

BOROUGH OF KENILWORTH  
ORDINANCE NO. 2013 – 04

**AN ORDINANCE OF THE BOROUGH OF KENILWORTH AMENDING  
THE EXISTING CHAPTER 181A known as the "Towing, Road Service and  
Storage of Motor Vehicles Ordinance of the Borough of Kenilworth"**

BE IT HEREBY ORDAINED by the Borough Council of the Borough of Kenilworth in the County of Union and the State of New Jersey as follows:

Chapter 181A-2 through Article 181A-30 of the Kenilworth Borough Code is hereby deleted after adoption and publication as provided by statute and replaced by the following amendment:

**NONCONSENSUAL TOWING OF MOTOR VEHICLES  
(Public & Private Property Towing and Storage)**

**§ 181A-1 Purpose:**

The purpose of this Ordinance amending Chapter 181A is to promote the public safety and welfare within the Borough and to update the Borough's towing laws to the Statutes and Regulations of The State of New Jersey for the Nonconsensual Towing of all Motor Vehicles from and within the Borough of Kenilworth. In addition to the foregoing purpose, this chapter establishes mercantile licensing and rules and regulations associated with, the towing and storage of motor vehicles from public roadways and private property from within the Borough of Kenilworth when the services are not contracted for by the owner, operator or designated agent for the vehicle.

This ordinance is only applicable to vehicles towed without the consent of the owner or driver when the tow is initiated within the Borough of Kenilworth.

**§ 181A-2 Definitions.**

The following terms, phrases, words, and their derivations shall have the meanings stated in the Predatory Towing Prevention Act as may be amended unless their use in the text of this of Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

**ABANDONED VEHICLE**

A motor vehicle which the owner or operator leaves on a public roadway or municipal parking lot and fails to notify the police or does not attempt to repair and remove the same within a four day period of time.

**ACCIDENT VEHICLE**

A motor vehicle which has been involved in an accident.

### **AUTO BODY REPAIR**

A facility that performs Auto body repairs and is licensed to do so by the State of New Jersey for automobiles and/or sport utility vehicles.

### **APPLICATION**

The application form to Tow within the Borough shall be drafted by the Director and the Borough Attorney. The application shall be presented to the Governing body for comments prior to its actual use.

### **AUTHORIZED AGENT OF THE OWNER**

Any individual who is not the owner who provides sufficient proof of authority, provided by the owner, to represent the owner's interests with regard to a motor vehicle, inclusive of and lien holder or insurer of the vehicle.

### **BASIC TOW**

The towing of a vehicle at the request of the Kenilworth Police Department or Kenilworth Department of Works or Kenilworth Fire Department to the towing service's storage site from the point of call or to Borough Hall from the storage site. Mileage may not be charged.

### **BID AMOUNT**

The bid amount for the lowest bidder shall be calculated as follows: The BASIC TOW CHARGE plus 0.5 times the daily storage charge for a LIGHT DUTY TOW

### **BOROUGH**

The Borough of Kenilworth.

### **DCA**

New Jersey Department of Community Affairs

### **DIRECTOR**

The Director shall be the designated Traffic Officer from the Police Department. In the event of any conflict of interest or the Traffic Officer is not available within a few days, a temporary alternate Director shall be appointed by the Chief of Police after obtaining the consent from the Mayor.

### **DISABLED VEHICLE**

Any motor vehicle which is unable to operate under its own power or may not be able to operate safely due to mechanical problems.

### **HEAVY-DUTY TOW**

The recovery of any motor vehicle over 12,000 pounds' gross vehicle weight

### **IMPOUNDED VEHICLE**

A vehicle which, at the discretion of the Police Department, is taken into police custody because the operator of the vehicle was engaged in a violation of the law.

### **LICENSED TOWING SERVICE**

A business engaged in the non-consensual towing of motor vehicles within the Borough which has registered with the Borough of Kenilworth and been provided a mercantile towing license by the Borough Council.

