



Legislation Text

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By Council Members Reyna, Comrie, Dromm, Koslowitz, Rose, Vann, Williams, Levin and Gennaro

A Local Law to amend the administrative code of the city of New York, in relation to rates for the towing of motor vehicles.

Be it enacted by the Council as follows:

Section 1. Paragraph 8 of subdivision c of section 19-169 of the administrative code of the city of New York, as amended by local law number 104 for the year 1993, is amended to read as follows:

8. Notwithstanding the charges permitted to be collected under subdivision c of section 20-519 of this code, a person who removes a vehicle pursuant to section 19-169 of this code may collect the following charges from the owner or other person in control of such vehicle, payable before the vehicle is released: [one hundred] one hundred twenty-five dollars for removal and the first three days of storage; [ten] up to fifteen dollars per day for storage thereafter, except that no charge may be collected for removal or storage of a vehicle pursuant to this section by a person who is not licensed to engage in towing pursuant to subchapter thirty-one of chapter two of title twenty of the code.

§2. Subdivision c of section 19-169 of the administrative code of the city of New York is amended by adding a new paragraph 11 to read as follows:

11. Any person licensed pursuant to subchapter thirty-one of chapter two of title twenty of the code who removes a vehicle in violation of paragraphs one through seven of this subdivision shall be punished as follows: for the first violation, a fine of five hundred dollars; for the second violation within a period of twelve months of the date of a first violation, a fine of one thousand dollars; and for any additional violations within a period of twenty-four months of the date of a first violation, a fine of one thousand dollars.

§3. Subdivisions a and j of section 19-169.1 of title 19 of the administrative code of the city of New York, as amended by local law number 104 for the year 1993, are amended to read as follows:

a. Notwithstanding any other provision of law, where a licensed tow operator removes a vehicle because it is parked on private property in a manner inconsistent with posted instructions, and such removal is pursuant to a contract between the owner of the private property and the licensed tow operator for the removal of any such improperly parked vehicles, such tow operator may collect the following charges from the vehicle owner or other person in control of such vehicle, payable before the vehicle is released: up to but not more than [one hundred] one hundred twenty-five dollars for removal and the first three days of storage; [ten] up to but not more than fifteen dollars per day for storage thereafter; except that no charge may be collected for removal or storage of a vehicle pursuant to this section by a person who is not licensed to engage in towing pursuant to subchapter thirty-one of chapter two of title twenty of this code.

j. Any person who violates this section shall be punished as follows: for the first violation, a fine of [two hundred and fifty] five hundred dollars; for the second violation within a period of twelve months of the date of the first violation, a fine of [five hundred] one thousand dollars; and for any additional violations within a period of twenty-four months of the date of a first violation, a fine of one thousand dollars.

§4. Section 20-504.1 of the administrative code of the city of New York, as amended by local law number 112 of 1993, is amended to read as follows:

§20-504.1. Mandatory suspension or revocation of license. After due notice and opportunity to be heard, the commissioner shall refuse to renew, or shall suspend or revoke a license required under this subchapter, upon the occurrence of any one or more of the following conditions:

a. the person holding a license to engage in towing or where applicable, any of such licensee's officers, principals, directors, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation, has been found by the commissioner to have [willfully and] unjustifiably refused to release a vehicle towed pursuant to section 20-518 or section 20-519 of this subchapter, to the vehicle's owner

or the owner's agent. The commissioner shall establish standards concerning the sufficiency of proof of ownership of the vehicle and the legality of any charges demanded by the licensee for release of the vehicle. In determining whether such refusal is unjustifiable, the commissioner in addition to any other relevant fact shall consider such standards;

b. in a two year period, the person holding a license to engage in towing or where applicable, any of such licensee's officers, principals, directors, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation, has been [convicted of a misdemeanor or a felony relating to auto stripping in violation of article 165 of the penal law] found by the commissioner to have committed in any combination three or more violations of sections 19-169, 19-169.1 of this code or any rules promulgated thereunder, or sections 20-507, 20-509, 20-509.1, 20-510, 20-512, 20-514, 20-515, 20-516, 20-518, 20-519, 20-520, 20-520.1 or 20-527 of this subchapter or any rules promulgated thereunder;

c. the person holding a license to engage in towing or where applicable, any of such licensee's officers, principals, directors, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation, has been [found by the commissioner to have committed in any combination three or more violations of the provisions of section 20-515 or paragraph two of subdivision b of section 20-518 of this subchapter or any rules promulgated thereunder within a two year period] convicted of a misdemeanor or a felony relating to auto stripping in violation of article 165 of the penal law;

d. in a two year period, the person holding a tow truck operator's license has been found by the commissioner to have committed in any combination three or more violations of the provisions of [section 20-515 or paragraph two of subdivision b of section 20-518] sections 19-169 and 19.169.1 of this code and any rules promulgated thereunder, or sections 20-510, 20-512, 20-514, 20-515, 20-518, 20-519, 20-520, 20-520.1 or 20-527 of this subchapter or any rules promulgated thereunder [within a two year period];

e. the person holding a tow truck operator's license has been found to have operated any motor

vehicle in violation of section eleven hundred ninety-two of the vehicle and traffic law during the license term, or has been found to have operated a tow truck in violation of section eleven hundred eighty-two of the vehicle and traffic law.

§5. Subdivisions a and b of section 20-509 of the administrative code of the city of New York, as amended by local law number 72 for the year 2001, are amended to read as follows:

a. Except as otherwise provided, charges for the towing of vehicles shall not exceed [fifty] one hundred dollars [for the first mile or fraction thereof and four dollars for each additional mile or fraction thereof]; provided, however, that where a motor vehicle has been booted by a person licensed pursuant to subchapter 32 of this chapter in a private lot as defined in paragraph 3 of subdivision b of section 20-531 of such subchapter and such vehicle is subsequently towed, no additional charge may be imposed for the towing of such vehicle.

b. Except as otherwise provided, charges for storage of vehicles shall not exceed [fifteen] twenty-five dollars for each twenty-four hours or fraction thereof for the first three days of storage and [seventeen] twenty-seven dollars for the fourth day of storage and each day thereafter.

§6. Section 20-509.1 of the administrative code of the city of New York, as added by local law number 15 for the year 2004, is amended to read as follows:

§20-509.1. Rates for arterial tow permittees. Notwithstanding any other provisions of this subchapter, charges for the towing of disabled passenger vehicles from an arterial roadway by an arterial tow permittee authorized by the commissioner of transportation or the police commissioner shall be [seventy] one hundred twenty-five dollars for the first ten mile s or fraction thereof and four dollars for each additional mile or fraction thereof.

§7. Section 20-516 of the administrative code of the city of New York, as added by local law number 28 for the year 1987, is amended to read as follows:

§20-516. Records. Every person licensed to engage in towing shall maintain records, ledgers,

receipts, bills and such other written records as the commissioner may prescribe by regulation in electronic format . Such records shall be made available for inspection by the commissioner at his or her request at either the licensee's place of business or at the offices of the department for a period of five years.

§8. Paragraph 4 of subdivision b of section 20-518 of the administrative code of the city of New York, as amended by local law number 72 for the year 2001, is amended to read as follows:

4. Notwithstanding any other provision of this subchapter, a towing company that removes an accident vehicle to its storage facility at the place of business which qualifies such company for participation in the directed accident response program or to its auxiliary storage facilities approved by the commissioner, shall not charge for the towing of a vehicle registered at a weight of ten thousand pounds or less [and the first day of storage for such vehicle a fee exceeding eighty dollars] a fee exceeding one hundred and twenty-five dollars or more than twenty-five dollars per day for the first three days of storage and twenty-seven dollars for the fourth day, and each day thereafter, of storage for such vehicle . A towing company participating in the directed accident response program shall not charge for the towing of an accident vehicle registered at a weight of more than ten thousand pounds [and the first day of storage for such vehicle a fee exceeding one hundred and twenty-five dollars] a fee exceeding one hundred and forty dollars or more than twenty-five dollars per day for the first three days of storage and twenty-seven dollars for the fourth day, and each day thereafter, of storage for such vehicle . [Such fees shall be inclusive of all charges for the removing and towing of such vehicles to such storage facility and for the first day of storage.]

§9. Paragraph 1 of subdivision c of section 20-519 of the administrative code of the city of New York, as amended by local law number 72 for the year 2001, is amended to read as follows:

1. Notwithstanding any other provision of law, the towing company shall be entitled to charge the owner or other person claiming a vehicle that is suspected of having been stolen or abandoned or a vehicle with certain alarm devices subject to removal pursuant to section 24-221 of the code which was directed to be towed by the police department pursuant to this section and which is claimed before the end of the thirtieth day

after such vehicle is removed by such towing company amounts not in excess of the following: [seventy] one hundred twenty-five dollars for the towing of a vehicle registered at a weight of ten thousand pounds or less; one hundred and [twenty-five] forty dollars for the towing of a vehicle registered at a weight of more than ten thousand pounds; [fifteen] twenty-five dollars per day for the first three days and [seventeen] twenty-seven dollars for the fourth day of storage and each day thereafter. Upon the transfer of an unclaimed vehicle into the custody of the police department property clerk, the towing company shall be entitled to charge the police department amounts not in excess of the following: sixty dollars plus tolls for the towing of a vehicle suspected of having been stolen or abandoned, a vehicle that was blocking a private driveway and was removed pursuant to section 19-169 of the code or a vehicle with certain alarm devices that was removed pursuant to section 24-221 of the code, to a storage facility and subsequent transfer of such vehicle into the custody of such property clerk during the period of time specified in paragraph one of subdivision b of this section; five dollars per day for the first three days of storage of such vehicle and eight dollars for the fourth day of storage and each day thereafter, provided that in no event shall any towing company be entitled to charge the police department for storage charges incurred after the tenth day of storage. The towing company shall be entitled to charge the police department an amount not in excess of sixty dollars plus tolls for the towing of an evidence vehicle to a location designated by a police officer.

§10. Subdivision c of section 20-520.1 of the administrative code of the city of New York, as added by local law 30 for the year 1997, is amended to read as follows:

c. Any person participating in a city towing program who shall: (i) fail to accept at least two major credit cards; or (ii) refuse to accept a credit card which such person has informed the administering agency is accepted pursuant to subdivision b of this section, shall, after notice and opportunity to be heard, be liable for a penalty not to exceed [one] two thousand five hundred dollars [(\$1,000)] (\$2,500) . Any such person who has been found guilty of three such violations within the preceding twenty-four month period shall be removed from participation in such program for a period of time to be determined by the commissioner or

administering agency but not to exceed one year; provided, however that the provisions of this section shall not apply to any contract entered into between a towing business and a city agency prior to the date of adoption by the city council of the local law which added this section.

§11. Section 20-522 of the administrative code of the city of New York, as amended by local law number 112 for the year 1993, is amended to read as follows:

§20-522. Penalties. The penalties imposed by this section shall be in addition to any other sanctions and orders which may be imposed by the commissioner pursuant to this chapter including but not limited to such sanctions and orders which may be imposed pursuant to section 20-105 of this code.

Notwithstanding the provisions of subdivisions a and b of section 20-106 of this code, the following penalties shall apply for violations of this subchapter:

a. 1. Any person who violates the provisions of sections 20-496, 20-509, 20-515 [or], paragraph two of subdivision b of section 20-518 or section 20-527 of this subchapter or any rules promulgated thereunder shall be guilty of a misdemeanor punishable by a fine of not less than [two hundred fifty] five hundred dollars or more than [two] three thousand dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment.

2. Any person who violates the provisions of sections 20-496, 20-509, 20-515 [or], paragraph two of subdivision b of section 20-518 or section 20-527 of this subchapter or any rules promulgated thereunder who has been found guilty of a violation of any of such sections or such rules two times within the preceding twenty-four month period shall be guilty of a misdemeanor punishable by a fine of not less than [five hundred] one thousand dollars or more than [five] ten thousand dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment.

3. A person who violates any provision of this subchapter or any of the rules promulgated thereunder and is not subject to the penalties imposed pursuant to paragraphs one or two of this subdivision shall be guilty of an offense punishable by a fine of not less than [one] two hundred fifty dollars or more than

[one] two thousand five hundred dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment. For every subsequent violation of the same provision of this subchapter by the same licensee within a twenty-four month period, the fine shall increase between one hundred and five hundred dollars per violation.

4. Except as otherwise specifically provided in paragraphs one or two of this subdivision, there shall be no criminal penalties pursuant to this subdivision for a violation of the provisions of sections 20-518 and 20-519 of this subchapter or any rules promulgated thereunder.

b. 1. In addition to the penalties prescribed by paragraph one of subdivision a of this section, any person who violates the provisions of sections 20-496, 20-509, 20-515 [or] , paragraph two of subdivision b of section 20-518 or section 20-527 of this subchapter or any rules promulgated thereunder shall be liable for a civil penalty of not less than [two hundred fifty] five hundred dollars or more than [two] three thousand dollars.

2. In addition to the penalties prescribed by paragraph two of subdivision a of this section, any person who violates the provisions of sections 20-496, 20-509, 20-515 [or] , paragraph two of subdivision b of section 20-518 or section 20-527 of this subchapter or any rules promulgated thereunder who has been found guilty of a violation of any such sections or such rules two times within the preceding twenty-four month period shall be liable for a civil penalty of not less than [five hundred] one thousand dollars nor more than [five] ten thousand dollars.

3. In addition to the penalties prescribed by paragraph three of subdivision a of this section, any person who violates any provision of this subchapter or any rules promulgated thereunder, other than sections 20-496, 20-509, 20-515 [and] , paragraph two of subdivision b of section 20-518 or section 20-257 of this subchapter and any rules promulgated thereunder, shall be liable for a civil penalty of not less than [one] two hundred fifty dollars or more than [one] two thousand five hundred dollars. For every subsequent violation of the same provision of this subchapter by the same licensee within a twenty-four month period, the fine shall increase between one hundred and five hundred dollars per violation.

§12. Subchapter 31 of chapter 2 of title 20 of the administrative code of the city of New York is amended by adding a new section 20-529 to read as follows:

§ 20-529. Reporting on industry compliance. Beginning on November 15, 2011 and annually on that date thereafter, the New York city department of consumer affairs shall submit a report to the council concerning violations issued to tow truck licensees. Such annual report shall contain data from the preceding twelve months that includes but is not limited to: (a) the total number of violations issued, disaggregated by section of the administrative code violated; (b) the total number of violations issued to each licensee; (c) the number of license suspensions, disaggregated by licensee; (d) the number of license revocations, disaggregated by licensee; and (e) the total number of meetings of the tow advisory board.

§13. This local law shall take effect one hundred twenty days after it shall have been enacted into law, except that § 7 of this local law shall take effect one hundred and eighty days after it shall have been enacted into law; provided that the commissioners of the departments of consumer affairs and transportation may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, promulgating rules.

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Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/consumers. For convenience, sections of the New York City Licensing Law (and Rules, if enacted) are included as a handout in this packet. The Law (and Rules) are current as of January 2009.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

NEW YORK CITY ADMINISTRATIVE CODE
TITLE 20: CONSUMER AFFAIRS
CHAPTER 2: LICENSES
SUBCHAPTER 31: TOWING VEHICLES

§ 20-495 Definitions. For purposes of this subchapter, the following terms shall have the following meanings:

a. "Disabled vehicle" shall mean any vehicle for which towing is necessary because of a vehicular accident or for which towing is necessary because of the vehicle's inability to proceed under its own motive power due to reasons other than a vehicular accident.

b. "Evidence vehicle" shall mean any vehicle which is suspected of having been used as a means of committing a crime or employed in aid or furtherance of a crime or held, used or sold in violation of law or which may be required to be held or produced as evidence in a criminal investigation or proceeding.

c. "Person in charge of a vehicle" shall mean the operator or owner of a vehicle or any person designated by the owner to contract for the towing or repairing of such vehicle.

d. "Towing" shall mean the driving or other operation of a tow truck, or the offering to transport a vehicle by means of a tow truck. An employee of a repair shop registered pursuant to article twelve-A of the vehicle and traffic law that is not subject to the licensing requirements of this subchapter shall not be deemed to be engaged in "towing" when such employee test-drives a tow truck that has been repaired or is to be repaired by such repair shop if (1) such tow truck is not owned or operated by such repair shop, (2) such tow truck is not transporting another vehicle, and (3) such test-drive takes place within a one mile radius of such repair shop's premises.

e. "Tow truck" shall mean a vehicle that is equipped with a crane, winch, tow bar, push plate, or other device designed to pull or push a vehicle or to raise a vehicle or the front or rear end thereof.

f. "Vehicle" shall mean a motor vehicle as defined in section one hundred twenty-five of the vehicle and traffic law, a tractor as defined

in section one hundred fifty-one-a of such law or a trailer as defined in section one hundred fifty-six of such law.

§ 20-496 License required. a. Except as otherwise provided in section 20-524 of this subchapter, no person shall engage in towing without having first obtained a license for such towing business issued pursuant to section 20-498 of this subchapter. Such license shall be referred to as a license to engage in towing. No person shall engage in towing without having obtained a license plate for each tow truck issued pursuant to section 20-503 of this subchapter.

b. Except as otherwise provided in section 20-524 of this subchapter, no person shall drive or otherwise operate a tow truck or assist in any activity for which a license is required under this subchapter unless such person shall have first obtained a tow truck operator's license issued pursuant to section 20-498 of this chapter.

c. No person who is required to obtain a license under subdivision a of this section shall permit or authorize the driving or other operation of a tow truck by a person who does not possess a current, valid tow truck operator's license or whose tow truck operator's license has been suspended or revoked where such license is required under this subchapter. In any prosecution for violation of this subdivision, it shall not be necessary to prove that such person knew or should have known that the operator was unlicensed, and there shall be a rebuttable presumption that such tow truck was driven or otherwise operated with the permission or authorization of such person. In any such prosecution, it shall be an affirmative defense that prior to being cited for such violation, such person registered such tow truck operator with the department in accordance with the procedures prescribed by rule of the commissioner and the department did not send notification to such person that such tow truck operator lacked a current, valid tow truck operator's license or that such operator's license had been suspended or revoked.

§ 20-497 Application; fingerprinting; fee; term. a. An application for any license required under this subchapter or for any renewal thereof shall be made to the commissioner in such form and manner as he or she shall prescribe by regulation. An applicant for any such license shall be fingerprinted by the department for the purpose of securing criminal history records from the state division of criminal justice services. The applicant shall pay a processing fee as required by the state division of criminal justice services. Where the applicant is a sole proprietorship, fingerprints shall be taken of the owner thereof. Where the applicant is a partnership, fingerprints shall be taken of the general partners thereof. Where the applicant is a corporation,

fingerprints shall be taken of the officers, principals, directors and stockholders owning more than ten percent of the outstanding stock of the corporation. Any person required to be fingerprinted hereunder shall furnish to the department three current passport size photographs of such person. Notwithstanding the foregoing, the commissioner need not require applicants for licenses required under this subchapter to be fingerprinted if criminal history records concerning such applicants are not available from the state division of criminal justice services.

b. There shall be a biennial fee for a license to engage in towing and for each tow truck in excess of one operated pursuant to such license. Such fee for a license to engage in towing shall be six hundred dollars and such fee for each tow truck in excess of one shall be six hundred dollars. There shall be a biennial fee for a tow truck operator's license. The fee for such tow truck operator's license shall be twenty dollars. In the event of the loss, mutilation or destruction of any license issued hereunder, the licensee may file such statement and proof of facts as the commissioner shall require, with a fee of fifteen dollars per license, at the department, and the department shall issue a duplicate or substitute license.

c. All licenses issued to a business pursuant to this subchapter to engage in towing and all license plates issued pursuant to this subchapter for tow trucks shall expire on April thirtieth, in even numbered years, and all licenses issued pursuant to this subchapter to tow truck drivers to operate tow trucks shall expire on October thirty-first, in even years, unless sooner suspended or revoked.

