

City Council Workshop

Agenda Item #3

January 27, 2014

Amending Chapter 15, Regarding
Wreckers and Vehicle Towing

The City Council discussed proposed amendments to Chapter 15, regarding wreckers and vehicle towing at its November 13, 2013 workshop.

The amendments discussed at that workshop were in the following sections:

Sec. 15-270 Definitions

Sec 15-271 Minimum Continuous Regulations

Sec 15-273 – Rates for Services

Sec 15-279 Investigation: Issuance or Denial

The City Council shared concerns regarding the rates for services and requiring licensees to forward copies of receipts on a monthly basis for all services provided. Included is a memorandum from Police Chief Ed Googins in response to these concerns.

This item is brought forward for further discussion. Police Chief Ed Googins, Sgt. Todd Barlow and License Administrator Jessica Hanscombe will be at the workshop to answer any questions.


City Manager



POLICE DEPARTMENT

EDWARD J. GOOGINS
CHIEF OF POLICE

AMY J. BERRY
DEPUTY CHIEF

To: James Gailey, City Manager
From: Edward J. Googins, Police Chief
Date: November 22, 2013
Ref: Wreckers and Vehicle Towing Ordinance Revisions

The following information is in response to concerns raised by some members of the City Council during the workshop on November 13th regarding the proposed revisions to the Wreckers and Vehicle Towing Ordinance.

The first concern was the proposed rates. These rates were derived after input was received from the towing businesses that are presently on the list and a review of rates charged in the greater Portland area for similar services requested under similar ordinances. The rates from Portland, Scarborough, Westbrook, Saco and Biddeford are as follows:

	Portland	Scarborough	Westbrook	Biddeford	Saco	<i>PROPOSED</i> So Portland
Tow fees	\$85 \$95 (accident) \$85 (snow tow) \$85 (2 nd tow) \$105 (rear dual wheel) \$25 (hooked up/drop)	\$65 (day) \$75 (night) \$75 (snow tow day) \$85 (snow tow night)	\$70 (weekdays7AM-7PM) \$80 (nights7PM-7AM) \$80 (weekends/holidays)	\$90 (6AM-9PM) \$105 (9PM-6AM)	\$90 (7AM-8PM) \$105 (8PM-7AM)	\$85 \$100 (crash)
Storage fee	\$25 (per day)	\$25 (per day)	\$30 (per day)	\$50 (per day)	\$30 (unsecure) \$40 (secure outdoors) \$50 (secure indoors)	\$30 per day
After hours release fee	\$25 (7PM-7AM -7days a week) \$25 (7AM-7PM -weekends/holidays)	\$25	\$40			\$25 (night, weekend, holiday)
Difficult extraction		\$70 per hour	\$80 per hour (or clean up)	\$85 per hour	\$85 per hour	\$70 per hour
Service Call		\$25-\$40				
Pull out		\$40-\$85				
Use of dolly				\$25		

Our proposed changes bring our ten year old rates in line with what other communities are charging.

The second issue had to do with new language requiring licensees to forward copies of receipts on a monthly basis for all services provided under this ordinance. After further consideration, it seems this is the most effective way for the department to insure compliance with this ordinance

without creating a structured audit process that would be unnecessarily burdensome on those involved. As a basic business practice, these businesses should be providing receipts to individuals as services are paid for. The easiest and best time for those to be photocopied or to print a duplicate copy is at the time of payment. I had mentioned during the workshop that I thought we could randomly request from the businesses several times a year copies of receipts for a previous month. This would require a more structured auditing process and would require more staff time than just reviewing receipts as time allowed. It is important to remember we are requesting this to prevent issues that we were faced with earlier this year and verify the ordinance is being followed.

I have attached the two notices of decision that were issued by the City Clerk in April and May after a citizen complaint on overcharging was investigated and a limited audit was conducted. These documents illustrate the issues we are trying to prevent in the future. When we conducted our audit, it was very difficult to obtain sufficient information even though a short period of time had passed.

Please advise how you would like to proceed on the scheduling of another workshop. I have spoken to Licensing Administrator Jessica Hanscombe who will make herself available to answer questions and I can also notify Sgt. Barlow to attend.



**OFFICE OF THE
CITY CLERK**

SUSAN M. MOONEY
City Clerk

JESSICA HANSCOMBE
Licensing Administrator

KAREN L. MORRILL
Assistant City Clerk

NOTICE OF DECISION

May 31, 2013

ARCEE, LLC
d/b/a S & R Towing
c/o Curtis Gleason, Member
1129 Broadway
South Portland, ME 04106

ARCEE, LLC
d/b/a Intown Road Service
c/o Rin Ann, Member
C24 Juniper East
Yarmouth, ME 04096

Re: **Towing/Wrecker Business License Suspension**

Dear Curtis and Rin:

