

**ORDINANCE 2289**

**AN ORDINANCE OF THE BOROUGH OF SOUTH PLAINFIELD, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY AMENDING CHAPTER 434, "TOWING" OF THE CODE OF THE BOROUGH OF SOUTH PLAINFIELD**

**BE IT ORDAINED** by the Mayor and Council of the Borough of South Plainfield, County of Middlesex, State of New Jersey that Chapter 434, Towing, of the Code of the Borough of South Plainfield be amended to delete such Chapter and replace it as follows:

**2024 Towing Ordinance**

Chapter 434. Towing

Article I. Fees

[Adopted 3-28-1991 by Ord. No. 1233 (Ch. 184, Art I, of the 1982 Code)]

S 434-1. Owner not liable for excessive charges.

No individual, as owner of a private passenger automobile damaged in a motor vehicle accident or recovered after being reported stolen, shall be liable to any tow operator for any fees in excess of those towing and storage fees established by this article,

§ 434-2. Fees to Constitute maximum; additional charges.

- A. The fees set forth in S 434-4 for towing rates are the maximum charges that shall apply to a private passenger automobile for basic towing services rendered as a result of a motor vehicle accident or theft recovery.
- B. There shall be no additional charges when only basic towing services are provided.

§ 434-3. Basis for Calculating rates.

- A. Towing rates shall be calculated based on the total distance traveled from the town vehicle's base of service to the tow site and return by way of the shortest available route; fractions shall be rounded to the nearest whole mile,
- B. Tow vehicles transporting multiple passenger cars at one time receive the applicable fee for each vehicle transported.

§ 434-4. Towing and storage fee schedules.

**FEES**

**Service/Roadside fees:**

For responding to a service call within the Borough, this to be charged in addition to any gasoline, jump start, or other items or services at the scene. The service rate will also be used for decoupling from a vehicle that has not yet been towed. This fee can be

charged once the vehicle to be towed is hooked to a licensed wrecker and the tow truck has not begun to leave the scene.

\$65 Flat Rate days, nights, weekends and holidays.

**Towing Fees:**

**Light Duty (Vehicles GVW under 12,500 lbs)**

No charge for mileage when towed within the Borough limits

\$150 flat rate days, nights, weekends and holidays

**Police Impound Tow (Light Duty)**

A charge of \$150 will be charged to the vehicle owner/operator at police headquarters. The tow company will receive \$100 for the tow service and the borough will retain a \$50 administration fee.

**Heavy Duty (Vehicle GVW 12,500 lbs. or over)**

No charge for mileage when towed within the Borough limits

Plus \$10.00 per mile towed from out of town \$550

**Police Impound Tow (Heavy Duty)**

A charge of \$550 will be charged to the vehicle owner/operator at police headquarters. The tow company will receive \$500 for the tow service and the borough will retain a \$50 administration fee.

**Storage fees:**

Light Duty (under 12,500 lbs.) \$ \$50per day

Heavy Duty (12,500 lbs. and over) \$ 125 per day/per unit

\*\*\*DAILY STORAGE RATES WILL NOT BE CHARGED FOR THE CALENDER DAY ON WHICH THE VEHICLE WAS TOWED\*\*\*

**Accident clean up fee (specifically oils on roadway- speedy dry application and the sweeping of the speedy dry, glass and broken vehicle parts in the roadway**  
\$ 50.00 per vehicle

**WAITING TIME CHARGES**

Light duty - Per 15 minute intervals \$  
25.00

Heavy duty – Per 15 minute intervals \$  
50.00

Note: Waiting time charges shall not begin until *15 minutes after the time of arrival of wrecker* at the scene.

**CRANE SERVICE, WINCHING, RECOVERY SERVICES, EXTRA TOW SERVICE RATES:**

Flatbed/Dolly wheel use	\$ 85
Recovery (Under 12,500) – Per 15 minute intervals	\$ 50
Recovery (12,501-26,000) – Per 15 minute intervals	\$100
Heavy duty under reach	\$ 250
Heavy duty rotator required	\$ 650
Additional equipment for recovery ((i.e., forklift, wheel load, etc.)	\$ 250 each
Release brake chamber:	\$ 35.00 per brake
Release air brakes	\$ 40.00 per air line
Drop drive shaft	\$100
Drop axle	\$50 per axel
Enclosure fee (collision wrap, car cover)	\$50
Additional labor (unloading vehicle, assisting labor)	\$100 per/man per/hour

§ 434-5. Violations and penalties.

Any person found to have violated any of the provisions of this article shall be liable for a fine not exceeding \$2,000, imprisonment for a term not exceeding 90 days or a period of community service not exceeding go days, or any combination thereof. Violators who are licensed as automobile repair facilities will be reported to the Division of Motor Vehicles in addition to any fines levied.

*[1] Editors Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

Chapter 434. Towing

Article II. Operator Licenses and Regulations

Adopted 6-11-1992 by Ord. No. 1271 (Ch. 184, Art. It, of the 1982 Code)

§ 434-6. Compliance required.

In accordance with the applicable provisions of Chapter 142 of the Public Laws of 1991 (N.J.S.A. 40:48-2.49), the removal of motor vehicles from private or public property by operators engaged in such practice and the fees to be charged for such removal as well as storage charges charged for storage following removal shall hereinafter be regulated in accordance with the provisions of this article.

§ 434-7. Definitions and Word usage.

A. For the purpose of this article, the following terms shall have the meanings indicated:

**ABANDONED VEHICLES**

Any vehicle is considered to be abandoned anywhere within the Borough of South Plainfield limits, upon any Borough of South Plainfield, street or public right-of-way, public easement, public alley, avenue, thoroughfare or public or quasi-public places, and includes the definition of "abandoned vehicles" as set forth in N.J.S.A. Title 39,

**FLATBED SERVICE**

The removal of disabled vehicles from the public right-of-way utilizing a flatbed truck with a hoist that removes the vehicle from the roadbed onto the surface of the flatbed for ultimate removal to a storage site.

**STORAGE**

The area in which disabled vehicles are towed or brought by tow trucks for ultimate retrieval by owners of other disposition.

**TOWNG**

The removal of automobiles and trucks under 12,500 pounds disabled as a result of accident or other disabling event with the use of a towing/wrecker winching service.

**WINCHING SERVICE**

Any operation in which a vehicle is moving onto 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,

**WRECKERS**

Equipment used in towing and winching services.

B. All terms set forth in this article shall have the meanings as such terms are more fully defined in N.J.A.C. 11:38, et seq.

§ 434-8. Administering and Enforcing Agencies

a. General jurisdiction and responsibility shall be the Chief of Police or his/her designee. The Chief of Police or his designee shall have jurisdiction and responsibility of:

1. Inspection of tow operating under this section;
2. Examination, investigation and recommendation of approval or rejection of applications for tow trucks requesting to operate under this section;

3. Enforcement of provisions of this section.

b. General Jurisdiction and Responsibility of Borough Clerk. The Municipal Clerk shall have jurisdiction and responsibility of issuing applications, finger print forms and collection of fees. The Borough Clerk shall issue license approval after satisfactory compliance by the applicant with the requirements of this section, and the recommendation of approval by the Chief of Police.

