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Title: AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE VIII, BUSINESS AND OCCUPATIONS, CHAPTER 19 OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY 2000, TO ADOPT NEW PROCEDURES FOR THE NONCONSENSUAL TOWING AND STORAGE OF MOTOR VEHICLES.
Invitation: Newark Parking Authority - November 19, 2012
No Action Taken, November 20, 2012
Deferred 8b 120512

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12/19/2012	2	Municipal Council	Returned to Administration	Pass
12/5/2012	2	Municipal Council	Defer on pending	Pass
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AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE VIII, BUSINESS AND OCCUPATIONS, CHAPTER 19 OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY 2000, TO ADOPT NEW PROCEDURES FOR THE NONCONSENSUAL TOWING AND STORAGE OF MOTOR VEHICLES.

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WHEREAS, this Chapter is enacted pursuant to the statutory authority set forth in P.L. 1997, c. 387, § 3, eff. Jan. 19, 1998 (N.J.S.A. 40:48-2.54) in order to regulate the towing and storage of motor vehicles without the consent of the owners of those vehicles and to set forth a schedule of required towing and storage services and rates therefore based on the usual, customary and reasonable rates of operators towing and storing motor vehicles in the City of Newark in the County of Essex, to facilitate full implementation of that certain Interlocal Agreement with the Parking Authority of the City of Newark, and to implement a procedure to receive complaints and resolve disputes arising from the towing and storage of motor vehicles required by the City of Newark without the consent of the owner; and

WHEREAS, the Municipal Council of the City of Newark finds and declares that the City of Newark adopts and endorses the policies embodied in the New Jersey Predatory Towing Prevention Act, P.L. 2007, c. 193, eff. Oct. 24, 2007, (N.J.S.A. 56:8-1, et seq.,) and the provisions of the New Jersey Administrative Code which implement that Act, N.J.A.C. 13:45-31.1 to N.J.A.C. 13:45-31.10.

The Municipal Council of the City of Newark further finds that the legitimate business of tow truck operators, private property owners, operators and owners of automobiles and commercial motor vehicles, law enforcement, street maintenance and the users of the public rights of way for relief from unauthorized parking, abandoned or disabled automobiles and commercial motor vehicles and non-consensually towed automobiles and motor vehicles must be balanced with the interests of the City of Newark in providing appropriate protection to consumers; and

WHEREAS, the Municipal Council of the City of Newark finds and declares that it is in the public interest to create a coordinated, comprehensive framework to establish and enforce minimum standards for towing of all forms of vehicles in and about the City of Newark.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

Section 1. Title VIII, Businesses and Occupations, Chapter 19, Wreckers, of the Revised General Ordinances of the City of Newark, New Jersey (2000) as amended and supplemented, be further amended and supplemented to read as follows:

Deletions are indicated by ~~strikethrough~~

Additions are indicated by underline

8:19-1. DEFINITIONS. PURPOSE; LEGISLATIVE FINDINGS; DEFINITIONS

As used in this chapter:

Commercial motor vehicle shall mean every type of motor driven vehicle used for commercial purposes on the streets and highways, such as the transportation of goods, wares and merchandise, excepting such vehicles as are run only upon rails or tracks and vehicles of the passenger car type used for touring purposes or the carrying of farm products and milk, as the case may be. It includes all motor vehicles used for the transportation of passengers for hire, except commuter vans and vehicles used in ridesharing arrangements and school buses, if same are not otherwise used in the transportation of passengers for hire.

~~**Director** shall mean the Director of the Department of Finance and/or his designee.~~

~~**Dolly service** shall mean any operation in which a vehicle is moved without the use of its own tires or wheels, except in the case of a motorcycle or a motor scooter.~~

~~**Flatbed service** shall mean any operation in which a vehicle is moved by loading the vehicle onto a trailer and transporting without the use of its own tires or wheels.~~

~~**Private passenger vehicle** shall mean an automobile, station wagon, motorcycle, motor scooter, jeep or mini-van type that is owned or hired, and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; a motor vehicle with a pickup body, a delivery sedan, a van or a panel truck or a camper type vehicle used for recreational purposes, owned by an individual or by a husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured. This definition does not include any automobile used for hire.~~

~~**Transmission service** shall mean the combined operation of removing and then replacing a transmission locking pin, when such operation is necessary before a vehicle can be moved.~~

~~**Winching service** shall mean any operation in which a vehicle is moved on to a roadway, from a position off the roadway, or any other operation in which substantial work is required to prepare a~~

vehicle for normal towing.

Wrecker shall mean any vehicle which can be used to tow or otherwise move another vehicle, and which is for hire, or used in connection with another business.

(R.O. 1966 C.S. § 8:19-1; Ord. 6 S+FH, 6-17-92 § 1)

AUTOMOBILE means a motor vehicle of a private passenger, van, minivan, pick-up truck or station wagon type that is owned or leased by a private person or entity of any designation, but is not used as a public or livery conveyance for passengers or used for commercial purposes, and has a registered weight of under five thousand (5000) pounds. This can also be known as a private passenger vehicle.

CALENDAR YEAR means the period of time between January 1 and December 31 of any given year.

COMMERCIAL MOTOR VEHICLE means every type of motor driven vehicle used for commercial purposes on the streets and highways, such as, but not limited to, the transportation of goods, wares and/or merchandise. This shall not include such vehicles as are run only upon rails. It also includes all automobiles as described in § 8:19-1(a) which are used for the transportation of passengers for hire and all other motor vehicles used for the transportation of passengers for hire, except school buses which are licensed by the State of New Jersey.