### **LICENSEE**

A towing service which has been provided a municipal towing license by the Borough.

### **LIGHT-DUTY TOW**

The recovery of all vehicles 12,000 pounds' gross vehicle weight or less.

### **MOTOR VEHICLE**

All vehicles propelled otherwise than by muscular power, including trailers and recreational campers, excepting such vehicles as run only upon rails or tracks and motorized bicycles in excess of the power required by the State of New Jersey to be registered.

**MUNICIPAL TOWER(S)**

Any tower licensed by the Borough to tow motor vehicles at the request of the Police, Fire Department or Department of Public Works for the Borough of Kenilworth.

**OWNER**

The registered titleholder of a motor vehicle.

**POLICE TOW**

Any tow initiated by the Borough or a Police Department performing its duty within the Borough.

**PRIVATE PROPERTY TOWER(S)**

Any tower that removes motor vehicles from private property without the consent of the owner, operator or agent of the owner.

**RELEASE**

No vehicle that has been impounded by Order of the Police Department shall be permitted to be removed from the custody of the Tower without a Written Authorization from the Police Department.

**RETURN TOW**

If requested by the owner or owners authorized agent, this is a tow from the storage yard of the licensed Towing Service back to the Borough's municipal lot adjacent to the Borough's Detective Bureau or any other location within the Borough that is owned or controlled by the towing service so as to permit the orderly transfer back to the owner or the owner's agent within fifteen minutes of the vehicle being returned. The Tower may not charge this return service back to the Borough. Return Tows are not required if the vehicle is stored within the Borough and the Towers office is within the Borough.

**STORAGE RATES**

The fees charged for the storage of vehicles, assessed as required in this chapter.

**TOWING RATES**

The flat fees charged by the towing service for recovery of a motor vehicle from the initial site to the secured storage yard.

**TOWING SERVICE**

A business engaged in the towing and storing of motor vehicles.

**TOWING VEHICLE**

A motor vehicle employed by a towing service for the purpose of towing, transporting, conveying or removing motor vehicles from public roadways, public parking lots or private property. With authorization for the release of motor vehicles towed by the Borough shall be authorize by the police dispatcher at all hours. Upon providing insurance, drivers license, and authorization of owners, provided the vehicle is not being held as part of an ongoing violation.

**SECTION § 181-A3 Minimum Standards Applicable to all Nonconsensual Tow**

**Operators within The Borough:** All tow operators engaged in nonconsensual towing or recovery of motor vehicles, inclusive of the Municipal Tower shall comply with all of the minimum requirements mandated by the regulations promulgated by the State of New Jersey

Department of Consumer Affairs (DCA) as may be further amended.

**Paragraphs preceded with an "MT" shall only be applicable to Municipal Towers and those paragraphs preceded with "PT" shall only be applicable to Private Property Towers.**

**§ 181-A3-1 Towing Service Licensing and Registration.**

- A.** No entity or individual shall operate a towing service for nonconsensual towing initiated within the Borough limits unless such entity or individual shall have obtained a towing license issued by the Borough Clerk of the Borough of Kenilworth, in accordance with this chapter.
- B.** No license shall be issued without first having the Director inspect the applicant for compliance with this Ordinance. The applicant inclusive of any officer, director, limited liability member or stockholder with control or ownership (directly or indirectly) hold an excess of 9% ownership who has a conviction for a crime under title 2C of the New Jersey State Statutes other than a DP offense within the prior two years or has been found by a Court of Law to have violated New Jersey's Consumer Fraud Act.
- C. (MT)** The Borough shall a license towing services every odd number year as a Municipal Tower provided the tower has no less than two flatbed (trucks) towing vehicles for the exclusive use of the applicant or one flat bed and one wheel lift tow truck and may under and agreement be entitled to use a HD town truck.
- D.** This section deleted for future use.
- E. (MT)** Application for a towing license shall be made and provided to the Borough Clerk during odd numbered years on or before August 1<sup>st</sup>. Licenses shall be for a two year period and will continue until a new license is awarded. Application shall be made on forms provided by the Clerk which shall be made available after publication on the Borough's Website and in an official Newspaper. Bids are to be accepted for the lowest bidder for the services required in compliance with local public contracts law for the State of New Jersey. No late applications shall be accepted.

