

Proposed Local Law 4-2021

A Local Law adding a new Chapter 247 (Towing), deleting Chapter 250, Article IV (Vehicles and Traffic-Removal and Storage of Vehicles), and amending Chapter 250, Article VII (Vehicles and Traffic-Enforcement of Traffic Tickets).

BE IT ENACTED by the Board of Trustees of the Village of Ossining as follows:

Section 1. Chapter 247 (Towing) is added to the Village of Ossining Code with new matter underlined.

Section 247-1 Legislative findings and intent

- A. It is the intention of this chapter of the Village Code to allow the Village of Ossining through its Police Department, to supervise and administer the removal of vehicles from the public highways of the Village that are disabled, abandoned, or otherwise need to be removed via a tow truck operator's permit list from which the Police Department will call and request services on a rotating basis. This chapter only applies to tow trucks called into service by the Village of Ossining.
- B. It is hereby declared and found that it is of vital importance to the traveling public that disabled, abandoned and other vehicles subject to being impounded are removed from the roadways and highways as promptly as possible, that delay in removal results in restricting the movement of traffic unnecessarily and causes street accidents. The towing of disabled motor vehicles from the roadways and municipal parking lots of the Village of Ossining is a matter affecting the public interest and consequently should be subject to supervision and administrative control for the purpose of safeguarding the public against traffic problems and confusion at the scene of accidents, fraud and exorbitant rates and similar abuses. The Village Board of Trustees believes that establishing a tow list for use by the police can accomplish this purpose.
- C. It is the intention of the Board of Trustees to establish a fair and uniform regulation and procedure for the towing of vehicles. The following issues have been taken into consideration in the development of this chapter:
 1. The needs of the public: To meet the needs of the public, the business practices on the part of private towing companies acting at the direction of the Police Department must be regulated. Towing companies who wish to participate in the Village towing program must demonstrate that they can give prompt, safe, and professional service. The community needs tow operators who are competent and able to respond to calls within a minimum of time delay. This requirement mandates an appropriate administrative response to deal with those towing agencies which do not provide services which meet Village standards.
 2. The needs of the towing industry: The needs of the towing industry must be

met by providing them with a consistent system for the equitable distribution of tow calls within the Village. This provides the towing industry with clear and precise requirements for continued service to the community. This chapter also allows for a fair and equitable means to resolve disputes between tow operators.

3. The needs of the Police Department: the needs of the Police Department must be met by providing for a clear procedure for contacting towing companies.
4. Notwithstanding the foregoing, an owner or operator of a vehicle subject to towing may select the tow operator of his/her choice with the caveat that the responding police officer has the ultimate authority as to which tow operator shall respond.

Section 247-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACCIDENT

Any incident or occurrence in which one or more motor vehicles contact each other or another object, thereby causing personal injury and/or property damage.

AUTOMOBILE

Any private passenger motor vehicle or vehicle included in the definition of “automobile” under the New York State Vehicle and Traffic Law

DISABLED VEHICLE

Any vehicle for which towing is necessary because of an accident or for which towing is necessary because of the vehicle’s inability to proceed under its own motor power due to reasons other than an accident.

FOR HIRE

Any instances where a fee, charge or other consideration is directly or indirectly imposed for towing, carrying, impounding, recovering or removing a vehicle.

GVWR

The gross vehicle weight rating of a tow truck, consisting of the weight of the unladen tow truck plus the maximum carrying capacity recommended by the vehicle’s manufacturer.

OWNER

Includes a person owning, leasing or controlling one or more tow trucks and operating or causing such tow trucks to be operated on public highways for hire.

PERSON

Includes an individual, partnership, an unincorporated association, corporation or other

entity.

PUBLIC HIGHWAY

Any highway, road, street, avenue, alley, public place, public driveway or any other public way.

ROTATIONAL TOW LIST

The list created and maintained by the Ossining Police Department consisting of tow truck companies authorized to tow vehicles on behalf of or at the request of the Ossining Police Department.

IMPOUND/STORAGE FACILITY

An area where towed vehicles may be legally stored pursuant to the laws of the Village of Ossining, including, but not limited to the village's zoning code, and which facility is owned or leased by the tow truck operator permittee.

TOWING

The moving, removing or recovering of a vehicle by another vehicle for hire.

TOW TRUCK

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

TOW TRUCK DRIVER

Any person driving a tow truck for hire.

TOW TRUCK DRIVER'S PERMIT

Permit issued by the Village of Ossining Clerk identifying the individual as one who is licensed to drive a tow truck on behalf of or at the request of the Ossining Police Department.

TOW TRUCK OPERATOR

A person who applies for and receives from the Village of Ossining Clerk a permit to engage in the business of towing and/or storage of vehicles.

TOW TRUCK OPERATOR PERMIT

Permit issued by the Village of Ossining Clerk identifying the person as authorized to perform as a tow truck operator to tow vehicles on behalf of or at the request of the Ossining Police Department.

VEHICLE

A motor vehicle as defined in section 125 of the Vehicle and Traffic Law, a tractor as defined in section 151-a of such law or a trailer as defined in section 156 of such law.

WINCHING

The act of utilizing a motorized cable on a tow truck to pull a 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 or axle damage which will not allow the vehicle to roll off a flatbed truck. Winching shall not apply to vehicles being pulled onto a tow truck from the street.