DIRECTOR means the Executive Director of the Parking Authority of the City of Newark or his or her designee.

FLATBED SERVICE means any operation in which an automobile and/or commercial motor vehicle, as defined herein, is moved by loading such onto a trailer and transporting such without the use of its own tires and/or wheels.

MOTOR VEHICLE ACCIDENT means an occurrence in which an automobile comes in contact with any other object for which the automobile must be towed or removed for placement in an outside secured storage facility. This includes all situations which are accidental as to the licensed owner or operator of the automobile even if they were caused by the intentional acts of a perpetrator where the perpetrator was not the licensed owner or operator of the automobile.

NON-CONSENSUAL TOWING means the towing of any vehicle from private or public property or any street or sidewalk public right of way or from a storage facility within the City of Newark without the consent of the owner or operator of the vehicle, of:

- (1) a vehicle which has been damaged as a result of an accident or is otherwise disabled;
- (2) a vehicle which has been abandoned or is obstructing traffic within any public right of way or public sidewalk within the public right of way;
- (3) a vehicle which is parked illegally or without authorization under any Ordinance of the City of Newark or statute or regulation of the State of New Jersey and for which there is authorization in this Chapter or any other Ordinance of the City of Newark or statute or regulation of the State of New Jersey to tow or immobilize the same;
- (4) a vehicle which has been impounded by any law enforcement agency without the consent of the owner because the driver failed to exhibit an insurance card contrary to N.J.S.A.

39:3-29.1(a):

- (5) a vehicle which has been impounded by any law enforcement agency without the consent of the owner because the driver does not display and/or possess a valid permanent registration contrary to N.J.S.A 39:3-4;
- (6) a vehicle which has been left standing, whether attended or unattended, upon the roadway contrary to N.J.S.A 39:4-136;
- (7) a vehicle which has been recovered after being stolen;
- (8) a vehicle whose operator has been arrested by any law enforcement agency for any offense under the New Jersey Criminal Code or for any other offense which provides for a criminal penalty under New Jersey Law, for driving while intoxicated or under the influence of drugs prescriptions contrary to N.J.S.A. 39:3-10.13, N.J.S.A. 39:4-49.1, N.J.S.A. 39:4-50, or N.J.S.A. 39:4-50.14 and where there is no person who may legally take possession of the vehicle pursuant to N.J.S.A. 39:4-50.22; and
- (9) a vehicle whose driver has been arrested for driving with a revoked operator's privilege contrary to N.J.S.A. 39:4-50.22

It shall not be required under this Chapter to obtain judicial or quasi-judicial declaration of the conditions or violations specified above in order to tow a vehicle.

NON-INVESTIGATORY TOWS means a towed vehicle that DOES NOT have to be processed for evidence, searched for contraband or is part of a criminal investigation. Non-Investigatory tows would be vehicles towed for parking violations, abandoned vehicles, failure to exhibit insurance/registration. Non-investigatory tows shall not include vehicles involved in hit and runs, pedestrian(s) struck, driver not located and/or police pursuits. This list is not meant to be an exhaustive list. The final determination to preserve the vehicle for investigatory hold shall be at the discretion of the Police Officer arriving at the scene.

OFFICIAL TOWER means those person(s) and/or company(ies) licensed under the authority of the City of Newark to tow and/or store vehicles.

OUTSIDE SECURED STORAGE FACILITY means an automobile storage facility that is not indoors and is secured by a fence, wall and/or other man-made barrier that is at least six (6') feet high and is installed with a locked gate. As used herein, the facility must be lighted at night, must be secured twenty-four (24) hours a day, seven (7) days a week and manned by at least one (1) security guard at all times.

OVERTIME OR ILLEGALLY PARKED AUTOMOBILE means an automobile which is parked in violation of any statute, law, rule, regulation, ordinance or resolution, where the enforcement of that statute, rule, regulation, ordinance or resolution is delegated by law or other governmental action (statute, ordinance, rule and/or regulation) to a governmental agency. Automobile also includes delivery sedan, panel truck or van and/or a camper type vehicle, which is used for recreational purposes.

OVERTIME OR ILLEGALLY PARKED COMMERCIAL VEHICLE means a commercial vehicle which is parked in violation of any statute, law, rule, regulation, ordinance or resolution, where the enforcement of that statute, rule, regulation, ordinance or resolution is delegated by law or other governmental action (statute, ordinance, rule and/or regulation) to a governmental agency.

PRIVATE PROPERTY TOWING means the non-consensual towing from private property of a 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.

SPECIAL RECOVERY SERVICES means any action that is not normally associated with roadside towing, e.g., winching or righting overturned vehicles.

SPORT UTILITY VEHICLE means a motor vehicle of a private passenger multiple row seating and elevated ride height type which is typically advertised as an "SUV" and which is owned or leased by a private person or entity of any designation, but is not used as a public or livery conveyance for passengers or used for commercial purposes, and has a registered weight of five thousand (5000) pounds or more. For purposes of this Chapter, any automobile which exceeds five thousand (5000) pounds in weight shall be treated as a Sport Utility Vehicle for purposes of weight classes and rates for towing and storage.

STORAGE CHARGES FOR TWENTY-FOUR (24) HOUR PERIOD means the maximum allowable amount to be charged by a storage facility for a period of twenty-four (24) hours or a fraction thereof. A new twenty-four (24) hour period begins at 12:01 a.m.

