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Town of Plattekill, New York

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Tow Truck Regulation

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§ 103-1 Declaration of purpose and intent.

- A.** It is the intention of this chapter of the Town Code to allow the Town of Plattekill, through its Police Department, to supervise and administer the removal of vehicles from the public highways of the Town that are disabled, abandoned, or otherwise need to be removed via a tow truck operators list from which the Police Department will call and request services in a rotating basis. This chapter only applies to tow trucks called to assist by the Town of Plattekill.
- B.** It is hereby declared and found that it is of vital importance to the travelling public that disabled and abandoned vehicles are removed from roads and highways as promptly as possible. Delay in removal results in restricting the movement of traffic, endangers safety, and may cause accidents. The towing of disabled motor vehicles from the roads and highways of the Town of Plattekill is a matter affecting the public interest and consequently should be subject to supervision and administrative control for the purpose of safeguarding the public against traffic problems and confusion at the scene of accidents, and to prevent exorbitant rates and other offensive tactics. The Town Board believes that establishing a tow list for use by the police can accomplish this purpose.
- C.** It is the intent of the Town Board of the Town of Plattekill to establish a fair and uniform regulation and procedure for the towing of vehicles. The following issues have been taken into consideration in the development of this chapter:
 - (1)** The needs of the public: To meet the needs of the public, the business practices on the part of private towing companies acting at the direction of the Town police must be regulated. Towing companies who wish to participate in the Town towing program must demonstrate that they can give prompt, safe, and professional service. The

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community needs tow operators who are competent and able to respond to calls with a minimum of time delay. This requirement mandates an appropriate administrative response to deal with those towing agencies which do not provide services which meet Town standards.

- (2) The needs of the towing industry: The needs of the towing industry must be met by providing them with a consistent system for the equitable distribution of tow calls within the Town. This provides the towing industry with clear and precise requirements for continued service to the community. This chapter also allows for a fair and equitable means to resolve disputes between tow operators.
- (3) The needs of the Town police. The needs of the Town police must be met by providing for a clear procedure for contacting towing companies.

§ 103-2 Definitions.

For purposes of this chapter, the following terms shall have the following meanings:

PERMITTEE

The person, corporation or other entity to whom a permit has been issued pursuant to this chapter.

POLICE DEPARTMENT

The Police Department of the Town of Plattekill.

TOW TRUCK

A vehicle registered with New York State as a tow truck pursuant to VTL § 401-b used for towing usually equipped with a crane, winch, tow bar, push plate or other device designed to pull or push a vehicle or to raise a vehicle or the front or rear end thereof or a flatbed tow truck.

TOWING

The moving of a vehicle where a fee, charge or other consideration is directly or indirectly imposed for such moving.

TOWING COMPANY or TOWING OPERATOR or TOWING BUSINESS

A person or entity engaged in the business of offering towing services whereby motor vehicles are moved by use of a motor vehicle designated or adapted for that purpose.

TOWING PERMIT or TOWING LICENSE

A permit issued pursuant to this chapter.

TOWN BOARD

The Town Board of the Town of Plattekill.

VEHICLE

A motor vehicle as defined in § 125 of the Vehicle and Traffic Law, a tractor as defined in § 151-a of such law or a trailer as defined in § 156 of such law.

§ 103-3 Permit required.

- A. A valid permit issued pursuant to this chapter shall be required before a tow truck operator or towing company will be permitted to tow a vehicle upon request by the Town of Plattekill Police Department.
- B. Nothing herein shall prohibit tow truck operators who are not on the permit list from removing a motor vehicle from a registered repair shop, garage or salvage yard.
- C. It shall be unlawful for any person, corporation, or other entity to service or tow away any motor vehicle which has been involved in an accident without the prior consent of the owner or operator, or the consent of the police officer at the scene of the accident.

§ 103-4 Criteria.