Section 247-3 Police authority to have vehicles towed and removed to an impound/ storage facility

The Ossining Police Department may direct that a vehicle be towed from a public highway for the following non-exclusive reasons:

- A. Public emergency when a vehicle is impeding emergency services that require the public right-of-way to be unobstructed, such as firefighting, emergency medical services, snow storm, flooding or flood remediation.
- B. Abandoned or inoperable vehicles; vehicle operated by a driver who is incapable of driving due to illness, injury, suspension, revocation, driving while impaired from drugs or alcohol or having no license and such vehicle is deemed by the responding police officer to be a hazard to the public and no other appropriate driver has the consent of the owner to drive the vehicle.
- C. Illegally parked vehicles.
- D. Vehicles which cannot be safely moved as a result of an accident.
- E. Unattended vehicles causing an obstruction to traffic.
- F. An abandoned vehicle with no discernable registration or identification.
- G. A vehicle seized pursuant to Vehicle and Traffic Law section 511-b.
- H. A stolen vehicle and/or a vehicle that is evidence in a criminal proceeding.
- I. A vehicle that obstructs street maintenance operations.
- J. A vehicle that is determined to be illegally registered, defective or unsafe to operate.

Section 247-4 Permit Required

- A. No person shall engage in the business of towing or storing vehicles at the direction of the Ossining Police Department without first obtaining a tow truck operator's permit from the Village of Ossining Clerk. Persons who operate

multiple tow trucks may not apply for multiple tow truck operator permits through use of DBAs or other means. Nothing herein shall require a permit for the rendering of road service or providing of towing and storage services within Village of Ossining other than at the request of the Ossining Police Department.

- B. Any driver seeking to drive a tow truck for a tow truck operator who has received a permit from the Village of Ossining Clerk must obtain a tow truck driver's permit from the clerk as detailed herein.
- C. The Village Clerk shall forward all complete applications to the Chief of Police or designee. The Chief of Police or designee shall have sole discretion in deciding which applicant will be awarded permits as tow truck operators and tow truck drivers.

Section 247-5 Application for a tow truck operator's permit; application fee

- A. Applicants for a tow truck operator's permit under this chapter shall file with the Village Clerk a sworn application on a form to be furnished by the clerk including the following information:
 - 1. The full name and address of the applicant. If the applicant is a corporation, it shall provide the names and addresses of all officers and directors, the registered agent and the names and addresses of stockholders owning more than 10% of the issued stock. If the applicant is a partnership, it shall provide the names and address of the partners. If the applicant is a limited liability company, it shall provide the names and addresses of the officers and directors. For an unincorporated association, the application shall include the names and addresses of each member thereof.
 - 2. The year, make and model of each tow truck proposed to be used by the operator, vehicle identification number, registration number, name of registered owner, proof of current inspection and proof of current insurance.
 - 3. The address where the tow trucks shall be regularly garaged, the telephone number(s), names, addresses and proof a valid New York State driver's licenses with appropriate endorsements for all tow truck drivers.
 - 4. The location, size and security features of the storage facility in which the towed vehicles will be stored including the number of available spaces. Impound/storage facilities may be indoors or outdoors and capable of holding up to six (6) cars. The impound/storage facility shall meet the following requirements: a) the impound/storage facility complies with applicable laws and codes, including the village's zoning code; b) the impound/storage facility if located outdoors, shall be paved and provide drainage and be surrounded by a six foot gated fence screening the vehicles held therein from view; and c) the property where the impound/storage facility is located shall be owned or

leased by the applicant. Proof of ownership or an executed lease agreement shall be provided.

5. Show reasonable measures to prevent theft and/or damage to stored vehicles.
 6. The name and address of the insurance carriers and the policy numbers of all insurance policies as required by section 247-7 of this chapter.
 7. A certification that on-call towing and storage services will be available 24 hours per day, every day of the year.
 8. A certification that the fees and procedures required by this chapter shall be complied with at all times.
 9. All crimes, if any, of which the applicant, member, officer, director or shareholder have been convicted, stating the name and location of the courts in which convicted, the dates on which such convictions were had and penalties imposed.
 10. Whether the applicant wants to appear on the village's tow rotation lists.
 11. Such other information as the Chief of Police may reasonably prescribe.
- B. The application for a tow truck operator's permit shall be accompanied by a fee as determined from time to time by the Board of Trustees which fee will be published in the village's annual fee schedule.
- C. Tow truck operator permits are issued for one tow truck. If the operator has more than one tow truck, multiple permits shall be obtained at a fee determined from time to time by the Board of Trustees which fee will be published in the village's annual fee schedule.

Section 247-6 Minimum standards for permit approval.

- A. The Chief of Police may approve the issuance of a permit to a tow truck operator where the following minimum standards are met:
1. The applicant does not have any criminal convictions or prior motor vehicle infractions which might adversely affect public safety or welfare.
 2. The applicant must own, lease, operate and maintain a facility for impounding of vehicles within the boundaries of the Village of Ossining such that the tow operator can respond to a call for service within 30 minutes of notification. If the Applicant does not own the premises where the storage facility is located, a written lease for the use of the premises must be provided with the application. The storage facility must be in compliance with all local zoning, building and fire codes as certified by the Building Inspector or his/her

designee.

3. The applicant maintains 24 hour capability to answer emergency calls regarding towing of motor vehicles. The applicant or one of its employees shall be reachable by phone at all times at a designated number(s). Applicants must respond to all calls for towing from the Police Department on a 24 hour per day basis, 7 days per week all year without exception.
 4. The tow trucks and equipment are in safe and sound condition and in compliance with all applicable laws, rules and regulations. All applicants must meet minimum standards of operator performance, including but not limited to standards concerning the adequacy of the applicant's equipment and storage facility and availability.
- B. In addition to the minimum standards referenced above, all applicants are subject to disqualification if found deficient in any 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 sufficient insurance coverage for damage or loss of vehicles while under the applicant's control.

