

**CITY OF JOHNSTOWN,  
CAMBRIA COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 5279**

**BILL NO. 41 OF 2019  
(with proposed amendments as of 12/11/19)**

**INTRODUCED IN COUNCIL  
November 13, 2019**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF JOHNSTOWN, TITLE II, CHAPTER 422, ENTITLED ENFORCEMENT AND PENALTY AND SPECIFICALLY CHAPTER 422.02, REGARDING THE REMOVAL AND IMPOUNDING OF VEHICLES ORIGINALLY ADOPTED VIA ORDINANCE NO. 4739, PASSED DECEMBER 21, 1995, AS AMENDED BY ORDINANCE NO. 5060, ADOPTED MARCH 10, 2010, AND ORDINANCE NO. 5218, ADOPTED DECEMBER 29, 2016 TO REPEAL AND REPLACE PRIOR PROVISIONS CONTAINED THEREIN TO PROVIDE FOR A CONVENIENT AND EQUITABLE TOWING SYSTEM FOR THE TIMELY REMOVAL OF CERTAIN SPECIFIED MOTOR VEHICLES ON PUBLIC RIGHTS OF WAY OR PUBLIC PROPERTY WITHIN THE CITY OF JOHNSTOWN.

NOW, THEREFORE, Ordinance No. 4739, as amended, and specifically Title II, Chapter 422.02, regarding the removal and impounding of vehicles is hereby amended to repeal all current provisions of Chapter 422.02, and replace them with the following:

Ordinance No. 4739, adopted December 21, 1995, as amended by Ordinance No. 5060, adopted March 10, 2010 and Ordinance No. 5218, adopted December 29, 2016

Section 1. Section 422.02 of the Traffic Code entitled "Removal and Impounding of Vehicles" is hereby repealed.

Section 2. A new Section 422.02 of the Traffic Code entitled "Removal and Impounding of Vehicles is hereby adopted as follows:

**ADD:  
§ 422.02 Purpose.**

The purpose of this chapter is to provide for a convenient and equitable towing system for the timely removal of motor vehicles damaged, abandoned, immobilized, illegally parked or disabled on public rights-of-way or public property within the City of Johnstown.

**§ 422.03 Definitions.**

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

**BUSINESS**

The physical place/establishment where employees report to work, equipment is

stored and dispatched to and from, all company dealings take place, recordkeeping and daily activity, etc. is performed.

**CHIEF OF POLICE**

The Chief of Police of the City of Johnstown Police Department or his/her designee.

**CITY**

The City of Johnstown, County of Cambria, and State of Pennsylvania.

**CUSTODIAN**

A person having permission from the vehicle owner to exercise care and/or control over a vehicle.

**STORAGE FACILITY**

A secured area for the storage of towed vehicles. The storage facility shall be, at minimum, enclosed by a secured fence or building. When enclosed by a fence, the fence shall be a minimum of six feet in height and made of a sturdy material such as chain link, wooden slats, or other material approved by the Chief of Police or his designee. All gates shall be secured with locks or other security mechanisms to reasonable prevent entry by unauthorized persons.

**TIMELY RESPONSE**

Generally means 20 minutes or less from the time a towing company is requested until the wrecker arrives at the scene. At time there may be circumstances beyond a tower's control that makes it impossible for a towing company to arrive within 20 minutes.

**TOWING COMPANY**

Any business engaged in the towing, removing or storing of motor vehicles at the request of the City of Johnstown. This includes the towing company owner and its employees.

**TOWING ROTATION LIST**

The list of licensed towing companies maintained by the Chief of Police.

**VEHICLE**

For the purposes of this chapter, all automobiles, trucks, truck tractors, trailers and other vehicles of any kind shall hereafter be referred to as "vehicles."

**WRECKER**

A vehicle designed and used for removing and transporting motor vehicles. This term shall also include a rollback truck, tow truck or other vehicles commonly used to perform towing services.

**§ 422.04 Authority to remove and impound.**

The Chief of Police and any police officer and or authorized employee of the City of Johnstown Police Department designated by the Chief of Police are hereby authorized to:

**A.**

Order to be removed, cause to be removed, or remove and impound vehicles in accordance with the appropriate sections of the Pennsylvania Vehicle Code, 75 Pa.C.S.A. § 101 et seq.

**B.**

Order to be removed, cause to be removed, or remove and impound any vehicle parked on any City street, highway, or public property of the City in violation of any other provision of the Pennsylvania Vehicle Code, City ordinance or traffic rule.

