

BOROUGH OF BUENA
 REGULAR COUNCIL MEETING
 AGENDA
 JUNE 13, 2022
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MEETING CALLED TO ORDER: P.M.
MEETING ADJOURNED: P.M.

CALL MEETING TO ORDER: FLAG SALUTE

Council Member	Present	Absent
ANDALORO, G		
ALVAREZ		
WALKER		
D'ALESSANDRO		
ANDALORO, P		

SUNSHINE LAW: This meeting is being held in compliance with the Open Public Meetings Act and notices of this meeting have been provided, via email, to The Press of Atlantic City and The Daily Journal on December 6, 2021 as well as having been posted on the municipal bulletin board and website at www.buenaboro.org

MAYOR'S REPORT: FIRST ORDER OF BUSINESS.

PUBLIC PORTION OF THE MEETING:

MOTION TO OPEN THE PUBLIC PORTION OF THE MEETING:

Council Member	By	2nd	Aye	Nay	Abstain	Absent	Recuse
ANDALORO, G							
ALVAREZ							
WALKER							
D'ALESSANDRO							
ANDALORO, P							

Anyone wishing to address Mayor and Council please step forward and state your name for the record.

MOTION TO CLOSE PUBLIC PORTION:

Council Member	By	2nd	Aye	Nay	Abstain	Absent	Recuse
ANDALORO, G							
ALVAREZ							
WALKER							
D'ALESSANDRO							
ANDALORO, P							

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NEED MOTION TO OPEN THE PUBLIC HEARING ON:

**ORDINANCE 709 ORDINANCE REPEALING AND REPLACING CHAPTER 223
 VEHICLE TOWING AND STORAGE OF THE CODE OF THE
 BOROUGH OF BUENA**

Council Member	By	2nd	YES	NO	Abstain	Absent	Recuse
ANDALORO, G							
ALVAREZ							
WALKER							
D'ALESSANDRO							
ANDALORO, P							

WHEREAS, the Council of the Borough of Buena wishes to provide regulations governing the removal of motor vehicles from private or public property, fees charged for storage following removal, fees charged for such removal, notice requirements and the mercantile licensing of such operators pursuant to N.J.S.A. 40:48-2.49; and

WHEREAS, the Council wishes to set forth non-discriminatory and non-exclusionary regulations governing operators engaged in the business of removing and storing motor vehicles.

NOW, THEREFORE, BE IT ORDAINED that Chapter 223 of the Code of the Borough of Buena is repealed and replaced with a new Chapter 223 Titled TOWING AND STORAGE as follows:

SECTION 1. CHAPTER 223 TOWING AND STORAGE is enacted.

§ 223-1 Purpose.

It is the purpose of this chapter to provide non-exclusionary and non-discriminatory regulations governing the removal of motor vehicles from private or public property, fees charged for storage following removal, fees charged for such removal, notice requirements, and the mercantile licensing of such operators pursuant to N.J.S.A. 40:48-2.49.

§ 223-2 Definitions

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

ABANDONED VEHICLE

Any vehicle that is abandoned on or along any highway, other than a limited access highway, or other public property or on any private property without the consent of the owner or other person in charge of the property. A vehicle which has remained on or along any highway or other public property or on any private property without such consent for a period of more than 48 hours or for any period without current license plates shall be presumed to be an abandoned motor vehicle.

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AUTO REPAIR FACILITY

Any public garage where motor vehicles are painted and/or repaired.

BASIC TOWING SERVICES

Towing as defined in this section and other ancillary services as may be specified by the Director by regulation.

CLEAN-UP AND REMOVAL COSTS

All costs incurred by the Borough or its agents in the removal or attempted removal of hazardous substances and disposal thereof; or costs for the taking of reasonable measures to prevent or mitigate damage, whether actual or threatened to the public health, safety or welfare.

CONSUMER

A natural person.

DECOUPLING FEE

A charge by a towing company for releasing a motor vehicle to its owner or operator when the vehicle has been, or is about to be, hooked or lifted by a tower, but prior to the vehicle actually having been moved or removed from the property.

DIRECTOR

The Director of the Division of Consumer Affairs.

DISCHARGE

Any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous substances into the water, lands or air of the State of New Jersey.

DISPATCH FACILITY

A place established to transmit requests for towing services.

DIVISION

The Division of Consumer Affairs in the Department of Law and Public Safety

HAZARDOUS SUBSTANCES

The list of hazardous substances adopted by the Federal Environmental Protection

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Agency (EPA) pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, P.L. 96-510 (42 U.S.C. Chapter 9601 et seq.), and amendments thereto, and those substances listed by the NJDEP as environmental hazardous substances pursuant to Section 4 of P.L. 1983, Chapter 315 (N.J.S.A. 34:5A-4), and amendments thereto.

HEAVY DUTY TOW

A tow truck capable of towing large trucks, and shall meet the following minimum requirements: gross vehicle weight, (G.V.W.) 30,000 pounds; towing capacity (GVWR), 80,000 pounds; boom rating, 50,000 pounds; cable size and length, 5/8 inch and 200 feet; equipped with chassis lift under reach retracted rating 25,000 pounds and extended rating 12,000 pounds.

INSIDE BUILDINGS

Any portion of a towing facility that is completely indoors, having one or more openings in the walls for storage and removal of vehicles, and is secured by a locking device on each opening.

JUNKYARD

Any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of scrap metal or other scrap or discarded goods, materials, machinery, or two or more unregistered/uninspected, inoperable vehicles or other type of junk. For purposes of this chapter, an auto repair facility or a towing facility shall not be considered a junkyard.

LICENSE

The period of 24 months.

LICENSES AND INSPECTIONS

The State of New Jersey Licenses and Inspections Agency.

LIGHT- DUTY WRECKER

A tow truck with dual wheels capable of towing passenger cars and shall meet the following minimum requirements of GVW 14,000 pounds; GVWR 18,000; boom rating 8,000 pounds; winch rating 8,000 pounds; cable size and length 3/8 inch and 100 feet; wheel lift retracted rating 6,000 pounds and extended rating 3,000 pounds.

MEDIUM DUTY FLAT BED

A car carrier of the roll back and tilt type with dual wheels capable of removing and transporting small trucks large passenger cars large sport utility vehicles and full-size vans

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damage free and shall meet the following minimum requirements; GVW 24,500 pounds; GVWR 28,000 pounds; winch rating 8,000 pounds; cable size and length 3/8 inch and 50 feet; bed length 22 feet; wheel lift retracted rating 6,000 pounds and extended rating 3,000 pounds.

MOTOR VEHICLE

Includes all vehicles propelled other than by muscular power, excluding such vehicles as run only upon rails or tracks and motorized bicycles, motorized scooters, motorized wheelchairs and motorized skateboards.

MOTOR VEHICLE ACCIDENT

An occurrence in which a motor vehicle comes in contact with any other object, including pedestrians, for which the motor vehicle must be towed or removed from the scene thereof.

NIGHT HOURS

Any time between 5:00 p.m. and 8:00 a.m., Monday through Friday, including weekends and holidays.

NONCONSENSUAL TOWING

The towing of a motor vehicle without the consent of the owner or operator of the vehicle.

OUTSIDE SECURED

Any portion of a towing facility that is not indoors and is secured by a fence, wall or other man-made barrier that is eight feet high or as otherwise required by the Borough of Buena Land Use ordinances and is installed with a passive alarm system (e.g., bell ringer located in the gate area to the enclosed facility) or a similar on-site security measure. Fences which are less than eight feet in height which existed prior to the adoption of this chapter shall be permitted; however, if such fences are replaced, the new fence shall be eight feet in height or as otherwise required by the Borough of Buena Land Use ordinances.

PERSON

An individual, sole proprietorship, partnership, corporation, limited liability company or any other business entity.