Section 247-7 Insurance and indemnification

- A. Applicants for tow truck operator permits shall present with the application documents confirming the following insurance coverages:
1. New York State Workers' Compensation with statutory coverage including employers' liability insurance with limits of liability of at minimum \$100,000 for each employee.
 2. New York State disability insurance.
 3. 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 per occurrence and \$2,000,000 aggregate.
 4. Automobile liability insurance for all vehicles utilized by the applicant, whether owned or not owned by the applicant. The minimum limits of liability carried for such insurance shall be \$1,000,000 per person and \$1,000,000 per incident. Each applicant also shall be required to carry an umbrella insurance policy for up to \$3,000,000 to cover any claims above the primary layers of coverage.
 5. Garage keeper's liability insurance with a minimum limit of liability of

\$1,000,000.

6. All policies of insurance provided by the applicant shall be endorsed to contain the following clauses: a) insurers shall have no right to recovery or subrogation against the Village (including its employees, agents, and elected officials), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance; b) the clause "other insurance provisions" in a policy in which the Village is named as an additional insured shall not apply to the Village; c) the insurance companies issuing the policy or policies shall have no recourse against the Village for payment of any premiums or for assessments under any form of policy; and d) any and all deductibles in the above-described insurance policies shall be assumed by and be for the account of, and at the sole risk of the applicant.
 7. Selected insurance companies must be admitted to do business in New York and have a rating of (A) or better.
 8. All applicants must furnish certificates of insurance to the Village Clerk upon application for the permit and with respect to policy renewals, such certificates shall be provided at least 20 days prior to the renewal date. All insurance policies shall include language providing for 30 days' advance written notice before policy cancellation or a material change in coverage shall be given to the Village of Ossining Corporation Counsel, 16 Croton Avenue, Ossining, New York 10562.
 9. The Village of Ossining and Ossining Police Department, including employees and elected officials shall be named as additional insureds for the comprehensive general liability and automobile liability insurance policies.
 10. Any permit issued under this chapter shall 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 requirements.
- B. Tow truck operator permit applicants shall submit with the application a fully executed hold harmless agreement in a form satisfactory to the Corporation Counsel. The applicant shall agree to indemnify and save harmless the Village of Ossining, Ossining Police Department, elected officials and employees from and against all claims, damages, loss and expense (including, but not limited to attorneys' fees) arising out of or resulting from the permitted activity, sustained by any person or persons, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury or destruction of property caused by the tortious or negligent act or omission of the applicant, applicant's employees and agents.

Section 247-8 Promulgation of rules and regulations

The Chief of Police is authorized to promulgate rules and regulations for the proper and efficient administration of this chapter to supplement the following requirements:

- A. The tow truck operator shall be able and willing to dispose of abandoned vehicles in accord with Vehicle and Traffic Law section 1224 and to prepare the necessary documentation for signature by a village representative for mailing to the vehicle's owner and lien holders, with the cost of such mailing to be borne by the tow truck operator.
- B. The tow truck operator shall maintain records of tow truck calls within the village which records shall include the name and address of the vehicle owner, the date and time of the notification call, the location of the vehicle, the location of the storage facility and the charge for towing and storage. These records shall be maintained for 12 months and shall be available to the Police Chief or designee when requested.
- C. On each side of every tow truck shall display by painting, magnetic sign or other similar means, the name, address and phone number of the permittee by letters and numbers of not less than three inches in height and of contrasting color to the tow truck.
- D. Allow for the retrieval of towed vehicles between the hours of 8:30 am and 4:30 pm Monday through Friday. The tow truck operator may make arrangements with the vehicle owner to retrieve the vehicle at other times for an additional fee.
- E. The tow truck operator shall accept cash, debit card and at least two major credit cards (Visa, MasterCard, American Express or Discover) for payment to retrieve vehicles.
- F. Tow truck operators are not permitted to enter into any form of collusive agreements with other permitted or non-permitted tow truck operators to "cover" for each other. A violation of this subsection shall be grounds for revocation of the tow truck operator's permit(s) and removal from rotational lists.
- G. No vehicle towed at the request of the Police Department may be released without the owner obtaining a Police Department Release Form to be presented at the time the vehicle is retrieved.
- H. Tow operators shall maintain equipment on the tow trucks for the purpose of cleaning debris from the roadway and shall render such service as required by Vehicle and Traffic Law section 1219(c). All tow truck operators shall be responsible for reasonable environmental cleanup of hazards, such as, but not limited to, motor oil, transmission fluid, radiator fluid, etc. A tow truck operator called to the scene of an accident involving serious injury or death or where a

police investigation is ongoing shall not remove or otherwise cause to be disturbed any debris or move or reposition any vehicles until directed by police personnel on scene to do so.

- I. Tow truck operators must own or lease a tow truck having a manufacturer's Gross Vehicle Weight rating (GVWR) of 10,000 pounds with dual wheels and a four ton minimum winching capacity. 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 as necessary.
 3. A supply of Speedy Dry and/or sand which the tow truck driver will place upon fluids at an accident scene or as otherwise directed.
- J. The tow truck operator shall be responsible for the collection of all fees for towing of any vehicle as requested by the Police Department. Neither the Village of Ossining nor the Ossining Police Department shall act as agent for the collection of any fees, nor shall the Village or Police Department be held responsible in the event of nonpayment of any moneys due to any tow truck operator as a result of services performed under this chapter.
- K. A tow truck shall be permitted to operate under this chapter only after the tow truck has been thoroughly examined and inspected. 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 Chief of Police whether the tow truck is in a safe and sanitary condition. The Chief of Police shall not approve a tow truck operator permit or if approved shall suspend the permit for any tow truck found to be unfit for operation as a tow truck. Operation of a tow truck in violation of the inspection requirement shall be punishable by a maximum fine of \$250 for a first offense; \$500 for a second offense occurring within six months of the first offense; and \$1,000 for a third or additional offenses occurring within twelve months of the first offense.
- L. Each tow truck driver responding to a call from the Police Department shall provide the owner or operator when on scene with a card with the tow operator's business name, address, phone number, hours of operation and a written summary of expected charges.

