

First Reading 9. 8. 20

Second Reading Emergency

ORDINANCE 2020 - 09

**AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 90, ENTITLED TRAFFIC AND VEHICLES, ARTICLE VI TOWING OF ABANDONED VEHICLES, AND ARTICLE VII IMPOUNDMENT OF VEHICLES ILLEGALLY ON PRIVATE PROPERTY, AND TO REPEAL CHAPTER 102, ENTITLED VEHICLES FOR HIRE, ARTICLE IV TOWING SERVICES OF THE CODE OF THE TOWN OF OCEAN CITY, MARYLAND**

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE MAYOR AND CITY COUNCIL OF OCEAN CITY THAT CHAPTER 90, ENTITLED TRAFFIC AND VEHICLES, ARTICLE VI TOWING OF ABANDONED VEHICLES, ARTICLE VII IMPOUNDMENT OF VEHICLES ILLEGALLY ON PRIVATE PROPERTY, AND REPEAL CHAPTER 102, ENTITLED VEHICLES FOR HIRE, ARTICLE IV TOWING SERVICES OF THE CODE OF THE TOWN OF OCEAN CITY, MARYLAND BE, AND IT IS HEREBY REPEALED AND REPLACED AS FOLLOWS:**

**Chapter 90 - TRAFFIC AND VEHICLES**

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~~ARTICLE VI. TOWING OF ABANDONED VEHICLES<sup>(9)</sup>~~

Footnotes:

~~(9)~~

~~State Law reference — Abandoned vehicles, Ann. Code of Md., Transportation article, § 25-201 et seq.~~

~~Sec. 90-221. Title.~~

~~This article shall be known as the "Ocean City Towing Ordinance."~~

~~(Code 1972, § 96-1)~~

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~~Sec. 90-222. Rules of construction.~~

~~Whenever used in any clause, the singular pronoun shall include the plural, and vice versa, and the masculine shall include the feminine and neuter, and vice versa.~~

~~(Code 1972, § 96-3)~~

~~Sec. 90-223. Definitions.~~

~~The following terms, wherever used herein, shall have the respective meanings assigned to them unless a different meaning clearly appears from the context:~~

~~*Person.* Every natural person, partnership, corporation, fiduciary, association or other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any partnership or association shall mean the partners or members thereof and, as applied to any corporation, shall include the officers thereof.~~

~~*Police Department.* The Police Department of Ocean City, Maryland.~~

~~*Towing.* The moving or removing, and/or the preparation thereof, of a disabled or abandoned vehicle by another vehicle for which a service charge is made either directly or indirectly. A charge made indirectly refers to dues or other charges of bona fide clubs or associations which provide towing services.~~

~~*Towing company.* A natural person, partnership, corporation, fiduciary, association or other entity owning, operating or conducting the business of disentangling, removing or towing disabled or abandoned vehicles.~~

~~*Towing vehicle.* A vehicle that tows, carries or removes a disabled or abandoned vehicle for a fee charged either directly or indirectly. A fee charged indirectly refers to dues or other charges of clubs or associations which provide towing services.~~

~~*Vehicle.* A "vehicle" as defined in Ann. Code of Md., Transportation article, § 11-176, including but not limited to motor vehicles, motorcycles, trailers, boats and boat trailers.~~

~~*Vehicle, abandoned.* A vehicle that is inoperable and/or is left unattended on public property for more than 48 hours, or a vehicle that has remained illegally on public property for a period of more than 48 hours, or a vehicle parked on public property which poses an immediate traffic hazard or danger to the public health and safety, or a vehicle that has remained on private property for more than 48 hours without the consent of the owner or person in control of the property.~~

~~*Vehicle, disabled.* A vehicle which has been damaged or rendered inoperative as a result of a collision or accident and not as a result of wear and tear or mechanical failure.~~

~~(Code 1972, § 96-4)~~

~~Sec. 90-224. Policy.~~

~~For the purpose of protecting the general health, safety and welfare and public interests of the community, safeguarding the public interests against fraud, discrimination, deception~~

~~and other abuses and eliminating the retarding of traffic, unnecessary street congestion, unnecessary delays and traffic hazards, vehicles which have been abandoned shall be taken into custody by the Police Department, and the towing of abandoned and disabled vehicles shall be subject to supervision and administrative control in Ocean City, Maryland, as provided in this article.~~

~~(Code 1972, § 96-2)~~

~~Sec. 90-225. Requirements for towing companies; storage facilities; notification to Police Department of towing of vehicle.~~

- ~~(a) Inspections and examinations of the applicant's equipment and storage facilities shall be made by the Ocean City Police Department. The applicant must provide storage, either covered or uncovered, for a minimum of ten vehicles, providing services covered by the aforesaid license shall have the name and address of the licensee inscribed on each side of said vehicle in letters no less than four inches in height.~~
- ~~(b) All towing companies shall have someone available to release vehicles from 8:00 a.m. to 12:00 midnight, every day of the year.~~
- ~~(c) The telephone number of the individual available to release vehicles shall be clearly posted on the storage facility premises.~~
- ~~(d) The towing company shall notify the Ocean City Police Department of the make, style, tag number and registration number and owner, if known, within one hour of the tow of such vehicle.~~

~~(Code 1972, § 96-7)~~

~~Sec. 90-226. Filing of schedule of charges by towing companies.~~

~~Prior to the issuance of said license, the applicant shall furnish the Ocean City Police Department with a schedule of charges for towing and services incident to the towing of vehicles. Said schedule of charges shall not be in excess of the maximum charges allowed, as specified in this article. This schedule of fees shall be retained by the Ocean City Police Department and may, upon 30 days' notice, be revised by later filing a modified schedule of charges.~~

~~(Code 1972, § 96-8)~~

~~Sec. 90-227. Maximum charges.~~

~~The Police Department may reject the application of any towing company for a license if the schedule of charges submitted with said application is, in the opinion of the Chief of Police, excessive. All charges in excess of the following shall be considered excessive.~~

Service	Charge
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Service call (without tow, wind or move)	\$100.00
Straight towing of vehicle	
GVW less than 26,000	250.00
GVW between 26,000 to 35,000	175.00 per hour
GVW greater than 35,000	200.00 per hour
Winding of vehicle up to three fourths ton	75.00 basic, 125.00 per hour after first 30 minutes
Furnishing and use of dollies	35.00
Extra tow truck, if and when needed	150.00
Moving vehicle to side of road	100.00
Towing of low-suspension vehicle	325.00
Towing of vehicle from accident	325.00
Storage	50.00 per calendar day

Administrative fee. Any vehicle towed to the Ocean City Impound lot shall be assessed an administrative fee of \$50.00, which will be deducted from the tow company's tow charge.

(Code 1972, § 96-9; Ord. No. 2003-2, 1-21-2003; Ord. No. 2008-6, 4-21-2008; Ord. No. 2017-06, 4-17-2017)

Sec. 90-228. Abandonment of vehicles prohibited.

It shall be unlawful for any person to abandon or cause to be abandoned, as herein defined, a vehicle on public property or private property. The last owner of record of an abandoned vehicle shall be deemed prima facie to be the owner of such vehicle at the time it was abandoned and to be the person who abandoned or caused to be abandoned said vehicle.

(Code 1972, § 96-10)

Sec. 90-229. Towing and impoundment authorized; collection of expenses.

~~The Police Department may take into custody any vehicle which is abandoned, as herein defined, within Ocean City. Such vehicle shall be towed to an impoundment facility to be maintained by Ocean City. For this purpose, the Police Department may employ its own personnel or equipment or may hire persons, equipment and facilities for removing, preserving and storing abandoned vehicles. The owner of any abandoned vehicle which has been towed pursuant to this section shall reimburse the Mayor and City Council for all expenses incurred by it in the towing and storage of such abandoned vehicle, including the administrative costs incurred by the Mayor and City Council, as may be set by the Mayor and City Council from time to time, as a result of the towing and storage of such abandoned vehicle. The Ocean City Police Department is authorized to collect from the owner or owners of such vehicles all expenses incurred by the Mayor and City Council as a result of the towing and storage of abandoned vehicles, including the administrative costs incurred by the Mayor and City Council as herein provided. The administrative cost shall be fixed by the Mayor and City Council from time to time and may be done so by resolution of the Mayor and City Council.~~

~~(Code 1972, § 96-11)~~

~~Sec. 90-230.— Inspection of vehicle and inventory of contents prior to accepting vehicle for impoundment.~~

~~An impoundment custodian shall, prior to accepting any vehicle for impoundment, observe the exterior of said vehicle and note on an inventory sheet any obvious scratches, dents or other damage to the vehicle. He shall also indicate whether or not the keys are in said vehicle and whether or not the vehicle, including the trunk, is locked or unlocked. He shall also do an inventory of the contents of the vehicle by observation, including the contents of the trunk if the trunk is unlocked.~~

~~(Code 1972, § 96-12)~~

~~Sec. 90-231.— Maintenance of vehicles during impoundment.~~

~~The impoundment custodian shall keep the keys to the vehicle, if same are therein, in his possession at all times while the vehicle is impounded. He shall keep the impounded vehicle under observation and make periodic inspections of all impounded vehicles.~~