§434-9 Tow Truck License Required; Expiration; Fee; Application Amendments.

a. No towing agency or person, while acting as an official towing agency for the Borough of South Plainfield shall operate a tow truck upon or along any property in the Borough, until the owner thereof shall obtain a license therefor.

b. Nothing in this subsection or other subsections shall be construed to require the licensing of any tow truck to perform any services other than those governed by this section.

c. All towing agencies and tow truck licenses shall be issued by the Borough Clerk and shall be issued to be effective January 1 of the year next occurring after approval of the application and shall be in effect for three years unless sooner suspended or revoked by the Borough Clerk at the request of the Chief of Police.

d. The fee to be paid for such license shall be the sum of six hundred (\$600) dollars for up to the first two (2) light-duty tow trucks, or one (1) heavy-duty tow truck, per agency, as applicable, and an additional one hundred fifty (\$150) dollars per light-duty tow truck, and/or two hundred fifty (\$250) dollars per heavy-duty tow truck, thereafter, as applicable. No portion of said fee shall be prorated for any portion of a year.

e. Licenses shall be for a three-year period commencing on January 1<sup>st</sup> and terminating December 31<sup>st</sup>, three (3) years thereafter. The three-year period will commence January 1 regardless of the date of submission of the application.

f. During the term of any license, a licensee shall file an update for any changes in vehicles and or employees. The amended application shall include a copy of the current license, and detail the reason for the amendment. Changes in vehicles shall require an application amendment fee of forty-five (\$45) dollars. Changes in employee-drivers shall require an application amendment fee of twenty-five (\$25) dollars per employee-driver added. The licensee shall not permit a new vehicle or new employee to operate any tows authorized under this license until the amendment has been filed and approved. Changes in towing agency ownership shall be ineligible for amendment applications.

§ 434-10. Rotation wrecker list; license fee.

[Amended 1-20-2015 by Ord, No. 2012]

- A. There shall be established a list of towing operators who meet the qualifications of this article, and from such list the Borough of South Plainfield reserves the right to request the use of towing services from the next available towing contractor. The rotation towing operator list shall from time to time be supplemented, amended and updated, and copies of such list shall be available in the Police Department, Public Works Department, Fire Department and Borough Clerk's office. The maximum number of light-duty towing operators at any time shall be five, and the maximum number of heavy-duty towing operators at any time shall be four. Should more than five light duty towing operators and more than four heavy duty operators apply, the Police chief reserves the right to appoint the wreckers who will tow for the Borough.
- B. There shall be a three year license fee payable by rotation wrecker first towing operators in the amount of \$600. This fee shall be due and payable on or before December 31 of the year prior to the license renewal. Applications for license renewal shall be available from the Borough Clerk's office and shall be in the form annexed to this article.

[1] Editor's Note: The license renewal application forms are on file in the Borough Clerk's office.

§ 434-11. Qualifications of towing operators; equipment Standards; application fee.

- A. No person, company or corporation shall be included on the rotation towing operator list unless:
  - (1) Said operator demonstrates that he, she or it has at least five years' experience as a sole towing operator or as an employee with a company that was engaged in the towing of vehicles and vehicle storage. A background check shall be conducted by the Borough's Police Department, and any conviction for a crime of the operator or of any of the officers or employees of the company shall disqualify the person, company or corporation from these services. Said company must give written consent to have their background checked.
  - (2) Said operator has at least one employee in addition to the principal qualified as a towing operator to provide round-the-clock availability of service. Said employees shall be over 21 years of age and possess a valid, current New Jersey driver's license with no restrictions or conditional endorsements.
  - (3) Said operator is able to respond to an emergency towing call within 30 minutes of the time the call is place by the South Plainfield Police Department.
- B. Maintenance of equipment. The wreckers shall be maintained in good condition, in full compliance with the provisions of N.J.S.A. 39:1 et seq. to be available for

use 24 hours a day and be suitably identified on each side with the name, address and telephone number of the vehicle owners/tow operator.

- C. Facilities of towing operators for the storage of vehicles towed pursuant to this article shall include the following:
- (1) A minimum storage area of 10,000 square feet which the towing operator either owns or leases, proof of which shall be submitted at the time of application to the Borough for the towing operator's inclusion on the rotation wrecker list. The storage area must be located in an area within the Borough of South Plainfield which is zoned for such use and must meet all applicable municipal codes and contain at least one permanent principal structure. The entire land area used for vehicle storage must be enclosed by fencing of at least six feet in height; fencing shall not be open chain link.
  - (2) A towed vehicle may not be parked upon public streets and must be stored by the towing operator within the storage areas as hereinabove described.
- D. To be placed upon the rotation wrecker towing list, an applicant shall submit its application in duplicate to the Borough Clerk's office, together with an application fee of \$600. The application shall comprise the following documents:
- (1) An application form fully completed and signed by the applicant.
  - (2) A copy of a certificate of insurance with insurance coverages as set forth in **§434-13** of this article.
  - (3) A copy of a deed or lease to property located in the Borough which the applicant owns or is leasing and which is intended to be used by the applicant for storage facilities in accordance with the provisions of Subsection **C** of this section.
  - (4) Copies of the driver's licenses of the applicant's tow truck operators.
  - (5) Copies of registration and insurance cards for the applicant's tow vehicles.
  - (6) Names and addresses and social security numbers of all employees of the applicant, whether said employees are tow operators or not.
- E. The application process. One application per physical address/storage square footage will be accepted. The application, with its supporting documents, shall be forwarded by the Borough Clerk to the Chief of the South Plainfield Police Department, who shall conduct within the Police Department the necessary background checks of the applicant and its employees. The Police Department shall include in its review of the application an inquiry with the Borough's Zoning Official to determine whether or not the applicant's storage facilities comply with Subsection **C** of this section. When all required information has been obtained by the Police Department, including inspection of the applicant's wreckers, the Chief shall recommend, by letter to the governing body, the inclusion of the

applicant on the Borough's rotation wrecker list.

§434-12. Required Services.

Services to be provided by towing operators included on the rotation wrecker list shall comprise the following:

- A. Rotation wrecker list of tow companies shall be under the direction and supervision of the South Plainfield Police Department and rotate on a weekly basis. The rotation will start on Monday morning at 00:00hrs and end on Sunday night 23:59hrs. All towing operators shall arrive on scene within 30 minutes from the time of notification under normal conditions seven days a week.
  
- B. In the event that a towing agency is called by the South Plainfield Police Department, and prior to the towing agency actually hooking a vehicle or providing any type of service at the scene to which it was called, the South Plainfield Police may cancel or change the towing agency due to findings and/or procedure in a police investigation. The called towing agency shall be compensated a \$25 call out fee for their response or costs and expenses incurred as a result thereof, whichever is greater. Any ranking officer at the scene is authorized to cancel the tow.
  
- C. Vehicles involved in accidents where the registration and insurance are up to date will be removed pursuant to this subsection and must be towed to the towing operator's local facilities or any other site designated by the South Plainfield Police Department. This will be on a twenty-four-hour-a-day, seven-days-a-week basis. Vehicles so towed and stored must be available for release between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, and 9:00 a.m. and 12:00 noon on Saturday. Response time for vehicles to be towed from the site of accident or disablement shall be 30 minutes from time of notification. As an adjunct service to towing of vehicles from accidents, tow operators shall be prepared, when directed by the Police Department, to conduct a cleanup of the road and surrounding area associated with crash .
  
- D. Vehicles that have been involved in accidents or are found operating on the Borough roadways that are unregistered, abandoned, have suspended registrations, stolen vehicles, vehicles involved in criminal activities, John's Law and any other Title 39 violations that would warrant a vehicle being towed, will be towed to 405 Spicer Avenue, South Plainfield, NJ 07080.(The South Plainfield Police Impound Yard).
  
- E. Standby service. In addition to the services outlined in Subsections **A** and **B** of this section, towing operators shall also be required to furnish extra towing equipment

and service during storm periods, periods of Snow emergencies, traffic emergencies, disasters and for any other reason when so designated by the Chief of Police or his duly authorized representative. During times of any emergency, the Borough of South Plainfield, through the Office of Emergency Management, may designate temporary areas owned or leased by the Borough for storage of disabled vehicles. During said emergencies, towing operators so employed pursuant to this article shall be entitled to make regular charges to the owners of the vehicles so removed.