**§ 181-A3-2 License requirements for Municipal Towers.**

- A. (MT).** No towing license shall be supplied to a towing service unless that service meets the following criteria:
  - (1)** Light-duty towing services must have and utilize a storage site located less than 1.0 aerial miles from the Borough's border and maintains as part of their regular business an auto body repair facility for vehicles that were in an accident within the Borough.
  - (2)** Towing services must provide proof of ownership or similar property rights for property with all municipal real estate taxes paid for the prior year, a certificate of zoning compliance and/or a certificate of occupancy for any and all storage sites to demonstrate

control over the site as well as to demonstrate that the site and the proposed use on the site complies with all zoning, building codes and security.

- (4)** Towing services must maintain insurance at or above the requirements described in N.J.S.A. 56:13-12 and list the Borough as an additional insured. The Towing Service agrees to indemnify the Borough from any claim related to the Towing Service.
- (5)** Towing services must provide evidence of all towing equipment that may be utilized in servicing the Borough of Kenilworth, demonstrating current motor vehicle registration, motor vehicle licensing and vehicle insurance.
- (6)** Towing services for Municipal Towing must provide evidence of ownership or a lease of at least one flatbed and one wheel lift or two flatbeds.
- (7)** Towing services must provide a statement of corporate ownership and a stockholder disclosure statement with a personnel guarantee for all obligations of the applicant by anyone with ten percent or more ownership.
- (8)** Towing services must provide such other items as the Director shall reasonably require, in his or her sole discretion and specified in the bid documents.
- (9)** Towing services must provide a list of all service representatives engaged in the towing, storage and releasing of vehicles that are employed by the entity.
- (10)** Towing service providers must certify that they will operate their storage site when vehicle towed from the Borough and are so maintained in accordance with the regular business hours and after-hours required by State Law or regulations for non consensual tows
- (11)** Towing service for the Borough must certify that they agree to provide towing services 24 hours a day, 365 days a year, within 15 minutes of being summoned. Heavy duty response time is 30 minutes. When the Towing Service is currently serving the Borough with an existing recovery, the time for each of the foregoing calls may be increased by 15 minutes.
- (12)** All applicants agree to maintain the following during the term of the license:

  - (a)** Tow truck drivers shall have and maintain a valid driver's license for the tow vehicle that they operate.
  - (b)** When conditions warrant additional experience of training or licensure, drivers that operate heavy-duty wreckers shall have the following endorsements on their commercial driver's license:

    - [1]** Hazardous materials endorsement.
    - [2]** Multiple trailer endorsement.

**(c)** By January 1, 2020, all Heavy duty tow truck drivers shall maintain the following:

**(13)** The tower shall provide a secure fenced in lots with sufficient space for thirty (30) or more vehicles exclusive for the use by and for vehicles towed for the Borough.

**B.** Failure to supply all required material will render an applicant unqualified for a license. Such failure shall have no effect on the same towing service's ability to qualify for a license in subsequent years.

**C.** No sworn member of the Borough of Kenilworth Police Department, Fire Department or Public Works Department shall be permitted to own or be employed by any towing service licensed by the Borough.

**D.** Each application for a license shall be accompanied by an administrative fee of seven hundred dollars \$700.00, payable to the Borough of Kenilworth, which fee shall be in addition to any other fees, including but not limited to fees for criminal background checks. Any applicant or any of the applicant's drivers may not have a conviction based upon drugs, NJSA 39:4-50 or failure to have motor vehicle insurance within the prior two years. Said fee shall be held by the Borough until such time as licenses are granted. Any applicant who does not qualify for a license, and any applicant who qualifies but does not receive a license as a result of bid results, when applicable, shall have one half of the administrative fee returned.