~~(Code 1972, § 96-13)~~

~~Sec. 90-232.— Notification to owner by mail.~~

~~(a) If the vehicle which has been impounded is registered under Maryland law, then as soon as reasonably possible, but no later than seven full working days after it has been notified of such impoundment, the Police Department shall send a notice by registered mail, return receipt requested, to the last known registered owner of the vehicle and to each secured party, as shown in the records of the motor vehicle administration.~~

~~(b) The notice shall:~~

- ~~(1) State that the vehicle has been taken into custody for violation of the Ocean City ordinance prohibiting the abandonment of vehicles.~~
  - ~~(2) State the year, make, model and vehicle identification number of the vehicle.~~
  - ~~(3) Give the location of the impoundment facility where the vehicle is held.~~
  - ~~(4) Inform the vehicle owner that he has the right to contest the validity of the towing and storage of his vehicle at any time within three weeks of the date of such notice by filing a request for hearing with the Police Department on a request form which shall be included with such notice.~~
  - ~~(5) Inform the owner and secured party of his right to reclaim the vehicle within three weeks after the date of said notice on payment to the Police Department of all towing and storage charges resulting from the towing and storage of the vehicle.~~
  - ~~(6) State that the failure of the owner or the secured party to exercise his right as provided in subsection (b)(5) above to reclaim the vehicle in the time provided is a waiver by him of all his right, title and interest in the vehicle and is a consent to the sale of the vehicle at public auction.~~
- ~~(c) For purposes of this section, a "full working day" is any 24 hour period during which the motor vehicle administration is open for business, at normal business hours.~~

~~(Code 1972, § 96-14)~~

~~Sec. 90-233. Notification to owner by publication.~~

~~(a) This section shall apply if:~~

- ~~(1) The identity of the last registered owner of an impounded vehicle cannot be determined from the records of the motor vehicle administration;~~
- ~~(2) The registration of the vehicle gives no address for the owner;~~
- ~~(3) It is impossible to determine with reasonable certainty the identity and address of each secured party; or~~
- ~~(4) The registered mail notice required by section 90-232 of this article is returned as undeliverable.~~

~~(b) Under one of the conditions described in subsection (a) of this section, the Police Department shall give the notice provided for in section 90-232 by publication in at least one newspaper of general circulation in Ocean City.~~

~~(c) The notice by publication:~~

- ~~(1) May contain multiple listings of abandoned vehicles;~~
- ~~(2) Shall contain the information required by section 90-232 of this article; and~~
- ~~(3) Shall be published within 15 days of the taking into custody of the vehicle or, if the notice by publication is made because of the return as undeliverable of a prior notice by registered mail, within seven days of the return of that prior notice.~~

~~(Code 1972, § 96-15)~~

~~Sec. 90-234. Request for hearing; determination as to whether vehicle was properly impounded; appeals.~~

- ~~(a) Within three weeks from the date notice is mailed by the Police Department pursuant to section 90-232 or 90-233 of this article, the owner of a vehicle which has been impounded may request that a hearing be held to determine whether the vehicle was properly towed and impounded under the provisions of this article. The request for a hearing shall be made by filing a request for hearing form with the Police Department.~~
- ~~(b) The hearing shall be held within 72 hours or the following Monday, Wednesday or Friday which is not a holiday after the request for a hearing is filed with the Police Department. The hearing shall be before a hearing officer who shall have been appointed by the Mayor and City Council of Ocean City. Such hearing officer shall not be a member of any state or local Police Department. The Mayor and City Council shall appoint two hearing officers to conduct such hearing who shall serve for terms of two years, provided that the first appointments made upon the passage of this section shall be staggered, with one term for one year and the other term for two years.~~
- ~~(c) Determination as to whether vehicle was abandoned.~~
- ~~(1) If it is determined at the hearing that the vehicle was not abandoned in violation of this article, then the hearing officer shall issue an order that the vehicle be returned to the owner and that such owner is not liable for any of the towing, storage or other charges incurred by the Police Department in connection with the impoundment. If the owner has already paid such towing, storage and other charges to the Police Department, he shall be entitled to receive reimbursement of all such payments from the Police Department.~~
- ~~(2) If the hearing officer shall determine that the vehicle was abandoned in violation of this article, then the owner of the vehicle may not reclaim it until he has paid to the Police Department all towing and storage charges and costs of notice incurred by the Police Department.~~
- ~~(d) Any person aggrieved by the decision of such hearing officer may, within 30 days of such decision, appeal to the Circuit Court of Maryland for Worcester County. If appeal is made by the owner of the vehicle, then the public sale provided for in section 90-237 of this article shall be delayed pending the disposition of said appeal, and the vehicle owner may regain possession of his vehicle by posting bond to secure the payment of all towing and storage charges and costs of notice incurred by the Police Department.~~

~~(Code 1972, § 96-16)~~

~~Sec. 90-235. Reclaiming of vehicle; payment of charges.~~

~~The owner or secured party of a vehicle which has been impounded may reclaim such vehicle within three weeks of the date notice is mailed by the Police Department pursuant to~~

~~section 90-232 or 90-233 by paying to the Police Department all towing and storage charges and costs of notice incurred by the Police Department in connection with said impoundment.~~

~~(Code 1972, § 96-17)~~

~~Sec. 90-236. Failure to reclaim vehicle.~~

~~If the owner or secured party fails to reclaim an impounded vehicle within three weeks after notice is mailed pursuant to this article, the owner or secured party is deemed to have waived all of his right, title and interest in the vehicle and to have consented to the sale of the vehicle at public auction.~~

~~(Code 1972, § 96-18)~~

~~Sec. 90-237. Sale of vehicle; disposition of proceeds.~~

~~If an impounded vehicle is not reclaimed as provided for in this article, the Police Department shall sell the vehicle at public auction. The buyer of the vehicle at auction shall take title to the vehicle free and clear of any claim of ownership or lien, shall be entitled to a sales receipt from the Police Department and shall be entitled to obtain a certificate of title of the vehicle and to register it in his own name. The sales receipt shall be sufficient title for transferring the vehicle to a scrap processor for dismantling, destroying or scrapping, in which case only, a certificate of title is not required. The Police Department shall reimburse itself from the proceeds of the sale of the vehicle for the costs of towing, preserving and storing the vehicle and the expenses of the auction, including all notice and publication costs incurred under this article. Any remaining proceeds of the sale shall be held for 90 days for the owner of the vehicle and any entitled secured party, after which the remaining proceeds shall revert to the treasury of Ocean City.~~

~~(Code 1972, § 96-19)~~

~~Secs. 90-238—90-260. Reserved.~~

## ~~ARTICLE VII. IMPOUNDMENT OF VEHICLES ILLEGALLY ON PRIVATE PROPERTY<sup>(10)</sup>~~

~~Footnotes:~~

~~—(10)—~~

~~State Law reference—Towing or removal of vehicles from parking lots, Ann. Code of Md., Transportation article, § 21-10A-01 et seq.~~

### ~~DIVISION 1. GENERALLY~~

~~Sec. 90-261. Title.~~

~~This article shall be known as the "Ocean City Impounding Ordinance."~~

(Code 1972, § 98-1)

~~Sec. 90-262. Rules of construction.~~

~~Whenever used in any clause, the singular pronoun shall include the plural, and vice versa, and the masculine shall include the feminine and neuter, and vice versa.~~

(Code 1972, § 98-3)

~~Sec. 90-263. Definitions.~~

~~The following terms, wherever used herein, shall have the respective meanings assigned to them unless a different meaning clearly appears from the context:~~

~~*Impounding.* The temporary storage of a vehicle that has been removed from private property, as herein defined, at a facility maintained by Ocean City.~~

~~*Motor vehicle administration.* The motor vehicle administration of the State of Maryland.~~

~~*Motor Vehicle Law of Maryland.* Ann. Code of Md., tits. 11—27 (Ann. Code of Md., Transportation article, § 11-101 et seq.), as may be amended from time to time.~~

~~*Person.* Every person, partnership, corporation, fiduciary, association or other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any partnership or association shall mean the partners or members thereof and, as applied to any corporation, shall include the officers thereof.~~

~~*Police or Police Department.* The Police Department of Ocean City, Maryland.~~

~~*Private property.* A privately owned facility consisting of more than three spaces for motor vehicle parking that is intended by the owner of the facility to be used solely by the owner's customers, clientele, residents, lessees or guests in the manner designated by the owner.~~

~~*Property owner.* Includes the owner of property or any person having a possessory interest in such property.~~

~~*Towing.* The moving or removing, and/or the preparation thereof, of an impoundable vehicle by another vehicle for which a service charge is made either directly or indirectly. A charge made indirectly refers to dues or other charges of bona fide clubs or associations which provide towing services.~~

~~*Towing company.* A person, partnership, corporation, fiduciary, association or other entity licensed by Ocean City to operate or conduct the business of towing or removing illegally parked vehicles from private property.~~

~~*Vehicle.* A vehicle as defined in Ann. Code of Md., Transportation article, § 11-176, as amended from time to time, which includes but is not limited to motor vehicles, motorcycles and trailers.~~

(Code 1972, § 98-4)

~~Sec. 90-264. Policy.~~

~~For the purpose of protecting the general welfare and public interest of the community; safeguarding the public interest against fraud, discrimination, deception and other abuses; safeguarding the private property of the citizens of Ocean City from indiscriminate and illegal trespassing and utilization; and eliminating the retarding of traffic, unnecessary street congestion, unnecessary delays and traffic hazards, Ocean City shall provide for the removal, towing and impounding of vehicles illegally parked upon private property pursuant to the procedures provided in this article.~~

