

BOROUGH OF NEW PROVIDENCE
ORDINANCE 2010-8

“AN ORDINANCE OF THE BOROUGH OF NEW PROVIDENCE, COUNTY OF UNION, STATE OF NEW JERSEY AMENDING THE BOROUGH CODE AT CHAPTER 243, TOWING”

BE IT ORDAINED by the Mayor and Council of the Borough of New Providence, County of Union, State of New Jersey that Chapter 243, Towing, of the Borough Code, is amended to read as follows:

1. Chapter 243, Towing, of the Code of the Borough of New Providence is hereby amended to read as follows:

§ 243.1 Definitions.

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

Cruising - The driving of an unengaged wrecker to and fro along a public street at a slow rate of speed or in any other fashion calculated for the purpose of soliciting business in the Borough.

Owned - Owned, rented or leased.

Person - Includes an individual, sole proprietor, firm, partnership, association, corporation or other entity and the singular or plural and the masculine, feminine or neuter thereof, unless the contrary is clearly expressed.

Towing Operator - Any person who owns or operates wreckers for the purpose of providing towing services.

Wrecker - A vehicle driven by mechanical power and employed for the purpose of towing, transporting and/or conveying or otherwise removing any and all kinds of vehicles which are unable to be and/or actually are not operated under their own power or are otherwise disabled, for which services a charge or fee is exacted.

§ 243.2 Control of Licensing; Enforcement.

The licensing of wreckers and the determination of the adequacy and sufficiency thereof shall be under the control of, and the enforcing of the provisions of this chapter shall be under the control of the Police Department.

§ 243.3 License Required; Term.

Any towing operator desirous of participation pursuant to §243-16 of this chapter in the on-call list for towing services shall be licensed in accordance with the terms of this chapter. All licenses under this chapter shall be issued to expire and shall expire on the 31st day of December next succeeding the date of issuance, unless sooner suspended or revoked by the Chief of Police as hereinafter provided.

§ 243.4 Fees.

- A. For each year or any part thereof, each application for licensing under this ordinance shall be accompanied by a fee of \$200.00, which shall include up to ten (10) wreckers and ten (10) tow truck operators. Additional wreckers and operators shall be charged \$10.00 each.
- B. All fees shall be paid to the Borough Clerk of the Borough of New Providence.
- C. Licensees will be required to contribute the costs associated with producing a Customer "Bill of Rights" on a pro-rata basis.

§ 243.5 License Application.

Applications for licenses issued hereunder shall be made by the owners upon forms to be furnished by the Chief of Police, and the applicant shall state under oath:

- A. The name, home address and proposed or actual business address of the applicant and a listing of all the owners, shareholders, partners and members, as the case may be.
- B. A description of the wrecker or wreckers for which the license is desired, including the year, model, make, type, serial number of the body and motor capacity.
- C. The length of time for which the wrecker has been in use as a wrecker.
- D. That the applicant has available space for properly accommodating and protecting all disabled motor vehicles to be towed or otherwise removed from the place at which they are disabled. This available space shall be identified by street address and lot and block number. The applicant shall certify that he either owns the property or has the right to use the property for accommodating the disabled vehicles.
- E. The license number of vehicles.

- F. That he will maintain the necessary equipment and required standards throughout the term of the permit and shall notify the Chief of Police upon change of any information set forth in the application.
- G. Such other information which the Chief of Police shall deem necessary or proper to effectuate the purpose of this chapter and full protection of the public interest.

§ 243.6 Standards For Issuance of License.

- A. The Chief of Police shall review and approve the issuance of all wrecker licenses upon the following findings that:
 - (1) The applicant is of good moral character.
 - (2) The public convenience and necessity will be served by the use of wreckers for which application is made.
 - (3) The requirements of this chapter and all other governing laws, statutes, ordinances and rules and regulations pertaining to wreckers are met.
 - (4) The wreckers are properly licensed and inspected, where required, by the State of New Jersey.
- B. No vehicle shall be licensed as a wrecker in New Providence which uses dealer license plates.