On May 30, 2013, I conducted a hearing pursuant to Sec. 15-283 of the South Portland Code of Ordinances. The hearing was on whether I, as the City Clerk, should suspend or revoke towing/wrecker business licenses of ARCEE, LLC d/b/a S & R Towing and Intown Road Service based on complaints forwarded to me by the Police Department. The Police Department complaints are based on an audit of the South Portland Police Department requested tows for the time frame of 01/01/13 through 04/11/13 (*see* Police Department Exhibits 2 & 3) alleging excessive fees for towing and related fees in violation of the City's Wreckers and Vehicle Towing Ordinance (the "Ordinance"). Curtis Gleason and Rin Ann, principals of ARCEE, LLC, appeared on behalf of the tow truck company. Police Chief Ed Googins and Sgt. Todd Barlow appeared on behalf of the Police Department. The hearing was audio recorded, and all witnesses were sworn.

After considering the oral and documentary evidence presented at the hearing, I make the following findings, conclusions and issue the Decision and Order below:

FINDINGS:

1. Police Department Exhibit 2 sets forth the results of the Police Department's audit of South Portland Police Department requested tows for the time frame of 01/01/13 through 04/11/13 for S & R Towing. Of the 11 calls where sufficient information was provided to Sgt. Barlow to enable him to analyze the tow charges, 3 calls involved excessive fees for towing and related fees in violation of the Ordinance. At least one of the overcharges involved an insurance company. Examples of overcharges included a \$505 charge that should have been \$140 and a \$200 charge that should have been \$65.

2. Police Department Exhibit 3 sets forth the results of the Police Department's audit of South Portland Police Department requested tows for the time frame of 01/01/13 through 04/11/13 for In Town Road Service. Of the 14 calls where sufficient information was provided to Sgt. Barlow to enable him to analyze the tow charges, 4 calls involved excessive fees for towing and related fees in violation of the Ordinance. All four overcharges involved an insurance company. Examples of overcharges included a \$1,000 charge that should have been \$315 and a \$325 charge that should have been \$115.

3. At the May 30 hearing, Curtis Gleason and Rin Ann did not disagree with the Police Department's audit of its tow charges, and both gentlemen admitted that they had overcharged customers. Both Mr. Gleason and Mr. Ann indicated that they took full responsibility for their actions.

4. Curtis Gleason testified that he had worked for the prior owner of the business for over two years before he and Rin Ann purchased the business 1½ years ago. He testified that he and Mr. Ann were simply charging the same rates that the prior owner had charged and that he had only recently even seen a copy of the applicable ordinance. Rin Ann testified that the overcharging was not deliberate or purposeful; it was just what they knew.

5. As part of the license application process, the applicant must agree to abide by "all laws, orders, ordinances, rules and regulations governing the above license." Both Rin Ann and Curtis Gleason signed such statements. *See* ARCEE, LLC Exhibit 1 and ARCEE, LLC Exhibit 2.

6. Chief Googins testified that he had called Curtis Gleason a few months ago to notify him that the City had been overcharged slightly on a tow charge that the City was responsible for paying and specifically notified Mr. Gleason that the ordinance contained a different rate for day calls (\$65) than for evening calls

(\$75). Since at least that date, ARCEE, LLC was on notice that the Ordinance sets limits on the amounts that may be charged for services regulated by the Ordinance.

CONCLUSIONS:

1. The seven overcharges identified as part of the Police Department’s audit of the South Portland Police Department requested tows for the time frame of 01/01/13 through 04/11/13 violated the Ordinance. It appears that ARCEE, LLC may have been trying to take advantage of those customers with insurance coverage.

2. Following Mr. Gleason’s conversation with the Police Chief a few months ago and the subsequent Police Department audit, ARCEE, LLC is now on notice that it has been overcharging customers. However, the testimony of Curtis Gleason and Rin Ann showed a willingness to be bound by the maximum charge limitations under the Ordinance. They both now have a copy of the Ordinance and can no longer claim ignorance of its provisions. Indeed, ignorance of the ordinance is not an excuse for overcharging customers.

3. Under these circumstances, a moderate license suspension, two calendar months, and a one day maximum fine of \$100 are warranted.

4. The license suspension is against ARCEE, LLC and its two “d/b/a” services, Intown Road Service and S & R Towing, given the identical ownership and operations identities. The \$100 fine is levied against ARCEE, LLC and must be paid within thirty (30) days of the date of this decision. Payments may be made at the City Clerk’s Office.

DECISION and ORDER:

ARCEE, LLC, including its two “d/b/a” services, Intown Road Service and S & R Towing, is hereby suspended, effective immediately, from both of the City/Police Department tow truck call lists from June 1, 2013 through July 31, 2013; such suspension to include all of the vehicles identified on the City tow licenses (ARCEE, LLC Exhibits 1 & 2) and otherwise. A fine of \$100 is to be paid to the City of South Portland within thirty (30) days of the date of this decision. Payments may be made at the City Clerk’s Office.

