

ORDINANCE NO. 3636

AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF FRANKLIN BY DELETING AND REPEALING CHAPTER 390 THEREOF, WRECKERS, AND REPLACING IT WITH A NEW CHAPTER 390, TO BE ENTITLED WRECKERS, WHICH PROVIDES A UNIFORM SET OF PROCEDURES FOR ADMINISTERING THE ISSUANCE, RENEWAL, SUSPENSION AND REVOCATION OF ALL LICENSES ISSUED UNDER THIS CHAPTER AND TO ESTABLISH STANDARDS FOR THE OPERATION OF TOWING BUSINESSES BY LICENSEES AND TO SET RATES FOR SERVICES PERFORMED BY LICENSEES.

SUMMARY

An Ordinance amending the Code of the Township of Franklin by deleting and repealing Chapter 390 – Wreckers and replacing it with a new Chapter 390 to be entitled, Wreckers where the purpose of said chapter is to provide a uniform set of procedures for administering the issuance, renewal, suspension and revocation of all licenses issued under this chapter in the interest of fair and equitable treatment of the motoring public and towing operators and to establish standards for the operation of towing businesses by licensees and to set rates for services performed by licensees.

**BE IT ORDAINED** by the Township Council of the Township of Franklin as follows:

SECTION I

The Code of the Township of Franklin is hereby amended by deleting and repealing Chapter 390, Wreckers.

SECTION II

The Code of the Township of Franklin is hereby amended thereto a new chapter, to replace Chapter 390 hereinabove repealed, to be Chapter 390, Wreckers, to read as follows:

- §390-1 Purpose.
- §390-2 Definitions.
- §390-3 Licensing procedure; fees.
- §390-4 Minimum standards for wreckers.
- §390-5 Insurance.
- §390-6 Display and contents of card.
- §390-7 Inspection and operation rules and regulations.
- §390-8 Records.
- §390-9 Towing rates; Storage charges; Service rates.
- §390-10 Conduct of owners and operators.
- §390-11 Complaints
- §390-12 Record of vehicles towed.
- §390-13 Rotating call list.
- §390-14 Exceptions.
- §390-15 Public access to fee schedules.
- §390-16 Effect on rights of motor vehicle owner.
- §390-17 Violations and penalties.
- §390-18 Severability.

**§390-1. PURPOSE.**

The purpose of this chapter is to provide a uniform set of procedures for administering the issuance, renewal, suspension and revocation of all licenses issued under this chapter in the interest of fair and equitable treatment of the motoring public and towing

operators and to establish standards for the operation of towing businesses by licensees and to set rates for services performed by licensees.

**§390-2. DEFINITIONS.**

CRUISING-Driving an unengaged wrecker back and forth on a public street in a manner primarily calculated to solicit business.

FIFTH WHEEL-A device towed behind a heavy wrecker containing dual wheels with a hinged pivot hitch used to replace a tractor connection to a towed trailer. The wheels of the "fifth wheel" shall have a tire size of not less than 10.00 x 20 inches.

GARAGE-A building in which motor vehicles can be sheltered, stored, repaired and made ready for use, and is specifically intended not to include within the meaning of this definition a gasoline service station used principally for furnishing gasoline, oil and lubrication and minor services for motor vehicles.

HEAVY DUTY WRECKER-A wrecker of either of the types set forth in the definition of "wrecker", designed to be capable of towing vehicles having a Gross Vehicle Weight Rating (GVWR) of 10000 pounds or more.

HIGHWAY-The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

INSIDE BUILDINGS-A vehicle storage facility that is completely indoors, having one or more openings in the walls for storage and removal of vehicles and that is secured by a locking device on each opening.

LIGHT DUTY WRECKER-A wrecker of either of the types set forth in the definition of "wrecker", designed to be capable of towing vehicles having a Gross Vehicle Weight Rating (GVWR) of less than 10000 pounds.

OPERATOR-A person, firm, corporation or other legal entity engaged in the business of providing wrecker services and storage services for vehicles towed.

OUTSIDE SECURED-A motor vehicle storage facility that is outdoors and is secured by a fence, wall or other man-made barrier that is at least six feet high and is installed with a passive alarm system or a similar on-site security measure. The facility is to be lighted at night.