F. Disabled police vehicles. [Added 4-13-1995 by Ord. No. 1394]

- (1) Flat tires. Due to the concern and liability of injury to a police officer and the absence of adequate equipment for changing flat tires; the towing operators on the rotation wrecker list will be responsible for responding and changing flat tires on police vehicles disabled on the roadway within the Borough of South Plainfield between the hours of 3:30 p.m. to 7:30 a.m., Monday through Friday and on a twenty-four-hour basis on weekends and N.J. State holidays at a cost of \$25 to the Borough.
- (2) In addition to the services outlined above in Subsection F (1), the towing operators on call will be responsible for responding to police headquarters parking lot during weekend hours to change any flat tires on marked police vehicles in the event that the need exists to have these vehicles put in service due to a shortage of marked police vehicles in relation to the manpower status. This service will be provided at a cost \$25 to the Borough.
- (3) Disabled police vehicles. Police vehicles which become disabled within the Borough of South Plainfield, other than being involved in an accident, will be removed by the towing operator of the rotation wrecker service at a cost of \$50 to the Borough.
- (4) Police vehicles which become disabled outside the confines of the Borough and within 30 miles of the Borough will be removed by the on call towing operator of the rotation wrecker service at a cost of \$100 to the Borough. Police vehicles that become disabled further than 30 miles, the cost to the borough will be \$5 per mile using 405 Spicer Avenue, South Plainfield NJ 07080 as the final destination.)
- (5) The towing of disabled police vehicles and changing of flat tires on same will be considered an adjunct service that tow operators shall be prepared to perform when directed by the Police Department to conduct. Failure to respond in these situations will result in a one week suspension of being on the tow list rotation. The Watch Commander will move to the next towing operator in the rotation list if the on-call towing operator does not respond to the call out.

§ 434-13. Indemnity and insurance.

A. Each towing agency shall maintain, during the term of their license, the following minimum insurance coverage, naming the Borough of South Plainfield as an additional insured:

1. Automobile Liability Insurance, in an amount not less than one million (\$1,000,000.00) dollars combined single limit, covering each vehicle utilized by the operator in his business.
2. Workmen's Compensation Insurance, as required by the State of New Jersey, including employer's liability coverage with a limit of at least one hundred thousand (\$100,000.00) dollars.
3. Comprehensive, General Liability Insurance, in an amount of not less than one million (\$1,000,000.00) dollars for personal injuries, per occurrence, and one million (\$1,000,000.00) dollars for property damage, per occurrence, including premises operations and products/completed operations.
4. Garage Keepers and Garage Liability Insurance, in an amount not less than one hundred thousand (\$100,000.00) dollars.
5. All policies of insurance shall contain an endorsement providing for collision coverage for vehicles in tow.

B. All policies of insurance shall contain an endorsement requiring that at least fifteen (15) days' notice shall be given to the Borough in the event of any material change in or cancellation of the policy.

C. The operator shall indemnify and hold harmless the Borough of South Plainfield from any claims for injury or property damage arising out of, or in any way related to, the operation of any tow truck, towing service or storage yard, pursuant to this section. The towing agency shall further defend the Borough of South Plainfield at the operator's expense, in connection with any claim, suit or action, brought against the Borough of South Plainfield, and arising out of the operation of any tow truck, towing service or towing yard, pursuant to this section.

D. All policies of insurance shall be issued by insurance companies authorized to do business in the State of New Jersey, and shall remain in full force and effect during the entire term of the license. The Borough of South Plainfield shall be named as additional insured on all policies of liability insurance.

E. No license shall be issued until an approved applicant files insurance certificates verifying all of the above requirements. The Insurance Certificates shall be filed with the Borough Clerk.

F. Any licensee who has a lapse in any insurance policy, for any reason whatsoever,

shall have his/her license immediately suspended. Upon notice of lapse of coverage, the Chief of Police or designee shall immediately serve notice of suspension upon the licensee, with copy of said notice provided to the Borough Clerk. The suspension shall remain in effect until such time as the insurance is restored.

S 434-14. Records and inspection.

- A. The towing operator shall maintain records of all vehicles towed, stored and released by it. Records shall be kept for a seven-year period.
- B. The towing operator shall not release vehicles impounded under this article without the claimant first obtaining a release from the Police Department.
- C. Only the Chief of Police or his duly authorized representative shall have access to any part of the storage area at any time of the day or night for inspection purposes, including both indoor and outdoor areas.
- D. Authorized representatives of the Police Department or Borough Administrator shall have access to any of the records to be kept by the towing operator.
- E. Inspections of vehicles to be used by towing operators shall be conducted by the South Plainfield Police Department and shall utilize the inspection checklist designated as Schedule A and attached to this article. [1]

[1] Editor's Note: Schedule A is on file in the Borough offices.

§ 434-15. Licenses; violations and penalties.

- A. License record. The Borough Clerk shall keep a record of all licenses issued and applications filed under this section. It shall also indicate the amount of the fee paid for each license, the date upon which payment was received, the date of this issuance of the license, whether the license is a new license or a renewal and any other information which the Mayor and Council may require by resolution,
- B. Display of license. The license shall be prominently displayed at the location, where it is visible to the public and law enforcement authorities.
- C. Transferability. Each license shall apply only to the person to whom it was issued and shall not be transferable to another person. The license may not be transferred to another location unless approved by the Mayor and Council, and then only after all provisions of this section and subsection have been complied with. (By "person" is meant an individual, corporation or general or limited partnership.)
- D. Expiration; renewal; proration of fees.
  - 1) Except when expressly provided otherwise, all licenses shall expire on December 31 of the third year from issue date at 12:00 midnight. Applications for renewal of licenses shall be made not later than December 1 for a license for the next ensuing 3 years. It shall be the responsibility of the applicant to acquire an application from the Borough Clerk's Office. All applications will be accepted on a first come first served basis.
  - 2) New applications shall only be accepted for issuance of a license for the next ensuing 3 years.

- E. Revocation and causes. Any license issued for a tow operator may be revoked by the Borough Clerk at the request of the Chief of Police after notice and hearing for any of the following reasons:
- 1) Fraud or misrepresentation in any application for a permit or license.
  - 2) Fraud or misrepresentation or other dishonesty in conduct of the licensed activity. This shall include the gathering of persons of unsavory character, illegal gambling or conduct which would violate the laws of the State of New Jersey or the ordinances of the Borough of South Plainfield.
  - 3) A violation of any provision of this article.
  - 4) Licensee charged or convicted of any indictable offense or disorderly person's offense involving moral turpitude.
  - 5) Conduct by the tow operator himself or his agents or employees in an unlawful manner or in a manner that constitutes a breach of the peace or a menace to the public health, safety or general welfare.
- F. The Chief or his designee shall consider the following additional factors when determining if a suspension or removal from the list is warranted:
1. Vendor inspections resulting in violations of the requirements outlined in this order.
  2. Formal complaints received by the Division of Consumer Affairs.
  3. Documented complaints and/or violations of the policy in the CAD system.
- G. Notice of hearing. Notice of hearing for the revocation of a license or permit shall be given, in writing, by the Borough Clerk. The notice shall specifically set forth the grounds upon which the proposed revocation is based and the time and place of the hearing. It shall be served by mailing a copy to the tow operator at his last known address by certified mail, return receipt requested, at least five days prior to the date set for the hearing.
- H. Hearing determination. At the hearing, the tow operator shall have the right to appear and be heard, to be represented by an attorney, to present witnesses in his own behalf, to cross-examine opposing witnesses and to have a permanent record made of the proceedings at his own expense. The Council shall revoke or suspend the tow operator's license if it is satisfied by a preponderance of the evidence that the tow operator or his agents, servants or employees are guilty of the acts charged.
- I. Reinstatement of revoked licenses. The Mayor and Council may issue another license to a tow operator whose license has been revoked or denied if, after hearing, they are satisfied by clear and convincing evidence that the acts which led to the revocation or denial will not occur again; otherwise, no tow operator whose license has been revoked or denied nor any person acting for him, directly or indirectly, shall be issued another tow operator license.