§ 20-498 Issuance of license. a. A license to engage in towing shall be issued only where an applicant meets all the requirements of sections 20-499, 20-500, 20-501, 20-502, any criteria in addition thereto established by the commissioner by regulation as he or she deems necessary to effectuate the purposes of this subchapter and satisfies the commissioner that such applicant possesses good moral character.

b. A license to operate a tow truck shall be issued only where an applicant is at least eighteen years of age, satisfies the commissioner that he or she is capable of safely operating a tow truck, meets any additional criteria established by the commissioner by regulation as he or she deems necessary to effectuate the purposes of this subchapter and satisfies the commissioner that such applicant possesses good moral character. For purposes of determining whether the applicant is capable of safely operating a tow truck, the commissioner may take into consideration any violation by such applicant of the vehicle and traffic law or any other applicable law pertaining to vehicle operation.

c. The commissioner may refuse to issue to an applicant any license required under this subchapter based upon a determination made after due notice and opportunity to be heard that such applicant has engaged in

conduct which would constitute a basis for license suspension or revocation as set forth in this subchapter.

§ 20-499 Bond. a. As a condition of the issuance of a license to engage in towing, each applicant shall furnish to the commissioner a surety bond in the sum of five thousand dollars, payable to the city of New York, executed by the applicant and a surety approved by the commissioner. Such bond shall be conditioned upon the applicant's compliance with the provisions of this subchapter and any rules or regulations promulgated hereunder, and upon the further condition that the applicant will pay to the city any fine, penalty or other obligation within thirty days of its imposition, or any final judgment recovered by any person who received towing services from a licensee thereunder and was damaged thereby. The commissioner may in his or her discretion, after a public hearing, five days notice of which shall be published in the City Record, increase the amount of the surety bond required by this section to an amount not to exceed twenty-five thousand dollars. The commissioner may by regulation authorize an applicant to, in lieu of a bond, deposit cash to satisfy the requirements of this section in an amount equal to the sum of the surety bond required by this section.

b. The commissioner may by regulation establish a fund to be administered by the comptroller and authorize an applicant for a license to engage in towing to, in lieu of a bond or cash equivalent, make contributions to such fund to satisfy the requirements of subdivision a of this section. The commissioner may promulgate such rules or regulations as are necessary for the administration of such fund including, but not limited to, regulations setting forth the conditions for participation in the fund, the contributions required to be made to the fund and the circumstances under which disbursements will be made from the fund.

§ 20-500 Insurance. a. As a condition of the issuance of a license to engage in towing, each applicant shall furnish proof that every tow truck to be used by such applicant under such license is insured under a liability insurance policy as follows: with respect to each tow truck, not less than two hundred thousand dollars for personal injury or death of any one person resulting from any one accident; not less than five hundred thousand dollars for personal injury or death of two or more persons resulting from any one accident; and not less than fifty thousand dollars for injury to or destruction of property of one or more persons resulting from any one accident.

b. The licensee shall notify the commissioner of any modification, amendment, cancellation or substitution of any insurance policy required under subdivision a of this section within ten days of notice to the

licensee of such modification, amendment, cancellation or substitution.

§ 20-501 Inspection of tow trucks. a. No license to engage in towing shall be issued pursuant to this subchapter unless the commissioner determines that every tow truck to be used by the applicant under such license is fit for operation as a towing vehicle and is otherwise in compliance with the provisions of the vehicle and traffic law and any regulations promulgated thereunder.

b. The commissioner may require by regulation that every tow truck used by a licensee be inspected periodically by the department, and after finding such truck to be fit for operation, may issue a replaceable inspection sticker of such material, form, design and dimension to be affixed to such truck in such manner as he or she shall prescribe. The commissioner may by regulation impose a fee for any inspection in an amount not to exceed fifty dollars in order to defray the costs of conducting any such inspection.

c. Where a holder of a license to engage in towing acquires a tow truck subsequent to the date such license was issued intended for use under such license or intends to utilize a truck not previously identified in any application for a license to engage in towing, such licensee shall be prohibited from using such truck for towing until the licensee has furnished proof that such truck is insured as required by section 20-500, and that such truck has been inspected and approved for use by the department pursuant to this section and the commissioner has issued a license plate therefor pursuant to section 20-503 of this subchapter.

§ 20-502 Premises. No license to engage in towing shall be issued or renewed to any applicant where the premises on or in which the licensed business is to be conducted are not in compliance with the zoning resolution and the building code of the city of New York and any rules or regulations promulgated thereunder.

§ 20-503 Issuance of license plate. Upon approval of an application to engage in towing, the commissioner shall issue to the licensee a license plate for each tow truck to be used under such license. Such license plate shall be securely affixed to a conspicuous and indispensable part of such truck, and shall clearly set forth the license number assigned to the licensee. The license plate issued to the licensee may, in the discretion of the commissioner, be a plate of a permanent nature with a replaceable date tag attached thereto, indicating the expiration date of the plate. Such license and replaceable date tag shall be of such material, form, design and dimension as the commissioner shall

prescribe. The commissioner, upon renewal of a license to engage in towing, may continue the use of the license plate for as many additional license terms as he or she may determine, in which event he or she shall issue and deliver to the licensee a replaceable date tag as evidence of renewal of license, which shall be attached or affixed in such manner as he or she may prescribe. The failure to affix or display such date tag in a manner prescribed by the commissioner shall constitute a violation of this section. In the event of the loss, mutilation or destruction of any license plate or date tag issued hereunder, the licensee may file such statement and proof of facts as the commissioner shall require, with a fee of twenty-five dollars per plate or date tag, at the department, and the department shall issue a duplicate or substitute license plate or date tag.

§ 20-504 Renewal, suspension and revocation of licenses. After due notice and opportunity to be heard, the commissioner may refuse to renew any license required under this subchapter and may suspend or revoke any such license upon the occurrence of any one or more of the following conditions:

a. the person holding a tow truck operator's license, or the person holding a license to engage in towing or where applicable its officers, principals, directors, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation have been found by the commissioner to have violated any provisions of this subchapter or any rule promulgated thereunder; or

b. the person holding a tow truck operator's license, or the person holding a license to engage in towing or where applicable its officers, principals, directors, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation were found to have operated a tow truck in a grossly negligent manner or in a manner showing a reckless disregard for life or property. For purposes of this subdivision, a finding that any such person violated section eleven hundred ninety-two of the vehicle and traffic law in the course of the operation of a tow truck shall be deemed gross negligence; or

c. the person holding a tow truck operator's license, or the person holding a license to engage in towing or where applicable its officers, principals, directors or stockholders owning more than ten percent of the outstanding stock of the corporation have made a material false statement or concealed a material fact in connection with the filing of any application pursuant to this subchapter or have engaged in fraud or misrepresentation in connection with the rendering of services; or

d. the person holding a tow truck operator's license, or the person holding a license to engage in towing or where applicable its officers, principals, directors or stockholders owning more than ten percent of the outstanding stock of the corporation have not paid, within the time

permitted by law, any fine, penalty or judgment duly imposed pursuant to the provisions of this subchapter or any rule or regulation promulgated hereunder or duly imposed in connection with or arising from the use or operation of a tow truck or the occupation of the premises on which the licensed business is conducted; or

e. the person holding a tow truck operator's license, or the person holding a license to engage in towing or where applicable any of its officers, principals, directors or stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted of a crime which, in the judgment of the commissioner, has a direct relationship to such person's fitness or ability to perform any of the activities for which a license is required under this subchapter; or has been convicted of any other crime which, in accordance with article twenty-three-a of the correction law, would provide a justification for the commissioner to refuse to renew, or to suspend or revoke, such license; or

f. the person holding a tow truck operator's license, or the person holding a license to engage in towing has failed to maintain any of the conditions for issuance of such license as provided under this subchapter or any rule or regulation promulgated hereunder.

§ 20-504.1 Mandatory suspension or revocation of license. After due notice and opportunity to be heard, the commissioner shall refuse to renew, or shall suspend or revoke a license required under this subchapter, upon the occurrence of any one or more of the following conditions:

a. the person holding a license to engage in towing or where applicable, any of such licensee's officers, principals, directors, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation has been found by the commissioner to have willfully and unjustifiably refused to release a vehicle towed pursuant to section 20-518 or section 20-519 of this subchapter, to the vehicle's owner or the owner's agent. The commissioner shall establish standards concerning the sufficiency of proof of ownership of the vehicle and the legality of any charges demanded by the licensee for release of the vehicle. In determining whether such refusal is willful and unjustifiable, the commissioner in addition to any other relevant fact shall consider such standards;

b. the person holding a license to engage in towing or where applicable, any of such licensee's officers, principals, directors, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted of a misdemeanor or a felony related to auto stripping in violation of article 165 of the penal law;

c. the person holding a license to engage in towing or where

applicable, any of such licensee's officers, principals, directors, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation has been found by the commissioner to have committed in any combination three or more violations of the provisions of section 20-515 or paragraph two of subdivision b of section 20-518 of this subchapter or any rules promulgated thereunder within a two year period;

d. the person holding a tow truck operator's license has been found by the commissioner to have committed in any combination two or more violations of the provisions of section 20-515 or paragraph two of subdivision b of section 20-518 of this subchapter or any rules promulgated thereunder within a two year period.

e. the person holding a tow truck operator's license has been found to have operated any motor vehicle in violation of section eleven hundred ninety-two of the vehicle and traffic law during the license term, or has been found to have operated a tow truck in violation of section eleven hundred eighty-two of the vehicle and traffic law.

§ 20-505 Tow truck operator's license suspension or revocation; special circumstances. Notwithstanding any other provision of law, where the commissioner has reason to believe that a tow truck operator has committed an act which would provide a basis for suspension or revocation under section 20-504 or 20-504.1 of this subchapter, and the continued possession by such person of a tow truck operator's license would pose a serious danger to the safety of the public, the commissioner may immediately suspend his or her tow truck operator's license. Notwithstanding any other provision of law, upon the suspension or revocation pursuant to the vehicle and traffic law of a license to operate a motor vehicle that is held by a person who also holds a tow truck operator's license pursuant to this subchapter, the commissioner shall immediately suspend his or her tow truck operator's license. Notice of the suspension of a tow truck operator's license pursuant to this section shall be served on the operator and on the person who employs such operator to operate a tow truck. The commissioner shall provide the operator with the opportunity for a hearing within five days after the notification of suspension, after which the commissioner shall forthwith make a determination as to whether such suspension should continue and in addition may impose any penalty or sanction provided for under this subchapter, provided, however that where the license to operate a motor vehicle held by a tow truck operator has been revoked pursuant to the vehicle and traffic law, the commissioner shall revoke such person's tow truck operator's license issued pursuant to this subchapter.

§ 20-506 License revocation. Notwithstanding any other provision of law, any person who holds a license issued pursuant to this subchapter which has been revoked by the commissioner pursuant to this subchapter shall not be permitted to apply for any new license under this subchapter for a period of three years from the date of such revocation. No license to engage in towing shall be issued pursuant to this subchapter to a corporation, partnership, or other association if an officer, principal, director, or stockholder owning more than ten percent of the outstanding stock of the corporation of the applicant is or has been an officer, principal, director, or stockholder owning more than ten percent of the outstanding stock of the corporation of a licensee that has had a license revoked pursuant to this subchapter and such revocation is in effect at the time of the license application.

§ 20-507 Posting of information. a. Every person holding a license to engage in towing shall post, in a conspicuous fashion at the area of the licensee's place of business where a vehicle may be claimed, a sign which clearly and legibly states the licensee's name, address and business telephone number, the license number assigned to such business, the rates permitted to be charged for towing and storage under section 20-509 of this subchapter and the department's telephone complaint number.

b. The following information shall be clearly and legibly displayed and affixed in the manner provided by rule on each side of every tow truck used under a license to engage in towing: the licensee's name, the address under which the tow truck is licensed with the department, and the business telephone number; such rates permitted to be charged for towing and for storage under section 20-509 of this subchapter as are specified in rules of the commissioner; and the department's telephone complaint number. The letters and numerals of such display shall not be less than one and one-half inches in height, with a width of at least one-quarter of an inch, and shall be colored in a contrasting color which is prominent against the background color and is conspicuously visible when such vehicle is in motion.

§ 20-508 Storage facilities. Every licensee which stores vehicles shall do so only on premises which meet such specifications as the commissioner shall establish by regulation for safeguarding property.

§ 20-509 Rates. a. Except as otherwise provided, charges for the towing of vehicles shall not exceed fifty dollars for the first mile or fraction thereof and four dollars for each additional mile or fraction thereof; provided, however, that where a motor vehicle has been booted

by a person licensed pursuant to subchapter 32 of this chapter in a private lot as defined in paragraph 3 of subdivision b of section 20-531 of such subchapter and such vehicle is subsequently towed, no additional charge may be imposed for the towing of such vehicle.

b. Except as otherwise provided, charges for storage of vehicles shall not exceed fifteen dollars for each twenty-four hours or fraction thereof for the first three days of storage and seventeen dollars for the fourth day of storage and each day thereafter.

c. The commissioner may, by rule, authorize such additional charges for services necessary to prepare a vehicle for towing, including but not limited to charges for additional labor necessary for positioning a vehicle for towing, which in the judgment of the commissioner shall be fair and reasonable. In promulgating a rule pursuant to this subdivision, the commissioner shall consult with the tow advisory board.

d. (1) No tow truck operator shall require the payment of any fee or charge for towing and storage of a vehicle, or any fee or charge directly or indirectly related to towing and storage of a vehicle, that is not specifically authorized by law or rule.

(2) No charge for the towing and storage of vehicles may be imposed by any person who does not have a license to engage in towing as required by this subchapter at the time that the towing and storage services are performed.

§ 20-509.1 Rates for arterial tow permittees. Notwithstanding any other provisions of this subchapter, charges for the towing of disabled passenger vehicles from an arterial roadway by an arterial tow permittee authorized by the commissioner of transportation or the police commissioner shall be seventy dollars for the first mile or fraction thereof and four dollars for each additional mile or fraction thereof.

§ 20-510 Authorization to tow vehicles. No tow truck operator shall tow any vehicle for which towing is necessary because of a vehicular accident without an authorization signed by the person in charge of the vehicle or a police officer which authorizes the towing of such vehicle and, where applicable, authorizes the storage of such vehicle. The authorization shall be on a form prescribed by the commissioner which shall require such information as the commissioner prescribes by rule, including the following information: the licensee's name, address and business telephone number, the license assigned to such business, the department's telephone complaint number, the rates permitted to be charged for towing and storage under section 20-509 of this subchapter, the location from which and the destination to which the vehicle is to be towed, the year, the make, the model and the department of motor vehicles license plate number of the vehicle to be towed, the name of

the person in charge of the vehicle, the time of the request for service and any other information to be prescribed by rule of the commissioner. The form must also contain the following language: "This is an authorization for towing and, where requested, for storage and not an authorization to repair. You have the right to have your vehicle repaired at the facility of this towing company or any other establishment of your choice." Every authorization form shall be executed and copies thereof shall be furnished to such parties and in such manner as the commissioner may provide by rule.

§ 20-511 Removal of vehicles obstructing traffic. When a vehicle is situated so as to constitute an obstruction to traffic, and such vehicle is unattended or the person in charge of such vehicle has not arranged for its removal, a police officer or a person designated by the commissioner of transportation may direct its removal by a person licensed to engage in towing, and such licensee shall remove such vehicle to a storage facility which meets the specifications established by the commissioner by regulation pursuant to section 20-508 of this subchapter. Such licensee shall be entitled to charge the person in charge of the vehicle for towing and storage, and where applicable, for the rendering of services to prepare the vehicle for towing at the rates set forth or authorized by section 20-509 of this subchapter.

§ 20-512 Obligation to perform service. No person licensed under this subchapter shall refuse, without justifiable grounds, to render towing services in whole or in part to a person in charge of a disabled vehicle, other than a vehicle with a maximum gross vehicle weight of less than fifteen thousand pounds that is involved in a vehicular accident, who has requested towing to a destination within the city. For purposes of this section, "justifiable grounds" shall include but not be limited to (a) the absence of an authorization by the commissioner of transportation or the police commissioner which is required to lawfully remove a vehicle from a specific location and (b) an authorization by the commissioner of transportation to provide only such towing services as may be specified by such commissioner to remove a vehicle from a specific location.

§ 20-514 Repairs. a. No licensee under this subchapter or his or her agent shall make repairs or cause repairs to be made for a fee on any vehicle which requires towing because of a vehicular accident and is towed by such licensee, without first entering into a signed agreement with the person in charge of the vehicle authorizing such repairs. The commissioner shall prescribe the form to be used for such agreement. In addition to any other information required to be set forth in such agreement, the commissioner shall require that such agreement set forth

the registration number assigned to the licensee's repair shop pursuant to section three hundred ninety-eight-c of the vehicle and traffic law.

b. In any case where the tow truck operator knows that the person in charge of a vehicle is injured and is to be removed to a hospital, it shall be unlawful to enter into an agreement authorizing repairs with such injured person until the expiration of a period of at least twenty-four hours from the time of the accident, unless the injured person is not admitted to or has been discharged from the hospital before the expiration of such period.

§ 20-515 Prohibited acts. The following acts shall be prohibited:

a. maintaining anywhere for use in connection with towing a radio receiving set or other device capable of receiving signals or messages transmitted on the frequencies allocated for police use except in a tow truck for which there exists a current permit issued by the police commissioner pursuant to section 10-102 of the code. In any prosecution for violation of this subdivision, there shall be a rebuttable presumption that such device was used to monitor police transmissions;

b. soliciting or offering any inducements or making representations at the scene of a vehicular accident for the towing of any vehicle involved in an accident or for the performance of any repairs on any vehicle involved in an accident except as may be reasonable and necessary at the scene of an accident for the towing of an accident vehicle on a segment of the arterial highways by an arterial tow permittee who has been authorized by the commissioner of transportation or the police commissioner to provide tow service on such segment.

c. giving or offering to give any payment, fee, reward, or other thing of value, directly or indirectly, for supplying information concerning a disabled vehicle which may require towing service, which information is or may be used to solicit the towing or repair of such vehicle, or having printed any card or other notice offering to give a payment, fee, reward or other thing of value for such information; or

d. at the scene of a vehicular accident, making an estimate of the cost of repairs, offering to make such an estimate, or offering to make repairs, or providing any inducement, discount, reward, or other thing of value to encourage, urge or steer any person to have such accident vehicle towed to a repair facility or to have such accident vehicle repaired at a particular repair facility.

§ 20-516 Records. Every person licensed to engage in towing shall maintain records, ledgers, receipts, bills and such other written records as the commissioner may prescribe by regulation. Such records shall be made available for inspection by the commissioner at his or her request at either the licensee's place of business or at the offices of

the department.

§ 20-517 Transferability. No license issued under this subchapter shall be transferred or assigned to any person or used by any person other than the licensee to whom it was issued.

