

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of NEW WINDSOR

Local Law No. _____ of the year 20 21

A local law entitled "Towing Local Law of the Town of Windsor".
(Insert Title)

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of NEW WINDSOR as follows:

Chapter 269 Towing

§ 269-1 Title

This chapter is titled "Towing Local Law of the Town of New Windsor."

§ 269-2 Purpose and Scope / Applicability

The Town of New Windsor hereby determines that providing regulations for the fair, prompt and safe removal of disabled, abandoned, and impounded vehicles from public roadways within Town is necessary to protect the public from predatory business practices, and in order to protect the health, safety and general welfare of the residents and traveling public within Town. This chapter

(If additional space is needed, attach pages the same size as this sheet, and number each.)

will not supersede any specific orders issued by law enforcement agencies addressing specific situations (such as vehicles impounded for criminal investigation purposes). This chapter shall apply only to the rotating tow lists for towing agencies summoned by the Town of New Windsor Police Department for the purpose of removing vehicles due to impounds, motor vehicle accidents, disabled vehicles, abandoned motor vehicles, police investigations, or motorists requesting a service call.

§ 269-3 Definitions

Whenever used in this chapter, the terms below shall have the following meanings:

ACCIDENT - any incident or occurrence in which one or more motor vehicles contact each other or another object, thereby causing personal injury or property damage.

AUTOMOBILE - any passenger motor vehicle or vehicle included in the definition of "automobile" under the New York State Vehicle and Traffic Law.

BASIC TOWING SERVICE - the removal and transportation of an automobile or other motor vehicle from a highway, street or other public or private road, parking area or storage facility, and other services normally incident thereto. This does not include the recovery of an automobile or other motor vehicle from a position beyond the right-of-way or berm, or from being impaled upon any other object within the right-of-way or berm.

DRIVER – any person driving a tow truck for hire.

IMPOUND/STORAGE FACILITY - a secure lot used for the temporary storage of automobiles, trucks, buses, recreational vehicles, or other motor vehicles, which is separate and apart from any property that may be used for vehicle repair or dismantling.

MOTOR VEHICLE – any self-propelled vehicle that does not operate on rails or tracks and is generally used for the transportation of people or cargo, excluding motorized bicycles.

OWNED – owned, rented or leased.

PERSON - an individual, partnership, incorporated association, corporation or any other legal entity.

SERVICE CALL - a request for assistance from a tow truck that does not involve towing, but is limited to rendering emergency assistance for other services including, but not limited to, battery charges, flat tires, lockouts or gasoline.

TOWING - the removal and transportation of an automobile or motor vehicle from a highway, street or other public or private road, or a parking area or storage facility, and other services normally incident thereto. Towing does not include the recovery of an automobile or motor vehicle from a position beyond the right-of-way or berm or from impalement upon any other object within the right-of-way or berm.

TOW OPERATOR - a person, company or entity that applies for and receives a license to engage in the business of towing and/or storing motor vehicles or offering the services of a tow vehicle or tow truck and/or storage services, pursuant to this section of the Town Code of the Town of New Windsor.

TOW VEHICLE or TOW TRUCK - A motor vehicle that tows or carries a disabled, illegally parked or abandoned motor vehicle or a motor vehicle involved in an accident.

WINCHING - The act of using a motorized cable on a tow truck to pull an automobile or motor vehicle for any purpose, including but not limited to, aligning a vehicle that is sideways, overturned, off road in a ditch or embankment, a vehicle that is locked in a parking lot with no keys available, or a vehicle that has suspension/axle damage which will not allow the vehicle to roll off the flatbed. Winching shall not apply to automobiles or motor vehicles being pulled onto a tow truck from the street.

§ 269-4 Cruising Prohibited

- A. Cruising is defined as driving along the public streets or roadways, solely for the purpose of soliciting towing or repair work, without having first been called or otherwise requested to provide service. Cruising for the purpose of soliciting towing or repair work shall be unlawful and subject to penalty as set forth in §269-20 below.
- B. No tow truck or service vehicle is permitted to stop within 500 feet of the scene of a motor vehicle accident or police incident/investigation, or disabled vehicle on any public street or highway within the Town of New Windsor, without the prior authorization of a law enforcement officer, unless the owner, operator or a person involved in the subject motor vehicle accident or with the subject disabled vehicle calls for or flags down such tow truck or service vehicle. Doing so shall constitute presumptive evidence that said tow truck or service vehicle intends to illicitly solicit a tow or repair work.

