

TOWNSHIP OF ROCHELLE PARK

ORDINANCE NO. #1076-14

**AN ORDINANCE TO AMEND CHAPTER
172 OF THE CODE OF THE TOWNSHIP
OF ROCHELLE PARK entitled
“TOWING”**

WHEREAS, the Township Committee feels that it would be in the best interests of the residents and taxpayers of the Township to revise its current towing ordinance; and

WHEREAS, pursuant to the provisions of law, municipalities may maintain nondiscriminatory rotational towing lists without the necessity of competitive bidding for those services; and

WHEREAS, the current ordinance within the Township has not been reviewed for a number of years and the current ordinance has been reviewed by the Chief of Police and Township Attorney who have made various recommendations regarding updating and changing the ordinance

NOW THEREFORE BE IT ORDAINED, by the Township Committee of the Township of Rochelle Park, County of Bergen and State of New Jersey as follows:

SECTION ONE: Chapter 172 of the Code of the Township of Rochelle Park entitled “TOWING”:

SECTION TWO:

Section 172.1 Definitions

AUTOMOBILE

A motor vehicle of a private passenger or station wagon type that is owned or leased and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; and a motor vehicle with a pickup body, or delivery sedan, a van or a parcel truck or a camper-type vehicle used for recreational purposes owned by an

individual or husband and wife who are residents of the same household, not customarily used in occupation, profession or business of the owner(s).

BASIC TOWING SERVICE

The removal and transportation of an automobile from a highway, street or other public or private road or a parking area from a storage facility and other services normally incident thereto, but does not include recovery of an automobile from a position beyond the right-of-way or berm or from being impaled upon any other object within the right-of-way or berm. Basic tow only includes providing access to the vehicle during normal business hours. Any additional services, including tow outs, will be negotiated with the party requesting same.

CALENDAR YEAR

The period of time between January 1 and December 31 of any given years.

CLASS I VEHICLE

Detachable trailer capable of hauling vehicles, machinery and/or equipment, commonly referred to as "low-boy."

MOTOR VEHICLE ACCIDENT

An occurrence in which a private passenger automobile comes in contact with any other object for which the private passenger automobile must be towed or removed for placement in a storage facility. This includes all situations which are accidental as to the license owner or operator of the motor vehicle even if they were caused by the intentional acts of a perpetrator where the perpetrator was not the licensed owner or operator of the motor vehicle.

OFFICIAL TOWER

A person or company licensed by the Township of Rochelle Park to tow and/or store vehicles.

OUTSIDE SECURED

The automobile storage facility that is not indoors and is secured by a fence, wall or other man-made barrier that is at least six feet high and is installed with a locked gate. The facility is to be lighted at night.

SPECIAL RECOVERY SERVICES

Constitutes any action that is not normally associated with roadside towing, e.g., winching, righting overturned vehicles or other services required when a vehicle will not roll on its own wheels.

TOW VEHICLE

Only those vehicles equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or underreach equipment specifically designed by its manufacturer for the removal or transport of motor vehicles.

Section 172.2 Licensing and identification of official towers.

A. The Governing Body of the Township of Rochelle Park or its designated agent or officer, may license persons or companies meeting the criteria set forth in this chapter and engaged in the business of or offering the services of motor vehicles towing, wrecking or storage (service), whereby damaged, (or) disabled and/or impounded motor vehicles are towed or otherwise removed from the place where they are damaged, (or) disabled, and/or impounded by use of tow vehicle, as defined herein. Such person(s) or company shall be known as an “official tower.”

B. Official towers shall be identified by means of a license, which shall be issued by the Township as hereinafter provided. Each licensed official tower shall also have issued by the Township a decal or insignia for each vehicle used in the towing operation by the official tower and which shall be placed on each vehicle in a prominent portion of such vehicle as required by the Chief of Police or his designee. No vehicle or motorized equipment shall engage in towing vehicles unless such insignia or decal is affixed as set forth and the name of the official tower permanently affixed to the vehicle. (“Permanently affixed” herein shall mean attached to or placed directly on the vehicle in such a manner as such cannot be removed or repositioned.)

