

ORDINANCE #2192-13

**AN ORDINANCE OF THE CITY OF WOODBURY
ESTABLISHING CHAPTER 176, "TOWING, ROAD SERVICE AND STORAGE OF
VEHICLES", OF THE CODE OF THE CITY OF WOODBURY**

WHEREAS, the Mayor and Council of the City of Woodbury in an effort to standardize response time for the convenience and safety of the public and to allow reasonable and timely access for law enforcement investigations wishes to establish an Ordinance for the towing, road service and storage of vehicles disabled or otherwise impounded within the municipality of the City of Woodbury, therefore:

BE IT ORDAINED by the Mayor and Council of the City of Woodbury as follows:

Chapter 176 of the Code of the City of Woodbury, "TOWING, ROAD SERVICE AND STORAGE OF VEHICLES" is hereby **ESTABLISHED**, as follows:

1. Definitions and word usage

A. For the purposes of this chapter, the following terms, phrases and words shall have the meanings given herein:

ABANDONED VEHICLE: Any vehicle which has been left on or along any highway or other public property or on private property without consent of the owner or person in charge of the private property for a period of more than 48 hours or for any period without current license plates.

DISABLED VEHICLE: Any vehicle located on or along any public right of way, not in operation and with no owner visible and not legally parked will constitute an inoperable vehicle.

PERSON: Any person, firm, partnership, association, corporation, company or organization of any kind.

TOWER: A person engaged in the business or offering the services of a vehicle tower or towing service, whereby abandoned and/or disabled vehicles are towed or otherwise removed from the places where they are disabled, impounded or abandoned by use of a tower or truck so designed for that purpose.

TOWING: Hoisting, lifting, removal, hauling and transportation of any type of vehicle of any size from the highways, streets and roads located within the City of Woodbury or any other highway, street, or road within the State of New Jersey.

CITY: The City of Woodbury.

VEHICLE: Any motor vehicle of any type or size including but not limited to passenger vehicles, trucks, trailers and other heavy vehicles and equipment.

WAITING TIME: Additional time a tow operator spends at the scene other than the time required for the actual tow and/or recovery. Examples of waiting time may include but are not limited to Fire/EMS services which must be performed and/or police investigations.

WINCHING SERVICE: Any operation in which a vehicle is moved onto a roadway, from a position off the roadway, or any other operation whereby a vehicle is moved by the use of a cable from a position that is not accessible for a direct hook up by conventional means for loading onto a tow vehicle. Winching is not pulling a vehicle onto a tilt bed carrier or lifting a motor vehicle with a conventional tow sling.

- B. When not consistent with the context, words used in the present tense include the future; words in plural number include the singular number; and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

2. Contract required; liability of City; application

- A. Generally. The governing body of the City, at the beginning of each period, shall appoint towers to be called by the police department on a two (2) week basis. Each two week period shall be assigned to a different tower. A fee of \$100 shall be paid to the Municipal Treasurer by each tower so authorized. The appointment shall be made after the submission of an application as hereinafter set forth and the review and recommendation of the same by the Chief of Police, said appointment to be made by the City Administrator. Applications for initial three (3) year period shall be received by the City no later than October 1, 2013. Any tower receiving appointment shall be placed on the rotation list, which shall entitle the tower(s) to exclusive towing rights during the rotation period. In the event that the tower assigned to a particular rotation is unavailable, then the next tower on the list shall be called during said rotation, but only for a particular incident as set forth. Appointments shall be for a three-year period commencing on December 1, 2013. Tower(s) wishing to reapply at the end of their three-year appointment will be required to complete the application process to include a \$100 fee submitted to the City if appointed. Applications for the next and subsequent periods shall be received no later than October 1, immediately preceding the expiration of the then current three (3) year period..
- B. Application process. Any person interested in being placed on the aforementioned rotation list shall submit an application on a form to be prepared by the City Administrator or their designee, said form to contain at a minimum the information specified herein. The applicant shall provide, at a minimum, the following information:
 - 1. List of required equipment and proof of ownership.
 - 2. Experience of applicant with references.
 - 3. Available personnel (employees).