Section 247-9 Tow truck driver's permit; applicable fee.

- A. **No person shall drive a tow truck which tows vehicles within village limits at the request of the police department and no tow truck operator shall permit a tow truck driver to tow vehicles within village limits without the driver having first obtained a tow truck driver's permit from the Village Clerk and keeping such permit in full force and effect.**
- B. **Every tow truck driver's permit issued under this chapter shall be effective on the date issued and shall expire on the last day of December of that year unless previously revoked.**
- C. **All persons seeking tow truck driver permits shall file a written, verified application with the Village Clerk providing the following information:**
 - 1. **Applicant's full name and current address as well as other places of residence during the previous 5 years.**
 - 2. **Full description of the applicant, including height, weight, color of eyes and hair, distinguishing marks and any physical infirmities.**
 - 3. **Whether the applicant is a citizen or legal resident of the United States.**
 - 4. **Provide acceptable proof that the applicant is 18 years of age or older.**
 - 5. **Confirm that the applicant is able to read and write the English language.**
 - 6. **Names and dates of previous employment for the 5 year period before the application.**
 - 7. **Provide references from two individuals not related to the applicant.**
 - 8. **All crimes of which the applicant has been convicted, stating the date and place of each conviction; the court wherein which and the date of conviction and the penalty imposed.**
 - 9. **The number, class and date of issuance of the applicant's New York State driver's license. Driver's license shall be CDL A, B, C or non-CDL C class with a driver's license tow truck endorsement.**
- D. **The completed application will be forwarded to the Police Department for processing.**

Section 247-10 Fingerprint requirement.

The Chief of Police shall request from the State Division of Criminal Justice Services and

the Department of Motor Vehicles record checks as to criminal and Vehicle and Traffic Law violations for applicants for tow truck driver's permits. Every applicant for such permit shall be fingerprinted at the request of the Ossining Police Department, which fingerprints shall be forwarded by a third party vendor to the State Division of Criminal Justice Services for processing. The applicant shall tender the fee required by the State Division of Criminal Justice Services and any third party vendor for such fingerprint processing.

Section 247-11 Issuance of tow truck driver's permit.

Upon the completion of the investigation by the Police Department, the Village Clerk shall issue a tow truck driver's permit to the applicant. The tow truck driver shall display his/her permit upon arriving at the location from where the vehicle is to be towed.

Section 247-12 Rotational on-call tow lists

- A. The Police Department shall maintain two rotational on-call towing lists. The first list is for tow truck operators capable of towing automobiles and light trucks up to 10,000 pound GVWR. The second list is for tow operators capable of towing vehicles in excess of 10,000 pounds GVWR. A tow truck operator may be on both lists. To be included on the rotational on-call towing list, an applicant must meet the requirements of this chapter.
- B. Calls to tow truck operators on the rotational on-call list shall be made on a non-discriminatory basis pursuant to procedures established by the Chief of Police. Nothing herein shall prohibit the Chief of Police or designee from calling a tow truck operator out of sequence or seeking the services of a tow truck operator not on the rotation list if the circumstances require special equipment or in the interests of public safety. If the tow truck operator selected does not respond to the scene within 30 minutes after notification from the Police Department, the police officer on scene shall so advise the Police Department dispatcher who shall summon the next tow truck operator on the rotational on-call list. The tow truck operator who failed to respond shall be placed at the bottom of the rotation list.
- C. A towing log shall be maintained by the Police Department. The individual responsible for contacting the tow truck operator from the rotational on-call towing list shall log all calls to the tow truck operator. The log shall include the tow truck operator's name, time of call, blotter number associated with the event requiring a tow and whether the tow truck operator responded. Upon the tow truck operator's response to the scene, the responding police officer will so advise the responsible person at the Police Department.
- D. Current copies of the rotational on-call tow lists shall be made available to the

public at police headquarters and on the village's website.

- E. It shall be unlawful for a tow truck operator issued a permit by the Village of Ossining to willfully refuse to tow away a vehicle after having appeared on the scene, or to willfully fail to arrive at the scene after being duly called regardless of the hour of the day or distance to the scene of the requested tow. The tow truck operator's failure to answer a call for service or refuse to answer a call for service on three occasions within three consecutive months shall result in a suspension from the rotational on-call tow list for no more than 90 days.
- F. Nothing in this chapter shall prevent a vehicle owner from choosing to call a tow truck operator that is not on the village's rotational on-call tow lists; provided, however, that should that tow truck operator be unable to respond in a reasonable period of time and if the police officer on scene has bona fide safety concerns, the police officer may supersede the owner's intention and call a tow truck operator from the rotational on-call tow list.
- G. Police officers shall not recommend a particular tow company. Where the owner or operator of the disabled vehicle requests the name of a tow company, the responding police officer shall inform the owner or operator that the Police Department maintains a rotational on-call tow list comprised of certain tow truck operators all of which have met certain criteria thus offering the companies the opportunity to be utilized for towing calls.
- H. If more than one tow truck operator is needed to tow vehicles from a scene, the Police Department shall contact the next tow truck operator on the rotational on-call tow list. The first tow truck operator to arrive at the scene of a multi-vehicle accident shall have preference of choice as to which vehicle to tow if the owner/operator agrees. The responding police officer may override the first responding tow truck operator if necessary.