Section 172.3 Exception for owner-requested service

No license shall be required for the on-site repair and/or towing or storage of any vehicle when the request is received by the towing operator from the owner prior to a police request or if the owner or operator of a vehicle requests the police contact a tow company of their choice.

Section 172.4 Services to be furnished; possession of special equipment.

A. The official tower shall furnish adequate and property towing, wrecking, storage and emergency repair service to damaged or disabled motor vehicles within the limits of the Township when requested to do so by the Chief of Police or his designee. The official tower shall be available to render service twenty four (24) hours per day, seven (7) days per week.

B. In the event that a disabled vehicle requires special towing equipment (and) the official tower does not possess such equipment, then the Chief of Police or his designee shall select the next official tower in the rotation list who does possess the necessary special equipment to tow such disabled, (or) damaged or impounded vehicle. No official tower shall subcontract or assign any work that is to be performed by the official tower under the provisions of this chapter.

C. The Police Chief or his designee shall maintain a rotating list for a period of twelve (12) months effective January 1st of each year. Disqualified licensees will be deleted immediately from the list upon disqualification and may requalify for the following twelve (12) month period.

Rotation shall be on a weekly or monthly basis within the discretion of the Chief of Police.

Section 172.5 Application of the Official Tower License.

A. Application for an official tower license shall be made to the Township Committee of the Township of Rochelle Park upon a form provided by the Chief of Police or his designee and shall contain all of the following information:

1. The name, business address, telephone number and federal tax identification number (where applicable). When the official tower is owned and operated by an individual, the name, social security number,

residential and business addresses and telephone number(s) of such individual shall be provided. When the official tower is a corporation or partnership, the application shall contain the names, residences, telephone numbers, date of birth and social security number of all persons owning any interest in the official tower.

2. In the event that the official tower is conducting business operating under a trade or business name, the applicant shall submit a certificate of such name as proof that such name has been appropriately filed with the County Clerk's Office of Bergen County and/or with the Secretary of State of the State of New Jersey.

3. Any such information as may be required by the Township Committee (or designee), concerning the personnel, vehicles, equipment and storage facilities of such applicant, as hereinafter provided, showing that the applicant meets the maximum standards of performance.

4. A certificate or certificates of insurance evidencing adequate insurance coverage as hereinafter provided.

5. A fee of \$1,000.00 shall be paid at the time of submission of the application to cover the administrative expenses incurred by the Township in processing an application. If an Applicant is approved and placed on the rotational towing list for the Township, then, prior to the accepted Applicant's first rotation, it shall pay an additional \$500.00 to cover administrative expenses during the term of the Contract. Furthermore, there shall be a fee of \$75.00 for each vehicle for which an identifying decal is issued.

6. The names and addresses of two (2) business references not in the employ of the Township who have known the applicant for at least two years and who can attest to the applicant's experience and performance in the towing, wrecking and storage business.

a. All towing vehicles must be listed on the application, including the make and model number, year of vehicle and vehicle identification number (VIN) and any and all other information that the Township Committee may deem necessary.

b. No vehicle may be listed on more than one application, nor can there be a transfer of vehicles between towers.

7. A complete list, including dates of service, of all other municipalities, state agencies and/or governmental entities that the applicant is, or has been, an official tower of or held a towing permit from. No person applying individually shall be eligible for approval or appointment as an official tower of the Township of Rochelle Park unless that person shall have been an official municipal tower with a minimum of five years' experience in municipal towing in any municipality of the State of New Jersey including a minimum of town years' experience in municipal towing in any municipality in the County of Bergen, State of New Jersey including a minimum of two years' experience in municipal towing in any municipality in the County of Bergen, State of New Jersey. No corporation or partnership shall be eligible for approval or appointment as an official tower of the Township of Rochelle Park unless that business entity shall have been an official municipal tower with a minimum of five years' experience in municipal towing in any municipality of the State of New Jersey including a minimum of two years' experience in municipal towing in any municipality in the County of Bergen, State of New Jersey.