**E.** Each application for license to tow vehicles for the municipality shall include a business registration certificate (BRC) from the State of New Jersey, and emergency light Amber license from the State of New Jersey and an employee information report (form AA 302).

### **§ 181-A3-3 License requirements for non consensual Private Property Towers.**

**A. (PT)** No towing service shall engage in non consensual Private Property Towing within the Borough unless granted a license by the Borough Council. No towing license shall be supplied to a towing service unless that service meets the following criteria:

**(1)** The towing services must have and utilize a secured storage site located less than 10 aerial miles from the Borough's Police Department.

**(2)** Towing services must provide proof of ownership or similar property rights for property with all municipal real estate taxes paid for the prior year, a certificate of zoning compliance and a certificate of occupancy for any and all storage sites to demonstrate control over the site as well as to demonstrate that the site and the proposed use on the site complies with all zoning and building codes.

**(3)** Towing services must maintain insurance at or above the requirements described in N.J.S.A. 56:13-12 and as specified above for MT.

- (4)** Towing services shall provide evidence of all towing equipment that may be utilized in servicing private property locations within the Borough of Kenilworth, demonstrating current motor vehicle registration, motor vehicle licensing and vehicle insurance.
- (5)** Towing services shall provide a statement of corporate ownership and a stockholder disclosure statement.
- (6)** Towing service providers shall certify that they will operate their storage site when vehicle towed from the Borough and are so maintained in accordance with the regular business hours and after-hours required by State Law or regulations.
- (7)** Once a vehicle that is being towed without the owner's consent from private property, the tow operator shall immediately report to the Kenilworth Police Department prior to taking it to their storage yard and shall advise the dispatcher on duty of the make, model and plate number of the vehicle being towed and to where the vehicle is being taken for storage. The tow operator shall leave with the dispatcher a business card for the tow service at that time.

- B.** Applications are to be made available from the Borough Clerk. Within thirty days after a completed applications has been inspected and approved by the Director.
- C.** No sworn member of the Borough of Kenilworth Police Department, Fire Department or Public Works Department shall be permitted to own ten percent or more of any towing service licensed by the Borough for Private Property Towing.
- D.** In addition to the aforesaid license, each application for a license shall be accompanied by an administrative fee of \$250.00, payable to the Borough of Kenilworth, which fee shall be in addition to any other fees, including but not limited to fees for criminal background checks.

**E.** Private property towing license shall expire 24 months after being issuing.

**§ 181-A4 Investigation of applicants for license to do Private property towing.**

- A.** The Director has the authority to investigate each applicant for a towing license to determine whether the individual or entity is of good moral character and to determine whether the vehicles and equipment of the entity or individual are in such condition that they can be operated in a safe and efficient manner.
- B.** The Director shall have the right to investigate the driving history, criminal background and financial stability of any individual or entity applying for an annual towing license.
- C.** Any negative history relating to an applicant (inclusive of the owners, officers or members of the business) which is 2 years or older may at the Director's reasonable discretion not be considered as part of the investigation but if older than five years, from the date of any conviction shall not be considered.

**§ 181-A5 Required display of information for both (MT) and (PT) Vendors**

**A.** Each licensed tower shall be required to make the following available in every towing vehicle:

- (1)** The towing service's schedule of fees.
- (2)** The phone number of the tower, Borough's Police Department and the DCA phone number.

**B.** Each licensed tower shall be required to visibly display the following information on the exterior of every towing vehicle:

- (1)** The towing service's name.
- (2)** The towing service's phone number.
- (3)** The municipality where the storage yard or main office of the tower is located.