POLICE TOW-The towing or servicing of a vehicle which has been involved in an accident or disabled on a highway in such a manner so as to interfere, or be likely to interfere, with the safe passage of traffic; or any vehicle involved in a police investigation.

PRIMARY WRECKER OPERATOR-A municipally licensed wrecker operator who responds to the scene of a police tow.

STORAGE CHARGES PER 24 HOUR PERIOD-The maximum allowable amount to be charged by a storage facility for a 24-hour period or fraction thereof. A new 24-hour period begins at 12:01 am.

SUBCONTRACTOR-A municipally licensed wrecker operator called to the scene by the primary wrecker operator to assist.

TOWING BUSINESS-A business, located within Franklin Township, with an inside building and/or an outside secured area in which motor vehicles can be sheltered, stored, repaired and made ready for use. A light Duty tow agency shall be one, which

owns or operates any two (2) or more wreckers as defined. At a minimum, each light duty business must have at least one (1) boom style wrecker and one (1) tilt body wrecker in order to be maintained on the towing list.

TOWING LIST-A list of licensed towing businesses, maintained by the Franklin Township Police Department and used for the purpose of calling appropriate towing service for all police needs and for removing vehicles from crashes.

WRECKER-A vehicle equipped with a boom or booms, winches, slings, tilt beds, wheel lifts, or under-reach equipment specially designed by its manufacturer for the removal and transport of motor vehicles.

### **§390-3. LICENSING PROCEDURE; FEES.**

- A. To be placed on the towing list with the Franklin Township Police Department, a license to perform police tows is required to be obtained from the Township Clerk. Every wrecker available for call from the towing list shall be separately licensed.
- B. All towing licenses issued under this chapter will expire on the last day of December next following the date of issuance.
- C. Application for licenses will be made on forms prepared by the Chief of Police and shall contain the following information, together with such other information as the Chief of Police may find reasonably necessary to carry out the purpose and intent of this chapter.
  - 1. The name, address and phone number of the applicant.
  - 2. The name, address and phone number of the applicant's place of business.
  - 3. The names and addresses of all persons having a ten (10%) percent or greater interest in the business, whether the business is a partnership or corporation.
  - 4. The one (1) telephone number, which will be called by the Police Department on a 24 hour, seven day a week basis.
  - 5. The year, make, type and model of each tow truck used in said business, it's vehicle identification number and New Jersey Registration Number
  - 6. The location and size of all vehicle storage lots.
  - 7. The names, addresses and New Jersey Driver License Numbers of all employee-drivers of the vehicles identified. Employee-drivers must possess a valid New Jersey Drivers License prior to the date of application.
  - 8. Certification that each employee operating under this license is able to read and write the English Language.
  - 9. Certification that each employee operating under this license is not addicted to the use of narcotics or intoxicating liquors.
  - 10. Any and all successful civil complaints filed against the owner, agent thereof, the corporation or any officer thereof of deceptive business practices including but not limited to insurance fraud, price gouging, or other similar complaint or offense. This shall not be construed to be limited to substantiated complaints with regards to towing services.

11. An original Letter of Authorization for the Franklin Township Police Department to conduct a Full and Complete Criminal and Driver License Background Check on each owner, agent thereof and employee-driver. The owners and the corporation shall also include an Authorization for the Franklin Township Police Department to conduct an investigation into the Insurance Coverage as it applies to the license. Each employee must execute their own Letter of Authorization. Blank authorizations are not permitted.
  12. A description of the security features of the vehicle storage lots.
  13. A list of the names, addresses, policy numbers and coverage of the insurance required by this chapter.
  14. Any other information whether at the time of application or as part of the investigation that the Township of Franklin shall deem appropriate and necessary to properly evaluate the towing agency for this license.
- D. License fees shall be eighty (\$80.00) dollars for the first license for a towing business and fifteen (\$15.00) dollars for each additional license issued to a towing business, payable to the Township of Franklin.
- E. Investigation.
1. After the filing of a fully completed application and payment of the licensing fee, the Chief of Police shall, within thirty (30) days, cause to be conducted an investigation to determine the accuracy and completeness of the information contained in the application, as well as an investigation as to the towing business's prior record of compliance with the intent, purpose and regulations established under this chapter. The application shall also be reviewed by the Zoning Officer, who shall advise the Chief of Police whether the towing business is a permitted use and complies with Chapter 112, Development.
  2. During the course of the investigation, the applicant shall schedule the wrecker to be licensed to be inspected by the designee of the Chief of Police. This inspection shall be conducted to ensure that the wrecker meets all applicable safety standards as well as the requirements of this chapter.
  3. Upon completion of all investigations and inspections, the Chief of Police shall return a copy of the application to the Township Clerk, indicating approval or disapproval of the license. Any disapproval will be accompanied by a written explanation of the reasons for disapproval. Any approval will be accompanied by a proposed classification of the applicant as a light duty and/or heavy-duty service. If the application is approved, the applicant shall supply the Township Clerk with the insurance policies or certificates as required by this chapter.
  4. The Township Clerk shall approve and classify an application when he/she finds that the following requirements have been met by the applicant:
    - a. That the public convenience and necessity will be served by the use of the vehicle or vehicles for which application has been made.
    - b. That the insurance policies, as required, have been procured and supplied.