8. A complete list of all actions taken against the applicant by a governmental entity for the applicant's alleged violation of any towing ordinance or regulation while towing as a licensed or permitted tower for that governmental entity. If the applicant's towing license or permit has been revoked, suspended or denied, the applicant shall list each time, what governmental entity was involved and a brief description of the event(s) that led up to the revocation, suspension and/or denial of a towing license or permit.

B. No license shall be granted to a tower unless and until the tower seeking the license has appointed the Township 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. Suspension or revocation of a license, and/or the prior denial of an application affecting the applicant, from this municipality or any county or state agency granting such license may be cause for denial of a license under this chapter.

D. The applicant shall also cause each of its drivers to have a background check and driver's license check performed at a State-approved facility approved by the Rochelle Park Police Department prior to that driver performing any towing services in the Township. Copies

of the results of the background check shall be made available to the Township Clerk immediately upon receipt.

E. Upon receipt of a completed application, the Chief of Police or his designee shall complete his review and recommendation. The review by the Chief of Police or his designee shall consist of the following: An inspection of the personnel, vehicles, equipment and storage areas proposed to be utilized by the applicant to verify the accuracy of the information contained in the application and to determine compliance with applicable laws and regulations and the standards of performance required by this chapter.

F. An applicant may be included on the official towers list by an official action of the Township Committee by resolution adopted at the annual reorganization meeting or at a regular public meeting, when, from a consideration of the application and from such other information as may be obtained, the Township Committee find that all of the following circumstances exist:

1. The applicant has not knowingly and with intent to deceive made any false, misleading or fraudulent statements of material fact in the application or in any other document required pursuant to this chapter.
2. The applicant has met the standards in this chapter and has furnished the required hold harmless agreement and certificate(s) of insurance.
3. The application has been reviewed and the Chief of Police or his designee has submitted a favorable report.
4. Neither the applicant nor the applicant's personnel have been convicted of a criminal or have had their driver's license suspended within the past year.

G. The Chief of Police or his designee shall conduct his or her review and render a report to the Township Committee recommending either the approval or denial of the application within forty five (45) days of receipt of the application. The Township Committee shall take action with regard to the report of the Chief of Police. The applicant or its representative shall be given notice to the date on which the Township Committee will consider the application and shall be permitted to appear and be heard at that time. Applications will be

considered at the annual reorganization meeting or at such other meeting designated by the Township Committee.

H. Written notice of the approval or denial of the application shall be provided to the applicant within ten (10) days of the decision of the Township Committee.

Section 172.6 Issuance of Licenses

A. Upon approval of the application as herein provided, the Township Clerk shall issue for the applicant an official tower's license for each tow vehicle or flatbed vehicle to be utilized in providing services pursuant to this chapter by submitting such to the Chief of Police or designee for issuance to the official tower(s).

B. Said licenses and identifying decal is to be affixed by the Chief of Police or his designee at police headquarters, which shall be in a form so approved by the Township Committee, and shall be displayed on the tow vehicle or flatbed vehicle at all times.

C. Expiration, renewal, revocation

1. Each official tower's license shall expire on December 31 of each calendar year and the license shall run for the calendar year only. Each applicant for an official towers license or renewal shall apply for such license on or before November 1 of any calendar years for the next succeeding calendar years, and the license shall not be transferable or assigned and may be subject to revocation by the Township Committee for any of the following reasons:

a. If it is subsequently determined that the applicant knowingly and with intent to deceive made false misleading or fraudulent statements of material fact in the application or in any other document required pursuant to this chapter.

b. Violation of any federal or state law or municipal ordinance or regulation relating to the operation of a motor vehicle or the provision of towing services.

c. Violation of any rule or regulation promulgated by the New Jersey Department of Insurance.

d. Violation of any of the provisions of this chapter.

2. No license shall be issued for less than a full calendar year nor should a license be issued at any other time than the period set forth above.

D. Upon the expiration of an official tower's license, the applicant, prior to performing any service thereafter, shall re-file completely for such official tower's license, setting forth all the information required in the form provided by the Township Clerk and complying with the provisions of this chapter.