PETROLEUM OR PETROLEUM PRODUCTS

Oil or petroleum of any kind and in any form, including but not limited to oil petroleum, gasoline, kerosene, fuel oil, oil sludge, oil refuse, and oil mixed with other wastes.

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POLICE HOLD VEHICLES

Motor vehicles which are alleged to have been involved in illegal activity, involved in a fatal motor vehicle collision, or any vehicles so designated by a Township of Franklin police officer.

PRIVATE PROPERTY OWNER

The owner or lessee of private property or an agent of such owner or lessee but shall not include a private property towing company acting as an agent of such owner or lessee.

PRIVATE PROPERTY TOWING

The nonconsensual towing from private property or from a storage facility by a motor vehicle of a consumer's motor vehicle that is parked illegally, parked during a time at which such parking is not permitted, or otherwise parked without authorization, or the immobilization of or preparation for moving or removing of such motor vehicle, for which a service charge is made, either directly or indirectly. This term shall not include the towing of a motor vehicle that has been abandoned on private property in violation of N.J.S.A 39:4-56.5, provided that the abandoned vehicle is reported to the appropriate law enforcement agency prior to removal and the vehicle is removed in accordance with N.J.S.A 39:4-56.6.

PRIVATE PROPERTY TOWING COMPANY

A person offering or performing private property towing services.

PUBLIC GARAGE

Any building, structure, or property designed and used for equipping, adjusting, greasing, washing, polishing, servicing, or storing of motor vehicles, other than at a junkyard, operated for profit and for service to the public. For purposes of this chapter, a public garage means any general repair garage, specialized repair garage, car wash, auto repair facility, or towing facility.

RESPONSE TIME

Not more than 25 minutes from the time of the initial request by the Dispatch Communications Center to the tow vehicle's arrival at the site of the incident requiring tow services, all traffic regulations observed.

STORAGE CHARGES FOR TWENTY-FOUR-HOUR PERIOD

The maximum allowable amount charged by a towing facility for the storage of motor vehicles for any twenty-four-hour period or fraction thereof.

STORAGE FACILITY

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A place for the storing of motor vehicles.

TOWING

The moving or removing from public or private property or from a storage facility by a motor vehicle of a consumer's motor vehicle that is damaged as a result of an accident or otherwise disabled, recovered after being stolen or is parked illegally or otherwise without authorization, parked during a time at which such parking is not permitted or otherwise parked without authorization, or the immobilization of or preparation for moving or removing of such motor vehicle, for which a service charge is made, either directly or indirectly. Dues or other charges of clubs or associations which provide towing services to club or association members shall not be considered a service charge for purposes of this definition.

TOWING FACILITY

Any public garage that offers towing services.

TOWING OPERATOR

Any entity that operates a towing business or tow vehicle.

TOWING SERVICE

The removal and transportation of a motor vehicle from a highway, street, other public or private road, parking area, storage facility and from other off-road locations such as fields, lakes, rivers and streams. This includes other services such as roadside assistance.

TOW VEHICLE

Those vehicles equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under-reach equipment specifically designed by the vehicle manufacturer for the transport of motor vehicles.

TOW VEHICLE'S BASE OF SERVICE

The tow operator's principal place of business where the tow vehicle is stationed when not in use.

ZONING OFFICIAL

It shall be the duty of the Zoning Official of the Borough of Buena to carry out the provisions of this chapter.

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§ 223-3. License Term.

All licenses issued under this Chapter shall be effective for a period of two years from the date of issuance. All licenses shall expire automatically; applications for renewal thereof shall be submitted not less than six weeks prior to date of expiration.

§ 223-4. Issuance of license.

All applicants for a license shall submit an application in accordance with section 223-5 to the Borough Clerk. The Borough Clerk shall transmit the application to the Township of Franklin Police Department for investigation of the truth and accuracy of the information contained therein. Upon completion of the investigation, the officer in charge shall forward a recommendation for approval or disapproval of the license and the reasons, if any, for disapproval to the Borough Clerk. If the officer in charge finds that the applicant has met the requirements of this section, a license shall be issued to the applicant and the applicant's name placed at the end of the towing list.

§ 223-5 Licensing procedure.

A. Minimum standards of operator performance. All applicants must be able to meet the following minimum standards of performance

- (1) Applicants must be appropriately licensed by the State of New Jersey.
- (2) Applicants must be able to reach the scene of a vehicle to be towed within 25 minutes.
- (3) Applicants must be equipped to provide service during their scheduled frame of duty.
- (4) Applicants must submit to a background check by the Township of Franklin Police Department.
- (5) With respect to the storage of towed vehicles, the applicant shall:
 - (a) Demonstrate sufficient storage capacity for a minimum of five vehicles. Storage area shall be at the applicant's place of business;
 - (b) Accept responsibility for the safe storage of towed vehicles;
 - (c) Have access to a storage facility 24 hours a day, 365 days per year, and shall provide access to the public to such facility during normal business hours.
- (6) All towing applicants shall be capable of providing reasonable roadside services to disabled vehicles, such as, but not limited to, jump starting, the changing of flat tires, and providing motor fuel. Such services will only be performed if they can be done so safely, as determined by the police officer on scene.

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- (7) Applicants must agree that, in addition to towing services, they will provide limited site cleanup of glass, debris, etc., at the site such that the roadway will be safe to travel and no unsightly material will be left on the roadside.
- (8) Applicants must provide proof of adequate insurance as provided in this chapter.

B. License application required. An application for license shall be in writing, upon a license application form furnished by the Borough Clerk signed by the applicant and filed with the Borough Clerk. Said application shall contain the following information:

- (1) The name, business address, business name and telephone number of the towing operator.
- (2) The location of the towing operator's towing facility.
- (3) The name of the towing operator's insurance company and insurance policy number. Proof of insurance must be provided as required under this chapter.
- (4) The type, condition and design of the vehicles and equipment available for service.
- (5) Communication availability, including radio communications, and the location and availability of the dispatch center.
- (6) The name, address and driver's license number of each driver or operator of the tow vehicle.
- (7) Proof that each vehicle to be licensed is duly registered and inspected by the State of New Jersey, Division of Motor Vehicles, as a tow vehicle.
- (8) If a corporation applies, the application shall be signed in the name of the corporation by the president and attested by the secretary.
- (9) Said application shall be duly verified by the applicant before a notary public or some other person duly authorized to administer oaths.
- (10) Each such application shall be accompanied by the full amount of the license fee hereafter prescribed.
- (11) A certification granting permission to the Township of Franklin Police Department to conduct inspection of the applicant's vehicles, equipment and storage facility for the purpose of determining compliance with this Chapter.
- (12) Documentation evidencing that a criminal background check was conducted of each driver or operator of the tow vehicles, which background check shall have been performed not more than 12

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months preceding with documentation of criminal background checks being supplied of said drivers or operators in not more than twelve-month intervals.

(13) A plot plan of the tow operators' premises. A plot plan shall consist of the following:

- a. Be drawn neatly and to scale;
- b. Indicate the entire lot for which the application is being made;
- c. Contain a symbol indicating the direction north;
- d. Indicate the name of all streets and ways upon which the lot is located, street addresses and the location and type of existing and proposed street fixtures such as utility poles, street lights, traffic lights and signals;
- e. Indicate the name of the nearest intersecting street and the distance from the facility to the intersecting street;
- f. Indicate with dimensions, all parking and storage areas with measurements of distance from buildings and property lines as well as indicating where fencing is located for the security and safety of stored vehicles;
- g. Indication of all driveways, curb cuts and any easements on the property;
- h. Indicate the lot and block number of the subject property and all adjacent properties; and
- i. If there are any modifications intended to be made to the plot plan, said modification and change must be submitted and to the extent required by New Jersey Municipal Land Use Law, approved through the appropriate action of the Borough of Buena Land Use Board.