- J. Violations and penalties. Any person, firm or corporation who or which shall violate or fail to comply with any order or regulation made hereunder shall severally, for each and every violation and noncompliance, forfeit and pay a penalty not to exceed the sum of \$1,000 or be imprisoned in the Middlesex County Jail for a period of not more than six months, or both. The imposition of a penalty for a violation of this article shall not excuse the violation or permit it to continue; such violation shall be remedied within a reasonable time, and each 10 days that such violation is permitted to exist shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

§ 434-16. Towing Disciplinary Procedures:

A. Any South Plainfield Officer who requests a tow, may generate a call code entry entitled, "Towing Compliment/Complaint" to document the performance of the towing vendor in the Computer Aided Dispatch (CAD) System.

B. Motorists who wish to document a compliment/complaint regarding a towing company may do so at police headquarters.

1. A CAD entry using the code, "Towing Compliment/Complaint" shall be generated by the member taking the report.

2. If the motorist's inquiry is monetary in nature, the prevailing ordinance posted rate schedule shall be utilized as a guide to answer questions.

3. When the motorists wish to make a formal complaint against a vendor, the motorist shall be referred to the New Jersey Division of Consumer Affairs and shall be provided with the current telephone number of such office, in addition to a CAD entry being made pursuant to paragraph 1 of this section.

C. The South Plainfield Police Chief or his designee may take the following action(s) for violations which occur during any calendar year in which a license is in effect:

1. First violation may result in a written warning to the vendor.

2. Second violation may result in a 14 Day suspension from the towing rotation.

3. Third violation may result in the removal of the vendor from the list.

4. In addition to the actions for violations listed under paragraph C above, the following violations will result in disciplinary actions:

a. Late arrival to calls for service.

b. Failure to answer telephone calls for service.

c. Failure to properly clean scenes.

d. Substantiated motorist complaints filed at either the station level or via

## Consumer Affairs.

- e. Violations of the minimal requirements as outlined in the application.
- f. Failure to maintain proper insurance coverage.
- g. Violation of any provision of the Predatory Towing Prevention Act.

5E. Immediate suspension may occur if the application is fraudulent, the owner or one of their employees are charged with an any offense from disorderly persons to an indictable crime, which, after independent investigation by the Chief of Police, the Chief of Police deems such offense to have occurred, the owner's insurance is canceled, or if there is evidence indicating a pattern of consumer fraud or any serious violation as determined by the South Plainfield Police Department.

E. Vendors shall be notified via certified mail of any violation of this order or any motorists complaint taken at the station level.

1. Notification shall include the date, time and location of the services rendered, and the reason/nature of the complaint.

2. Notification to the vender shall be noted in the CAD using the call code, "Towing Compliment/Complaint" and retained at the station level.

S 434-17. Towing fees; owner responsibility; Compliance with state and federal provisions.

- A. Fees and charges which towing operators may charge under this article for towing Services, storage services or both shall be in accordance with the provisions of N.J.S.A. 40:48-2.49. The schedule of such fees shall be made available to the public by the towing operators during normal business hours. Maximum allowable fees shall be governed by Ordinance No. 1233, Article 1 of this chapter.
- B. The tow operator owner shall be fully responsible for the acts or omissions of its agents, servants or employees and shall be regarded as an independent contractor and not an employee of the Borough of South Plainfield,
- C. The tow operator owner shall comply with all state and federal laws regarding wages, hours and terms of employment and shall provide the Borough of South Plainfield with copies of all state and federal statements regarding the same, including a nondiscrimination statement.

§ 434-18. Enforcement.

The provisions of this article and the enforcement of the same shall be under the direction, supervision and jurisdiction of the South Plainfield Police Department.

## **Chapter 434. Towing**

### Article III. Wreckers

Adopted 12-12-2do2 by Ord. No. 161o

S 434-19. Short title.

This article shall be known and cited as the "Borough of South Plainfield Wrecker Regulations."

[1] *Editors Note: Original §784-7.1, Findings, which immediately preceded this section, was deleted 2-1-2010 by Ord, No. 1873.*

§ 434-20. Definitions.

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

### **CRUISING**

The driving of an unengaged licensed wrecker to and for along a public street in any fashion Calculated for the obvious purpose of soliciting business along the public street,

### **GARAGE**

A. Any parcel or property owned or leased by an official tower and has all of the following specifications:

(1) Contiguous to or a part of the official tower's place of business, except that a secondary lot may be located elsewhere to accept the overflow.

(2) Adequate to store vehicles set forth in **§434-24(A)(3)**.

(3) The area where the vehicles are stored shall be completely encircled by a fence not less than six feet high, with at least one lockable gate for ingress and egress.

(4) Meets the requirements of any relevant ordinances, statutes or regulations,

B. If the garage does not meet the requirements in Subsection A(1), the garage must produce a written agreement stating that they have access to a secured fenced yard located within the Borough that meets the requirements of this article.

### **POLICE CHIEF**

The Chief of Police of the Borough of South Plainfield.

### **WRECKER**

A vehicle driven by mechanical power and employed for the purpose of towing, transporting, Conveying, recovering or removing any and all kinds of vehicles which are unable to be and actually are not operated under their own power from the place where they are disabled to some other place, and any vehicle(s) which the Police Department has ordered to be impounded.

## **IMPOUNDED VEHICLE**

A vehicle towed by the order of the South Plainfield Police Department due to a violation of the laws of the State of New Jersey, for investigative purposes, being deemed unsafe or any other reason deemed reasonable by the South Plainfield Police Department.

### **Towed Vehicle**

A vehicle towed for any other reason that is not deemed IMPOUNDED.

S 434-21. Official towers to be licensed and appointed.

- A. Any person having available space at a garage who desires to engage in the municipal towing at police request, as delineated in this article, shall first apply for a license according to the terms and condition of this article and, if approved for a license, enter into a contract with the Borough of South Plainfield, which contract must be approved by the Borough Council, for a duration of not more than (3) three year. Such persons shall be known as "official towers" and shall serve as such pursuant to the terms of the contract between the official tower and the Borough, subject to the Local Public Contracts Law [1] as well as this article.

*Editor's Note: See N.J.S.A. 4 0A:71-7 et seq.*

- B. No official tower shall subcontract to any person who is not a licensed official tower any work to be performed by him for the Borough, without having first obtained written approval from the Police Department for the use of the subcontractor, which approval is necessary in order to maintain an equitable and nondiscriminatory administration of the rotation lists referenced in **S 434-36**. Any official tower who is authorized to subcontract work remains liable for any violation by the subcontractor under this article. Any subcontractor shall be governed by all of the terms and conditions of this article.

- C. Any "official tower" who voluntarily removes itself from the rotating list, thereby relinquishing its license under this article, forfeits the right to reapply for a license under this article until the next awarding of licenses and contracts by the Borough.

S 434-22. Services to be furnished.

Official towers shall furnish wrecking, towing, and storage services in conformance with this article, to motor vehicles within the limits of the Borough of South Plainfield when requested to do so by the South Plainfield Police Department. These services are to include the towing and storage of unclaimed or abandoned vehicles when requested to do so by the South Plainfield Police Department.