§ 269-5 License Required

- A. Except for reasons set forth in §269-5(E) below, it shall be unlawful to operate a tow vehicle or tow truck for hire in the Town of New Windsor unless the owner thereof shall have obtained a tow operator's license from the Town to do so.
- B. The Town of New Windsor Police Department is responsible for review and approval of all applications to obtain a tow operator's license in the Town of New Windsor. The Town Clerk is responsible for the issuance of such licenses. The number of licenses issued by the Town is within the sole discretion of the Police Chief. In no event, however, shall a company, business entity or owner of same be permitted to obtain or retain more than one license. Companies, business entities and the owners that own and/or operate same will not be permitted to apply for multiple licenses through the use of d/b/a's or by any other means. An unlimited number of tow trucks may be registered to one licensee, such that any licensee will not need to seek more than one license in order to obtain the same amount of work as any

other licensee. If a licensee is found to have requested or obtained more than one license by using a d/b/a or by any other means, all licenses issued to that licensee will be subject to revocation or suspension, as governed by §269-20 of this Chapter.

- C. All complete applications shall be forwarded to the Police Chief. The Police Chief, or their designee, shall have sole discretion, pursuant to standards set forth in this Chapter, to decide which recipient towing companies will be awarded a license.
- D. Any license issued must be renewed on or before the beginning of every calendar year, pursuant to terms set forth in §269-9 below.
- E. Tow operators without a license issued by the Town may enter the Town to remove a motor vehicle if no other licensed tow truck operator is able to or available to handle the vehicle that needs to be removed; or if the owner/operator or designee of same requests a specific tow truck operator that is not licensed in the Town. Any such request should be documented by the Police Department in whatever manner possible (i.e., in accident report, blotter, etc.).

§ 269-6 Application for License

- A. Applicants for a license under this Chapter shall file with the Town Clerk a sworn application to be provided by the Town Clerk, which shall be signed before a notary public and contain the following information and certifications:
 - (1) The applicant's name, phone number, physical home and/or business address/location (not a P.O. Box), and hours of operation. If the application is made for a corporation, it shall state the names and address of the officers and directors thereof, its registered agent, and the names and residential addresses of every stockholder owning ten percent (10%) or more of the issued stock;
 - (2) The year, make and type of each tow vehicle to be used in said business, its vehicle identification number, registration number, the name of the registered owner, the highway usage permit number, DOT number (if applicable), and the address where each vehicle will be regularly garaged;
 - (3) A copy of each operator's driver's license. If additional drivers should be employed after the initial application or yearly renewal is submitted, the applicant or licensee must provide the Town Clerk with a copy of the new operator's driver's license within 15 days of the new operator's hire. Written notice that an operator will no longer be working for the applicant/licensee must also be provided to the Town Clerk's office within 15 days of such operator's termination;
 - (4) Proof that a criminal background check for each tow truck operator was conducted at the time of hire must be provided at the same time the Town Clerk's office is provided with an operator's driver's license. Each driver must provide written consent and present to a digital fingerprinting service, with the results of such service being submitted to and approved by the Town Police Department before they will be permitted to operate a tow truck in the Town of New Windsor. All costs associated with the requirements outlined in this provision are the sole responsibility of the tow trucking company applying for the license;

- (5) Proof of insurance in a form approved by the Town Board or by the Police Chief for the Town of New Windsor (or his/her designee);
- (6) Certification that ~~all on-call~~ towing and storage services will be available 24 hours per day, every day of the year;
- (7) Certification that the fees and procedures required by this Chapter shall be complied with at all times;
- (8) Written acknowledgment that the Police Chief or their designee may at any time during the licensing period conduct an inspection of the tow vehicles or storage facility licensed pursuant to this Chapter, in order to determine compliance with this Chapter; or have a Commercial Vehicle Safety Bureau Inspector from the NYS Department of Transportation inspect any tow vehicle or storage facility licensed pursuant to this Chapter; and
- (9) Any other information, which the Town Board, Town Supervisor, Town Clerk or Police Chief may reasonably request.

§ 269-7 Application Review and Subsequent Inspections

- A. Upon receipt of a complete application, the Town Clerk shall forward same to the Police Chief. Within seven days thereafter, the Police Chief shall cause an investigation to be made of the applicant and of the proposed business operation to be licensed. The minimum standards to be met by the applicant are set forth in §269-8 below.
- B. If an application is approved, the Police Chief shall cause a terminal inspection of all licensed tow trucks to be scheduled within 30 days of approval. Such inspections may be conducted by any police officer who is trained and certified by the New York State Department of Transportation as a commercial vehicle inspector or by an independent New York State Department of Transportation Certified Commercial Vehicle Inspector. The officer or inspector conducting the inspection shall report to the Police Chief whether the tow trucks are in safe and sanitary condition. Any licensed tow trucks that are not in compliance must be taken out of service until all violations have been corrected and they pass a subsequent inspection.