- C. Zoning. No license shall be issued to a towing operator/owner located in the Borough of Buena unless the applicant's towing facility is located within a zoning district where such use is permitted in accordance with the Borough of Buena Land Use Ordinances or unless a use variance has been obtained therefore, and any and all land use approvals and/or permits have been obtained therefore, or unless sufficient crews are provided by the applicant that said facility was operated at its present location prior to the adoption of the Borough of Buena Land Use Ordinance.
- D. Compliance. The applicant shall comply with any and all state, federal and local laws, regulations and ordinances pertaining to safety, lighting and towing equipment, and shall be subject to inspection at any time by the Township of Franklinville Chief of Police or a designee and the Borough of Buena.
- E. Assignment. The towing operator shall at no time transfer or assign a license or any part thereof for any purpose whatsoever without having first obtained prior approval from the Borough of Buena.
- F. Fee. An application fee of \$150 shall be submitted with each application.

§ 223-6. Recommendation of approval or disapproval. Appeal

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- A. Upon completion of the aforesaid investigation, the Township of Franklin Chief of Police or designee shall file a written report as to the findings and issue a recommendation of approval or disapproval to the Borough Clerk.
- B. If the Township of Franklin Chief of Police recommends that the towing operator not be approved, a written report shall be filed with the Borough Clerk specifying the findings and the reasons for the rejection. The Borough Clerk will furnish a copy of the report to the towing operator by certified mail.
- C. Any towing operator who is denied a license may, after receipt of notification, file an appeal in writing within 10 days with the Borough Clerk. The Borough Clerk shall then schedule a hearing before the Public Safety Committee. After that hearing, the Committee may then determine whether to approve or disapprove the license based on the requirements of this chapter.

§ 223-7. Suspension or revocation of license.

A license may be revoked or suspended at any time for just cause by the Township of Franklin Chief of Police or by the Borough of Buena for violations of any provisions of this chapter or for violations of New Jersey state law. Once the licensee is notified of the suspension or revocation, the licensee has the opportunity to be heard by the Public Safety Committee after filing a written appeal within 10 days with the Borough Clerk. Such license, when so suspended or revoked, shall not be reinstated except for good and sufficient cause.

§ 228-8. Tow List.

- A. The list of licensed towing operators shall be maintained by the Township of Franklin Police Department and the Borough of Buena and shall be utilized on a rotation basis. The rotation shall be on a weekly basis beginning at 12:00 midnight Saturday night and ending one week later at 12:00 midnight Saturday night unless otherwise specified by the Township of Franklin Police Department or Borough of Buena or in the event of emergency conditions.
- B. There will be a maximum number of light/medium duty tow operators of four, and of four for heavy- duty tow operators permitted to perform work within the Borough of Buena (as defined in this chapter). Replacement of tow operators on the current list may only occur when there is a vacancy, provided that the replacement tow operators meet all the requirements set forth within the application process in this chapter.
- C. Any newly approved operators shall be added to the bottom of the rotation list and any adjustments to the rotation schedule are to be made on January 1 of the following year.
- D. Calls to operators on the rotating list shall be made on a nondiscriminatory basis, routinely succeeding to the next operator listed.

§ 223-9 Services to be performed by licensed towing operators.

- A. Removal and transporting of motor vehicles involved in a motor vehicle accident

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where the owner or operator of the motor vehicle, when appropriate, has not made a preference for the towing of the vehicle.

- B. Removal and transporting of a motor vehicle from private or public property as may be directed by an authorized law enforcement officer or Zoning Officer of the Borough of Buena.
- C. Removal and disposal from the Borough or private property motor vehicles which, pursuant to state law and regulations, would be subject to the jurisdiction of the Township of Franklin Police Department and the Borough of Buena.
- D. The storage of a motor vehicle removed and transported from the scene of a motor vehicle accident.
- E. A towing operator responding to a tow shall be responsible for all site cleanup related to a motor vehicle accident, including the pickup and removal of all debris from the scene of the accident and containment of any hazardous fluids from the vehicle prior to tow, in accordance with the laws of the State of New Jersey, and all services as defined by state regulations and all sections herein. It is understood that the responsibility of the tow operator as established above in no way relieves the vehicle owner of his responsibility for the cleanup and removal of any debris or spilled fluids coming from his vehicle.
- F. A towing operator shall provide either one boom tow truck with a wheel lift or winch rollback or one-boom tow truck with a wheel lift capable of transporting the vehicle to be removed without additional damage. The transported vehicle shall not exceed the carry weight or capacity of the carrying vehicle.
- G. The towing operator shall ensure the proper utilization and deployment of safety devices as more particularly defined herein.
- H. If a licensed towing operator is unable to handle a particular situation for whatever reason, the Borough shall have the right to use whatever means necessary to accomplish the removal, transporting and storage of motor vehicles.
- I. No towing operator shall subcontract any work to be performed pursuant to this chapter without having first obtained prior written approval from the Franklin Township Police Department and Borough of Buena. Subcontractors must be licensed and on the current Tow List. Any towing operator to whom approval to subcontract work has been given shall be responsible for the services performed by and the acts and omissions of the subcontractor, and shall remain liable for any violation of this chapter by the subcontractor.

§ 223-10 Responsibility of Towing Operators.

- A. The towing operator shall provide a towing facility of sufficient size to accommodate not less than 5 passenger vehicles and one tractor and trailer, and not less than 800 square feet of inside storage facilities to hold and protect “police hold” vehicles. At no time shall any automobile towed by a towing operator be stored at any other location, except where a vehicle is towed at the request of the owner to a specific location.

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- B. The towing operator shall provide tow vehicles capable of handling the transporting of motor vehicles as defined in §223-1 of this chapter.
- C. The towing facility shall be staffed by the licensed towing operator during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, and include twenty-four-hour telephone service, seven days per week, during the week in which the licensed facility is on call.
- D. Each tow vehicle or flatbed vehicle shall be equipped with towing and safety equipment, warning devices such as lights, flares and flags to warn other automobile operators of the presence of a disabled automobile, and mechanics tools to perform complete emergency work, including but not limited to the following. All tow operators shall be required to wear a reflective jacket or vest when towing vehicles on the roadway and at all times shall exercise extreme caution and due safety.
- E. All tow trucks must be in compliance with all safety equipment requirements as listed in N.J.S.A.39:3-1 et seq., and 49 CFR 393.
- F. No changes may be made to tow vehicles, facilities or equipment without prior written approval of the Franklin Township Police Department and the Borough of Buena.
- G. If issued at the discretion of the Borough in accordance with this chapter, each tow vehicle shall display any licensure stickers issued by the Borough Clerk on the driver's door panel and shall have the name and number of the licensed tow operator displayed on the vehicle in such manner and of such lettering as to conform to the provisions of N.J.S.A. 39:4-46.
- H. Towing operators and their employees shall provide all services required by this chapter at all times and shall be subject to the following requirements:
 - (1) Possess sufficient knowledge, skill and ability to provide minimum road services for disabled vehicles and to adequately remove a vehicle from an accident scene without causing additional damage to the vehicle.
 - (2) Not have any impairment which would prohibit towing operators and their employees from performing the duties and obligations set forth in this chapter.
 - (3) Obey all traffic laws, statutes, regulations and ordinances promulgated by the State of New Jersey and the Borough of Buena.
- I. The tow vehicles provided by the towing operator shall be of such type and design to properly and safely perform all towing services required by this chapter and shall at all times comply with New Jersey Statutes and Regulations and be subject to inspection by the Township of Franklin Chief of Police or designee.
- J. All drivers of tow vehicles shall possess at all times a valid New Jersey driver's license and a commercial drivers' license where applicable, which shall be subject to inspection by the Township of Franklin Chief of Police. Said operator shall obey all traffic laws and shall comply with all statutes and regulations of

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the State of New Jersey and of the Borough of Buena.