§ 20-518 Removal of vehicles involved in an accident. a. 1. The commissioner shall establish and administer a program to be known as the "directed accident response program" for the purpose of removing vehicles that have been involved in a vehicular accident and which cannot be safely driven under their own power. The commissioner may by rule prescribe which vehicles involved in vehicular accidents cannot be safely driven under their own power.

2. The commissioner, after consultation with the police commissioner, shall divide the city into zones and shall create for each zone a list in random order of persons licensed to engage in towing who have been approved by the commissioner for participation in the directed accident response program. At any time subsequent to the initial establishment of zones and lists, the commissioner may, after consultation with the police commissioner, modify the zones and reformulate the lists to ensure sufficient towing services throughout the city. Where more than one towing company has been placed on a list of towing companies authorized to remove vehicles in a particular zone, the police department shall summon towing companies from such list on a rotating basis. Any towing company approved for participation in such program after such lists are initially established shall be placed on any such list at the point immediately preceding the last towing company summoned by the police department pursuant to this section. Such lists shall be available at the department for public inspection.

3. The commissioner shall set forth by rules such criteria for participation in the program as he or she deems necessary to effectuate the purposes of this section. Such criteria shall include but not be limited to, possession of a valid, current license to engage in towing and compliance with this subchapter and any rules promulgated thereunder, ability to respond within a specified period of time to police department calls for towing, ability to make service available on a twenty-four hour basis or on such limited basis as the commissioner shall prescribe, maintenance of specified business hours for redemption of vehicles and maintenance of a specified minimum number of tow trucks and other equipment appropriate for towing, including at least one flat-bed truck suitable for removing accident vehicles. All participants in the program shall maintain a business premises that is under the exclusive control of the participant, is not used by any other towing company and is the premises listed on such participant's license to

engage in towing. Such premises shall consist of a location that is open to the public, where towing company personnel are employed, calls requesting towing service are received and towers are dispatched, and where all records required by this subchapter or any rules promulgated thereunder are maintained.

4. All persons approved by the commissioner for participation in the directed accident response program, in addition to meeting the requirements of paragraph three of this subdivision and any rule promulgated pursuant to this section, shall (i) have been licensed pursuant to this subchapter for a period of not less than one year; (ii) have not had such license revoked after due notice and opportunity to be heard at any time during the preceding two year period; and (iii) possess a satisfactory record with regard to the operation of a towing business as determined by the commissioner, provided that a determination that such record with regard to the operation of a towing business is unsatisfactory shall be based upon violations of this subchapter.

5. The commissioner may impose a biennial fee for participation in the program in order to defray expenses incurred in its administration.

b. 1. Any vehicle that has been involved in a vehicular accident and which cannot be safely driven under its own power which has not been removed or caused to be removed from the scene of an accident shall be removed by a tow truck of the towing company participating in the directed accident response program when such company has been directed to do so by the police department. No such vehicle, other than a vehicle that has a maximum gross vehicle weight of at least fifteen thousand pounds, may be removed by a tow operator chosen by the person in charge of such vehicle.

2. No tow truck operator shall travel en route to, or respond to, the scene or the reported scene of a vehicular accident, or remove a vehicle therefrom, unless a specific request for the services of such tow truck operator has been received by such operator or the towing company which employs such operator from a person in charge of a vehicle that has a maximum gross vehicle weight of at least fifteen thousand pounds, or unless such tow truck operator has been directed to do so by the police department.

3. No tow truck of the towing company participating in the directed accident response program shall fail to or refuse to remove a vehicle that has been involved in a vehicular accident and which cannot be safely driven under its own power when such company has been directed to do so by the police department. Such vehicle shall be towed to the storage facility of such responding company which meets such specifications as the commissioner shall establish by rule, or to a location within the city designated by the person in charge of such vehicle, provided, however, that placement of such vehicle in such location is not in violation of any other law. A vehicle towed to a

storage facility shall at all times be stored within such storage facility while the vehicle is in the custody of the towing company. Such storage facility shall be the premises listed on the license of the towing company responding to the police department's direction to remove a vehicle or the premises approved by the commissioner for use by such towing company. Such premises shall be owned, operated or controlled by such towing company and shall not be used by any other towing company. Nothing in this section shall be construed to preclude a person in charge of a vehicle that has a maximum gross vehicle weight of at least fifteen thousand pounds, from arranging for the removal of such vehicle by a tow operator of such person's choice.

4. Notwithstanding any other provision of this subchapter, a towing company that removes an accident vehicle to its storage facility at the place of business which qualifies such company for participation in the directed accident response program or to its auxiliary storage facilities approved by the commissioner, shall not charge for the towing of a vehicle registered at a weight of ten thousand pounds or less and the first day of storage for such vehicle a fee exceeding eighty dollars. A towing company participating in the directed accident response program shall not charge for the towing of an accident vehicle registered at a weight of more than ten thousand pounds and the first day of storage for such vehicle a fee exceeding one hundred and twenty-five dollars. Such fees shall be inclusive of all charges for the removing and towing of such vehicles to such storage facility and for the first day of storage.

5. If a person in charge of the vehicle, other than a police officer, requests that an accident vehicle be towed to any location other than the storage facilities at the place of business which qualified the towing company removing the vehicle for participation in the directed accident response program or to its auxiliary storage facilities approved by the commissioner, the towing company may also, in addition to the charges authorized under paragraph four of this subdivision, charge the mileage fee for additional mileage that is authorized under section 20-509 of this subchapter, for the distance traveled from the accident scene to the location where the vehicle is towed; provided, however, that such distance shall be measured on a route available for commercial vehicles from the accident scene to the location to which such vehicle is towed.

c. The police department shall maintain a record of the number of times each towing company participating in the directed accident response program is summoned to remove vehicles and the number of times each such company responds thereto and such other information as the commissioner may prescribe.

c-1. Every towing company approved to participate in the directed accident response program shall:

(1) have on its premises, and accessible to the public, a telephone

and bathroom facilities:

(2) provide reasonable access to an accident vehicle during the hours the towing company is required to be open for the redemption of vehicles, at no charge, to the owner or other person in charge of such vehicle, to any insurance agent or insurance adjuster representing the owner of such vehicle, or to any insurance agent or insurance adjuster who furnishes sufficient written proof confirming that he or she is in fact representing any other person having a claim or defense arising from an accident involving such vehicle;

(3)(a) impose no storage charge exceeding the amount permitted pursuant to section 20-509 of this subchapter during any period before the owner or other person in charge of an accident vehicle has signed an authorization for the repair of such accident vehicle with the repair shop that the towing company has registered pursuant to article twelve-A of the vehicle and traffic law, and (b) where such towing company is registered as a repair shop pursuant to article twelve-A of the vehicle and traffic law, impose no storage charge during the period from which the owner or other person in charge of the accident vehicle has authorized repairs by such registered repair shop to one business day after such registered repair shop has notified such owner or other such person in charge of such vehicle to pick up the repaired vehicle. For purposes of determining whether a towing company has violated subparagraphs (a) or (b) of this paragraph, such towing company shall be deemed to have committed the violation of another entity if such towing company and such other entity share a common officer, director, partner, member, manager, principal or shareholder owning five or more percent of the outstanding stock, such towing company has any direct or indirect interest in such other entity, or such towing company and such other entity share any facilities, equipment, or employees.

(4) provide to each owner or other person in charge of the accident vehicle an informational flyer entitled the "consumer bill of rights regarding towing of accident vehicles and repair shops" setting forth the information that the commissioner deems appropriate about the laws relating to the consumer's rights with respect to the towing and repairing of vehicles. Such bill of rights shall be provided to the owner or other person in charge of the accident vehicle before such vehicle is towed from the accident scene; provided, however, that if the owner or other person in charge of such vehicle is injured and is to be removed to a hospital, such bill of rights shall be furnished by the towing company at the time such owner or such other person in charge of such vehicle first appears at the premises of such towing company.

d. In addition to the obligation to make records available for inspection by the commissioner pursuant to section 20-516 of this subchapter, every towing company participating in the directed accident response program shall, at the request of the police department and for the purpose of the enforcement of any regulations promulgated pursuant

to this section, make available for inspection by the police department, during reasonable business hours, any records required to be maintained under this subchapter.

e. After due notice and opportunity to be heard, the commissioner may disqualify any towing company participating in the directed accident response program from continued participation in such program for violation of any of the provisions of this section or any rule promulgated hereunder or upon the occurrence of any one or more of the conditions set forth in this subchapter which constitute grounds for suspension or revocation of any license issued under this subchapter; provided, however, that the commissioner, for good cause, may, prior to giving notice and an opportunity to be heard, temporarily suspend a towing company from participation in the directed accident response program for up to ten days. Notice of such suspension shall be served on the towing company. The commissioner shall provide the towing company with the opportunity for a hearing within ten days after the notification of suspension, after which the commissioner shall forthwith make a determination as to whether such suspension should continue and the length of such suspension and in addition may impose any penalty or sanction authorized by this subchapter.

f. Any person participating in the directed accident response program who violates the provisions of section 20-496 of this subchapter regarding engaging in towing without having first obtained a license for such towing business and a license plate for each tow truck, driving or otherwise operating a tow truck or assisting in any activity for which a license is required under this subchapter without having first obtained a tow truck operator's license, or permitting or authorizing the driving or other operation of a tow truck by a person who does not possess a current, valid tow truck operator's license in violation of subdivision c of section 20-496 of this subchapter shall be removed from the list of approved towing companies and shall be ineligible for participation in the directed accident response program for a period of six months. Any such person who has been found guilty of two such violations within the preceding twenty-four month period shall be removed from the list of approved towing companies and shall be ineligible for participation in the directed accident response program for a period of one year.

g. The commissioner may promulgate such additional rules and regulations as he or she deems necessary to effectuate the purposes of this section.

g-1. 1. After due notice and opportunity to be heard, the commissioner may remove or suspend, for a period not to exceed one year, from continued participation in the directed accident response program any towing company participating in such program which:

(a) was unavailable to respond to a police dispatch or has failed to respond to a police dispatch for removing a vehicle from the scene of an accident on at least three occasions within any six month period;

(b) failed to provide to any person the informational flyer entitled "consumer bill of rights regarding towing of accident vehicles and repair shops" as required pursuant to paragraph four of subdivision c-1 of this section; or

(c) failed to or refused to release any accident vehicle after presentation of sufficient proof of ownership or owner's written authorization, and upon tender of payment of authorized charges in cash or by major credit card as such credit card payment is provided for in section 20-520.1 of this subchapter and any rules promulgated thereunder.

2. The grounds for suspension or removal of a towing company from continued participation in the directed accident response program specified in paragraph one of this subdivision shall be in addition to, and shall not in any way limit, the commissioner's authority to revoke, suspend, or refuse to renew a license issued pursuant to this subchapter or to suspend or remove from participation any towing company from the directed accident response program pursuant to any other provisions of this subchapter and any rules promulgated thereunder.

* h. The provisions of this section shall not apply to the removal of a vehicle that is located in a special accident response district established pursuant to section 20-518.1 of this subchapter.

* NB Expired December 31, 1997

i. The provisions of this section shall not apply to the removal of a vehicle at any location for which the authorization of the commissioner of transportation is required to remove a disabled vehicle therefrom.

* § 20-518.1 Special accident response districts. a. 1. Notwithstanding any inconsistent provisions of this subchapter, the commissioner may by rule designate one or more areas of the city as a special accident response district, provided, however, that such special accident response districts shall not in combination encompass more than seven police precincts. One but not more than three towing companies shall be assigned by the commissioner to each zone located in a special accident response district and shall have the responsibility of removing vehicles that have been involved in a vehicular accident in such zone and which cannot be safely driven under their own power. No more than one such towing company shall have the responsibility for removing such vehicles in a particular zone within a special accident response district during any specified period of time. The commissioner may by rule prescribe which vehicles involved in vehicular accidents cannot be safely driven under their own power. Notwithstanding any other provision of this section, the commissioner may by rule establish an alternative procedure for providing towing services for accident vehicles in certain circumstances where towing services will not be adequately provided by the towing companies participating in the special accident response

districts.

2. The commissioner, after consultation with the police commissioner and the tow advisory board created pursuant to section 20-526 of this subchapter, shall set forth by rule the division of a special accident response district into zones for the removal of accident vehicles and may modify the zones from time to time to ensure sufficient towing services throughout such district. In determining the boundaries of the zones, the commissioner may consider, but shall not be limited to considering, the following:

- (a) the boundaries of police precincts, commands and sectors;
- (b) vehicular accident statistics;
- (c) traffic patterns and other factors related to the response time of towing companies; and
- (d) the density of licensed towing company facilities.

b. 1. The commissioner shall set forth by rule such criteria for pre-qualifying a towing company to apply for a particular zone or zones in a special accident response district as he or she deems necessary to effectuate the purposes of this section. Such criteria shall include, but not be limited to (a) possession for a period of not less than one year of a valid, current license to engage in towing issued pursuant to this subchapter, which license has not been revoked after due notice and an opportunity to be heard at any time during the preceding two year period, (b) possession of a satisfactory record with regard to operation of a towing business as determined by the commissioner, provided that a determination that such record with regard to the operation of a towing business is unsatisfactory shall be based upon violations of this subchapter and any rules promulgated thereunder, (c) fitness to provide towing service, (d) ability to respond within a specified period of time to an accident that has occurred in the zone, (e) the proximity of the towing company's place of business and storage facilities to the zone applied for, (f) ability to make service available on a twenty-four hour basis, (g) maintenance of specified business hours for redemption of vehicles, (h) registration as a repair shop pursuant to article twelve-A of the vehicle and traffic law, and (i) maintenance of a minimum number of tow trucks and other equipment appropriate for towing. In addition to such criteria, a towing company shall maintain a business premises that is under the exclusive control of such towing company, is not used by any other towing company and is the premises listed on such towing company's license to engage in towing. Such premises shall consist of a location that is open to the public, where towing company personnel are employed, calls requesting towing service are received and towers are dispatched, and where all records required by this subchapter or any rules promulgated thereunder are maintained.

2. Where more than one towing company meets the criteria for assignment to a particular zone, the commissioner may use random selection procedures such as a lottery to assign a towing company to

such zone and to a specified time period. Zone assignment shall be for such period of time as the commissioner shall proscribe by rule.

3. The commissioner shall by rule establish procedures to be followed in the event that it is impracticable or impossible for the towing company assigned to a zone and to a specified time period to respond to an accident scene or to remove a vehicle therefrom in a timely manner, and the commissioner may pre-qualify towing companies to serve as a back-up response in such event.

4. The commissioner may by rule establish standards of service and performance and methods of identification of tow trucks which shall be complied with by all towing companies assigned by the commissioner to have the responsibility for removing accident vehicles in a zone. The commissioner shall not require the full body of a tow truck of such towing company to be painted a certain color.

c. 1. Any vehicle located in a zone in a special accident response district that has been involved in a vehicular accident and which cannot be safely driven under its own power which has not been removed or caused to be removed from the scene of an accident shall be removed by a tow truck of the towing company authorized by the commissioner to remove such vehicle from such zone at that particular time. No such vehicle, other than a vehicle that has a maximum gross vehicle weight of at least fifteen thousand pounds, may be removed by a tow operator chosen by a person in charge of such vehicle.

2. No tow truck operator shall travel enroute to, or respond to, the scene of a vehicular accident, or remove a vehicle therefrom, in a zone located within a special accident response district unless a specific request for the services of such tow truck operator has been received by such operator or the towing company which employs such operator from a person in charge of a vehicle that has a maximum gross vehicle weight of at least fifteen thousand pounds, or unless such operator has been assigned by the commissioner to have the responsibility for removing accident vehicles in such zone located within a special accident response district at that particular time, or has been pre-qualified by the commissioner and has been directed to serve as a back-up response at that particular time, or is otherwise authorized by the commissioner to remove a vehicle therefrom.

3. No tow truck of the towing company authorized by the commissioner to remove vehicles involved in a vehicular accident in a zone located within a special accident response district shall fail to or refuse to remove a vehicle that has been involved in a vehicular accident in such zone and which cannot be safely driven under its own power which has not been removed or caused to be removed from the scene of an accident. Such vehicle shall be towed by a tow truck of such responding towing company to the storage facility of such company, which facility shall meet such specifications as the commissioner shall establish by rule, or to a location designated by the person in charge of such vehicle, provided,

however, that such location is within the police precinct in which the vehicular accident occurred or a police precinct directly adjacent thereto and placement of such vehicle in such location is not in violation of any other law. A vehicle towed to a storage facility shall at all times be stored within such facility while the vehicle is in the custody of the towing company. Such storage facility shall be the premises listed on the license of the towing company or the premises approved by the commissioner for use by such towing company. Such premises shall be owned, operated or controlled by such towing company and shall not be used by any other towing company. In order to respond to the scene of an accident in the towing company's assigned zone, such company shall be permitted to maintain and use in such company's place of business for the purpose of receiving and monitoring police communications a radio receiving set or other device capable of receiving signals or messages transmitted on the frequencies allocated for police use.

d. The commissioner may impose a fee upon a towing company which has been assigned to a zone pursuant to this section in order to defray the expenses incurred in the administration and enforcement of this section.

e. The police department shall maintain a record of such information as the commissioner, after consultation with the police commissioner, may prescribe as would be useful in determining the effectiveness of special accident response districts.

f. In addition to the obligation to make records available for inspection by the commissioner pursuant to section 20-516 of this subchapter, every towing company which has been assigned to a zone pursuant to this section shall, at the request of the police department and for the purpose of the enforcement of this section or any rules promulgated hereunder, make available for inspection by the police department, during reasonable business hours, any records required to be maintained under this subchapter.

g. After due notice and an opportunity to be heard, the commissioner may remove any towing company from the responsibility for removing accident vehicles in a particular zone during a specified time period where the commissioner finds that the towing company has not complied with the standards of service and performance prescribed by rule, has engaged in any fraudulent business practices or has violated any of the provisions of this subchapter or any rules promulgated hereunder, or upon the occurrence of any one or more of the conditions set forth in this subchapter which constitute grounds for suspension or revocation of any license issued under the subchapter; provided, however, that the commissioner, for good cause, may, prior to giving notice and an opportunity to be heard, temporarily suspend a towing company from the responsibility for removing accident vehicles in a particular zone during a specified time period for up to ten days. Notice of such suspension shall be served on the towing company. The commissioner shall

provide the towing company with the opportunity for a hearing within ten days after the notification of suspension, after which the commissioner shall forthwith make a determination as to whether such suspension should continue and the length of such suspension, and in addition may impose any penalty or sanction authorized by this subchapter. In the event of the removal, termination or withdrawal of any towing company from the responsibility for removing accident vehicles in a particular zone, the commissioner shall, pursuant to the procedures described in subdivision b of this section and any rules promulgated thereunder, select a new towing company to provide towing service in the zone during a specified time period for the unexpired portion of the term.

h. Any person participating in the removal of vehicles involved in a vehicular accident in a zone located within a special accident response district who violates the provisions of section 20-496 of this subchapter regarding engaging in towing without having first obtained a license for such towing business and a license plate for each tow truck, driving or otherwise operating a tow truck or assisting in any activity for which a license is required under this subchapter without having first obtained a tow truck operator's license, or permitting or authorizing the driving or other operation of a tow truck by a person who does not possess a current, valid tow truck operator's license in violation of subdivision c of section 20-496 of this subchapter shall be removed from the responsibility for removing accident vehicles in a particular zone during a specified time period and shall be ineligible for participation in the removal of accident vehicles in zones located within special accident response districts for a period of six months. Any such person who has been found guilty of two such violations within the preceding twenty-four month period shall be ineligible for participation in the removal of accident vehicles in zones located within special accident response districts for a period of one year.

i. The provisions of this section shall not apply to the removal of a vehicle that is located in a zone designated by the commissioner as part of the "directed accident response program" pursuant to section 20-518 of this subchapter or to the removal of a vehicle from any location for which the authorization of the commissioner of transportation or the police commissioner is required to remove such vehicle therefrom.

j. The commissioner may promulgate such additional rules as he or she deems necessary to effectuate the purposes of this section.