~~(Code 1972, § 98-2)~~

~~Secs. 90-265 - 90-280. Reserved.~~

~~DIVISION 2. POSTING OF SIGNS~~

~~Sec. 90-281. Required; parking on posted property.~~

~~(a) It shall be unlawful to remove a vehicle illegally parked, as defined in this article, unless the property owner or property owner's agent shall comply with the provisions of this article. The provisions of this article do not apply to abandoned vehicles pursuant to Ann. Code of Md., Transportation article.~~

~~(b) It shall be unlawful for any person to park or cause to be parked a vehicle on private property which has been posted against parking pursuant to this article without the consent of the owner of said property. The last owner of record of a vehicle found parked illegally on private property, as shown by the files of the motor vehicle administration, shall be deemed prima facie to have been the owner of such vehicle at the time it was parked and the person who parked or caused to be parked said vehicle.~~

~~(Code 1972, § 98-5)~~

~~Sec. 90-282. Furnishing of signs; indemnification agreement; duties of property owner.~~

~~Any property owner desiring to utilize the procedures provided by this article shall obtain from the Police Department signs which shall be posted on said owner's property. The signs shall remain the property of the Mayor and City Council, but a charge, as is determined by the Mayor and City Council, for the use of such sign shall be imposed. Before obtaining said sign or signs, a property owner shall execute an indemnification and save harmless agreement which shall provide that the property owner shall indemnify and save harmless Ocean City against any claim of damage resulting from the towing and impoundment of vehicles removed from said private property pursuant to this article. The continued posting of such sign or signs by the property owner shall be contingent upon said property owner abiding by such rules and regulations adopted by the Mayor and City Council relative to the charges for towing, service calls and other procedures necessary to properly implement and administer this article. Any sign obtained hereunder shall be renewed by the property owner on May 1 of each year at an annual administrative renewal charge of \$10.00 per sign.~~

~~(Code 1972, § 98-6)~~

~~Sec. 90-283. — Contents and location of signs.~~

~~Said signs shall state that unauthorized parking is prohibited and that vehicles parked without authorization may be towed and impounded without notice at the vehicle owner's expense. Said signs shall be posted in such a manner and in such location as to be clearly visible from the area where parking is to be prohibited.~~

~~(Code 1972, § 98-7)~~

~~Secs. 90-284 — 90-300. — Reserved.~~

### ~~DIVISION 3. — TOWING AND IMPOUNDMENT PROCEDURE~~

~~Sec. 90-301. — Complaint by property owner.~~

~~Any property owner or property owner's agent may, when a vehicle is illegally parked upon his private property without his consent, make a complaint to a towing company stating that he requests that said vehicle be removed from his property. Said complaint shall contain a statement made by the property owner or property owner's agent, under oath, that the vehicle which he seeks to have removed was parked on his property without his consent and that the vehicle was parked in an area from which a sign prohibiting unauthorized parking was clearly visible.~~

~~(Code 1972, § 98-8)~~

~~Sec. 90-302. — Tow slip required.~~

~~The towing company shall cause to be presented to the property owner or property owner's agent a tow slip which shall consist of one original and three copies. The towing company shall cause said tow slip to be completed by filling in all pertinent data. Before towing or removing the subject vehicle, the towing company shall cause the property owner or property owner's agent to sign said tow slip in the place provided. The towing company shall then cause the yellow copy of the towing slip to be securely affixed to the subject vehicle.~~

~~(Code 1972, § 98-9)~~

~~Sec. 90-303. — Towing of vehicle.~~

~~The towing company may then proceed to tow the subject vehicle to the impoundment facility maintained by Ocean City.~~

~~(Code 1972, § 98-10)~~

~~Sec. 90-304. — Disposition of tow slips.~~

Upon arrival at the impoundment facility, the towing operator shall, prior to receipt of the vehicle, furnish the custodian of the impoundment facility with the white towing slip, which slip shall be properly completed and signed by the property owner or the vehicle will be refused. The towing company shall keep the blue and pink towing slips.

(Code 1972, § 98-11)

~~Sec. 90-305. — Inspection of vehicle and inventory of contents prior to acceptance for impoundment.~~

~~The impoundment custodian shall, prior to accepting any vehicle for impoundment, observe the exterior of said vehicle and note on an inventory sheet any obvious scratches, dents or other damage to the vehicle. He shall also indicate whether or not the keys are in said vehicle and whether or not the vehicle, including the trunk, is locked or unlocked. He shall also do an inventory of the contents of the vehicle by observation, including the contents of the trunk if the trunk is unlocked.~~

(Code 1972, § 98-12)

~~Sec. 90-306. — Maintenance of vehicles during impoundment.~~

~~The impoundment custodian shall keep the keys to the vehicle, if same are therein, in his possession at all times while the vehicle is impounded. He shall keep the impounded vehicle under observation and make periodic inspections of all impounded vehicles.~~

(Code 1972, § 98-13)

~~Secs. 90-307 — 90-320. — Reserved.~~

#### ~~DIVISION 4. — NOTIFICATION~~

~~Sec. 90-321. — Notification to police.~~

~~The impoundment custodian shall notify the Police Department immediately upon the impoundment of any vehicle, giving a full and complete description of the vehicle, the license plate number and the towing agency delivering the vehicle to the impoundment facility.~~

(Code 1972, § 98-14)

~~Sec. 90-322. — Notification to owner by mail.~~

~~(a) — If the vehicle which has been impounded is registered under Maryland law, then as soon as reasonably possible but no later than seven full working days after it has been notified of such impoundment, the Police Department shall send a notice by registered mail, return receipt requested, to the last known registered owner of the vehicle and each secured party, as shown in the records of the motor vehicle administration.~~

~~(b) The notice shall:~~

- ~~(1) State that the vehicle has been taken into custody for violation of the Ocean City ordinance prohibiting unauthorized parking on private property.~~
- ~~(2) State the year, make, model and vehicle identification number of the vehicle.~~
- ~~(3) Give the location of the impoundment facility where the vehicle is held.~~
- ~~(4) Inform the vehicle owner that he has the right to contest the validity of the towing and storage of his vehicle at any time within three weeks of the date of such notice by filing a request for hearing with the Police Department on a request form which shall be included with such notice.~~
- ~~(5) Inform the owner and secured party of his right to reclaim the vehicle within three weeks after the date of said notice on payment to the Police Department of all towing and storage charges resulting from the towing and storage of the vehicle.~~
- ~~(6) State that the failure of the owner or the secured party to exercise his right as provided in subsection (b)(5) above to reclaim the vehicle in the time provided is a waiver by him of all his right, title and interest in the vehicle and is a consent to the sale of the vehicle at public auction.~~

~~(e) For purposes of this section, a "full working day" is any 24 hour period during which the motor vehicle administration is open for business, at normal business hours.~~

~~(Code 1972, § 98-15)~~

~~Sec. 90-323. Notification to owner by publication.~~

~~(a) This section shall apply if:~~

- ~~(1) The identity of the last registered owner of an impounded vehicle cannot be determined from the records of the motor vehicle administration;~~
- ~~(2) The registration of the vehicle gives no address for the owner;~~
- ~~(3) It is impossible to determine with reasonable certainty the identity and address of each secured party; or~~
- ~~(4) The registered mail notice required by section 90-322 of this article is returned as undeliverable.~~

~~(b) Under one of the conditions described in subsection (a) of this section, the Police Department shall give the notice provided for in section 90-322 by publication in at least one newspaper of general circulation in Ocean City.~~

~~(c) The notice by publication:~~

- ~~(1) May contain multiple listings of abandoned vehicles;~~
- ~~(2) Shall contain the information required by section 90-322 of this article; and~~
- ~~(3) Shall be published within 15 days of the taking into custody of the vehicle or, if the notice by publication is made because of the return as undeliverable of a prior notice by registered mail, within seven days of the return of that prior notice.~~

~~(Code 1972, § 98-16)~~

~~Secs. 90-324—90-340. Reserved.~~

#### ~~DIVISION 5. RECOVERY OF IMPOUNDED VEHICLES~~

~~Sec. 90-341. Request for hearing; determination as to whether vehicle was properly impounded; appeals.~~