§ 243.7 Promulgation Of Additional Rules And Regulations.

The Police Department is hereby authorized and empowered to establish, from time to time, rules and regulations not inconsistent with this chapter as may be necessary and reasonable governing any license provided for in this chapter.

§243.8 Registry Of licenses To Be Maintained.

The Police Department shall keep a register of the names of such persons owning, leasing or operating a vehicle or vehicles licensed under this chapter.

§ 243.9 Issuance Of License.

Upon satisfactory fulfillment of the requirements of this chapter and upon approval of the Chief of Police or other member of the Police Department designated by him and receipt of the fee for each wrecker license and certificate of insurance, the Borough Clerk shall issue a license.

§ 243.10 Conditions of License.

All wrecker licenses shall be issued hereunder subject to the following conditions:

- A. No licensee or his agent or driver shall solicit, demand or receive from any person any pay, commission or emolument whatever except the appropriate fee authorized for transporting disabled vehicles in accordance with the schedule of service rates set forth in this chapter nor give or offer to give any gratuities, fees or other compensation or gifts to any member of the Police Department.
- B. Licensees and their agents and servants shall keep and maintain towing equipment which is adequate to perform such towing in a reasonably workmanlike manner.

§ 243.11 Wreckers.

- A. No driver of any wrecker shall seek employment by repeatedly and persistently driving his wrecker to and fro in a short space before or otherwise interfere with the proper and orderly progress of traffic along the public highways.
- B. No driver shall engage in cruising, as defined herein.
- C. No driver or owner of a wrecker shall solicit or attempt to divert the prospective patrons of another wrecker, nor shall he solicit or divert prospective patrons of a given garage in the Borough of New Providence to another garage.
- D. No licensee or his agent or driver shall solicit or demand from any person any pay, commission or emolument whatever except the appropriate fee authorized for transporting disabled vehicles in accordance with the schedule of service rates set forth in this chapter nor give or offer to give any gratuities, fees or other compensation or gifts to any member of the Police Department.
- E. No flashing lights or sirens shall be used in a wrecker except by permission granted by the State Director of Motor Vehicles under the provisions of N.J.S.A. 39:3-50.

§ 243.12 Storage Of Vehicles.

- A. The towing operator is responsible for safe storage and must have available a storage area for properly accommodating outside secured storage of multiple vehicles which have become disabled or otherwise removed by the towing operator.
- B. The storage facilities shall have proper sign identification in a prominent location and in the principal office of the towing operator where the general public is admitted, that identifies the hours when the vehicle may be released.

- C. The towing operator must comply with all municipal ordinances where the facility is located for storage of such vehicles.
- D. Minimum outside secured storage area shall mean a vehicle storage facility that is not indoors and is secured by a fence, wall or other manmade barrier that is at least six (6') feet high and is installed with a passive alarm system or a similar on-site security measure. The facility shall be lighted at night.
- E. Inside storage area shall mean a vehicle storage facility that is completely indoors, having one (1) or more openings in the wall, for storage and removal of vehicles and that is secured by a locking device on each opening.
- F. Nothing in this chapter shall be construed to permit the storage of vehicles outside of any building in violation of any provision of the general ordinances of the Borough of New Providence or any other municipality where the facility is located.

§ 243.13 Display Of License.

All wreckers shall contain a card, decal or metal plate, to be furnished by the Police Department, affixed to a prominent portion of the wrecker, as directed by the Police Department, where it can be easily read, stating the license number of the vehicle.

§ 243.14 Customer Receipts Required.

Every driver of a wrecker shall give the customer a detailed receipt, showing total amount paid, including additional charges.

§ 243.15 Removal Of Vehicles.

The Police Department shall have the power to direct wreckers to remove vehicles where:

- A. There is obstruction of a public right-of-way or private property.
- B. A vehicle has been vandalized or presents a fire or safety hazard or an attractive nuisance.
- C. An abandoned vehicle bears no discernible registration or identification data.
- D. A vehicle is not licensed.
- E. A vehicle is not operable.