**§ 422.05 Annual license required.**

Any towing company engaged in the business of towing vehicles at the request of the City of Johnstown from highways, public rights-of-way, or other public property in the City shall be licensed annually in accordance with the provisions of this section.

**A.**

Applications for license.

Applications for license shall be submitted to the Finance Department upon forms prepared and made available by the City. The application form shall be properly completed, signed and accompanied by the applicable license fee. Upon receipt, the Chief of Police or his designee shall review and inspect the required storage facility and towing equipment and all applications for compliance with the terms of this chapter. Following completion of said review and inspection; the Chief of Police shall forward correspondence which includes the application to the City Manager for final approval. Said correspondence shall contain recommendations for approval or rejection.

**B.**

Application/license fee.

The nonrefundable application/license fee shall be in the amount as established by resolution of the City Council and payable to the City of Johnstown.

- (1) Approved Towing Services; Fee: Those garages or towing services desiring to be designated as approved towing services for use by the Department of Police, in exercising the authority granted under § **422.04** shall pay an annual fee of five hundred dollars (\$500.00) submitted at the time of application.
- (2) Approved Storage Garage; Fee: Those garages or towing services desiring to be designated as approved storage garages (pounds) for the storage of impounded vehicles by the Department of Police, in exercising the authority granted under § **422.04** shall pay an annual fee of five hundred dollars (\$500.00) submitted at the time of application.

**C.**

Issuance of license.

A towing license shall be issued only to towing companies that comply with the provisions of

this chapter. The issuance of a towing license shall not create a property right for the towing company.

**D.**

License renewal.

All licenses, except those terminated for just cause as provided herein, are subject to an annual renewal fee as established by resolution of the City Council to be paid to the City of Johnstown each January. This fee is imposed to cover the cost of reinspection and license renewal document processing.

**§ 422.06 Minimum qualifications.**

To be licensed to tow vehicles at the request of the City, towing companies shall maintain the following:

**A.**

At least one wrecker that is in safe mechanical condition, properly titled, inspected, and registered.

**B.**

The wrecker shall be owned or leased by the towing company and shall not be used or operated by or for any other towing company.

**C.**

All wreckers shall be clearly marked with the towing company's name and telephone number on each side of the vehicle.

**D.**

All wreckers shall be equipped with appropriate safety equipment (fire extinguisher, traffic vests, warning devices, one or more flashing or revolving lights, as required by Section 4572 of the Vehicle Code, etc.) and any other equipment necessary to perform the function and comply with the Pennsylvania Vehicle Code regarding removal of debris (including but not limited to absorbent materials for leaks and roadway spills).<sup>[2]</sup>

**E.**

Towing companies shall provide its employees training on the proper cleanup of accident debris from the roadways.

**F.**

Established place of business and storage facility.

**(1)**

The towing company shall be directly accessible 24 hours a day, by no more than one phone number. The employment of answering machines or other such devices is not considered as

making the company directly accessible.

(2)

All towing companies and their respective storage facilities used for impoundment of vehicles towed at the request of the City shall be located within the City of Johnstown.

(3)

The storage facility shall be owned or leased by the towing company owner.

(4)

The storage facility shall comply with zoning regulations applicable in the jurisdiction where the facility is located.

(5)

The storage facility shall be, at minimum, enclosed by a secured fence or building. When enclosed by a fence, the fence shall be a minimum of six feet in height and made of a sturdy material such as chain link, wooden slats, or other material approved by the Chief of Police or his designee. All gates shall be secured with locks or other security mechanisms to reasonable prevent entry by unauthorized persons.

(6)

The storage facility shall be regularly open for the conduct of business, receiving of payments due, release of vehicles, etc., a minimum of 40 hours, Monday through Friday, between 7:00 a.m. and 5:00 p.m.

(7)

The towing company owner is responsible for the security of the stored vehicles.

**G.**

Insurance.

Towing companies shall be required to carry insurance at the minimum policy limits, as follows:

(1)

Automobile liability insurance to include collision in an amount not less than \$500,000, combined limits.

(2)

Workers' compensation insurance, as required by statute.

(3)

Garage keepers liability insurance in an amount not less than \$50,000 per single limit.

(4)

Garage keepers liability insurance in an amount not less than \$500,000 combined limit.

(5)

Miscellaneous coverage to provide complete protection to the City against any and all risks of loss or liability including comprehensive general liability.