**§ 181-A6 Towing license transferability.**

No towing license shall be transferred from the entity or individual named on the initial application except upon proper application to the Director and prior written approval of the Director with the approval of the Borough Council. Transfers shall only be considered for approval upon death of an individual licensee or upon sale of 60% or more of a business.

**§ 181-A7 Schedule of the maximum allowable fees.**

**A.** Licensed towing services may charge fees to vehicle owners for the following services:

- (1)** Basic tow, which shall be a maximum flat fee of \$150 for light-duty tows and \$750 for heavy-duty tows.
- (2)** In the case of a motor vehicle involved in an accident, the following additional services, if actually performed:
  - (a)** Waiting time in excess of 15 minutes, which shall be calculated based upon each 15 minutes spent at the call site from which a motor vehicle will be towed, with fewer than 15 minutes rounded up to 15, which shall be a maximum fee of \$25.00 per 15 minutes.
  - (b)** Brush cleaning, including collection of debris that can be picked up by hand, which shall be a maximum flat fee of \$25.
  - (c)** Site cleanup, which shall be calculated based upon the number of bags of absorbent used, at a maximum rate of \$35 per bag.
  - (d)** Winching, which shall be based upon each 1/2 hour spent performing winching, which shall be at a maximum rate of \$50 per 1/2 hour for light-duty vehicles and \$200 per 1/2

hour for heavy-duty vehicles. Winching fees shall only be applicable to tows when the vehicle is not accessible so that may not be placed on the flatbed directly.

- (e)** The use of window wrap, which shall be a maximum flat fee of \$30 per window.
- (f)** Tarping, which shall be a maximum flat fee of \$50.
- (g)** Transmission disconnect, which shall be charged only if a motor vehicle is locked and the towing company is unable to obtain the keys for the motor vehicle, which shall be a maximum flat fee of \$40.
- (h)** Use of a flatbed tow truck, which shall be charged if a motor vehicle can be transported only by a flatbed tow truck, which shall be a maximum flat fee of \$150.
- (i)** Use of special equipment other than the first tow truck to recover a motor vehicle that cannot be recovered by winching or pieces of a motor vehicle that cannot be moved by hand, which may be both a labor and an equipment charge billed in half-hour increments at \$65 per 1/2 hour.
- (j)** Decoupling, which shall be a maximum flat fee of \$75. This fee is only applicable if the tow charge is waived.
- (k)** Storage at a towing company's storage facility, which shall be at a maximum daily (24 hours) rate of \$30 for light-duty tows and \$100 for heavy-duty tows. If the heavy duty tow is for a tractor – trailer combination, then the total charge is \$150
- (l)** More than three trips to the motor vehicle in storage by the owner, owners representative, and insurance carrier, which may be invoiced as an administrative fee by the towing service, which shall be a flat fee of \$50 per trip for each additional access.
- (m)** Releasing a motor vehicle from a towing company's storage facility after the required business hours, shall include an additional maximum flat fee of \$40. If the person requesting the release of the motor vehicle has all the required documents for the release of the vehicle and the tower fails to release the vehicle after being placed on notice by the police department that they will be retrieving the vehicle at a particular time, within an hour after recent notice, then the tower agrees to waive all fees for the tow, storage and recovery of the vehicle. If the person fails to appear for the vehicle at the designated time (within 20 minutes) after normal hours, the \$40 charge shall be added to the cost of the retrieval during regular business hours.

**B.** A licensed towing service that engages in nonconsensual towing from the Borough may not charge for the tolls it incurs driving to the site from which a motor vehicle will be towed and while towing the motor vehicle from that site to the towing company's storage facility. No towing service may use the New Jersey Parkway in conjunction with the service provided under this license unless authority to do so has been granted by the turnpike authority.