F. A vehicle is violating any emergency no-parking provisions as set forth in the Code of the Borough of New Providence.

G. Permitted or required by law.

§ 243.16 On-Call List To Be Used.

It is hereby determined under the lawful exercise of the police powers of the Borough of New Providence that public convenience and necessity require that the persons performing towing service for the Borough of New Providence or called for by a member of the New Providence Police Department shall perform on an on-call basis from a list promulgated by the Chief of Police pursuant to this chapter. Because the earliest possible response to a towing call is essential to the public health and safety, priority for on call towing services shall be given to persons maintaining a place of business within the Borough of New Providence in climate weather.

§ 243.17 Regulations Governing On-Call List.

A. A licensee performing towing service for the Borough of New Providence or called for by a member of the New Providence Police Department shall perform on an on-call basis from a list approved by the Chief of Police of New Providence.

B. In order to be placed on the on-call list by the Chief of Police, the following requirements shall be met:

- (1) The applicant shall have immediate and maintain access to appropriate equipment to permit the towing and/or transportation of motor vehicles.
- (2) The applicant shall have appropriate drivers, storage facilities, insurance and all requirements set forth in this chapter.
- (3) There shall be deposited with the Borough Clerk policies of insurance in an insurance company as herein stated:
 - (a) The licensees shall have a garage policy in force with an insurance company duly licensed in New Jersey with a Best's rating of no less than A-X.
 - (b) Limits for garage keepers legal shall be no less than \$1,000,000.00.
 - (c) Bodily injury and property damage limits shall be no less than \$1,000,000.00 combined single limits.

- (d) The borough shall be added as an additional named insured to the policy of the garage in respect to its activity on behalf of the Borough.
 - (e) Both the certificate and endorsements shall be given to the Borough. A thirty-day notice is required for cancellation.
 - (f) If the policy or certificate is not corrected, reinstated or replaced prior to the date of cancellation, the licensee shall surrender said license to the Chief of Police.
- C. Such additional rules and regulations regarding the rotation of wreckers as may be hereafter promulgated by the Chief of Police shall take effect immediately after service of a copy thereof on the holders of all licenses for wreckers in the Borough as set forth on the rotating on-call list. Service upon such licensee may be by sending by ordinary mail a copy of additional rules and regulations to said licensee's business address.
- D. No on-call licensees shall respond to the scene of an accident except upon notification by the police officer in charge in the police headquarters or upon the request of the driver or owner of a disabled vehicle.
- E. If any licensee performing on the rotating on-call list for towing service is called on rotation and fails to respond within 20 minutes or refuses to respond and does not perform on-call service, the call shall be reviewed by the Police Department. If an appropriate response is not made by the licensee, the removal from the on-call list may be made by the Chief of Police.
- F. All wreckers on the on-call list shall be licensed pursuant to the terms of this chapter.

§ 243.18 Records To Be Maintained By Licensees; Inspection Of Records.

Each and every licensee on the on-call list shall maintain records of each service performed under the license granted by the Borough of New Providence. The records shall include the name, address and phone number of the owner of the vehicle or person engaging the services as well as details of the service provided. Licensees and their agents shall provide copies of all bills and invoices for work performed under the license granted by the Borough of New Providence on a monthly basis to the Chief of Police. Licensees and their agents shall cooperate with any investigations concerning work performed under the license granted by the Borough of New Providence. This shall include providing any and all documents requested to complete the investigations.

§ 243.19 Limitations On Charges.

- A. Fees for towing, storage and service of vehicles shall be established by the Common Council which are set forth in Appendix A attached hereto and made a part hereof.
- B. Charges for the towing of vehicles to any point within the Borough of New Providence by any licensed wrecker or operator of any wrecker, that are not covered by N.J.A.C. 11:3-38.6 and its fee schedule, shall not exceed the fees set forth in Appendix A.

§ 243.20 Right Of Owner Of Disabled Vehicle To Call Wrecker Of Choice.