* NB Expired December 31, 1997

§ 20-519 Removal of stolen, abandoned and evidence vehicles, vehicles blocking a private driveway and vehicles with certain alarm devices. a.

1. The commissioner shall establish a program to be known as the "rotation tow program" for the purpose of removing evidence vehicles, vehicles suspected of having been stolen or abandoned other than

vehicles described in subdivision two of section twelve hundred twenty-four of the vehicle and traffic law, the removal pursuant to section 19-169 of the code of vehicles blocking a private driveway, and the removal pursuant to section 24-221 of the code of vehicles with certain alarm devices.

2. The commissioner, after consultation with the police commissioner, shall divide the city into zones and shall create for each zone a list in random order of persons licensed to engage in towing who have been approved by the commissioner for participation in the rotation tow program. The commissioner may in his or her discretion create from such list separate lists for the removal of evidence vehicles, stolen and abandoned vehicles, the removal pursuant to section 19-169 of the code of vehicles blocking a private driveway, and the removal pursuant to section 24-221 of the code of vehicles with certain alarm devices, respectively. At any time subsequent to the initial establishment of zones and lists, the commissioner may, after consultation with the police commissioner, modify the zones and reformulate the lists to ensure sufficient towing services throughout the city. Where more than one towing company has been placed on a list of towing companies authorized to remove vehicles in a particular zone, the police department shall summon towing companies from such list on a rotating basis. Any towing company approved for participation in such program after such lists are initially established shall be placed on any such list at the point immediately preceding the last towing company summoned by the police department pursuant to this section. Such lists shall be available at the department for public inspection.

3. The commissioner shall set forth by rule such criteria for participation in the program as he or she deems necessary to effectuate the purposes of this section. Such criteria shall include, but not be limited to, possession of a valid, current license to engage in towing and compliance with this subchapter and any rules promulgated thereunder, ability to respond within a specified period of time to police department calls for towing, ability to make service available on a twenty-four hour basis or on such limited basis as the commissioner shall prescribe, maintenance of specified business hours for redemption of vehicles and maintenance of a specified minimum number of tow trucks and other equipment appropriate for towing. All participants in the program shall maintain a business premises that is under the exclusive control of the participant, is not used by any other towing company and is the premises listed on such participant's license to engage in towing. Such premises shall consist of a location that is open to the public, where towing company personnel are employed, calls requesting towing service are received and towers are dispatched, and where all records required by this subchapter or any rules promulgated thereunder are maintained.

4. The commissioner may impose a biennial fee for participation in the

program in order to defray expenses incurred in its administration.

5. On or after March first, nineteen hundred ninety-three, all persons approved by the commissioner for participation in the rotation tow program, in addition to meeting the requirements of paragraph three of this subdivision and any rule promulgated pursuant to this section, shall (i) have been licensed pursuant to this subchapter for a period of not less than one year; (ii) have not had such license revoked after due notice and opportunity to be heard at any time during the preceding two year period; and (iii) possess a satisfactory record with regard to the operation of a towing business as determined by the commissioner, provided that a determination that such record with regard to the operation of a towing business is unsatisfactory shall be based upon violations of this subchapter.

b. 1. Any vehicle that is suspected of having been stolen or abandoned other than vehicles described in subdivision two of section twelve hundred twenty-four of the vehicle and traffic law, any vehicle that is blocking a private driveway and subject to removal pursuant to section 19-169 of the code, and any vehicle with certain alarm devices which is subject to removal pursuant to section 24-221 of the code shall be removed by a tow truck of the towing company participating in the rotation tow program when directed to do so by the police department. If such vehicle appears to have a missing or altered vehicle identification number, the police may direct its removal to the police property clerk. All other vehicles shall be towed to the storage facility of such responding company which meets such specifications as the commissioner shall establish by rule, and shall at all times be stored within such storage facility while the vehicle is in the custody of the towing company. Such storage facility shall be the premises listed on the license of the towing company responding to the police department's direction to remove a vehicle or the premises approved by the commissioner for use by such towing company. Such premises shall be owned, operated or controlled by such towing company and shall not be used by any other towing company. The police department shall expeditiously make every reasonable effort to notify the owner and the national automobile theft bureau or the insurer, if any, of any vehicle that is suspected of having been stolen or abandoned of the vehicle's location and the procedure for retrieval. During the period commencing on the eighth day after the vehicle is removed to such storage facility and ending on the thirtieth day after such removal, such towing company shall transfer any vehicle which has not been claimed into the custody of the police department property clerk.

2. An evidence vehicle shall be removed by a towing company participating in the rotation tow program when directed to do so by the police department. Such vehicle shall be towed to a location designated by a police officer.

3. No tow truck operator shall knowingly remove a vehicle suspected of

having been stolen or abandoned or an evidence vehicle without authorization by the police department. No tow truck operator shall knowingly remove a vehicle blocking a private driveway subject to removal pursuant to section 19-169 of the code except as authorized in such section. No tow truck operator shall knowingly remove a vehicle with certain alarm devices subject to removal pursuant to section 24-221 of the code except as authorized in such section.

c. 1. Notwithstanding any other provision of law, the towing company shall be entitled to charge the owner or other person claiming a vehicle that is suspected of having been stolen or abandoned or a vehicle with certain alarm devices subject to removal pursuant to section 24-221 of the code which was directed to be towed by the police department pursuant to this section and which is claimed before the end of the thirtieth day after such vehicle is removed by such towing company amounts not in excess of the following: seventy dollars for the towing of a vehicle registered at a weight of ten thousand pounds or less; one hundred and twenty-five dollars for the towing of a vehicle registered at a weight of more than ten thousand pounds; fifteen dollars per day for the first three days and seventeen dollars for the fourth day of storage and each day thereafter. Upon the transfer of an unclaimed vehicle into the custody of the police department property clerk, the towing company shall be entitled to charge the police department amounts not in excess of the following: sixty dollars plus tolls for the towing of a vehicle suspected of having been stolen or abandoned, a vehicle that was blocking a private driveway and was removed pursuant to section 19-169 of the code or a vehicle with certain alarm devices that was removed pursuant to section 24-221 of the code, to a storage facility and subsequent transfer of such vehicle into the custody of such property clerk during the period of time specified in paragraph one of subdivision b of this section; five dollars per day for the first three days of storage of such vehicle and eight dollars for the fourth day of storage and each day thereafter, provided that in no event shall any towing company be entitled to charge the police department for storage charges incurred after the tenth day of storage. The towing company shall be entitled to charge the police department an amount not in excess of sixty dollars plus tolls for the towing of an evidence vehicle to a location designated by a police officer.

2. The police department shall be entitled to charge an owner or other person who claims a vehicle that is suspected of having been stolen or abandoned, a vehicle that was blocking a private driveway and was removed pursuant section 19-169 of the code, or a vehicle with certain alarm devices that was removed pursuant to section 24-221 of the code, which is in the custody of the police department property clerk the charges for towing and storage permitted to be charged by the towing company pursuant to paragraph one of this subdivision, plus tolls, in addition to the fees for storage with the police department property

clerk provided by subdivision i of section 14-140 of the code. No vehicle which is in the custody of the police department property clerk which had blocked a private driveway and was removed pursuant to section 19-169 of the code shall be released to the owner or other person claiming such vehicle unless such owner or other person shall, in addition to paying such charges to the police department property clerk as provided for in this subdivision, present to such property clerk a receipt from the towing company which removed the vehicle indicating payment to such company of the following amount: the charges for towing and storage which would have been due to the towing company pursuant to paragraph eight of subdivision c of section 19-169 of the code had such owner or other person claimed the vehicle from such towing company less the amount paid to the police department for the towing and storage of such vehicle by such company.

3. No towing company shall require the payment of any fee or charge for or relating to towing and storage of a vehicle, or any fee or charge directly or indirectly related to towing and storage of a vehicle, that has been removed pursuant to this section, that is not specifically authorized by law or rule.

d. The police department shall maintain a record of the number of times each towing company participating in the rotation tow program is summoned to remove a vehicle and the number of times each such company responds thereto and such other information as the commissioner may prescribe by rule.

e. In addition to the obligation to make records available for inspection by the commissioner pursuant to section 20-516 of this subchapter, every towing company participating in the rotation tow program shall, at the request of the police department and for the purpose of the enforcement of any rules promulgated pursuant to this section, make available for inspection by the police department, during reasonable business hours, any records required to be maintained under this subchapter.

f. After due notice and opportunity to be heard, the commissioner may disqualify any towing company participating in the rotation tow program from continued participation in such program for violation of any of the provisions of this section or any rule promulgated hereunder or upon the occurrence of any one or more of the conditions set forth in this subchapter which constitute grounds for suspension or revocation of any license issued under this subchapter; provided, however, that the commissioner, for good cause, may, prior to giving notice and an opportunity to be heard, temporarily suspend a towing company from participation in the rotation tow program for up to ten days. Notice of such suspension shall be served on the towing company. The commissioner shall provide the towing company with the opportunity for a hearing within ten days after the notification of suspension, after which the commissioner shall forthwith make a determination as to whether such

suspension should continue and the length of such suspension, and in addition may impose any penalty or sanction authorized by this subchapter.

g. Any person participating in the rotation tow program who violates the provisions of section 20-496 of this subchapter regarding engaging in towing without having first obtained a license for such towing business and a license plate for each tow truck, driving or otherwise operating a tow truck or assisting in any activity for which a license is required under this subchapter without having first obtained a tow truck operator's license, or permitting or authorizing the driving or other operation of a tow truck by a person who does not possess a current, valid tow truck operator's license in violation of subdivision c of section 20-496 of this subchapter shall be removed from the list of approved towing companies and shall be ineligible for participation in the rotation tow program for a period of six months. Any such person who has been found guilty of two such violations within the preceding twenty-four month period shall be removed from the list of approved towing companies and shall be ineligible for participation in the rotation tow program for a period of one year.

h. The commissioner may promulgate such additional rules as he or she deems necessary to effectuate the purposes of this section.

§ 20-520 Removal of disabled vehicles on highways. Notwithstanding any other provision of this subchapter, where the authorization of the commissioner of transportation or the police commissioner is required to remove a disabled vehicle from any of the highways, parkways, expressways, drives, interstate routes, thruways and bridges set forth in the traffic regulations of the department of transportation, it shall be a violation of this section to effect such removal without such authorization.

§ 20-520.1 Acceptance of major credit cards as prerequisite to participation in city towing programs; violations. a. For purposes of this section, the following terms shall have the following meanings:

1. "City towing program" shall mean the directed accident response program established pursuant to section 20-518 of this subchapter, the special accident response districts established pursuant to section 20-518.1 of this subchapter, the rotation tow program established pursuant to section 20-519 of this subchapter, the removal of disabled vehicles on highways pursuant to authorization by the department of transportation or the police department, and any program whereby a city agency, pursuant to law, rule or agreement, directs a towing business to tow a vehicle without the prior consent of such vehicle's owner for any reason other than the towing of a vehicle in satisfaction of a judgment

for an outstanding debt to the city.

2. "Major credit card" shall mean MasterCard, Visa, American Express, or Discover.

b. No towing business shall participate in any city towing program, unless such towing business shall: (i) satisfactorily demonstrate to the agency administering such program or authorizing such participation, that such business accepts at least two major credit cards for towing in accordance with generally accepted business practices; (ii) notify such agency in writing of the major credit cards accepted and any changes in the major credit cards such towing business accepts; and (iii) display decals identifying the major credit cards accepted on all tow trucks used to tow vehicles in the city towing program in a manner to be prescribed by the commissioner.

c. Any person participating in a city towing program who shall: (i) fail to accept at least two major credit cards; or (ii) refuse to accept a credit card which such person has informed the administering agency is accepted pursuant to subdivision b of this section, shall, after notice and opportunity to be heard, be liable for a penalty not to exceed one thousand dollars (\$1,000). Any such person who has been found guilty of three such violations within the preceding twenty-four month period shall be removed from participation in such program for a period of time to be determined by the commissioner or administering agency but not to exceed one year; provided, however that the provisions of this section shall not apply to any contract entered into between a towing business and a city agency prior to the date of adoption by the city council of the local law which added this section.

§ 20-521 Interagency advisory council. a. There is hereby created an interagency advisory council consisting of the commissioner of the police department and the commissioner of the department of transportation who shall serve ex-officio, and a representative of the office of the mayor designated by the mayor.

b. The interagency advisory council shall make recommendations to the commissioner concerning the criteria for the issuance of any license required by this subchapter and for authorization to participate in the rotation tow program and the directed accident response program. At the commissioner's request, the interagency advisory council shall advise and assist him or her on any other matter concerning the regulation of towing in the city.

§ 20-522 Penalties. The penalties imposed by this section shall be in addition to any other sanctions and orders which may be imposed by the commissioner pursuant to this chapter including but not limited to such sanctions and orders which may be imposed pursuant to section 20-105 of

this code. Notwithstanding the provisions of subdivisions a and b of section 20-106 of this code, the following penalties shall apply for violations of this subchapter:

a. 1. Any person who violates the provisions of sections 20-496, 20-509, 20-515 or paragraph two of subdivision b of section 20-518 of this subchapter or any rules promulgated thereunder shall be guilty of a misdemeanor punishable by a fine of not less than two hundred fifty dollars or more than two thousand dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment.

2. Any person who violates the provisions of sections 20-496, 20-509, 20-515 or paragraph two of subdivision b of section 20-518 of this subchapter or any rules promulgated thereunder who has been found guilty of a violation of any of such sections or such rules two times within the preceding twenty-four month period shall be guilty of a misdemeanor punishable by a fine of not less than five hundred dollars or more than five thousand dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment.

3. A person who violates any provision of this subchapter or any of the rules promulgated thereunder and is not subject to the penalties imposed pursuant to paragraphs one or two of this subdivision shall be guilty of an offense punishable by a fine of not less than one hundred dollars or more than one thousand dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment.

4. Except as otherwise specifically provided in paragraphs one or two of this subdivision, there shall be no criminal penalties pursuant to this subdivision for a violation of the provisions of sections 20-518 and 20-519 of this subchapter or any rules promulgated thereunder.

b. 1. In addition to the penalties prescribed by paragraph one of subdivision a of this section, any person who violates the provisions of sections 20-496, 20-509, 20-515 or paragraph two of subdivision b of section 20-518 of this subchapter or any rules promulgated thereunder shall be liable for a civil penalty of not less than two hundred fifty dollars or more than two thousand dollars.

2. In addition to the penalties prescribed by paragraph two of subdivision a of this section, any person who violates the provisions of sections 20-496, 20-509, 20-515 or paragraph two of subdivision b of section 20-518 of this subchapter or any rules promulgated thereunder who has been found guilty of a violation of any such sections or such rules two times within the preceding twenty-four month period shall be liable for a civil penalty of not less than five hundred dollars nor more than five thousand dollars.

3. In addition to the penalties prescribed by paragraph three of subdivision a of this section, any person who violates any provision of this subchapter or any rules promulgated thereunder, other than sections 20-496, 20-509, 20-515 and paragraph two of subdivision b of section 20-518 of this subchapter and any rules promulgated thereunder, shall be

liable for a civil penalty of not less than one hundred dollars or more than one thousand dollars.

§ 20-522.1 Violations for operating without a license; seizure; forfeiture. a. 1. For purposes of this section, the term "owner" shall mean an owner as defined in section one hundred twenty-eight and in subdivision three of section three hundred eighty-eight of the vehicle and traffic law.

2. For purposes of this section, the term "security interest" shall mean a security interest as defined in subdivision k of section two thousand one hundred one of the vehicle and traffic law.

b. Any police officer or authorized officer or employee of the department, upon service upon the owner or operator of a tow truck of a notice of violation for engaging in any activity for which a license is required pursuant to subdivision a of section 20-496 of this subchapter without such license, may seize a tow truck which such police officer or authorized officer or employee has reasonable cause to believe is being used in connection with such a violation. Any vehicle seized pursuant to this subdivision shall be delivered into the custody of the department or other appropriate agency. The commissioner shall hold a hearing to adjudicate the violation underlying the seizure within five business days after the date of seizure and shall render his or her determination within three business days after the conclusion of the hearing.

c. An owner shall be eligible to obtain release of a vehicle seized pursuant to subdivision b of this section prior to the hearing provided for in such subdivision, where such owner has not previously been found liable for a violation for engaging in any activity for which a license is required pursuant to subdivision a of section 20-496 of this subchapter without such license, which violation was committed within a five-year period prior to the violation resulting in seizure. The vehicle shall be released to an eligible owner upon the posting of an all cash bond in a form satisfactory to the commissioner in an amount sufficient to cover the maximum fines or civil penalties which may be imposed for the violation underlying the seizure and all reasonable costs for removal and storage of such vehicle.

d. Where the commissioner, after adjudication of the violation underlying the seizure, finds that the vehicle has not been used in connection with engaging in any activity for which a license is required pursuant to subdivision a of section 20-496 of this subchapter without such license, the department shall promptly release such vehicle upon written demand of its owner.

e. Where the commissioner, after adjudication of the violation underlying the seizure, finds that the vehicle has been used in connection with engaging in any activity for which a license is required pursuant to subdivision a of section 20-496 of this subchapter without

such license, then: (i) if the vehicle is not subject to forfeiture pursuant to paragraph one of subdivision g of this section, the department shall release such vehicle to an owner upon payment of all applicable fines and civil penalties and all reasonable costs of removal and storage; or (ii) if the vehicle is subject to forfeiture pursuant to paragraph one of subdivision g of this section, the department may release such vehicle to an owner upon payment of all applicable fines and civil penalties and all reasonable costs of removal and storage, or may commence a forfeiture action within ten days after the owner's written demand for such vehicle.

f. Any vehicle that has not been claimed by the owner within ten days after adjudication by the commissioner of the violation underlying the seizure shall be deemed by the department to be abandoned. Such vehicle shall be disposed of by the department pursuant to section twelve hundred twenty-four of the vehicle and traffic law.

g. 1. In addition to any other fine, penalty or sanction provided for in section 20-522 of this code, a vehicle seized pursuant to subdivision b of this section, and all rights, title and interest therein shall be subject to forfeiture to the city upon notice and judicial determination thereof if the owner of such vehicle has been found liable at least two times for using a vehicle in connection with engaging in any activity for which a license is required pursuant to subdivision a of section 20-496 of this subchapter without such license, both of which violations were committed within a five-year period.

2. A forfeiture action which is commenced pursuant to this subdivision shall be commenced by the filing of a summons with notice or a summons and complaint in accordance with the civil practice law and rules. Such summons with notice or a summons and complaint shall be served in accordance with the civil practice law and rules on all owners of the subject vehicle listed in the records maintained by the department of motor vehicles, or for vehicles not registered in New York state, in the records maintained by the state of registration. A vehicle which is the subject of such action shall remain in the custody of the department or other appropriate agency pending the final determination of the forfeiture action.