APPEAL: If ARCEE, LLC is dissatisfied with this decision, it has the right to appeal this decision to the City Council *within 30 days* of the date of this decision,

May 31, 2013, in accordance with Sec. 15-284 of the Ordinance. If you fail to appeal, my decision is final.

Susan M. Mooney
City Clerk

cc: Edward Googins, Chief of Police
Sally J. Daggett, Corporation Counsel



**OFFICE OF THE
CITY CLERK**

SUSAN M. MOONEY
City Clerk

JESSICA HANSCOMBE
Licensing Administrator

KAREN L. MORRILL
Assistant City Clerk

NOTICE OF DECISION

April 2, 2013

Maietta Towing Company, Inc.
c/o Robbie Maietta
154 Pleasant Hill Road
Scarborough, ME 04074

Re: **Towing/Wrecker Business License Suspension**

Dear Robbie:

On March 25, 2013 and April 1, 2013, I conducted a hearing pursuant to Sec. 15-283 of the South Portland Code of Ordinances. The hearing was on whether I, as the City Clerk, should suspend or revoke towing/wrecker business licenses of Maietta Towing Company, Inc. and/or Pleasant Hill Auto Sales, Inc. based on a citizen complaint dated March 8, 2013 (copy attached) alleging excessive fees for towing and related fees in violation of the City's Wreckers and Vehicle Towing Ordinance (the "Ordinance"). Alex Anastasoff, the citizen complainant, appeared and testified, as did the Chief of Police, two other police officers, and Robbie and Vinnie Maietta, principals of the two tow truck companies. The hearings were video and audio recorded, and all witnesses were sworn.

After considering the oral and documentary evidence presented at the hearing, I make the following findings, conclusions and issue the Decision and Order below:

FINDINGS:

1. The underlying incident was a two vehicle crash on Broadway in South Portland on Friday, March 1, 2013 at approximately 5 pm on a workday.

25 Cottage Road • P.O. Box 9422
South Portland, Maine 04116-9422
Telephone (207) 767- 7601 • Fax (207) 767-7620
Monday through Friday 8:00 A.M. - 4:30 P.M. • Thursday 8:00 A.M. - 6:30 P.M.
www.southportland.org

2. Based on Mr. Anastasoff's written complaint and oral testimony, I determine the \$1,425 bill from Maietta Towing to have greatly exceeded the total charge allowed under Sec. 15-273 of the Ordinance for a "City-initiated" tow call. I find the total charge ought not to have exceeded \$190.¹ At the March 25 hearing, Vinnie Maietta admitted that the fee charged Mr. Anastasoff was "excessive" although Mr. Maietta still disputed the exact amount he felt the Ordinance allowed.

3. Both Robbie and Vinnie Maietta blamed the overcharge on a Maietta Towing employee, who intentionally "padded" the bill in response to a claim by Mr. Anastasoff that the employee had stolen a radio out of his truck while it was in the impound yard. However, when Mr. Anastasoff retrieved his truck and paid the \$1,425 bill, another Maietta Towing employee who runs the business office, in effect, approved the overcharge despite Mr. Anastasoff's "vigorous" objection.

4. As of the dates of the two hearings, Mr. Anastasoff had not been reimbursed by Maietta Towing for the \$1,425 he paid by check to retrieve his vehicle on March 7, 2013; however, Robbie Maietta testified that he had offered to return Mr. Anastasoff's check and so refund him the charges in full. Mr. Anastasoff confirmed this.

5. At the conclusion of the March 25 hearing, the hearing was recessed until April 1 to allow the PD to research whether there was a pattern or practice of over-charging by Maietta Towing. The PD was to provide any such information to me and share the same with Maietta Towing. That was done late Friday afternoon, March 29.²

6. At the April 1 hearing, Sgt. Barlow presented evidence of four other instances during the last 45 days where Maietta Towing³ overcharged customers

¹ While an argument might reasonably be made to justify the \$100 fee charged for labor for cleaning the scene of the traffic accident in question, there is no basis for that in the Ordinance; further, when initially questioned about this charge by the PD's Sgt. Barlow, Robbie Maietta said the charge was for hosing off his company's own vehicles after the tow services had been performed.

² There was some "back and forth" by the witnesses about the timing of the PD's delivery of this additional information and the fact that the following weekend was Easter Sunday, by implication a "family holiday;" it appears that, despite the holiday, the Maiettas in fact had time to review the information and comment on it at the April 1 hearing.

³ Throughout the hearings the names of Maietta Towing and Pleasant Hill Towing were "mixed and matched" by almost all the witnesses and the written exhibits; the two companies are owned by Vinnie and Robbie Maietta and share a single, fenced in impound yard on Pleasant Hill Road in Scarborough and clearly answer each other's calls for tows by the PD. Indeed, even the original citizen complaint by Mr. Anastasoff complains about "Pleasant Hill Towing DBA Maietta Towing." However, as Vinnie Maietta

on City tows by a grand total of \$1,060 on tows whose fees under the Ordinance would range from \$75 to \$195.