- K. The tow vehicles provided by the towing operator shall be geographically located so as to permit a response time within 25 minutes of being dispatched as herein set forth.
- L. At all times the towing operator shall maintain the towing facility in a clean and orderly fashion. Reasonable measures shall be taken by the towing operator to prevent vandalism, theft or damage to automobiles stored therein.
- M. In the event that motor vehicles which are towed and stored by the towing operator are abandoned or unclaimed by the owners thereof, the towing operator shall make no claim against the Borough of Buena, its agents or employees. Only those vehicles towed from private property or public rights-of-way under authorization of either the Borough or an authorized law enforcement officer, not including accident vehicles, shall be disposed of by the Borough of Buena, pursuant to N.J.S.A. 39:10A-1 or other appropriate state statute or state regulations.
- N. The towing owner/operator, operating pursuant to this chapter, is an independent contractor, and in no part an agent, servant or employee of the Borough of Buena. Said owner/operator shall at all times maintain direct supervision, management and control over all of its employees and personnel engaged in the operation or services performed pursuant to this chapter.
- O. Towing operators approved for Tow List eligibility shall be required to fulfill tow requests of the Zoning Officer and/or any authorized law enforcement agency or officer. Failure or refusal to remove a vehicle pursuant to this chapter shall be cause for removal from the approved Tow List.
- P. The tow operator shall be responsible for ensuring the proper, safe and secure storage of all vehicles towed. The tow operator shall be liable for any and all damage incurred by such vehicles while in transit to or while stored in or at the facilities of the operator.

§ 223-11. Insurance.

- A. A towing company shall carry insurance of the following types with the minimum policy limits noted for each type:
 - (1) Automobile liability insurance in the amount of not less than 1 million dollars.
 - (2) Workers' compensation in the minimum amounts required by law.
 - (3) Garage keepers' liability coverage of not less than \$100,000.00 per location.
 - (4) Garage liability including cargo insurance in an amount of not less than \$500,000.00 combined single limit.

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(5) Comprehensive general liability coverage of 1 million dollars combined single limit coverage.

- B. Policies shall be endorsed to provide for collision coverage for vehicles in tow.
- C. The Borough of Buena shall be named as an additional insured on all policies.
- D. Proof of coverage shall be provided to the Borough and the policies shall provide that the Borough be notified in the event of the tow operator's failure to pay premiums or in the event of cancellation, termination or revision of the policies or amounts of coverage.
- E. In the event the Borough deems, in its direction, that appropriate coverage is not in place, the contractor shall be so advised and shall be removed from the towing list until such time as appropriate coverage is restored.

§ 223-12. Indemnification.

The contractor shall agree to indemnify and hold the Borough, its officers, appointees, elected and appointed officials, employees, representatives or agents, whether paid or unpaid (including, without limitation, members of the Township of Franklin Police Department) harmless against any and all liability or claims of liability for damage or injury to persons or property resulting from the towing services provided by the contractor pursuant hereto, with the exception of damage or injury to persons or property resulting solely from the willful or negligent acts or omissions of such officers, appointees, employees, representatives or agents.

§ 223-13. Consent required for towing from privately owned property.

- A. No person shall tow any motor vehicle parked for an unauthorized purpose or during a time at which such parking is not permitted from any privately owned parking lot, from other private property or from any common driveway without the consent of the motor vehicle owner or operator, unless:
 - (1) The person shall have entered into a contract for private property towing with the owner of the property;
 - (2) There is posted, in a conspicuous place at all vehicular entrances to the property which can easily be seen by the public, a sign no smaller than 36 inches high and 36 inches wide stating:
 - (a) The purpose or purposes for which parking is authorized and the times during which such parking is permitted;
 - (b) That unauthorized parking is prohibited and unauthorized motor vehicles will be towed at the owner's expense;
 - (c) The name, address, and telephone number of the towing company that will perform the towing;
 - (d) The charges for the towing and storage of towed motor vehicles;

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- (e) The street address of the storage facility where the towed vehicles can be redeemed after payment of the posted charges and the times during which the vehicle may be redeemed; and
 - (f) Such contact information for the Division of Consumer Affairs as may be required by regulation;
 - (3) The property owner has authorized the person to remove the particular motor vehicle; and
 - (4) The person tows the motor vehicle to a secure storage facility that is located within a reasonable distance of the property from which the vehicle was towed.
- B. No private property owner shall authorize the towing of any motor vehicle parked for an authorized purpose or during a time at which such parking is not permitted from the private property owner's property without the consent of the motor vehicle owner or operator, unless:
 - (1) The private property owner has contracted with a private property towing company for removal of vehicles parked on the property without authorization; and
 - (2) A sign that conforms to the requirements of Subsection A (2) of this section is posted on the property.
- C. This section shall not apply to a motor vehicle parked on a lot or parcel on which is situated a single-family unit or an owner-occupied multi-unit structure of not more than six units or in front of any driveway or garage entrance where the motor vehicle is blocking access to that driveway or garage entrance.
- D. Exemption from certain signage requirements.
 - (1) The requirements of Subsection A (2) of this section shall not apply to a residential community in which parking spaces are specifically assigned to community residents, provided that:
 - (a) The assigned spaces are clearly marked as such;
 - (b) There is specific documented approval by the property owner authorizing the removal of the particular vehicle; and
 - (c) A sign, which can easily be seen by the public, is posted in a conspicuous place at all vehicular entrances to the residential community property, stating that unauthorized parking in an assigned space is prohibited and unauthorized motor vehicles will be towed at the owner's expense, and providing information or a telephone number enabling the vehicle owner or operator to immediately obtain information as to the location of the towed vehicle.
 - (2) The exemption in this subsection shall not apply to any private parking lot or parcel owned or assigned to a commercial or other non-residential entity located in such residential communities.

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§ 223-14. Rates and Fees for Services.

- A. When performing services under the tow list to tow and/or store a motor vehicle, the towing charge and storage charge shall not exceed those charges as set forth in this chapter. These are maximum fees that may be charged.
- B. The fee schedule effective at the time of adoption of this chapter is as follows:
- (1) Towing.
 - (a) Days:
 - 1. First mile or less; light/medium duty, \$95.00; heavy duty, \$450.00 (per hour) (payable in fifteen-minute increments).
 - 2. Each additional mile: \$5.00.
 - (b) Nights, weekends and New Jersey state holidays:
 - 1. First mile or less: light/medium duty, \$95.00; heavy duty, \$450.00 (per hour)(payable in fifteen minute increments).
 - 2. Each additional mile: \$5.00.
 - (2) Storage.
 - (a) Inside building.
 - [1] Per vehicle/per day:
Light/medium \$45.00; heavy duty \$100.
 - (b) Outside secured.
 - [1] Per vehicle/per day: light/medium, \$30.00; heavy duty, \$75.00.
 - (3) Additional fees.
 - (a) Cleanup: \$40 (per hour).
 - (b) Oil dry: \$15 (per bag).
 - (c) Administrative fee. \$35.00.
 - (d) Winching fee, basic; \$75.00.
 - (e) Heavy duty laborer; \$75.00 (per man per hour).
 - (f) Heavy duty support vehicle; \$130.00 (per hour).
- C. The fees set forth on the schedules for towing rates are the maximum charges that shall apply to a motor vehicle for basic towing services.

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- D. The towing rates shall be calculated based on the total distance traveled from the tow vehicle's base of service to the job site and return by way of the shortest available route. Fractions shall be rounded up to the nearest whole mile.
- E. Tow vehicles transporting multiple motor vehicles at one time may charge the applicable fee for each such vehicle transported.
- F. When towing services are otherwise required, the day rate shall apply when the vehicle is transported (pickup and delivery) entirely between the hours of 8:00 a.m. and 5:00p.m., Monday through Friday, except New Jersey state holidays. The night, weekend and holiday rate shall otherwise apply.
- G. The Borough Clerk shall post fees, available to the public, during normal business hours along with a copy of this chapter and the fee schedules of licensed towing operators.
- H. Payment from the public shall include credit cards.