- c. That the applicant and proposed operators are qualified to operate the wrecker and conduct a wrecker service in the Township of Franklin.
  - d. That the requirements of this chapter and all other laws, statutes and ordinances have been met, including zoning ordinances.
  - e. That the vehicle 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 license plates or which has failed state inspection.
  - f. That the wrecker to be licensed, on inspection, meets with the required minimum standards, as set forth in this chapter, for the class to which it has been assigned.
  - g. That applicant has available space for properly accommodating and protection a minimum of 20 towed vehicles and that the vehicles will not be stored or allowed to remain on public property or any street or property in the township that is not zoned for such storage. The storage area must be enclosed with a minimum 6 foot high fence and the area must have adequate lighting.
5. The applicant or an employee–driver may be refused if the investigation reveals any of the following or if the applicant or any employee refuses to permit the investigation:
- a. Conviction of any crime of the fourth degree or higher, possession of or use of a controlled dangerous substance; and other crimes against the person or crimes involving moral turpitude. Any plea arrangement, which results in Pre–Trial Intervention, Conditional Discharge, or any other similar diversionary trial settlement may be viewed as a conviction to the original charge/offense.
  - b. Conviction of operating a motor vehicle under the influence of an intoxicating liquor or drug (39:4–50 or 39:3–10.13), leaving the scene of a crash (39:4–129), failure to report a crash (39:4–130), reckless driving (39:4–96) and possession of a controlled dangerous substance in a motor vehicle (39:4–49.1).
  - c. Successful civil complaints filed against the owner, agent thereof the corporation or any officer thereof for deceptive business practices, including but not limited to insurance fraud, price gouging or other similar complaint or offense.
6. Appeal of Application Denial
- a. Upon receipt of a denial of a license, or partial denial, the applicant may file an appeal with the Township Clerk. The appeal must be filed within 10 business days of receipt of the decision. Such appeal shall be submitted in writing and shall document the applicant’s position for approval of the license.
  - b. Upon receipt of the appeal the Township Manager shall review all documentation relating to this application. Such review may include interviews with the interested parties. The Township Manager shall make a decision within 10 business days of receipt of the appeal.
  - c. If the Township Manager does not grant the license the last step for appeal will be the Township Council. The appeal must be filed

within 10 business days of the last denial. Such appeal shall be submitted in writing and shall document the applicant's position for approval of the license.

- d. Upon receipt of the appeal the Township Council shall review all documentation relating to this application. Such review may include interviews with the interested parties. The Township Council shall make a decision within 30 days of receipt of the appeal. The decision of the Council is final and binding. No further appeals are permitted.

#### **§390-4. MINIMUM STANDARDS FOR WRECKERS.**

The following shall serve as a guide for minimum standards as they apply to light duty and heavy-duty wreckers.