Section 247-13 Towing charges.

- A. The fee for towing and storage of vehicles removed at the direction of the Police Department shall be set from time to time by the Board of Trustees and published in the village's annual fee schedule.
- B. Storage charges shall not be imposed if the towed vehicle was stolen and the fact that the vehicle was stolen was reported to a police agency. However, the owner of a vehicle reported as stolen will be responsible for towing fees incurred.
- C. It shall be unlawful for any tow truck operator or tow truck driver to demand or receive any payment in excess of the charges in the village's published annual fee

schedule.

Section 247-14 Suspension and revocation of tow truck operator permit or tow truck driver permit.

A. Investigation

1. In the event the Village receives a complaint regarding any alleged excessive or exorbitant fee and/or substandard service, or otherwise is in possession of information indicating that a tow truck operator or tow truck driver is not in compliance with the terms and conditions of this chapter, the Village shall have a right to investigate and take appropriate action.
2. The Chief of Police or designee shall be responsible for conducting the investigation into complaints involving tow truck operators and tow truck drivers.
3. Upon completion of the investigation and substantiation of the complaint, the Chief of Police or designee shall notify the permit holder in writing of the complaint and the determination. The Chief of Police shall afford the permit holder an opportunity to meet and discuss the complaint and compliance measures.

B. The Chief of Police or designee may deny, suspend or revoke any active tow truck operator or tow truck driver permit for a violation of this chapter or any other statute or ordinance or for any conduct involving an unreasonable risk to the safety and welfare of specific individuals or the general public. Notice of permit denial, suspension or revocation and the reason(s) therefore shall be served by the Chief of Police or designee upon the person named in the permit either personally or by registered/certified mail with return receipt requested. Mailing shall be to the same address given in the permit or application. If a permit is revoked no refund of any portion of the permit fee shall be made.

C. An application can be denied for any of the reasons listed herein. Additionally, the Chief of Police or designee retains the right to deny an application for any perceived conduct involving an unreasonable risk to the safety or welfare of specific individuals or the general public.

D. A suspension of a permit by the Chief of Police or designee shall be effective for 30 days starting from the date of notification to the permit holder.

E. Grounds for suspension and revocation.

1. No permit issued under this chapter shall be suspended or revoked without

cause. Cause shall include but not be limited to:

(a) Failure to properly maintain the designated towing vehicle(s) and/or equipment, both physically and/or mechanically or to lack required insurance coverage.

(b) Any substantiated complaint to the Village as set out in this chapter.

2. Revocations. A permit shall be revoked by the Chief of Police upon the occurrence of any of the following:

(a) The conviction of two violations of this chapter within a 12 month period shall result in the revocation of the permit for one year.

(b) The conviction of three violations of this chapter within a 24 month period shall result in permanent revocation of the permit so that the permit holder may not reapply for a new permit.

(c) Any suspensions and/or substantiated complaints within the 12 month period of the issuance of the permit.

(d) Any three suspensions and/or substantiated complaints within the 24 month period of the issuance of the permit.

(e) Knowingly filing a false application.

(f) Any arrest or conviction of a permit holder for a criminal offense committed by such person during or in relation to towing operations.

(g) The suspension or revocation of a tow truck driver's New York State driver's license by the New York State Department of Motor Vehicles.

(h) Operation of a tow truck without the insurance required by this chapter, operation for illegal purposes or operation otherwise in violation of law.

F. Review of denial, suspension or revocation. The Corporation Counsel shall serve as the hearing officer to hear and decide appeals taken by any determination made by the Chief of Police or designee which denied, suspended or revoked a permit. Any applicant who shall have been refused a permit or the holder of a tow truck operator or tow truck driver permit whose permit has been suspended or revoked may appeal to the Corporation Counsel for review of such denial, suspension or revocation as set forth in this chapter. The failure of an aggrieved party to take an appeal within ten days of service of such denial, suspension or revocation shall constitute a waiver of the right to appeal. For personal service, service will be deemed effective upon the date of service. For service by registered or certified

mail, service will be deemed effective three days after mailing. An appeal shall be taken by filing with the Corporation Counsel a written appeal statement providing the applicant or permit holder's name, address, email address, phone number and contact information for the applicant or permit holder's representative, if any. The appeal statement should detail the basis for which a determination is requested reversing or modifying the determination of the Chief of Police. The applicant or permit holder may be represented by counsel and shall have an opportunity to present evidence and question witnesses. The Chief of Police or designee similarly may present evidence. Upon consideration of the evidence, but in no event later than 10 business days after the close of the hearing the Corporation Counsel shall issue a decision sustaining, modifying or reversing the decision of the Chief of Police or designee. The determination by the Corporation Counsel shall be filed with the Village Clerk and upon filing will become final. The Corporation Counsel's determination is subject to review pursuant to Article 78 of the Civil Practice Law and Rules. Such proceeding must be commenced within 30 days of the filing of the determination.

Section 247-15 Expiration of permit and permit renewal

- A.** Permits are issued on a calendar year basis. All permits issued pursuant to this article shall expire on the last day of December next succeeding the date of issuance thereof. Permit fees shall not be prorated.
- B.** Once a permit is issued it can be renewed by the permittee to whom it was issued upon payment of a fee as determined by the Board of Trustees and upon the permittee's provision of a notarized statement certifying that there have been no changes in the information provided in the current application. If there have been any changes, the permittee shall provide a notarized statement advising of the changes which the Chief of Police shall review to ensure that all requirements for obtaining a tow operator's license are still met. If new drivers have been hired and will be operating one or more of the permittee's tow trucks during the renewal year, those drivers also must comply with the permit requirements of this chapter.