S 434-23. Application for license; Contents.

A. Applications for licenses issued hereunder shall be made upon blank forms prepared and made available by the Police Chief and shall state:

- (1) The name, home address and proposed or actual business address of the applicant, and where he is the owner, lessee or bailee.
- (2) The location, description and hourly availability of the wreckers owned or operated by the applicant.
- (3) That the applicant has a garage, or access to one, with the available space for properly accommodating and protecting all motor vehicles to be towed or otherwise removed from the place where they are disabled or impounded and that any such vehicles will not be stored or allowed to remain on public property or Borough streets or on any property which is not zoned for such storage. The applicant must, therefore, obtain from the Zoning Officer of the Borough of South Plainfield a zoning permit demonstrating that the premises upon which the garage is located does not violate the Borough of South Plainfield Land Use and Development Ordinance [1]. The zoning permit, once obtained, shall be made part of the application.  
*[1] Editor's Note: The Land Use and Development Ordinance is on file in the Borough offices,*
- (4) Description of the vehicle(s) for which licenses are desired, including year, make, model, type, serial number of body and motor capacity, length of time the vehicle(s) has been in use and any other information which the Police Chief shall deem necessary or proper to effectuate the purpose of this article have been complied with.
- (5) That the applicant can ensure no more than a 30 minute response time on all calls.

B. That the applicant shall have affixed thereto an affidavit to be sworn to by the applicant that all of the information given in the application is true and correct and the application shall be submitted to the Police Chief. [2]

*[2] Editor's Note: Originals 1847.7, Effective date/application processing, which immediately followed this subsection, was deleted 2-7-2010 by Ord, No. 1873.*

Already in 434-10...

S 434-24. Investigation and inspection by Police Chief at any time during the contracted time frame.

A. Upon receipt of a completed application as provided for herein, the Police Chief shall cause an investigation to be made of the applicant and his proposed business operation and shall make or have made an inspection of the vehicle(s) to be licensed. The Police Chief may delegate the inspection of the vehicles(s) to an independent person, not engaged in business in the Borough, who shall be qualified by experience and training to make such inspection and such person shall

report to the Police Chief whether the vehicle(s) is in a thoroughly safe and sanitary condition and complies with the requirements and standards of this article, as set forth herein.

- B. a. The Chief of Police or his/her designee shall conduct or cause to be conducted such investigation as necessary to determine the truth and accuracy of the information contained in the application, and the applicant's compliance with this section. This investigation shall include a full and complete criminal and driver license background check on each owner, agent thereof, and employee-driver. Applicants and/ or their employee-drivers shall be required to submit fingerprints to complete the background investigation(s) in connection with any such application under this chapter. Any fees relating to the fingerprint checks shall be borne by the applicant.
- C. Within 60 days after the receipt of the completed application, the Police Chief is to complete the investigation and inspection and according to the terms of this article as well as **S 434-27** and any other relevant subsection, either refuse to approve the application, or shall approve the application and classify each wrecker to be licensed as "light duty" or "heavy duty," ensuring compliance with the minimum standards delineated in **S 434-26**. The Police Chief reserves the right to approve or deny an application due to past or present negative interactions between police personnel and the towing operator or his employees.
- D. Included in the Police Chief's investigation of the applicant shall be a criminal history check with the New Jersey State Police Bureau of identification and driver's license check. A written consent form authorizing a criminal background check shall accompany the submitted application. A consent form will be needed for each employee of the company.
- E. The applicant, or an employee-driver, may be refused if such investigation reveals any of the following, or if the applicant or any employee refuses to permit such investigation:
  - a. Conviction of any crime of the fourth degree or higher, possession or use of a controlled dangerous substance; and other crimes against the person or crimes involving moral turpitude. Any plea arrangement which results in Pre-Trial Intervention, Conditional Discharge, or any other similar diversionary trial settlement may be viewed as a conviction to the original charge/offense.

- b. Conviction of operating a motor vehicle under the influence of an intoxicating liquor or drug (N.J.S.A. 39:4-50); leaving the scene of an accident (N.J.S.A. 39:4-129); failure to report an accident (N.J.S.A. 39:4-130); reckless driving (N.J.S.A. 39:4-96) and possession of a controlled dangerous substance in an automobile (N.J.S.A. 39:4-49.1).
  - c. Successful civil complaints filed against the owner, agent thereof, the corporation, or any officer thereof for deceptive business practices, including but not limited to insurance fraud, price gouging, or other similar complaint or offense.
  - d. Upon completion of the background checks, the Chief of Police shall render a decision on the applicant.
    - 1. A decision to grant the license shall be forwarded, in writing, to the Borough Clerk.
    - 2. A decision to refuse the license shall be forwarded, in writing, to the applicant and Borough Clerk. The Chief of Police shall document the reasons thereof. The denial may be as narrow as to restrict any one employee from performing tows under this license, to a total denial for the entire applicant.
  - e. Only one (1) approval shall be granted to a towing agency or its affiliate. For the purpose of this section, "affiliate" shall mean any towing agency in which there is a common ownership of more than ten (10%) percent or any common officer or director.
- F. The Borough of South Plainfield recognizes that the official tower shall be trustworthy in that he is safeguarding vehicles belonging to others. Therefore, to protect the public interest, the Borough may disqualify any towing operator based on any one employee, at any time who has been convicted of a crime or violations within the past 10 years, which crime or violation would indicate that the official tower or his employees may not be responsible to perform in the best interest of others. Such crimes or violations would include but not limited to car theft, stealing of car parts, break-ins, thefts, overcharging, etc. The Police Chief may waive these standards if it is deemed to be in the best interest of the Borough.  
[Amended 2-1-2010 by Ord. No. 1873]
- G. If the official tower or their employees are charged with any disorderly persons offense, or criminal act which, after an independent investigation has been conducted by the Chief of Police who has determined that such offense or act occurred, or found guilty of any such crime or ordinance violation during the term of his license, the license may be suspended by the Borough for the reasons aforesaid. The official tower shall notify the Police Chief in writing of any criminal

charges that become pending against him or his employees during the term of the license.

- H. The Police Department reserves the right to investigate, at any time, the official tower or anyone employed by the official tower for the purpose of fulfilling the contract herein.

§ 434-25. Standards for approval of applications.

The Police Chief shall approve and classify an application only when he finds that the following requirements have been met:

- A. That the public convenience and necessity will be served by the use of the vehicle for which the application has been made.
- B. That the insurance policies as required herein have been procured and supplied.
- C. That the applicant and proposed workers are fit persons to operate the wrecker and conduct a wrecker Service in the Borough. License holders will be required to submit a list of operators and the legal addresses and keep the Police Department informed of any changes in the operator's and/or legal addresses.
- D. That the requirements of this article and all governing laws, statutes and ordinances have been met.
- E. That the wrecker(s) have been properly licensed and inspected by the State of New Jersey and has the necessary stickers affixed thereto. No vehicle shall be licensed as a wrecker which is using dealer license plates or which has failed the state inspection,
- F. That the wrecker(s) license, on inspection, meet with the required minimum standards for "light duty" or "heavy duty" wrecker as described in the following section.
- G. Compliance with the requirements of §434-24 and any other relevant section of this article.
- H. That the applicant demonstrates to the Police Department that the applicant will be able to ensure no more than a 30 minute response time for calls.

§434-26. Classification of Wreckers.

The wrecker shall be the minimum standards to be utilized by the Police Chief in the classification of wreckers as either light duty or heavy duty:

- A. Light duty wrecker. Light duty wrecker shall be able to handle all makes of passenger cars, small trucks and any other vehicle having a registered weight less than 12,500 pounds and which complies with the following minimum standards:
  - 1) Dual rear wheels or equivalent.
  - 2) A power take-off controlled winch with a minimum cable thickness of 1/2 inch or equivalent.
  - 3) Comparable weight equal to the vehicle to be towed, with a minimum of

5,500 pounds.

