

**BOROUGH OF FRANKLIN**

**ORDINANCE No. 05-2023**

**AN ORDINANCE OF THE BOROUGH OF FRANKLIN, COUNTY  
OF SUSSEX, AND STATE OF NEW JERSEY MODIFYING  
CHAPTER 248 TOWING SERVICES**

BE IT ORDAINED by the Mayor and Council of the Borough of Franklin, County of Sussex, and State of New Jersey that the Franklin Borough Code is amended as follows:

**SECTION I.**

Sections 248-1 through 248-18 are hereby deleted and replace in their entirety as follows:

**§ 248- TOWING SERVICES.**

**§ 248-1. Establishment of Towing Contractors Rotational List.**

1. Interested towing companies may submit information to provide towing services to the Franklin Borough Chief of Police for consideration. Each towing contractor must be able to meet the following conditions:

a. All towing contractors selected to serve on a rotational basis must guarantee the availability of all services to Franklin Borough seven days a week, 24 hours a day, including all holidays. In this respect, a towing contractor shall immediately respond to any type of towing emergency road service or storage call with the appropriate vehicle and/or equipment within 20 minutes after receipt of telephone notification from the Police Department's dispatcher or police officer. Unless heavy or unusual traffic conditions or inclement weather within the Borough prevent a towing operator from arriving at the scene within 20 minutes, failure to respond within the time frame shall be considered a default. In the event that a towing operator fails to respond within 20 minutes from the time of the call, the Police Department reserves the right to contact the next available towing operator on the rotational list and utilize its services.

b. Towing contractors must have appropriate personnel available to release a towed vehicle to its owner at a minimum of Monday through Friday, except holidays, from 8:00 a.m. to 5:00 p.m. subject to the appropriate authorization of the Franklin Borough Police Department.

c. All towing contractors must comply with all terms of this section, including the hold harmless and insurance requirements.

d. In times of emergencies and/or natural disasters, Franklin Borough reserves the right to contact other towing service operators who may not be on the rotational list.

e. The owner of a vehicle involved in an accident shall have the right, if he/she so desires, to designate a towing operator of his/her choice as long as public safety needs do not dictate otherwise.

f. Employees of the towing contractor, in responding to a call, shall request and be afforded police assistance during the course of providing towing, emergency road services or removal of abandoned or accident vehicles when such employees find it necessary to turn around, back up, tow in the opposite direction of traffic or cross the median.

**g.** A towing contractor shall not permit a vehicle to be removed from the site of a vehicular accident, the scene of a crime or any other instance or situation without the prior approval and permission of a police officer and/or superior at the scene.

**2.** Towing contractors shall agree to comply with the following requirements to be eligible for placement and inclusion on the towing contractors rotational list:

**a.** Once a towing contractor is approved for the rotational list, the approval shall not be assignable.

**b.** The towing contractor shall agree to provide upon request current lease agreements for any storage lot/facility used.

**c.** The Franklin Borough Police Department will have the right to perform a background check of the towing contractor owner(s), employees, and/or officers.

**d.** The drivers' license numbers, names, dates of birth of all towing contractor drivers; the registration numbers of the towing contractor's vehicles to be used, their descriptions and functioning mechanisms (i.e., rollback, heavy duty, light wrecker, etc.) and appropriate permits (i.e., special lights) shall be provided.

**e.** The towing contractor must be within legal traveling and response time of 20 minutes upon being dispatched by the Franklin Borough Police Department.

**f.** Towing contractors shall have at least three years of experience in the towing of vehicles.

**g.** It shall be the responsibility of all towing contractors to provide all motorists utilizing the towing operator's services with a written schedule of fees which lists in full all fees to be charged for towing, storage and road service within Franklin Borough. Towing contractors shall prepare an invoice for towing charges of each vehicle towed.

**h.** Records of towing contractors pertaining to towing vehicles within Franklin Borough shall be maintained and available upon request to the Franklin Borough Police Department for a period of four years.

**i.** Towing contractor covenants and agrees to comply with all federal laws, state laws and local ordinances governing operation of vehicles, towing of vehicles, and storage areas.

**j.** Complaints of any kind relative to service, overcharging, theft of parts, damage to towed or stored vehicles and the like shall be referred to the Chief of Police for investigation.