**D.** A licensed towing service that engages in private property towing from property within the Borough shall calculate storage fees based upon full twenty-four-hour periods a motor vehicle is in the storage facility. For example, if a motor vehicle is towed to a storage facility at 7:00 p.m. on one day and the owner of the motor vehicle picks up the motor vehicle before 7:00 p.m. the next day, the towing company shall charge the owner of the motor vehicle only for one day of storage. If a motor vehicle is stored for more than 24 hours, but less than 48 hours, the towing company may charge for two days of storage. However, time shall not begin to accrue for purposes of calculating storage fees until 12:00 midnight next following the time the vehicle reaches the storage site.

**E.** A towing company performing a private property tow or other nonconsensual tow shall take the motor vehicle being towed to the towing company's storage facility as registered with the Borough.

**F.** The bill for any tow allowed herein shall include the time at which a towed motor vehicle arrived at the towing service's storage site, the time the request was initiated, the time the tow truck operator came to the site of the tow and the date and time the vehicle was retrieved.

**G.** In addition to the fees allowed to be charged against towed vehicles within this section, the Borough shall charge a twenty five dollar (\$25) administrative charge for the release of the vehicle which is to be collected by the Tower and paid to the Borough monthly with an accounting of the number of tows, the itemized statement and additional information as may be reasonably required by the Director to insure compliance with the ordinance.

**H.** A towing company engaged in Private Property Towing consents to provide a Return Tow during normal business hours on Monday thru Friday for light duty tows for an additional charge equal to the Basic Tow Rate permitted provided the payment is rendered in full by credit/debit card or cash at the Tower's office or via telefax to the tower with all the required information to effectuate the charge. Any individual that fails to honor a charge on a credit card made in payment for the services rendered by the tower may be charged under Title 2C of the New Jersey Statutes with a theft of services or theft by deception in the municipal court for the Borough. All towing charges must be paid unless waived by the Tower.

#### **§ 181-A8 Additional rules and regulations.**

**A.** All persons operating a towing vehicle within the municipality, and all their agents, shall keep in their possession business cards with the name of the company and the address of the place of business and the telephone number along with the hours of operation.

**B.** The bill shall contain the following information:

**(1)** Full name, address and business telephone number of the towing service.

**(2)** Full name of the person engaging the towing vehicle.

**(3)** State registration number or license plate number of the vehicle being towed.

**(4)** Address of the storage site to which the vehicle will be towed.

**C.** (MT) Licensees shall not furnish estimates of the cost of repairs to vehicles at the site of the accident.

**D.** (MT) Licensees shall not make any repairs or cause any repairs to be made at the site of an accident, unless such repairs are necessary to effectuate the towing of the vehicle.

**E.** All bills for services, estimates and contracts relating to the towing of vehicles by licensees shall be in writing and shall conform to the provisions of this chapter and state law. No oral agreements shall be made with vehicle owners or authorized agents of owners.

**F.** The licensee shall keep an accurate record of all towing calls made at the request of the Borough. The Borough shall be provided with a copy of all bills and invoices relating to the licensee's services to the Borough for the preceding month on or before the second Monday of the month along with the administrative fee

**G.** The Borough shall have no financial responsibility for the services provided by towing services within the Borough, unless provided for in N.J.S.A. 56:13-7 or N.J.A.C. 13:45A-31.1.

**H.** Towing services operating within the Borough shall abide by all state statutes, rules and regulations, and any violation of a state statute, rule or regulation shall be considered a violation of this chapter which may affect the rights of the licensee.

**I.** The licensee shall maintain records of all vehicles towed, stored and released by it. Records shall be kept for a four-year period. These records shall include the name of the Borough of Kenilworth employee summoning the licensee, name of towing employee, the date and time of tow-in, destination towed, vehicle tag number and state, vehicle identification number, make, model, color and year of vehicle, itemized charges to the owner of the vehicle and the disposition of the vehicle and date thereof.

**J.** [MT] The towing operator shall maintain a record of all property found anywhere in the towed vehicle, including the trunk and glove compartment when open and/or where a key is available.