##### **A. Light Duty (Below 10000 lb. GVWR capacity)**

1. Dual rear wheels or equivalent.
2. A power take-off controlled winch with a minimum cable thickness of three-eighths (3/8) inch.
3. A three-eighths (3/8) inch safety chain. The lift chain and the safety chain are not to be attached in any form or manner to the same part of the wrecker.
4. A Gross Vehicle Weight of not less than ten thousand (15000) pounds.
5. Originate from a garage equipped with a portable car dolly and steering lock bar.
6. Three-hundred sixty (360) degree rotating amber beacon light mounted over the cab.
7. Four (4) double faced rear flashing amber lights mounted high at maximum State requirements.
8. All lights shall be of such candlepower in intensity as to be visible from one quarter (1/4) mile away, or must be equal to the candle power of the lights on Township Police vehicles.
9. Tow businesses must maintain light permits for all wrecker emergency lighting.

##### **B. Heavy Duty (Over 10000 lb. GVWR capacity)**

1. Dual rear wheels.
2. A power take-off controlled winch with a minimum cable thickness of five-eighths (5/8) inch.
3. A one half (1/2 ) inch safety chain. The lift chain and the safety chain are not to be attached in any form or manner to the same part of the wrecker.
4. A Gross Vehicle Weight of not less than twenty thousand (20000) pounds.
5. A three-hundred sixty (360) degree rotating amber beacon light mounted on the cab.

6. Four (4) double faced rear flashing amber lights mounted high at maximum State requirements.
  7. All lights shall be of such candlepower in intensity as to be visible from one quarter (1/4) mile away, or must be equal to the candle power of the lights on Township Police vehicles.
  8. Air brakes.
  9. Connecting air lines for connection with the air compressor and air brake lines of towed vehicles.
  10. A brake caging tool.
  11. Detachable amber flashing lights to be attached to the rear of towed vehicles.
- C. All wreckers shall be equipped with the following:
1. One (1) large street broom and shovel.
  2. Safety flares for night work.
  3. Speedy dry or equivalent absorbent material for fluid spills.
  4. Fire extinguisher (ABC Type).
  5. Basic set of automotive tools.
- D. All wreckers licensed under this act shall be in compliance with all the applicable provisions of Title 39 – NJ Motor Vehicle and Traffic Regulations.

**§390-5. INSURANCE.**

- A. Each towing agency shall maintain during the term of their license, the following minimum insurance coverage, naming the Township of Franklin as an additional insured
1. Automobile Liability Insurance, in an amount not less than one million (\$1,000,000) dollars combined single limit, covering each vehicle utilized by the operator in his business.
  2. Workmen's Compensation Insurance, as required by the State of New Jersey, including employer's liability coverage with a limit of at least \$100,000.00.
  3. Comprehensive, General Liability Insurance, in an amount of not less than \$1,000,000.00 for personal injuries, per occurrence, and 1,000,000.00 for property damage, per occurrence, including premises operations and products/completed operations.
  4. Garage Keepers and Garage Liability Insurance, in an amount of not less than \$100,000.00.
  5. All policies of insurance shall contain an endorsement providing for collision coverage for vehicles in tow.
- B. All policies of insurance shall contain an endorsement requiring that at least 15 days notice shall be given to the Township Clerk in the event of any material change in or cancellation of the policy.
- C. The operator shall indemnify and hold harmless the Township of Franklin from any claims for injury or property damage arising out of, or in way related to, the

operation of any wrecker, tow agency or storage yard, pursuant to this ordinance. The Tow Agency shall further defend the Township of Franklin at the operator's expense in connection with any suit or action, brought against the Township of Franklin, and arising out of the operation of any wrecker, tow service or tow yard, pursuant to this ordinance.

- D. All policies of insurance shall be issued by insurance companies authorized to do business in the State of New Jersey, and shall remain in full force and effect during the entire term of the license. The Township of Franklin shall be named as additional insured on all policies of liability insurance.
- E. No license shall be issued until an approved applicant files insurance certificates verifying all of the above requirements. The insurance Certificates shall be filed with the Township Clerk.
- F. Any licensee who has a lapse in any insurance policy, for any reason whatsoever, shall have his/her license immediately suspended. Upon notice of lapse of coverage, the Township Clerk shall immediately serve notice of suspension upon the licensee, with copy of said notice provided to the Township Manager and Chief of Police. The suspension shall remain in effect until such a time as the insurance is restored.