4. Proper business and trade licenses and licenses of vehicles.
 5. Tow trucks having two-way radio/cellular telephone capability with a dispatching center on a twenty-four-hour basis.
 6. Storage location setting forth capacity, contractor responsible for safe storage area location, proof of ownership or lease of storage area along with a survey certifying the square footage within the surveyed area.
 7. Insurance and proofs of required coverage.
 8. List of stockholders.
 9. Non-collusion affidavit.
 10. Affirmative action affidavit.
 11. Hold-harmless agreement.
 12. Certification that the applicant is able to provide towing services anywhere in the City in accordance with the response time established within this chapter.
 13. Certification that the applicant will be available to provide service on a 24-hour per day, 7-day per week basis and will abide by the fees set forth in this chapter.
 14. Certification that the applicant shall consent to the appointment of the City Clerk as the applicant's true and lawful attorney for the purpose of acknowledging service out of any court of competent jurisdiction to be served against the applicant.
- C. Review of application. The Chief of Police shall conduct a background check of the applicant and any employees to be utilized in the towing and storage operation. The background check is to determine if either the applicant or its employees have been convicted of a criminal offense or have had their driver's license suspended or revoked in the past year. Conviction of a criminal offense or suspension of a driver's license within the past year shall be cause for the disqualification from being appointed to provide towing and impound services. The Chief of Police or his designee shall conduct an inspection of the employees, vehicles, equipment and storage area proposed to be utilized by the applicant to verify the accuracy of the information contained in the application and to determine compliance with the applicable laws, regulations and standards of performance required by this chapter. The City shall, at the cost of the applicant, obtain a better Business Service Bureau report and any other reports that the City Administrator may deem necessary. After a thorough investigation, the Chief of Police shall recommend to the City Administrator whether an applicant should be appointed to provide towing service to the City of Woodbury in accordance with the terms and conditions of this chapter.
- D. Independent contract. By submission of the fee and application, the tower agrees that all personnel and equipment used shall be and remain the property of the tower, and in no

event shall the property or any employee of the tower be represented or considered belonging to or employed by the City of Woodbury. The tower is in no way or sense, an agent or employee of the City of Woodbury and at all times shall be an independent contractor. All individuals, partnerships, companies, corporations or legal entities who are approved for the list under this chapter shall not be permitted to subcontract, lease, sell, franchise, loan or transfer their services to another wrecker on or off the approved list.

E. Hold harmless agreement; liability.

1. The tower, by submission of the fee and application, agrees to assume the defense of and indemnify and hold harmless the City, its elected officials, boards, commissions, officers, employees and agent from all suits, actions, damages or claims to which the City may be subjected, of any kind or nature whatsoever, resulting from, caused by, arising out of or as a consequence of the provision of the services required by this chapter. Prior to providing the towing services, the tower shall execute the appropriate hold harmless clause.
2. The owner of the garage or the parking or storage location shall also agree to indemnify and hold harmless the City and its officers, employees and agents from any and all suits and actions, damages or claims arising out of the performance of the duties specified in this chapter.
3. The City of Woodbury shall not be liable for any services whatsoever which may be rendered to motor vehicles, and the tower shall only seek payment from the driver and/or owner of such vehicles for compensation.

F. City Administrator's decision. The Chief of Police shall conduct the aforementioned review and investigation and render a report to the City Administrator recommending either approval or denial of the application. The City Administrator shall then take action with regard to appointing vendor(s) for towing and impound services. Written notice of the approval or denial of the application shall be provided to the applicant within seven days of the decision of the City Administrator.

3. Requirements.

The following general requirements shall apply to all towers and towing operations acting on behalf of the City of Woodbury.

- A. Equipment. The tower shall have sufficient equipment to tow any size vehicle utilizing the highways, streets and roads in the City of Woodbury. The minimum requirements are two heavy-duty large capacity wreckers with a minimum of 25-ton capacity, two medium-duty wreckers minimum of ten-ton capacity and two light duty wreckers, one of which must be a flatbed, minimum four-ton capacity. The specifications are as follows:
1. Heavy duty
 - (a) Two 25 ton capacity wreckers.

- (b) Air brakes.
- (c) Minimum 10.00 x 20 tires with dual rear wheels.
- (d) Air fittings for releasing air pressure lock brakes on dump trucks and tractor-trailers.
- (e) Under reach capabilities.
- (f) All required ICC safety equipment must be carried.
- (g) Must meet all Federal, and New Jersey Division of Motor Vehicles requirements.
- (h) Portable safety lighting to be installed on rear of towed vehicle.
- (i) Offside truck winching.