Section 247-16 Transferability of licenses

No Tow Truck Operator's Permit shall be assigned from one company or person to another unless in connection with a bona fide sale of the Tow Truck Operator Permit owner's business, in which case the Police Chief shall have the power to approve an assignment of the Tow Truck Operator's Permit.

Section 247-17 Penalties for offenses.

With the exception of the fines listed in section 247-8K, any company or person who violates or refuses to comply with any of the provisions of this article shall be guilty of a violation and shall be punished by a fine of not less than \$250, or more than \$1,000, for

each and every day a violation occurs or continues under this article, imprisonment for not more than 15 days, or both.

Section 247-18 Notice of removal.

It shall be the duty of the Police Department to ascertain to the extent possible the owner of the vehicle or the person in charge of the vehicle and to notify that person of the removal and disposition of such vehicle and of the amount which will be required to redeem same. The Village shall also, without delay, report to the Village Clerk the removal and disposition of any vehicle removed as provided in this article.

Section 247-19 Reporting to the Board of Trustees

No later than April 1, the Chief of Police or designee shall report to the Board of Trustees on the rotational tow program from the preceding calendar year. The report shall include the following information:

1. The names of the tow companies on the rotation lists.
2. The number of permits issued for tow truck drivers.
3. The number of calls by the police department for towing/storage of vehicle.
4. Reason for the call (accident, impound, criminal activity, etc.)
5. How many calls did each operator receive?
6. Number of times when a request for service was denied or when the operator failed to timely respond. This should be broken down by operator.
7. Suspensions and/or revocations of permits during past calendar year.

Section 247-20 Consumer bill of rights regarding towing of disabled vehicles

- A. Every owner or person in charge of a disabled vehicle which is to be towed to an impound/storage facility by a tow truck operator at the direction of the Ossining Police Department shall be provided with a document entitled "Consumer Bill of Rights Regarding Towing of Disabled Vehicles" before the vehicle is towed. If the owner or other person in charge of the vehicle is injured and is removed to a hospital, or is otherwise unavailable, such bill of rights shall be furnished by the tow truck operator at the time such owner or other person in charge of the vehicle first appears at the premises of the tow truck operator.
- B. The "Consumer Bill of Rights Regarding Towing of Disabled Vehicles" shall have printed on it on the top of the page in capital, block face letters and in 14 point bold face type the caption CONSUMER BILL OF RIGHTS REGARDING DISABLED

VEHICLES followed by statements in the sequence listed below in 10 point type in a color that sharply sets off the text from the background color of the document except that the text included in capital letters shall be in 10 point bold face type.

“NOTICE OF RIGHTS AND OPTIONS WHEN YOUR DISABLED VEHICLE IS TOWED.”

Information about the towing of the vehicle.

“Your disabled vehicle must be towed by the tow truck operator that has been directed to do so by the Police Department.”

YOU HAVE A RIGHT TO DIRECT THE TOWING COMPANY TO TOW THE VEHICLE TO ANY LOCATION WITHIN THE VILLAGE OF OSSINING, provided the vehicle can be legally left in the location you select. If you want to have the vehicle towed to a location outside of the Village of Ossining you can make arrangements with the tow truck operator for the fees for such towing. If you do not designate a location, the licensed tow truck operator is required to tow the disabled vehicle to its authorized impound facility.

You or any person you select, including your insurance agent or adjuster, must be provided, at no extra charge, with reasonable access to view the disabled vehicle during normal business hours at the impound facility, but any insurance agent or insurance adjuster for a third party may have access only upon furnishing written confirmation they are representing such third party having a claim or defense from an accident involving such disabled vehicle.

Section 2. Chapter 250, Article IV (Vehicles and Traffic-Removal and Storage of Vehicles) is deleted in its entirety.

Section 3. Chapter 250, Article VII (Enforcement of Traffic Tickets) is amended as follows with new matter underlined and deleted matter in [brackets].

250-64 Towing and booting for outstanding parking violations

A. Legislative findings and purposes

1. The Village Board finds that significant numbers of vehicle owners fail to respond to parking summonses issued for violations of parking orders, rules, regulations and local laws; that a significant number of such owners are persistent violators; and that by reason of out-of-state registration of vehicles, transfer or ownership, reregistration of vehicles, and other circumstances, violators frequently are able to evade existing enforcement measures.
2. By reason of the foregoing, the Village Board finds that the health, welfare, and safety of the Village will be served by the adoption of a local law providing additional means of enforcing parking orders, rules, regulations and local laws

in the case of vehicle owners who fail to timely respond to summonses issued for Village parking violations.

- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

PARKING VIOLATION DEFAULT

A parking violation default is incurred when an unpaid parking summons has not been answered by the required appearance date.

VEHICLE IMMOBILIZATION

The clamping, affixing, or locking of a booting device onto the wheel of a parked vehicle to prevent the wheel from rotating, thereby immobilizing the vehicle.

VEHICLE IMMOBILIZATION DEVICE

A device that is clamped, affixed or locked onto the wheel of a parked vehicle to prevent the wheel from rotating, thereby immobilizing the vehicle until it is unlocked and removed.

250-65 Vehicles affected.

[This article shall apply to the following vehicles:

- A. Any vehicle parked on a Village street;
- B. Any vehicle parked in a municipal parking lot owned or leased and maintained by the Village of Ossining;
- C. Any vehicle stopped on a public street within the corporate limits of the Village of Ossining by a Village of Ossining police officer for a violation of the Vehicle and Traffic Law or Penal Law of the State of New York committed by the operator of such vehicle; and
- D. Any vehicle involved in an accident on a public street within the corporate limits of the Village of Ossining investigated by a Village of Ossining police officer, that has been issued four or more unanswered tickets for a violation of Village of Ossining parking laws for which the aggregate permissible fines total \$500 or more.]