7. It does not appear that either Vinnie or Robbie Maietta was directly involved in the overcharge to Mr. Anastasoff; however, both were insistent that there was nothing wrong in charging what they believed to be “fair and reasonable” charges based on their knowledge of such charges in the Greater Portland marketplace regardless of the maximum rates prescribed by the Ordinance.

CONCLUSIONS:

1. The \$1,425 charge to Mr. Anastasoff violated the Ordinance under the provisions of which the charge should not have exceeded \$190.

2. The overcharge was intentional by both the Maietta Towing employee who wrote up the bill and the office manager who allowed the bill to stand in the face of Mr. Anastasoff’s objection.

3. The testimony of Vinnie and Robbie Maietta showed only a modest, at best, willingness to be bound by the maximum charge limitations under the Ordinance. The four other overcharges within the last 45 days confirm this. The two companies are apparently indifferent to the Ordinance fee limitations, which are mandatory.

4. Under these circumstances, a relatively lengthy license suspension, five calendar months, and a one day maximum fine of \$100 are warranted. Further, as Robbie Maietta acknowledged, Mr. Anastasoff should be reimbursed in full given the magnitude of the overcharge, the company’s initial resistance to correcting the bill and the small tow fee that should have been charged.

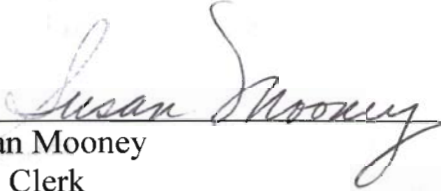
5. The suspension and fine are levied only against Maietta Towing; however, given the two companies’ nearly identical ownership and operations identities, Pleasant Hill should be warned to avoid similar overcharging practices in the future.

made clear, technically the two are separate legal entities and each has its own City tow license, listing separate tow trucks by VIN numbers. That practice does not appear to violate the Ordinance.

DECISION and ORDER:

Maietta Towing is hereby suspended, effective immediately, from both of the City/PD tow truck call lists from April 1, 2013 through August 31, 2013; such suspension to include all of the Maietta Towing vehicles identified on its City Tow license (copy attached). A fine of \$100 is to be paid to the City of South Portland. Mr. Anastasoff is to have returned his check and refunded in full the \$1,425 charged for the March 1, 2013 tow and related services. Pleasant Hill Towing is warned to avoid similar overcharging in the future on tows under the Ordinance.

APPEAL: If Maietta Towing is dissatisfied with this decision, it has the right to appeal this decision to the City Council *within 30 days* of the date of this decision, April 2, 2013, in accordance with Sec. 15-284 of the Ordinance. If you fail to appeal, my decision is final.



Susan Mooney
City Clerk

cc: Edward Googins, Chief of Police
Mr. Alex Anastasoff
William H. Dale, Special Counsel



POLICE DEPARTMENT

EDWARD J. GOOGINS
CHIEF OF POLICE

AMY J. BERRY
DEPUTY CHIEF

To: James Gailey, City Manager
From: Edward J. Googins, Police Chief
Date: November 5, 2013
Ref: Wreckers and Vehicle Towing Ordinance Revisions

The attached proposed amendments to Chapter 15 (Motor Vehicles and Traffic), Article VIII, Wreckers and Vehicle Towing are being made after a recent police department audit related to some licensed tow businesses over-charging customers. In order to be thorough in our recommendations, Licensing Administrator Jessica Hanscombe and Police Sgt. Todd Barlow solicited input from the tow companies so their insight could be considered.

Previous versions of the ordinance relied heavily on rules that were implemented by the Police Chief to carry out the intention of the ordinance. In order to provide for a better understanding of the requirements and to facilitate appropriate due process to the licensees, most of the previous rules have been included in specific ordinance language.

The proposed changes include:

- defining night, weekend and holiday release hours
- requires the identification of the equipment used by the licensee and notification of changes during the license year
- requires licensees to forward copies of receipts to the Chief (designee) on a monthly basis
- adds rule language on the storage facilities
- adds language requiring notification regarding if a release fee is going to be charged and if the licensee is going to require a cash payment
- raises the maximum rates that may be charged under the ordinance

I look forward to the opportunity to discuss these proposed changes with the City Council as I feel they will allow for better oversight and give the licensees a needed increase in their fees for service.

Proposed Amendments to Chapter 15 (MOTOR VEHICLES AND TRAFFIC)

(additions are underlined; deletions are ~~struck-out~~)

SOUTH PORTLAND CODE OF ORDINANCES

Chapter 15

MOTOR VEHICLES AND TRAFFIC

ARTICLE VIII. WRECKERS AND VEHICLE TOWING

Division 1. GENERALLY.