§ 223-15. Miscellaneous.

- A. The Zoning Official shall be responsible for the enforcement of the provisions of this chapter.
- B. Motor vehicles which remain unclaimed by the owner or other person having legal right thereto shall be disposed of pursuant to the applicable provisions of Title 39 of the New Jersey Statutes. The last known owner of an abandoned vehicle shall be responsible for all towing fees or charges, storage fees or charges, road service fees or charges, and any other fees permitted by law.
- C. The Borough shall make periodic inspections of facilities, equipment and service and, upon request, shall be provided full access to equipment or property. Such inspections shall be made quarterly, semiannually, or annually, as determined by the applicable Zoning official, but in no case shall such inspections be made less than annually.
- D. The Township of Franklin Police Department shall have the right to store at its own facilities motor vehicles towed at its direction or confiscated in suspected crimes. All licensed towing operators shall extend storage to the Township of Franklin Police Department at no cost and, if so requested, shall provide separate storage space for exclusive use of the Township of Franklin Police Department also at no cost. Abandoned vehicles or vehicles confiscated by the Township of Franklin Police Department are to be stored as authorized by the Township of Franklin Police Department to assure protection of the vehicle and to provide security of said vehicle until appropriately disposed of by the Township of Franklin Police Department.
- E. Towing operators shall not pile vehicles or park towed vehicles on public

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streets or sidewalks.

- F. Pursuant to the Spill Compensation and Control Act, including N.J.S.A. 58:10-23.11 (g), any person in any way responsible for a discharge of petroleum or hazardous substances shall be strictly liable, jointly and severally, without regard to fault, for all costs of cleanup and removal of the discharge from the public right-of-way and private property within the area of the spill. The tow operator and/or facility owner shall be responsible for the cleanup and removal of any spill or discharge of petroleum or hazardous substances at its storage facility. The facility owner may choose to take action against the vehicle owner for the cost of such cleanup and removal. The responsible party shall contact the NJDEP Action Line to report any spills or leaks as required by N.J.S.A 58:10-23.11 (e).
- G. Whenever any petroleum or hazardous substances are discharged on public property or within the public right-of-way, the Health Department may, in its discretion, act to remove or arrange for the removal of such discharge, or may direct the responsible party to remove or arrange for the removal of such discharge. The County Environmental Health Department shall monitor compliance with any cleanup directives. Pursuant to N.J.S.A. 58:10-23.11 (f), any person who fails to comply with a cleanup directive shall be liable to the Borough in an amount equal to three times the cost of such removal.

§ 223-16. Unlawful practices for towing company.

It shall be an unlawful practice for any private property towing company or for any other towing company that provides nonconsensual towing services:

- (1) To give any benefit or advantage, including a pecuniary benefit, to any person for providing information about motor vehicles parked for unauthorized purposes on privately owned property or otherwise in connection with private property towing of motor vehicles parked without authorization or during a time at which such parking is not permitted.
- (2) To fail, when so requested by the owner or operator of a vehicle subject to nonconsensual towing, to release a vehicle to the owner or operator that has been, or is about to be, hooked or lifted but has not actually been moved or removed from the property when the vehicle owner or operator returns to the vehicle, or to charge the owner or operator requesting release of the vehicle an unreasonable or excessive decoupling fee. Such a fee shall be presumptively unreasonable and excessive if it exceeds by more than 25%, or a different percentage established by the Director by regulation, the usual and customary decoupling fee charged by the towing company for a vehicle subject to consensual towing, or if it exceeds by more than 50%, or a different percentage established by the Director by regulation, the usual and customary decoupling fee charged for vehicles subject to nonconsensual towing by other private property towing companies operating in the municipality in which the vehicle was subjected to nonconsensual towing.
- (3) To charge a fee for a private property or other nonconsensual towing

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or related storage service not listed on the schedule of services for which a fee may be charged.

- (4) To refuse to accept for payment in lieu of cash or an insurance company check for towing or storage services a debit card, charge card or credit card if the operator ordinarily accepts such card at his place of business, unless such refusal is authorized in accordance with N.J.S.A. 56:13-4.
- (5) To monitor, patrol, or otherwise survey a private property for the purposes of identifying vehicles parked for unauthorized purposes and towing a motor vehicle parked for an unauthorized purpose from such private property without having been specifically requested to tow such vehicle by the owner of the property.

§ 223-17. Availability of records.

- A. Every towing company that performs private property or other nonconsensual towing shall retain and make available for inspection by the Division, for a period of three years, invoices, job orders, logs, claims for reimbursement from insurance companies and other documentation relating to all consensual and nonconsensual towing services performed and rates charged for the services.
- B. The regulations set forth in this chapter shall be made available to the public at the Borough Hall during normal business hours.
- C. Employees of the tower are not to be deemed to represent nor be employed by the Borough, and the tower shall accept responsibility for the conduct of its employees.
- D. Complaints concerning the services provided or fees charged by the tower shall be investigated by the Township of Franklin Police Department and Buena Borough, who will prepare a written report to be presented to the Borough's Public Safety Committee for such further action.
- E. Towers shall disclose the rate of fees charged by, at a minimum, posting the rates in a conspicuous place at the storage area.
- F. The Borough of Buena shall assume no liability for any services performed by the tower.

§ 223-18. Employees of Towing Operator.

- A. The contractor shall employ a sufficient number of employees to comply with the minimum operational requirements.

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- B. All drivers of the contractor shall be over the age of 18 years and must have a valid, current New Jersey state driver's license and shall be in good health and of high moral character.
- C. Dealing with the public. In all of its dealings with the public, the tower is expected always to act in a professional manner and at all times to be courteous and respectful toward members of the public as well as representatives of the Borough of Buena. While members of the public, especially those whose cars may have been towed or impounded, may at times resort to strong language, threats and unbecoming behavior toward the tower, the tower is expected to exercise restraint and not to respond in kind, and thereby reflect unfavorably on the Borough of Buena and/or the Township of Franklin Police Department. Reports of discourteous behavior by the tower or his employees may be considered by the Borough as sufficient cause for removal from the towing list.

§ 223-19. Disposal of unclaimed motor vehicles.

- A. Each tow company shall be deemed to have taken possession of motor vehicles towed in accordance with this chapter, other than abandoned motor vehicles towed at the request of the Township of Franklin Chief of Police or his designee, under the provisions of N.J.S.A. 39:10A-1 and N.J.S.A 39:4-56.5
- B. It shall be the responsibility of the towing company to notify the registered owner, or any other person having a legal interest therein, within 10 days of having towed said vehicle or rendered any other service thereto, of the location of the vehicle, the service rendered, the charge for such service and the time within which the motor vehicle must be collected, said period for collection not to exceed 30 days.
- C. Upon the expiration of the time to collect the motor vehicle as set forth in Subsection B has expired, the towing company must either offer the vehicle for sale at public auction or cause a junk title certificate to be issued for the motor vehicle in accordance with the laws of the State of New Jersey, specifically N.J.S.A. 39:10A-8 et seq., a copy of said title to be kept by the applicant.
- D. Any notification required in this chapter shall be in writing, sent by certified or registered mail, return receipt requested, to the last known address of the person to whom the notice is to be given.
- E. The towing company shall be responsible to perform all searches with the New Jersey Motor Vehicle Commission or out of state motor vehicle commission to determine ownership and the last known address of the title owner to the vehicle in question. That information and proof of searches with appropriate state agencies must be provided to the Township of Franklin Chief of Police.
- F. At any time prior to the sale of the motor vehicle or the issuance of a junk title certificate therefor, the owner of the motor vehicle may reclaim possession of the motor vehicle from the towing company upon payment of the towing services as set forth herein and the expense of storage of the motor vehicle.