THE PARKING AUTHORITY OF THE CITY OF NEWARK means the Parking Authority of the City of Newark created by Ordinance pursuant to the authority of *N.J.S.A. 40:11A-6, et seq.*, its Board of Commissioners, Commissioners, Executive Director and/or other officials, officers, employees, designees and/or representatives, as appropriate, which is also sometimes known as the Newark Parking Authority.

TOW VEHICLE means any Official Tower's vehicles equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under-reach equipment specifically designed by its manufacturer for the removal or transport of vehicles.

TOWING REQUEST FOR PROPOSAL REVIEW COMMITTEE means the Executive Director of the Parking Authority of the City of Newark or his or her designee, the Director of Administration of the Parking Authority of the City of Newark or his or her designee and the Chairman or Chairwoman of the Board of Commissioners of the Parking Authority of the City of Newark or his or her designee, who shall nonetheless otherwise be a current Commissioner of the Parking Authority of the City of Newark. The members of the Towing Request for Proposal Review Committee may meet to review any Towing Request for Proposal or may provide written comments thereto and to all other members in the event that no meeting can be established to review the Towing Requests for Proposal described herein in a timely fashion. All such comments, if reduced to writing, shall be considered as confidential information regarding competitive contracting and deliberative materials pursuant to the Open Public Meetings Act, *N.J.S.A. 10:4-6, et seq.*, and the Open Public Records Act, *N.J.S.A. 47:1A-1.1, et seq.*, as well as the common law right to know.

TOW VEHICLE BASE OF SERVICE means the towing operator's principal place of business where

the tow vehicle is stationed when not in use.

TRANSMISSION SERVICE means the combined operation of removing and then replacing a transmission locking pin, where such operation is necessary before an automobile and/or commercial motor vehicle can be moved.

VEHICLE means any device in, upon or by which a person or property is or may be transported upon any highway, and includes automobiles, sport utility vehicles and commercial motor vehicles.

WINCHING SERVICE means any operation in which an automobile and/or commercial motor vehicle is moved on to a roadway and/or from a position off the roadway and/or other operation in which substantial work is required to prepare an automobile and/or commercial motor vehicle for normal towing.

WRECKER means any light- medium or heavy duty tow vehicle that can be used to tow and/or otherwise move another automobile and/or commercial motor vehicle and which is for hire, or used in connection with another business.

8:19-2. WRECKER LICENSES.

- a. No person shall operate or cause to be operated a wrecker upon the streets of the City of Newark without first obtaining a license from the Division of Tax Abatements/Special Taxes. All licenses issued, and renewals thereof, under this chapter shall be for a period of one (1) year from the date of issuance. The Division of Tax Abatements/Special Taxes shall establish administrative rules and/or regulations pertaining to scheduling for the issuance of a wrecker operator's license. The annual fee for such license shall be one hundred fifty (\$150.00) dollars.
 - b. The license shall be affixed to the interior of the wrecker in a permanent and conspicuous position.
- (R.O. 1966 C.S. § 8:19-2; Ord. 6 S+FO, 2-17-88 § 1)

8:19-3. RULES AND REGULATIONS.

- a. The Director of the Department of Finance or his/her designee is hereby authorized and empowered to establish reasonable rules and regulations governing the inspection and operation of wreckers.
- b. The Director of the Department of Finance or his/her designee shall have the power, consistent with due process of law, to suspend or revoke a wrecker license for violation of safety standards or rules and regulations of operation.
- c. The Director of the Department of Finance or his/her designee shall maintain proper records of licenses issued and inspections made, and shall keep proper business records, and to have them available for his/her inspection, and the inspection of the Police Department.
- d. All wreckers that are licensed by the City of Newark shall permanently display on both sides of the wrecker the name of the owner of the wrecker, his address and telephone number as well as the trade name of the business using the wrecker.

e. The Police Director of the City of Newark and/or his or her designee shall promulgate rules and regulations which shall govern Official Towers to ensure compliance with state laws, local ordinances and police regulations and procedures. Such regulations include, but are not limited to, the following:

- i. when towed vehicles arrive at the storage facility the vehicle shall be marked for tracking purposes;
- ii. proper notice shall be given to owner/lienholder, N.J.S. 39:10A-1, et seq.; and
- iii. with the exception of abandoned vehicles, the Newark Parking Authority shall protect the vehicle from exposure to the elements and must immediately cover windows, roof, engine or trunk compartments that are open.

f. Newark Police Department and the Newark Parking Authority shall each have the authority and responsibility to conduct auctions and the junk vehicle process for the vehicles within their control, in accordance with N.J.S. 39:10A-1, et seq.

e. g. The operator of a motor vehicle which is in the process of being towed for a parking violation of any municipal parking ordinances, shall have the option of cancelling the tow, whether or not the vehicle is engaged with the wrecker, by paying a twenty-five (\$25.00) dollar cancellation fee to the wrecker operator. The cancellation offer must be made by the motor vehicle operator prior to the wrecker departing the scene. The motor vehicle operator must show proof of driver's license, registration and insurance when paying the twenty-five (\$25.00) dollar cancellation fee which information shall be recorded and a receipt given by the wrecker operator. The wrecker operator shall provide the motor vehicle operator with a receipt detailing the amount paid, the time, date, location, license plate number and be signed off by the Police Officer on the scene (if possible). After the motor vehicle operator displays the proper documentation and pays the cancellation fee, the wrecker operator shall cancel the tow regardless of whether or not the motor vehicle was engaged with the wrecker. Nothing in this section shall provide for the cancellation of any traffic summonses which may have been issued as a result of the motor vehicle operator violating any traffic and parking ordinances.