Section 172.7 Minimum Standards of Performance

To qualify for inclusion on the list of official towers, applicants must meet the following minimum standards:

A. Minimum vehicle requirements

1. Every official tower shall maintain and have available to render services required by this chapter a minimum of two (2) regular tow vehicles with wheel lifts, three (3) flatbed vehicles, one (1) medium-duty towing vehicle of at least 15,000 pounds gross vehicle weight and one (1) heavy-duty towing vehicle of at least 31,000 pounds gross vehicle weight. In lieu of a medium-duty towing vehicle, the tower may substitute an additional heavy-duty towing vehicle in its place. Registration documents shall be shown to the Township certifying registration is the same or better than the gross vehicle weight (GVW) of the vehicle, as pleated on the vehicle.

2. Vehicle classes.

a. Heavy-duty tow vehicles of 31,000 pounds gross vehicle weight or more must be equipped with a boom or which assembly mounted on the chassis, a tow sling or tow bar and a wheel life assembly or underreach. The winch assembly must have 100 feet of at least five-eighths-inch steel cable attached to a motor-driven winch.

b. Flatbed vehicles must be equipped with a winch or hydraulically operated bed which slides or tilts to accommodate the transporting of vehicles.

B. Each applicant shall submit, along with its application, proof of ownership or lease of the vehicles, which will be utilized to provide services pursuant to his chapter.

C. Minimum equipment and reporting requirements.

1. Every tow vehicle or flatbed vehicle shall have two-way radio or cellular phone capability with a dispatching center on a twenty-four-hour basis.

2. Every tow vehicle or flatbed vehicle shall be equipped with the following:

a. At least one amber rotating beacon or strobe light mounted on the highest practical location on the vehicles, visible from 360 degrees when in use and visible at a minimum distance of 500 feet during daylight hours. An amber light permit, as required by the State, must be filed in the office of the Chief of Police and Township Clerk.

b. Safety tow lights or magnetic tow lights for towing vehicles at night, amber or red colored.

c. Extra chains and cable for pulling or securing a towed vehicle.

d. At least one heavy-duty broom, a shovel, a crowbar or prybar, a set of jumper cables, a flashlight, one two-pound or larger fire extinguisher of dry chemical type, one dozen flares or similar warning devices for placement at the scene of an accident or behind a disabled vehicle, at least 10 (ten) pounds of dry sand or a drying compound for gasoline and oil spilled on the roadway and containers for removal thereof and a sufficient quantity and types of tools to enable the tow vehicle operator to perform proper and adequate emergency repair services for the tow.

3. Every tow vehicle or flatbed vehicle shall comply with any and all state, federal and local laws, regulations and ordinances pertaining to safety, lighting and towing equipment requirements and shall be subject to inspection by the Chief of Police or his designee at any time. Where applicable, all permits required by

other agencies than the Township shall be provided to the Township upon request of the Township.

4. Every tow vehicle or flatbed vehicle shall display the official tower's decal and shall have the name of the official tower, by a permanently affixed or painted sign prominently displayed on the vehicle in such manner so as to conform to the provisions of N.J.S.A. 39:4-46. Such demarcations shall be placed on the outside door panels of the vehicle. The sign shall be at least three inches in height and diameter, be visible to the naked eye and the names must be the same on both panels.

5. Within five calendar days of the expiration of each rotations period, the official tower shall submit to the Township Clerk a copy of all of the invoices for services rendered to any owner or operator of a damaged or disabled vehicle on a form of invoice provided by the Township. In the absence of a Township form, the official tower will submit the bills which state: the name and address of the person towed, the make and model of the vehicle towed, plate number and the in date of the tow and the out date of the tow. Only fees applicable in this chapter shall appear on said invoice, and there shall be only one invoice per vehicle towed.