- ~~(a) Within three weeks from the date notice is mailed by the Police Department pursuant to section 90-322 or 90-323 of this article, the owner or secured party of a vehicle which has been impounded may request that a hearing be held to determine whether the vehicle was properly towed and impounded under the provisions of this article. The request for a hearing shall be made by filing a request for hearing form with the Police Department.~~
- ~~(b) The hearing shall be held within 72 hours or the following Monday, Wednesday or Friday which is not a holiday after the request for a hearing is filed with the Police Department. The hearing shall be before a hearing officer who shall have been appointed by the Mayor and City Council of Ocean City. Such hearing officer shall not be a member of any state or local Police Department. The Mayor and City Council shall appoint two hearing officers to conduct such hearing who shall serve for terms of two years, provided that the first appointments made upon the passage of this article shall be staggered, with one term for one year and the other term for two years.~~
- ~~(c) Determination as to whether vehicle was parked illegally.~~
- ~~(1) If it is determined at the hearing that the vehicle was not parked on private property in violation of this article, then the hearing officer shall issue an order that the vehicle be returned to the owner and that such owner is not liable for any of the towing, storage or other charges incurred by the Police Department in connection with the impoundment. If the owner has already paid such towing, storage and other charges to the Police Department, he shall be entitled to receive reimbursement of all such payments from the Police Department, which, in turn, shall be entitled to payment of all such charges from the property owner who filed the complaint with the Police Department which caused the towing and impoundment of the vehicle.~~
- ~~(2) If the hearing officer shall determine that the vehicle was illegally parked on private property in violation of this article, then the owner of the vehicle may not reclaim it until he has paid to the Police Department all towing and storage charges and costs of notice incurred by the Police Department.~~
- ~~(d) Any person aggrieved by the decision of such hearing officer may, within 30 days of such decision, appeal to the Circuit Court of Maryland for Worcester County. If appeal is made by the owner of the vehicle, then the public sale provided for in section 90-344 of this article shall be delayed pending the disposition of said appeal, and the vehicle owner may regain possession of his vehicle by posting bond to secure the payment of all towing and storage charges and costs of notice incurred by the Police Department.~~

~~(Code 1972, § 98-17)~~

~~Sec. 90-342. Reclaiming of vehicle; payment of charges.~~

~~The owner or secured party of a vehicle which has been impounded may reclaim such vehicle within three weeks of the date notice is mailed by the Police Department pursuant to section 90-322 or 90-323 by paying to the Police Department all towing and storage charges and costs of notice incurred by the Police Department in connection with said impoundment.~~

~~(Code 1972, § 98-18)~~

~~Sec. 90-343. Failure to reclaim vehicle.~~

~~If the owner or secured party fails to reclaim an impounded vehicle within three weeks after notice is mailed by the Police Department pursuant to this article, the owner or secured party is deemed to have waived all of his right, title and interest in the vehicle and to have consented to the sale of the vehicle at public auction.~~

~~(Code 1972, § 98-19)~~

~~Sec. 90-344. Sale of vehicle; disposition of proceeds.~~

~~If an impounded vehicle is not reclaimed as provided for in this article, the Police Department shall sell the vehicle at public auction. The buyer of the vehicle at auction shall take title to the vehicle free and clear of any claim of ownership or lien, shall be entitled to a sales receipt from the Police Department and shall be entitled to obtain a certificate of title of the vehicle and to register it in his own name. The sales receipt shall be sufficient title for transferring the vehicle to a scrap processor for dismantling, destroying or scrapping, in which case only, a certificate of title is not required. The Police Department shall reimburse itself from the proceeds of the sale of the vehicle for the costs of towing, preserving and storing the vehicle and the expenses of the auction, including all notice and publication costs incurred under this article. Any remaining proceeds of the sale shall be held for 90 days for the owner of the vehicle and any entitled secured party, after which the remaining proceeds shall revert to the treasury of Ocean City.~~

~~(Code 1972, § 98-20)~~

~~Sec. 90-345. Arrangement between Police Department and towing company regarding payment of charges.~~

~~Nothing contained herein shall prevent the Police Department from agreeing with authorized towing companies that the Police Department shall not be required to pay the towing company for services rendered by such company until such time as the Police Department shall have been paid such towing charges by the vehicle owner or the property owner, as the case may be, or until the vehicle is sold at public auction.~~

~~(Code 1972, § 98-21)~~

~~Secs. 90-346—90-370. Reserved.~~

## ARTICLE VI. - TOWING OF VEHICLES

### DIVISION 1.- GENERALLY

#### Sec. 90-221. - Title.

This Article shall be known as the "Ocean City Towing Ordinance."

#### Sec. 90-222. - Purpose.

The purpose of this Article is to protect the general health, safety and welfare and public interests of the citizens and visitors of the Town of Ocean City ("the Town"); safeguard the public interests against fraud, discrimination, deception and other abuses related to towing; eliminate the retarding of traffic, unnecessary street congestion, delays and traffic hazards related to vehicles and towing; regulate the practices of towing companies; establish reasonable and uniform regulations to handle such vehicles; safeguard private property from indiscriminate and illegal trespassing and utilization; and to authorize the Mayor and City Council to set maximum rates for the towing of vehicles.

#### Sec. 90-223. - Rules of construction.

Whenever used in any clause, the singular pronoun shall include the plural, and vice versa, and the masculine shall include the feminine and neuter, and vice versa.

#### Sec. 90-224. - Definitions.

The following terms, wherever used herein, shall have the respective meanings assigned to them unless a different meaning clearly appears from the context:

*Impounding.* The temporary storage of a vehicle that has been towed to an impound lot.

*Impound Lot.* Any land or building used by the Town of Ocean City to store vehicles that have been impounded.

*Impound Custodian.* A person or persons employed by the Town of Ocean City to oversee the daily operations of the impound lot.

*Motor Vehicle Administration.* The Motor Vehicle Administration of the State of Maryland.

*Person.* Any individual, partnership, corporation, fiduciary, association or other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any partnership or association shall mean the partners or members thereof, and as applied to any corporation, shall include the officers thereof.

*Police or Police Department.* The Police Department of the Town of Ocean City, Maryland.

Private Property. Privately owned land consisting of more than three (3) spaces for vehicle parking that is intended by the owner of the land to be used solely by the owner's customers, clientele, residents, lessees or guests in the manner designated by the owner.

Property Manager. Any person (as defined above) or his/her agents who manages a property on behalf of the property owner.

Property Owner. The owner of property or any person having lawful possession or control of such property. For a condominium building, the property owner is the Council of Unit Owners or any agent designated by the Council of Unit Owners to handle parking.

Redemption Area. An area or building where a vehicle owner may redeem their vehicle.

Specialized Equipment. Equipment used by the towing company in its operations, including but not limited to blocking, airbags, ramps, sling straps, and snatch blocks.

Tow or Towing. The moving or removing, and/or the preparation thereof, of a vehicle by a tow truck for which a service charge is made to the tow truck, either directly or indirectly. A charge made indirectly refers to dues or other charges of bona fide clubs or associations which provide towing services

Towing Company. A person, partnership, corporation, fiduciary, association or other entity, licensed by the Town of Ocean City, to operate and conduct the business of disentangling, removing, moving or towing vehicles.

Tow Truck. A vehicle which has the capability to tow a vehicle and is licensed by the Town of Ocean City.

Unauthorized Vehicle. Any vehicle which a property owner has not consented to have parked on their property.

Vehicle. A vehicle as defined in §11-176, Transportation Article, Ann. Code of Md., as amended from time to time, which includes but is not limited to motor vehicles, motorcycles, and trailers.

Vehicle, Abandoned. A vehicle that:

- (1) is inoperable and/or is left unattended on public property for more than forty-eight (48) hours;
- (2) has remained illegally on public property for a period of more than forty-eight (48) hours;
- (3) has remained illegally on private property for a period of more than forty-eight (48) hours without the consent of the owner or property manager;
- (4) has remained on public property for more than forty-eight (48) hours, and (1) is not displaying currently valid registration plates, or (2) is displaying registration plates of another vehicle;
- (5) is parked or stopped on public property which poses an immediate traffic hazard or danger to the public health and safety;

(6) has remained in a garage for more than ten (10) days after the garage keeper has given the owner of the vehicle notice by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to remove the vehicle;

(7) has remained in a garage for more than ten (10) days after the period when, by contract, the vehicle was to remain in the garage;

(8) was left for more than ten (10) days in a garage by:

(i) Someone other than its registered owner; or

(ii) A person authorized to have possession of the vehicle under a contract of use, service, storage, or repair;

(9) has been left unattended on any portion of a "controlled access highway" as defined in Transportation Article Ann. Code of Md § 8-101(f) for more than twenty-four (24) hours;

(10) has been left unattended on any portion of a primary or secondary highway or controlled access highway, as defined in Transportation Article Ann. Code of Md § 8-101 and is in violation of any of the provisions of Transportation Article Ann. Code of Md § 22-408; or

(11) is not reclaimed as provided under Transportation Article Ann. Code of Md § 16-303.1.

Vehicle, Disabled. A disabled vehicle as defined in §21-1004, Transportation Article, Ann. Code of Md., as amended from time to time.

Vehicle Owner. The person or entity whose name is on the vehicle title.

Police Directed Tows. Any vehicle tow directed by a police officer or other authorized employee of the Police Department.

Secured Party. A lienholder of the vehicle.

**Sec. 90-225-230. Reserved.**

## **DIVISION 2.- LICENSES**

**Sec. 90-231. - License required.**

All persons who wish to tow and/or operate a towing company and/or perform tow services within the Town regardless of whether a service charge is made, shall first obtain a license in accordance with this Article.

**Sec. 90-232. - Application for license; fee; issuance; term.**

Licenses to tow shall be obtained by filing with the Police Department an application on forms furnished by the Police Department, along with an annual license fee of \$110.00. This license fee is to be forwarded to and retained by the Mayor and City Council of Ocean City and is to cover the costs of examination and inspection of trucks, equipment, and storage facilities. Town licenses shall expire February 1 of each year and shall be renewable yearly upon completion of the Town's application and payment of the annual license fee, and shall be subject to the provisions of this Article and any other towing procedures adopted by Resolution by the Mayor and City Council. Failure to complete the necessary information on the application, provide required documentation or pay the annual license fee shall cause the license application to be denied.