**§390-6. DISPLAY AND CONTENTS OF CARD.**

- A. The Township Clerk shall issue to the person owning a licensed wrecker a card, not less than four (4) inches nor more than six (6) inches in width, in such form as may be set by the Township Clerk, which shall be at all times displayed on the right front windshield of each wrecker. The card shall bear the name of the applicant, official license number of the wrecker, the rate of fares and conditions of employment under which the wrecker is operating and a notice that, in case of any complaint, the complainant may notify the Police Department and the date of inspection of the wrecker, together with blank spaces upon which any entry shall be made of the date of every inspection of the wrecker by the inspector. In lieu of the card, a metal plate to be furnished by the owner, giving the same information, may be affixed in a prominent place on the wrecker.

**§390-7. INSPECTION AND OPERATION RULES AND REGULATIONS.**

- A. No wrecker or tow agency covered by the terms of this chapter shall be licensed until it has been thoroughly and carefully inspected and examined by the Chief of Police or his designee and found to be in a thoroughly safe and sanitary condition. Any wrecker or tow agency found to be unsafe shall not be licensed. The Chief of Police is authorized and empowered to establish reasonable rules and regulations for the inspection of wreckers and tow agencies for the construction and condition for the safety of persons and property
- B. The police department shall maintain due vigilance over all tow trucks and towing agencies licensed under this chapter and see that they are kept in a condition of safety and sanitation, and to this end shall have the right at any and all times, to inspect any and all such licensed vehicles and storage facilities and shall maintain a record in writing of the report of all such inspections.

**§390-8. RECORDS.**

- A. The Township Clerk shall keep a record of the names of all persons owning and operating wreckers licensed under this chapter, together with the license number and a description of the wreckers and the date and complete record of inspection made of them.

§390-9. TOWING RATES; STORAGE CHARGES; SERVICE RATES.

- A. No vehicle owner shall be liable to any person or corporation who tows or stores motor vehicles for any fees in excess of those permitted by the towing and storage schedules established in this subchapter.
- B. The fees set forth on the schedule for towing rates are the maximum charges that shall apply to a vehicle with a GVWR of 10000lbs. or less towed by a wrecker.
  - 1. The towing rate shall be calculated based on the total distance traveled from the wrecker's base of operation to the job site and return, by way of the shortest available route. Fractions shall be rounded up to the nearest whole mile. Mileage shall be determined using a standard scale map of the Township as provided by the Township Clerk.
  - 2. When towing services are required, the Day rate shall apply when the vehicle is transported (pickup to delivery) entirely between the hours of 8:00am and 6:00pm, Monday through Friday, except New Jersey State and Federal Holidays. The Night, Weekend and Holiday rate shall otherwise apply.
- C. The fees set forth on the schedule for storage fees are the maximum storage charges per 24-hour period that shall apply to an automobile that is stored by a person or corporation.
- D. The following is the fee schedule for light duty towing services:
  - 1. DAYS

First mile or less	\$65.00
Each additional mile within Township	\$ 2.00
Each additional mile outside the Township	\$ 3.00
  - 2. NIGHTS, WEEKENDS AND NEW JERSEY STATE AND FEDERAL HOLIDAYS

First mile or less	\$85.00
Each additional mile within the Township	\$ 2.00
Each additional mile outside the Township	\$ 3.00
- E. The following is the fee schedule for storage of vehicles with a GWWR of 10000lbs. or less:
  - 1. INSIDE STORAGE \$30.00
  - 2. OUTSIDE SECURED \$20.00
- F. Additional authorized Light Duty fees and charges.

The following is a list of related fees that may be charged should they apply to the job being completed:

- 1. Service Charge

Days	\$50.00
Nights, Weekends and New Jersey State and Federal Holidays	\$60.00

This will cover calls for service such as vehicle jump start, out of fuel, change tire or lockout service if provided. This charge does not include any charges for parts or fuel. This only applies when no tow is completed.

- 2. Crash Scene Cleanup \$25.00

Includes but not limited to sweeping up debris, cleaning up fluid spills and removing vehicle parts removed during crash and post crash activities.

- 3. Yard Charge \$30.00

This is a one time per vehicle charge that a company can charge if any of the following occurs:

- a. Escort an insurance appraiser, a removing tow company, the owner or their representative or anyone other than a law enforcement official who properly request to see the vehicle.

- 4. Material Off Loading Charge \$100 per hour billed in  $\frac{1}{4}$  hour increments

- a. The vehicle has material that needs to be offloaded for security/health or safety reasons. If the tow company is charged a disposal fee for the material that fee may also be passed onto the responsible party.