(6)

The City shall be listed as an additional insured party on all policies, and such policies shall contain a provision requiring notification to the City prior to any policy revision or

termination.

**(7)**

Towing companies shall provide the City of Johnstown with a letter of bonding indicating coverage in the minimum of \$50,000.

**(8)**

Each insurance policy covering a towing company shall indicate that the City of Johnstown shall be held harmless once a vehicle has been hooked to the towing company's wrecker in preparation to be towed from a roadway.

**(9)**

A certificate of insurance shall be on file in the City Clerk's office prior to the issuance of the annual permit(s).

#### **§ 422.07 Towing rotation.**

**A.**

The Chief of Police shall maintain the list of licensed towing companies, listed alphabetically, which may be requested to tow by authorized City employees on a rotating basis. The Chief of Police shall determine the number of towing companies to be included on the list.

**B.**

Rotating basis means the towing company appearing on top of the list shall be requested first to do the tow. Once the towing company on the top of the list is requested, that name shall be placed on the bottom of the list. Thereafter, for each subsequent request, the process shall be repeated. In the event that the owner and/or operator of a vehicle needing a tow requests a specific towing company, that request shall not affect the requested towing company's placement on the rotation list.

**C.**

If a towing company refuses, is not available, does not answer the phone or can't meet the required response time, said towing company shall be replaced by the next towing company. Any towing company that refuses a call or is unavailable three times within a two-month period shall be placed on review with the Chief of Police with the possibility of removal from the rotation list and nonrenewal of license.

**D.**

This rotation may be waived when, in an exceptional emergency, removal of a vehicle is critical to public safety, as determined by the investigating police officer at the incident scene. This subsection is not intended to permit or encourage towing companies to respond to accident/incident scenes without being summoned in accordance with § 422.09 of this chapter.

#### **§ 422.08 General regulations.**

**A.**

The towing company requested shall respond to the tow location within 20 minutes of the request, unless there are circumstances, such as adverse road conditions, that are beyond the towing company's control that would prohibit it from doing so.

**B.**

Nothing in this chapter is intended to permit or encourage the towing company to violate any provision of the Pennsylvania Vehicle Code or to operate a vehicle in an unsafe manner.

**C.**

Towing companies licensed by the City shall be available to tow vehicles 24 hours a day, seven days a week.

**D.**

All vehicles removed, transported or conveyed at the request of the City shall be stored at the towing company's storage facility, or at a property owned or controlled by the City, or to a location specified by the vehicle owner or operator.

**E.**

Towing company owners shall comply with all local, state and federal laws and regulations and are responsible for ensuring that all of their employees adhere to them.

**F.**

Towing companies shall be responsible for the conduct of all drivers and employees. The driver's licenses of persons towing for a towing company are subject to inspection by the Chief of Police. Misconduct of towing company employees may subject a towing company to the suspension or revocation of towing privileges.

**G.**

Towing company owners shall post their towing, storage and related service fee schedule and their hours of operation in conspicuous locations of its towing and storage facilities and its business offices and shall provide such information to the Chief of Police

**H.**

Criminal Record.

- (1) No towing company owner shall have any misdemeanor and/or felony criminal convictions for criminal violations that would be inconsistent with providing professional towing services, including, but not limited to, conviction(s) for the following violations of the Pennsylvania Crimes Code:

PA CC Chapter 25	Criminal Homicide
PA CC Chapter 29	Kidnapping
PA CC Chapter 31	Sexual Offenses
PA CC SEC 3502	Burglary

PA CC SEC 3921	Theft
PA CC SEC 3922	Theft by Deception
PA CC SEC 3925	Receiving Stolen Property
PA CC SEC 4101	Forgery
PA CC SEC 4104	Tampering with records or identification
PA CC SEC 4107	Deceptive business practices
PA CC SEC 4117	Insurance Fraud

(2) The provisions of subsection § 422.08 (G),(1) are also applicable to any employee designated as a wrecker operator.

**§ 422.09 Prohibited acts.**

It shall be a prohibited act for any towing company to:

- A.**  
Subcontract towing services requested by the City.
- B.**  
Respond, tow or move a vehicle from or within public property without the consent of the owner or operator or without being summoned by the City pursuant to § 422.07.
- C.**  
Use the "City of Johnstown" in the name of the towing company.
- D.**  
Arrive at the scene of any incident/accident without being requested to do so by the City or the Cambria County 911 Center and/or the owner/operator of a vehicle to be towed. "Responding/arriving at the scene of any incident/accident" shall mean by wrecker or by any other means of transportation including private vehicle. Companies found to be arriving at scenes without being requested may be subject to suspension or removal from rotational lists.
- E.**  
It shall be unlawful for any owner and/or employee of any towing company to approach any vehicle operator or passenger at the scene of any incident/accident to solicit a towing job.