(R.O. 1966 C.S. § 8:19-3; Ord. 6 S+FE, 4-3-91 § 1; Ord. 6 S+FC, 10-6-93 § 1)

8:19-4. DELEGATION OF TOWING AND STORAGE TO PARKING AUTHORITY.

(a) The City of Newark hereby delegates to the Parking Authority of the City of Newark, pursuant to Interlocal Agreement, all nonconsensual/non-investigatory hold towing, specifically enumerated in in Section 8:19-1 paragraphs 1, 2, 3, 4, 5, and 6 set forth in the definition of non-consensual towing under this Ordinance related to or arising from any violation arising from prohibited parking ordinances or statutes, restricted parking ordinances or statutes, street cleaning or alternate side parking ordinances or statutes, or bus lane parking prohibitions; provided, however, that such delegation shall be effective upon notification in writing by the Parking Authority of the City of Newark to the City of Newark that it has obtained adequate and safe towing and storage facilities to conduct towing and storage activities as required by this Ordinance or otherwise by law. In the event that a rotational list for nonconsensual towing is created pursuant to this section, such list shall comply with the provisions of N.J.S.A. 56:13-7, et seq., and N.J.A.C. 13:45A-31.2 and as the same may be supplemented from time to time.

(b) City of Newark shall administer all towing as enumerated in Section 8:19-1 paragraphs 7, 8

and 9 set forth in the definition of non-consensual towing and any other towing identified as being held for investigation.

- (c) No earlier than two (2) years nor later than five (5) years from the effective date of this Ordinance, the City of Newark may delegate to the Parking Authority of the City of Newark, pursuant to Interlocal Agreement, all nonconsensual towing under this Ordinance related to or arising from any violation arising under Section 8:19-1 entitled "Nonconsensual Towing" (1) through (9) of this Ordinance. Such delegation shall not require enactment by Ordinance, but shall be effected by Resolution pursuant to the Interlocal Agreement. In the event that a rotational list for nonconsensual towing is created pursuant to this section, such list shall comply with the provisions of N.J.S.A. 56:13-7, et seq., and N.J.A.C. 13:45A-31.2 and as the same may be supplemented from time to time and the provisions of this chapter regarding equipment and safety requirements, or such regulations regarding equipment and safety requirements as may be adopted by the Director of Police.

8:19- 5. INSURANCE.

No licensee shall operate or cause to be operated a wrecker upon the street of the City of Newark until the wrecker is covered by an insurance policy which is acceptable to the Director in coverage and amount. No license shall be issued until the applicant presents evidence to the Director that this requirement has been met. No person or entity shall be included on the Official Towers list unless and until such person or entity has provided to the Director of the Department of Finance for the City of Newark and/or his or her designee and the Director of the Parking Authority a certificate(s) of insurance evidencing that there is in effect the following insurance coverage.

- (1) General property damages, liability and personal injury insurance in an amount not less than \$1,000,000 combined single limit, including in the case of each light-medium duty tow truck, motor vehicle liability insurance for the death of, or injury to, persons and damage to property, and in the case of each heavy duty tow truck, motor vehicle liability insurance for the death of, or injury to, persons and damage to property, and such policies shall include collision coverage with an endorsement to provide collision coverage for vehicles in tow.
- (2) Garage keeper's liability insurance in an amount not less than \$1,000,000 per location shall be required. No deductible amounts are permitted. The words "no deductible" shall be included on the policy and/or certificate of insurance.
- (3) Workers' compensation as required by State law shall be required.
- (4) Policies of insurance shall be written by insurance companies authorized to do business in the State of New Jersey.
- (6) The City of Newark and the Parking Authority of the City of Newark shall be named as an additional insured on all policies of insurance provided pursuant to this Chapter. All certificates of insurance shall provide that the policies may not be canceled or terminated or coverage decreased during the Official Towers term. Such insurance shall be primary.
- (7) The policies of insurance shall be maintained in full force and effect at all times. In the event that any coverage is canceled or terminated or coverage decreased in amount, the tower shall be removed immediately from the Official Towers list until such time as the required coverage is reinstated and/or replaced.

(8) On the reverse side of all liability insurance certificates shall be the following Insurer Hold Harmless language endorsed by the insurer:

“The insurer shall defend, indemnify and hold harmless the City of Newark and the Parking Authority of the City of Newark, their officials, officers, employees, representatives, designees, agents, servants and administrators from and against any and all claims or actions at law, whether for personal injury or property damage, liability including any costs of defense incurred by them and any payment recoveries and judgments against them which arise from any acts or omissions of the named insured, their agents, designees, officials, officers and/or employees in the execution of the work and/or duties to be performed under this section which are deemed not to be the sole responsibility of the City of Newark or the Parking Authority of the City of Newark.”

(9).Each Official Tower shall agree, in writing, to assume the defense of and indemnify and hold harmless the City of Newark and/or the Parking Authority of the City of Newark, their officials (appointed and/or elected), officers (appointed and/or elected), boards, commissions, designees, representatives, employees and agents from all suits, actions, damages and/or claims to which they may be subjected to of any kind and nature whatsoever resulting from, caused by, arising out of or as a consequence of the provision of towing, non-consensual towing, storage and/or emergency services provided at the request of them pursuant to this Chapter.