- 5. Winching \$150.00

The Basic Tow Rate applies to vehicles that are upright and on the road ready for tow. A winching charge may apply if:

- a. A vehicle is overturned
- b. A vehicle is off the road
- c. A vehicle is stuck on another vehicle or other object on or off the road
- d. A vehicle is stuck in mud, snow or submerged in water on or off the road

In the case when more than one winching criteria exist the charge may be one and half times the winching rate.

- G. The maximum towing fee for Vehicle over 10,000 GVWR will be:

- 1. 10,001-25,000 \$175.00
- 2. 25,001-55,000 \$300.00
- 3. 55,001-80,000 \$425.00
- 4. Each fee includes the first mile. Each additional mile \$ 5.00

- H. The following is the fee schedule for storage of commercial vehicles with a GVWR of more than 10000lbs. (In the case of an articulated vehicle, the tractor and trailer shall be considered as two separate vehicles):

- 1. INSIDE STORAGE \$120.00
- 2. OUTSIDE SECURED \$ 80.00

- I. Additional authorized Heavy Duty Fees and charges.

- |     |                            |   |
|-----|----------------------------|---|
| 1.  | Winching                   | \$350.00  |
| 2.  | Remove Bumper              | \$30.00   |
| 3.  | Connect Air Line           | \$25.00   |
| 4.  | Remove Axle                | \$25.00 per axle  |
| 5.  | Remove Drive Shaft         | \$35.00   |
| 6.  | Remove Air Scoop           | \$45.00   |
| 7.  | Remove Exhaust Pipes       | \$30.00 per pipe  |
| 8.  | Cage Brake Chambers        | \$25.00 per hour  |
| 9.  | Extra Men per hour per man | \$25.00   |
| 10. | Crash Scene Cleanup        | \$25.00   |
|     | a.                         | Does not include the cost of materials and any fees to dispose of contaminated material |
| 11. | Yard Charge                | \$30.00   |

This is a one time per vehicle charge that a company can charge if any of the following occurs:

- |     |                             |  |
|-----|-----------------------------|--|
|     | a.                          | Escort an insurance appraiser, a removing tow company, the owner or their representative or anyone other than law enforcement officials who properly request to see the vehicle.                                 |
| 12. | Material Off Loading Charge | \$100 per hour billed $\frac{1}{4}$ hour increments  |
|     | a.                          | The vehicle has material that needs to be offloaded for security/health or safety reasons. If the tow company is charged a disposal fee for the material that fee may also be passed onto the responsible party. |
| 13. | Securing Vehicle            | \$100 per hour plus Materials  |
|     | a.                          | In order to be towed and due to damage sustained after being involved in a motor vehicle crash parts of the vehicle need to be secured in order for the vehicle to be safely towed.                              |

J. If the Township of Franklin shall be the owner of the vehicle towed or shall specifically request the storage of any vehicle the fees charged to the Township of Franklin shall be governed by NJSA 40:48-2.50 as amended.

**§390-10. CONDUCT OF OWNERS AND OPERATORS.**

A wrecker license hereunder shall be issued subject to the following conditions:

- A. No person owning or operating a wrecker or other automobile, while waiting for employment, shall stand at any public street or intersection or on any public or private property, other than his/her own, without first obtaining the consent of a police officer or of the owner of the property.
- B. No person shall seek employment by repeatedly and persistently driving his wrecker back and forth in a short space in front of any disabled vehicle or by otherwise interfering with the proper and orderly progress of traffic along the public highways.