- A. In addition to any other penalties or fines imposed for the violation of the provisions of any local law, state law, rule or regulation, the provisions of this article shall apply to the following categories of vehicles:

- (1) Vehicles operated or parked on any public street, public highway, any portion of the

entire width between the boundary lines of any way publicly maintained when any part thereof is opened to the use of the public for purposes of vehicular travel or on any property leased by or in the possession or control of the Village of Ossining in violation of any provision of any local law, state law, rule or regulations.

- (2) Vehicles which have three or more outstanding and unpaid parking violations issued against them for which the aggregate permissible fines total \$500 or more and which, after mailing to the registered owner of a final notice, mailed regular first-class mail are found operated or parked on any public street, public highway, any portion of the entire width between the boundary lines of any way publicly maintained when any part thereof is opened to the use of the public for purpose of vehicular traffic or on any property leased by or in the possession and control of the Village of Ossining.

B. Any such vehicle may be removed or caused to be removed by or under the direction of a member of the Police Department by towing or otherwise. In addition to or in lieu of towing, any such vehicle may be immobilized in such manner as to prevent its operation, except that no such vehicle shall be immobilized by any means other than by the use of an immobilization device or other mechanism which will cause no damage to such vehicle unless it is moved while such device or mechanism is in place. In any such case involving immobilization of a vehicle pursuant to this subsection, such member of the Police Department shall cause to be placed on such vehicle, in a conspicuous manner a notice containing the following information:

1. The location and a description of the vehicle.
2. The date and time of the installation of the vehicle immobilization device and the signature of the installer.
3. Notice that any person tampering with, defacing, removing, or destroying the vehicle immobilization device will be subject to criminal prosecution and liable for any loss to the Village resulting from damage to the device.
4. The steps which must be taken by the owner of the vehicle to obtain its release.
5. Notice that the vehicle may be towed if it remains in the same location for 72 hours after immobilization.
6. Such other information, statements, notices, and warnings as the Chief of Police may, from time to time, determine to be appropriate.

C. Within two business days after towing or immobilization, the Police Department shall notify the owner of such vehicle by regular mail of the fact of the towing or immobilization, the place where the vehicle may be recovered and the conditions under which it will be released.

D. The Village shall provide warning signs, advising of the possibility of towing, on public streets where towing may be done and at the entrance to any Village parking lots where towing may be done.

Section 250-65 [Responsibility of Parking Violations Bureau.

- A. The Ossining Police Department shall obtain from the Town Justice Court a list of the license plates and, if known, the names and addresses of the last person contained on the motor vehicle registration of all vehicles that have been issued four or more unanswered tickets for a violation of Village of Ossining parking laws for which the aggregate permissible fines total \$500 or more.
- B. The aforesaid list shall be updated from time to time, but at least monthly.
- C. The Ossining Police Department shall confirm with the Town Justice Court whether and when any parking ticket contained on the aforesaid list has been answered and/or the fines paid.]

Section 250-66 [Responsibility of Ossining Police Department and parking enforcement officers.

- A. The Ossining Police Department shall issue a copy of the aforesaid list, and each amendment thereof, to each patrol officer and parking enforcement officer.
- B. Any police officer or parking enforcement officer who comes in contact with a motor vehicle contained on the aforesaid list shall immediately cause said vehicle to be immobilized by affixing or causing to be affixed thereto a device commonly known as a "boot."
- C. Upon immobilizing said vehicle, the police officer, Parking Enforcement. Officer or other Village personnel affixing the boot shall affix to the driver's side window a notice in substantially the form set forth herein:

THIS VEHICLE HAS BEEN IMMOBILIZED BY THE VILLAGE OF OSSINING BECAUSE IT HAS BEEN ISSUED FOUR OR MORE UNANSWERED PARKING TICKETS FOR WHICH THE AGGREGATE PERMISSIBLE FINES TOTAL \$500 OR MORE.

YOU MAY REDEEM THIS VEHICLE AND HAVE THE BOOT REMOVED BY CALLING (914) 941-4099 AND PAYING TO THE VILLAGE OF OSSINING A BOOTING CHARGE OF \$100 AND DEPOSITING WITH THE COURT BAIL OR BOND IN THE AMOUNT EQUAL TO THE MAXIMUM FINES WHICH MAY BE IMPOSED UPON ALL OUTSTANDING PARKING TICKETS. THE ABOVE AMOUNTS MAY BE PAID BY CASH, BANK OR CERTIFIED CHECK OR MONEY ORDER.

DO NOT ATTEMPT TO REMOVE OR TAMPER WITH THE BOOT. THIS MAY CAUSE DAMAGE TO THE BOOT AND/OR THE VEHICLE. TAMPERING WITH THE BOOT IS AN OFFENSE PUNISHABLE BY A MAXIMUM FINE OF \$250.

IF THIS VEHICLE IS NOT REDEEMED WITHIN 48 HOURS FROM THE TIME OF BOOTING, IT WILL BE DEEMED TO BE AN ABANDONED VEHICLE AND DISPOSED OF PURSUANT TO LAW]

Section 250-66 Release of vehicle to owner.

A. Generally

The individual attempting to redeem a vehicle that has been immobilized or towed under this article must demonstrate to the satisfaction of the Town of Ossining Justice Court Clerk that he or she is the owner of the vehicle or is authorized to act on behalf of the owner. It shall be a defense that the vehicle in question was stolen and thereafter parked illegally; however, this defense shall only be available when a bona fide report of the theft has been filed with a police department. In the event of a theft, the vehicle owner shall be responsible for paying the towing and storage fees associated with towing and storage of the vehicle.