D. Minimum personnel requirements. Official towers shall have available, at all times, a minimum of two drivers to provide the services required by this chapter. All drivers employed by official towers to provide the services required by this chapter shall meet the following requirements and be subject to the following regulations.. They shall:

1. Be competent and able to provide minimum road services for disabled vehicles
2. All drivers required to have a commercial drivers license (CDL) by the State of New Jersey and/or federal regulations are required to furnish such license for the purpose of this chapter.
3. Obey all traffic laws and regulations.
4. Not have been convicted of a crime within the past year.
5. All drivers who do not possess a CDL must submit to random drug testing two times each year.

E. Minimum Storage Requirements

1. Every official tower shall maintain an inside building and/or outside secured storage area meeting the following requirements:

a. All official towers must have sufficient storage area on their own premises to store towed vehicles at the licensed site. This area must be over and above the requirement that is in effect for requirement of parking for that site. No vertical stacking of vehicles is permitted. The storage area must be contiguous to the applicant's principal place of business. Each tow vehicle must be stored at the office tower's licensed sit. Official towers located within he Township cannot store vehicles on the thoroughfares of the Township, whether under the auspices of the Township, County of Bergen or State of New Jersey without Township approval. Storage of vehicles on the thoroughfares of other municipalities wherein Township towers are located is subject to the requirements of those municipalities.

b. The location of the storage area shall be located within the limits of the Township or within two (2) miles of the Township limits.

c. The storage area shall be fenced with the acceptable screened material six feet in heights. The fenced area shall be no less than 5,000 square feet in area. The storage area shall have a suitable gate and be installed with a locking device or a similar on-site security measure. The facility is to be lighted at night.

d. The storage area shall be in an area legally zoned for or legally nonconforming for such use, the certificate of occupancy is to be furnished with the application.

e. The storage facility shall be available from at least 8:00 AM until 6:00 PM Monday through Friday and from at least 8:00 AM until 1:00 PM on Saturday. The applicant shall prominently display the hours during which the facility will be open on weekends. The storage area must have a building wherein a permanently installed telephone is located. The building shall be within sight distance and/or within 500 feet of the entrance of the storage area. On the application for a towing license, the applicant shall list all business hours required pursuant to the

subsection for the calendar year of the license in question, which shall not be changed during the calendar year.

f. The official tower shall not change any additional fee or other charge for releasing vehicles to their owners after normal business hours or on weekends or for moving a vehicle from one location to another in the storage area.

g. The applicant shall, with its application, submit proof of ownership or lease of the storage area.

h. The official tower shall be responsible for ensuring the proper and safe storage of all vehicles towed pursuant to this chapter. The official tower shall be liable for any damage incurred by such vehicles while in transit to or while stored in the storage areas.

2. To ensure the timely release of a vehicle, the tower shall release a vehicle to the owner/occupier of the vehicle no later than one hour from the vehicle's arrival at the tower's facility or within one hour of being contacted by the owner/occupier of the vehicle that he/she wishes to take possession of said vehicle during regular business hours.

F. Credit cards. All official towers must have the ability to receive credit card payment and will accept same for payment of all towing and storage services included, specifically or by reference, in this chapter.

Section 172.8 Utilization of list of official towers.

A. Official towers shall be placed on the list in order in which their application is approved and license issued. Once the initial list has been established, new official towers, when their applications have been approved, will be added to the end of that list.

B. The Township shall request wrecking, towing and storage services from each official tower in rotation. When called, the tower shall advise the dispatcher if a vehicle is available and the estimated time of arrival. If no tower vehicle is available or if the response time will exceed 20 minutes, the next official tower on the list shall be called. If none of the official towers are available or able to provide such services as are requested by the Township, the Township may request such

services from any other available source. All request shall be made by the Chief of Police or his designee.

C. The Township shall request service only from official towers, provided, however, that if no emergency or road hazard exists, the Chief of Police or his designee shall request such service from such other person as the owner of the motor vehicle in need of such services may request, provided that the request is responded to within 30 minutes.

D. During adverse weather conditions, heavy traffic conditions or emergency conditions, official towers shall give priority to requests from the Township over any other requests which may be received by the official towers.