Sec. 15-269. Purpose

In order to protect the safety of persons who operate motor vehicles within the corporate limits of the city, to ensure that the streets and public ways of the city remain open and free of hazard to the public and to further effectuate the efficient enforcement of the city's traffic, parking, snow removal and other regulatory ordinances, it is determined necessary to ensure by licensing and regulating persons engaged in the business of providing to the City of South Portland's police department vehicle wrecker or towing and required repair services, to establish rates for such services, to regulate the storage and disposition of vehicles so towed, and to set fees and penalties for the enforcement thereof.

(Ord. No. 2-911/92, 7-15-91)

Sec. 15-270. Definitions

The following words and terms as used in this article shall have the common meanings ascribed thereto, except that the definitions set forth in Chapter 1, in Article 1 of this Chapter and in this section shall apply, unless the context clearly indicates a different meaning:

Night, weekend or holiday release hours means weekdays between the hours of 5:00 pm and 7:00 am, Saturdays, Sundays or holidays.

Storage and release facility means the real property and any structures thereon to which wreckers tow or transport motor vehicles for storage until the vehicle owner claims the vehicle.

Towing list means a list maintained by the police department containing the names of those wreckers licensed by the city to respond to requests for the towing of vehicles made by the police department. The towing list itself shall consist of two lists:

- (1) A primary list of wreckers capable of having a wrecker vehicle at a scene within twenty (20) minutes of a towing request by the police department.
- (2) A secondary list to be used by the police department when the wreckers in the primary list are not available which shall include, but not be limited to, any wrecker with a history of response times of more than twenty (20) minutes or other non-responsive behavior.

Wrecker means a person engaged in the business of, or offering the services of, a wrecker vehicle or towing service, whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle adapted to and designed for that purpose.

Wrecker vehicle means a motor vehicle intended to be used to tow or otherwise transport other motor vehicles.

(Ord. No. 2-91/92, 7-15-91, Ord. No. 5-98/98, 9/9/98 [Fiscal Note: Less than \$1000]; Ord. No. 15-02/03, 7/7/03 [Fiscal Note: Less than \$1000])

Sec. 15-271. Minimum continuous regulations.

A. The following minimum regulations will be met on a continuous basis by all licensees:

- (-1) Licensees shall operate and maintain storage and release facilities within the city, or within a radius of five (5) _____ miles from South Portland City Hall, as may be necessary for safe and proper conduct of towing activities.
- (2) Towing equipment used by a licensee to perform services under this article shall only be used by said licensee and not by other licensees or otherwise. Any changes in licensee's towing equipment during the license year shall be immediately provided to the City Clerk for review and approval by the chief of police or his/her designee.
- ~~(-23)~~ Licensees shall permit the chief of police or his/her designee to conduct one (1) regular and two (2) random inspections of each wrecker vehicle during the term of the license.
- ~~(-34)~~ Licensees shall permit the chief of police or his/her designee to conduct one (1) regular and two (2) random inspections of each storage and release facility during the term of the license.
- ~~(-54)~~ Licensees shall maintain such records as required by this article and any regulations promulgated by the chief of police pursuant to section 15-272 and shall permit their inspection by the chief or his/her designee during normal business hours.
- (6) By the 10th day of each month, licensees shall forward copies of receipts for all services provided under this article during the prior month to the chief of police or his/her designee.
- ~~(-75)~~ Vehicles must be towed or carried, not driven, to storage facilities.
- ~~(-86)~~ Licensees must provide a secure storage facility as approved by the chief of police or his/her designee during the license approval process in accordance with regulations promulgated in accordance with section 15-272. There shall be no change in the approved storage facility during the license year without the prior approval of the chief of police or his/her designee.
- ~~(-97)~~ No vehicle shall be towed to any storage and release facility or other property outside of the city unless pursuant to subsection (1) of this section or unless it has been unclaimed for thirty (30) days and only upon the prior written notice to the police chief or his/her designee.
- ~~(-108)~~ The police chief or his/her designee must be notified of any unclaimed vehicle by forwarding a copy of the invoice or towslip for any unclaimed vehicle once a month to the police chief or his/her designee. Said documents shall be forwarded by the tenth day of each month and shall include documentation for each vehicle in licensee's possession that remains unclaimed on the last day of the preceding month.
- ~~(-119)~~ In the event of any vehicle being towed or transported following an accident, Licensees shall clean the accident area of all nonhazardous vehicular debris resulting from the accident.