Every person, corporation, or other entity who desires to operate, except as herein otherwise provided, the business of automotive towing by a tow truck(s) or car carrier(s) owned, controlled or leased by him/her as a permittee on the rotational towing list maintained by the Town shall comply with the following criteria:

- A. All towing businesses must have a secure indoor or outdoor storage area available in which to store specific vehicles out of the public access. All outdoor lots utilized to store vehicles in conjunction with the Town tow list must be secured with a fence designed to limit or restrict access to the public.
- B. The towing business must be sufficiently staffed so that the vehicle owner may make payment and retrieve their vehicle within one hour of contacting the towing business but only if that one-hour window ends between the hours of 9:00 a.m. and 5:00 p.m. Otherwise, it shall be in the discretion of the towing company whether to permit evening/overnight retrieval.
- C. All towing business shall maintain adequate equipment to perform the required towing task.
- D. All towing business must be capable of a twenty-five minute response time, weather permitting, to the scene of the tow after receiving the request for their service.
- E. All towing companies must make their facilities and equipment available for scheduled inspections. These inspections will be made to ensure that each company has the appropriate registration, equipment, insurances and an employee on site. The Police Department will give 48 hours' notice to the towing business for the inspection.
- F. All towing business shall comply with the requirement for the charging of fees as established from time to time by resolution of the Town Board.

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G. Required equipment. In addition to the required equipment specified New York's Vehicle and Traffic Law, and as promulgated by the Commissioner of Motor Vehicles, all tow trucks shall be equipped with:

- (1) Lettering on the truck identifying the exact name of the holder of the permit issued pursuant to this chapter, as well as a phone number for the holder of the permit.
- (2) An amber rotating light mounted at the top of the cab or on a light bar so that the light is visible for not less than 500 feet under normal atmospheric conditions.
- (3) Speedi Dri or similar materials to absorb minor fluid spills. If the permittee, while at the scene for a tow, feels that it cannot safely or adequately handle the minor fluid spill, that permittee shall notify the officer on scene so that other arrangements may be made for the cleanup of the spill.
- (4) Garbage bags for the removal of debris at the scene.
- (5) A broom and shovel for clean up at the scene.

§ 103-5 Application.

A. The Town Board, through the Town Clerk, shall accept all applications for permits from persons, corporations, or entities desiring to engage in the business of towing on such forms as adopted by the Town Board. Every person, corporation, or other entity who desires to operate, except as herein otherwise provided, the business of automotive towing by a tow truck(s) or car carrier(s) owned, controlled or leased by him/her as a permittee on the rotational towing list maintained by the Town shall be duly licensed as a tow truck operator in the Town upon written application, made under oath, as follows:

- (1) The name and address of the applicant and the address of the place from which tow trucks are proposed to be garaged or dispatched, specifying, in the case of any corporation, the names and addresses of each member thereof and, in the case of any limited liability company or unincorporated association or other entity, the names and addresses of each member, officer, director, and owner.
- (2) A copy of the valid registration and inspection for each of their towing vehicles. The registration on said towing vehicles must be registered in the name of the towing business which has been issued the permit from the Town of Plattekill pursuant to this chapter. Notwithstanding the foregoing, if the towing vehicle is leased, a copy of the current lease agreement is required to be provided to the Town.
- (3) A list of drivers including a copy of their New York State-issued driver's license indicating the appropriate classification to operate the tow trucks listed on the application, as well as a driver's abstract for each driver showing the license is valid and is not currently suspended or revoked. This list will be updated annually with each permit renewal.

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- (4) The number of vehicles proposed to be operated by the applicant and a description of each vehicle, including make, model, year of manufacture, New York State registration number and vehicle identification number. This will be updated yearly with the Town at the time of permit renewal.
 - (5) All crimes, if any, of which that applicant or any director, shareholder, officer, or member thereof has been convicted and, stating the name, if any, and location of the courts and the dates on which such convictions were had and the penalties imposed thereon.
 - (6) Proof of insurance in the minimum amount of One Million Dollars (\$1,000,000) personal liability and One Hundred Fifty Thousand Dollars (\$150,000) property damage liability, which shall include a garage keeper's legal liability policy to cover fire, theft, and property damage that will fully cover any vehicle towed, impounded or stored and will keep such policy in effect throughout their permit period. Additionally, all towing companies will name the Town of Plattekill as additional insured on their policies.
 - (7) That the applicant satisfies all of the above criteria.
 - (8) Any additional information as reasonably requested by the Town.
- B. The Town Board may, in its sole discretion, adopt a renewal application form to be submitted each year by existing permit holders.