- C. No person owning or operating a wrecker licensed under this chapter shall engage in cruising.
- D. No person owning or operating a wrecker licensed under this chapter shall permit or invite loitering within or near his/her wrecker.
- E. No person shall solicit or attempt to divert prospective patrons of a given garage to another garage.
- F. No person shall solicit, demand or receive from any person any commission or fee except the proper fee for transporting the disabled vehicle in accordance with section **390-9**.
- G. No person shall intercept police calls by short-wave radio or obtain information as to the location of the scene of an crash or disabled vehicle by means of interception of police radio calls and then use the intercepted information to attempt to solicit employment of the licensee's services.
- H. No person shall pay any gratuity, tip or emolument to any third person not involved in the crash or to an Police Officer for any information as to the location of any crash or for soliciting the employment of the licensee's services nor give any gratuities fees or other compensation or gifts to any members of the Police Department.
- I. Any wrecker service summoned either by the Police Department or the owner of the vehicle shall be required to respond on scene within one-half (1/2) hour.
- J. The wrecker company must be available seven (7) days a week, twenty-four (24) hours a day. The Chief of Police may grant a leave of absence requested by the company upon request, in writing, at least one (1) week in advance.
- K. The wrecker company must be open for customers to claim their vehicles between the hours of 8:00am and 5:00pm daily, except Sundays and New Jersey and Federal Holidays.
- L. A wrecker company that cannot respond when called shall not have any other wrecker company, whether on the rotation list or not, respond in its place. The next wrecker on the list shall be called to respond by the Police Department.
- M. Any wrecker company unable to respond to four (4) or more Police Department requests per month will be subject to removal from the approved list. The Police Department shall allow the phone to ring ten (10) times on any call before going to the next service on the list. Any wrecker company using a paging system will be granted a five (5) minute wait period to respond to the page before the Police Department calls the next wrecker company on the list.
- N. A wrecker company on the police rotation list and responding to a job as a result of the police rotation list shall only charge fees and rates established by this act.
- O. Owners, agents or employees of a wrecker company shall act professionally when dealing with the public as a result of a police requested tow.
- P. Any wrecker that responds to a scene as a result of a police request from the tow rotation list shall be in compliance with the minimum standards established in **390-4**.

**§390-11. COMPLAINTS/VIOLATIONS/PUNISHMENT PROCEDURES.**

- A. Citizen Complaints
  - 1. Any complaints regarding unprofessional, unethical or discourteous conduct of a wrecker company owner or employee shall be made to the

Police Department on a Wrecker Company Complaint Form. The Police Department Traffic Safety Bureau shall investigate these complaints and a report shall be made to the Chief of Police as to the findings.

2. If a complaint is substantiated, the report shall be forwarded to the Township Clerk, who shall have the authority to suspend or revoke the wrecker company's license. The wrecker company shall have the right to appeal any suspension or revocation within ten (10) working days of the action and request, in writing, a hearing, with said appeal to be filed with the Township Clerk.
3. The hearing officer for a first level appeal shall be the Township Manager. The wrecker company may be represented by an attorney during this hearing. If the Township Manager upholds the actions taken by the Township Clerk the wrecker company shall once again have the right to appeal the decision and request, in writing, a second appeal hearing, with the township council. Said request must be filed with the Township Clerk within 10 working days of the first hearing.
4. The decision of the Town Council with regards to the appeal shall be made within 30 days of their hearing. The decision is final and binding. No further appeals are permitted.

B. Police Complaints

1. When a violation of the Rules of Conduct occurs with regards to mandated procedures a complaint may originate from within the police department.
2. The infraction shall be reduced to writing and with all supportive documents given to the Chief of Police designee so a complete and thorough investigation may be completed.
3. If a complaint is substantiated, the report shall be forwarded to the Township Clerk, who shall have the authority to suspend or revoke the wrecker company's license. The wrecker company shall have the right to appeal any suspension or revocation within ten (10) working days of the action and request, in writing, a hearing, with said appeal to be filed with the Township Clerk.
4. The hearing officer for a first level appeal shall be the Township Manager. The wrecker company may be represented by an attorney during this hearing. If the Township Manager upholds the actions taken by the Township Clerk the wrecker company shall once again have the right to appeal the decision and request, in writing, a second appeal hearing, with the township council. Said request must be filed with the Township Clerks within 10 working days of the first hearing.
5. The decision of the Town Council with regards to the appeal shall be made within 30 days of their hearing. The decision is final and binding. No further appeals are permitted.

**§390-12. RECORD OF VEHICLES TOWED.**

- A. Every person owning a licensed wrecker shall keep a record of all details of each vehicle towed, serviced or transported, together with full information concerning the details surrounding the hire and the full name of the owner of the towed vehicle and of the person engaging him.

**§390-13. ROTATING CALL LIST.**

- A. All requests for towing or wrecking service made by the Police Department shall be by rotation.