**3.** Towing contractors must provide the Franklin Borough Police Department a detailed listing of the equipment to be utilized for towing services in Franklin Borough. The listing shall include the following information: Type of vehicle(s), storage location for vehicle(s), and whether vehicle(s) is owned or leased. All leased and rented equipment must be permanently located at the contractor's place of business or residence if in conformity with state law, federal law and local ordinances. Each piece of equipment must meet the minimum standards set forth herein. Equipment which does not meet these minimum standards shall not be used during the term of an agreement. The towing contractor will be solely responsible for the safety, maintenance and operation of each piece of equipment utilized or required during the term of an agreement.

**4.** The classification of towing vehicles is as follows:

**a.** Light-Duty Tow Truck - Used to tow and recover small light-duty vehicles up to 10,000 pounds.

**b. Medium-Duty Tow Truck** - Used to tow and recover small commercial type vehicles up to 26,000 pounds or light-duty vehicles unable to be recovered with light-duty tow truck or flatbed.

**c. Heavy-Duty Tow Truck** –

**(i)** Commercial manufactured truck with wrecker body.

**(ii)** Minimum GVWR 33,000 pounds.

**(iii)** Used to tow and recover commercial type vehicles over 33,000 pounds GVW or smaller vehicles unable to be recovered by other means.

**d. Hydraulic Flatbed Car Carrier** - Commercial motor vehicle designed exclusively to transport motor vehicles by means of bodily winching motor vehicles from roadway level up onto hydraulic bed for transporting purposes.

**5.** Towing companies shall also agree to the following requirements to be considered for inclusion on the towing contractors rotational list:

**a.** Towing contractors shall carry on or within each vehicle containers of Speedi-Dri or an acceptable absorbent substitute for spreading on and around spilled antifreeze or other automobile fluids at the scene to safeguard against slippery road conditions for police and first aid vehicles, passing vehicles and similar vehicles. The Speedi-Dri or an acceptable substitute will later be dissipated in accordance with hazardous waste disposal regulations. In the event that the towing contractor does not do so and the Borough has to undertake cleanup of the spill then it will bill the towing contractor for the costs associated with same.

**b.** Towing contractors shall be responsible for cleanup of all broken glass and debris at the scene of accidents or when called to a scene in accordance with N.J.S.A. 39:4-56.8. Each and every towing contractor vehicle will carry a broom and shovel.

**c.** Towing contractors must ensure that all of their authorized agents agree to follow the instructions and/or orders of the police officer from the Franklin Borough Police Department at towing scenes.

§ 248-2. Towing Contractors Rotational List Procedure.

It shall be the Chief of Police or his/her designee's responsibility to establish a towing contractors' rotating service list. The Police Department shall call the towing operators in sequential order as set forth by the Chief or his designee so that each towing operator will be given the opportunity to respond to individual calls as received by the Borough. The Police Department shall have the right to call the next towing contractor on the list should a towing contractor fail to respond to a call within 20 minutes or if the first operator called cannot be reached by telephone or advises that he/she is unable to respond. The towing contractor shall provide a valid and working afterhours contact number as well as any alternate numbers to be contacted.

§ 248-3. Denial, Suspension, and Revocation of Towing Contractor Hearings.

**a.** When a towing company is denied being added to the rotating list by Franklin Borough, the towing company may request a hearing by the service of a notice requesting a hearing. Said notice shall be served on the Franklin Borough Clerk and prior to at the next regularly scheduled meeting of the governing body after the action regarding the application. A hearing date shall be set which shall be no less than seven days or more than 30 days from the date that the governing body met.

**b.** Proceedings for the suspension or revocation of a towing company from the Borough rotating list shall be initiated by the service of a notice of charges proffered against the towing contractor. Said notice shall be served by the Chief of Police or his/her designee, either personally or via certified mail, return receipt requested, and shall contain a date, time and place for a hearing to be held by the governing body of Franklin Borough. Said hearing shall be scheduled no less than seven days nor more than 30 days after the notice of the proposed suspension or renovation shall be served upon the towing company. The towing company shall have the right to file an answer to the notice and to appear in person, or be represented by counsel, and give testimony at the place and time fixed for the hearing.