§ 103-6 Review of application; recommendation to Town Board.

- A. All applications shall be reviewed by a Committee, consisting of the Chief of Police and two members of the Town Board appointed by the Town Supervisor. The Committee shall:
- (1) Review the application for compliance with the criteria of this chapter; and
 - (2) Conduct any necessary inspections of either vehicles or impound or storage yard in order to determine compliance with this law.
- B. The Committee shall make a recommendation to the full Town Board on whether to approve or deny the application for a towing permit within 30 business days from the date the application was submitted to the Town Clerk. The Town Board shall then review the application and adopt a resolution approving or denying the application within 30 days from the date it receives the recommendation of the Committee. The Town Board is not bound by the recommendation of the Committee but shall consider the recommendation in addition to the information set forth in the application.

§ 103-7 Approval; issuance of permit for vehicles.

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Upon passage of a resolution by the Town Board approving the application, the Town Clerk shall issue a permit to the applicant upon payment by the applicant of the fee for a permit in an amount set by resolution of the Town Board. Every permit issued hereunder shall expire on the 31st day of December next succeeding the date of its issuance unless sooner revoked, as hereinafter provided. For the year 2021 only, permit fees shall be prorated based upon the month in which the permit is issued.

§ 103-8 Denial of permit; appeal.

The Town Board may deny a permit to any applicant whom the Town Board shall find does not satisfy the criteria set forth in this chapter or that the Town Board shall determine to be incapable of properly conducting a road service or tow truck business. If the Town Board shall deny any application for a license, such denial shall be in writing and state the reasons therefor. Any applicant who shall be denied a license, for any reason other than the fact that the tow list has reached the maximum number of permittees per subsection § 103-10B, shall have the right to commence an Article 78 proceeding within 30 days after the determination is rendered by the Town.

§ 103-9 Nontransferability of permit.

No license shall be transferred from one person to another or from vehicle to vehicle. Notification of vehicle replacement must be made within 30 days to the Chief of Police, who in turn will notify the Town Clerk and have the application updated.

§ 103-10 Permit list; general procedure.

- A.** Lists: two rotational lists shall be kept. Only permitted towing companies will be included on these lists. An up-to-date copy of the rotational tow list will be made available to the public.
- (1) One list shall be for normal passenger vehicles and light trucks.
 - (2) The second list shall be used for towing companies capable of towing larger commercial-type vehicles (GVWR of 18,001 lbs or more), otherwise known as the heavy-duty list.
- B.** Each list will be limited to four permittees. The intention is that each permittee receives enough calls for service during any given year that tow companies wish to continue to apply for inclusion on the tow list.
- (1) For years 2022 and forward, any towing company submitting any application for the renewal of an existing and valid permit issued under this chapter shall maintain its spot on the list, if the towing company submits their renewal

application and pays the permit fee within the time limits set by the Town Board.

- (2) When a tow list has reached the maximum of four permittees, any new applications received shall be date stamped and remain on file with the Town Clerk. Upon the opening of a spot on either of the two lists, the first application to have been filed for the list with the open spot will be reviewed and processed for possible inclusion on said tow list.

C. Priority for contacting towing companies shall be made in the following sequence:

- (1) Emergency needs at the towing scene when, in the sole reasonable discretion of the officer at the scene, it is necessary for the vehicle to be immediately towed from the scene for safety reasons.

- (2) Owner's request for a specific towing agency (within a reasonable distance and if applicable).

- (3) Next permittee from the rotational towing list.

D. Permittees will initially be placed on the towing list in random order. Once the use of the towing list has been commenced, a new permittee to be included on the list shall be placed on the bottom of the list.