- B. The rotation system shall be conducted in the following manner:
1. The Township Clerk shall compile a list of all owners, lessees or bailees as provided in this chapter.
  2. The original and annual public reporting of the current list of designated towing contractors containing the company name, address, telephone number and maximum towing fees shall be printed and circulated in the Township. The annual reporting of the list shall be available for inspection by any member of the general public upon request and during regular business hours.
  3. Each owner, lessee or bailee of a wrecker licensed hereunder shall be placed on an initial call list, for light duty or heavy duty, based upon the date on which the license is issued and upon the classification of the wrecker. Where an owner, lessee or bailee shall own or lease more than one (1) wrecker classified for light duty, said owner's, lessee's or bailee's name shall appear but once on said call list.
  4. Whenever the Police Department or any other department summon a wrecker, the owner, lessee or bailee at the beginning of the list will be called. After such owner, lessee or bailee has been called, that owner, lessee or bailee shall be placed at the end of such list, whether or not said owner, lessee or bailee responds to the call. Thereafter the next licensee shall be called until the rotation is completed.
- C. Additional rules and regulations regarding the rotation of wreckers as may be promulgated hereunder by the Township Clerk shall take effect immediately after service of a copy thereof to all holders of licenses for wreckers in the Township, which may be made by addressing the same to the licensees by mail at their last known addresses.
- D. In establishing a rotation system of assignment of wreckers, a separate list shall be set up limited to heavy duty wreckers, and the assignment of a heavy duty wrecker to tow a disabled truck or bus shall be in addition to and not in limitation of the rights of the heavy duty wrecker owners to participate on a rotating basis on the light duty call list.

**§390-14. EXCEPTIONS.**

- A. Nothing in this chapter shall apply to persons who pick up disabled vehicles outside the Township and are in the course of taking the vehicles to a garage either within or outside the Township. This chapter shall not apply to persons whose principal place of business as wreckers is outside the Township who come into the Township to pick up a disabled vehicle under contract for hire with any person engaged in the trucking or transportation business or in the operation of fleets of vehicles, or to wreckers hired by motorists without the assistance and/or involvement of the Police Department.

**§390-15. PUBLIC ACCESS TO FEE SCHEDULES.**

- A. The Township Clerk shall make available all fee schedules and regulations applicable to towing for public inspection during regular business hours.

**§390-16. EFFECTS ON RIGHTS OF MOTOR VEHICLE OWNER.**

- A. Nothing in this chapter shall abrogate or in any way diminish the rights of the vehicle owner to make his own selection of a wrecker, except where the vehicle presents a real and immediate hazard to the public safety.

**§390-17. VIOLATIONS AND PENALTIES.**

Definitions

- a. Suspension – Defined as the temporary removal of the wrecker company from the police rotation list as well as any other municipal tows. Duration may be a minimum of 1 day and as much as 1 year
  - b. Revocation – Defined as the immediate termination of the current license to tow as a police rotation list tow company as well as any other municipal tows. This termination shall have a duration of the remaining current year plus one full calendar year. The revoked license will not be reinstated, the wrecker company will have to reapply.
- A. Any person found in violation of this act shall be subject to suspension or revocation of their tow license.
  - B. Suspension or revocation shall be based on the nature and frequency of the offense.
  - C. No suspension or revocation shall be served until such a time that all appeals have been exhausted or the time limits have expired.

**§390-18. SEVERABILITY.**

- A. If any section, paragraph, subsection, clause or provision of this chapter shall be adjudged by the Courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged, and the remainder of this chapter shall be deemed valid and effective.

**SECTION II**

Each clause, section or subsection of this ordinance shall be deemed a separate provision to the intent that if any such clause, section or subsection should be declared invalid, the remainder of the ordinance shall not be affected.

**SECTION III**

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed as the extent of such inconsistency.

**SECTION IV**

This ordinance shall take effect immediately upon adoption and publication according to law.

**ORDINANCE NO. 3636**

This is a true copy of an ordinance adopted by the Township Council, Township of Franklin, Somerset County, New Jersey.

Introduced: September 12, 2006

Published: October 10, 2006

Public Hearing:

Adoption:

Published:

Effective Date:

---

Ann M. McCarthy, Township Clerk