**Sec. 90-233. - Suspension or revocation of license.**

(a) The Chief of Police is authorized to suspend the license of a towing company for a reasonable time period, or may revoke a license based on the severity of the action, for violating any provision of this Article and for any of the following actions:

- (1) The towing company, or any person associated with the towing company, has furnished or made misleading or false statements on reports, certifications, or written documents required by this Article;
- (2) A court of competent jurisdiction has found an applicant for a license or a towing company guilty of criminal activity during the preceding five (5) years directly related to the operation of the business of towing. A plea of nolo contendere shall be deemed to be the equivalent of a conviction or a guilty plea;
- (3) A court of competent jurisdiction has found a tow truck operator, employed by a towing company, guilty of a criminal act authorized by the Licensee;
- (4) A vehicle has been towed by a towing company without the request of the Police pursuant to Division 7 or the consent of the property owner or its property manager pursuant to Division 6 of this Article;
- (5) A tow truck operator has failed to comply with any law regulating the towing of vehicles;
- (6) The towing company, or any person associated with the towing company, has towed a vehicle from a property the Licensee has no current contract or authorization from which to tow under Division 6 of this Article;
- (7) The towing company has employed spotting practices as part of its towing policy;
- (8) The towing company, or any person associated with the towing company, has offered or paid any owner, agent, manager, employee or users of the parking lot to obtain business under Division 6 of this Article; or
- (9) Any other action based on the severity of which the Chief of Police believes warrants a suspension or revocation.

(b) If a license has been suspended in the previous twelve (12) months and a subsequent violation occurs, the Chief of Police shall automatically revoke the license.

(c) If a license has been suspended three times, the Chief of Police shall automatically revoke the license on the fourth offense.

(d) If a violation of this Article occurs by a towing company as determined by the Chief of Police, the Chief of Police shall send a written notice, by certified mail return receipt requested to the person authorized to receive service for the towing company stating that its authorization to operate within the Town has been suspended or revoked. The notice shall state the reasons for the suspension or revocation, including the date(s) of the violation, the length of the suspension or revocation, and the effective date of the suspension and revocation. The decision to suspend or revoke shall be at the sole discretion of the Chief of Police. The notice shall indicate the right of the towing company to appeal the decision to the Police Commission within fourteen (14) calendar days of the date on the notice. The appeal request shall be in writing to the Chief of Police.

(d) The appeal hearing on a decision to suspend or revoke a towing company's license shall be conducted by three members of the Police Commission. The hearing shall take place within forty-eight (48) hours of the request, unless the hearing requester is unable to attend within the forty-eight (48) hours and requests, in writing, a hearing at a later date, no later than seven (7) business days from date of hearing request. The towing company shall receive written notice of the hearing to include the date, time and location of the hearing and the reason for suspension or revocation. The hearing panel shall hear and consider evidence offered by any interested person to determine whether the decision of the Chief of Police was correct. The towing company may have legal counsel present. The three-member panel may uphold, reverse, or modify the suspension or revocation by a majority vote. If the towing company fails to appear, the decision of the Chief of Police stands. The three-member panel shall have ten (10) days to provide the towing company a written decision.

(e) Any further appeal is to the Circuit Court for Worcester County, Maryland within thirty (30) days of the hearing panel's written decision.

**Sec. 90-235 – 90-240. Reserved.**

**DIVISION 3. – TOWING COMPANY REQUIREMENTS, GENERALLY**

**Sec. 90-241. - Towing company requirements.**

(a) All towing companies shall have the identification, valid license, valid inspection and insurance as required under Maryland law.

(b) All towing companies shall file their schedule of rates for all actions, a copy of their insurance policies (as listed below), a list of all tow trucks, including their make, model, year, vehicle identification, registered owner and USDOT number, a copy of the title to each truck and a copy of insurance on each truck with the Police Department annually.

(c) All towing companies shall complete and sign annually the "Tow Company Annual License Application."

(d) All towing companies shall sign the "Procedures for Tow Companies" annually.

(e) All towing companies shall maintain insurances as required by §13-920(h) of the Transportation Article of the Annotated Code of Maryland, as amended from time to time.

(f) The insurance required must be issued by an insurance company licensed to do business in the State of Maryland having an A.M. Best Rating of "B+" or better. Evidence of insurance shall be in the form of a certificate of insurance or a true and certified copy of any policy required. The Police Department shall be notified if any of the required insurance is cancelled within 7 days of said cancellation. Failure to maintain the required insurance will invalidate the towing company's license and the towing company can no longer engage in towing in the Town.

(g) Tow trucks shall have legible markings to include company name, telephone number and USDOT number visible from a distance of fifty (50) feet, in letters no less than four inches in height, on both doors. Tow trucks shall display only the name of the company as it appears on the tow license. Magnetic signs are not permitted. A copy of the tow license shall be kept in every tow truck. The Police Department shall annually inspect all tow trucks for these requirements.

(h) All towing companies shall provide the names of their drivers, date of birth, driver's license number and CDL status. Each driver employed by a towing company shall be at least eighteen (18) years of age and shall have a valid license to operate a tow truck.

(i) All towing companies shall provide the Police Department documentation of the structure of the ownership of the business, names of persons involved, including officers, partners and directors and the address of the person authorized to accept service of behalf of the towing company.

(j) All towing companies shall comply with this Article.

**Sec. 90-242. – Additional requirements for towing companies; storage; notification to Police Department of towing of vehicle.**

(a) Inspections and examinations of the towing company's equipment and storage facilities shall be made by the Police Department. The towing company must provide storage, either covered or uncovered, for a minimum of ten vehicles.

(b) All towing companies shall have someone available to release vehicles twenty-four (24) hours a day, every day of the year at their storage facility.

(c) The telephone number of the individual available to release vehicles shall be clearly posted on the storage facility premises.

(d) A police officer may order a towing company to release a vehicle, or to stop attaching a vehicle, at any time, and if ordered, no fee shall be charged.

**Sec. 90-243. - Filing of schedule of charges by towing companies.**

Prior to the issuance of the license in Section 90-232, the towing company shall furnish the Police Department with a schedule of charges for towing and services incident to the towing of vehicles. Said schedule of charges shall not be in excess of the maximum charges permitted by the Mayor and City Council set by Resolution. This schedule of fees shall be retained by the Police Department and may, upon thirty (30) days' notice, be revised by later filing a modified schedule of charges.

**Sec. 90-244. - Tow charges.**

(a) The Mayor and City Council shall establish and amend from time to time, by Resolution, the maximum charges a towing company may charge for towing pursuant to this Article.

(b) A towing company shall not charge for any act not set forth by Resolution unless that act was expressly requested in writing by the vehicle owner, or charge an amount greater than authorized.

(c) Any vehicle towed to the Ocean City impound lot shall be assessed an administrative fee as established by Resolution of the Mayor and City Council and amended from time to time, in addition to the towing company charges.

**Sections 90-245 - 90-250. Reserved.**

**DIVISION 4. - IMPOUNDMENT OF VEHICLES, GENERALLY**

**Sec. 90-251. - Impounding vehicles.**

The Police Department may take into custody any vehicle which is towed within the Town. Such vehicle shall be towed to an impoundment lot maintained by the Town. For this purpose, the Police Department may employ its own personnel or equipment or may hire persons, equipment, and facilities for removing, preserving, and storing vehicles. The vehicle owner of any vehicle which has been towed pursuant to this Article shall reimburse the Mayor and City Council for all expenses incurred by it in the towing and storage of such vehicle, including but not limited to an administrative fee.

**Sec. 90-252. - Inspection of vehicle and inventory of contents**

An impound custodian or towing company lot attendant shall, prior to accepting any vehicle for impoundment, observe the exterior of said vehicle and note on an inventory sheet any obvious scratches, dents, or other damage to the vehicle. The impound custodian or towing company lot attendant shall also indicate whether or not the keys are in said vehicle and whether or not the vehicle, including the trunk, is locked or unlocked, and do an inventory of the contents of the vehicle by observation, including the contents of the trunk if the trunk is unlocked.

**Sec. 90-253. - Maintenance of vehicles during impoundment.**

The impound custodian or towing company lot attendant shall keep the keys to the vehicle, if same are therein, in his/her possession, at all times, while the vehicle is impounded. The impound custodian or towing company lot attendant shall keep the impounded vehicle under observation and make periodic inspections of all impounded vehicles.

**Sec. 90-254. - Notification to owner by mail.**

(a) If the vehicle which has been impounded is registered under Maryland law, within one (1) business day after it has been notified of such impoundment, the Police Department shall send a notice by registered mail, return receipt requested, to the last known registered owner of the vehicle and to each secured party, as shown in the records of the Motor Vehicle Administration.

(b) The notice shall:

- (1) State that the vehicle has been taken into custody for violation of the Ocean City Towing Ordinance, and state the specific violation and the location the vehicle was towed from;
- (2) State the date and time the vehicle was towed;
- (3) State the year, make, model, color, license plate number and vehicle identification number of the vehicle;
- (4) Give the location of the impound lot where the vehicle is held and the phone number;
- (5) Inform the vehicle owner of any costs that will be incurred to pay for providing notice under this section;
- (6) Inform the vehicle owner that he/she has the right to contest the validity of the towing and storage of his/her vehicle at any time within twenty-one (21) days of the date of such notice by filing a written request for a hearing with the Police Department on a the Police Department request form which shall be included with such notice;
- (7) Inform the owner and secured party of his/her right to reclaim the vehicle within twenty-one (21) days after the date of said notice on payment to the Police Department of all towing and storage charges resulting from the towing and storage of the vehicle; and
- (8) State that the failure of the owner or the secured party to exercise his/her right to reclaim the vehicle in the time provided is a waiver by him/her of all his/her right, title and interest in the vehicle and is a consent to the sale of the vehicle at public auction.