§ 269-8 Minimum Standards for License Approval

- A. The Police Chief may approve the issuance of a license should an Applicant meet the following minimum standards:
 - (1) Neither the Applicant nor any tow vehicle operator shall have any criminal convictions or prior motor vehicle infractions which might adversely affect public safety or welfare, as determined solely by the Police Chief.
 - (2) The Applicant must own, lease, operate and maintain a registered and operational New York State licensed motor vehicle repair facility that is located within five (5) miles of the town boundary line, such that they can respond to a call for service within 20 minutes. If the Applicant does not own the premises on which the motor vehicle repair

facility is situated, a written lease for the use of the premises or for service from the motor vehicle repair facility must be provided. The required impound area to where any vehicle is towed pursuant to the license issued under this Chapter must have the capacity to store a minimum of 5 motor vehicles in a secure outside area that is surrounded by a fence with a minimum height of 6 feet, as well as enough space to accommodate another 2 vehicles in a secure inside area. All towing company premises, including the location of the towing company's principal office and impound yard, must be in compliance with all local zoning, building, fire and safety codes, as certified by the Town Building Inspector or Code Enforcement Officer of the municipality where it is located.

- (3) The Applicant must provide on-call towing services 24 hours per day, 7 days per week, 365 days per year, including holidays.
 - (4) The Applicant must have the ability to remove damaged and abandoned vehicles in any and all conditions.
 - (5) The Applicant must be able to collect impound and storage fees at any facility to where vehicles are towed or stored.
 - (6) All of an Applicant's tow trucks and equipment must be in safe and sound condition and in compliance with all applicable laws, rules and regulations. All Applicants and drivers must meet minimum standards of operator performance, including but not limited to standards concerning availability and the adequacy of equipment and storage facilities.
 - (7) All Applicants must be and remain in compliance with all other requirements and standards set forth herein.
- B. In addition to the minimum standards of performance referenced above, all Applicants are subject to disqualification if found deficient in any one of the following areas:
- (1) The Applicant provided false or inaccurate information on the application form.
 - (2) The Applicant lacks experience and/or does not have good references from prior customers of the applicant's towing and storage services.
 - (3) The Applicant lacks insurance coverage sufficient to cover all damage that may be done to a towed vehicle, or to cover all losses that may occur via theft from a towed vehicle while it is under the applicant's control.
- C. The Police Chief shall approve or disapprove an application within 45 days receipt of same. If disapproved, the reasons therefor shall be set forth in writing. The Town Clerk shall notify the Applicant, in writing, that the application has been granted or denied. If the application is denied, the reasons for such denial shall be set forth in the notice, along with the Applicant's right to appeal the denial to the Town Board.

§ 269-9 Issuance of License / Renewal of License / Fees for License / Expiration of License / Nontransferable

- A. Issuance of License - upon approval of the Police Chief in accordance with the standards set forth in §269-8 above, the Town Clerk shall issue a license to an applicant, a copy of which must be kept in all towing vehicles during operations conducted pursuant thereto.
- B. Renewal of License – once a license is issued, it can be renewed by the licensee to whom it was issued upon payment of a yearly operation fee, discussed below in §269-9(C), and upon the licensee's provision of a notarized statement certifying there have been no changes in the information provided in the initial application. If there have been changes to any of the information provided in the initial application, the licensee must provide a notarized statement advising of the changes, which the Police Chief will review to ensure all requirements to obtain and maintain a towing license are still met. If any new operators have been hired and will be operating one or more of the licensee's tow trucks during the year of renewal, the licensee must comply with all requirements for operators, as set forth in this Chapter. This must be done whenever a licensee seeks to have a new operator provide towing service in Town, not just at the time he seeks to renew his license.
- C. Fees for license – each license issued is subject to an initial application processing fee and a yearly operating fee, both of which shall be set forth in the Town's Standard Schedule of Fees. All fees shall be paid to the Town Clerk and are non-refundable. The initial application fee and first year operating fee shall be paid at the time of application. If a license is issued, all subsequent yearly operating fees shall be paid on or before January 1st of each year. Until this yearly operating fee is paid, the licensee will not be eligible to provide towing services in Town, and if this fee is not paid on or before January 31st of each year, the license shall be revoked and the applicant must go through the entire application process again if they wish to resume towing services.
- D. Expiration of License – every license issued pursuant to this chapter, regardless of the month or date of issuance, shall expire at the end of each calendar year.
- E. No License may be transferred, assigned or gifted to any other person or entity.

§ 269-10 Identification of Tow Vehicles and Display of License

On each side of every tow vehicle, the licensee shall display the tow truck company's name, physical business address, business telephone number, and DOT or ICC number in letters and numbers that are clearly legible and in sharp color contrast to the color of the tow truck itself. Such markings shall be at least two inches in height and displayed in paint or other similar permanent markings, which must be clearly legible during daytime hours from a distance of 50 feet away.

Each tow truck must also display the applicable towing license, and any other proof of licensure provided by the Town (i.e., sticker, decal, etc.), in a location easily observed from the side window of said vehicle.