(R.O. 1966 C.S. § 8:19-4, amended R.O. 2011 C.S. 8:19-4)

8:19-6. WRECKER DRIVER'S LICENSE.

a. No person shall drive or operate a wrecker in the City of Newark unless he applies for and receives a wrecker driver's license from the Division of Tax Abatements/Special Taxes.

b. The Director of the Department of Finance or his/her designee shall establish reasonable rules and regulations governing the issuance of such licenses, which rules and regulations shall include the provisions that a license will not be issued unless the applicant:

1. Is over the age of twenty-one (21);
2. Has a regular New Jersey driver's license in effect;
3. Is of sound health and not subject to epilepsy, vertigo, heart trouble or any other infirmity of mind or body which might make him unfit to safely operate a wrecker;
4. Is not addicted to the use of any narcotics or intoxicating liquors;
5. Has not been convicted of any high misdemeanor or felony within the ten (10) years next preceding the application.
6. Is a competent mechanic able to provide minimum road service for disabled vehicles including, but not limited to:
 - a. Change flat tires;
 - b. Perform battery jumps;
 - c. Provide gasoline replenishment of at least one (1) gallon.
7. Has not had his or her driving privileges suspended or revoked within the last year.

c. When issued, the license shall bear the photograph of the licensee. The licensee shall have the license on his person whenever he drives or operates a wrecker, while on duty for towing within the City of Newark pursuant to services performed under this Chapter.

d. A wrecker driver's license shall be issued ~~free of charge~~, for a fee of \$30.00 and shall expire one (1) year from the date of issuance, unless sooner suspended or revoked by the Director.

e. The Director of the Department of Finance for the City of Newark and/or his or her designee shall have the power, consistent with due process of law, to suspend or revoke a wrecker driver's license for violation of this chapter, or the rules and regulations established hereunder.

(R.O. 1966 C.S. § 8:19-5, as amended R.O. 2011 § 8:19-5)

f. No person shall drive or operate a wrecker in the City of Newark pursuant to any agreement, contract or other provision with the Parking Authority of the City of Newark unless that person has applied for and received a wrecker driver's license from the City of Newark.

8:19-7. SERVICE RATES.

a. This ordinance shall not supersede State Regulations of the towing or stolen or accident damaged private passenger automobiles as established by the Commissioner of Insurance pursuant to N.J.S. 17:33B-47 and N.J.S. 17:33B-48. b. The charges for services rendered by a licensee an Official Tower wholly within the City of Newark shall not exceed the following rates:

1. Towing-;

a. Private Passenger Vehicles Automobiles under 5,0040 lbs. gross average weight ~~\$65.00~~ \$75.00.

b. Commercial Vehicles and Vehicles Automobiles or Sport Utility Vehicles over 5,001 lbs. gross average weight ~~\$125.00~~ \$150.00.

2. Storage-;

a. Private Passenger Vehicles Automobiles under 5,0040 lbs. Gross average weight ~~\$ 40.00~~ \$30.00 per day for the first thirty (30) days; thereafter ~~\$15.00~~ \$35.00 per day.

b. Commercial Vehicles and Vehicles Automobiles or Sport Utility Vehicles over 5,001 lbs. gross average weight ~~\$ 25.00~~ \$40.00 per day for the first thirty (30) days; thereafter ~~\$40.00~~ \$45.00 per day.

3. Mileage. No mileage fee may be imposed on any tow which is regulated by this chapter.

4. Winching.

a. Light Wreckers ~~\$ 75.00 per hour per unit~~ \$20.00 per 15 minutes, to a maximum of 1 hour.

b. Heavy Wreckers ~~\$225.00 per hour per unit~~ \$75.00 per 15 minutes, to a maximum of 1 hour.

c. Additional Workman Labor ~~\$ 75.00 per hour~~

5. Transmission Service ~~\$ 25.00~~ \$50.00

6. Any other service not enumerated above ~~\$ 25.00~~ \$50.00

e. b. In cases where a licensee must hire laborers or rent other equipment, all reasonable charges therefor, shall be passed along to the owner of the vehicle.

d. c. For services to or from a point outside the City of Newark, the charges shall be determined by mutual agreement of the licensee and customer, governed by the fee schedule for towing as set forth above as and for an hourly dollar rate multiplied on a per hour basis until the destination has been reached.

e. d. The driver or operator of a wrecker shall give the customer a receipt for the amount paid and itemize each charge thereon.

f. e. The operator of a motor vehicle which is in the process of being towed for a parking violation of any municipal parking ordinances, shall have the option of cancelling the tow, whether or not the vehicle is engaged with the wrecker, by paying a fifty (\$50.00) dollar cancellation fee to the wrecker

operator. The cancellation offer must be made by the motor vehicle operator prior to the wrecker departing the scene. The motor vehicle operator must show proof of driver's license, registration and insurance when paying the fifty (\$50.00) dollar cancellation fees which information shall be recorded and a receipt given by the wrecker operator. The wrecker operator shall provide the motor vehicle operator with a receipt detailing the amount paid, the time, date, location, license plate number, which receipt shall be signed off by a Police Officer or Parking Enforcement Officer at the scene of the tow. After the motor vehicle operator displays the proper documentation and pays the cancellation fee, the wrecker operator shall cancel the tow regardless of whether or not the motor vehicle was engaged with the wrecker. Nothing in this section shall provide for or authorize the cancellation of any traffic summonses, fines, penalties, suspensions of driving or registration privileges, contempt charges or other process which may have been issued as a result of the motor vehicle operator violating any traffic and parking ordinances.

g. h. The wrecker operator or Official Tower shall pay to the City of Newark the following fee for each nonconsensual tow:

- (1) \$3.00 per towing fee charged pursuant to §8:19-(7)(a)(1)(a) or (b) above.
- (2) \$5.00 per day for each day of storage charged pursuant to §8:19-(7)(a)(2)(a) or (b) above.
- (3) Such sums shall be paid according to the procedure set forth in §8:19-(10)(a) below.