2. Medium duty

- (a) Two 10 ton capacity wreckers.
- (b) Minimum 10.00 x 20 tires with dual wheels.
- (c) Chassis requirements should be 10 ton's gross weight.
- (d) Steering wheel lock for towing vehicles from the rear.
- (e) Wheel lift and under each capacity.
- (f) All ICC safety equipment must be carried.
- (g) Must meet all Federal and New Jersey Division of Motor Vehicle requirements.

3. Light duty

- (a) Two Minimum of 4 ton capacity.
- (b) Chassis requirements should be 10,000 pounds gross vehicle weight and dual rear tires.
- (c) Steering lock on each wrecker for towing vehicles from the rear.
- (d) Tow sling type bar, rubber strap, to lift the car so that no part of metal touches the car.
- (e) One wrecker must be of flatbed capability.

- (f) All ICC safety equipment must be carried.
- (g) Must meet all Federal, and New Jersey Division of Motor Vehicle requirements.

- 4. One Landoll Trailer or equipment specifically used in product recovery for full size tractor trailers that frequently need to be off loaded for low bridge accidents specifically on Redbank Avenue. Failure of tower to have this piece of equipment shall not disqualify the tower, however, in the event of such a low bridge accident the City reserves the right to call the next tower in the rotation with such equipment.

B. At the time of the submission of the application, the tower shall submit proof satisfactory to the City and the Police Department of ownership of the aforementioned vehicles. Adequate proof shall be proof of ownership by recorded title of the required number of vehicles necessary to meet the chapter requirements or executed lease/rental agreement for the equipment required extending six months beyond the length of the contract. Failure to submit to the aforementioned satisfactory proof shall result in the disqualification of the tower.

C. Employees

- 1. The tower shall have sufficient number of employees available to comply with the minimum operational requirements of this chapter. The tower shall indicate in his application the number of employees on call and available to respond 24 hours a day, seven days a week.
- 2. The tower shall submit with the application to the City the names and addresses of all proposed drivers and employees who will be rendering service under this contract on behalf of the tower. This information is to be kept current with the City by the tower.
- 3. All operators of the towers equipment providing services required by this chapter shall be over the age of 18 and must have a valid, current, driver's license.
- 4. No person shall be utilized by the tower to provide services required by this chapter for the City unless the City has obtained a record check and has been approved by the Chief of Police. The Chief of Police may reject the services of an employee of the tower for the following reasons:
 - (a) Conviction of any crime of the first or second degree.
 - (b) Conviction of any crime involving the use of a firearm.
 - (c) Conviction of any crime involving the manufacture/distribution of any controlled dangerous substance.
 - (d) Conviction of any crime or offense, which subjects the employee to the provisions of Megan's Law.

(e) Conviction within the last five years for driving under the influence of intoxicating beverages or drugs.

5. No employee of the tower shall perform services unless previously listed by the contractor to the City.
6. Any driver utilized by the tower to provide service under this Chapter must be TRAA (Towing & Recovery Association of America) certified for the class of vehicle they operate.

D. Availability. The tower shall be available 24 hours a day, seven days a week for use of the City at the direction of the authorized representatives of the Police Department as per the rotation requirements hereinafter set forth. During the rotation of the tower, said tower shall be called or dispatched first by the Police Department.

When contacted by the police department.

In the event that said tower is unavailable with respect to a particular incident, the tower must immediately advise in the first dispatch call that they are unavailable, then the next tower as set forth on the rotation list shall be called or dispatched to the scene. The rotation list shall be as a result of the receipt and review of the approval of the aforementioned applications.

In the event that none of the towers set forth on the rotation list are available or are available to provide the appropriate services requested by the City, or if an emergency exists, the City may request such services from any other available source. During adverse weather conditions, heavy traffic conditions or emergency conditions, the tower set forth on the rotation list shall give priority to requests from the City over any other request which may be received by the tower. Notwithstanding the establishment of a rotation list, no tower shall be called until the Chief of Police or his designee has ascertained that the following requirements have been met:

1. The insurance policies, as required, have been procured and supplied.
2. The vehicle to be used for towing has been properly licensed and inspected by the State of New Jersey and has the necessary stickers affixed. No vehicle shall be licensed as a wrecker which is using dealer plates or which has failed inspection.
3. The requirements of this chapter and all other laws, statutes and ordinances have been met.