§ 269-11 Insurance Requirements

A. Every licensee shall carry insurance as follows:

- (1) Comprehensive general liability insurance, including completed operations coverage, personal injury liability coverage, broad form property damage liability coverage, and contractual liability coverage insuring the agreements contained herein. The minimum limits of liability carried on such insurance shall be \$1,000,000 for each occurrence, \$3,000,000 aggregate.
- (2) Workers' compensation insurance with statutory coverage, including employer's liability insurance with limits of liability of at least \$100,000 for each employee.
- (3) Automobile liability insurance for all vehicles utilized by licensee, whether owned or not owned by same. The minimum limit of liability carried on such insurance shall be \$1,000,000 per person and \$1,000,000 per incident for each accident. Each licensee shall also be required to carry an umbrella policy for up to \$3,000,000 to cover any claims above and beyond the primary layer of coverage noted above.
- (4) Insurance companies utilized must be admitted to do business in New York and shall have a rating of (A) or better.
- (5) All licensees must furnish certificate(s) for the aforementioned insurance to the Town Clerk upon application for license and, with respect to renewals of such insurance policies, at least 30 days in advance of each renewal date. Such certificate(s) shall, with respect to comprehensive general liability and auto liability insurance, name "Town of New Windsor" and "Town of New Windsor Police Department" as additional insureds and, with respect to all policies, shall state that in the event of cancellation or material change, written notice shall be given to the Town of New Windsor Police Department, 555 Union Ave., New Windsor, NY 12553 at least 30 days in advance of such cancellation or change.
- (6) The purchase of the insurance required or the furnishing of the aforesaid certificate(s) shall not be a satisfaction of contractor's indemnification responsibilities to the Town of New Windsor and the Town of New Windsor Police Department.

B. All licensees shall agree to defend, hold harmless and indemnify the Town of New Windsor and the Town of New Windsor Police Department, their officers, employees and agents, from any and all liability, claims, and losses or damages arising or alleged to arise from the performance of any towing services requested or rendered by the licensee. The foregoing indemnification language shall be incorporated in the general comprehensive liability policy required.

C. All insurance policies shall be written by insurance companies acceptable to the Town of New Windsor and authorized to do business in the State of New York.

- D. Any license issued under this chapter will be automatically revoked upon expiration or cancellation of the required insurance, or if there is any material change in coverage which renders that coverage not in compliance with the aforementioned insurance requirements.

§ 269-12 Fee Schedule and restrictions on conduct related thereto

A. Establishment of a fee schedule; restrictions

- (1) No person, company or entity shall be liable to any licensee who performs a basic tow or other towing service, or stores an automobile which was damaged in an accident, seemingly or actually abandoned, or recovered after being reported stolen, for any fees in excess of those fees listed in the Town's fee schedule, which shall be kept on file with the Police Chief or his/her designee, as well as by the Town Clerk for the Town of New Windsor, regardless of how the licensee obtains permission to perform the work. Said fees shall be established annually by resolution of the New Windsor Town Board. Said fees may also change from time to time upon the Board's consideration of any suggestions or recommendations of the Police Chief, should he become aware of any material changes to the prevailing rates for towing. Any changes in the fee schedule may be made by motion or resolution, which shall be passed by the Town Board. The fee schedule shall include basic towing service fees, storage fees, and other miscellaneous related charges.
 - (2) For all towing services other than those defined as basic towing and not accounted for in the Town's Fee Schedule, and for all vehicles other than those defined as automobiles or accounted for on the Town's Fee Schedule, a licensee shall set fees that are deemed to be reasonable and customary for towing and storage in and around the Town of New Windsor. The licensee shall submit annually, as part of its application or renewal thereof, its fee schedule for the towing and storage of all motor vehicles other than automobiles.
 - (3) It shall be the responsibility of the licensee to comply with all applicable Department of Insurance rules and fee regulations.
 - (4) All licensees shall keep all ledgers, records, impound releases and bills, for all vehicles towed, and make same available to the New Windsor Police Department upon request, for a period of three years from the date of service provided.
- B. No person, company or entity shall be liable to any licensee for any fees in excess of those set forth in the Town's Fee Schedule for any towing or storage services discussed in said Fee Schedule.
- (1) Storage fees will begin to accrue on the first calendar day after tow services are rendered, as recorded by or recognized by the Town of New Windsor Police Department, and shall be calculated in calendar days thereafter.