- 4) A three-eighths-inch safety chain. The lift chain and the safety chain shall not be attached in any form of manner to the same part of the wrecker,
- 5) One reflectorized traffic vest for each employee at the scene.
- 6) A five pound CO<sub>2</sub> dry powder extinguisher of equivalent.
- 7) One broom, shovel and debris container,
- 8) 10 pounds of absorbent material, such as "speedy dry," and any other materials necessary to remove any and all debris from the roadway at the tow site. In addition to removal of any absorbent material at the scene, each official tower must dispose of any vehicle debris, such as glass or vehicle parts, removed from the roadway in a lawful manner.
- 9) Functioning emergency lighting in conformance with applicable federal and New Jersey state statutes and regulations. This lighting must include at minimum either an amber beacon or a light bar, either of which must have visibility of 360°.
- 10) Equipped with a winch rated to accept at least 8,000 pounds.
- 11) A cellular phone to communicate with the Police Department.

B. Heavy duty wrecker. Heavy duty wrecker shall be able to handle all makes of trucks, as well as any other vehicle having a registered weight in excess of 12,500 pounds, and which complies with the following minimum standards:

- 1) Dual rear wheels or equivalent.
- 2) Manufacturing rating: gross vehicle weight of 15,000 pounds. Manufacturing rating may be obtained from the factory where the truck originates. Other written evidence of gross vehicle weight may be acceptable by the Police Chief, if verified.
- 3) Power take-off controlled winch with a minimum cable thickness of 5/8 inch.
- 4) A 5/8 inch safety chain. The lift chain and safety chain shall not be attached in any form or manner to the same part of the wrecker.
- 5) Air brakes.
- 6) Connecting air lines for connection with the air compressor and air brake lines of the towed vehicle.
- 7) A detachable truck light bar to be attached to the rear of the towed vehicle.
- 8) 10 pounds of absorbent material, such as "speedy dry," and any other materials necessary to remove any and all debris from the roadway at the tow site. In addition to removal of the absorbent material applied at the scene, each official tower must dispose of any vehicle parts removed from the roadway in a lawful manner.

- 9) Functional emergency lighting in conformance with federal and New Jersey state statutes and regulations. This lighting shall include, at a minimum, either an amber beacon or a light bar, either of which must have a visibility of 360°.
- 10) Each heavy duty wrecker shall be equipped with either two winches, each rated for at least 25,000 pounds, or one winch, which is rated for at least 50,000 pounds.
- 11) A cellular phone to communicate with the Police Department.
- 12) Each "official tower" licensed with heavy duty wreckers, in addition to any other criteria, shall have available at least one flatbed truck duly licensed under the terms of this article.

C. General requirements. Every official tower must have "wheel lift" or "flatbed capability" for its light duty wrecker. Every official tower must have access to a light duty wrecker with "flat bed capability. Every official tower must have "under reach capability" for its heavy duty wreckers. This is necessary in order to ensure the capability of the official tower to lift towed vehicles from the underside of the vehicle in a damage-free manner.

§ 434-27. Issuance of licenses.

[Amended 1-20-2015 by Ord. No. 2012]

A. Upon written notification by the Chief of Police that an application has been approved and classified as well as compliance being met with all other sections of this article, the Municipal Clerk of the Borough of South Plainfield shall issue a license to the "official tower" under this article, as well as individual licenses for each wrecker owned and operated by the official tower designating each wrecker as "light duty" or "heavy duty." Additionally, prior to conducting any towing activities licensed pursuant to this article, each official tower must execute a contract approved by Law Department, as well as the Municipal Council, which contract is in conformance with the Local Public Contracts Law [1] and any relevant laws, regulations and ordinances, and which will be for a duration of not more than one year.

*[1] Editor's Note: See N.J.S.A. 40A:11-1, et seq,*

B. The license to be awarded to an official tower pursuant to the terms of this article is for three-year term. It is expressly ordained that all vehicles licensed by the official tower under this article must be inspected by the Police Department every year and the license issued for each wrecker is to be issued every three years.

§ 434-28. Exhibition of issued card or plate.

The Borough Clerk shall also issue to each official tower a card, not less than four inches in width nor more than 8 1/2 inches in width in such form as may be set by the Chief of Police, and the card shall be carried in each licensed vehicle so that the same can be produced and displayed at the request of any law enforcement officer. The card shall bear the name of the licensee, official license number of the wrecker, the service rates and conditions of employment under which such wrecker is operating, the maximum weight capability of the wrecker and a notice that in case of any complaint, the Chief of Police shall be notified, Such card shall have attached thereto the signature of the Chief of Police and the date of inspection of the wrecker by the inspector, together with blank spaces upon which an entry shall be made of the date of every inspection of the wrecker by the inspector, in lieu of the card, a metal plate furnished by the owner, giving the same information, may be affixed to a prominent portion of the wrecker. Vehicle cards shall be updated by the Chief of Police.

§ 434-29. Service rates.

- A. Charges for the transportation, hauling and storage of disabled vehicles by any licensed official tower of the Borough are subject to the following limitations:

**Towing Fees:**

**1. Light Duty Wrecker – Decoupling charge- Vehicle not towed**

(\$65). NOTE: This fee can be charged once the vehicle to be towed is hooked to a licensed wrecker, but not if the vehicle is actually towed. (The vehicle will be considered in “tow” once the towing operator has placed the tow vehicle in gear/drive and begun to pull away.)

**2. Light duty wrecker.** For conveying any passenger automobile, station wagon, pickup truck and panel truck having a registered vehicle weight of 12,500 pounds or less from any point in the Borough to any other point in the Borough/Tow Yard Destination.

(\$150).

- South Plainfield Police Impounded vehicles- The tow companies will be compensated \$100.00 dollars a tow and the remaining \$50.00 will be retained by the Borough as an administrative fee.
- Flatbed/Dolly wheel use: \$100 when necessary.

**3. Heavy duty wrecker.** For conveying any truck or omnibus having a registered vehicle weight in excess of 12,501 pounds from any point in the Borough to any other point in the Borough/Tow Yard Destination:

(\$550).

- South Plainfield Police Impounded vehicles- The tow companies will be compensated \$500.00 dollars a tow and the remaining \$50.00 will be retained by the Borough as an administrative fee.
  - i. For conveying vehicles from a point within the Borough to a point outside the Borough, or vice versa, the rate is to be predetermined by agreement between the official tower and the disabled vehicle owner or driver.

**Storage Fees:**

**Storage fee light duty vehicle:**

(a). Storage of passenger automobiles at the Borough of South Plainfield Impound

Yard, per day: \$50.

(c). It is expressly ordained that the daily storage rates recited in this Subsection shall not be charged for the calendar day on which a vehicle arrives at the place of storage.

[Amended 1-20-2015 by Ord. No. 2012]

**Storage fee Heavy Duty:**

(a). Storage of trucks and omnibuses having a registered weight in excess of or equal to 12,501 pounds: \$125 per day.

(c). It is expressly ordained that the daily storage rates recited in this Subsection **6(a)** shall not be charged for the calendar day on which a vehicle arrives at the place of storage. [Amended 1-20-2015 by Ord. No.

2012]

**Waiting time fees:**

(a) Vehicles with registered vehicle weight of 12,500 pounds or less, per 15 minute increments: \$25

(b) Vehicles with registered vehicle weight in excess of 12,500 pounds, per 15 minute increments: \$50

(c) Waiting time charges shall not begin until 15 minutes after arrival of wrecker at the scene. After the initial 15 minutes, waiting time charges will begin.