Nothing within this chapter shall prevent an owner, lessee, agent or driver of a vehicle which is disabled from calling a wrecker of his own choice to remove his vehicle, except in instances governed by §243-15.

§ 243.21 Depositing Debris In Sanitary Or Storm Sewers Unlawful.

No towing operator, employee, representative or agent thereof in the performance of towing services, shall deposit or cause to be deposited in the sanitary or storm sewers of the Borough of New Providence any debris or other material, substance or liquid, pursuant to the terms of Chapter 219, Sewers and Sewage Disposal, of the Code of the Borough of New Providence.

§ 243.22 Suspension Or Revocation Of License.

- A. A license granted under this chapter may be suspended or revoked by the Chief of Police for the violation of this chapter or regulations hereunder. Upon said suspension or revocation, the applicant shall be entitled by application, in writing, to a hearing before the Chief of Police as to why said license should not be restored, and said Chief of Police shall have the authority to restore said license or affirm the suspension or revocation.
- B. The Chief of Police shall cause a hearing to be held and shall so notify the licensee not less than 15 days before the date of such hearing for suspension or revocation upon written charges, and said applicant shall file written answers thereto not less than two days prior to said hearing. Said license shall be entitled to be represented by counsel and present his defense thereto.

§ 243.23 Violations.

Every person or persons, firm, partnership or corporation who shall violate any of the provisions of this chapter shall, upon conviction, be liable to a fine or imprisonment pursuant to Section 1-15 of the Code of the Borough of New Providence.

Appendix A
Towing Service Fee Schedule

APPENDIX A — FEES

TOWING			
Base Fee Includes First Mile	Per Additional Mile outside of Borough	Base Fee After 6 P.M. & Weekends & Holidays	Basic Recovery
\$90.00	\$3.50	\$110.00	\$150.00

SERVICE			
Jump Start	Flat Tire	Lock Out	Gas (optional)
\$60.00	\$60.00	\$60.00	\$30.00 + gas cost
Night/Weekend/Holiday calls add \$15.00			

STORAGE (for twenty-four (24) hour period)		
Inside	Outside (secured)	
\$50.00	\$35.00	

RELEASE TIME shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday (except national holidays). Any vehicle released not in these time period times may be subject to an additional fee of \$25.00.

ADDITIONAL LABOR CHARGE (per hour)		
	After 6:00 p.m./Weekends & Holidays	
Weekday	\$50.00	
\$40.00		

Charge for extraordinary mechanical work to ready vehicle, which could not otherwise be towed, for **towing**. This charge shall be in effect for additional manpower needed at the scene (per man/per hour). To be charged in thirty (30) minute increments with a one-half hour minimum.

WAITING TIME (per hour)
\$40.00
To be charged in thirty (30) minute increments beginning after the first fifteen (15) minutes on the scene with a one-half hour minimum. This is exclusive of the time required to secure a vehicle for towing or time spent in actually towing a vehicle.
ADMINISTRATIVE CHARGES
\$45.00
This is a one-time fee per vehicle per tow, for phone calls, certified letters and other items associated with trying to locate owners of said vehicles, if a vehicle owner does not contact the tow operator or claim the vehicle within fourteen (14) days of the tow.
YARD CHARGE
\$50.00
For relocating a vehicle incapable of being driven from the licensee's storage facility to a public roadway, for towing by another towing company.
Crash Scene Clean Up
Basic crash scene clean up shall be included in the cost of a basic tow. Any additional cleanup shall be documented.
Heavy Duty Towing
\$350.00
Charge may only be applied if Heavy Duty equipment is necessary to complete the tow. Any additional charges for extraordinary measures must be documented.

2. This ordinance shall take effect in accordance with law.

Introduced: July 12, 2010
Public Hearing: August 9, 2010
Adopted: August 9, 2010

BOROUGH OF NEW PROVIDENCE
COUNTY OF UNION
STATE OF NEW JERSEY

John A. Thoms, Mayor

Attest:

Wendi B. Barry, Borough Clerk