E. Response time. The tower shall, once notified, dispatch a tow truck(s), as circumstances warrant, to provide towing services anywhere within the City, when requested by the police and/or Zoning Official, in such a manner that the tow truck arrives at the scene within a maximum response time of 20 minutes, except when extraordinary circumstances occur. Unless heavy or unusual traffic conditions within the City prevent a wrecker from arriving at the scene within 25 minutes, failure to respond within that time frame shall be considered a breach of this Chapter. In the event that a wrecker fails to respond within 25 minutes from the time of the call, the police reserve the right to contact the next available wrecker on the rotational list.

- F. Storage location. The vehicles must be towed to a location containing a minimum storage area sufficient for the storage of not less than ten (10) vehicles and one (1) tractor-trailer. The applicant shall submit as part of the application process proof that he owns or can lease the aforementioned minimum storage area. If the tower has an option to lease the required storage area, he shall submit with his application a copy of the lease agreement containing the description together with a copy of the survey of the land. The lease shall extend to at least six months after the termination of the tower's appointment. The surveys required herein shall have set forth thereon a certification by the surveyor to the City as to the square footage within the storage area as surveyed. Storage area shall meeting the following requirements:
1. The land used for storage of the vehicles shall be zoned for such use and meet all applicable municipal codes. In addition, it shall be in an area reasonable accessible to the public so that stored vehicles may be claimed.
 2. No towed vehicle may be parked upon the public street and shall be stored by the tower within the storage areas as hereinafter defined.
 3. The tower must provide access to the storage area to the police department as needed on a 24 hour a day basis.
 4. The storage area shall accept all types of vehicles and be able to hold not less than ten (10) vehicles and one (1) tractor-trailer.
 5. The entire land area shall be enclosed by a fence of sturdy construction of at least eight (8) feet in height and shall be secured with sufficient lighting from dusk to dawn so as to prevent trespassing.
 6. The land used for storage is to be level and clear from all debris and must be clearly marked.
 7. The storage area shall be used for the storage of vehicles awaiting a claimant or proper disposition. The land shall not be used for storage of vehicles owned by the tower even if the tower purchases same at an auction held on his premises. Vehicles purchased by the tower at an auction held at the towers storage facility must be removed within the time frame specified on the advertisement.
 8. The tower shall be responsible for each vehicle and its contents in the tower's possession until final disposition and removal as ordered by the City. All vehicles, regardless of condition, shall be stored singly and so arranged to permit inspection and subsequent removal. Adequate walkway inspection space shall be provided at all times
 9. The tower will not charge and there shall be no fee to the vehicle owner for access to towed vehicle to retrieve contents or personal belongings.
 10. The storage location shall be within eight (8) driving miles of the City of Woodbury's Police Station and located in the State of New Jersey. A storage location within this proximity is required for the convenience and safety of the owners of the towed

vehicles and to allow for timely and reasonable access by law enforcement for investigative purposes. All owners of towed vehicles are required to report to the Woodbury Police Station prior to release of their vehicle. Therefore, this distance has been established so that a person retrieving a towed vehicle would only be required to travel, at a maximum, eight (8) miles in any direction to retrieve their vehicle. Further, this distance has been established to allow law enforcement officials to have to travel, at a maximum, eight (8) miles in any direction to investigate any vehicle towed by the City Police Department in the course of its duties

11. The storage area must have a secure, indoor location for the storage of vehicles identified as potentially being involved in a crime. The area shall not have less than eight-hundred (800) square feet of inside storage to hold and protect vehicles and such location must be capable of being locked, must afford the vehicle protection from the elements and must be able to prohibit access and/or tampering to the vehicle by anyone other than law enforcement.

