shall have the following equipment:
 - i. Two (2) Tow trucks with tow and recovery capacities for Class 3 through Class 8 vehicles
 - ii. All trucks are to be equipped with:
 1. A broom.
 2. A shovel.
 3. Speedi dry or equivalent oil absorbent product.
 4. Minimum Grade 7 recovery chains, straps and safety chains.
 5. Minimum one snatch block per wire or synthetic rope line.
 6. Warning lights or strobes visible 360 degrees that comply with New York State Law, specifically NYSVTL §375-41 (3) Colored and Flashing Lights
 7. Auxiliary mounted rear tail and stop lights

All towing companies must have their tow trucks and flatbeds permanently lettered with the full name of the Towing Company on both sides of the truck or on both the driver and the passenger side doors of the tow truck. Only one Tow Company name can be displayed on the tow truck in order to accept tow calls from the Town of Poughkeepsie Rotational Tow List. (See § 8)

- b. Only one (1) company name can be on each truck.
- c. The name on the sides of tow trucks and flatbeds coming to the scene of a tow, when called from the Rotational Tow List, must match the company name as listed on the Rotational Tow List.
- d. Trucks must also display the NYSDOT or USDOT number for that tow company.

(Section 4) Towing List Procedures

- (1) Two Rotational Tow lists shall be kept:
 1. A Light Duty List shall be for normal passenger vehicles, SUVs, vans, light trucks and motorcycles, and,
 2. A Heavy Duty List shall be used for towing companies capable of towing larger commercial-type vehicles (GVRW of 10,000 pounds or more).
- (2) Priority for contacting towing companies shall be made in the following sequence by the Town Police:
 1. Owner's request, the owner of the vehicle is permitted to choose a tow vendor with a reasonable response time determined by the police officer on the scene.
 2. If the Owner has no preference, the next towing company on the Rotational Tow list will be utilized.

3. If the Police Officer controlling the scene feels there is imminent danger, the tow company from the Rotational Tow List with the shortest response time will be used.

(3) In the event of a multi-car accident scene, where more than one tow company is determined by the Police Officer at the scene, to be necessary, the order and selection of the cars to be towed will be determined by that Police Officer at the scene, in the interest of safety, so that all the vehicles are removed promptly.

(4) Tow calls from the Rotational Tow list shall be made in order and will progress down the Rotational Tow List. Once a towing company has responded to a call, or failed to respond, their name shall be marked as such and the next name down the list will be utilized. Response time Monday through Friday 8am-6pm shall be 20 minutes for Light Duty. All other hours of operation response time shall be 30 minutes weather permitting.

(5) All tow companies and their personnel will abide by and adhere to all rules and regulations of the Federal Motor Carrier Safety Law and all rules and regulations of the New York State Vehicle and Traffic Law and the New York State Penal Law, as well as the Town of Poughkeepsie Code. Failure to abide by these rules may result in suspension/revocation from the Town of Poughkeepsie Rotational Tow List.

(6) While tow companies can solicit business in the Town of Poughkeepsie, no tow company or individual and no tow truck or flatbed truck operator shall solicit business in the Town of Poughkeepsie on any road or public highway or parking lot within 500 feet of an incident/accident scene.

Tow trucks staging at incident / accident scenes, who have not been called by the police department from the Town of Poughkeepsie Rotational Tow List must stay a minimum of 500 feet from the incident and be properly parked.

(7) A Rotational Tow List shall be maintained at the Town Police Department answering point (dispatch). After a towing company has been contacted, or failed to answer, the call shall be logged onto the Rotational Tow List. The log shall include the name of the towing company, the time the call was made and whether or not the company responded. Upon the tow company's arrival at the accident scene, the police officer at the scene shall advise dispatch of that arrival. The arrival time shall then be noted. See § 4-(4)

(8) A copy of the current list will be provided to the Town Clerk and made available to the public.