§ 248-4. Rates for Towing Services.

**a.** The rates of towing contractors within Franklin Borough shall be in compliance with those rates established by the Garden State Towing Association, [www.gsta.org](http://www.gsta.org), and rates are subject to the following requirements:

**1.** The rates applicable to towing services performed under the guidelines of the State of New Jersey shall be posted in a conspicuous place, visible to the public, at the towing contractor's facilities.

**2.** Agencies engaged in towing for the Franklin Police Department shall not charge a fee in excess of the following enumerated rates:

**b.** Road Service:

<b>Road Service</b>	
Cars	\$150 per hour, plus parts
Trucks	\$200 per hour, plus parts

**c.** Basic Towing:

<b>Basic Towing</b>	
Light Duty, up to 10,000 lbs.	Hook-up \$155
Medium Duty, 10,001 - 16,000 lbs.	\$300 per hour
Heavy Duty, 16,001 lbs. and above	\$500 per hour
Decoupling Fee (if tow not performed)	1/2 of basic rate

**d.** On-Hook Mileage:

<b>On-Hook Mileage</b>	
Light Duty	\$7 per loaded miles
Medium Duty	N/A
Heavy Duty	N/A

**e.** Recovery/Winching (in addition to Towing per truck, including driver):

<b>Recovery/Winching (in addition to Towing)</b>	
Light/Medium, 10,001-16,000 lbs.	\$350 per hour, charged in 1/2 hour increments of \$175 per 1/2 hour
Heavy Duty, 16,001 lbs. and above	\$650 per hour

**f.** Specialized Recovery Equipment:

### Specialized Recovery Equipment

Rotator/Crane Recovery Unit	\$1200 per hour
Tractor with Landoll Trailer or detached Trailer	\$500 per hour
Tractor/Transport Hauler Only	\$350 per hour
Refrigerated Trailer with Tractor	\$550 per hour
Box Trailer with Tractor	\$500 per hour
Air Cushion Unit	\$1,000 per hour
Light Tower	\$250 per hour
Pallet Jack	\$200 per hour
Rollers	\$200 per hour
Any other specialized equipment	\$300 per hour
Loader/Backhoe/Bulldozer/Bobcat/Telescopic	\$400 per hour
Forklift	\$400 per hour
Dump Truck/Dump Trailer with Tractor	\$400 per hour
Roll-Off with Container	\$400 per hour, plus disposal
Recovery Supervisory Vehicle	\$150 per hour
Scene Safety Equipment	\$250 per hour, each type used
Recovery Support Vehicle/Trailer	\$350 per hour

g. Labor: All labor charged a minimum of one hour.

### Labor

Accidental minor clean-up and disposal of debris	\$75 per hour minimum, plus material used
Recovery Supervisor and/or Level III Recovery Specialist	\$250 per hour (limited to 1 charge per incident)
Certified Towing Operator	\$150 per hour, per person
Manual Laborers	\$125 per hour, per person

h. Storage: Per calendar day, inside rates 2x (two times) outside rates.

### Storage

Cars/Light - 10ft x 20ft Space	\$50 per day
Trucks (dual wheels)/Single Axle	\$125 per day
Tractor/Dump Truck/Tractor and Trailer Combo	\$125 per unit, per day
Buses	\$150 per day
Roll-Off	\$125 per day
Cargo/Accident Debris/Load Storage/Vehicle Components 10ft x 20ft Space	\$50 per day

## **Storage**

Rental of any Tow Company supplied Trailer, post incident \$500 per day

### **i. Additional Services/Notes:**

#### **Additional Services**

Fuel/Haz-Mat/Cargo Spills/Clean-up and Disposal	Time and Material
Haz-Mat and Trash Recovery	Surcharge 10%
Subcontractor Mark-up	20%
Administrative Charge (after 3rd visit)	\$50, cars only
Administrative Charge	\$200, medium/heavy truck
After-Hour Release	\$85
Notification Documentation Fee	\$75
Tarping/Wrapping Vehicle	\$90 per car, \$250 per truck
Fuel Surcharge	Reserved for future need

### **j. NOTES:**

1. After the first hour, all hourly billable rates are to be charged in 1/2 hour increments.
2. Charges for all trucks/recovery equipment are inclusive of the operator. Towing contractors may not separately charge for an operator that drives/operates the truck/recovery equipment.

