

**Repeal and Recreate Chapter 9, Article XIII, Division
3. ROTATING CALL LIST TOWING SERVICES**

Sec. 9-746. Finding and purpose.

It is the finding of the Common Council that the existence of a rotating call list comprised of eligible towing companies is essential to public convenience and safety and for the efficiency of the police department. The purpose of a rotating call list is to provide the police department with a list of approved and eligible towing companies capable of towing a citizen's vehicle in times of need. Such times include, but are not limited to:

(a) Traffic accidents where the vehicle's owner/operator does not express a preference for a towing service or the towing service of their choice is not available;

(b) Disabled vehicles and vehicles posing a hazard, in the discretion of the police department, where the vehicle's owner/operator does not express a preference for a towing service or the towing service is not available;

(c) Illegally parked vehicles, including vehicles parked in violation of temporary parking restrictions due to a special event; and

(d) Vehicles towed subsequent to an arrest.

Sec. 9-747. Definitions.

When used in this Article, the following words, terms and phrases shall have the following meanings ascribed to them except where the context clearly indicates a different meaning:

Assignment means a call from the Outagamie County Public Safety Communications Center to a towing company on the rotating call list requesting towing services resulting in the towing company going to tow a vehicle.

Class "A" wrecker or **wrecker** means a wrecker unit with an accepted commercially manufactured wrecker apparatus, single- or twin-boom, equipped with a mechanical or hydraulic power supply and dual rear wheel units with a minimum gross vehicle weight (GVW) of 10,000 pounds and having a minimum unit rating of four-ton capacity as rated by the manufacturer. The wrecker apparatus shall be attached to a motor vehicle truck chassis in

conformance with wrecker apparatus recommendations for truck chassis gross vehicle weight not less than 10,000 pounds GVW. The wrecker unit shall be considered as a whole for compliance with this definition and no exception shall be allowed.

Fee schedule is the schedule approved by the Common Council and on file with the City Clerk that lists the maximum fees a towing company may charge a customer for providing services related to this Article.

Flatbed tow truck means a hydraulic fill rollback bed truck, commercially manufactured and rated by the manufacturer to have a minimum winch capacity of not less than four tons by direct pull with accepted manufacturer rating. The rollback flatbed shall be attached to a truck chassis in conformance with the manufacturer's recommendations with a chassis manufacturer rating of not less than 10,000 pounds GVW and a minimum bed length of 19 feet. The unit shall be capable of and rated for a bed payload minimum of 7,000 pounds as commercially manufactured and rated. The flatbed unit shall be considered as a whole for compliance with this definition and no exception shall be allowed except as otherwise provided herein.

Notice, from the police department to a towing company, shall be deemed delivered to the company upon the notice being hand delivered to the owner or registered agent of the company or, if mailed, within three (3) business days after the date the notice was mailed.

No tow means the vehicle's owner/operator moved the vehicle prior to the towing company partially towing or removing the vehicle.

Partial tow means a towing company placed a vehicle to be towed onto their flatbed tow truck or wrecker but the vehicle's owner/operator took possession of the vehicle prior to the vehicle being removed.

Place of business means a location in the corporate city limits of the city of Appleton that (1) the towing company has use of, by ownership or written lease, (2) has a storage facility, the company's primary telephone and telephone number, cellphones and/or two-way radios, a point of sale system, and all other equipment and personnel reasonably necessary for the company to perform its

obligations under this Article, (3) is open, accessible and staffed as required in this Article, (4) has a single dedicated phone number available to the Appleton Police Department, and (5) has a sufficient number of employees to operate all of the necessary equipment pursuant to this Article at any time.

Regular business hours are the minimum hours a place of business must be open to the public for the retrieval of their vehicle or personal belongings, being Monday through Friday, from 7:00 a.m. until 5:00 p.m., and Saturdays, from 7:00 a.m. until 12:00 noon. Regular business hours do not include legal holidays.

Rotating call list or list means the list of approved towing companies that take turns responding to an assignment.

Storage facility means a fenced-in, lighted, locked yard or secure indoor storage area in the corporate city limits of the city of Appleton with at minimum one (1) working bay and a minimum storage capacity of fifteen (15) vehicles. The storage facility must conform to all building and zoning requirements and must be owned or exclusively leased by the towing company for such purposes.