3. Notice of the institution of the forfeiture action shall be given by first class mail to all persons holding a security interest in such vehicle which security interest has been filed with the department of motor vehicles pursuant to the provisions of title ten of the vehicle and traffic law, at the address set forth in the records of such department, or for vehicles not registered in New York state, all persons who hold a security interest in such vehicle which security interest has been filed with such state of registration and which persons are made known by such state to the department, at the address provided by such state of registration.

4. Any owner who receives notice of the institution of a forfeiture

action who claims an interest in the vehicle subject to forfeiture may assert a claim in such action for the recovery of the vehicle or satisfaction of the owner's interest in such vehicle. Any person with a security interest in such vehicle who receives notice of the institution of the forfeiture action who claims an interest in such vehicle subject to forfeiture may assert a claim in such action for satisfaction of such person's security interest in such vehicle.

5. Forfeiture pursuant to this subdivision shall be made subject to the interest of a person who claims an interest in the vehicle pursuant to paragraph four of this subdivision, where such person establishes that: (i) the use of the vehicle for the conduct that was the basis for seizure of the vehicle occurred without the knowledge of such person, or if such person had knowledge of such use, that such person did not consent to such use by doing all that could reasonably have been done to prevent such use, and that such person did not knowingly obtain such interest in the vehicle in order to avoid the forfeiture of such vehicle; or (ii) that the conduct that was the basis for such seizure was committed by any person other than such person claiming an interest in the vehicle, while such vehicle was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States or any state.

6. The department or agency having custody of the vehicle, after judicial determination of forfeiture, shall, at its discretion, either:

(i) retain such vehicle for the official use of the city or; (ii) by public notice of at least five days, sell such forfeited vehicle at public sale. The net proceeds of any such sale shall be paid into the general fund of the city.

7. In any forfeiture action commenced pursuant to this subdivision, where the court awards a sum of money to one or more persons in satisfaction of such person or persons' interest in the forfeited vehicle, the total amount awarded to satisfy such interest or interests shall not exceed the amount of the net proceeds of the sale of the forfeited vehicle after deduction of the lawful expenses incurred by the city, including the reasonable costs of removal and storage of the vehicle between the time of seizure and the date of sale.

§ 20-523 Enforcement. Authorized officers and employees of the department and of the police department shall have the power to enforce any provision of this subchapter or any rule or regulation promulgated hereunder.

§ 20-524 Applicability of subchapter. a. 1. The commissioner shall grant an exemption from the provisions of this subchapter, other than section 20-520 of this subchapter, to the following persons for the

operation of one or more tow trucks that are owned or operated by such person and are used exclusively in the business of such person:

(a) a vehicle dismantler, salvage pool, mobile car crusher, or itinerant vehicle collector registered pursuant to section four hundred fifteen-a of the vehicle and traffic law, a scrap processor licensed under article six-C of the general business law and certified by the commissioner of motor vehicles of the state of New York as a scrap processor, and a scrap collector certified by the commissioner of motor vehicles of the state of New York as a scrap collector who complies with all licensing or permitting requirements applicable to such business;

(b) a franchised public transportation operator;

(c) a common carrier of passengers by motor vehicle, a common carrier of property by motor vehicle, a contract carrier of passengers by motor vehicle, and a contract carrier of property by motor vehicle as such terms are defined in subdivisions seven, eight, nine and ten, respectively, of section two of the transportation law when such common carriers possess such appropriate operating authority as is required by applicable law;

(d) a public utility company or a public utility corporation as such terms are defined in subdivisions twenty-three and twenty-four, respectively, of section two of the public service law;

(e) an owner of a vehicle licensed pursuant to chapter five of title nineteen of the code;

(f) an operator of a school bus as such term is defined in section one hundred forty-two of the vehicle and traffic law; and

(g) a motor-vehicle rental agency.

2. An application for such exemption shall be made to the commissioner in the form and manner prescribed by rule of the commissioner. The commissioner may impose a reasonable application fee to cover the administrative costs of granting an exemption. A certificate of exemption shall be issued for each tow truck utilized by such person as described above and shall be displayed in the manner prescribed by rule of the commissioner. No certificate issued pursuant to this subdivision shall be assignable or transferable or used for any tow truck other than the tow truck for which it was issued.

b. The licensing requirements of subdivision b of section 20-496 of this subchapter shall not be applicable to an individual employed by a person who has been granted a certificate of exemption pursuant to subdivision a of this section when such individual is driving or otherwise operating a tow truck, or assisting in any activity for which a license is required under this subchapter, and a certificate of exemption has been issued for the tow truck utilized by such individual.

c. This subchapter shall not be applicable to a governmental agency or to any person who performs towing and storage services exclusively on the premises of any facility operated by the port authority of New York and New Jersey, or to an individual employed by either such entity when

driving or otherwise operating a tow truck or assisting in any activity for which a license is required under this subchapter in the course of his or her employment.

d. The commissioner may by rule exempt from the provisions of sections 20-509 and 20-514 the towing of certain classes of vehicles based on their dimension, weight, or dimension and weight.

e. Notwithstanding the provisions of subdivision c of this section, the provisions of section 20-528 of this subchapter shall be applicable to all city marshals and city agencies.

§ 20-525 Regulations. The commissioner may promulgate such rules and regulations as he or she deems necessary to effectuate the purposes of this subchapter.

§ 20-526 Tow advisory board. There shall be a tow advisory board to consist of nine members to be appointed for two-year terms by the commissioner, upon consultation with the council, to advise the commissioner concerning matters relating to the tow industry, including the preparation of rules and regulations for the class of vehicles commonly known as tow trucks and for the owners and drivers thereof. Members of the tow advisory board shall be chosen from licensed persons who own or operate tow trucks or who are officers in corporations that own or operate tow trucks and other individuals who have knowledge of the towing industry, its customers and its business practices, including but not limited to, representatives of auto insurance companies and entities having a pre-existing contractual obligation or business arrangement to provide towing services to their customers.

§ 20-527 Credit cards to be accepted in payment. Any person licensed pursuant to the provisions of this subchapter shall accept payment in person by credit card for any fees incurred in accordance with generally accepted business practices.

§ 20-528 Police precinct notification. a. Within two hours subsequent to the towing of any motor vehicle pursuant to any provision of this code, any rules promulgated pursuant thereto or any rules promulgated by the department of transportation pursuant to any other provision of law, the tow truck operator or his or her designee shall notify the local police precinct either in person or by electronic submission that the vehicle was towed. Such information shall be made available, upon request, to the owner of the vehicle or to any person authorized by the owner to have possession of the vehicle. Such list shall include the

make and model of the vehicle, its license plate number, the reason why the vehicle was towed and the location and hours during which the vehicle may be retrieved.

b. The provisions of subdivision a shall not apply where such towing is conducted in the physical presence of or with the consent of a person in charge of the vehicle or where, within two hours of such towing, information relating to such towing is entered by or on behalf of a governmental official or agency into the New York statewide police information network.

Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/consumers. For convenience, sections of the New York City Licensing Law (and Rules, if enacted) are included as a handout in this packet. The Law (and Rules) are current as of January 2009.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

RULES OF THE CITY OF NEW YORK
TITLE 6: DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 2: LICENSES
SUBCHAPTER EE: TOWING VEHICLES

§2-361 Definitions.

Whenever used in these regulations, the following terms shall be deemed to mean and include:

Commissioner. "Commissioner" shall mean the Commissioner of the Department of Consumer Affairs of the City of New York.

Department. "Department" shall mean the Department of Consumer Affairs of the City of New York.

Disabled vehicle. "Disabled vehicle" shall mean any vehicle for which towing is necessary because of a vehicular accident or for which towing is necessary because of the vehicle's inability to proceed under its own motive power due to reasons other than vehicular accident.

Evidence vehicle. "Evidence vehicle" shall mean any vehicle which is suspected of having been used as a means of committing a crime or employed in aid or furtherance of a crime or held, used or sold in violation of law or which may be required to be held or produced as evidence in a criminal investigation or proceeding.

Licensee. "Licensee" shall mean a person (a natural person, corporation, association or partnership) licensed under the provisions of the Administrative Code of the City of New York to operate, engage in, conduct or cause the operation of a business engaged in towing with or without charge or payment therefor.

Person in charge of a vehicle. "Person in charge of a vehicle" shall mean the operator or owner of a vehicle or any person designated by the owner to contract for the towing or repairing of such vehicle.

Tow truck. "Tow truck" shall mean a vehicle that is equipped with a crane, winch, tow bar, push plate, or other device designed to pull or push a vehicle or to raise a vehicle or the front or rear end thereof.

Towing. "Towing" shall mean the driving or other operation of a tow truck, or the offering to transport a vehicle by means of a tow truck. An employee of a repair shop registered pursuant to article twelve-A of the vehicle and traffic law that is not subject to the licensing requirements of this subchapter shall not be deemed to be engaged in

"towing;qc when such employee test-drives a tow truck that has been repaired or is to be repaired by such repair shop if (1) such tow truck is not owned or operated by such repair shop, (2) such tow truck is not transporting another vehicle, and (3) such test-drive takes place within a one mile radius of such repair shop's premises.

Vehicle. A motor vehicle as defined in §125 of the New York State vehicle and traffic law, a tractor as defined in §151-a of such law or a trailer as defined in §156 of such law.

§2-362 **Applications for a License to Engage in Towing.**

(a) Every applicant for any license required under this subchapter or for any renewal thereof shall appear at the Department and have his or her fingerprints taken, recorded, filed with and made part of such application. This requirement applies to: the individual owner if the applicant is a sole proprietorship; the general partners, if the applicant is a partnership; and the officers, directors and stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation. This requirement shall not apply to any individual whose fingerprints are or have been taken in connection with any other license application or renewal thereof under this subchapter. A processing fee, as required by the New York State Division of Criminal Justice Services or New York City Police Department shall be paid at time of application.

(b) Every such applicant shall submit with his or her application one (1) recent, clear photograph of him or herself which shall be 1 1/2 inches square or oval. The name of the applicant shall be legibly printed on the back of each photograph. This requirement applies to every individual required to be fingerprinted by these regulations.

(c) Every such applicant must submit to the Commissioner a bond in the sum of five thousand dollars payable to the City of New York. The bond shall be either a cash bond or a bond executed by a duly authorized surety company. The bond shall be conditioned upon:

(1) Payments to the City of New York of any fine, penalty or other obligation imposed by the Department of Consumer Affairs for non-compliance with any law(s), rule(s) or regulation(s) governing the conduct of those licensed to engage in the business of towing within 30 days of its imposition or,

(2) Payment of any final judgment recovered by any person who received towing services from a licensee hereunder and was damaged thereby.

(d) Every such applicant shall furnish a copy of a Certificate of Insurance as proof that every tow truck to be used by such applicant under this license is insured under a liability insurance policy as follows:

Not less than two hundred thousand dollars for personal injury or death of any one person resulting from any one accident; not less than five hundred thousand dollars for personal injury or death of two or more persons resulting from any one accident; and not less than fifty thousand dollars for injury to or destruction of property of one or more persons resulting from any one accident.

The licensee shall notify the Commissioner of any modification, amendment, cancellation or substitution of any such insurance policy within 10 days of receipt by the licensee of notice to the licensee of any such modification, amendment, cancellation or

substitutions. Notice to the Commissioner shall be made by regular mail to the License Issuance Division of the Department.

(e) Every such applicant shall produce proof of Workers' Compensation Insurance Coverage consisting of a copy of a Certificate of Insurance from the carrier setting forth the carrier's full name and address; the full name and address of the insured; the policy or binder number; locations and operations covered and the period covered. If coverage is cancelled or lapses, notice thereof shall be given immediately to the Department. Every licensee shall furnish proof of continued coverage whenever required to do so by the Department. Every licensee shall at all times during the term of the license have and maintain Workers' Compensation Insurance Coverage. This requirement shall not apply to those applicants who are not required by law to maintain this coverage or who have been specially exempted from a requirement to maintain such coverage. Any applicant who has been specially exempted must produce proof of exemption from the Workers' Compensation Board.

(f) If the applicant conducts business under a trade name or if the applicant is a partnership, the application for a license must be accompanied by a copy of the trade name or partnership certificate duly certified by the clerk of the county in whose office said certificate was filed. If the applicant is a corporation, a copy of the filing receipt or certificate of incorporation filed with and stamped by the New York State Secretary of State must be submitted, along with a Certificate of Assumed Name or filing receipt, if an assumed name is used.

(g) Every such applicant shall not have a record of conviction for a crime which in the judgement of the Commissioner has a direct relationship to such person's fitness or ability to perform any of the activities for which a license to engage in the business of towing is required. Consideration may be given to the circumstances of the underlying arrest, age when arrested, time elapsed since the occurrence of the act which led to the arrest and conviction and the subsequent conduct of the applicant. This requirement applies to the individual owner if the applicant is a sole proprietorship; the general partners, if the applicant is a partnership and the officers, directors and stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation.

(h) Every such applicant with business or storage premises in New York City must submit a current certified Certificate of Occupancy or a letter of permissible use from the Department of Buildings indicating that its business or storage premises are in compliance with the zoning resolution and the building code of the City of New York.

(i) Every such applicant must show either direct ownership or direct lease or sub-lease of the business or storage premises, whether located within the City of New York or not.

(j) Repealed.

(k) Every such applicant must submit proof of a valid New York State registration for each tow truck for which a Department license plate is sought.

(l) Any applicant who repairs vehicles shall submit proof of a valid New York State Department of Motor Vehicles registration to operate a repair shop.

(m) The biennial fee for a license to engage in the business of towing shall be \$600.00. All licenses to engage in the business of towing issued pursuant to this subchapter shall expire on December thirty-first in odd numbered years, unless sooner

suspended or revoked. In addition, there shall be a biennial fee of \$600.00 for each tow truck in excess of one for which the applicant seeks a Department license plate.

Upon payment of the license fee and compliance with all other applicable requirements of the Department, the Commissioner will issue to the applicant a license to engage in the business of towing vehicles together with one Department license plate for each tow truck covered by such license.

(n) Each license plate will be assigned to a specific tow truck as outlined on the Plate Assignment Roster. A licensee shall have the license plate affixed in the manner specified below, and have the license plate number painted or otherwise securely affixed in the manner specified below.

(1) Securely affix by means other than a magnet, the license plate to the rear driver's side, adjacent to or directly above the wheel well of the assigned truck.

(2) Paint, or otherwise securely affix the license plate number, by means other than a magnet, on the rear driver's side of the truck above the DCA tow truck plate. The license plate number must also be painted or otherwise securely affixed by means other than a magnet on the rear passenger's side of the truck, in approximately the same position as it is located on the rear driver's side. All numerals painted or otherwise securely affixed to indicate the license plate number must be at least 12 inches high for clear visibility, provided, however, that in the case of a flatbed vehicle, the numerals painted or otherwise securely affixed to indicate the license plate number must be at least 6 inches in height.

(3) A licensee who has been approved to participate in the DARP, ROTOW or EVIDENCE VEHICLE programs will be identified as a participant in such program(s) on the Tow Truck Identification Card issued pursuant to subdivision (p) of this section. Any participant who at any time fails to meet the application requirements for the DARP, ROTOW or EVIDENCE VEHICLE programs will be subject to immediately removal from such programs.

(4) Below is an example (not drawn to scale) of a properly displayed tow truck plate and license plate number. The plate and license plate number are securely affixed to the truck by means other than a magnet. The Department's current complaint telephone number, the tow truck company's name, address and telephone number, and, for any vehicle assigned to DARP, the legal rate for towing for DARP tows, specifically identified as "Rates for accident tows," must also be clearly painted on or be permanently adhered as a decal by heat treatment to the tow truck, in letters at least 1¹/₂ inches high, as illustrated below.

1. Company Name, Address, Telephone
2. Current DCA Complaint Phone Number
3. Rates for Accident Towing and Storage
4. Plate Number 12 inches high
5. DCA plate.

Numbers 1, 2, & 3 must be painted on letters, one and a half inch high.

(o) Where such applicant is required to pay the New York City commercial motor vehicle tax for one or more tow trucks pursuant to Chapter 8 of Title 11 of the Administrative Code, the applicant shall furnish proof of payment of such tax for each tow truck for which a license is sought. Such proof shall consist of a validated New York City Department of finance Motor Vehicle Tax Receipt issued pursuant to such chapter.

(p) Each licensed tow truck shall carry an identification card issued by the Department which shall contain the tow truck's Department license plate number, the tow truck's New York State Department of Motor Vehicles' license plate number, the vehicle identification number assigned to that particular tow truck, the tow truck company's name, the tow truck company's license number and a code letter designating that the tow truck is approved for use in the DARP, ROTOW or EVIDENCE VEHICLE program.

§2-363 Obligations of Those Licensed to Engage in the Business of Towing.

(a) The Department license plate shall at all times be affixed to a visible and conspicuous part of each tow truck covered by the license, as determined by the Commissioner. However, in no instance shall this plate be affixed to the hood of the tow truck.

(b) Each licensee shall notify the Department of any change in its ownership if it is a sole proprietorship, of any change in its general partners if it is a partnership, and of any change in its directors, officers or holders of more than ten percent of its stock if it is a corporation.

The license to engage in the business of towing shall become immediately void unless prior written approval of the Department has been obtained

(1) with respect to a corporation, where any person or organization becomes the beneficial owner of more than ten percent of the stock of a corporate licensee, if such person or organization was not previously one whose fingerprints were required to be taken under §2-362(a) above;

(2) with respect to a partnership, where there is any change in the general partners; and

(3) with respect to a sole proprietorship, where there is any change in ownership.

(c) Upon the dissolution, suspension, discontinuance, whether voluntary or involuntary, or sale as a going concern of the business of a licensee, it shall be the duty of such licensee to surrender to the Department its license together with all Department license plates issued thereunder.

(d) Each corporate licensee must disclose to the Department the identity of each person who holds in the aggregate, either directly or indirectly, through a nominee or any other person holding stock for the use or benefit of such person, more than 10 percent of the outstanding stock of such corporate licensee.

(e) *Licensee's duty to keep records.* (1) Each licensee shall record all calls for towing and record all occasions where towing service was rendered. The licensee shall do this by maintaining in chronological order all authorizations to tow and all towing invoices, for a period of three years.

(2) A separate log book shall be maintained for the Stolen and Abandoned Rotation Tow Program, the Directed Accident Response Program and the Evidence Vehicle Program, in accordance with the regulations established for these programs.

(3) All required records shall be readily available at the licensee's premises for inspection by the Police Department and the Department of Consumer Affairs during normal business hours.

(f) Any licensee holding a license to engage in the business of towing who acquires a tow truck subsequent to the date such license was issued shall submit an application to the Department to obtain a Department license plate to affix to said truck. The licensee must furnish proof of insurance and proof of vehicle registration.

(g) Periodic inspections will be made of tow trucks by duly authorized employees of the Department. The inspectors shall check for a valid New York State Department of Motor Vehicle inspection sticker and all other necessary documentation required under the vehicle and traffic law. In addition, the truck must be visibly roadworthy.

(h) Licensees may be held responsible for any act or omission of any of their employees which results in the licensee's failure to comply with such regulations as are applicable.

(i) Licensees must promptly and in no event later than five business days, report the loss of any Department license plate or license document to the Department as well as the loss or change of the vehicle registration.

(j)(1) Each licensee must notify the Department of any conviction for a crime or the entry of a guilty or nolo contendere plea by:

(i) any licensed tow truck operator employed by the licensee; or

(ii) any person required to be fingerprinted under this subchapter in connection with the licensee's application for a license or renewal thereof.