- (2) An administrative fee, not to exceed an amount designated in the Town's Standard Schedule of Fees for same, for office functions including but not limited to the following, may be charged by Licensees: filling out paperwork related to a requested tow; communications with vehicle owners and insurance companies related to a tow; etc..
 - (3) A yard fee, not to exceed an amount designated in the Town's Standard Schedule of Fees for same, for labor required to perform tasks, including but not limited to the following, may be charged by Licensees: moving a towed vehicle as needed after initial placement in yard after tow; opening of vehicle upon request for recovery of personal property; providing access to towed vehicle for removal of plates or other items needed for DMV or insurance; etc.
- C. When basic towing services are rendered for any automobile, there shall be no additional charges other than those provided for in subsection A above, including but not limited to flat bedding, service calls, second tow trucks or winching, cleanup costs or additional labor.
- D. Licensees transporting multiple vehicles at one time may charge the applicable fee for each vehicle transported.
- E. Prior to hookup or flat bedding of a motor vehicle, the Police Department may present a copy of its fee schedule to the owner or operator of the vehicle. Licensees must provide the name, address and telephone number of the tow company and a statement of the hours when the motor vehicle may be claimed; and regardless of whether the Police Department provides a copy of the Town's Towing and Storage Fee Schedule, all licensees must provide one to the owner or operator of the vehicle being towed
- F. Licensees must meet the requirements of all state laws which pertain to towing services which are now enacted or may be enacted while the policies and procedures set forth in this Chapter are in effect. Licensees must provide the name, address and telephone number of the tow company and a statement of the hours when the motor vehicle may be claimed. Vehicles must be available for release, at the rates set forth in the Town's Standard Schedule of Fees, every Monday through Friday between the hours of 8:00 a.m. to 6:00 p.m., and every Saturday between the hours of 8:00 a.m. and 12:00 p.m. An additional charge of \$75 may be imposed for release of a vehicle after those hours, or on Sundays and holidays should the storage facility otherwise be closed.
- G. All licensees must possess a tow truck having a manufacturer's G.V.W. of 10,000 lbs., with dual wheels and a four-ton minimum winching capacity. "Tow truck" shall have the same meaning as §148-b of the New York State Vehicle and Traffic Law. Each tow truck shall have:
- (1) In the absence of having a ramp truck (flatbed), "dolly" wheels (tires with legal tread reading), snatch blocks, chains and nylon straps for towing.
 - (2) Broom, shovel, and a container to place debris into, once it has been picked up, and such other items or materials as would be needed to fulfill this contract.
 - (3) Each tow truck shall also carry a supply of speedy dry and/or sand, which the contractor will place upon fluids at an accident scene, or as otherwise directed. The contractor shall be responsible for the cleanup and removal of speedy dry and/or sand at the scene.

- H. Cleanup of the accident scene is the responsibility of the tow truck operator. For example, vehicle parts must be picked up and broken glass must be swept and removed from the scene and not just swept to the side of the road.
- I. A licensee shall not require that a vehicle be towed to any particular shop for repairs, but may tow the vehicle to any location requested by the owner or operator of the towed vehicle. The licensee may refuse to tow to any location other than its yard if there is no one at the alternate location to accept control and responsibility for the vehicle or if weather conditions or some other articulable factor makes it unsafe or impractical to do so.
- J. No licensee shall induce or require any operator/owner, company or entity with an interest in any motor vehicle being charged for towing or other services, to execute a waiver of liability for damages to such vehicle caused by the licensee, and no such waiver of liability shall be legally enforced. This shall not apply in cases of off-road recovery or lockouts.
- K. A licensee shall not make any repairs or modifications to any vehicles towed or removed by order of the Police Department without first receiving written authorization from the owner of said vehicle or their authorized agent.
- L. A licensee may not solicit any vehicle's owners/operator, or any company or entity with an interest in said vehicle, for permission to tow to lots or locations other than its designated impound/storage lots. Without an owner's/operator's request or written permission, or a request or written permission from any company or entity with an interest in said vehicle, all tows must be to the licensee's designated lot. Failure to do so is a violation of the license requirements.

§ 269-13 Driver qualifications

No person under the age of 18 years shall drive a tow vehicle. All tow vehicle operators must possess a valid New York State driver's license for the class of vehicle that is being operated and the tow truck endorsement.

§ 269-14 Equipment on Tow Trucks

The type of equipment on a licensed tow truck shall be determined by the Police Chief, who may modify the same from time to time as deemed necessary. Said equipment shall in all respects and at all times conform to all NYS DMV standards and regulations pertaining to same. Said equipment shall include, at a minimum:

- (1) Emergency flashing amber lights that are visible from front and rear;
- (2) A CO₂ or dry-powder fire extinguisher with a minimum capacity of five pounds;
- (3) One container of oil absorbing material with a minimum capacity of five gallons;
- (4) A carton containing at least one dozen red railroad type flares
- (5) Reflective vests
- (6) A shovel and a broom for clearing the highway of nonhazardous debris; and
- (7) Screwdrivers, pliers, and a crescent wrench.

All equipment must be maintained in good condition and in satisfactory working order.

§ 269-15 Rotating call list and restrictions on additional conduct related thereto