**§ 422.10 Record of vehicles towed or stored.**

Every licensed towing company shall make a written record of each vehicle towed or stored and maintain such records for a period of two years, which shall be subject to inspection by the Chief of Police. The records shall contain the following information:

- A.**  
Registration plate number and state.
- B.**  
Make and color of vehicle.
- C.**  
Time call for service was received.
- D.**  
Time wrecker arrived at scene.
- E.**



Date the vehicle was returned to owner/custodian.

F.

Towing and storage charges for each towed vehicle.

G.

Name of wrecker driver.

H.

Location where vehicle was towed to (destination).

I.

Who authorized tow (owner/operator, Police Department, etc.).

#### **§ 422.11 Restrictions upon removal of vehicles.**

No vehicle shall be removed under the authority of this chapter if, at the time of the intended removal thereof, the owner or person for the time being in charge of such vehicle is present and expresses a willingness and intention to remove such vehicle immediately.

#### **§ 422.12 Owner/operator liability for fine/penalty.**

The payment of towing and storage charges authorized by this chapter shall not operate to relieve the owner or operator of any vehicle from liability for any fine or penalty for violation of any law or ordinance on account of which such vehicle was removed and impounded.

#### **§ 422.13 Effect of payment of towing and storage charges without protest.**

The payment of any towing and storage charges authorized by this chapter shall, unless made "under protest," be final and conclusive and shall constitute a waiver of any right to recover the fees paid. In the event that towing and impounding charges are paid under protest, the offender shall be entitled to a hearing before a Magisterial District Judge having jurisdiction; in which case the offender shall be proceeded against as is provided for by the Pennsylvania Vehicle Code in other cases of summary offenses.

#### **§ 422.14 Towing and Impounding Charges.**

Charges for the towing and impounding of any vehicle under authority of this section shall be fixed and established at the discretion of licensee and shall include an impounding/towing administrative charge due the City in the amount of one hundred fifty dollars (\$150.00), to be collected by the licensee and paid over to the City forthwith.

#### **§ 422.15 Violations and penalties.**

Upon conviction for violation of any provision of this chapter, in addition to the penalty in § 422.16, a towing company may be fined not less than \$100 nor more than \$1,000 or sentenced to imprisonment for a term not exceeding 90 days, or both.

#### **§ 422.16 Termination of license.**

A.

Any towing company or its employee who violates any provision of this chapter shall be issued

a written warning for the first violation. Any subsequent violation may cause the termination of the towing company's license. The towing company is not entitled to a warning for any violation of § 422.08 or § 422.08 of this chapter and may have its license terminated for the first violation.

**B.**

The towing company shall be notified in writing, by registered mail, no less than five calendar days prior to the termination of its license. The notice of termination shall state the reason(s) for termination and the effective date of termination. The towing company shall have 14 calendar days to appeal the termination in writing to the City Manager. The City Manager or designee shall hold a hearing within 10 calendar days of written receipt of the towing company's request for appeal. The towing company may appeal the City Manager's decision in writing to the Cambria County Court of Common Pleas within 10 calendar days of the receipt of the City Manager's decision.

**DELETE:**

~~—(a) Authority to Remove and Impound. The Department of Police is hereby authorized to remove and impound, or to order the removal and impounding of, any vehicle in violation of the Crimes Code of Pennsylvania, the Vehicle Code of Pennsylvania or any ordinance of the City. However, no vehicle shall be removed or impounded except in strict compliance with this section.~~

~~—(b) Approved Towing Services; Fee. Those garages or towing services desiring to be designated as approved towing services for use by the Department of Police, in exercising the authority granted under subsection (a) hereof, shall make an application with the Finance Department for a permit for such privilege. After a proper investigation, the City Manager may approve or disapprove such application at his or her discretion. If the towing application is approved, the garage or towing service shall pay to the Director of Finance an annual fee of one hundred dollars (\$100.00). Upon payment of such fee, the permit shall be issued by the Department of Finance.~~