(2) There shall be a rebuttable presumption that a licensee had notice of such conviction for a crime or entry of a guilty or nolo contendere plea by any licensed tow operator in its employ or by any person required to be fingerprinted under this subchapter in connection with the licensee's application for a license or renewal thereof.

(k) Licensees must not permit the Department license plate to be used on any vehicle other than the one for which it is issued, without the prior written approval from the Department.

(l) Licensees must not store vehicles on a public thoroughfare, unless licensees are directed to do so by the person in charge of the vehicle or a police officer and such placement of such vehicle is not in violation of any other law.

(m) Licensees shall take reasonable care to prevent damage to or loss of a customer's vehicle or personal property contained therein.

(n) Licensees must notify the Department in writing at the time of their application of the names, addresses and Department license numbers of each tow truck operator who is employed by such licensee. If additional tow truck operators are employed by such licensee after the date of such application, the licensee must notify the Department in writing immediately of the names, addresses and Department license numbers of such additional tow truck operators. The Department shall immediately notify the licensee in writing if any tow truck operator employed and registered with the Department by such licensee lacks a current, valid tow truck operator's license or if such operator's license has been suspended or revoked.

(o) No vehicle towed by a licensee to the licensee's premises address shall be left by the licensee on the street in front of, or adjacent to, the licensee's business premises (which include the licensee's storage facilities and auxiliary storage facilities).

§2-364 Applications for a Tow Truck Operator's License.

(a) Every applicant for a tow truck operator's license must be at least 18 years of age and must submit acceptable proof of age in the form of a birth certificate or a driver's license.

(b) Every such applicant must possess a valid New York State class A, B, CDL C or Non-CDL C license, all of which shall also have an endorsement required by law for operating a tow truck, or an equivalent license from another state of which he or she is a resident, provided, however that such person provides the Commissioner with an abstract of his or her driving record from such state. Applicants with out-of-state driver's licenses must present proof satisfactory to the Commissioner that such licenses are current and valid at the time of the filing of the application.

(c) Every such applicant must submit with his or her application two (2) recent, clear photographs of himself or herself which shall be 1 1/2 inches square or oval. The name of the applicant shall be legibly printed on the back of each photograph.

(d) An applicant shall not have a record of conviction for a crime which in the judgment of the Commissioner has a direct relationship to such person's fitness or ability to perform any of the activities for which a tow truck operator's license is required. Consideration may be given to the circumstances of the underlying arrest, age when arrested, time elapsed since the occurrence of the act which led to the arrest and conviction and the subsequent conduct of the applicant.

(e) The Commissioner may reject an application or move to suspend or revoke the license of an operator whose driving record in the judgment of the Commissioner, adversely affects his or her ability to perform the activities for which a license is required.

(f) Every applicant for an operator's license or for any renewal thereof shall appear at the Department and have his or her fingerprints taken, recorded, filed with and made part of such application. This requirement shall not apply to any individual whose fingerprints are or have been taken in connection with any other license application or renewal thereof under this subchapter. A processing fee, as required by the New York State Division of Criminal Justice Services or the New York City Police Department shall be paid at the time of application.

§2-365 Obligations of Those Licensed to Operate a Tow Truck.

(a) Every operator must have in his or her possession, while operating a tow truck for the purpose of towing, his or her tow truck operator's license.

(b) Every operator must, promptly, and in no event later than 10 days, in writing, report a change of residence address to the Department.

(c) Every operator must, promptly, and in no event later than 10 days, in person, report the loss of his or her tow truck operator's license to the Department.

(d) Every operator must surrender his or her tow truck operator's license to the Department when his or her driver's license has been suspended or revoked.

(e) Every operator must promptly and in no event later than 5 days, notify the Department if he or she is convicted of a crime or enters a guilty or nolo contendere plea in any jurisdiction.

(f) Operators shall not permit any other person to use his or her tow truck operator's license.

(g) Operators shall not operate any tow truck for the purpose of towing for which a Department license plate has not been issued.

(h) Operators shall not charge a fee for any towing service in connection with the towing of a vehicle, except as provided by the applicable laws, rules and regulations.

(i) Operators shall continuously maintain a valid New York State class A, B, CDL C or non-CDL C license with the endorsement required by law for operating a tow truck, or a current and valid equivalent license from another state of which he or she is a resident.

§2-366 Responsibility to Provide Towing Services.

(a) No person licensed under this subchapter shall refuse, without justifiable grounds, to render towing services in whole or in part to a person in charge of a disabled vehicle (other than a vehicle that has a maximum gross vehicle weight of less than 15,000 pounds that is involved in a vehicular accident) who has requested towing to a destination within the city and who is able and willing to pay the towing charges in legal tender, by a credit card in accordance with generally accepted business practices, by a first party insurance check or in any other form acceptable to the licensee. For purposes of this subdivision, "justifiable grounds" shall include but not be limited to (1) the licensee does not have available the tow truck or other equipment necessary to tow the vehicle, (2) the absence of an authorization by the commissioner of transportation which is required to lawfully remove a vehicle from a specific location, and (3) an authorization by the commissioner of transportation to only provide such towing services as may be specified by such commissioner to remove a vehicle from a specific location.

(b) Licensees are required to tow a disabled vehicle (other than a vehicle that has a maximum gross vehicle weight of less than 15,000 pounds that is involved in a vehicular accident) with reasonable promptness to a location within the city as designated by the person in charge or owner of the vehicle. Factors that will be considered in the ability to be reasonably prompt are availability of the tow truck and other necessary equipment, weather, distance, and traffic conditions.

(c) Licensees are not required to carry any of the occupants of the disabled vehicle in the tow truck. In addition, they shall not, in any instance, charge a fee for any passengers that they do transport.

(d) All tow truck operators must issue a clearly written itemized receipt for towing services for which they have been paid. This receipt must state the amount of charges, for what services charges were made, the location from which the vehicle was towed and the location to which the vehicle was towed, the method of payment and the date services were rendered. This receipt must also state the schedule of rates, if applicable,

and the license number, the telephone number and the premises address of the company licensed to engage in the business of towing.

§2-367 Authorization to Tow.

(a) No tow truck operator shall tow a vehicle for which towing is necessary because of a vehicular accident without

- (1) an authorization signed by the person in charge of the vehicle, or
- (2) an authorization signed by a police officer who authorized the towing of such vehicle and where applicable, authorized the storage of such vehicle.

(b) The Authorization to Tow form for an accident vehicle towed pursuant to the Directed Accident Response Program shall be a printed form with such captions and blank spaces as are appropriate to insert the information to be furnished concerning the towing of a vehicle. Unless specifically provided otherwise, the printed text shall be in no less than 10 point type in a color that is sharply set off from the background color of the document. The transaction-specific information entered on the form shall be legibly hand printed on the original page with ink in a color that is sharply set off from the background color of the document. The original and all duplicate pages of each authorization form shall contain the following information and include the following statements worded substantially as specified, and in the order listed, below:

- (1) the caption "AUTHORIZATION TO TOW" which shall be at the top of the document in 12 point, bold face type.
- (2) the business name, address and telephone number of the tow truck company, as well as the company's Department of Consumer Affairs' license number to engage in the business of towing,
- (3) the name, address, and telephone number of the person in charge of the vehicle or the owner of the vehicle, or the name and badge number of the police officer who authorized the tow and/or the storage of the vehicle.
- (4) the date and time the vehicle is towed, the make and model of the vehicle being towed, as well as the year it was manufactured and the State vehicle license plate number.
- (5) the tow truck operator's name, and his or her Department license number and the tow truck's New York State license plate number, and the Department license plate number assigned to such truck.
- (6) the location, identified by address or the names of the nearest intersecting streets, where the vehicle was towed from and where it is towed to.
- (7) the total distance of the tow, as shown by the starting and ending mileage, to the nearest whole mile, on the odometer of the towing vehicle.
- (8) an itemized accounting of the fees and charges that are or will be due for the towing and storage of the vehicle as authorized by law or rule. Amounts charged for the following shall be separately listed and described, and fees and charges imposed at different rates shall be listed separately:
 - (i) the fee for towing and the first calendar day of storage (not to exceed \$80 for a vehicle registered at a weight of ten thousand pounds or less or \$125 for a vehicle registered at a weight of more than ten thousand pounds);

- (ii) the fee for mileage, if applicable, for the distance traveled at a rate not exceeding \$4.00 per mile or part thereof;
 - (iii) storage charges for each calendar day of storage at a rate not exceeding \$15 per day for the second or third calendar day of storage and \$17 per day for the fourth calendar day and each calendar day thereafter;
 - (iv) all tolls required to be paid while towing the vehicle;
 - (v) New York City sales tax of 8¹/₄%;
 - (vi) a description of any other applicable fees or charges required to be paid as specifically authorized by law or rule.
- (9) a statement in 12 point, bold face type specifying that: I DIRECT THAT THE VEHICLE BE TOWED TO THE FOLLOWING LOCATION: (with sufficient space left thereafter to enable the person in charge of the vehicle to write in the location where the vehicle is to be towed). The following statement shall be printed immediately below such statement: Unless you have directed otherwise above, your vehicle will be towed to: (insert the address of the approved storage facility where the vehicle will be towed).
- (10) The following statement shall be printed in 12-point, bold face type immediately above the space reserved for the signature:

NOTICE TO THE CONSUMER

YOU ARE SIGNING AN AUTHORIZATION FOR TOWING AND, WHERE APPLICABLE, FOR THE STORAGE OF THIS VEHICLE. THIS IS NOT AN AUTHORIZATION TO REPAIR. YOU HAVE THE RIGHT TO HAVE THE VEHICLE REPAIRED AT THE FACILITY OF YOUR CHOICE.

ALL THE RATES TO BE CHARGED MUST BE COMPLETED BEFORE YOU SIGN. THE ACTUAL CHARGES DUE MAY BE FILLED IN AT THE COMPLETION OF THE TOW.

YOU HAVE THE RIGHT TO HAVE YOUR VEHICLE TOWED TO A LAWFUL LOCATION OF YOUR CHOICE WITHIN NEW YORK CITY.

DO NOT SIGN AN AUTHORIZATION FORM WITH ANY BLANK SPACES FOR INFORMATION TO BE COMPLETED BEFORE THE VEHICLE IS TOWED. YOU ARE ENTITLED TO A COPY OF THE FORM UPON SIGNING IT.

(11) The statement "I authorize the towing and, where applicable, the storage of the above vehicle to the location as specified above," shall be printed in 12-point, bold face type immediately after the above notice, with a space reserved for the signature and statement as shown below:

(11) X _____

(11) X Signature of Owner or Person in Charge

(12) The statement and information shall be printed immediately below the signature line: "If you have any complaint concerning the charges for towing or about towing services, notify:

Department of Consumer Affairs
Consumer Services Division
(Insert the Department's current address)
(Insert the Department's current telephone number for complaints)

(13) The statement "PLEASE SEE CONSUMER'S BILL OF RIGHTS ON THE BACK OF THIS AUTHORIZATION FORM" shall be printed at the bottom of the page.

(c)* The person paying any charges authorized by this or any other section of the law or rules shall be entitled to a copy of the Authorization to Tow form from the tow truck operator at no additional charge.

(d) No tow truck operator shall tow a vehicle for which towing is necessary because of a vehicular accident where the authorization of the commissioner of Transportation or the Police Commissioner is required as provided in §20-520 of the Administrative Code of the City of New York except pursuant to the Authorization to Tow form that tow truck operators towing such vehicles are required to use pursuant to such authorization; provided, however, that if such authorization does not require such tow truck operators to use an authorization to tow form, such operators shall use an Authorization to Tow form approved by the Commissioner.

§2-367.1 Consumer Bill of Rights Regarding Towing of Accident Vehicles and Repair Shops.

(a) Every owner or person in charge of an accident vehicle subject to the Directed Accident Response Program shall be provided a document entitled "Consumer Bill of Rights Regarding Towing of Accident Vehicles and Repair Shops" before such person signs the Authorization to Tow form as provided in §2-367 of this subchapter. If the towing of an accident vehicle is authorized by a police officer as provided in §2-367 of this subchapter, the "Consumer Bill of Rights Regarding Towing of Accident Vehicles and Repair Shops" shall be provided to the owner or person in charge of the vehicle before such vehicle is towed from the accident scene, such as when that person discusses the disposition of the vehicle with such towing company; provided, however, that if the owner or other person in charge of such vehicle is injured and is to be removed to a hospital, such bill of rights shall be furnished by the towing company at the time such owner or other person in charge of such vehicle first appears at the premises of such towing company.

(b) The "Consumer Bill of Rights Regarding Towing of Accident Vehicles and Repair Shops" shall have printed on it at the top of the page in capital, block face letters and in 14 point bold face type the caption CONSUMER BILL OF RIGHTS REGARDING TOWING OF ACCIDENT VEHICLES AND REPAIR SHOPS followed by statements in the sequence listed below in 10 point type in a color that sharply sets the text off from the background color of the document except that text included below in capital letters shall be in 10 point bold face type:

**"NOTICE OF RIGHTS AND OPTIONS WHEN
YOUR ACCIDENT VEHICLE IS TOWED."**

Information about the towing of the vehicle.

"Your accident vehicle must be towed by the towing company that has been directed to do so by the Police Department."

YOU HAVE A RIGHT TO DIRECT THE TOWING COMPANY TO TOW THE VEHICLE TO ANY LOCATION WITHIN THE BOUNDARIES OF NEW YORK CITY, provided the vehicle can be legally left in the location you select. You must indicate on the Tow Authorization form where you want the vehicle towed. If you do not designate a location, the towing company is required to tow the vehicle to its authorized storage facility.

You or any person you select, including your insurance agent or adjuster, must be provided, at no extra charge, with reasonable access to view the accident vehicle during normal business hours at the towing company's storage facilities, but any insurance agent or insurance adjuster for a third party may have access only upon furnishing written confirmation they are representing such third party having a claim or defense arising from an accident involving such vehicle.

The Authorization to Tow form you sign ONLY AUTHORIZES the towing company to tow your vehicle and to store it at the storage facility of the towing company until you arrange to remove the vehicle. The towing company CANNOT use the towing authorization as an authorization to initiate repairs on the vehicle. UNLESS YOU HAVE SEPARATELY AUTHORIZED THE TOWING COMPANY'S REPAIR SHOP TO MAKE REPAIRS, YOU ARE NOT RESPONSIBLE FOR THE COST OF REPAIRS MADE BY SUCH REPAIR SHOP.

The rates charged for towing and storage cannot exceed those listed below for vehicles weighing 10,000 pounds or less:

Tow to towing company's storage facilities (including mileage plus storage for first calendar day)	\$80.00
Tow to location other than towing company's storage facilities (excluding mileage)	\$80.00
Charge per mile if towed to location other than towing company's storage facilities	\$ 4.00
Storage charge for each calendar day for the second or third day of storage*	\$15.00
Storage charge for each calendar day for the fourth day of storage or thereafter*	\$17.00
Road tolls actually paid	\$ _____
Sales taxes at 8.25%	\$ _____

*Rate does not apply to a vehicle with commercial plate and maximum gross vehicle weight of at least 6,000 pounds.

You have a right to pay towing and storage fees in cash or by at least two major credit cards identified by a decal on the tow truck, but a tow company is not obligated to take a check.

You may redeem your vehicle during a towing company's normal business hours.

Information about Repair of Vehicle

You are entitled to have the vehicle repaired by the repair shop of your choice. Within 30 minutes after the payment of all lawful charges (see above), the towing company must make the vehicle available to you or anyone you designate. A towing company may charge a fee of up to \$25 for positioning your vehicle so it can be towed away by the tow truck of another company that is using a tow truck capable of towing three or more vehicles simultaneously.

No insurance company can require you to have the vehicle repaired by a specific repair shop.

You are entitled to request that your insurer recommend a repair shop. If you choose to have your vehicle repaired by a repair shop recommended by your insurer, your insurer becomes responsible for the adequacy of the repairs made by that repair shop.

§2-368 Rates and Charges.

(a) Unless specifically provided otherwise by law or rule, the maximum rates as prescribed for towing are:

- (1) \$50 for the first mile or part thereof within the City of New York.
- (2) \$4.00 for each additional mile or part thereof within the City of New York.
- (3) All tolls required to be paid while towing a vehicle.

(b) The maximum rates as prescribed for storage are \$15.00 maximum for each calendar day for the first three days of storage and \$17.00 for the fourth calendar day of storage and each calendar day thereafter. The calendar day the vehicle is towed shall be counted for this purpose.

(c) The rates in subdivision (a) shall not apply to:

- (1) the towing of vehicles exceeding six thousand pounds;
- (2) the towing of vehicles that are less than six thousand pounds that have commercial license plates and a maximum gross vehicle weight of at least six thousand pounds; or

- (3) the towing of motor vehicles pursuant to a contract which was in existence prior to the need for the towing of such vehicles, provided that such motor vehicles are either owned or leased by the person who entered into such contract.

(d) The rates in subdivision (b) shall not apply to:

- (1) the storage of vehicles exceeding six thousand pounds;

(2) the storage of motor vehicles that are less than six thousand pounds that have commercial license plates and a maximum gross vehicle weight exceeding six thousand pounds; or

(3) the storage of motor vehicles pursuant to a contract which was in existence prior to the need for storage of such vehicles, provided that such motor vehicles are either owned or leased by the person who entered into such contract.

(e) For towing to a destination outside the City of New York an agreement as to the charge for towing must be made before the start of the trip. Such charges shall not exceed \$3.50 per mile from the City line to the point of destination. All other towing rates as described in subdivisions (a), (b) and (c) apply to all tows originating in the City of New York.

(f)(1) Where unusual preparation is required before a vehicle can be towed, additional charges may be imposed not to exceed \$12.00 per tow truck for each 1/4 hour or part thereof, provided, however, that no such charge may be imposed or collected if an accident vehicle is towed pursuant to the Directed Accident Response Program. Unusual preparation includes winching or righting a vehicle or any other preparation necessary to put the vehicle in a position where it can be hooked or raised to the tow truck.

(2) Notwithstanding paragraph one of this subdivision, a towing company which has towed a vehicle to its storage facilities may charge an additional amount not to exceed \$25 for the positioning of such vehicle for removal from such storage facilities by the tow truck of another towing company that is capable of towing three or more vehicles simultaneously. Such other towing company must be licensed or otherwise exempt from the licensing provisions of subchapter 31 of chapter 2 of title 20 of the New York City Administrative Code, or must be based outside of New York City and thereby not be required to be licensed pursuant to such provisions of the New York City Administrative Code.

§2-368.1 Display of Major Credit Card Decals on Tow Trucks Used in a City Towing Program and Notification of Changes in Acceptance of Major Credit Cards.

(a) For purposes of this section, the following terms shall have the following meanings:

(1) "**City towing program**" shall mean the directed accident response program established pursuant to §20-518 of the administrative code of the city of New York, the rotation tow program established pursuant to §20-519 of such code, the removal of disabled vehicles on highways pursuant to authorization by the department of transportation or the police department, and any program whereby a city agency, pursuant to law, rule or agreement, directs a towing business to tow a vehicle without the prior consent of such vehicle's owner for any reason other than the towing of a vehicle in satisfaction of a judgment for an outstanding debt to the city.

(2) "**Major credit card**" shall mean MasterCard, Visa, American Express or Discover.