(R.O. 1966 C.S. § 8:19-3; Ord. 6 S+FE, 4-3-91 § 1; Ord. 6 S+FC, 10-6-93 § 1, amended R.O 2011 § 8:19-6)

f.g. The maximum rates established by this section shall be printed on a card approved by the Director, and affixed to the interior of each wrecker in a permanent and conspicuous position.

g. The service rates shall be reviewed bi-annually by the Director and the Business Administrator to ensure that the licensee obtains a just and reasonable return on their investments.

h. Each licensee under this chapter shall maintain in good condition at all times, at each entrance to such tow lot, a sign, to apprise persons of the:

1. Name of licensee;
2. Address of premises;
3. Opening and closing hours; and
4. Rates charged for towing and storage.

Signs giving all the above information shall be erected only at points of ingress on private property. If point of ingress is more than fifty (50) feet wide, the signs must be so positioned as to be no more than fifty (50) feet from the point of ingress.

The signs shall be of sheet metal or other suitable material and shall be displayed at a height of not less than four (4) feet (bottom edge) and not more than twelve (12) feet (top edge) above the street level. No sign shall be less than twenty (20) nor more than fifty (50) square feet.

Signs shall be erected so as to be visible to a motorist before he leaves the thoroughfare and before he enters the tow lot.

Signs shall be composed of a solid background and the letters, numerals, or symbols shall all be of the same contrasting color. The upper-case (capital) to be two (2) inches high; all letters sans serif. Letters and numerals shall be proportionately spaced and shall neither be contracted nor expanded so as to inhibit readability. Each classification and the applicable rate or rates thereunder shall be listed on a separate line not to exceed forty (40) inches in width. The lines shall be spaced one and one-half (1 1/2) inches apart, as measured between the upper-case (capital) letters.

h. Tow vehicles transporting multiple automobiles and/or commercial vehicles at one (1) time shall receive the applicable fees for each vehicle transported.

i. Motorcycles and all other on/off-road vehicles shall be considered automobiles for purposes of determining fees which are allowed under this section.

j. The fees set forth in this section do not apply to vehicles owned and/or operated by the City of Newark or the Parking Authority of the City of Newark.

k. There shall be no additional charges other than those provided herein including, but not limited to, flatbedding, waiting time, winching, clean-up cost, and additional labor when only basic towing services are provided as defined herein. The Official Tower, however, shall be allowed to charge the sum of Twenty-Five (\$25.00) Dollars per hour for additional winching services which may be required over and above basic towing services when removing a vehicle from a position beyond the right of way or berm or from being impaled upon any other object within the right of way or berm. In addition, the Official Tower may charge a flat fee of thirty (\$30.00) dollars for any road service to any automobiles and/or commercial vehicles which does not involve a tow.

l. Copies of the schedule of fees that may be charged by Official Towers shall be made available to the public during normal business hours at the offices of Parking Authority of the City of Newark. Copies shall also be made available to the public at each Official Tower's place of business.

(R.O. 1966 C.S. § 8:19-6; Ord. 6 S+FN, 12-19-90 § 1; Ord. 6 S+FJ, 2-20-91 § 1; Ord. 6 S+FK, 2-20-91; Ord. 6 S+FH, 10-16-91; Ord. 6 S+FE, 6-3-92 § 1; Ord. 6 S+FH, 6-17-92 § 2, amended R.O 2011 § 8:19-6)

8:19-8. PENALTIES

§ 8:19-9 MINIMUM STANDARDS OF EQUIPMENT AND PERFORMANCE.

a. Official Towers shall have available, at all times during their regular rotation, a minimum of two (2) wrecker drivers to provide all towing services required by this Chapter. All wrecker drivers employed by Official Towers to provide the services required by this Chapter shall meet the requirements of this Chapter.

b. Official Towers shall have such vehicle(s) as are capable of meeting the following minimum requirements.

1. Every Official Tower shall maintain and have available to render services required by this Ordinance a minimum of two (2) flatbed vehicles, a minimum of two (2) towing vehicles and one (1) heavy duty wrecker; provided however, that Official Towers selected for towing by the Parking Authority of the City of Newark pursuant to § 8:19-2(a) only of this Ordinance must have and maintain a minimum of two (2) flatbed vehicles or two (2) towing vehicles only.
2. Flatbed vehicles must be equipped with a winch or hydraulically operated bed which slides or tilts to accommodate the transporting of vehicles (automobile and/or commercial motor vehicle).
3. Every tow vehicle or flatbed vehicle shall have two-way radio or cellular phone capability with a dispatching center or another viable communications method to be contacted by the City of Newark on a twenty-four (24) hour basis during the Official Tower's regular

rotation.

4. Every tow vehicle and/or flatbed vehicle shall comply with any and all state, federal and local laws, regulations and ordinances pertaining to safety, lighting and towing equipment requirements and shall be subject to inspection by the City of Newark or its designee at any time. Where applicable, copies of all permits required by other agencies than the City of Newark shall be provided to the Parking Authority of the City of Newark.
5. Every tow vehicle and/or flatbed vehicle shall display the Official Tower's decal and shall have the name of the Official Tower, by a permanently affixed or painted sign, prominently displayed on the vehicle in such manner so as to conform to the provisions of N.J.S.A. 39:4-46. Such demarcations shall be placed on the outside door panels of the vehicle. The sign shall be at least four (4") inches in height and diameter, be visible to the naked eye and the names must be the same on both panels.

c. Minimum Equipment Requirements.