- (120) Licensees shall not make any repairs to vehicles without the consent of the owner.
- (134) Licensees shall advise vehicle owners at the time the owner arranges to retrieve the vehicle and prior to its release of the specific amount of any release fee that will be charged pursuant to section 15-273(d). If the licensee is going to require cash payment by any owner, the licensee must so advise the owner at the time the owner arranges to retrieve the vehicle and prior to its release. Vehicles shall be released from storage in accordance with regulations promulgated by the chief of police pursuant to section 15-272.
- (142) Licensees shall defend, indemnify and hold the city harmless from all claims for damages to property and injuries to persons resulting from the licensees' negligence or intentional misconduct in the towing or storage of vehicles pursuant hereto.
- (153) Licensees shall conspicuously post current rates for services under this article at the release facility.
- (164) Licensees shall release vehicles at the approved storage and release facility within one (1) hour of the owner's request and payment of any applicable fees.
- (17) Licensee shall require owner identification when releasing a vehicle. If the release occurs outside of night, weekend or holiday release hours as defined herein, the licensee shall make a photocopy of the owner identification provided. If the release occurs during night, weekend or holiday release hours as defined herein, the licensee shall record the driver's license number of the owner.

B. The Police Department shall observe the following procedure for maintaining the towing list and contacting wreckers for service calls:

- (1) Notwithstanding that wreckers will initially be assigned to either the primary or secondary list based on their response time of twenty (20) minutes, the Police Department shall move wreckers with a history of unavailability or slow response time from the primary list to the secondary list and may move wreckers with a history of satisfactory response time from the secondary to the primary list.
- (2) The Police Department shall call wreckers on the primary list on a rotating basis.
- (3) The Police Department may contact wreckers on the secondary list as needed.

(Ord. No. 2-91/92, 7-15-91; Ord. No. 5-98/99, 9/9/98 [Fiscal Note: Less than \$1000])

Sec. 15-272. Regulations may be promulgated by chief of police.

The chief of police is hereby authorized to promulgate regulations not inconsistent with this article to carry out the intent of the article. All licenses issued pursuant to this article shall be subject to such applicable regulations as are adopted hereunder either prior to or after the date of the issuance thereof.

(Ord. No. 2-91/92, 7-15-91)

Sec. 15-273. Rates for services.

(a) The maximum rates for services regulated under this article shall be as follows:

- (1) Day call (7:00am to 7:00pm) \$65.00 Crash tows: \$100.00 per tow.
- (2) Night call (7:00pm to 7:00am) \$75.00 Tows other than crash tows: \$85.00 per tow.

- (b) Recovery charges: Where a vehicle is off-road, submerged or otherwise requires special equipment for retrieval before it can be towed, a charge of \$70 ~~per hour may will~~ be assessed in addition to the towing fee stated in (a). If the recovery takes longer than one hour, a rate of \$70.00 per hour after the first hour may be charged.
- (c) Storage charges: \$~~30~~25.00 per day, after 24 hrs.
- (d) ~~Night or Sunday/holiday Vehicle~~ release: When an owner requests release of the vehicle during night, weekend or holiday release hours as defined herein between 7:00 pm and 7:00 am or on a Sunday or holiday, an additional charge of \$25.00 may will be assessed. If a vehicle is released outside of night, weekend or holiday release hours as defined herein, no charge shall be assessed for the release.

(Ord. No. 2-91/92, 7-15-91; Ord. No. 5-98/99, 9/9/98 [Fiscal Note: Less than \$1000] Ord. No. 15-02/03 7/7/03 [Fiscal Note: less than \$1000])

Sec. 15-274. Disposition of abandoned vehicles.

- (a) The licensee shall comply with the procedures set forth in Title 29-A M.R.S.A. Sections 1851 - 18~~6159~~,
- (b) In the event of an unclaimed or abandoned vehicle, the licensee's sole remedy shall be as outlined in Title 29-A M.R.S.A. Sections 1851 - 18~~6159~~ regarding unclaimed and abandoned vehicles.
- (c) A copy of Title 29-A M.R.S.A. Sections 1851 - 18~~6159~~ shall be issued to each licensee and shall be available to the public in the city clerk's office.

(Ord. No. 2-91/92, 7-15-91; Ord. No. 5-98/99, 9/9/98 [Fiscal Note: Less than \$1000])

Sec. 15-275. Release of vehicles impounded pursuant to provisions for towing parked vehicles.

Whenever a vehicle has been removed and stored pursuant to police request, it shall not be released until the provisions of section 15-44 ~~(a) or (b)~~ concerning the payment of waiver fees and charges owed to the city have been complied with.

(Ord. No. 2-91/92, 7-15-91)

Sec. 15-276. Removal of towed vehicle or parts thereof from wreckers' lot.

No vehicle or part or accessory thereof that has been towed by police request shall be removed from the possession or premises of the licensee or owner of the storage area by any person, including the owner of the towed vehicle, except in accordance with section 15-44. Nothing herein shall prohibit the licensee from acting in accordance with this article. Upon written application of the owner of a vehicle being held by the licensee, the chief of police or authorized representative may make suitable arrangements for the retrieval of specified property if satisfied that there are exigent circumstances requiring retrieval prior to the owner reclaiming the vehicle.

(Ord. No. 2-91/92, 7-15-91; Ord. No. 5-98/99, 9/9/98 [Fiscal Note: Less than \$1000])

Sec. 15-277. Enforcement.