Section 2. INCONSISTENT ORDINANCES REPEALED. All ordinances and parts of this Ordinance in conflict with this ordinance are hereby repealed.

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Section 3. INVALIDITY If any section, sentence or any part or parts of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder of the Ordinance, but shall be confined in its effect to the section, sentence or other part of this Ordinance directly involved in the controversy in which judgment shall have been rendered.

Section 4. EFFECTIVE DATE. This Ordinance shall take effect immediately upon passage and publication.

DISCUSSION:

NEED MOTION TO CLOSE THE PUBLIC HEARING

Council Member	By	2nd	YES	NO	Abstain	Absent	Recuse
ANDALORO, G							
ALVAREZ							
WALKER							
D'ALESSANDRO							
ANDALORO, P							

ORDINANCE 709 ADOPTED:

Council Member	By	2nd	YES	NO	Abstain	Absent	Recuse
ANDALORO, G							
ALVAREZ							
WALKER							
D'ALESSANDRO							
ANDALORO, P							



NEED MOTION TO INTRODUCE AND PASS ON FIRST READING:

ORDINANCE NO. 710 AN ORDINANCE AMENDING CHAPTER 181, ARTICLE 3 ABANDONED REAL PROPERTY, REQUIRING THE REGISTRATION AND MAINTENANCE OF CERTAIN REAL PROPERTY BY MORTGAGEES; PROVIDING FOR PENALTIES AND ENFORCEMENT, AS WELL AS THE REGULATION, LIMITATION AND REDUCTION OF ABANDONED REAL PROPERTY WITHIN THE MUNICIPALITY; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION AND AN EFFECTIVE DATE.

Council Member	By	2nd	YES	NO	Abstain	Absent	Recuse
ANDALORO, G							

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ALVAREZ							
WALKER							
D'ALESSANDRO							
ANDALORO, P							

WHEREAS, the present mortgage foreclosure crisis has serious negative implications for all communities trying to manage the consequences of property vacancies and abandoned real properties subject to foreclosure; and

WHEREAS, the Borough of Buena (hereinafter referred to as "Municipality or Borough") recognizes an increase in the number of vacancies and abandoned properties located throughout the Municipality; and

WHEREAS, the Borough is challenged to identify and locate responsible parties of foreclosing parties who can maintain the properties that are in the foreclosure process or that have been foreclosed; and

WHEREAS, the Borough finds that the presence of vacant and abandoned properties can lead to a decline in property value, create attractive nuisances and lead to a general decrease in neighborhood and community aesthetics; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality is authorized to enact and amend ordinances as deemed necessary for the preservation of the public health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the Municipality by law; and

WHEREAS, pursuant to P.L. 2021, c. 444, the governing body of a municipality is authorized to adopt or amend ordinances creating a property registration program for the purpose of identifying and monitoring properties within the municipality for which a summons and compliant in an action to foreclosure on a mortgage has been filed, regulate the care, maintenance, security and upkeep of such properties, and impose a registration fee on the mortgagee of such properties; and

WHEREAS, the Borough has already adopted property maintenance codes to regulate

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building standards for the exterior of structures and the condition of the property as a whole;
and

WHEREAS, the Borough desires to amend the Code of the Borough of Buena in order to participate in the County-wide registration program established by the Atlantic County Improvement Authority that will identify a contact person to address safety and aesthetic concerns to minimize the negative impacts and blighting conditions that occur as a result of the foreclosures; and

WHEREAS, the Borough has a vested interest in protecting neighborhoods against decay caused by vacant and abandoned properties and concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to amend registration and certification requirements on foreclosure properties located within the Municipality; and

WHEREAS, upon passage, duly noticed public hearings, as required by law will have been held by the Municipality, at which public hearings all residents and interested persons were given an opportunity to be heard;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF
THE BOROUGH OF BUENA:**

SECTION 1. That the foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon the adoption hereof.

SECTION 2. That the Borough of Buena hereby amends the Borough Code, Chapter 181 Article 3 entitled "Abandoned Real Property," to read as follows:

CHAPTER 181. ARTICLE 3. ABANDONED REAL PROPERTY

SECTION 181-3-A PURPOSE AND INTENT

It is the purpose and intent of the Borough of Buena to establish a process to address the deterioration and blight of Borough neighborhoods caused by an increasing amount of abandoned, foreclosed or distressed real property located within the Borough, and to identify,

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regulate, limit and reduce the number of foreclosure properties located within the Borough. It is the Borough's further intent to participate in the County-wide registration program established by the Atlantic County Improvement Authority as a mechanism to protect neighborhoods from becoming blighted due to the lack of adequate maintenance and security of foreclosure properties.

SECTION 181-3-B- DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates different meaning.

Abandoned Real Property - means any real property located in the Municipality, whether vacant or occupied, that has had a lis pendens filed against it by the Lender holding a mortgage on the property, is subject to an ongoing foreclosure action by the Lender, or has been transferred to the Lender under a deed in lieu of foreclosure. The designation of a property as "abandoned" shall remain in place until such time as the property is sold or transferred to a new owner, the foreclosure action has been dismissed, and any default on the mortgage has been cured.

Accessible Property/Structure - means a property that is accessible through a comprised/breached gate, fence, wall, etc. or a structure that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

Applicable Codes - means to include, but not be limited to, the Borough's Zoning Code, the Code of the Borough of Buena ("Borough Code"), and the New Jersey Building Code.

Blighted Property - means:

- a) Properties that have broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions and encourage trespassing; or
- b) Properties whose maintenance is not in conformance with the maintenance of other neighboring properties causing a decrease in value of the neighboring properties; or
- c) Properties cited for a public nuisance pursuant Municipality Code: or

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d) Properties that endanger the public's health, safety, or welfare because the properties or improvements thereon are dilapidated, deteriorated, or violate minimum health and safety standards or lacks maintenance as required by the Borough and Zoning Codes.

Enforcement Officer - means any law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector or building inspector, or other person authorized by the Municipality to enforce the applicable code(s).

Foreclosure - means the legal process by which a mortgagee terminates a mortgagor's interest in real property either to obtain legal and equitable title to the real property pledged as security for a debt or to force a sale of said property to satisfy a debt. For purposes of this article, this process begins upon the service of a summons and complaint on the mortgagor or any interested party. For purposes of this article, the process is not concluded until the property is sold to a bona fide purchaser not related to the mortgagee in an arm's-length transaction whether by Sheriff's sale, private sale following a Sheriff's sale, or private sale following the vesting of title in the mortgagee pursuant to a judgment.

Mortgagee - means the creditor, including but not limited to, lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests, or obligations under the mortgage agreement, excluding governmental entities as assignee or owner.

Property Management Company - means a local property manager, property Maintenance Company or similar entity responsible for the maintenance of abandoned real property.

Vacant - means any building or structure that is not legally occupied.

SECTION 181-3-C- APPLICABILITY

These sections shall be considered cumulative and not superseding or subject to any other

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law or provision for same, but rather be an additional remedy available to the Municipality above and beyond any other state, county or local provisions for same.

SECTION 181-3-D- ESTABLISHMENT OF A REGISTRY

The Borough or designee shall participate in the County-wide registration program established by the Atlantic County Improvement Authority which catalogs each Foreclosure Property within the Municipality, containing the information required by this Article.

SECTION 181-3-E- REGISTRATION OF FORECLOSURE REAL PROPERTY

(a) Any mortgagee who holds a mortgage on real property located within the Borough of Buena shall perform an inspection of the property to determine vacancy or occupancy, upon the commencement of foreclosure as evidenced by a foreclosure filing .The mortgagee shall, within ten (10) days of the inspection, register the property with the Code Enforcement Officer, or designee, on forms or website access provided by the Borough, and indicate whether the property is vacant or occupied. A separate registration is required for each property, whether it is found to be vacant or occupied.