G. Violations.

1. If a tower is in violation of any terms of this chapter, the Chief of Police shall notify the City Administrator and the City Administrator shall notify the tower in writing. If the violation is not corrected within three (3) business days of the receipt of said written notice, the City Administrator, upon recommendation of the Chief of Police, may terminate the tower's services and remove said tower from the rotation list. Adequate grounds for termination of services shall include but are not limited to a violation of the terms of this chapter, fraudulent or inaccurate application information, unsatisfactory service, billing irregularities, or the violation of any New Jersey statute or regulation. Appeal of any such notice or termination shall be as set forth below.
2. Suspension, removal and fines for noncompliance
If a tower is in violation of any terms of this chapter, the Chief of Police shall notify the City Administrator and the City Administrator shall issue to the tower an administrative notice of violation and fine and, if applicable, a suspension from the rotation duty list in accordance with the schedule set forth below. Such fine shall be paid within 10 days and any suspension shall be effective immediately. If the tower wishes to contest such fine or suspension the tower may file an appeal within 10 days of issuance of the fine or suspension by filing a written request for a hearing with the City Administrator with a copy to the Chief of Police which shall set forth the tower's reasons for contesting the fine or suspension. Upon receipt of such an appeal the City Administrator may stay any suspension pending completion of the appeal process set forth herein. Upon the filing of the written request for a hearing, the City Administrator shall conduct within 10 days an informal hearing at which time the tower, Chief of Police, and any other interested person may appear and provide evidence. The City Administrator shall issue his decision either sustaining or voiding the fine and/or suspension. The tower may appeal the decision of the City Administrator within 10 days by filing a written request for appeal with the City Clerk with a copy to the City Administrator and the Chief of Police setting forth the

tower's reasons for contesting the determination of the City Administrator. The matter shall be set down for a hearing before the City Council within 45 days whose decision shall be final.

- a. For the first offense, a fine not to exceed \$250 and a suspension from the rotational duty list for one month.
- b. For the second offense, a fine not to exceed \$500 and a suspension from the rotational duty list for six months.
- c. For the third offense, a fine not to exceed \$1000 and a suspension from the rotational duty list for one year.
- d. For the fourth offense, permanent revocation from the rotational duty list.
- e. Each and every violation of this chapter and each and every day that any violation shall continue shall be construed as a separate and distinct violation.

3. Complaints of any kind relative to service, overcharging, theft of parts, damage to towed or stored vehicles, discourteous treatment and the like shall be referred to the Chief of Police for investigation and recommendation to the City Administrator, if necessary. Such complaints may be cause for termination of the tower's services and removal from the rotation list by the City Administrator.
- H. Records, Inspection; release of vehicle. The Tower shall maintain a record of all vehicles towed, stored and released by him pursuant to this chapter. Records shall be kept for a seven-year period. The tower shall maintain a record provided by the police of all property found anywhere in a towed vehicle, including the trunk and glove compartment, if opened or if a key is available, and the tower shall be responsible to safeguard and release the vehicle and the contents left with the vehicle to the owner.
1. The tower is to notify the Chief of Police or his designee, once a vehicle is towed, pursuant to this chapter, and has been in the tower's possession for a period of seven calendar days.
 2. The tower shall not release vehicles towed pursuant to this chapter, without the claimant first obtaining a release from the Police Department. In addition, the tower shall notify the Chief of Police, or his designee, of the release of a vehicle towed pursuant to this chapter within 24 hours.
 3. Only the Chief of Police or his designee 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. Authorized representatives of the Police Department or the City Administrator or their designee shall have access to any of the records required to be kept by the tower. Access to these records shall be provided to the Chief of Police, City Administrator, or their designees, upon their request during normal business hours.

4. The service, equipment and personnel of the tower are subject to inspection and approval by the City. The City reserves the right to have a qualified person or agency make such inspections.

I. Disputes and adjustments.

1. Any disputes over the interpretation of this chapter, including the reasonableness of any fees assessed, shall be settled amicably, if possible through negotiations between the tower, the police department and the City Administrator. Nothing in this paragraph shall affect the parties' rights to pursue its legal remedies available at law or equity.
2. In cases where the City has been at fault in wrongfully directing that a vehicle be towed, the tower may petition the City Administrator for reimbursement of costs incurred in the towing and storage of said vehicle.

J. Standby Service

1. In addition to the service requirements of this chapter, the tower shall be required to furnish extra towing equipment and service during storm periods, periods of snow emergencies, traffic emergencies, disasters, any acts of God and for any other reason when so designated by the City Administrator, the Chief of Police or their authorized representatives. During such periods which are herein referred to as standby service periods, the tower shall be required to furnish adequate equipment and service to be held ready to remove all types of vehicles.
2. Standby service will begin when the Chief of Police or his authorized designee calls the tower initially and will end when he terminates the standby status by calling the tower.
3. The City reserves the right, during any emergency, to designate temporary areas owned or leased by the City for the storage of disabled vehicles in said area at the direction of the Chief of Police or his designee.