(Section 5) Administrative Procedures

(1) Town of Poughkeepsie police officers at the scene of accidents or incidents should periodically inspect the registration, insurance, and inspection status of vehicles being used by towing companies and inspect the tow truck operator's license to ensure that it is valid, is the correct class for the tow truck being operated, and has the tow endorsement. If there are violations found during said inspection, the results of the inspection and enforcement action should be noted in the narrative of the incident.

(2) The Town Police Department will schedule annual inspections of the towing companies' facilities which are on the Town Rotational Tow List, as follows:

1. These inspections will be scheduled with the owners of the companies at least two weeks in advance whenever possible.
2. During these inspections, check the following items and ensure they are valid and/or adequate:
 - a. Each towing vehicle's registration, inspection and insurance card.
 - b. The secure storage area used by the towing companies per § 1-5 above.
3. Record the results of these inspections in the Town of Poughkeepsie Police Incident Narrative.
4. If there are deficiencies in the initial inspection the Police Officer should return within two weeks to the towing company, re-inspect the facility to ensure that any noted deficiencies have been corrected and note this follow-up inspection and results in the Incident Narrative.
5. If the deficiencies have not been corrected upon the second inspection, the matter may be dealt with using § 7, Other Violations and Penalties.
6. Within 10 days of scheduled inspections and re-inspections the police officer conducting the inspection shall notify the Town of Poughkeepsie Comptroller's Office, on a form provided by the Comptroller's Office, of the inspection and completion. The Town of Poughkeepsie Office of the Comptroller will bill the Towing Company for the inspection / re-inspection.
 - a) An Inspection Fee of \$ 150.00 (One Hundred and Fifty Dollars) per site visit will be paid to the Town of Poughkeepsie by invoice from the Town of Poughkeepsie Comptroller's Office.
 - b) Should a re-inspection become necessary because the applicant didn't have the required items ready for inspection, the re-inspection fee will be \$ 75.00 (Seventy-five Dollars), which will be paid to the Town of Poughkeepsie by invoice from the Town of Poughkeepsie Comptroller's Office.
 - c) Failure to pay any Inspection Fee within 30 days of the invoice date will result in the immediate suspension of the towing agency, whose facilities were inspected, from the Rotational Tow List.
 - d) To be reinstated on the Rotational List after being suspended for non-payment of the inspection fee, within 30 days of the billing date, the applicant shall pay the original application fee of \$ 150.00 (One Hundred and Fifty Dollars) plus a late payment charge of \$ 75.00 (Seventy-five Dollars).
 - e) After successfully being placed on the Town's Rotational Tow List the amount of the annual renewal fee for continuing to be on the Town's Rotational Tow List will be set by the Town Board at their reorganizational meeting every January.

(Section 6) Violations and Penalties

The penalties listed in this section and those in section 7 below are in addition to any charges under the Vehicle and Traffic Law or New York State Penal Law.

Any person found guilty of violating subsections 2, 3, 4 or 5 below of this Chapter shall be guilty of a violation and upon conviction of a first offense shall be subject to a fine of not less than \$250 nor more than \$500, and upon conviction of a second or subsequent offense shall be subject to a fine of at least \$500 but not more than \$1,000.

(1) Tow Trucks are not emergency vehicles and shall not violate any section of the New York State Vehicle and Traffic Law while being driven to the scene of an accident, parked at the scene of an accident or towing a vehicle from an accident/incident scene.

(2) Tow Trucks are not emergency vehicles. No tow truck operated in the Town of Poughkeepsie may display a flashing white, red, green or blue light(s).

(3) Tow Trucks are hazard vehicles and other than statutorily required lights may display only one or more amber flashing lights while actually engaged in a hazardous operation. Hazardous operation does not include responding to a call from any law enforcement agency to provide tow services in the Town of Poughkeepsie.