1. Light-medium duty tow vehicles must be equipped with a boom or winch assembly mounted on a chassis, a dolly assembly, a tow sling or a wheel lift assembly at least one hundred (100') feet of either three-eighths (3/8") inch or seven-sixteenths (7/16") inch cable attached to a motor driven winch.
2. Flatbed vehicles must be equipped with a winch or hydraulically operated bed which slides or tilts to accommodate the transporting of vehicles.
3. Every Official Tower shall have available a heavy duty tow truck with an under reach rated at thirty-five thousand (35,000) pounds and shall be capable of towing new style buses and trucks with fiberglass front ends; provided however, that Official Towers selected for towing by the Parking Authority of the City of Newark pursuant to § 8:19-2(a) only of this Ordinance must have and maintain a minimum of two (2) flatbed vehicles or two (2) towing vehicles only.
4. Every tow vehicle or flatbed vehicle shall be equipped with the following:
 - A. At lease one (1) amber rotating beacon or strobe light mounted on the highest practical location of the vehicles, visible from three hundred sixty (360°) degrees when in use and visible at a minimum distance of five hundred (500') feet during daylight hours.
 - B. One (1) snatch block per winch.
 - C. Safety tow lights or magnetic tow lights for towing vehicles at night, amber colored.
 - D. Extra chains and cable for pulling or securing a towed vehicle.
 - E. At lease one (1) heavy duty broom, shovel, crowbar or prybar, jumper cables, a flashlight, one (1) two (2) pound fire extinguisher or larger of a dry chemical type, one (1) dozen flares or similar warning devices for placement at the scene of an accident or behind a disabled vehicle, at least ten (10) pounds of dry sand or a drying compound for gasoline and oil spilled on the roadway and a sufficient quantity and types of tools to

enable the tow operator to perform proper and adequate emergency repair services for the tow.

5. Every tow vehicle or flatbed vehicle shall comply with any and all Federal, State and local laws, regulations and ordinances pertaining to safety, lighting and towing equipment requirements and shall be subject to inspection by the Director or his or her designee at any time. No changes may be made in the vehicles or equipment unless prior written approval is obtained from the Director.

d. Minimum Storage Requirements. Every Official Tower shall maintain an outside secured storage area meeting the following requirements:

1. The storage area shall be capable of storing a minimum of fifty (50) passenger vehicles and three (3) tractor and trailers.
2. The location of the storage area shall be within the limits of the City of Newark.
3. The storage area shall be fully enclosed by a sturdy fence, wall and/or other man made barrier having a minimum height of six (6') feet, with at least one (1) lockable gate for ingress and egress and shall be fully lighted from dusk to dawn and a security guard shall be present twenty-four (24) hours a day, seven (7) days a week.
4. The storage area shall be in an area legally zoned for such use or a pre-existing non-conforming use.
5. The storage facility shall be available twenty-four (24) hours a day, three hundred sixty-five (365) days a year and shall be open to the public seven (7) days a week during the hours of 7:00 a.m. to 7:00 p.m. The Official Tower shall specify any evening hours (after 6:00 p.m.) when the towers chooses to remain open on a regular basis.

e. The Official Tower shall have at least one (1) employee on duty during all hours in which the storage facility is open for the storage facility.

f. The Official Tower shall not charge an additional fee for releasing a vehicle after normal business hours and/or on weekends.

g. The Official Tower shall submit proof of ownership or lease of the storage area with the application.

h. The Official Tower shall be responsible for ensuring proper and safe storage of all vehicles towed pursuant to this Chapter. The Official Tower shall be liable for any and all damages incurred by such vehicle while in transit to or while stored in the Official Tower's storage areas.

i. The Official Tower shall release a vehicle to the owner/occupier of the vehicle no later than one (1) hour from the owner's arrival at the tower's facility.

j. All Official Towers must have the ability to receive debit or credit card payment and shall accept same for payment of all towing and storage services included, specifically or by reference, those provided for in this Chapter.

§ 8:19-10 SUBMISSION OF FEES FOR TOWING.

a. Within five (5) calendar days of the expiration of each rotation period described in § 9:19-10, below, the Official Tower shall submit to the Director or his or her designee a copy of all of the invoices for towing, wrecking, emergency repair services, release during commencement of any tow, and/or storage of any towed vehicle during that rotation along with any sums due to the City of Newark. The information shall be provided on a form of invoice to be provided by the Director or his or her designee. The Official Tower shall remit all amounts due to the Parking Authority of the City of Newark within five (5) business days of the end of the rotation. Until the form of invoice is provided, however, the Official Tower will submit its bills which shall state: the name and address of the make and model of the vehicle towed; plate number; and, the in date of the tow and the out date of the tow. Only fees applicable to towing under this Ordinance shall appear on said invoice and there shall be only one (1) invoice per vehicle towed.

b. The Official Tower shall not charge any additional fee or other charge for releasing vehicles to their owners after normal business hours or on weekends or for moving a vehicle from one location to another in the storage area and/or any other location to anywhere else. (R.O 2011 § 8:19-9)

§ 8:19-11 UTILIZATION OF AN OFFICIAL TOWERS LIST.

a. The Director or his or her designee shall create a rotation list of Official Tower(s), provided the same are available and meet the criteria established herein. Each Official Tower shall be placed on a list of Official Towers in the order in which their proposal is approved and a license under this Chapter is issued to them. Once the initial list has been established, new Official Towers, when approved, will be added to the end of that list.