4. Removal and storage of vehicles.

A. Removal. Vehicles shall be removed as follows:

1. Abandoned vehicles.
 - (a) Abandoned vehicles as defined in Title 39 of the New Jersey revised statutes shall be removed under the direction and supervision of the Police Department on a twenty-four-hour-a-day basis. The tower shall, once notified, dispatch a tow truck(s), as circumstances warrant, to provide towing services anywhere within the City, when requested by the police and/or Zoning Official, in such a manner that the tow truck arrives at the site within a maximum response time of 20 minutes, except when extraordinary circumstances occur. Unless heavy or

unusual traffic conditions within the City prevent a wrecker from arriving at the site within 25 minutes, failure to respond within that time frame shall be considered a breach of this Chapter. In the event that a wrecker fails to respond within 25 minutes from the time of the call, the police reserve the right to contact the next available wrecker on the rotational list.

- (b) Abandoned vehicles shall be towed without charge to the City to the aforementioned required storage area and stored thereon for no longer than 90 days without any charges or liens accruing against the City. Abandoned vehicles remaining after 90 days may be removed from the secured area provided that a junk title has been applied for pursuant to the provisions of Title 39.
- (c) In addition to the fines and suspensions provided for under Section 3G Violations, the tower may be penalized \$150 per day for each abandoned vehicle not removed and towed within a reasonable amount of time after notification by the Police Department and may be grounds for termination of tower's appointment.
- (d) The requirement to tow abandoned motor vehicles shall only apply to public right-of-way, easements, avenues and places including public parks and playgrounds, and all quasi-public areas. The owner of private property shall be responsible for the removal of any unattended or disabled vehicles in accordance with the provisions of N.J.S.A. 39:4-56.6 and shall employ a tower of their choice.
- (e) The City retains the right to require that the abandoned vehicle shall be towed to municipal property and to retain any monies realized from the sale of such vehicles. The City shall pay the tower's reasonable fees as set forth in this chapter for towing a vehicle sold in this manner from the proceeds of the sale. Abandoned vehicles, not claimed by the owner or lien holder, may be sold at public auction pursuant to the provisions of N.J.S.A. 39:10A-1 through 7. Prior to sale at auction of any abandoned vehicle, the City will obtain the appropriate junk title or certificate of ownership for said abandoned vehicle from the Division of Motor Vehicles. If the City does not exercise its right to retain the abandoned vehicle, the City shall notify the Tower of this decision and allow the Tower to dispose of the vehicle pursuant to any remedies allowed under N.J.S.A. 39:1-1 et. seq. or other applicable statute or regulation.

2. Vehicles not abandoned.

- (a) All vehicles involved in accidents, disablements, stolen vehicles, vehicles involved in suspected crimes and the like shall be towed and stored under the direction and supervision of the Police Department 24 hours a day, seven days a week as set forth above. Vehicles shall be available for release between the hours of 9:00am to 5:00pm, Monday through Fridays and 9:00am to 12:00 noon, Saturdays and Sundays except legal holidays. Sunday hours are optional. The tower shall arrive at the scene of the accident within 20 minutes under normal conditions after police notification. Repeated late arrivals at the scene of

accidents may result in the termination of the tower's services as otherwise provided in this chapter.

- (b) In the event that the tower has been summoned by the City, as set forth in this Chapter, for purposes of towing a vehicle and the owner of the vehicle has also summoned his own tower and said tower arrives on the scene prior to removal of the vehicle by the City's tower, then the owner is entitled to remove his own vehicle at no cost or expense to the owner or the City. There shall be no charge to the City for the tower appearing at the scene under said conditions. Further, owners of vehicles that are involved in motor vehicle accidents may opt to have their car towed by any tower of their choosing, provided that said tower can respond to the scene within the time limits set forth in this chapter.

- B. Storage. The tower shall store the abandoned and non-abandoned vehicles in the storage area as required in this Chapter. The vehicles shall be stored until claimed by the owner or until auctioned by the City in compliance with State law or as otherwise to be disposed of pursuant to State law. Vehicles to be removed shall be towed to the tower's storage area or to City property at the discretion of the Police Department. Upon request by City Police, vehicles that are identified as potentially having been involved in a crime shall be stored in a secure, indoor location as described in this chapter for the purpose of preserving and securing the potential crime scene and/or evidence. Said vehicles shall remain stored and locked and shall not be accessible to anyone except law enforcement until such time as the necessary search warrants can be obtained and the vehicle is processed by Detectives. Failure to properly store vehicles suspected to have been used in a crime shall constitute a violation of this chapter and shall be grounds for immediate removal from the towing rotation.