#### § 248-5. Fees Due to Towing Contractors.

**a.** The Franklin Borough Police Department will not be responsible for any charges due or owing to towing contractors except for the towing of Borough vehicles, nor will it assist the towing contractors in collecting any charges. Specifically, the Borough will not be responsible to reimburse towing contractors for towing services in connection with towing of vehicles which are abandoned or disabled, or from which towing contractors are unable to obtain towing service fees from vehicle owners.

**b.** In cases where the Franklin Borough Police Department mistakenly directed that a vehicle be towed or has acted on incorrect information furnished by other official sources, the towing contractor may be reimbursed by Franklin Borough for minimum towing fees only.

**c.** In the event the Police Department requires a vehicle involved in a crime or a fatal accident to be held for investigation, the Chief of Police may, after review of all the circumstances, require waiver of storage fees, or a portion thereof, incurred up to the date of release.

#### § 248-6. Impound/Storage Areas.

**A.** The towing contractors grant the Franklin Borough Police Department the right to inspect the proposed vehicle impound area at any time chosen by the Police Department without prior notice to or acceptance by the towing contractors.

**B.** The Franklin Borough Police Department shall have 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.

**C.** The storage facility must be capable of storing a minimum of 10 automobiles and one tractor and trailer. There must be at least 800 square feet available to hold vehicles impounded by the Police Department.

**D.** The storage facility must be within the limits of the Borough or within a contiguous municipality so as to facilitate reasonable towing distances.

**E.** The storage facility must be fully enclosed by a sturdy fence having a minimum height of six feet with at least one lockable gate for ingress and egress.

**F.** The storage facility must be lighted from dusk until dawn.

**G.** The tow contractor is responsible for ensuring the proper and safe storage of all vehicles towed pursuant to this chapter. The tow contractor is liable for any damage to such vehicles while in transit or while stored at the storage facility.

§ 248-7. Conduct of Towing Contractors and Agents.

In all dealings with the public in connection with an agreement, representatives of the towing contractor are expected to act in a professional manner at all times and be courteous and respectful to members of the public. While members of the public, especially those whose vehicles may have been towed or impounded, may at times resort to strong language, threats or unbecoming behavior that may be directed to the representatives of the towing contractors, such towing contractor representatives are expected to exercise restraint and shall not respond in kind, thereby causing an unfavorable reflection on their business. If such instances occur, the Franklin Borough Police Department should be contacted to keep the peace and provide advice on legal proceedings, if requested.

§ 248-8. Rights of Vehicle Owners.

The owner of any vehicle towed shall have the right to remove personal property belonging to him from the stored vehicle unless a "police hold" is marked on the towing form upon mutual agreement of the towing contractor and the owner of the vehicle.

§ 248-9. Responsibility for Claims; Borough Held Harmless.

Towing contractors will indemnify and hold Franklin Borough harmless from any and all claims for personal injury or property damage against Franklin Borough arising out of the operation of any towing services or repair services performed under their respective agreements. Towing contractors will further defend Franklin Borough at the expense of the towing contractors in connection with any claim, demand, suit or action brought against the Borough and arising out of the operation of any towing, garage or repair services under any agreement. Said indemnification shall include but not be limited to the defense of all lawsuits relating to the towing of any vehicle by any party, the payment of any judgments relating thereto against the Borough, and the cost of the suit, including investigation costs.

§ 248-10. Insurance Requirements.

Each towing contractor shall provide proof of insurance to Franklin Borough as follows:

**A.** On all liability policies required of towing contractors, Franklin Borough shall be named as an additional insured, and insurance certificates shall indicate such coverage.

**B.** All insurance required shall contain a clause indicating that the Franklin Borough Police Department at 46 Main Street, Franklin, New Jersey shall be notified of any changes, cancellations, etc.

C. Towing contractors are required to purchase and maintain comprehensive general liability insurance, comprehensive automobile liability insurance, and worker's compensation insurance with limits of not less than those set forth below. Failure to provide and continue in force such insurance as required below shall be deemed a material breach of agreement and shall result in immediate termination of any agreement for towing services.