**Sec. 90-255. - Notification to owner by publication.**

(a) If one of the conditions described in subsection (b) of this section applies, the Police Department shall give notice by publication in at least one newspaper of general circulation in the Town. The notice by publication may contain multiple listings of

impounded vehicles, shall contain the information required by Section 90-254 above; and shall be published within fifteen (15) days of the taking into custody of the vehicle or, if the notice by publication is made because of the return as undeliverable of a prior notice by registered mail, within seven (7) days of the return of that prior written notice.

(b) This section shall apply if:

- (1) The identity of the last registered owner of an impounded vehicle cannot be determined from the records of the Motor Vehicle Administration;
- (2) The registration of the vehicle gives no address for the owner;
- (3) It is impossible to determine with reasonable certainty the identity and address of each secured party; or
- (4) The registered mail notice required by Section 90-254 of this Division is returned as undeliverable.

**Sec. 90-256. - Reclaiming of vehicle; payment of charges.**

(a) Unless prohibited by law or this Article, the vehicle owner or secured party of a vehicle which has been impounded may reclaim such vehicle within twenty-one (21) days of the date notice is mailed by the Police Department pursuant to Section 90-254 or 90-255 by paying to the Police Department all towing and storage charges and costs of notice incurred by the Police Department in connection with said impoundment.

(b) Any vehicles impounded at the Police Department's impound lot which cannot be legally driven or has mechanical issues preventing the vehicle from being driven, shall only be towed off the impound lot by a licensed towing company as defined in Section 90-224 and a properly inspected and approved tow truck of said licensed company.

(c) An impound lot shall be open for redemption of vehicles twenty-four (24) hours per day, seven days a week.

(d) An impound lot that is in the possession of a towed vehicle shall make the vehicle available to the owner, the owner's agent, a secured party, or the insurer of record, under the supervision of the storage site, for:

- (1) Inspection; or
- (2) Retrieval from the vehicle of personal property that is not attached to the vehicle.

(e) The impound lot shall accept full payment by cash or at least two major, nationally recognized credit cards. If cash is only accepted, there must be an operable automatic teller machine available on premises. If there is no automatic teller machine on premises and credit cards are unable to be processed, a personal check must be accepted with proper identification. A personal check may be refused if a credit card was attempted to be used for payment and the payment was declined by the credit card company.

(f) Upon receiving payment, the impound custodian shall furnish the vehicle owner a receipt on a form which includes the following:

- (1) Record the amount paid to redeem the vehicle, the actions for which the vehicle owner paid, and the date and time of the redemption;

(2) Be signed legibly by an agent of the Police Department and list the name, address and telephone number; and

(3) Briefly inform the vehicle owner if they are eligible for a hearing to dispute the validity of the tow.

(g) A towing company shall not require a vehicle owner to sign any waiver of the vehicle owner's right to receive compensation for damages to the vehicle.

**Sec. 90-257. - Failure to reclaim vehicle.**

If the vehicle owner or secured party fails to reclaim an impounded vehicle within twenty-one (21) days after notice is mailed, the vehicle owner or secured party is deemed to have waived all of his/her right, title and interest in the vehicle and to have consented to the sale of the vehicle at public auction.

**Sec. 90-258. - Sale of vehicle; disposition of proceeds.**

If a vehicle is not reclaimed as provided for in this Division, the Police Department shall sell the vehicle at public auction. The buyer of the vehicle at auction shall take title to the vehicle free and clear of any claim of ownership or lien, shall be entitled to a sales receipt from the Police Department, and shall be entitled to obtain a certificate of title of the vehicle and to register it in his own name. The sales receipt shall be sufficient title for transferring the vehicle to a scrap processor for dismantling, destroying, or scrapping, in which case only, a certificate of title is not required. The Police Department shall reimburse itself from the proceeds of the sale of the vehicle for the costs of towing, preserving, and storing the vehicle and the expenses of the auction, including all notice and publication costs incurred under this Article. Any remaining proceeds of the sale shall be held for ninety (90) days for the owner of the vehicle and any entitled secured party, after which the remaining proceeds shall revert to the general fund of the Town.

**Sec. 90-259. - Arrangement between Police Department and towing company regarding payment of charges.**

Nothing contained herein shall prevent the Police Department from agreeing with authorized towing companies that the Police Department shall not be required to pay the towing company for services rendered by such company until such time as the Police Department shall have been paid such towing charges by the vehicle owner or the property owner, as the case may be, or until the vehicle is sold at public auction.

**Sec. 90-260. Reserved.**

**DIVISION 5. - TOWING OF ABANDONED VEHICLES AND DISABLED VEHICLES[9]**

**Footnotes:**

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**State Law reference** Abandoned vehicles, Ann. Code of Md., Transportation Article, § 25-201 et seq.; Transportation Article § 21-1004 Disabled vehicles.

**Sec. 90-261. - Scope.**

This Division applies additional procedures for the towing of an abandoned vehicle or a disabled vehicle.

**Sec. 90-262. - Abandonment of vehicles and unattended disabled vehicles is prohibited.**

It shall be unlawful for any person to abandon or cause to be abandoned a vehicle on public property or private property or to leave unattended a disabled vehicle. The last owner of record of an abandoned or disabled vehicle shall be deemed prima facie to be the owner of such vehicle at the time it was abandoned or disabled and to be the person who abandoned or caused to be abandoned said vehicle or who left disabled vehicle unattended.

**Sec. 90-263. - Towing and impoundment authorized; collection of expenses.**

The Police Department may take into custody any vehicle which is abandoned or disabled within the Town. Such abandoned or disabled vehicle shall be towed to the Town's impoundment lot. For this purpose, the Police Department may employ its own personnel or equipment or may hire persons, a towing company, equipment, and facilities for removing, preserving, and storing abandoned and disabled vehicles. The vehicle owner of any abandoned or disabled vehicle which has been towed pursuant to this Division, shall reimburse the Mayor and City Council for all expenses incurred by it in the towing and storage of such abandoned or disabled vehicle in an amount no greater than permitted by the maximum tow charges as set forth by Resolution and amended from time to time, as well as the administrative fee.

**Sec. 90-264. - Tow slip required.**

(a) A towing company towing under this Division shall provide the Police Department the following information:

- (1) The address from which the vehicle was towed;
- (2) The date and time the vehicle was towed;
- (3) The make, model, year, color, license plate number of the vehicle and state on license plate;
- (4) The vehicle identification number;
- (5) The reason the vehicle was towed;
- (6) The name of the towing company and the name and signature of the tow truck operator and the person who authorized the vehicle to be towed; and
- (7) The name and phone number of the Police Department.

(b) The Tow Slip shall be legibly written and shall consist of one original and three copies. The yellow copy of which shall be securely attached to the unauthorized vehicle.

(c) Towing company and the Town's impound lot shall retain a tow slip for twelve (12) months.

**Sec. 90-265. - Request for hearing; determination as to whether vehicle was properly impounded; appeals.**

(a) Within twenty-one (21) days from the date notice is mailed by the Police Department pursuant to Section 90-254, the vehicle owner may request that a hearing be held to determine whether the vehicle was properly towed and impounded. The request for a hearing shall be made by filing a request-for-hearing form with the Police Department.

(b) The hearing shall be held within twenty-four (24) hours of the written request unless the hearing requester is unable to attend in the twenty-four (24) hours and requests in writing a hearing at a later time no later than seven (7) business days from the date of the hearing request.

(c) The hearing shall be before a hearing officer who shall have been appointed by the Mayor and City Council of Ocean City. Such hearing officer shall not be a member of any state or local Police Department. The Mayor and City Council shall appoint two (2) hearing officers to conduct such hearings who shall serve for terms of two (2) years, provided that the first appointments made upon the passage of this Division shall be staggered, with one term for one (1) year and the other term for two (2) years.

(d) Determination as to whether vehicle was abandoned or disabled.

(1) If it is determined at the hearing that the vehicle was not abandoned or disabled in violation of this Division, then the hearing officer shall issue an order that the vehicle be returned to the vehicle owner and that such vehicle owner is not liable for any of the towing, storage or other charges incurred by the Police Department in connection with the impoundment. If the vehicle owner has already paid such towing, storage, and other charges to the Police Department, he/she shall be entitled to receive reimbursement of all such payments from the Police Department.

(2) If the hearing officer determines that the vehicle was abandoned or disabled in violation of this Division, then the vehicle owner shall not reclaim it until he/she has paid to the Police Department all towing and storage charges and costs of notice incurred by the Police Department.

(e) Any person aggrieved by the decision of such hearing officer may, within thirty (30) days of such decision, appeal to the Circuit Court of Maryland for Worcester County. If appeal is made by the vehicle owner, then the public sale provided for in section 90-258 of this Article shall be delayed pending the disposition of said appeal, and the vehicle owner may regain possession of his vehicle by posting bond equivalent to the amount of the towing and storage charges and costs of notice incurred by the Police Department.