Towing company or company means any company, firm, partnership, corporation, association or entity engaged in the business of the recovery and towing of motor vehicles on a full-time basis.

Wheel lift means an accepted commercially manufactured apparatus designed for the towing and recovery of motor vehicles by the towed unit's wheels/suspension. The wheel lift apparatus shall have a minimum manufacturer lift rating of 3,000 pounds while fully extended. The wheel lift apparatus shall be attached in conformance with manufacturer's recommendations for chassis mounting on a truck chassis having a manufacturer's rating of at least 10,000 pounds GVW. The wheel lift shall be considered an integral part of the wrecker apparatus considered as a whole for compliance with this definition and no exception shall be allowed.

Sec. 9-748. Eligibility.

To be eligible for placement on the rotating call list, a towing company must meet the following requirements:

(a) A State of Wisconsin Licensed Carrier Permit and any other licenses required by the State.

(b) Ownership or the exclusive lease of, at minimum, one (1) flatbed tow truck and one (1) class "A" wrecker equipped with a wheel lift.

- (1) Each vehicle must be registered, licensed and maintained in a safe and serviceable condition at all times, with proof available upon request.
- (2) Each vehicle must be insured at rates determined by the City of Appleton's Risk Manager, with proof on file with the City of Appleton.
- (3) Each vehicle must be inspected annually by a qualified technician, with proof available upon request.
- (4) Each vehicle must contain, at minimum, a two-way radio communication device and/or cell phone, a dolly, a broom, a shovel, a motorcycle belt, a snatch block and a steering wheel holder.

(c) A place of business in the corporate city limits of Appleton.

(d) Provide proof upon request that the company conducted a background check of their employees providing a service under in this Article, including responding to an assignment or providing the owner of a towed vehicle access to his/her vehicle.

(d) Provide upon request a true copy of the driver's license for each employee who operates a vehicle for the towing company.

(e) Towing companies on the rotating call list must agree to the following:

- (1) Grant the Appleton Police Department the right to inspect the place of business, equipment and vehicles without notice during regular business hours and with reasonable notice during non-business hours, and
- (2) Indemnify, defend and hold harmless the City of Appleton and its employees, elected and appointed officials, agents and volunteers from and against all claims, suits, damages, costs, losses and expenses (including attorney's fees) in

any manner resulting from, arising out of, or connected to being on the rotating call list.

- (3) Attend an annual meeting held by the Appleton Police Department.
- (4) Ensure that employees with convictions substantially related to their ability to provide safe, reliable and trustworthy service pursuant to this Article are prohibited from providing a service pursuant to this Article.

Sec. 9-749, Application, investigation, term.

(a) A towing company must apply to be on the rotating call list by completing a rotating call list application. Applications are available at the Appleton Police Department and are accepted year round.

(b) The Chief of Police or designee shall, within thirty (30) business day's receipt of an application, conduct an investigation to determine whether the company meets all of the requirements of this Article. If the towing company does not meet all of the requirements or if the company has been previously removed from the list pursuant to Sec. 9-758, the Chief of Police or designee may deny the application.

- (1) If the application is approved, the towing company will be placed onto the rotating call list within seven (7) business days.
- (2) If the application is denied, the company will be informed by the Chief of Police or designee in writing within seven (7) business days after the conclusion of the investigation.
 - a. A towing company may reapply one (1) additional time in a calendar year.
 - b. A denial shall not prevent the towing company from re-applying in subsequent years.

(c) All approved applications expire on December 1 of each year. Towing companies must reapply annually.

Sec. 9-750. Responsibilities.

(a) A towing company's place of business must be open to the public during regular business hours.

(b) A towing company must provide rotating call list services 24 hours a day, seven (7) days a week, including on legal holidays.

(c) Assignments shall be given to towing companies on a rotating basis.