~~—(c) Approved Storage Garages; Fee. Those garages desiring to be designated as approved storage garages (pounds) for the storage of such impounded vehicles shall make an application with the Department of Finance for a permit for such privilege. After a proper investigation, the City Manager may approve or disapprove such application at his or her discretion. If the application is approved, the garage shall pay to the Director of Finance an annual fee of one hundred dollars (\$100.00). Upon payment of such fee, the permit shall be issued by the Department of Finance. This fee is separate from and in addition to the fee required in subsection (b) hereof.~~

~~—(d) Insurance. Every approved towing service and storage garage shall carry public liability and property damage insurance in at least the following amounts:~~

~~—(1) Five hundred thousand dollar (\$500,000) general liability insurance.~~

~~—(2) Five hundred thousand dollar (\$500,000) property damage insurance.~~

~~—The City shall be shown as an additionally insured on such insurance. A certificate of insurance shall be on file in the City Clerk's office prior to the issuance of the annual permit(s).~~

~~—(e) Notice to Owners. Within twelve hours from the time of removal of any vehicle under the authority of this section, notice of the fact that such vehicle has been impounded shall be sent by the Department of Police to the owner of record of such vehicle. Such notice shall designate the place from which such vehicle was removed, the reason for its removal and impounding and the~~

pound in which it has been impounded.

~~—(f) Records. The Department of Police shall keep a record of all vehicles impounded and shall be able, at all times, to furnish the owners thereof, or agents of such owners, with information as to the place of storage of such vehicle.~~

~~—(g) Effect of Payment of Charges. The payment of any towing and impounding charges authorized by this section shall, unless such payment has been made under protest, be final and conclusive, and shall constitute a waiver of any right to recover the money so paid.~~

~~—(h) Effect of Payment of Charges Under Protest. If any towing and impounding charges are paid under protest, the offender shall be entitled to a hearing before a magistrate or court of record having jurisdiction, in which case such defendant shall be proceeded against and shall receive such notice as is provided in the Vehicle Code in other cases of summary offenses, and shall have the same rights as to appeal and waiver of hearing.~~

~~—(i) Liability of Owners or Operators. The payment of towing and impounding charges shall not operate to relieve the owner or operator of any vehicle from liability for any fine or penalty for a violation of any law or ordinance on account of which the vehicle was removed or impounded.~~

~~—(j) Restrictions Upon Removal. No vehicle shall be removed under the authority of this section if, at the time of the intended removal thereof, the owner or person for the time being in charge of such vehicle is present and expresses a willingness and intention to remove such vehicle immediately.~~

~~—(k) Towing and Impounding Charges. Charges for the towing and impounding of any vehicle under authority of this section shall be fixed and established at the discretion of the licensee and shall include an impounding/towing administrative charge due the City in the amount of one hundred fifty dollars (\$150.00), to be collected by the licensee and paid over to the City forthwith.~~

~~—(1) Fees collected in excess of one hundred dollars, (\$100.00) shall be dedicated for bond and other debt service of the Parking Fund operations and no other purposes.~~

~~(Ord. 4739. Passed 12-21-95; Ord. 5060. Passed 3-10-10; Ord. 5218. Passed 12-29-16.)~~

### Section 2-3.

Any/all Ordinances or parts of Ordinances not in accord with this Ordinance are hereby repealed insofar as and to the extent that they conflict with this Ordinance.

### Section 3-4.

This Ordinance shall become effective January 1, 2020.

ORDAINED and ENACTED By the City Council of the City of Johnstown, County of Cambria, Commonwealth of Pennsylvania on this 11th day of December, 2019.

PASSED FINALLY IN COUNCIL:

December 11, 2019

By the following vote:

Yeas: Mr. Britt, Mayor Janakovic, Rev. King, Mrs. Mock. (4)

Nays: None (0)

Absent: Mrs. Stanton, Mr. Vitovich, Mr. Williams. (3)

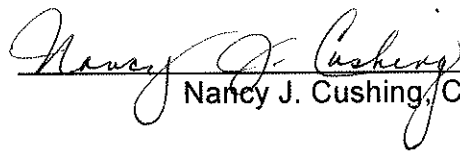


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Frank J. Janakovic, Mayor  
Marie Mock, Deputy Mayor

ATTEST:

I do hereby certify that the following is a true and correct copy of Ordinance No. **5279** as the same was adopted by the City Council of the City of Johnstown, Pennsylvania.



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Nancy J. Cushing, City Clerk