**Secs. 90-266—90-270. - Reserved.**

**DIVISION 6. – TOWING OF VEHICLES ILLEGALLY ON PRIVATE PROPERTY<sup>[10]</sup>**

Footnotes:

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**State Law reference**— Towing or removal of vehicles from parking lots, Ann. Code of Md., Transportation Article, § 21-10A-01 et seq.

**Sec. 90-271. - Scope.**

(a) This Division applies additional procedures to the towing of a vehicle from private property without the consent of the vehicle owner.

(b) This Division does not apply to:

(1) Towing initiated by the vehicle owner;

(2) Towing approved or requested by a police officer or designated Town employee, in the course of removing impediments to traffic, during the course of a criminal investigation or Divisions 5 or 7 of this Article.

(3) Towing a vehicle during a repossession of the vehicle;

(4) Towing from a marked fire lane;

(5) Towing from a designated parking space for persons with disabilities when no tag is displayed;

(6) Towing from the yard or driveway of a single-family dwelling; or

(7) Towing from land immediately adjoining an electric or telephone utility building or structure that is not open to the general public and land is privately owned.

**Sec. 90-272. - Parking on posted property.**

It shall be unlawful for any person to park or cause to be parked, a vehicle on private property which has posted a prohibition against parking without the consent of the property owner. The vehicle owner per the files of the Motor Vehicle Administration, shall be deemed prima facie to have been the owner of such vehicle at the time it was parked and the person who parked or caused said vehicle to be parked.

**Sec. 90-273. - Required signage; indemnification; duties of property owner.**

Any property owner desiring to utilize the procedures provided by this Division shall obtain from the Town's City Hall, signs which shall be posted on said owner's property. The signs shall remain the property of the Mayor and City Council, but a charge, as is determined by the Mayor and City Council by Resolution, for the use of such sign shall be imposed. Before obtaining said sign or signs, a property owner shall execute an indemnification and hold harmless agreement which shall provide that the property owner shall indemnify and hold harmless the Town against any claim of damage resulting from the towing and impoundment of vehicles removed from said private property. The continued usage and posting of such sign or signs by the property owner shall be contingent upon said property owner abiding by such rules and regulations adopted by the Mayor and City Council relative to charges for towing, and other procedures necessary to properly implement and administer this Division. Any sign obtained hereunder shall be annually renewed by the property owner on May 1 of each year and said renewal sticker shall be placed on the sign. The annual renewal charge is as established by Resolution of the Mayor and City Council.

**Sec. 90-274. – Contents, condition and location of signs.**

(a) The content of the signs required by this Division shall state that unauthorized parking is prohibited and that vehicles parked without authorization may be towed and impounded without notice at the vehicle owner's expense. Said signs shall be posted in such a manner and in such location as to be clearly visible from the area where parking is to be prohibited.

(b) A property owner shall post a sign notifying the public of parking restrictions at least twenty-four (24) hours before towing or ordering the towing of an unauthorized vehicle.

(c) There shall be a sufficient number of signs permanently posted so that:

(1) At least one sign is clearly visible from each parking area and each vehicle entrance to the property at all times; or

(2) a sign shall be placed to provide at least 1 sign for every 7,500 square feet of parking space in the parking lot and each sign shall be able to be read from all affected spaces.

(d) Each sign shall:

(1) Be at least twenty-four (24) inches high and thirty (30) inches wide;

(2) List the name and telephone number of each towing company hired to tow unauthorized vehicles from the property and the location of said lots;

(3) State that a vehicle owner may contact the Police Department and state the phone number;

(4) State that vehicles shall be available for reclamation twenty-four (24) hours a day, seven (7) days a week;

(5) State the maximum amount that the owner of the vehicle may be charged for the towing of the vehicle;

(6) Be located so that it is able to be read by motorists in daylight and at night; and

(7) Be maintained in a legible and unobstructed condition.

**Sec. 90-275. - Complaint by property owner.**

Any property owner or property manager, when a vehicle is illegally parked upon his/her private property or property he/she manages, may make a complaint to a towing company stating that he/she requests that said unauthorized vehicle be removed from his/her property. Said complaint shall contain a statement made by the property owner or property manager, under oath, that the unauthorized vehicle which he/she seeks to have removed was parked on his/her property or the property they manage without his/her consent, and that the unauthorized vehicle was parked in an area from which a sign prohibiting unauthorized parking was clearly visible.

**Sec. 90-276. - Contract for towing.**

All towing companies shall enter into a written contract with every owner of private property that authorizes the towing company to tow unauthorized vehicles from its property.

The towing company shall keep on file each contract that is in effect, or that was terminated within the previous twelve (12) months. The Police Department and/or the vehicle owner whose vehicle was towed by the towing company may inspect and request a copy of any contract during normal business hours.

**Sec. 90-277. - Tow slip required.**

(a) A towing company shall not tow a vehicle from private property unless the property owner has directly, or through the property manager, expressly authorized the towing of the particular vehicle, except as detailed in subsection (d). Authorization shall be in the form of a Tow Slip. The Tow Slip shall contain the following information:

- (1) The address from which the vehicle was towed;
- (2) The date and time the vehicle was towed;
- (3) The make, model, year, color, license plate number of the vehicle and state on license plate;
- (4) The vehicle identification number;
- (5) The reason the vehicle was towed;
- (6) The name of the towing company and the name and signature of the tow truck operator and the person who authorized the vehicle to be towed;
- (7) The name and phone number of the Police Department; and
- (8) Signature of the property owner, or the property manager, and their phone number.

(b) The Tow Slip shall be legibly written and shall consist of one original and three copies. The yellow copy of which shall be securely attached to the unauthorized vehicle.

(c) An unauthorized vehicle may be towed from private property without the express authorization of the property owner or the property manager only if the vehicle is directly blocking access to the property or to a building on the property.

(d) The towing company and the Town's impound lot shall retain a tow slip for twelve (12) months.

**Sec. 90-278. - Incomplete tow.**

(a) If a vehicle owner returns to an unauthorized vehicle at any time after the vehicle is attached to the tow truck but before it is towed from private property, the towing company shall release the vehicle to the vehicle owner when the vehicle owner pays the drop fee. The drop fees shall be as set forth by Resolution pursuant to Section 90-244. The towing company shall not charge any other fee for attaching or releasing the vehicle.

(b) A towing company shall not block an unauthorized vehicle with a tow truck to obtain payment from the vehicle owner before attaching the vehicle to the tow truck.

(c) The towing company shall provide a receipt that indicates the drop fee paid and the date of the incomplete tow.

(d) A police officer may order a towing company to release a vehicle, or to stop attaching a vehicle, at any time, and no fees shall be charged.

(e) This section does not:

(1) Create or imply a lien in favor of a towing company when a lien would not otherwise exist; or

(2) Create a right of any towing company to retain possession of any vehicle that it would otherwise have to return to the vehicle owner.

**Sec. 90-279. - Request for hearing; determination as to whether vehicle was properly impounded; appeals.**

(a) Within twenty-one (21) days from the date notice is mailed by the Police Department, the vehicle owner or secured party of a vehicle which has been impounded may request that a hearing be held to determine whether the vehicle was properly towed and impounded under the provisions of this Division. The request for a hearing shall be made by filing a request-for-hearing form with the Police Department.

(b) The hearing shall be held within twenty-four (24) hours of the written request, unless the hearing requester is unable to attend within twenty-four (24) hours and requests, in writing, a hearing at a later date, no later than seven (7) business days from the date of the hearing request.

(c) The hearing shall be held before a hearing officer who shall have been appointed by the Mayor and City Council of Ocean City. Such hearing officer shall not be a member of any state or local Police Department. The Mayor and City Council shall appoint two hearing officers to conduct such hearings who shall serve for terms of two years, provided that the first appointments made upon the passage of this Division shall be staggered, with one term for one (1) year and the other term for two (2) years.

(d) Determination as to whether vehicle was parked illegally.

(1) If it is determined at the hearing that the vehicle was not parked on private property in violation of this Division, then the hearing officer shall issue an order that the vehicle be returned to the vehicle owner and that such vehicle owner is not liable for any of the towing, storage or other charges incurred by the Police Department in connection with the impoundment. If the vehicle owner has already paid such towing, storage and other charges to the Police Department, he shall be entitled to receive reimbursement of all such payments from the Police Department, which, in turn, shall be entitled to payment of all such charges from the property owner or property manager who filed the complaint which caused the towing and impoundment of the vehicle.

(2) If the hearing officer shall determine that the vehicle was illegally parked on private property in violation of this Division, then the vehicle owner may not reclaim it until he has paid to the Police Department all towing and storage charges and costs of notice incurred by the Police Department.

(e) Any person aggrieved by the decision of such hearing officer may, within thirty (30) days of such decision, appeal to the Circuit Court of Maryland for Worcester County. If

appeal is made by the vehicle owner, then the public sale provided for in Section 90-258 shall be delayed pending the disposition of said appeal, and the vehicle owner may regain possession of his vehicle by posting bond to secure the payment of all towing and storage charges and costs of notice incurred by the Police Department.

**Sec. 90-280. - Prohibited activities.**

(a) It shall be unlawful to remove a vehicle illegally parked on private property unless the property owner or property owner's property manager complies with the provisions of this Division.