(4) No tow truck, other than a tow truck which has been called by the Town Police Department to an accident scene from the Town's Rotation Tow List, shall respond to, continue to drive past the accident scene multiple times, nor park within 500 feet of said accident scene. Tow truck(s) that have been called to the accident scene by the Town Police Department from the Town's Rotation Tow List shall park where directed by the police officers at the scene.

(5) No tow truck company, tow truck owner, tow truck operator, or any person at an accident scene shall solicit towing services, repair services or storage service from any person involved in the accident, injured in the accident, or at the scene of an accident within the Town of Poughkeepsie.

(6) No tow truck company, tow truck owner, or tow truck operator may equip a tow truck with a radio receiving set capable of receiving signals on the frequencies allocated for police use. Town Police Officers, who find any tow truck equipped (mounted in the vehicle or carried as a portable radio by an occupant of the tow truck) with a radio capable of receiving signals on frequencies allocated for police use shall, if applicable, charge the operator of said tow truck with a violation of New York State Vehicle and Traffic Law, section § 397, a misdemeanor.

(Section 7) Other Violations, Administrative Penalties:

Companies on the Rotational Tow List shall comply with all of the provisions of this Chapter. In addition to the Violations and Penalties provided for in Section 6 above, and the provisions of all other applicable laws, rules and regulations, companies on the list may be subject to the administrative penalties set forth below after receiving ten (10) days notice of a violation and the right to be heard by the Chief of Police, or the Chief's designee, who shall adjudicate the alleged violation. Any company on the list aggrieved by the adjudication may within thirty (30) days of the date of the adjudication appeal to a panel consisting of three (3) Town Board members appointed by the Supervisor.

	First	Second	Third
Late response to call	A	B	C
Failure to clean up debris	A	B	C
Failure to maintain required vehicle storage facility	A	B	C
Rudeness to customers	A	B	C
Refusal to accept a credit card	B	C	D
Failure to respond to call	B	C	D
Refusal to provide service	B	C	D
Refusal to release a vehicle	B	C	D
Refusal to release property in a vehicle	B	C	D
Refusal to follow police directives	B	C	D
Violation of Local, State or Federal Law	B	C	D
Unsafe practices	B	C	D
Overcharging	B	C	D
Soliciting or allowing soliciting at accident scene	D	E	
Equipping tow truck with radio receiving sets (5)–(6) above	E		

- A = Letter of Reprimand
- B = One Week Suspension from Rotational Tow List
- C = Four Week Suspension from Rotational Tow List
- D = Removal and One Year Ban from Rotational Tow List
- E = Removal from the Rotational Tow List

(Section 8) Additional operational guidelines for towing companies

Towing companies must provide one permanent day and/or night telephone contact number. Towing companies listed on the Rotational Tow List will not contact Town of Poughkeepsie Police and attempt to leave phone numbers of another on-call tow truck operator in their place on the Rotational Tow List. One tow company may not cover for another tow company. If a tow company is not available, the Rotational Tow list will reflect that.

Towing companies must accept at least two major credit cards, one of which must be a bank card and not restricted to cash-only transactions.

Tow companies have been advised that the Town will not condone excessive or unscrupulous charges. It has become apparent that some companies, in addition to the normal tow fee, are now charging for time they have to wait at a tow scenes. These types of additional expenses are not considered to be in the best interest of the motoring public, so to avoid such charges, tow companies should not be contacted unless the vehicle is ready to be towed. Any reports / complaints regarding excessive fees should be brought to the attention of the Police Chief or other officer in charge of the Rotational Tow List.

Tow companies will list their charges with the Town of Poughkeepsie Police Department for impound towing, accident towing, winching, cleanup and storage fees, for Light Duty and Heavy Duty lists. Such list is a public record and subject to release to the public.

The Town Board may by resolution establish a schedule of maximum rates and charges to be permitted for towing or storage to be charged by towing companies for tows dispatched pursuant to this chapter, such fees are subject to annual review by said Board. Charges in excess of such authorized rates are prohibited and constitute grounds for permanent removal from the Town's Rotational Tow List.

(Section 9) Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State.