E. Each company shall be allowed five rings to answer the phone and the company will be allowed three minutes to return any voicemail message when the call is not answered.

F. Once a tow company has not answered a call or is not available, they will be deemed a declination and the next company on the list contacted and afforded the same opportunity. This practice will be repeated until the list is exhausted. A permittee who does not answer a call or is not available when called shall lose his/her turn on the towing roster and must wait for the roster to be called again in its entirety before he/she is eligible to be called again. If the entire tow list has been called and those calls have failed to obtain a response to an incident, then the closest available tow shall be utilized. The same principle shall apply when seeking a heavy-duty tow truck. If there are none available on the list, then the closest to the scene will be utilized.

G. In the event that a permittee called for towing or service assistance is unable or fails to arrive at the location within a twenty-five minute time period after the call for towing assistance had been made, the next permittee on rotation shall be called and the first permittee shall lose its turn in rotation. If a permittee uses an answering service, the twenty-five minute response time shall commence when the original phone call is made and not from the time voice contact is made with that tow company.

H. Assistance:

- (1) If a permittee on the passenger vehicle/light truck tow list accepts a call from the established list, they must respond to the scene. In the event that the responding company cannot complete the task at hand without assistance, the original responding company may, after notifying the officer at the scene, seek the assistance of another permittee on the established tow list without a loss of turn or spot for either company responding. Both the original accepting company and the assisting company must be involved in completing the tow. If the police officer on the scene, in his/her sole discretion, finds that the tow is simply being handed over to the assisting company, both companies will lose their spot in the rotation of the list. In the event the two companies together cannot complete the task, then the next company on the list will be called and the original accepting company will lose their spot on the list and be marked as unable to provide services requested.
- (2) If a permittee on the heavy-duty tow list cannot complete the task at hand without assistance, the original responding company may seek the assistance from, first, another permittee on the heavy-duty tow list or, if there is no other permittee on the heavy-duty tow list, another towing company. Both the original accepting company and the assisting company must be involved in completing the tow. If the police officer on the scene, in his/her sole discretion, finds that the tow is simply being handed over to the assisting company, the original accepting company and the assisting company (if a permittee on the heavy-duty tow list) will lose their spot in the rotation of the list.
- I. In the event that the permittee responds and the vehicle is no longer in need of tow or the vehicle is no longer present at the site, he/she will not lose his/her turn on the rotational list.
 - J. It shall be unlawful for a permittee to transfer or exchange his/her place on the roster to any other license on the roster. Additionally, participating tow companies may not send another company's tow truck in their place to handle a tow request they have in fact accepted.
 - K. If more than one tow truck is needed at the scene of an accident, the dispatcher shall call the next permittee in rotation. In that event, the choice of disabled motor vehicles to be towed shall be determined by the officer in charge.
 - L. A permittee shall have but one place on the towing roster although he/she maintains several licensed tow trucks.
 - M. Any permittee willfully refusing to tow away a motor vehicle shall lose his/her turn in rotation.
 - N. All participating tow companies will provide up to three telephone numbers to be called for tow assignments in priority order. Pager numbers will not be utilized.

- O. In the event that a permittee fails to respond within twenty-five minutes of being called twice (or more) in any calendar year, said permittee shall be subject to suspension or revocation of pursuant to **§ 103-13**.

§ 103-11 General regulations.