5. Indemnity and insurance.

- A. The tower shall indemnify and hold harmless the City of Woodbury from any and all claims against the City of Woodbury arising out of the operation of any towing services or garage services or storage services or repair services under this chapter. Liability insurance shall include contractual liability of \$1,000,000 combined single limit.
- B. The tower shall carry Workmen's Compensation Insurance in accordance with the requirements of New Jersey State Law. The tower shall also carry public liability and property damage, contingent liability insurance to indemnify the City of Woodbury, and the public against any loss due to injuries, accidents or damages of any character whatsoever, where any such damage is the result of any act or omission of the tower, his agents or employees in or due to the execution of the work called for under this chapter. Such policies shall contain the provision that 30 days notice of change or cancellation be given to the City by the insurance company. Public liability insurance limits shall be at least \$500,000 per accident and be specifically endorsed to provide collision insurance for vehicles in tow. In addition, the tower shall have coverage for contractual liability

and also name the City as an additional insured. All insurance required hereunder shall remain in full force and effect for the period of the appointment.

- C. Appropriate bodily injury liability insurance with \$1,000,000 combined single limit. Automobile bodily injury liability insurance with limits of not less than \$500,000 for each person and \$1,000,000 for each accident and property damage liability insurance with a limit of not less than \$500,000 for each accident.
- D. Garage keeper's liability in an amount not less than \$60,000 per location; garage liability in an amount not less than \$1,000,000 combined single limit.
- E. Certificates of insurance showing that the tower and the City of Woodbury are named as additional insured, in conformance with the above, shall be furnished to the City Purchasing Agent, subject to approval of the City Solicitor, and filed with the City Clerk. The certification of insurance shall be delivered to the City Purchasing Agent.

6. Rate schedule; charges and fees.

A. Generally.

1. Towing and storage charges and fees shall be in accordance with N.J.S.A. 40:48-2.50 as well as the provisions of this chapter. The City shall not be responsible for the collection or payment of any charges for the towing or storage of vehicles. The charges and fees and rates applicable to services performed pursuant to this chapter shall be posted in a conspicuous place visible to the public at the tower's storage area and shall be presented to the owner of a vehicle to be towed at the time of service. The tower shall prepare an itemized bill in detail as to the actual services rendered and present the bill to the claimant of a vehicle. Each bill shall contain a statement that the claimant may file a complaint with the City with respect to charges. The City will not be responsible for charges due and owing from a claimant of a vehicle, nor will it assist the tower in collecting such charges. Vehicles impounded as a result of police investigations involving stolen vehicles will not result in storage charges. Vehicles involved in a fatal accident shall not incur charges until after seven days (168 hours). In all such cases, the City reserves the right to store such vehicles at a location of its choosing.
2. In the event the City conducts an auction of unclaimed abandoned vehicles pursuant to Title 39, the tower's bill for towing and storage shall be an expense of possession and sale and shall be paid from the proceeds of such auction. Each vehicle auctioned shall be a separate item for purposes of this subsection. The title fee for which the City must pay to the State of New Jersey for title certificates shall be paid by the purchaser at the auction even if the tower is the purchaser and shall be in addition to the bid price of each vehicle. In the event the City determines to utilize the provisions of Title 39 with respect to unclaimed vehicles, the tower shall receive no compensation for its services.
3. The fee for towing a vehicle shall include the service rendered from the scene where the vehicle is located to the storage area and from the storage area to the curb line of

the property on which is located the storage area. There shall be no additional charge for towing a vehicle from the storage area to the curb line for the purpose of an owner of a vehicle towing the vehicle to a service station or other repair shop or the person's home or other location. The charge for towing includes an incidental and related costs such as disconnecting and reconnecting a transmission. There shall be no additional costs for any other services to the owner of the vehicle, including but not limited to waiting time, debris removal, winching and additional labor when routine towing services as provided for by this chapter are performed. The Tower may charge to the insurance company any fees or costs as allowed pursuant to New Jersey Statutes, New Jersey Administrative Code and the Department of Community Affairs. The tower shall be responsible for the cleanup and disposal of motor vehicle fluids, in accordance with State Law and accepted standards, and there shall be no additional labor charges for this service. The tower may charge the owner/operator for material used in the cleanup of motor vehicle fluids. The tower may charge a fee for lockout service as well as roadside assistance such as jumpstarts, tire changes, and providing gasoline for vehicles that have run out of fuel.