B. Release of immobilized vehicles

1. To obtain a release of an immobilized vehicle, the owner of the vehicle shall visit the office of the Town Justice Court during normal business hours and provide the Town Justice Court Clerk with payment in full of all outstanding Village parking violations relating to the vehicle. Should an owner wish to contest any of the delinquent parking tickets, the owner shall post a cash bond equal to the amount of the fines due for the contested tickets along with any late fees. The cash bond will be held by the Town Justice Court Clerk pending the disposition of the contested tickets. Upon receiving payment for all outstanding parking tickets or a combination of payment and cash bond, the Town Justice Court Clerk shall provide the owner with a certificate as proof of payment.
2. After obtaining the certificate described above, the owner of the immobilized vehicle shall go to the Ossining Police Department and present the certificate. The owner shall pay to the Police Department the administrative charge to cover the cost of booting and releasing the vehicle. That fee is set out in the village's annual fee schedule. Thereafter, a representative from the Police Department, designated by the Chief of Police shall remove the immobilization device in a reasonably prompt manner.
3. Parking tickets may be issued to a vehicle fitted with a vehicle immobilization device and penalties will continue to accrue until payment is made.

C. Release of vehicles subject to towing

1. To obtain a vehicle subject to towing under this article, the owner of such vehicle shall visit the office of the Town Justice Court during normal business hours and provide the Town Justice Court Clerk with payment in full of all

outstanding Village parking tickets relating to the vehicle. Should an owner wish to contest any of the delinquent parking tickets, the owner shall post a cash bond equal to the amount of the fines due for the contested tickets along with any late fees. The cash bond will be held by the Town Justice Court Clerk pending disposition of the contested tickets. Upon receiving payment for all outstanding Village parking tickets or a combination of payment and cash bond, the Town Justice Court Clerk shall provide the owner with a certificate as proof of payment. At the same time, the Town Justice Court Clerk also shall provide the owner of the vehicle with the name and contact information of the tow company that towed and stored the vehicle.

2. After obtaining the certificate described in subsection C(1) above, the owner of the towed vehicle shall obtain from the Ossining Police Department a Police Department Release Form which form, along with the certificate described in subsection C(1), shall be presented to the towing company where the vehicle is being stored. The owner of the towed vehicle shall pay the tow truck operator (see, chapter 247) the required towing and storage fees as published in the village's annual fee schedule before the towed vehicle can be released.

D. Unauthorized removal of vehicle.

1. If after a vehicle has been immobilized or towed, any person shall remove such vehicle without complying with subsections 250-66 A, B and/or C or shall do any damage to the immobilization device, then the owner of such vehicle and the person removing such vehicle or doing such damage shall be liable for any damage to the immobilization device and in addition be punishable as provided in Chapter 1, General Provisions, Article III.
2. The owner of such vehicle may, as a defense to this subsection D, please and prove that at the time of such removal or damage such vehicle was stolen but only if, prior to such act or acts, notice of a stolen vehicle was given to the applicable police authority.

Section 250-67 Disposition of unclaimed vehicles

- A. Whenever a vehicle, other than an abandoned vehicle, that has been immobilized or towed pursuant to this article is not claimed within 10 calendar days, it shall be the responsibility of the Chief of Police or designee to mail a notice of removal, via certified mail to the last registered owner, if such can be ascertained with reasonable diligence. Such notice shall state:
 1. The date of towing or immobilization and the place of storage.
 2. What must be done by the owner to secure release of the vehicle.
 3. That if the vehicle is not claimed within 10 calendar days of receipt of the

notice (calculated as three days from mailing) the vehicle will be sold at a public auction by the Village of Ossining.

4. That if personal property within the vehicle is unclaimed within 10 days of receipt of the notice, the property will become the property of the Village of Ossining and be disposed of according to law and procedures established by the Village Treasurer.

B. If the vehicle is not claimed within 10 calendar days of the date the owner receives the notice or of the date the postal service reports the notice was undeliverable to the owner, the Chief of Police or designee shall notify the Village Treasurer who shall arrange for the vehicle to be sold at public auction. Further, if personal property within the vehicle is unclaimed within 10 calendar days of the notice, the Chief of Police or designee shall be responsible to secure the property and turn the same over to the Village Treasurer for disposition.

C. Abandoned vehicles shall be disposed of in accordance with section 1224 of the Vehicle and Traffic Law.

Section 250-68 Proceeds from sale of unclaimed vehicles

The proceeds from the sale of any vehicle sold as provided in section 250-67 of this chapter shall be applied first to the costs of the sale; second against towing charges; third against any storage charges; and fourth to any and all unpaid delinquent parking tickets issued in the Village of Ossining against the vehicle and any other vehicles registered to the owner. In the event that the sale proceeds exceed the above cost and charges, the excess shall be held without interest by the Village Treasurer for the benefit of the owner for a period of one year. If the proceeds remain unclaimed after the one year period, the proceeds shall be paid into the Village's general fund.

[§ 250-70 Abandoned vehicles.

A vehicle which has been immobilized pursuant to this article shall be deemed illegally parked upon immobilization. Any vehicle which has not been redeemed within 48 hours after the same has been immobilized shall be deemed an abandoned vehicle and shall be disposed of in accordance with § 1224 of the Vehicle and Traffic Law of the State of New York.]

Section 4. Effective Date.

This local law shall take effect on January 1, 2022 following filing with the Secretary of State pursuant to the Municipal Home Rule Law.