(b) A towing business that participates in any city towing program shall have permanently affixed to each tow truck used to tow vehicles in such city tow program

decals identifying the major credit cards accepted as payment for towing under such program in accordance with §20-520.1 of the administrative code of the city of New York. Each such decal shall be no less than three and three-sixteenth inches wide by two inches high, and shall be securely affixed by means other than a magnet immediately above or below the space where the legal rates for towing and storage are painted on the tow truck or immediately below the legal rates for towing and storage are painted on the tow truck or immediately below the place where such tow truck company's name, address and telephone number are painted on the door of the tow truck in accordance with §2-362(n)(4) of this chapter. If such major credit cards are not accepted by such towing business as payment for towing performed outside the scope of such city towing program, such towing business shall also paint immediately below such decals on each tow truck used to tow vehicles in such city towing program in letters at least one and one-half inches high the words "THESE CARDS ACCEPTED ONLY FOR TOWING UNDER FOLLOWING CITY TOWING PROGRAM" followed by a listing of each applicable program. If such limitation is not so disclosed on a tow truck used by a towing business in any city towing program, such towing business shall accept the major credit cards it has identified by such decals as payment for any services performed by such towing business.

(c) No later than ten days before a change in the major credit cards accepted for payment by a towing company participating in any city towing program becomes effective, such towing business shall notify the Department in writing of any such change, and shall certify to the Department in a sworn statement that the credit card decals required to be affixed pursuant to subdivision b of this section have been modified to reflect such change.

§2-369 Authorization to Repair.

No person licensed to engage in the business of towing, through any employee or agent, may obtain at the scene of an accident the signature of any person authorizing the repair of a vehicle disabled in the accident or at a hospital, if such person requires hospitalization, until at least twenty-four hours after the accident. Any such written authorization so obtained shall be voidable at the option of the owner or of the person in charge of the vehicle.

(a) An "Authorization to Repair" shall not be signed at the scene of an accident. It can be signed only at:

- (1) The place to which the vehicle is towed; or
- (2) The home of or place designated by the person in charge of a disabled vehicle; or
- (3) The hospital, if such person requires hospitalization. In such case, the authorization shall not be presented to the injured party for signature at the hospital until at least twenty-four hours after the accident.

(b) Any "Authorization to Repair" which is not properly completed shall be voidable at the option of the owner or the person in charge of a disabled vehicle.

It shall be the responsibility of the tow truck operator to make certain that the person signing the "Authorization to Repair" writes in his or her own handwriting the location where the form is signed. No blank "Authorization to Repair" forms shall be carried on a tow truck or on the person of a tow truck operator while on a tow truck.

(c) The authorization to repair form shall require the following information:

- (1) The tow truck company's name, address and business telephone number.
- (2) The name, signature, address, and telephone number of the person in charge of the disabled vehicle.
- (3) The make, type and year of manufacture of the disabled vehicle.
- (4) The New York State Department of Motor Vehicle registration number of the disabled vehicle.
- (5) The date and time the authorization is signed.
- (6) The operator's name and license number.
- (7) A notice to the owner or person in charge of the damaged vehicle to read as follows:

NOTICE: TO OWNER OR PERSON IN CHARGE OF DAMAGED VEHICLES:
PLEASE READ ALL PRINTED MATTER BEFORE SIGNING. ALL
COMPLAINTS AS TO QUALITY OF REPAIRS MUST BE MADE TO THE
NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES. NO TOWING
COMPANY OR INSURANCE COMPANY MAY REQUIRE THAT REPAIRS
BE MADE TO A MOTOR VEHICLE IN A PARTICULAR PLACE OR REPAIR
SHOP. YOU HAVE THE RIGHT TO HAVE YOUR MOTOR VEHICLE
REPAIRED IN THE SHOP OF YOUR CHOICE.

(8) A statement of the following:

You cannot be required to sign this "AUTHORIZATION TO REPAIR" at the scene of an accident. In any case, where the tow truck operator knows that the person in charge of a vehicle is injured and is to be removed to a hospital, it shall be unlawful to enter into an agreement authorizing repairs with such injured person, until the expiration of a period of at least twenty-four hours from the time of the accident, unless the injured person is not admitted to or has been discharged from the hospital before the expiration of such period.

Before signing your name to the bottom of this form, write in your own handwriting in the space provided below your name and the address of the premises at which this form is signed.

(9) Statement to appear on form along with a space provided for signature: I
AUTHORIZE THE REPAIR OF THE VEHICLE INDICATED ABOVE.

(10) Statement to appear on form: ALL OF THE ABOVE ENTRIES MUST BE MADE
AT THE TIME THE AUTHORIZATION TO REPAIR IS SIGNED.

§2-370 Arterial Towing.

No person shall cause or permit the removal of a disabled vehicle from an arterial highway, parkway, and expressway, roadway tunnel, and bridge, except by a licensed tow truck under authority issued by the Commissioner of the Department of Transportation as specified in the Traffic Regulations, §2-256(j). Those who are issued

arterial tow authority may charge the additional service fees as specified in §2-256(j)(2) of the Traffic Regulations.

Note: All other rules within these regulations, in addition to the above, are applicable to permittees operating on arterial highways under permit from the Department of Transportation.

§2-371 The Directed Accident Response Program (DARP).

(a) Applicants must be licensed to engage in the business of towing by the New York City Department of Consumer Affairs. Applicants who apply to be in the DARP program must be licensed to engage in the business of towing for a period of not less than one year immediately prior to the date of their application. The applicant's business premises, which include the applicant's storage facilities and auxiliary storage facilities, must be located within the geographic boundaries of New York City. In addition, all of the tow truck operators employed by the licensee must be licensed as such by the Department and comply with all applicable laws and rules.

(b) Any vehicle with a maximum gross vehicle weight of less than fifteen thousand pounds which has been involved in a vehicular accident and which cannot be safely driven under its own power must be removed from the accident scene by the authorized DARP tower to the premises address on the responding company's license or to a location designated by a person in charge of such vehicle; provided, however, that such location is within the boundaries of the City of New York and placement of such vehicle is not in violation of any other law. A police officer may make the determination whether the vehicle may be safely driven under its own power. No vehicle removed from the accident scene to the DARP tower's premises address shall be left by a licensee on the street in front of, or adjacent to, the licensee's business premises (which include the licensee's storage facilities and auxiliary storage facilities).

(c) Applicants who apply to be in the DARP program must make application to participate only in the zone in which their business premises is located. Such premises shall be under the exclusive control of the applicant, shall not be used by any other towing company and shall consist of a location that is open to the public, where towing company personnel are employed, calls requesting towing service are received and towers are dispatched, and where all records required by subchapter 31 of chapter 2 of title 20 of the New York City Administrative Code are maintained. An applicant's approval to participate in DARP is valid only for such applicant's business premises as identified in its application that has been inspected and has qualified for participation in DARP. Such approval to participate in DARP is revoked when the business premises of such applicant is moved from the location that was identified in the application unless such move has been approved as provided in subdivision (aaa) of this section.

(d) Applications for the DARP program will be accepted by the Department on an ongoing basis. Upon approval, new participants will initially be placed at the bottom of the rotation list for the zone for which they have been accepted.

(e) In the event that a sufficient number of qualified, licensed companies do not make application for participation in a particular zone, the Commissioner may modify the proposed zones and assign qualified companies to such zones.

(f) Applicants for DARP must be willing and able to provide towing services, in the zone(s) for which they have applied to participate, seven days a week on a twenty-four hour a day basis.

(g) Applicants for DARP must immediately respond to a rotation call. To be eligible to participate in a particular zone, an applicant must be able to provide a tow truck at the disabled vehicle's location within thirty minutes after notification by the tow truck notification operator. If no DARP participant is available in the zone where the disabled vehicle is located the tow truck notification operator may call a DARP participant in a geographically adjacent zone.

(h) Repealed.

(i) Repealed.

(j) Repealed.

(k) Applicants must have a minimum of two (2) tow trucks for each zone for which they apply to participate, at least one of which must be a flat-bed tow truck suitable for removing accident vehicles.

(l) Applicants must own or possess and have at their immediate disposal equipment to tow vehicles with damaged or missing wheels.

(m) Applicants must own, lease, or sublease business premises, which include either indoor, or lighted and fenced outdoor, storage facilities. The storage facilities must have a locked gate and be suitable for the storage of vehicles. The minimum footage requirements for storage of DARP vehicles is 1,200 square feet per licensed tow truck over and above any storage requirements for the Rotation Tow Program. Applicants who apply to be in the DARP program on or after December 6, 1994 must demonstrate that the towing company owns, leases or subleases its business premises by providing the Department with a deed if the applicant owns such premises or by providing the Department with the actual lease or sublease agreement if the applicant leases or subleases such premises. Common or shared business premises, including storage facilities and auxiliary storage facilities, with another towing company is not permitted.

(n) Applicants must separate the storage facilities that they share with another company other than a towing company by a physical separation, such as a fence. Upon approval by the Department, applicants may use auxiliary storage facilities to satisfy the minimum footage requirements of subdivision (m) of this section. For those applicants who apply to be in the DARP program on or after December 6, 1994, any such auxiliary storage facilities shall be within 2,640 feet of the applicant's premises address. At the request of the owner of the disabled vehicle, his or her agent or an authorized insurance company representative, a vehicle being stored at the applicant's auxiliary storage facilities shall be immediately produced at the applicant's premises address and no fee other than fee authorized by section 2-368 of these rules may be imposed for such production of such vehicle at the applicant's premises address.

(o) Participants shall take reasonable care to prevent damage to or loss of a customer's vehicle or personal property contained therein.

(p) Participants shall not be required to tow motor vehicles with a maximum gross vehicle weight of at least fifteen thousand pounds.

(q) Participants may withdraw from the DARP program thirty days after they have notified the Department, in writing, by regular mail, of their intention to end their participation.

(r) Repealed.

(s) Repealed.

(t) Participants must abide by all lawful instructions, directions and requests of the police official in charge of the accident.

(u) Participants must record in a bound record book all calls for service, all occasions when towing service was rendered and the reason for refusal of any call to which they were unable to respond. The inside cover of the book kept for this purpose shall contain the DARP towing company's business name, premises address, towing zone number(s) and the dates the book covers. Each double page shall be consecutively numbered and must contain the following information:

Date and time Police Department tow truck notification
operator call was received
Name of person who accepted call
Disposition: Accepted/refused
Reason for refusal
Location vehicle towed from
Time tow was completed
Location vehicle towed to
Tow fees/Storage fees
Total charges
Redemption date
Vehicle disposition

(v) Participants must be open for redemption of vehicles towed in the DARP program during the hours of 9 am to 4 pm, Monday through Friday. In addition, they must be opened for redemption from 9 a.m. to 4 p.m. on either Saturday or Sunday, as such participant has informed the Department in writing, provided, however, that if such participant fails to so notify the Department, the participant shall be deemed to have elected to be open for redemption from 9 am to 4 pm on both Saturday and Sunday. In all instances, participants shall make vehicles immediately available for redemption to the owner of the disabled vehicle, his or her agent, or an authorized insurance company representative. The participant may be closed for redemption on New York City public holidays.

(w) No participant shall release a vehicle that has been involved in a vehicular accident and which cannot be safely driven under its own power to another towing company unless that towing company is licensed or otherwise exempt from the licensing provisions of subchapter 31 of chapter 2 of title 20 of the New York City Administrative Code, or that towing company is based outside of New York City and thereby is not required to be licensed pursuant to such provisions of the New York City Administrative Code.

(x) Participants shall not release vehicles towed in the DARP program unless the person redeeming the vehicle presents sufficient proof that he or she is the owner of the vehicle or is the owner's agent. Sufficient proof of ownership includes the vehicle's New York State Department of Motor Vehicles' registration receipt (or equivalent out-of-state vehicle registration) or certificate of title. If the vehicle is being redeemed by an

insurance company as agent for the owner, the insurance company shall present a notarized "receipt for release form" on the insurance company's letterhead signed by a representative of the insurance company. Upon presentation of sufficient proof of ownership and payment of the authorized charges, the disabled vehicle shall be immediately released. Payment of the authorized charges may be made in legal tender, by a major credit card for which a decal is required to be affixed to a tow truck as provided in §2-368.1 of this subchapter, by a first party insurance check or in any other form acceptable to the licensee. At any time when a participant is required to be open for redemption pursuant to subdivision (v) of this section, any vehicle owner shall be permitted to inspect his or her vehicle and remove items of personal property contained therein if it can be dismantled and removed from the vehicle without the use of any tool, and any agent shall be permitted to inspect such vehicle, whether or not the payment for towing and storage has been made. No charge shall be assessed to the vehicle owner or the vehicle owner's agent for such inspection. The participant shall be given a receipt for any property removed from a vehicle while it is in the custody of the participant.

(y) After due notice and opportunity to be heard, the Commissioner may disqualify any towing company participating in the DARP program from continued participation in such program for violation of any of the provisions of §20-518 of the New York City Administrative Code or any rule promulgated thereunder or upon the occurrence of any one or more of the conditions set forth in subchapter 31 of chapter 2 of title 20 of the New York City Administrative Code which constitute grounds for suspension or revocation of any license issued under such subchapter. The Commissioner, for good cause, may, prior to giving notice and an opportunity to be heard, temporarily suspend a towing company from participation in the DARP program for up to ten days. Notice of such suspension shall be served on the towing company. The Commissioner shall provide the towing company with the opportunity for a hearing within ten days after the notification of suspension, after which the Commissioner shall forthwith make a determination as to whether such suspension should continue and the length of such suspension, and in addition may impose any penalty or sanction authorized by subchapter 31 of chapter 2 of title 20 of the New York City Administrative Code.

(z) The DARP tower must affirmatively disclose that a customer has the right to have his or her vehicle repaired at the facility of the DARP tower or at any other facility of the customer's choice. Such disclosure shall include, but not be limited to, the posting of a sign in a conspicuous place in the repair shop stating that: **NO TOWING COMPANY OR INSURANCE COMPANY MAY REQUIRE THAT REPAIRS BE MADE TO A MOTOR VEHICLE IN A PARTICULAR PLACE OR REPAIR SHOP. YOU HAVE A RIGHT TO HAVE YOUR MOTOR VEHICLE REPAIRED IN THE SHOP OF YOUR CHOICE.**

(aa) Unless otherwise provided by law or by rule, the term "applicant" shall include (1) persons who are applying to participate in the DARP; and (2) DARP participants who are currently applying for renewal of their license to engage in the business of towing.

(bb) A participant who is to relocate his or her business premises from the location which has been approved by the Department for participation in DARP shall remain in such program only if:

(1) Such participant first notifies the Department in writing of the address of its new business premises and the effective date of such relocation. Such written notification shall be made no later than 15 days before the effective date of such relocation;

(2) The Department, upon receiving timely relocation notification, determines that the new location qualifies the participant to continue in the DARP and furnishes such participant a contingent approval to relocate its premises subject to such conditions as are specified therein; and

(3) The participant provides a sworn statement and such other proof as the Department may require that such participant has fully and completely complied with each condition specified in such contingent approval that relates to DARP requirements that can be fulfilled only after such business premises are relocated, such as, but not limited to, the required lettering on tow trucks, the place where the DARP log book is to be kept, and the place where calls to the business are answered. Failure to provide such a sworn statement, and such other proof as the Department requires, not later than 15 days after the effective date of such relocation shall void such contingent approval to relocate, and the participant shall be immediately removed from the DARP.

§2-371.1 Special Accident Response Districts (SARD). [Repealed]

§2-372 The Rotation Tow Program (ROTOW).

(a) Applicants must be licensed to engage in the business of towing by the New York City Department of Consumer Affairs. Applicants who apply to be in the ROTOW program on or after March 1, 1993 must be licensed to engage in the business of towing for a period of not less than one year immediately prior to the date of their application. In addition, all tow truck operators employed by the licensee must be licensed as such by the Department and comply with all applicable laws and rules.

(b) Applicants can only make application to participate in one primary zone and one geographic adjacent zone. The applicant's business premises must be located within the primary zone. Such premises shall be under the exclusive control of the applicant, shall not be used by any other towing company and shall consist of a location that is open to the public, where towing company personnel are employed, calls requesting towing service are received and towers are dispatched, and where all records required by subchapter 31 of chapter 2 of title 20 of the New York City Administrative Code are maintained.

(c) Applications for the ROTOW program will be accepted by the Department on an ongoing basis. Upon approval, new participants will initially be placed at the bottom of the rotation list for the zone for which they have been accepted.

(d) In the event that a sufficient number of qualified, licensed companies do not make application for participation in a particular zone, the Commissioner may modify the proposed zones and assign qualified companies to such zones.

(e) Applicants for ROTOW must be willing and able to provide towing services, in the primary and adjacent zone for which they have applied to participate, minimally on a five-day, twenty-four-hour a day basis. Applicants who will be available to respond to ROTOW calls for fewer than seven days a week shall notify the Department in writing

and shall specify in such written notification which days of the week they shall be available. Furthermore, any change in the days of availability shall be submitted to the Department in writing at least thirty days prior to the effective date thereof. If no written notification is received regarding availability for fewer than seven days per week, applicants shall be deemed to have elected to accept ROTOW calls seven days a week.

(f) Applicants for ROTOW must immediately respond to a rotation call they accept. To be eligible to participate in a particular zone, an applicant must be able to provide a tow truck at the vehicle's location within thirty minutes after notification by the Police Department. If no ROTOW participant is available in the zone where the vehicle is located, the Police Department may call a ROTOW participant in the adjacent zone.

(g) Applicants must have a minimum of two (2) tow trucks for the zone for which they have applied to participate.

(h) Applicants must own or possess and have at their immediate disposal equipment to tow vehicles with damaged or missing wheels.

(i) Applicants must own, lease or sublease premises, which provide either indoor, or lighted and fenced outdoor, storage facilities. The storage facilities must have a locked gate and be suitable for the storage of vehicles. Applicants who apply to be in the ROTOW program on or after December 6, 1994 must demonstrate that the towing company owns, leases or subleases its business premises by providing the Department with a deed if the applicant owns such premises or by providing the Department with the actual lease or sublease agreement if the applicant leases or subleases such premises. The minimum footage requirements for storage of ROTOW vehicles is 1600 square feet over and above any storage requirements for the Directed Accident Response Program. All vehicles towed pursuant to ROTOW must, at all times, be secured at the premises address of the responding company, or at its auxiliary storage facilities if such facilities have been approved by the Commissioner for storage of DARP vehicles pursuant to §2-371(n) of these rules. At the request of the owner of a disabled vehicle, his or her agent or an authorized insurance company representative, a vehicle being stored at the applicant's auxiliary storage facilities shall be immediately produced at the applicant's premises address and no fee other than a fee authorized by section 2-368 of these rules may be imposed for such production of such vehicle at the applicants premises address. Common or shared business premises with another towing company, including storage facilities and auxiliary storage facilities they share with another company other than a towing company by a physical separation, such as a fence. No participant shall release a vehicle to another towing company unless that towing company is licensed or otherwise exempt from the licensing provisions of subchapter 31 of chapter 2 of title 20 of the New York City Administrative Code, or that towing company is based outside of New York City and thereby is not required to be licensed pursuant to such provisions of the New York City Administrative Code.

(j) Participants may withdraw from the ROTOW program thirty days after they have notified the Department, in writing, by regular mail, of their intention to end their participation.

(k) Repealed.

(l) Any participant who has failed to respond within 30 minutes to a call on three or more occasions within any 180 consecutive days may be suspended and/or removed from participation in the ROTOW program. Repeated refusal to accept rotational calls

will also be a basis for suspension and/or removal from participation in the ROTOW program.