1. Comprehensive general liability insurance. The limits of liability shall be not less than \$1,000,000 for combined single limits (bodily injury and property damage) per occurrence and aggregate, including premises, operations and products/completed operations.

2. Automobile liability insurance. The limits of liability shall be not less than \$1,000,000 for combined single limits (bodily injury and property damage) per occurrence. Note: Liability insurance policies shall be specifically endorsed to provide collision insurance for vehicles in tow.

3. Worker's compensation insurance. Statutory coverage including liability coverage with a limit of at least \$500,000.

## **SECTION II**

All references and fees in Chapter 119 relating to Chapter 248 and towing fees are deleted.

## **SECTION III**

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistencies.

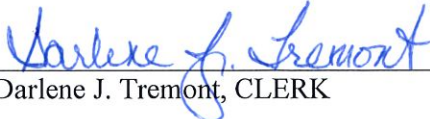
## **SECTION IV**

If any article, section, subsection, paragraph, phrase or sentence is, for any reason, held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

## **SECTION V**

This Ordinance shall take effect immediately upon final publication as provided by law.

ATTEST:

  
\_\_\_\_\_  
Darlene J. Tremont, CLERK

**BOROUGH OF FRANKLIN**

  
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BY: John M. Sowden IV, MAYOR


DATED: **May 23, 2023**

## **NOTICE**

**NOTICE** is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Borough of Franklin held on May 9, 2023, at 7:00 p.m. and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Borough Council to be held on May 23, 2023, at 7:00 p.m., or as





soon thereafter as the Borough Council may hear this Ordinance at the Municipal Building, 46 Main Street, Franklin, New Jersey 07416, at which time all persons interested may appear for or against the passage of said Ordinance.

  
 Darlene J. Tremont  
 Municipal Clerk

**CERTIFICATION**

I, Darlene J. Tremont, Clerk of the Borough of Franklin, do hereby certify that the Borough of Franklin Council duly adopted the foregoing Ordinance on the 23<sup>rd</sup> day of May, 2023.

  
 Darlene J. Tremont, Clerk  
 Borough of Franklin

  
 John M. Sowden IV, Mayor

Introduced: May 9, 2023

Adopted: May 23, 2023

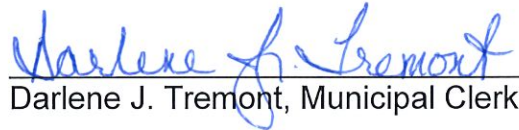
RECORD OF COUNCIL VOTES-FIRST READING					Move	2nd
COUNCIL MEMBER	AYES	NAYES	ABSTAIN	ABSENT		
CONCETTO FORMICA	X				X	
RACHEL HEATH	X					
JOSEPH LIMON	X					
JOHN POSTAS COUNCIL PRESIDENT				X		
STEPHEN SKELLENGER	X					X
GILBERT SNYDER	X					
MAYOR SOWDEN, IV (Tie Only)						

RECORD OF COUNCIL VOTES-SECOND READING					Move	2nd
COUNCIL MEMBER	AYES	NAYES	ABSTAIN	ABSENT		
CONCETTO FORMICA	X				X	
RACHEL HEATH	X					
JOSEPH LIMON				X		
JOHN POSTAS COUNCIL PRESIDENT	X					X
STEPHEN SKELLENGER	X					
GILBERT SNYDER	X					
MAYOR SOWDEN, IV (Tie Only)						

**BOROUGH OF FRANKLIN  
LEGAL NOTICE**

**ORDINANCE NO. 05-2023  
AN ORDINANCE OF THE BOROUGH OF FRANKLIN, COUNTY OF SUSSEX, AND  
STATE OF NEW JERSEY MODIFYING CHAPTER 248 TOWING SERVICES**

NOTICE is hereby given that the above Ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Franklin, in the County of Sussex, State of New Jersey, held in the Borough Municipal Building, 46 Main Street, Franklin, NJ, on the 9<sup>th</sup> day of May, 2023, and the same came up for final passage at a meeting of the said Borough Council on the 23<sup>rd</sup> day of May, 2023, at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Borough according to law by order of the Borough Council of the Borough of Franklin, County of Sussex and State of New Jersey.

  
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Darlene J. Tremont, Municipal Clerk