- B. Charges and fees. The charges, fees and rates for vehicles to be towed and stored shall be as follows:
1. Flatbed and towing service pursuant to this chapter which will include all routine towing/winching, labor and cleanup costs associated with the removal of the vehicle.
 - (a) Any towing service requested for automobiles, all terrain vehicles, motorcycles, motor scooters, mopeds and trucks less than 2.5 tons. \$100.00 daytime rate and \$125.00 night, weekends and holidays.
 - (b) Trucks 2.5 tons to 5 tons. \$175.00 daytime rate and \$200.00 nights, weekends and holidays.
 - (c) Trucks, buses, tractor trailers, heavy equipment over 5 tones. \$450.00 daytime rate and \$475.00 nights, weekends and holidays.
 - (d) Additional charges may apply as approved by the Chief of Police or his/her designee.
 2. Winching service not associated with towing of vehicle.
 - (a) Light winches \$80.00 per hour.
 - (b) Medium winches \$100.00 per hour.
 - (c) Heavy winches \$200.00 per hour.
 3. Mileage
 - (a) There will be no charge for mileage for vehicles towed within the City limits.

- (b) For vehicles towed to or from areas outside the City limits, other than the storage location of the Tower, the price shall be negotiated between the Tower and the owner of the towed vehicle. If the price cannot be agreed upon per industry standards, the Tower will take the vehicle to its storage location with no mileage charge.

4. Storage

- (a) Storage is charged per calendar day.
 - (b) Motorcycles, all terrain vehicles, mopeds, motor scooters will be charged \$35.00 per day.
 - (c) Automobiles and trucks less than 2.5 tons \$35.00 per day.
 - (d) Trucks 2.5 tons to 5 tons \$40.00 per day.
 - (e) Trucks, tractor trailers buses and heavy equipment over 5 tons \$80.00 per day.
 - (f) Fees billed to the City for vehicles removed at the City's direction will be consistent with N.J.S.A. 40:48-2.50 and shall not exceed the following:
 - (1) A limit of \$3.00 per day for the first 30 days of storage per vehicle.
 - (2) A limit of \$2.00 per day for day 31 of storage and any day thereafter.
 - (3) A limit of \$400.00 per vehicle stored regardless of the duration of the storage except that a waiver may be granted for good cause upon the request of the municipality by the Division of Local Government Services in the Department of Community affairs.
- C. Specialized equipment. In cases where the tower must hire laborers or rent or utilize specialized equipment not specified in this chapter, all reasonable charges therefore shall be paid by the owner of the vehicle, after the owner of the vehicle or his agent has given his prior written consent thereto, except where said vehicle is deemed a hazard to health or safety, whereupon said vehicle will be removed by the direction of the Chief of Police or his designee, with the owner then being responsible for all personnel, equipment and labor costs. The Chief of Police or his designee shall determine the necessity for specialized equipment.
- D. Unloading of goods. In the event that it is necessary to unload a vehicle, which has been used for transportation of goods prior to towing, an agreement shall be reached between the tower and the owner of the vehicle or the owner's agent or representative as to the charge for said service. No written agreement is necessary in an emergency situation and the Chief of Police or his designee shall determine when an emergency exists.

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon passage and publication as required by law.

CITY OF WOODBURY

William H. Fleming, Jr.,
President of Council

Attest: _____
Roy A. Duffield, City Clerk

Approved: _____
William Volk, Mayor

CERTIFICATION

THE FOREGOING was introduced by the City Council of the City of Woodbury at a regular meeting held on August 13, 2013. This Ordinance will be considered for adoption at final reading and public hearing to be held on September 10, 2013 at 7:30 p.m. or at such time as may be determined and announced, in City Hall, Council Chambers, 33 Delaware Street, Woodbury, New Jersey, at which time and place all persons interested will be given the opportunity to be heard concerning said Ordinance. During the time prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the City Clerk's Office to the members of the general public who may request same.

Roy A. Duffield, City Clerk