(d) Crane service/winch recovery services/extra tow service rates: \$50

(e) Winching is considered recovery for billing purposes.

- (f) Vehicles with registered vehicle weight in excess of 12,500 pounds, per hour in one-quarter increments: \$250.
- (g) Vehicles with registered vehicle weight in excess of 12,500 pounds, per fifteen-minute increments: \$100. Winching is considered recovery for billing purposes.
- (h) Additional equipment for recovery (i.e., forklift, wheel load, etc.): \$250 each;
- (i) Release brake chamber: \$35 per brake;
- (j) Release air brakes; \$40 per air line;
- (k) Drop drive shaft; \$100;
- (l) Drop axel: \$50 per axle.
- (m) Heavy Duty Rotator Required: \$650
- (n) Additional Labor: \$100 per man/per hour
- (o) Enclosure fee (vehicle wrap or cover): \$50

B. Every operator of a wrecker shall give the customer a written itemized receipt for the fee paid, when requested. All disputes as to fares shall be determined by the police officer in charge, if one is present, and a report of the dispute shall then be made by the officer to the Chief of Police. Every official tower will be required to accept all currently accepted methods of payment as per state statutes, which at time of adoption of this article includes cash, credit card, money order and personal and business checks.

**Hours of release:**

C. The hours of release for towed vehicles from the tower's yard shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday, and 9:00 a.m. to 12:00 noon Saturday.

**D. Towing locations:**

1. All vehicles towed pursuant to Subsection 434-30 light duty vehicles, unless otherwise directed by the Police Department, shall be towed to the South Plainfield Police Impound Yard located at 405 Spicer Avenue, South Plainfield. However, any such vehicle that has been in a crash, shall be towed to and stored by the respective tower, unless the vehicle is considered a police impound. (refer to Subsection 434-12(c))
2. All vehicles 12,501 pounds or more, pursuant to Subsection 434-30(3), unless otherwise directed by the Police

Department, shall be towed to and stored by the respective on-call heavy duty tower.

- E. Any official tower is hereby authorized to charge, in addition to the service rates delineated in this section, a surcharge in the amount of \$50 per vehicle towed, as an accident clean up fee. Accident scene clean-up is considered the application and removal of an absorbent material for fluid spills (i.e., coolant, oils, etc.) and removal of glass, debris and other materials.
- F. For vehicle rollover (when a vehicle is not on its four tires): \$125 per vehicle.
- G. For off-road recovery (when a vehicle is off of the travel portion of the roadway):\$125 per vehicle.

[Amended 1-20-2015 by Ord. No. 2012]

§ 434-30. Conduct of official towers and operators generally.

A. No person owning or operating a wrecker shall:

- (1) While waiting for employment, stand on any public street, intersection, or on any public property without first obtaining the consent of a police officer or stand on any private property without first obtaining the consent of the owner of the property.
- (2) Seek employment by repeatedly and persistently driving his wrecker to and for in a short space in front of any disabled vehicle or by otherwise interfering with the proper and orderly progress of traffic along the public highways.
- (3) Permit or invite loitering within or near his wrecker.
- (4) Solicit or attempt to divert prospective patrons of another wrecker, nor shall he solicit or divert prospective patrons of a given garage in the Borough to any other garage.
- (5) Solicit, demand or receive from any person any pay commission or emolument whatever, except the proper fee for transporting the disabled vehicle in accordance with the schedule of service rates listed in § **434-29**.
- (6) Pay any gratuity, tip or emolument to any third person not involved in the accident, or to any police officer, for information as to location of any accident or for soliciting the employment of the licensee's services, nor give any gratuities, fees or other compensation or gifts to any member of the Police Department.

B. Towed vehicles shall be stored in an area with protective fencing.

§ 434-31. Record book of vehicles towed.

- A. Every official tower shall record, whether in a hard book or in a computer based

system, solely for the purpose, the details of each disabled vehicle towed, serviced or transported, together with full information concerning the details surrounding the hiring, the names of the owner of the towed vehicle and the patron engaging him, with the exception that it is expressly required that each tower maintain a hard copy receipt of all services provided for under this article which receipt shall bear the original signature of the person to whom the vehicle was released. The record book herein described shall be kept open for inspection at all times by the Police Chief or any duly authorized representative of the Police Chief.

- B. All official towers shall maintain a record regarding all vehicles impounded at the request of the South Plainfield Police Department. These vehicles may include abandoned vehicles, recovered stolen vehicles or vehicles held for investigation by the Department. This record shall be made available to any police officer for inspection, upon request, and shall contain the following information:
- (1) The date, time, location and name of the wrecker driver who towed the vehicle at the Department's request.
  - (2) The physical location of the vehicle being towed.
  - (3) Identification of the impounded vehicle to include make, year, model, vehicle identification number, license number and name of registered owner, if known.
  - (4) A vehicle impounded by the police shall not be released without a written tow release form authorizing this release.
  - (5) A written record shall be kept or maintained by the towing service indicating the name of the person releasing the vehicle, the type of proof of ownership presented and the name of the person receiving the vehicle.

§ 434-32. Release of vehicles.

- A. Official towers shall only release vehicles impounded as a consequence of the official tower's performance under this article after receiving a written authorization from the Police Department to release the vehicle,
- B. Vehicles towed as a consequence of a call from the call list will be available for release during the entire period that the wrecker is on call and from 8:00 a.m. to 5:00 p.m., Monday to Friday; and 9:00 a.m. to 12:00 noon, Saturday.
- C. No official tower (i) shall enter into the Police Towing Yard without first notifying the Police Department of its desire or need to do so; nor (ii) enter into the Police Impound Lot to access, move, remove, or release any vehicle unless escorted by the Police.

§ 434-33. Rotating call list.

- A. Official towers shall perform licensed services on a rotating basis, The Police Chief is hereby authorized to establish a system of rotation in the assignment of the wreckers in the area when the owner or driver of a disabled vehicle declines

or is unable to indicate any specific choice of a wrecker to remove the vehicle. No official tower shall respond to the scene of a disabled vehicle except upon notification by the police officer in charge at Police Headquarters or upon request of the driver.

- B. In the establishment of a rotation system of assignment of licensed wreckers, separate lists will be administered by the Police Department for light duty wreckers and heavy-duty wreckers. The Borough of South Plainfield shall establish a heavy-duty rotation list consisting of at least four qualified towers. If less than four qualified towers from within the Borough of South Plainfield cannot meet these requirements set forth, the Borough of South Plainfield shall establish a heavy-duty rotation list utilizing qualified towers from outside the Borough limits. Selection for the heavy-duty rotation list may include companies outside the Borough limits, provided the tower can comply with all the requirements set forth in **§434-25**. In addition, an official tower for the heavy-duty rotation list must own the equipment required in **§434-26B**. If an official tower has both heavy duty and light duty wreckers licensed, the official tower's turn on the light duty list must be separate from its turn on the heavy-duty list.
- C. Such additional rules and regulations regarding the rotation of wreckers as may be promulgated hereunder by the Police Chief and filed with the Borough Clerk shall take effect immediately after service of a copy thereof on official towers, which service may be made by addressing same to the licensees by ordinary mail at their last known address. If, pursuant to the rules and regulations for rotation of wreckers adopted under this article, the Police Department summons a wrecker to the scene of a disabled vehicle for the purposes of removing the vehicle and the summoned wrecker shall arrive at the scene, the owner or driver of the disabled vehicle shall use the services of the summoned wrecker.
- D. For all serious or fatal motor vehicle crashes, Middlesex County's contracted tower is to be notified by Police Headquarters to respond to the scene.