(b) If the property is occupied but remains in foreclosure, it shall be inspected by the mortgagee or his designee monthly and, within ten (10) days of that inspection, update the property registration to a vacancy status on forms provided by the Borough.

(c) Registration pursuant to this section shall contain the name of the mortgagee and the server, the direct mailing address of the mortgagee and the server, a direct contact name and telephone number for both parties, facsimile number and e-mail address for both parties, the folio or tax number, and the name and twenty-four (24) hour contact telephone number of the property management company located in the State of New Jersey responsible for the security and maintenance of the property.

(d) A non-refundable annual registration fee in the amount of \$500.00 per property, shall accompany the registration form or website registration.

(e) If the property is not registered, or the registration fee is not paid within thirty (30) days of when the registration or renewal is required pursuant to this section, a late fee equivalent

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to ten percent (10%) of the annual registration fee shall be charged for every thirty-day period (30), or portion thereof, that the property is not registered and shall be due and payable with the registration.

(f) All registration fees must be paid directly from the Mortgagee, Servicer, Trustee, or Owner. Third Party Registration fees are not allowed without the consent of the Borough and/or its authorized designee.

(g) This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

(h) Properties subject to this section shall remain under the annual registration requirement, and the inspection, security and maintenance standards of this section as long as they remain in foreclosure.

(i) Any person or legal entity that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change.

(j) Failure of the Mortgagee to properly register or to modify the registration form from time to time to reflect a change of circumstances as required by this article is a violation of the article and shall be subject to enforcement.

(k) Pursuant to any administrative or judicial finding and determination that any property is in violation of this article, the Borough may take the necessary action to ensure compliance with and place a lien on the property for the cost of the work performed to benefit the property and bring it into compliance.

(l) Registration of foreclosure property does not alleviate the Mortgagee from obtaining all required licenses, permits and inspections required by applicable code or State Statutes.

(m) If the mortgage and/or servicing on a property is sold or transferred, the new Mortgagee is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the new Mortgagee shall register the property or update the existing registration. The previous Mortgagee(s) will not be released from the responsibility of paying all previous unpaid fees,

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finances, and penalties accrued during that Mortgagee's involvement with the Registrable Property.

(n) If the Mortgagee sells or transfers the Registrable Property in a non-arm's length transaction to a related entity or person, the transferee is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the transferee shall register the property or update the existing registration. Any and all previous unpaid fees, fines, and penalties, regardless of who the Mortgagee was at the time registration was required, including but not limited to unregistered periods during the Foreclosure process, are the responsibility of the transferee and are due and payable with the updated registration. The previous Mortgagee will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that Mortgagee's involvement with the Registrable Property.

SECTION 181-3-F-MAINTENANCE REQUIREMENTS

(a) Properties subject to this chapter shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

(b) The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.

(c) Front, side, and rear yards, including landscaping, shall be maintained in accordance with the applicable code(s) at the time registration was required.

(d) Yard maintenance shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Acceptable maintenance of yards and/or landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.

(e) Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing

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of required ground cover or landscape and removal of all trimmings.

(f) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris and shall comply with the regulations set forth in the applicable code(s).

(g) Failure of the mortgagee and/or owner to properly maintain the property may result in a violation of the applicable code(s) and issuance of a citation or Notice of Violation in accordance with Chapter 181 of the Borough of Buena Code. Pursuant to a finding and determination by the Borough's Code Enforcement Officer/ Borough Council, or a court of competent jurisdiction, the Borough may take the necessary action to ensure compliance with this section.

(h) In addition to the above, the property is required to be maintained in accordance with the applicable code(s).

SECTION 181-3-G- SECURITY REQUIREMENTS

(a) Properties subject to these Sections shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

(b) A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. Broken windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure must be repaired. Broken windows shall be secured by reglazing of the window.

(c) If a mortgage on a property is in default, and the property has become vacant or abandoned, a property manager shall be designated by the mortgagee to perform the work necessary to bring the property into compliance with the applicable code(s), and the property manager must perform regular inspections to verify compliance with the requirements of this article, and any other applicable laws.

SECTION 181-3-H- PUBLIC NUISANCE.

All abandoned real property is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare

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and safety of the residents of the Borough.

SECTION 181-3-I-PENALTIES; SCHEDULE OF CIVIL PENALTIES.

Any person who shall violate the provisions of this article may be cited and fined as provided in Chapter 181 of the Code of the Borough of Buena and New Jersey Statutes. The following table shows violations of these sections, as may be amended from time to time, which may be enforced pursuant to the provisions of this regulation; and the dollar amount of civil penalty for the violation of these sections as it may be amended. The descriptions of violations" below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the Borough Code sections, except to the extent that different types of violations of the Code section may carry different civil penalties. For each Code section listed in the schedule of civil penalties, the entirety of the section may be enforced by the mechanism provided in this section, regardless of whether all activities prescribed or required are described in the "Description of Violation" column. To determine whether a particular activity is prescribed or required by this Code, the relevant Municipality Code section(s) shall be examined.

Description of Violation	Civil Penalty
Failure to register abandoned real property on annual basis and/or any violation of the sections stated within.	\$500.00

SECTION 181-3-J-INSPECTIONS FOR VIOLATIONS

Adherence to this article does not relieve any person, legal entity or agent from any other obligations set forth in any applicable code(s), which may apply to the property. Upon sale or transfer of title to the property, the owner shall be responsible for all violations of the applicable code(s) and the owner shall be responsible for meeting with the Borough's Code Enforcement Officer within forty-five (45) days for a final courtesy inspection report.

SECTION 181-3-K-ADDITIONAL AUTHORITY

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(a) If the enforcement officer has reason to believe that a property subject to the provisions of this article is posing a serious threat to the public health safety and welfare, the code enforcement officer may temporarily secure the property at the expense of the mortgagee and/or owner, and may bring the violations before the Borough Council or their designee as soon as possible to address the conditions of the property.

(b) The Borough Council shall have the authority to require the mortgagee and/or owner of record of any property affected by this section, to implement additional maintenance and/or security measure including, but not limited to, securing any and all doors, windows or other openings, employment of an on- site security guard or other measures as may be reasonably required to help prevent further decline of the property.

(c) If there is a finding that the condition of the property is posing a serious threat to the public health, safety and welfare, then the Borough Council or their designee may direct the Department of Public Works or such other outside company to abate the violations and charge the mortgagee with the cost of the abatement.

(d) If the mortgagee does not reimburse the Borough for the cost of temporarily securing the property, or of any abatement directed by the Borough Council or their designee within thirty (30) days of the Borough sending the mortgagee the invoice then the Municipality may lien the property with such cost, along with an administrative fee of \$500.00 to recover the administrative personnel services.

SECTION 181-3-L- OPPOSING, OBSTRUCTING ENFORCMENT OFFICER; PENALTY.

Whoever opposes, obstructs or resists any enforcement officer or any person authorized by the enforcement office in the discharge of duties as provided in this chapter shall be punishable as provided in the applicable code(s) or a court of competent jurisdiction.

SECTION 181-3-M-IMMUNITY OF ENFORCEMENT OFFICER

Any enforcement officer or any person authorized by the Borough to enforce the sections here within shall be immune from prosecution, civil or criminal, for reasonable, good faith entry upon real property while in the discharge of duties imposed by this article.

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SECTION 3. AMENDMENTS. Registration and Penalty Fees outlined in this article may be modified by an Ordinance, passed and adopted of the Council of the Borough of Buena.

SECTION 4. SEVERABILITY. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. REPEALER. All ordinances or parts of ordinances in conflict herewith, are and the same are hereby repealed.