- A. The Police Chief shall maintain a list of those tow operators licensed by the Town of New Windsor to respond to calls from the Town of New Windsor Police Department. In order to be included on the call list, an applicant must meet all of the requirements of this chapter and shall enter into an agreement with the Town of New Windsor for a term of one year, said agreement to be prepared by the Town Attorney. Per §269(5)(B) above, no licensee shall appear on the list more than once.
- B. Calls to tow operators on the call list shall be made on a nondiscriminatory rotating basis, pursuant to procedures established by the Police Chief. Nothing herein shall prohibit the Police Chief or his designee from calling a tow operator out of sequence or seeking the services of a tow operator not on the call list, if circumstances require specialized equipment, if the interests of public safety so require, or if the owner/operator or person deemed to be in control of the vehicle requiring tow services requests a specific tow operator perform the services required. If the tow operator selected does not respond to the scene within the 20 minutes after notification, the Police Chief or their designee may summon the next available tow operator on the list. When any unusual situation occurs which may be dangerous to public safety, such as a spill of toxic material or other dangerous cargo, the Town of New Windsor Police Department may select any qualified tow operator, regardless of whether that tow operator is next on the list.
- C. The Town of New Windsor Police Department reserves the right to call any tow service, whether on the list or not, which may be specifically requested by the owner/operator of a vehicle in need of tow services, or at the specific request of any other person deemed to be in control of the owner's/operator's vehicle.
- D. The fees to be charged for the towing and storage services of automobiles are set forth in §269-12 above and/or in the Town's Standard Schedule of Fees. Neither the Town of New Windsor, the New Windsor Police Department, or any agent, officer, or employee of same shall be liable for the cost of any towing and/or storage services, unless those services are performed on a municipal vehicle.
 - (1) Licensees must accept cash payment, debit cards and at least two major credit cards, with at least one being a bank credit card. Licensees must maintain an interbank charge card in their own name, in the form of a merchant's account, with a qualified financial institution. All tow operators must be able to take credit card payment roadside. Patrons will be given a reasonable amount of time to obtain cash/credit card during off hours prior to the vehicle being retained at the tow operator's location. Questions as to what is reasonable, if there is a dispute, will be determined by the on-duty Police Supervisor or Officer in Charge. If a licensee disagrees with the decision, they must still accept the decision at the time it is made and submit the dispute, in writing, to the Police Chief, for review, within 72 hours of the incident.
- E. Inclusion on the call list shall be automatically revoked upon expiration or revocation of a licensee's license. The Police Chief may also suspend a licensee's inclusion on the call list for such period of time as he considers appropriate for violations of this chapter, after a hearing on such violations. Suspensions may be appealed pursuant to the procedures set forth in §269-20 below.
- F. Licensees will provide written notification to the owner of any vehicle which the licensees have towed pursuant to this chapter; and to the Police Department if said vehicle has been on the licensees' lot for more than 10 days from the time it was originally towed.

- G. Licensees may exercise any lien they may legally have on a towed vehicle, except that:
- (1) Licensees shall release to the owner of any towed vehicle, or to any authorized representative of same, any and all essential personal property contained therein (e.g. medication, eyeglasses, clothing), but not attached to such vehicle, upon written request presented by the owner or designee of same, without regard to any lien which the licensee may legally have on said property; and
 - (2) Licensees shall allow a vehicle owner or authorized representative of same to remove the license plates and retrieve whatever registration or insurance documents may be in a vehicle that's been towed to the licensee's lot for storage of same. In such cases, the vehicle owner or authorized representative must agree, in writing, to transfer ownership of the vehicle to the licensee, without compensation, so that the licensee may thereafter dispose of the vehicle as they see fit.
- H. Abandoned vehicles will be towed at no charge to the Town of New Windsor. Any fees for said tow shall be charged to the vehicle's owner, upon discovery of same, at the tow rates set forth in the effective fee schedule. After responding to a request to tow an abandoned vehicle pursuant to the provisions set forth in this Chapter, a licensee shall deal with the abandoned vehicle in accordance with the provisions set forth by the New York State Department of Motor Vehicles and the New York State Garageman's Lien Law.
- I. Licensees agree to store any vehicle which may be impounded by the Town of New Windsor Police Department at no cost to the Town of New Windsor or the Town of New Windsor Police Department. Storage and/or impound fees may be charged for each calendar day to the owner of such vehicles, as discussed above. Said fees shall be established annually by motion or resolution of the New Windsor Town Board. The owner of the vehicle shall be responsible for any impound fees, storage fees, administrative fees and any other appropriately assessed fees associated with said tow. Before such vehicles can be released, the owner of same, or an authorized representative thereof, shall obtain a release from the Police Department and shall thereafter bring said release to the licensee in order to prove that the impound fee has been satisfied. This impound fee will not be applied for vehicles that are considered abandoned.
- J. During snow events, Town of New Windsor Police Officers may direct the removal of vehicles, as deemed necessary. Tow trucks will be dispatched to tow the vehicle(s) requested by an officer at the scene. Tow operators will not tow any vehicle unless authorized to do so by a New Windsor Police Officer.
- (1) Licensees shall release to the owner of any towed vehicle, or to any authorized representative of same, any and all essential personal property contained therein (e.g. medication, eyeglasses, clothing), but not attached to such vehicle, upon written request presented by the owner or designee of same, without regard to any lien which the licensee may legally have on said property; and
 - (2) Licensees shall provide at least one tow truck for each snow event, unless otherwise instructed by the Police Chief or his designee.
 - (3) It is understood and agreed by both licensees and the Town that tow trucks may be tied up handling emergencies during a snow event. In such case, licensees may respond to calls for a tow as soon as possible, as opposed to the aforementioned 20-minute requirement.