(b) A property owner, property manager, or any officer or employee of a towing company shall not:

(1) Falsely state that a property owner authorized the towing of a particular vehicle when said authorization did not occur;

(2) Record any false information about the towing of a particular vehicle; or

(3) Sign a Tow Slip before all of the information relating to the towing of a particular vehicle is recorded on the slip.

(c) A towing company shall not pay for the services of a property manager and a towing company shall not charge a vehicle owner any fee for the services of a property manager.

(d) A towing company shall not pay or offer to pay a property owner and a property owner shall not accept payment for authorizing the towing of a vehicle from private property.

(e) A person shall not act as an agent for the property for the purpose of ordering the towing of an unauthorized vehicle unless the property owner or property manager has given express written permission to said person to act.

(f) A property owner, or a property manager, for the purpose of ordering the towing of an unauthorized vehicle, shall not:

(1) Be employed by, or have any member of their family employed by, any towing company; or

(2) Have any financial interest in any towing company or the towing of any unauthorized vehicle.

(g) A towing company shall not employ or otherwise compensate individuals, commonly referred to as "spotters," whose primary task is to report the presence of unauthorized vehicles for the purposes of towing or removal.

(h) A vehicle may not be towed from private property solely for a violation of failure to display a valid current registration under Section 13-411 of the Transportation Article of the Ann. Code of Md, as amended from time to time, until seventy-two (72) hours after a notice of violation is placed on the vehicle.

(i) A vehicle with a valid license plate or placard for persons with disabilities conspicuously displayed shall not be towed from private property without the consent of the vehicle owner unless:

- (1) The tow is expressly authorized by a police officer or member of the Ocean City Fire Department; or
- (2) The vehicle is blocking a clearly marked fire lane or access to another vehicle, the property, or a building; and
- (3) A warning is placed conspicuously on the vehicle either as a written warning under the wipers or a tag placed on handle for a two (2) hour period prior to towing.

**Sections 90-282- 90-290. Reserved.**

**DIVISION 7. – POLICE DIRECTED TOWS.**

**Sec. 90-291. - Scope.**

This Division applies additional procedures to the towing of a vehicle when deemed necessary and directed by the Police Department as a result of an accident, collision, parking violation, arrest and/or special events.

**Sec. 90-292. – Procedures for police directed tows.**

(a) All towing companies who wish to participate shall be placed on a rotation schedule to respond to police directed tows. The towing companies shall be available for tows that result from accidents, collision, parking violations, arrests and special events. The towing companies shall comply with the requirements and procedures set forth in Divisions 1-4, the “Procedures for Tow Companies” and the following also applies to all police directed tows:

- (1) A towing company is required to be able to respond to the scene within thirty (30) minutes and if unable to do so, must notify the dispatcher immediately.
- (2) A towing company that is dispatched must respond. Substitutions with another company’s truck is not permitted and will be turned away unless approved in advance by the dispatcher after verifying with the on-scene officer during an emergency situation.
- (3) All tows made under this Division are to be towed to the Town’s impound lot except for accident and collision tows. Accident and collision tows are to be towed by the towing company to its lot unless the police officer requests the vehicle to be brought to the Town’s impound lot.
- (4) If a vehicle is towed to a private lot:

(i) the lot shall not be located more than fifteen (15) miles from the origin of the tow or be towed outside the State and the towing company may not

move the towed vehicle from that lot to another lot for at least seventy-two (72) hours after the vehicle has been towed;

(ii) the lot shall be brightly lit at all times;

(iii) the towed vehicle shall not be stored more than a reasonable walking distance from a redemption area;

(iv) the towed vehicle and its contents shall be secure at all times;

(v) the lot shall be identified by a sign at the entrance indicating the name and telephone number of the towing company; and

(vi) each lot shall accept full payment by cash or at least two major recognized credit cards. If cash is only accepted, there must be an operable automatic teller machine available on premises. If there is no automatic teller on premises and credit cards are unable to be processed, a personal check must be accepted with proper identification.

(b) Violations of these rules will result in removal from the call rotation.

**Section 90-293 - 90-300. Reserved.**

**DIVISION 8. – PENALTIES AND SEVERABILITY.**

**Sec. 90-301. - Penalties.**

(a) Any person who performs towing services within the Town without a license as herein specified shall be guilty of a municipal infraction and, upon conviction thereof, shall be subject to a fine not exceeding \$1,000.00 for each and every offense.

(b) Any person who tows a vehicle from private property in violation of Division 6 shall be liable for actual damages sustained by any person as a direct result of the violation and shall be liable to the vehicle owner, a secured party, an insurer or a successor in interest for triple the amount paid by the vehicle owner or the vehicle owner's agent to retake possession of the vehicle.

(c) Any violation of Section 90-276 by a person or a towing company or employee of a towing company shall upon conviction thereof be guilty of a misdemeanor and shall be subject to 90 days imprisonment and/or a fine of \$1,000.00 with each violation be considered a separate offense.

(d) Any other violation of the requirements of this Article by a person or a towing company or employee of a towing company shall be deemed a municipal infraction and the violator of such shall be subject to a fine not exceeding \$1,000.00. Each day a violation continues is a separate violation.

(e) The Town may take any action at law or in equity, including injunction and mandamus, to enforce the provisions of this Article.

**Sec. 90-302. – Severability.**

If any portion, subsection, sentence, clause or phrase of this Article is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Article. The Mayor and City Council hereby declares that it would have passed this ordinance and each portion or subsection, sentence, clause and phrase herein, irrespective of the fact that any one or more portions, subsections, sentences, clauses or phrases be declared invalid.

State Law reference— Penalties for ordinance violations, Ann. Code of Md., Local Government Article § 6-101, et seq

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## ARTICLE VII- RESERVED.

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### ~~CHAPTER 102- VEHICLES FOR HIRE~~

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#### ~~ARTICLE IV. TOWING SERVICES~~

~~Sec. 102-111. License required.~~

~~It shall be unlawful for any person to engage in towing disabled or abandoned vehicles, for which a service charge is made, through or from the streets of Ocean City without first obtaining a license therefor as herein provided.~~

~~(Code 1972, § 96-5)~~

~~Sec. 102-112. Application for license; fee; issuance; term.~~

~~Licenses shall be obtained by filing with the Police Department an application therefor on forms furnished by the Ocean City Police Department, along with an annual license fee of \$110.00. This license fee is to be forwarded to and retained by the Mayor and City Council of Ocean City and is to cover the costs of examination and inspection of equipment and storage facilities. Ocean City licenses shall expire February 1 of each year and shall be renewable yearly upon completion of the Ocean City application and payment of the annual license fee. The Police Department shall adopt rules and regulations pursuant to the procedures provided in this article and article VI of chapter 90 and the provisions of article VII of chapter 90 of the Code of Ocean City, Maryland, for the purposes of issuing tow licenses.~~

~~(Code 1972, § 96-6)~~

~~Sec. 102-113. Suspension or revocation.~~

~~(a) Any person licensed to tow or store vehicles under this article violating the provisions of this article or article VI of chapter 90 shall have his license subject to revocation and/or suspension by the Chief of Police.~~

~~(b) Any licensed person whose license is revoked or suspended by the Chief of Police shall have the right to petition the Mayor and City Council for reinstatement of said license or the lifting of said suspension. The Mayor and City Council shall determine if the petitioner sufficiently meets the requirements of this article and article VI of chapter 90 and may or may not reinstate said license or lift said suspension.~~

~~(Code 1972, § 96-21)~~

~~Sec. 102-114. Penalty for performing services without license.~~

~~Any person who performs the services herein specified for which a charge is made without a license as herein specified shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine not exceeding \$100.00 for each and every offense.~~

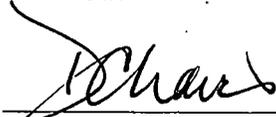
~~(Code 1972, § 96-22)~~

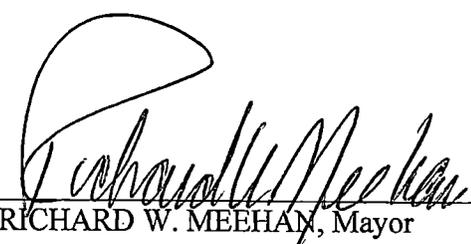
~~**State Law reference**—Penalties for ordinance violations, Ann. Code of Md. art. 23A, § 3.~~

INTRODUCED at a meeting of the City Council of Ocean City, Maryland held on September 8, 2020.

ADOPTED AND PASSED, <sup>as an emergency ordinance,</sup> by the required vote of the elected membership of the City Council and approved by the Mayor at its meeting held on September 8, 2020.

ATTEST:

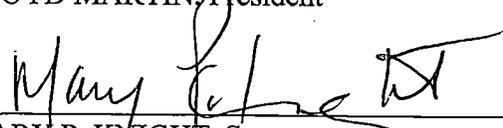
  
\_\_\_\_\_  
DIANA L. CHAVIS, Clerk

  
\_\_\_\_\_  
RICHARD W. MEEHAN, Mayor

Approved as to form:

\_\_\_\_\_  
LLOYD MARTIN, President

\_\_\_\_\_  
HEATHER STANSBURY  
Ayres, Jenkins, Gordy & Almand, P.A.  
Office of City Solicitor

  
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MARY P. KNIGHT, Secretary