SECTION 6. CODIFICATION. It is the intention of the Council of the Borough of Buena, New Jersey, that the provisions of this Ordinance shall become and be made a part of the Code of the Borough of Buena; and that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 7. EFFECTIVE DATE. This ordinance shall become effective upon adoption and publication as provided by law.

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**RESOLUTION NO. 72-22 AUTHORIZING THE MAYOR TO EXECUTE THE FIRST
 AMENDMENT TO SHARED SERVICES AGREEMENT WITH
 THE ATLANTIC COUNTY IMPROVEMENT AUTHORITY
 FOR THE PURPOSE OF ESTABLISHING THE VACANT
 FORECLOSED HOME REGISTRY SYSTEM WITH PROPERTY
 REGISTRATION CHAMPIONS LLC**

Council Member	By	2nd	YES	NO	Abstain	Absent	Recuse
ANDALORO, G							
ALVAREZ							
WALKER							
D'ALESSANDRO							
ANDALORO, P							

WHEREAS, the Borough of Buena, recognizes an increase in the number of vacancies and abandoned properties located throughout the municipality; and

WHEREAS, the Atlantic County Improvement Authority has established a county-

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wide registration program to be administered by the Property Registration Champions LLC, who will identify a contact person to address safety and aesthetic concerns to minimize the negative impacts that occur as a result of foreclosures and vacant properties; and

WHEREAS, The Borough entered into a Shared Services Agreement with the Atlantic County Improvement Authority on January 27, 2016 for a period of 10 years: and

WHEREAS, the Borough wishes to amend its shared services agreement with the Atlantic County Improvement Authority to participate in the county-wide registration program with Property Registration Champions LLC to facilitate communication with the contact person responsible for abandoned and foreclosed homes.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Buena that the Mayor is authorized to execute the First Amendment to the Shared Services Agreement with the Atlantic County Improvement Authority for the purpose of participating in the county-wide registration program with Property Registration Champions LLC.

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RESOLUTION NO 73-22 RESOLUTION AUTHORIZING PUBLIC AUCTION OF BOROUGH OWNED PROPERTIES

Council Member	By	2nd	YES	NO	Abstain	Absent	Recuse
ANDALORO, G							
ALVAREZ							
WALKER							
D'ALESSANDRO							
ANDALORO, P							

WHEREAS, the Mayor and Council of the Borough of Buena wish to sell Block 145 Lot 1, consisting of 1.149 acres as will be subdivided pursuant to Resolution # 65-2022 and Block 145 Lot 8.04 consisting of 3.36 acres; and

WHEREAS, the Mayor and Council have determined that it is in the best interests of the residents of the Borough of Buena to sell these properties; and

WHEREAS, pursuant to N.J.S.A. 40A:12-13, a municipality has the authority to hold a public auction for the sale of real property; and

WHEREAS, the Mayor and Council now wish to hold a public auction on August 4, 2022.

NOW THEREFORE, BE IT RESOLVED THAT the Council of the Borough of Buena authorizes such properties be advertised for public auction.

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RESOLUTION NO. 74-22 RESOLUTION AUTHORIZING HIRING OF EMERGENCY MEDICAL TECHNICIAN

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Council Member	By	2nd	YES	NO	Abstain	Absent	Recuse
ANDALORO, G							
ALVAREZ							
WALKER							
D'ALESSANDRO							
ANDALORO, P							

WHEREAS, the Borough of Buena Emergency Medical Services Department operates 24 hours a day, 365 days a year; and

WHEREAS, appropriate staffing is required for the department to operate effectively and efficiently; and

WHEREAS, the Emergency Medical Services Chief of the Borough of Buena requests the authorization from Council to approve the hiring of the following candidates to replace the Emergency Service Technicians who have left the department:

Kimberly Cruz

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Buena, County of Atlantic, State of New Jersey, hereby approves the hiring of aforementioned candidates as Part-time per-diem Emergency Service Technicians based on their qualifications with a start date as soon as possible and conditioned upon the successful completion of the hiring phases set forth in the Policy and Procedures of the Borough of Buena.

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**Resolution 75-22 TO AMEND ADOPTED BUDGET (CHAPTER 159)
 SPECIAL ITEMS OF REVENUE AND APPROPRIATIONS
 (N.J.S.A. 40A: 4-87)**

Council Member	By	2nd	YES	NO	Abstain	Absent	Recuse
ANDALORO, G							
ALVAREZ							
WALKER							
D'ALESSANDRO							
ANDALORO, P							

WHEREAS, N.J.S. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount, and

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WHEREAS, the Borough of Buena, County of Atlantic, has been awarded \$12,267.36 from the State of New Jersey Department of Treasury Clean Communities Account Fund

NOW, THEREFORE, BE IT RESOLVED that the council of the Borough of Buena, County of Atlantic, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the Budget of the year 2022 in the sum of \$12,267.36 which is now available as revenue as follows:

Clean Communities Grant: \$12,267.36

BE IT FURTHER RESOLVED that a like sum of \$12,267.36 and the same is hereby appropriated under the caption of:

Clean Communities Grant: \$12,267.36

BE IT FURTHER RESOLVED that the Chief Financial Officer will forward one copy of this resolution to the Director of the Local Government Services.

RESOLUTION NO. 76-22 RESOLUTION FOR APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE RECONSTRUCTION OF EAST FLOWER STREET, EAST SUMMER ROAD AND SOUTH BOULEVARD PROJECT.

Council Member	By	2nd	YES	NO	Abstain	Absent	Recuse
ANDALORO, G							
ALVAREZ							
WALKER							
D'ALESSANDRO							
ANDALORO, P							

WHEREAS, that the Council of the Borough of Buena formally approves the grant application for the above stated project.

WHEREAS, that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2023 Reconstruction of E. Flower Street, E-00248 to the New Jersey Department of Transportation on behalf of the Borough of Buena.

NOW, THEREFORE BE IT RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Buena and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

ENGINEER'S REPORT:

FY2021 NJDOT Municipal Aid Project – South Boulevard Drainage Improvements

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Our office has submitted the plans and specs to the NJDOT for authorization to advertise for bids.

FY2022 NJDOT Municipal Aid Project – E. Summer Road and E. Flower Street

The Borough received \$285,000 for E. Summer Road and E. Flower Street. Our office submitted a proposal for survey and engineering work. We are awaiting authorization.

Expansion of the Commerce Center Redevelopment Area

The public hearing has not been scheduled yet.

FY2023 NJDOT Municipal Aid Application

Applications are due July 1, 2022. Our office has submitted a proposal for preparation of the application. We are recommending submitting for additional funds for E. Flower Street and E. Summer Road and to complete the reconstruction of South Boulevard.

SOLICITOR’S REPORT:

Minutes of the regular meeting of May 23, 2022. If no corrections or additions, entertain a motion to approve:

Council Member	By	2nd	Aye	Nay	Abstain	Absent	Recuse
ANDALORO, G							
ALVAREZ							
WALKER							
D’ALESSANDRO							
ANDALORO, P							

CORRESPONDENCE :

1. Our Lady of the Blessed Sacrament Raffle License.

NEED MOTION TO FILE CORRESPONDENCE :

Council Member	By	2nd	Aye	Nay	Abstain	Absent	Recuse
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ANDALORO, G							
ALVAREZ							
WALKER							
D'ALESSANDRO							
ANDALORO, P							

UNFINISHED BUSINESS:

NEW BUSINESS:

BILLS PAID AS LISTED:

Council Member	By	2nd	Aye	Nay	Abstain	Absent	Recuse
ANDALORO, G							
ALVAREZ							
WALKER							
D'ALESSANDRO							
ANDALORO, P							

NEXT MEETING: JUNE 27, 2022

MEETING ADJOURNED: M/ _____ S/ _____ ALL IN FAVOR? ANY OPPOSED?