- K. Nothing in this section shall prohibit a motorist or motor vehicle owner from summoning a tow operator of his or her own choosing, except that any Town of New Windsor Police Officer at the scene of an incident requiring towing services shall be responsible for making the final determination as to when towing shall take place and which tow operator shall be called.
- L. No licensee shall dispose, destroy, remove, sell or otherwise transfer any vehicle towed at the request of the New Windsor Police Department without first complying with all applicable laws of the State of New York and notifying said Police Department of its intention to do so, in writing, at least five days prior to doing so.
- M. All vehicles towed at the request of the New Windsor Police Department must be removed to an approved storage facility, unless the owner or operator of the vehicle specifically requests that it be towed to another destination and the police officer at the scene does not object. Upon removal to an approved storage facility, all such vehicles must be stored outside if space is available to do so or unless storage inside is specifically requested by the Police Department, owner/operator of the vehicle or an authorized representative thereof.
- N. Upon request by the New Windsor Police Department, a licensee shall store a motor vehicle, towed at their request, in an indoor facility. Vehicles designated by the police as being suspected of being used in criminal activity shall be stored in a separate and secured space for the exclusive use of the Police Department and other law enforcement, and shall not be released without the written permission of the Police Chief, acting Police Chief, or any Lieutenant or Sergeant employed by the New Windsor Police Department.
- O. In addition to any requirements set forth elsewhere in this chapter, all approved towing services must provide, in writing, an employment nondiscrimination statement prior to the issuance of said approval and must agree to comply with all state and federal laws and regulations concerning wages, hours and terms of employment.
- P. Employees of an approved towing service shall in no way be deemed to represent or be employed by the Town of New Windsor, and all such towing services shall be responsible for the conduct of their own employees.
- Q. All towing and storage fees shall be disclosed in an appropriate notice on the front or top page of all invoices and receipts. Additionally, adequate public posting of such fees must be made at the storage area, in easy view of the public.

§ 269-16 Information supplied to towed vehicle's owner.

Each licensee responding to a call for service must supply the owner/operator of the vehicle who is at the scene with a card containing the tow firm's business name, address, telephone number, hours of operation, a written estimate of the expected charges, and the accepted manner of payment.

§ 269-17 Police power to remove vehicles

The Police Department shall have the power to require tow vehicles to remove vehicles where:

- A. It obstructs a public right-of-way or private property;
- B. It has been vandalized, presents a fire or safety hazard, or is a nuisance;
- C. It bears no discernible registration or identification data;

- D. It is not licensed or operable;
- E. It is in violation of any emergency no parking provision, as set forth in the Vehicle and Traffic Law or Town Code; or
- F. If such removal may otherwise be permitted or required by law.

§ 269-18 Duties and responsibilities of licensees and tow operators

- A. It shall be unlawful for any person to service a motor vehicle at the scene of a tow or removed from the scene of a tow, where a police officer requires or requests that an examination be made of the damaged vehicle or where a police officer requires photographs or diagrams of the vehicle or scene.
- B. It shall be unlawful for any tow company or tow operator to move, remove, or tow away any motor vehicle involved in an accident without first notifying the Town of New Windsor Police Department of the motor vehicle accident and obtaining their approval to move, remove or tow any vehicle involved in same.
- C. Failure to maintain good standing as a New York State licensed repair shop will result in suspension from the tow list until such repair shop returns to good standing.

§ 269-19 Revocation and suspension

- A. The Police Chief may, upon reasonable notice to a licensee, suspend or revoke any licenses issued pursuant to this chapter for any of the reasons set forth below:
 - (1) If an applicant or licensee should provide any false or materially inaccurate information in an application for licensure, or if there should be any change of circumstance after an application is approved, which would have caused disapproval of an application in the first instance.
 - (2) If the applicant or licensee should fail to comply with any of requirements of this chapter; any additional regulations promulgated by the Police Chief after a license is granted; or any state, federal or local law relating to the operation or storage of a motor vehicle.
 - (3) If a licensee or any of his agents or employees should provide unsatisfactory service, which jeopardizes public safety.
 - (4) In general, any combination of three (3) violations listed below, in any twelve-month period, will result in an immediate and indefinite suspension from the call list.
 - (5) Penalties for specific first and second violations in any twelve-month

period are set forth in the chart below. This chart/list is not meant to be all encompassing or to limit the discretion of the Police Chief in meting out penalties to licensees. The Police Chief shall maintain complete and sole discretion to impose any penalty deemed appropriate. Any suspension imposed will take effect immediately and may be appealed, as set forth below. No licensee that has been suspended from the call list and chooses to appeal that suspension may provide tow services during the pending appeal. All time during an appeal of suspension shall count towards the time a licensee is suspended.