b. Each Official Tower shall serve in rotation of one (1) week commencing at 12:01 am of the Monday of each week and extending through 12:00am (midnight) of the following Sunday, commencing with the first Official Tower on the list of Official Towers.

c. When called, the Official Tower(s) shall advise the Police Officer, Dispatcher, Parking Enforcement Officer or other official if a suitable vehicle is available and the estimated time of arrival. If the Official Tower vehicle has no suitable vehicle available or if the response time will exceed twenty (20) minutes, the next Official Tower on the list shall be called, but this shall not affect the order of weekly rotation. If none of the Official Towers are available or able to provide such services as are requested by the Parking Authority of the City of Newark, another Tower may be contacted from any other available source but this shall not affect the order of weekly rotation.

d. The assignment of Official Towers to areas and/or wards within the City shall be made by the Director or his or her assignee in their sole discretion and they shall advise the Official Towers accordingly.

e. The Director or his or her designee shall provide the rotation list to the County of Essex, Newark Police Department Police Director, Newark Police Department Police Chief, the Newark Fire Department Dispatchers and the Newark Fire Department, as well as any other law enforcement agencies operating within the City of Newark and having authority to order nonconsensual tows.

§8:19-12 RATES AND OTHER INFORMATION TO BE POSTED

a. Each licensee Official Tower under this chapter shall maintain in good condition at all times, at each entrance to such the Official Tower's tow lot, a sign, to apprise persons of the:

1. Name of licensee Official Tower;
2. Address of premises;
3. Opening and closing hours; and
4. Rates charged for towing and storage.

Signs giving all the above information shall be erected only at points of ingress on private property. If point of ingress is more than fifty (50) feet wide, the signs must be so positioned as to be no more than fifty (50) feet from the point of ingress.

The signs shall be of sheet metal or other suitable material and shall be displayed at a height of not less than four (4) feet (bottom edge) and not more than twelve (12) feet (top edge) above the street level. No sign shall be less than twenty (20) nor more than fifty (50) square feet.

Signs shall be erected so as to be visible to a motorist before he leaves the thoroughfare and before he enters the tow lot.

Signs shall be composed of a solid background and the letters, numerals, or symbols shall all be of the same contrasting color. The upper-case (capital) to be two (2) inches high; all letters sans serif. Letters and numerals shall be proportionately spaced and shall neither be contracted nor expanded so as to inhibit readability. Each classification and the applicable rate or rates thereunder shall be listed on a separate line not to exceed forty (40) inches in width. The lines shall be spaced one and one-half (1 1/2) inches apart, as measured between the upper-case (capital) letters.

The maximum rates established by this Ordinance shall be printed on a card (sized 8in. x 11 in.) and affixed to the interior for each tow vehicle in a permanent and conspicuous place and position.

§ 8:19-13 TOWING FROM PRIVATE PROPERTY

a. All Official Towers shall abide by the following requirements with respect to the towing of vehicles from private property:

1. No tower 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 unless:

A. The tower shall have entered into a contract for private property towing with the owner of the property;

B. 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 thirty six inches (36") high and thirty-six inches (36") wide stating:

(1) the purpose or purposes for which parking is authorized and the times during which such parking is permitted;

(2) that unauthorized parking is prohibited and unauthorized motor vehicles will be towed at the owner's expense;

(3) the name, address and telephone number of the towing company that will perform the towing;

(4) the charges for the towing and storage of towed motor vehicles; and,

(5) 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.

C. The property owner has authorized the tower to remove the motor vehicle; and,

D. The tower 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. 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 (6) units or in front of a driveway or garage entrance where the motor vehicle is blocking access to that driveway or garage entrance.

c. No towing operator engaged in private property towing shall charge any rates greater than those set forth in this Ordinance, nor shall any charge be made for any service not specifically set forth in this Ordinance.

d. No towing operator shall tow a vehicle or charge for its services where the registered owner or other legally authorized person in control of the vehicle arrives at the scene prior to towing the vehicle from the property and:

1. Agrees to immediately remove the vehicle from the lot;

2. Provides the towing operator with his or her name, address and vehicle information as set forth on the vehicle registration; and,

3. Pays the towing operator a \$35.00 fee, which shall be remitted to the City of Newark or the Parking Authority of the City of Newark once the Parking Authority commences storage of towed vehicles.

e. Whenever a vehicle is towed from private property, the City of Newark shall be immediately notified as to the reason for the towing, the year, make, model and license number of the vehicle, the name and address of the owner, if known, the name and address of the tower and the address or location to which the vehicle was towed.

§ 8:19-14 PENALTIES.

- a. Any person found guilty of violating any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not more than five hundred (\$500.00) dollars or to imprisonment of not more than thirty (30) days, or both.
- b. The penalties provided for in paragraph a. shall be in addition to any suspension or revocation of licenses as provided for in this chapter.
- (R.O. 1966 C.S. § 8:19-7)

Section 2. If any section, paragraph, subdivision, clause or provision of this ordinance shall be judged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

Section 3. All Ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistency.

Section 4. This Ordinance amendment shall take effect upon final passage and publication in accordance with New Jersey law.

STATEMENT

AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE VIII, BUSINESS AND OCCUPATIONS, CHAPTER 19 OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NJ 2000, TO ADOPT NEW PROCEDURES FOR THE NONCONSENSUAL TOWING AND STORAGE OF MOTOR VEHICLES.