- A. Tow companies shall be available 24 hours per day, seven days a week. Tow companies must be willing to respond to any type of tow call, whether it be a collision, disabled vehicle, impound, etc. Tow companies who do not desire to tow at night or weekends, etc., or who elect to respond only to certain types of tow calls, will not be considered for placement on the towing list. (This does not preclude the tow company from being called as a result of an owner's request.)
- B. Failure to respond to three calls, absent extenuating circumstances, will result in temporary suspension from the towing list for a period of 20 consecutive days which will be imposed in accordance with **§ 103-13**.
- C. The permittee shall be responsible for the collection of all fees for service, towing or storage of any vehicle. Neither the Town of Plattekill nor the Town of Plattekill Police Department shall act as agent for the collection of any fees, nor shall they be held responsible in the event of nonpayment of any moneys due to any permittee as a result of service performed in accordance with this chapter.
- D. When called to the scene of an accident, the permittee shall be responsible for removing debris from the roadway.
- E. Absent extenuating circumstances (such as severe snow storms, states of emergency, etc., where tow companies will be extremely busy), tow companies will not contact the Town Police and attempt to leave phone numbers of an on call tow truck operator. It shall be in the sole discretion of the Chief of Police whether such extenuating circumstances exist to permit tow truck operators to leave on call numbers with the Police Department.
- F. Town Police and Town Employees shall comply with the following guidelines:
 - (1) The towing of vehicles will be completed in accordance with the procedures set forth in this chapter, and other applicable laws, rules, and regulations.
 - (2) The tow company, whether an owner's request or from the tow list, shall not be changed once the company has been notified to respond to the scene, unless said company fails to arrive at the scene within twenty-five minutes of the police officer's call for towing assistance.

- (3) Police officers and Town employees shall not offer personal recommendations to motorists who wish to request the tow, but have no preference of a tow company. Police officers and Town employees shall inform the person in need that a tow list is maintained, comprised of certain companies which have all met certain criteria, thus offering them the opportunity to be utilized for towing calls. If an "owner's request" is made, an owner's request form will be completed by the officer at the scene and signed by the person making such request. This list will be maintained at the Police Department for recordkeeping purposes.
- (4) A towing log shall be maintained at the Town Police Department answering point (dispatch). After a towing agency has been contacted, and has failed to answer after five rings or failed to return a voicemail within three minutes, the call shall be logged onto the towing log. The log shall include the name of permittee, the time of call, the blotter number associated with the event requiring a tow and whether or not the company responded. Upon the companies' response to the scene, the officer on the scene shall advise dispatch of the arrival. The arrival time shall then be recorded on the towing log.

§ 103-12 Soliciting prohibited.

It shall be unlawful for any person, corporation, or other entity to solicit towing or repair work at the scene of any motor vehicle accident on private property or on a public highway in the Town of Plattekill. A participating tow company shall be considered to be in violation of this section if they come within 500 feet of the scene of an accident or of a disabled vehicle without being called to the scene by either the Town, another governmental agency or owner request. Any participating tow company truck alleged to be in violation of this section will be subject to an investigation by the Chief of Police or his/her designee and potential penalties as set forth in this chapter.

§ 103-13 Penalties for offenses.

A. Permit suspension or revocation.

- (1) The Town Board may, in each case, after a hearing on a minimum of seven days' notice to the permittee of the alleged violations of this chapter, impose penalties against any permittee that the Town Board shall determine has violated any provisions of this chapter. The permittee shall be permitted to submit its response to the allegations either in person during the hearing or in writing. If the Town Board should find that the permittee has violated this chapter, penalties are as follows:

- (a) First offense: Twenty-day suspension from the rotation towing program.

(b) Second offense: A suspension from the rotation towing program for up to one year.

(c) Third offense: Permanent revocation of towing permit. If revoked, the towing company will not be eligible to reapply for a towing permit.

(2) A decision of the Town Board to impose a suspension or revocation of a permit shall be in writing and entered into the minutes. Such decision shall then be considered final. The applicant shall then have the right to challenge the decision by way of an Article 78 brought within 30 days after said decision is filed with the Town Clerk, or by such other legal action as the applicant deems appropriate.

B. In addition to the penalties provided in § 103-13A, any person, corporation, or other entity that violates any provision of this chapter shall, upon conviction, be subject to a fine of up to \$100 for a first offense, and up to \$250 for each additional offense thereafter. The Chief of Police and/or his/her designee is hereby empowered by the Town Board with the duty, power and authority to enforce the provisions of this chapter.

§ 103-14 Severability.

If any section, paragraph, subdivision, clause or provision of this chapter shall be adjudicated as invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudicated and the remainder of this chapter shall be deemed valid and effective.