**K.** The Director shall, upon request, have immediate access to any and all of the required records during normal business hours during the week.

**M.** The licensee must permit payment of fees by the use of at least two major credit cards. The Borough will not be held liable for, or assist the licensee in, the collection of any unpaid fees that were incurred under the provisions of this chapter. Any individual that fails to honor a charge made on a credit card in payment for the services rendered by the tower may be charged under Title 2C of the New Jersey Statutes with a theft of services or theft by deception in the municipal court for the Borough.

**N.** Any vehicle that remains in the custody or control of the tower for more than five business days shall be reported to the Director in writing before the 8<sup>th</sup> business day. This obligation applies to all Non-Consensual tows.

**§ 183A-9 Enforcement.**

The provisions of this chapter shall be enforced by the Kenilworth Police Department.

**§ 183A-10-1 . Suspension or revocation of license: effect on future license applications.**

**A.** In addition to any other penalties set forth within this chapter or under other Borough ordinances or under state laws for violations by licensees, the Director may recommend to the Police Committee of Borough's governing body suspension or revocation of license, after notice and an opportunity to be heard, suspend a license for a period of no less than one week nor more than five weeks or for continued violations after a period of suspension revoke any license for any remaining period or any portion thereof. .

**B.** For severe violations and/or recurring violations, the Director may, after notice and an opportunity to be heard before the Police Committee of the Borough Council, revoke any license and, in addition, use such violation as the determining factor for refusing to approve subsequent annual applications for a period up to of non less than one month, but no more than 12 months.

**C.** Hearings held before the Police Committee shall be open to the public and held within ten business days unless an adjournment is requested by either party for up to ten additional days.

**D.** If a tower for the municipality has the license revoked, the Director shall within 30 days advertise for a towing company within 15 days and thereafter within 20 days after publication take bids for a replacement tower to serve the municipality no less than one year but no more than three years so as to permit the bidding of the municipal tow license again in conformity with the odd number year schedule set forth above.

**§ 183A-10-2 . Violations and penalties.**

**A.** Unless otherwise specified herein, any individual and/or entity violating any provision of this chapter shall, upon conviction thereof before the Municipal Court, be subject to a fine not exceeding:

**(1)** For the first offense: no less than \$50 and up to \$100 in any calendar year.

**(2)** For the second offense: not less than \$100 nor more than \$500 in any calendar year.

**(3)** For the third or subsequent offense: not less than \$500 nor more than \$2,000 and/or imprisonment for a period not exceeding five days, or both.

**B.** The actual amount of each penalty shall be determined by the sound discretion of the Municipal Judge. In addition to the aforementioned penalties, and as provided for herein, violations of this chapter may subject the license to suspension or revocation as provided for

herein and the violation may be reported to the Attorney General responsible for predatory towing.

#### **§ 183A-10.3 Simple Disputes as to Charges**

Prior to bringing any formal complaint before the municipal court or the Department of Community Affairs for inadvertent disputed charges, the charged party disputing any charge must notify the Director within 15 days of payment having been tendered. Thereafter, the Director shall investigate the basis of the dispute and make a nonbinding recommendation to the Tower within 15 days. If the complainant accepts the payment as recommended by the Director, then the complainant formally waives any further action or claim against the Tower.

#### **§ 183A-11. Severability:**

Each section, subsection, sentence, clause and phrase of this Article is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Article to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Article.

#### **§ 183A-12. Repealer:**

All Borough ordinances and parts of ordinances that are inconsistent with this ordinance are hereby repealed.

#### **§ 183A-13. Effective date:**

The existing tower for the municipality shall continue to serve the Borough with the above rate schedule until this Ordinance shall be in full force and effect. This ordinance is effective after its adoption and its publication as required by law.

Introduced: \_\_\_\_\_

Adoption: \_\_\_\_\_

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Mayor Kathi Fiamingo

ATTEST: \_\_\_\_\_

Hedy Lipke  
Borough Clerk