Section 172.9 Hold Harmless Agreement

Applicant shall agree, in writing, to assume the defense of and indemnify and hold harmless the Township, its elected officials, boards, commissions, officers, employees and agents from all suits, actions, damages or claims to which the Township may be subjected of any kind and nature whatsoever resulting from, caused by , arising out of or as a consequence of the provision of towing, wrecking, storage and/or emergency services provided at the request of this Township pursuant to his chapter. Official towers shall enter into a hold harmless agreement in a form to be prepared by the Attorney for the Township prior to being included in the official tower's list.

Section 172.10 Insurance

A. No person shall be included on the official towers list unless and until such person has provided to the Township a certificate(s) of insurance evidencing that there is in effect the following insurance coverage.

1. General property damages and liability insurance in an amount not less than \$1,000,000.00 per occurrence and \$2,000,000.00 per aggregated general liability, including additional garagekeepers coverage, shall be primary as respects vehicles of others and shall include collision coverage.

2. Garagekeeper's liability insurance in an amount not less than \$500,000.00 per location shall be required. No deductible amounts are permitted. The words "no deductible" shall be included on the policy and/or certificate of insurance.

3. Workers' compensation as required by law shall be required.

B. Policies of insurance shall be written by insurance companies authorized to do business in the State of New Jersey.

C. The Township of Rochelle Park shall be named as an additional insured on all policies of insurance provided pursuant to this chapter. All certificates of insurance shall provide 30 days written notice to the Township. Such insurance shall be primary.

D. Policies of insurance required by this chapter shall be maintained in full force and effect at all times. In the event that any coverage is cancelled or terminated or coverage decreased in amount, the tower shall be removed immediately from the official towers list until such time a the required coverage is reinstated or replaced.

Section 172.11 Towing and Storage Fee Schedule

A. All charges shall be limited to those included in this chapter.

B. Fees for towing and storage of Class I vehicles damaged in an accident or recovered after being stolen may not exceed the fees established by the New Jersey Department of Insurance pursuant to N.J.S.A. 40:48-2.55. Those towing and storage fees which are set forth in N.J.A.C. 11:3-38.1, as amended and supplemented, are incorporated herein by reference. Pursuant to law, the fee schedules shall be reviewed by the New Jersey State Commissioner of Insurance on an annual basis and may be revised if necessary. In the event that the schedules are revised by the New Jersey State Commissioner of Insurance, he revised fees shall be the4 maximum fees that may be charged by official towers, and this chapter shall be amended accordingly.

1. The following is the fee schedule for towing services not covered by N.J.S.A. 40:48-2.55 and N.J.A.C. 11:3-38.1:

a. In addition to the fees set for herein, each vehicle towed shall be charged an administrative fee of \$25.00. The administrative fee shall be

collected by the tower and remitted to the Township of Rochelle Park within 30 days. Any resident of the Township of Rochelle Park may request a refund of the administrative fee by applications available from the Township Clerk.

b. The following is the fee schedule for towing services:

RATES AT ANY TIME	FEES PER DIEM
Day tow 7 miles or less from point of tow (one way)	\$100.00
Each additional mile over 7 miles from point of pick up (one way)	\$4.50
Police impound (towing of car to police impound facilities)	\$100.00 plus milage as above
Road service charge	\$50.00
Special recovery services (Class 1)	\$75.00 Per hour

2. The following is the fee scheduled for storage services:

STORAGE FACILITY CAPACITY	FEE PER DIEM
Inside and/or outside building (secured)	\$40.00

C. The above portion of 172-11(B) does not regulate towing or storage of Class II, III and IV vehicles. Such services shall be provided and referred by the official tower(s) at the following rates.

1. Class II vehicles: \$135.00 Said charge covers all actions necessary and related to towing Class II vehicles. Hookup front or rear, plus \$5.00 per mile for all miles in excess of seven miles.

2. Class III vehicles: \$175.00 Said charge covers all actions necessary and related to towing Class III vehicles. Hookup front or rear, plus \$7.50 per mile for all miles in excess of seven miles.