§ 434-34. Regulations generally.

- A. The Police Chief is hereby authorized and empowered to establish reasonable regulations for the inspection and operation of licensed wreckers and for the design, construction, maintenance and condition of fitness for safe conduct of the wrecker service business, in accordance with the standards herein. The Police Chief shall maintain due vigilance over all licensed wreckers to see that they are kept in a condition of safety for the transportation and hauling of disabled vehicles, and shall have the right at all times to inspect all such licensed wreckers and shall maintain a record, in writing, of the report of all such inspections. If, at any time, the Police Chief shall deem equipment inadequate or unsafe, he shall have the power to demand immediate correction, and, if not corrected to the full satisfaction of the Police Chief, he shall then have the power to revoke or suspend the license,

as in the case he may deem fit and proper, after a hearing is had upon the nature and circumstances of the violation. The Police Chief, is also hereby authorized and empowered to establish such additional regulations not inconsistent herewith, as may be necessary and reasonable, governing the issuance of any license provided for in this article. All regulations promulgated by the Police Chief shall be filed with the Borough Clerk.

- B. Whenever the Police Chief promulgates regulations pursuant to Subsection **A** of this section, notice of the promulgation shall be published in the official newspaper of the Borough, That publication shall state that a regulation has been promulgated by the Police Chief pursuant to the authority of this article and state specifically that a copy of the regulations is on file in the Borough of South Plainfield Municipal Clerk's office and, unless an emergency situation arises, any such rules or regulation promulgated by the Police Chief shall not become effective until 10 days after the date of publication in the newspaper.

#### S 434-35. Administrative appeals.

An applicant for a license under this article, as well as any official tower, has the right to file an administrative appeal of any action taken or ruling made by the Police Chief in the administration of this article. The appeal must, however, be filed in writing with the Borough Clerk of the Borough of South Plainfield within 10 days of the Police Chief's decision. A hearing is to be held within 30 days of the filing of the appeal with a written ruling forthcoming from the Borough Clerk within 20 calendar days of the hearing. The Borough Clerk's decision shall be the final administrative decision rendered on any appeal filed pursuant to this article.

#### § 434-36. Applicability.

Only official towers of the Borough of South Plainfield are subject to the terms of this article. When the owner or driver of a disabled vehicle indicates a choice of a specific wrecker owner who is not licensed as an official tower, that wrecker shall be called to the scene only at the discretion of the police officer on the scene based on his/her consideration of public safety and the need to clear the scene; this article does not apply to that wrecker's activities.

#### § 434-37. Abandoned or unclaimed vehicles.

The Police Department shall be responsible for attempting to notify the owner of an abandoned vehicle towed under this article that his vehicle has been towed to the impound area within 30 calendar days of the tow. In the event the towed vehicle is not removed within 14 calendar days by the owner, the official tower shall be responsible for notifying the Police Department, in writing, of this situation. Failure of the official tower to notify the Police Department as stated herein shall limit the storage charge to 14 calendar days.

#### § 434-38. Sale of unclaimed or abandoned Vehicles.

- A. The Borough of South Plainfield Police Department shall, at its sole judgment and uncontrolled discretion, arrange for public sale any vehicle which has been the subject of impoundment or when the owner has failed to receive same. Such public sale shall be in accordance with state law.
- B. The Borough of South Plainfield will not sell any vehicle without having first received the proper authorization for the sale as required by the New Jersey Division of Motor Vehicles in accordance with state law.
- C. The proceeds from the sale of each vehicle shall be applied to the payment of any towing and storage charges due the appropriate official tower pertaining to the vehicle sold. Any surplus funds per each vehicle shall be disposed according to law. If the proceeds from the sale of such vehicle are insufficient to pay the accrued towing or storage charges for that vehicle, the official tower agrees that there shall be no further liability of the Borough of South Plainfield to pay same and any excess amounts which may be due shall be waived.
- D. If no bids are received on a vehicle, then the official tower shall receive title for nominal consideration of \$25 for such vehicle in lieu of any fees, which may be due the official tower pursuant to this article.

[Amended 1-20-2015 by Ord, No. 2012]

§ 434-39. Availability of documents.

Every official tower shall furnish, at its expense, the owner of a disabled vehicle with a copy of towing and storage rates as provided by this article. Furthermore, the Borough, through the Borough Clerk's office and the Police Department, shall make available all regulations and fee schedules under this article to any member of the public during normal business hours of the Borough.

§ 434-40. Violations, penalties, and license suspensions. (over charging situations)

- A. Any official tower who violates any provision of this article shall, upon conviction thereof by the Municipal Court, be punished by a fine not exceeding \$2,000 or by imprisonment for a term not exceeding 90 days, or both.
- B. Notwithstanding the above penalty provisions, it is expressly ordained that in addition to any fines imposed in conformance with this **§ 434-40**, the Police Chief may impose the following suspension and revocation schedule to be applied to the license of the official tower, together with all associated wrecker licenses, found to have violated in any calendar year in which a license has been in effect, the provisions of this article by charging and Collecting Service rates in excess of those set forth in **§ 434-29**;
  - 1) Ninety days' license suspension of any license under this article for the first offense;
  - 2) One-hundred-eighty-day license suspension for a second offense;
  - 3) Permanent revocation of any license issued under this article for a third offense.

C. The Borough of South Plainfield believes there will be occasions that require the official tower to provide services to police vehicles for the Borough. The official tower shall charge the Borough according to the service rates delineated **§434-29** for performing these services. The municipal expenditure is subject to Local Budget Law.**[1]** This service shall include but not be limited to jump-starts, change of flat tires of police vehicles, and police tows.

[1] Editors Note: See N.J.S.A. 40A4-7 et seq.

### **§ 434-41. Predatory Towing Prevention**

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) such person shall have entered into a contract for private property towing with the owner of the property; and

(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;

(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; and

(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 unauthorized 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 paragraph (2) of subsection A. of this section is posted on the property.

C. (Deleted by amendment, P.L.2009, c.39)

D. 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.

E. The requirements of paragraph (2) of subsection A. of this section shall not apply to a residential community in which parking spaces are specifically assigned to community residents, provided that:

(1) the assigned spaces are clearly marked as such;

(2) there is specific documented approval by the property owner authorizing the removal of the particular vehicle; and

(3) 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.

The exemption in this subsection shall not apply to any private parking lot or parcel owned or assigned to a commercial or other nonresidential entity located in such residential communities.

F. A towing company shall, upon removal of a vehicle pursuant to this subsection notify the Police Department whenever the owner or operator of the vehicle is not present at the time the vehicle is towed.

## **§ 434-42**

### **Confusing Vehicle Color Schemes or Names Prohibited.**

No vehicle covered by the terms of this section shall be licensed whose color scheme, or name, monogram or insignia to be used thereon, shall be in conflict with or, in the

opinion of the Director of Public Safety, imitate any color scheme, monogram, name or insignia, used by any other person, firm, municipality or corporation operating a tow truck or towing agency, in such manner as to be misleading or tend to deceive or defraud the public.

**§ 434-43 Release of Vehicle Prior to Towing.**

It shall be an unlawful practice for any towing company to fail: (1) when requested by the owner or operator of a vehicle subject to nonconsensual towing, to release 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 and pays the decoupling fee; or (2) to charge the owner or operator requesting release of the vehicle more than a (\$65) dollar decoupling fee.

**§ 434-44 Penalties.**

Any tower who violates any provision of this section shall, upon conviction thereof, be punished by a fine not exceeding one thousand (\$1,000) dollars or by imprisonment for a term not exceeding 90days or both.

**§ 434-45 Severability.**

If any provision or portion of this section is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this section shall not be invalidated.