- (a) Any violation of this division shall be punishable by a fine not exceeding one hundred dollars (\$100.00), and each day that a violation continues shall be treated as a separate offense.

- (b) The chief of police or his/her designee may, prior to commencement of court action, issue a notice of violation to any person charged with a violation of this division. Said notice shall be in a form approved by the corporation counsel and shall provide a method by which a person charged with a violation of this division may waive court action with respect to the violation by payment of a specified fee within a stated period of time.

(Ord. No. 2-91/92, 7-15-91)

Division 2. LICENSE.

Sec. 15-278. Required.

- (a) No wrecker shall tow any vehicle within the city by police request pursuant to this chapter nor shall any wrecker be placed on the towing list unless such wrecker is currently licensed.
- (b) All licenses issued pursuant to this section shall be granted, granted with conditions, denied, suspended or revoked by the City Clerk, subject to appeal to the City Council.

(Ord. No. 2-91/92, 7-15-91; Ord. No. 5-98/99, 9/9/98 [Fiscal Note: Less than \$1000])

Sec. 15-279. Investigation; issuance or denial.

- (a) Within thirty (30) days after receipt of an application under this division, the Chief of Police shall conduct an investigation to determine: the truth, accuracy and adequacy of the information contained in the application; the ability of the applicant to furnish the required service and to abide by the regulations and provisions set forth herein and established pursuant to section 15-272; ~~the applicant's past record of performance in any wrecker or towing business and the adequacy of the applicant's equipment and storage facilities.~~ Upon completion of the investigation, the Chief of Police shall forward a report of the investigation to the City Clerk, who shall either grant, grant with conditions, or deny the license and notify the applicant in writing of such decision and the findings and reasons, if any, for denial of the license. Upon request of issuance of the license, the clerk shall forward to the licensee a copy of this article and any regulations adopted pursuant thereto.
- (b) The following information must be submitted prior to commencement of the investigation:
- (1) Location, size and security features of the storage facility on which towed vehicles will be stored;
 - (2) Location of release facility to which the public must come to claim stored vehicles;
 - (3) List of towing equipment, including make, model, year, VIN number, size and capacity;
 - (4) Description of the two-way mobile communications and base station to be used for each wrecker and at the office where calls are received;
 - (5) Statement of willingness to provide release of vehicles on a continuous twenty-four-hour-a-day basis each day of the year;
 - (6) Such other information as the clerk may require on the license application.

(Ord. No. 2-91/92, 7-15-92; Ord. No. 5-98/99, 9/9/98 [Fiscal Note: Less than \$1000])

Sec. 15-280. Insurance required.

- (a) No wrecker shall be issued a license until the applicant has deposited with the clerk two copies of the following policies, and the clerk shall provide one copy to the chief of police:
- (1) Garagekeeper's legal liability policy covering the premises, including fire, theft, windstorm, vandalism and explosion, in the amount of at least twenty-five thousand dollars (\$25,000.00), with each vehicle suffering damage or loss being deemed a separate claim.
 - (2) Towing/wrecker service commercial liability policy covering the operation of the licensee's business, equipment or other vehicles for any bodily injury or property damage. This policy shall be in the minimum amount of four hundred thousand dollars (\$400,000.00) combined single limit for personal injury and property damage, or such other amount as may be required by the Maine Tort Claims Act (14 M.R.S.A. § 8001 et seq) as amended from time to time, whichever amount shall be greater. Each wrecker insured shall be identified by make, model and vehicle identification number (VIN).
 - (3) Road service liability coverage for the lifting, hoisting and towing of vehicles must be included in the licensee's garagekeeper's legal liability policy.
- (b) Each policy required above shall name the City as an additional insured and the certificate evidencing the same shall be in a form satisfactory to the corporation counsel. The licensee shall maintain such insurance at all times during the term of the license, and the licensee shall provide the City Clerk with not less than thirty (30) days' advance written notice of the cancellation, expiration or non-renewal of said insurance.
- (c) The lapsing or cancellation of any policy as required hereinabove shall result in the immediate termination of the wrecker's license without any action on the part of the city.

(Ord. No. 2-91/92, 7-15-91; Ord. No. 15/02/03, 7/7/03 [Fiscal Note: Less than \$1000]; Ord. No. 12-11/12, 5/7/12 [Fiscal Note: Less than \$1000])

Sec. 15-281. Fee.

Annual license fees shall be as provided in chapter 14, Section 14-3.

(Ord. No. 2-91/92, 7-15-91; Ord. No. 5-98/99 [Fiscal Note: Less than \$1000])

Sec. 15-282. Transferability.

Transferability of licenses issued under this division shall be as provided in chapter 14.

(Ord. No. 2-91/92, 7-15-91)

Sec. 15-283. Grounds for revocation, suspension or denial.