- (1) Upon receiving an assignment, the towing company must provide prompt and efficient service. Unless emergency conditions dictate otherwise, as determined solely by the Chief of Police or designee, "prompt service" means the arrival of a wrecker within 20 minutes and/or the arrival of a flatbed tow truck within 25 minutes after receiving the assignment. In the event the towing company informs the Outagamie County Public Safety Communications Center the company will be unable to provide prompt service, the Communications Center may choose a different towing company from the list and the originally assigned company will be placed at the end of the list.
- (2) Assignments shall be deemed waived by the non-response or non-acceptance of an assignment by a towing company and that company will be placed at the end of the list.
- (3) If an assignment results in a no tow, the towing company shall not charge for the no tow and the company will be placed at the top of the list.
- (4) If an assignment results in a partial tow, the towing company may, in the company's discretion, charge for the partial tow at the rate provided for in Sec. 9-751(a). If the company does not charge, the company will be placed at the top of the list. If the company does charge, the company will be placed at the bottom of the list.

(f) In the event a towing company on an assignment needs assistance from another towing company, the request for assistance shall be made

only after consulting with the police officer on the scene and a request for assistance must be made by the police officer.

(g) During regular business hours, a towing company must immediately provide the vehicle's owner or designee access to any personal property contained in the towed vehicle, with the exception of components of the vehicle itself, such as license plates, tires, wheels, batteries, and radios, even if payment has not been made. During non-regular business hours the release of personal property to the owner or designee is at the discretion of the towing company with the exception of the following items, which must be released to the owner or designee within 45 minutes of the request: luggage (upon verification that the owner/operator is from out-of-town), medical devices, prescription glasses, prescription medication, perishable items and unfilled medication prescriptions.

(h) Towing company employees who are engaged in any activity described in this Article must:

- (1) Have a valid driver's license, if their position involves vehicle operation,
- (2) Be attired in a reflective safety vest when involved in a tow operation,
- (3) Conduct themselves in a professional manner,
- (4) Be properly trained, and
- (5) Work in the most efficient manner possible.

(i) Towing companies on the rotating call list must, within seven (7) business days, provide the Chief of Police or designee with information about:

- (1) New employees, if the employee will be involved in any activity described herein, and
- (2) A replacement to or addition of a wrecker and/or flatbed tow truck. New and replacement wreckers and/or flatbed tow trucks must not be used for towing vehicles on the rotating call list until approval for use has been provided by the Chief of Police or designee.

Sec. 9-751. Fees, payment.

(a) Towing companies must provide their services under this Article at rates not exceeding those on the fee schedule.

(b) On an annual basis, the Chief of Police or designee may recommend amendments to the fee schedule to the Common Council by way of the Safety and Licensing Committee.

(c) Towing companies shall charge only for equipment and time reasonably necessary for the service provided. There shall be no extra charge if a towing company responds to an assignment with the incorrect equipment.

(d) Towing companies shall charge the owner or operator of a vehicle, not the City of Appleton, for the services provided under this Article. A bill for service must include an itemized accounting of the services performed by the towing company. A copy of the bill for service must be retained by the towing company for the calendar year of issuance plus the next calendar year. Towing companies must provide the copy to the Chief of Police or designee immediately upon request.

Sec. 9-758. Suspension and revocation.

(a) In the event a towing company is no longer in compliance with any portion of this Article, the towing company must immediately notify the Chief of Police or designee who shall immediately remove the company from the list. Once the towing company returns to full compliance with this Article, the towing company may inform the Chief of Police or designee, at which time the towing company will be reinstated to the list upon verification by the Chief of Police or designee that the towing company is in full compliance.

(b) The Chief of Police or designee shall promptly investigate a report of a towing company violating any provision of this Article or any other rule, regulation, ordinance, statute or code. At the conclusion of the investigation, the Chief of Police or designee shall use his/her discretion to take any of the following actions:

- (1) Remove the towing company from the list,
- (2) Require corrective action within a certain timeframe and, if not corrected

in that timeframe, remove the towing company from the list,

(3) Issue a written or verbal warning, or

(4) Take no action.

(c) A towing company receiving two (2) written warnings in a calendar year shall be immediately removed from the rotating call list, with the suspension beginning on the date the towing company receives notice of the removal.

(d) A towing company may request a reconsideration of a decision made pursuant to this Article by putting the reason for the request in writing and submitting it to the Chief of Police. The Chief of Police or designee shall review the request and issue a written decision on the request within seven (7) business days. A towing company may appeal the decision of the Chief of Police or designee within ten (10) business days by placing the reason for the appeal in writing and delivering the appeal to the City Clerk. The appeal will be heard and decided by the Common Council by way of the Safety and Licensing Committee.