3. Class IV vehicles: \$325.00 Said charge covers all actions necessary and related to towing Class IV vehicles. Hookup front or rear, plus \$10.00 per mile for all miles in excess of seven miles

4. Road service for Class II vehicles: \$50.00 plus materials

5. Road Service for Class III vehicles: \$75.00 plus materials.

6. Road Service for Class IV vehicles: \$95.00 plus materials

7. Storage of Class II, III and IV vehicles is subject to the same requirements as set forth in 172.11(B) with the exception of a change in the rate for storage. Storage of Class II, III and IV vehicles shall be charged at the respective rates below.

- a. Class II: \$40.00 per day
- b. Class III: \$50.00 per day
- c. Class IV: \$85.00 per day

8. Special recovery services of Class II, III and IV vehicles shall be charged at the respective rates below. This charge shall only be used in situations deemed necessary, and a notation of fact should be noted on the official tow's bill. Said charge shall not apply to winching a vehicle onto a flatbed vehicle.

- a. Class II: \$100.00 per hour
- b. Class III: \$200.00 per hour
- c. Class IV: \$300.00 per hour

9. Special recovery services.

a. Special recovery services of all vehicles shall be charged at the respective rates set. This charge shall only be used in situations deemed necessary, and a notation of fact should be noted on the official tow's bill. Said charge shall not apply to winching a vehicle on to a flatbed vehicle when the vehicle rolls freely.

b. For special recovery services that require additional and/or larger equipment, that equipment shall be billed at the equipment's rate.

c. Additional personnel for special recovery services shall be billed at \$75.00 per hour per person.

D. The fees set forth on the schedules for towing rates are the maximum charges that shall apply to a Class I vehicle for basic towing services. There shall be no additional charges other than those provided herein in Subsections B and/or C above.

E. Calculation of rates and fees

1. The towing mileage rates, where applicable, shall be calculated based on the total distance traveled from the site of pickup of the vehicle in question to the dropoff point, by way of the shortest available route. Fractions shall be rounded up to the nearest whole. The first seven miles shall not be subject to the mileage charge.

2. Tow vehicles transporting multiple passenger cars at one time shall receive the applicable fees for each vehicle transported.

F. There shall be a maximum charge of \$2,500.00 for Class I or II vehicles stored regardless of duration of the storage period.

G. No storage or any disabled or damaged vehicle shall be located on any public street or sidewalk in the Township.

H. The fees set forth on the schedules set forth in this section contained for storage fees are the maximum storage charges per twenty-hour period that shall apply to all vehicles stored by an official tower. If the facility is closed when the vehicle is towed, storage fees shall commence at the start of the next business day.

I. Motorcycles and all other on/off road vehicles shall be considered private passenger vehicles for purposes of determining fees which are allowed under this section. Any other objects not covered herein, which are towed by an official tower at the request of the Township, shall be subject to fees as determined by the Township Committee.

J. The use of Speedy-Dri shall be charged the rate of \$15 per fifty-pound bag after the first bag. The first bag is included in the initial towing cost.

K. Fees for towing and storage of private passenger vehicles damaged in an accident or recovered after being stolen may not exceed the fees established by the New Jersey Department of Insurance pursuant

to N.J.S.A. 17:33B-47. Those towing and storage fees, which are set forth in N.J.A.C. 113-38.1, are incorporated herein by reference.

L. The fees set forth in Subsections B and C of this section do not apply to vehicles owned and/or operated by the Township of Rochelle Park or any of its agencies. The towing of and special recovery services provided to any of the Township's vehicles shall be provided free of charge by the official tower.

Section 172.12 Miscellaneous Provisions

A. Copies of this chapter and the schedule of fees that may be charged by official towers shall be made available to the public during normal business hours at the Municipal Building. Copies shall also be made available to the public at each official tower's place of business.

B. All official towers shall post, in a prominent place at each storage area clearly visible to the public, a schedule of fees that may be charged for all services, provided that the same is pursuant to this chapter .

C. The Township reserves the right to make periodic unannounced inspections of the personnel, vehicles, equipment and storage areas of all official towers.