A license issued under this division may be suspended, or revoked and an application for a license may be denied by the City Clerk upon a determination that the licensee, or applicant, or wrecker operator:

- (a) Violated any of the requirements or regulations established herein or by the chief of police under this article; -or
- (b) Has provided unsatisfactory services for city-authorized towing; -or
- (c) Has been convicted of any crime or has had his/her driver's license revoked or suspended by the State

of Maine at any time during the five (5) years immediately preceding application; ~~or~~ has been imprisoned at any time during the preceding five years; ~~provided~~ that said conviction was for an offense which is rationally related to the purpose of licensing wreckers.

No license shall be suspended or revoked without a hearing conducted not less than seven nor more than thirty days after written notice has been served on the licensee personally or by first class mail, postage prepaid. The notice shall contain a generalized statement of complaint.

(Ord. No. 2-91/92, 7-15-91; Ord. No. 5-98/99, 9/9/98 [Fiscal Note: Less than \$1000])

Sec. 15-284. Appeals.

- (a) An appeal to the City Council may be taken by any person aggrieved by the granting, granting with conditions, denial, suspension or revocation of a license hereunder by the city clerk by filing a written notice of appeal in the office of the City Clerk within thirty (30) days of the decision appealed from. Such notice of appeal shall state the basis for the appeal. Within twenty (20) business days after the filing of the notice of appeal, the City Council shall hear the appeal and may affirm, reverse or modify the decision appealed from.
- (b) An appeal from any final decision of the City Council may be taken by any party to the Superior Court in accordance with the provisions of Rule 80-B of the Maine Rules of Civil Procedure.

(Ord. No. 2-91/92, 7-15-91, Ord. No. 5-98/99, 9/9/98 [Fiscal Note: Less than \$1000])

Sec. 15-285. Violations.

Any violation of this division shall be punishable by a fine not exceeding one hundred dollars (\$100.00), and each day that a violation continues shall be treated as a separate offense.

(Ord. No. 2-91/92, 7-15-91)

**City of South Portland
Office of the City Clerk
P.O. Box 9422
South Portland, ME 04116-9422
207-767-7628**

Wrecker Business and Wrecker Application

Code of Ordinances § 15-269 to § 15-285

Valid _____ to _____

Business Name: _____ Telephone: _____

Business Address (City, State, Zip): _____

Owner's Name and Address: _____

Location where vehicles will be stored (Street and City): _____

Size of above area: _____ Security of area: _____

Location where ~~an owner~~~~the public~~ claims ~~his/her~~~~their~~ vehicle (Street and City):

**Please note: Licensees shall operate and maintain storage and release facilities within the eCity,
or within a radius of five (5) miles from South Portland City Hall.**

Towing Equipment: Type (Carrier, Sling, etc) _____ Capacity _____

Size _____ Size Restrictions? _____ If yes, please specify: _____

Specify Special Equipment (Dollies, Motorcycles, etc.): _____

Attach a list of wreckers and make, model, year and VIN numbers. Any Cchanges must be submitted to City Clerk and approved by the Police Dept. Equipment may only be used by one licensee and not shared with others.

Description of the two-way mobile communications and base station to be used for each wrecker and at the office where calls are received: _____

Applicant must submit insurance certificates as defined on the back of this application.*

Applicant, by signingature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. In addition, Applicant affirms that Applicant has read a copy of Chapter 15, Article VIII of the South Portland Code of Ordinances regarding wreckers and vehicle towing and any regulations adopted thereunder and agrees to comply therewith. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of license.

Applicant also agrees to provide release of vehicles on a continuous twenty-four (24) hour a day basis each day of the year.

Authorized Signature

License Fee: \$240.00
Processing Fee: \$20.00
Total: \$260.00

Print Name and Title

Date

***§ 15-280:**

No wrecker shall be issued a license until the applicant has deposited with the clerk two copies of the following policies, and the clerk shall provide one copy to the chief of police:

1. Garagekeeper's legal liability policy covering the premises, including fire, theft, windstorm, vandalism and explosion, in the amount of at least \$25,000, with each vehicle suffering damage or loss being deemed a separate claim.
2. Towing/wrecker service commercial liability policy covering the operation of the licensee's business, equipment or other vehicles for any bodily injury or property damage. This policy shall be in the minimum amount of \$400,000 combined single limit for personal injury and property damage.
3. Road service liability coverage for the lifting hoisting and towing of vehicles must be included in the licensee's garagekeeper's legal liability.

Each policy required above shall contain an endorsement by the carrier providing **30 days notice** to both the city and the insured in the event of any change in coverage under, expiration, termination, cancellation or material modification of the policy.

Municipal Use Only

Date of Application: _____ Date Paid: _____ Receipt #: _____

New: _____ Renewal: _____ Map and Lot #: _____ RE Taxes Paid: _____

Personal Property Tax #: _____ Paid: _____

Police Chief

City Clerk

Approved _____

Approved _____

Disapproved _____

Disapproved _____

Comment _____

Comment _____