- (6) Any licensee who accumulates any combination of three (3) violations in any twelve-month period will face a presumed revocation of their license and one-year ban from the call list. Such revocation will be suspended for thirty (30) days, during which time the licensee may appeal the impending revocation pursuant to the procedure set forth below in §269-20, but in no event will the licensee be permitted to provide tow services during the initial thirty (30) day suspension or during the time it takes to hear and decide any appeal regarding the impending revocation. No time during an appeal of revocation shall count towards the time a licensee would be banned from the call list should they lose said appeal.

Violation Description	First Violation	Second Violation	Third Violation
Late response to call	A	B	D
Refusing to accept a credit card during normal business hours	A	C	D
Refusing service	A	C	D
Failure to clean up debris	A	B	D
Cruising	A	B	D
Towing out of rotation	A	B	D
Failure to respond to requests for information	A	B	D
Use of improper/incomplete rate sheet	B	C	D
Failure to maintain insurance	B	C	D
Failure to respond to call	B	C	D
Lack of twenty- four-hour availability	B	C	D
Refusing to release a vehicle	B	C	D

Refusing to release property in a vehicle	B	C	D
Refusing to tow vehicle where customer directs	B	C	D
Unsafe practices	B	C	D
Overcharge	B	C	D
Refusing to follow police directives	B	C	D
Improper storage of vehicle (i.e., storage inside when outside space available)	B	C	D
Inspection fraud	C	D	-
Assault	D	-	-

- A = Letter of reprimand**
- B = One-month suspension from list**
- C = Three-month suspension from list**
- D = Removal and one-year ban from list**

B. The Police Chief shall promulgate such rules, regulations, and procedures, not inconsistent with this Chapter, as may be reasonable and necessary to carry out the provisions of this Chapter. Such changes to this Chapter may be made at any time by the Police Department at their discretion and will require the tow operator to sign a written acknowledgement concerning said change. The Police Department will accept requests for rule changes from licensees and New Windsor residents, but each, individually, shall be limited to making such requests once a year. All such requests must be made in writing to the Police Department. The Police Chief or designee will respond to each request, in writing, within forty-five (45) days. Failure to comply with applicable rules, regulations and procedures may be cause for suspension and/or removal from the tow roster, as discussed above.

- C. Notice of suspension and/or revocation shall be in made writing and shall include the reasons for same, along with notice of the licensee's right to appeal to the Town Board or Town Supervisor, if the Board has designated the Supervisor with daily administrative duties for the Town.

§ 269-20 Appeals

- A. Any licensee facing revocation or suspension of their license, or denial of their application for same, may appeal such decision to the Town Supervisor.
- B. Said appeal must be filed, in writing, with the Town Clerk, within 10 business days after notice of any such revocation, suspension or denial is mailed. Notice of revocation, suspension or denial of an application will be mailed to the licensee's last known address on file with the Town Clerk, as provided by the licensee when same applied for or renewed their license.
- C. Upon receipt of any written request for appeal, the Town Clerk shall forward same to the Town Supervisor's office as soon as possible, in order that a hearing can be scheduled within thirty (30) days thereafter. All requests for appeal must set forth the licensee's grounds for appeal. Any hearing will be limited to the issues raised by the licensee in their written request for same.
- D. Notice of the hearing date, time and location will be mailed to the licensee in the same manner as the notices described above, at least five (5) business days prior to the scheduled hearing.
- E. All hearings will be conducted in one session. If the licensee cannot complete their presentation on the date the hearing is scheduled, they may request another date beyond the thirty (30) days usually required, with the understanding such request is made at their request and, thus, all time will be chargeable to them. Such requests must also be made in writing and filed with the Town Clerk. It must state the specific reasons for the request and provide at least two alternative dates, both within twenty (20) beyond the initial thirty (30) days, during which they can complete their presentation. Failure to follow any of these procedures will result in a waiver of a licensee's right to appeal.
- F. All witnesses at said hearings will provide sworn testimony, subject to all state and federal laws governing same. The finder of fact will issue a written decision that is final and binding and not subject to further review or appeal, unless state or federal law supersedes this statute. Final decisions will be mailed to the licensee within ten (10) business days after a hearing is complete. Final decisions shall become effective immediately upon signature by the finder of fact.

SECTION 3.

AUTHORITY.

This Local Law is enacted pursuant to the Municipal Home Rule Law. This Local Law shall supersede the provisions of Town Law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.

SECTION 4.

SEVERABILITY.

If any word, phrase, sentence, part, section, subsection, or other portion of this Law or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed Application thereof, shall be severable, and the remaining provisions of this Law, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

SECTION 5.

CONFLICT WITH OTHER LAWS.

Where this Law differs or conflicts with other Laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or federal government, the more restrictive or protective of the Town and the public shall apply.

SECTION 6.

EFFECTIVE DATE.

This Law shall become effective immediately upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2021 of the (County)(City)(Town)(Village) of New Windsor was duly passed by the Town Board on _____ 2021, in accordance with the applicable provisions of law.
(Name of Legislative Body)

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*~~

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*~~

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.~~

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the ~~qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph, 1 above.

~~Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body~~

(Seal)

Date: _____