D. The relationship between an official tower and the Township is one of an independent contractor. Neither party shall be construed in any manner whatsoever to be an employee of the other, nor shall any employee or agent furnished by any party be construed to be an employee or agent of the other party. Inclusion on the official towers list shall not be construed or considered as a joint venture, partnership, association, contract of employment or profit-sharing agreement.

E. The Township shall not be liable or responsible for compensating the official towers for any of the services performed under the chapter unless those services are performed for Township vehicles. Compensation shall be the responsibility of the owner and the towed motor vehicle and the official tower shall proceed directly against the owner.

F. The official tower shall, at all times, be solely responsible for the conduct of its employees.

G. Each official tower shall keep and maintain adequate and complete records showing all vehicles towed, stored and released, all service rendered and all fees charged and collected. All records shall be available for inspection by the Township at any time during normal business hours. Records shall be kept and maintained by the official tower at one central locations and shall be retained for a period of seven years. Records may be written, printed or computerized as long as the requirements of this subsection are met.

Section 172.1 Enforcement agency; suspension or revocation of license

A. The Rochelle Park Police Department shall be the enforcement agency. The enforcement agency shall have the authority to hear complaints against any official tower whether brought by Township representatives, the public and/or other official towers.

B. The enforcement agency shall have the power to issue subpoenas to compel attendance at the hearing.

C. In the event that a complaint (of a noncriminal nature) is received by the Township, involving the improper or unsatisfactory performance of services by an official tower, excessive charges or damage to a motor vehicle while in the custody of the tower, the enforcement agency shall give written notice of said complaint, by certified mail, return receipt requested to the official tower against whom the complaint is made. The official tower shall make a written response to such complaint within five calendar days from receipt of the written notice.

D. The enforcement agency after hearing the matter shall have the authority to suspend the official tower's license until the next rotation. Any contestation of such action by the enforcement agency shall be made by way of appeal to the Township Committee within 14 calendar days of the notice of said suspension. The Township Committee shall then conduct a hearing regarding the appeal of the suspension at the next public Council meeting or within 30 calendar days of the tower's notice of appeal.

E. In the event that two or more complaints are pending for over 30 days in Municipal Court, then the enforcement agency may suspend the official tower's license, after a hearing and decision by the enforcement agency.

F. If, after considering the matter and the findings by the enforcement agency, the Township Committee shall determine that there is good and sufficient cause

for revocation of the official tower's license, the tower shall surrender said license to the Township Clerk within one calendar day.

G. Failure to surrender the license upon revocation shall constitute a violation of this chapter, subject to all legal action available to the Township, including permanent removal from the official towers list.

H. Nothing contained herein shall prevent or limit the right of any person to commence or maintain an action for damages or any other relief directly against an official tower in a court of competent jurisdiction.

172.14 Violations and penalties.

A. In addition to any suspension or revocation of license, a person who shall violate any of the provisions of this chapter shall be subject to the following:

1. Punishable by a fine not exceeding \$2,000 or imprisonment for a term not exceeding 90 days or for a period of community service not exceeding 90 days, or any combination of them, at the discretion of the Municipal Court. The minimum fine for violation of any provision of this chapter shall be a fine of \$1,000;

2. Each violation of any of the provisions of this chapter and each day the same is violated shall be deemed and taken to be a separate and distinct offense; and

3. The imposition of a fine or imprisonment, or both, for a violation of this chapter of the Code shall not be deemed to be in lieu of any other provision therein providing for revocation or suspension of any license or permit issued thereunder.

B. In addition to the fine provided above, a violation of any of the provisions of this chapter shall be cause for revocation of the official tower's license.

SECTION ONE: Repealer:

All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

SECTION TWO: Severability:

If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance, but shall be

confined in its effects to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

SECTION THREE: Effective Date:

This Ordinance shall take effect immediately upon final adoption and publication and in the manner provided by law.

ATTEST:

ELIZABETH KROLL
Municipal Clerk

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Rev. 081514
Rev. 091214