(m) Participants must abide by the Police Department's written orders, which establish the operating procedures for this program.

(n) Participants must abide by all lawful instructions, directions and requests of the police official in charge of the scene, incident, or location to which it or its representatives respond.

(o) Participants must record in a bound record book all calls for service, all occasions when towing service was rendered and the reason for refusal of any call to which they were unable to respond. The inside cover of the book kept for this purpose shall contain the ROTOW towing company's business name, premises address, towing zone number(s) and the dates the book covers. Each double page shall be consecutively numbered and must contain the following information:

Date and time Police Department call was received

Caller: rank, name

Precinct voucher number

Precinct

Name of person who accepted call

Disposition: Accepted/refused

Reason for refusal

Location vehicle towed from

Time tow was completed

Storage location vehicle towed to

Tow fees/Storage fees

Total charges

Redemption date

Vehicle disposition

(p) Participants must be open for redemption of vehicles towed in the ROTOW program during the hours of 9 am to 4 pm, Monday through Friday. In addition, they must be open for redemption from 9 am to 4pm on either Saturday or Sunday, as such participant has informed the Department in writing. In all instances, participants shall make vehicles immediately available for redemption to the owner of the disabled vehicle, his or her agent, or an authorized insurance company representative. The participant may be closed for redemption on New York City public holidays.

(q) Participants shall not release vehicles towed in the ROTOW program unless the person redeeming the vehicle presents sufficient proof that he or she is the owner of the vehicle or is the owner's agent. Sufficient proof of ownership includes the vehicle's New York State Department of Motor Vehicles registration receipt (or equivalent out-of-state registration) or certificate of title. If the vehicle is being redeemed by an insurance company as agent for the owner, the insurance company shall present a notarized "receipt for release form;qc on the insurance company's letterhead signed by a representative of the insurance company. Upon presentation of sufficient proof of ownership and payment of the authorized charges, the disabled vehicle must be immediately released. Payment of authorized charges may be made in legal tender, by

a credit card in accordance with generally accepted business practices, by a first party insurance check or in any other form acceptable to the licensee. At any time when a participant is required to be open for redemption pursuant to subdivision (p) of this section, any vehicle owner or agent shall be permitted to inspect his or her vehicle and remove items of personal property contained therein whether or not the payment for towing and storage has been made. No charge shall be assessed to the vehicle owner or the vehicle owner's agent for such inspection. The participant shall be given a receipt for any property removed from a vehicle while it is in the custody of the participant.

(r) Participants who transfer an unclaimed vehicle into the custody of the Police Department Property Clerk shall be entitled to charge the Police Department amounts not in excess of those listed in §20-519(c) of the Administrative Code of the City of New York.

(s) During the period commencing on the eighth day after the vehicle is removed to such storage facilities and ending on the thirtieth day after such removal, vehicles that have not been claimed must be transferred by the ROTOW participants into the custody of the Police Department Property Clerk. A ROTOW participant may continue to store at such ROTOW participant's storage facilities a vehicle that has been claimed by an owner or other person and shall be entitled to charge for such continued storage and storage rates ROTOW participants are entitled to charge owners or other persons claiming such vehicles pursuant to section 20-519(c)(1) of the New York City Administrative Code where such owner or such other person has claimed such vehicle before the end of the thirtieth day after such vehicle was towed and has entered into an agreement with such ROTOW participant for continued storage of such vehicle. An agreement for continued storage of a vehicle by a ROTOW participant may include provision for storage of such vehicle beyond the end of the thirtieth day after such vehicle was towed by such ROTOW participant.

(t) The following schedule of rates shall apply for vehicles towed under the Rotation Towing Program:

(1) Rates paid to towing company by owners or other persons claiming a vehicle:

\$70.00 flat rate towing fee for the towing of a vehicle registered at a weight of ten thousand pounds or less; one hundred and twenty-five dollars for the towing of a vehicle registered at a weight of more than ten thousand pounds

\$15.00 per/day storage for first three days

\$17.00 storage thereafter up to the maximum of thirty days

An additional charge of \$50.00 may be charged for unusual recoveries requiring two tow trucks. Written authorization of the investigating police officer is required in the "Remarks" section of the invoice to substantiate the need for a second tow truck in unusual recovery circumstances.

The special rate for this program shall be prominently posted within the participant's premises on a sign not less than 14 inches by 20 inches in size.

(2) Rates paid to towing company by the Police Department:

\$60 flat rate transfer fee for the unclaimed vehicles towed to the property clerk's facilities, plus tolls, when applicable.

\$5.00 per/day storage for the first three days.

\$8.00 per/day storage thereafter up to the maximum ten days.

(u) After due notice and opportunity to be heard, the Commissioner may disqualify any towing company participating in the ROTOW program from continued participation in such program for violation of any of the provisions of section 20-519 of the New York City Administrative Code or any rule promulgated thereunder or upon the occurrence of any one or more of the conditions set forth in subchapter 31 of chapter 2 of title 20 of the New York City Administrative Code which constitute grounds for suspension or revocation of any license issued under such subchapter; provided, however, that the Commissioner, for good cause, may, prior to giving notice and an opportunity to be heard, temporarily suspend a towing company from participation in the ROTOW program for up to ten days. Notice of such suspension shall be served on the towing company. The Commissioner shall provide the towing company with the opportunity for a hearing within ten days after the notification of suspension, after which the Commissioner shall forthwith make a determination as to whether such suspension should continue and the length of such suspension, and in addition may impose any penalty or sanction authorized by subchapter 31 of chapter 2 of title 20 of the New York City Administrative Code.

(v) Participants shall take reasonable care to prevent damage to or loss of a customer's vehicle or personal property contained therein.

(w) Unless otherwise provided by law or by rule, the term "applicant" shall include (1) persons who are applying to participate in the ROTOW program; and (2) ROTOW participants who are currently applying for renewal of their license to engage in the towing business.

(x) A participant who is to relocate his or her business premises from the location which has been approved by the Department for participation in the ROTOW program shall remain in the ROTOW program only if:

(1) Such participant first notifies the Department in writing of the address of its new business premises and of the effective date of such relocation. Such written notification shall be made not less than 15 days before the effective date of such relocation;

(2) The Department, upon receiving timely relocation notification, determines that the new location qualifies the participant to continue in the ROTOW program and furnishes such participant a contingent approval to relocate its premises subject to such conditions as are specified therein; and

(3) The participant provides a sworn statement and such other proof as the Department may require that such participant has fully and completely complied with each condition specified in such contingent approval that relates to ROTOW program requirements that can be fulfilled only after such business premises are relocated, such as, but not limited to, the required lettering on tow trucks, the place where the ROTOW log book is to be kept, and the place where calls to the business are answered. Failure to provide such a sworn statement, and such other proof as the Department requires, not later than 15 days after the effective date of such relocation shall void such contingent approval to relocate, and the participant shall be immediately removed from the ROTOW program.

§2-373 Evidence Vehicle Program (Evidence Vehicle).

(a) Applicants must be licensed to engage in the business of towing by the New York City Department of Consumer Affairs. Applicants who apply to be in the Evidence Vehicle program on or after March 1, 1993 must be licensed to engage in the business of towing for a period of not less than one year immediately prior to the date of their application. In addition, all of the tow truck operators employed by the licensee must be licensed as such by the Department and comply with all applicable laws and rules.

(b) Applicants can only make application to participate in one primary zone and one geographic adjacent zone. The applicant's business premises must be located within the primary zone. Such premises shall be under the exclusive control of the applicant, shall not be used by any other towing company and shall consist of a location that is open to the public, where towing company personnel are employed, calls requesting towing service are received and towers are dispatched, and where all records required by subchapter 31 of chapter 2 of title 20 of the New York City Administrative Code are maintained.

(c) Applications for the Evidence Vehicle program will be accepted by the Department on an ongoing basis. Upon approval, new participants will initially be placed at the bottom of the rotation list for the zone for which they have been accepted.

(d) In the event that a sufficient number of qualified, licensed companies do not make application for participation in a particular zone, the Commissioner may modify the proposed zones and assign qualified companies to such zones.

(e) Applicants for Evidence Vehicle must be willing and able to provide towing services, in the primary and adjacent zone for which they have applied to participate, minimally on a five day, twenty-four hour a day basis.

(f) Applicants for Evidence Vehicle must immediately respond to a rotation call they accept. To be eligible to participate in a particular zone, an applicant must be able to provide a tow truck at the vehicle's location within thirty minutes after notification by the Police Department. If no Evidence Vehicle participant is available in the zone where the vehicle is located, the Police Department may call an Evidence Vehicle participant in the adjacent zone.

(g) Applicants must have a minimum of two (2) tow trucks for the zone for which they have applied to participate.

(h) Applicants must own or possess and have at their immediate disposal equipment to tow vehicles with damaged or missing wheels.

(i) Participants may withdraw from the Evidence Vehicle program thirty days after they have notified the Department, in writing, by regular mail, of their intention to end their participation.

(j) Repealed.

(k) Repeated failure by a participant to meet the thirty minute requirement may be a basis for suspension or removal from participation in the Evidence Vehicle Program. Repeated unjustifiable refusal to accept rotational calls will also be a basis for suspension or removal from participation in the Evidence Vehicle Program.

(l) Participants must abide by the Police Department's written orders, which establish the operating procedures for this program.

(m) Participants must abide by all lawful instructions, directions and requests of the police official in charge of the scene, incident, or location to which it or its representatives respond.

(n) Participants must record in a bound record book all calls for service, all occasions when towing service was rendered and the reason for refusal of any call to which they were unable to respond. The inside cover of the book kept for this purpose shall contain the Evidence Vehicle towing company's business name, premises address, towing zone number(s) and the dates the book covers. Each double page shall be consecutively numbered and must contain the following information:

Date and time Police Department call was received
Caller: rank, name
Precinct voucher number
Precinct
Name of person who accepted call
Disposition: Accepted/refused
Reason for refusal
Location vehicle towed from
Storage location vehicle towed to
Time tow was completed
Total Charges

(o) The following schedule of rates shall apply for vehicles towed under the Evidence Vehicle Towing Program:

\$60.00 flat rate transfer fee for vehicles towed to the Police Department facility, plus tolls, when applicable.

An additional charge of \$60.00 may be charged for unusual recoveries requiring two tow trucks. Written authorization of the investigating police officer is required in the "Remarks" section of the invoice to substantiate the need for a second tow truck in unusual recovery circumstances.

(p) After due notice and opportunity to be heard, the Commissioner may disqualify any towing company participating in the Evidence Vehicle program from continued participation in such program for violation of any of the provisions of section 20-519 of the New York City Administrative Code or any rule promulgated thereunder or upon the occurrence of any one or more of the conditions set forth in subchapter 31 of chapter 2 of title 20 of the New York City Administrative Code which constitute grounds for suspension or revocation of any license issued under such subchapter; provided, however, that the Commissioner, for good cause, may, prior to giving notice and an opportunity to be heard, temporarily suspend a towing company from participation in the Evidence Vehicle program for up to ten days. Notice of such suspension shall be served on the towing company. The Commissioner shall provide the towing company with the opportunity for a hearing within ten days after the notification of suspension, after which the Commissioner shall forthwith make a determination as to whether such suspension

should continue and the length of such suspension, and in addition may impose any penalty or sanction authorized by subchapter 31 of chapter 2 of title 20 of the New York City Administrative Code.

(q) Participants shall take reasonable care to prevent damage to or loss of a customer's vehicle or personal property contained therein.

§2-374 Primary and Adjacent Zones.

(a) DARP applicants who apply to be in the DARP program on or after December 6, 1994 must make application to participate only in the zone in which their business premises is located.

(b) ROTOW and EVIDENCE VEHICLE applicants may apply for one Primary Zone and one Adjacent Zone. The Primary Zone must be the zone in which the business premises is located; the Adjacent Zone can be any zone which shares a border with the Primary Zone. Zones which are adjacent except for a body of water will be considered adjacent for purposes of the ROTOW and EVIDENCE VEHICLE programs.

(c) If enrolled in both the ROTOW and EVIDENCE VEHICLE programs, the Primary Zones must be identical, and the Adjacent Zones must be identical.

§2-375 Tow Truck Industry Trust Fund.

(a) The Tow Truck Industry Trust Fund (hereinafter, "The Fund") is established to provide for the payment of outstanding awards to aggrieved consumers and fines owed to the Department. The Fund shall be administered by the Comptroller of the City of New York pursuant to §93(j) of the New York City Charter.

(b) *Participation in the Fund.* (1) Those licensed to engage in the business of towing may elect to participate in the Fund in lieu of furnishing a bond or its cash equivalent as required by §20-499 of Chapter 2 of Title 20 of the Administrative Code of the City of New York.

(2) Any tow truck company license applicant who elects to participate in the Fund must submit to the Department a check in the amount of two hundred dollars, made payable to the New York City Department of Consumer Affairs, prior to the issuance of the license to engage in the business of towing and prior to the expiration or cancellation date of the licensee's bond.

(3) The Commissioner may, from time to time, amend this regulation to require such additional contributions by participants in the Fund as the Commissioner determines to be necessary to maintain an amount in the Fund which is adequate to fulfill its purposes and to counteract depletion of the fund resulting from payments out of the Fund pursuant to subdivision (c) hereof.

(4) Fund participants may discontinue their participation in the Fund at any time by filing a bond pursuant to the Tow Truck Law Bond Requirement. No participant will be entitled to a refund of any monies contributed to the Fund unless the Fund is dissolved by the Commissioner. All such refunds will be disbursed in accordance with regulations promulgated by the Commissioner and in effect at the time of such dissolution.

(5) Participation in the Fund does not relieve a licensee of any obligation to pay awards and/or fines imposed by the Department or judgments and/or arbitration awards

rendered against a licensee by a court of competent jurisdiction. In the event that a company's license is revoked, surrendered or the company fails to renew its license, and the Fund is invaded to pay an award, fine or judgment that was rendered against such company pursuant to the provisions herein, no license shall be issued or reinstated to such company owner or to any tow truck company in which such company owner is an officer, shareholder, partner or principal, unless the amount(s) paid out of the Fund on behalf of such company is reimbursed by such company in full.

(6) In the event that a tow truck company's license is revoked, surrendered or the company fails to renew its license and the Fund invaded to pay an award, fine or judgment that was rendered against such company pursuant to the provisions herein, the Commissioner or his or her designee shall have discretion to exclude such company owner or any tow truck company in which such company owner is a principal, from future participation in the Fund. The Commissioner or his or her designee may, in his or her discretion, require such tow truck company to comply with the Tow Truck Law Bond requirement.

(c) *Invasion of the Fund.* (1) The Commissioner may require that disbursements be made from the Fund to pay outstanding awards to consumers and Departmental fines when:

(i) The Department has conducted an administrative hearing that results in a finding that tow truck company is in violation of a law, ordinance or regulation enforced by the Department; or a court of competent jurisdiction has rendered a judgment or an arbitration award against the company for damages suffered by a consumer arising out of towing services; and

(ii) The company has been ordered by the Department to pay an award to a consumer, a Departmental fine and/or to satisfy a judgment or arbitration award; and

(iii) The company has failed to pay such award to a consumer, a Departmental fine and/or satisfy a judgment or arbitration award, within 30 days of the date of the Department's order; and

(iv) The Department has revoked the company's or the company has surrendered or failed to renew said license after the Department's order.

(2) Disbursements will not be made from the Fund to pay an award, fine or judgment that is rendered against: a licensee who has furnished a bond, pursuant to the Tow Truck Law Bond Requirement; or Tow Truck Company who was never licensed by the Department or a participant in the Fund.

(3) Disbursements from the Fund will be made at the discretion of the Commissioner or his or her designee, provided, however, that invasion of the Fund shall be limited to no more than ten thousand dollars for all awards, fines and judgments arising out of a single tow service.

(4) The Commissioner or his or her designee may order that partial payment of awards, fines or judgments be made from the Fund.

(5) Nothing contained herein shall be construed to limit the rights and remedies of any party, including the Department, to pursue a cause of action against a tow truck company who is a participant in the Fund.

(6) Nothing contained herein shall be construed to create a right of any person to a portion of any of the Fund, except in the case of an award duly made by the Commissioner pursuant to the provisions herein.

(7) Nothing contained herein shall be construed to provide for the payment of awards or judgments tendered against Fund participants in personal injury actions.

(d) *Accounting.* The Commissioner shall, by January 31 of each year, cause an accounting to be made of all the Fund's activities during the preceding calendar year.

§2-376 Application for License Exemption Certificates.

(a) Every applicant who claims an exemption from the licensing requirements of §20-496, Subchapter 31, Chapter 2, Title 20 of the Administrative Code shall file an application for such exemption with the department, and shall submit proof satisfactory to the department in accordance with this section that the applicant is exempt pursuant to §20-524 of such subchapter.

(b) Every applicant who claims an exemption pursuant to §20-524 shall submit proof of such exemption, which shall consist of one or more of the following:

(1) An original New York State Department of Motor Vehicle registration authorizing such applicant to operate as a vehicle dismantler, salvage pool, mobile car crusher, or itinerant vehicle collector pursuant to §415-a of the vehicle and traffic law, and a copy of the New York State Department of Motor Vehicle registration issued to such vehicle dismantler, salvage pool, mobile car crusher, or itinerant vehicle collector for each tow truck owned or operated by such vehicle dismantler, salvage pool, mobile car crusher, or itinerant vehicle collector;

(2) An original license under article six-C of the general business law certified by the New York State Department of Motor Vehicles authorizing such applicant to operate as a scrap processor, or an original certification by the Department of Motor Vehicles authorizing such applicant to operate as a scrap collector who complies with all the licensing or permitting requirements applicable to such business, and a copy of the New York State Department of Motor Vehicles, registration issued to such scrap processor or scrap collector for each tow truck owned or operated by such scrap processor or scrap collector;

(3) An original franchise agreement to operate as a franchised public transportation operator, and a copy of the New York State Department of Motor Vehicle registration issued to such operator for each tow truck owned or operated by such operator;

(4) Proof of the appropriate operating authority required by applicable law for a common carrier of passengers by motor vehicle, a common carrier of property by motor vehicle, a contract carrier of passengers by motor vehicle, or a contract carrier of property by motor vehicle, and a copy of the New York State Department of Motor Vehicle registration issued to such common carrier for each tow truck owned or operated by such common carrier;

(5) Proof satisfactory to the Commissioner that such applicant is an approved public utility company or public utility corporation as such terms are defined in subdivisions 23 and 24, respectively, of §2 of the Public Service Law, and a copy of the New York State Department of Motor Vehicle registration issued to such company or corporation for each tow truck owned or operated by such company or corporation;

(6) An original New York City Taxi and Limousine Commission license to operate a vehicle licensed pursuant to Chapter 5, Title 19 of the Administrative Code, and a copy

of the New York State Department of Motor Vehicle registration issued to such licensee for each tow truck owned and operated by such licensee;

(7) Proof satisfactory to the Commissioner that such applicant is an operator of one or more school buses as such term is defined in §142 of the vehicle and traffic law, and a copy of the New York State Department of Motor Vehicle registration issued to such operator for each tow truck owned and operated by such applicant; or

(8) A certificate of insurance issued to an applicant which is a motor vehicle rental agency, a copy of a sample rental agreement used by such rental agency and a copy of the New York State Department of Motor Vehicle registration issued to such rental agency for each tow truck owned or operated by such rental agency.

(c) Each applicant shall present the current registration card and insurance card for each tow truck for which an exemption is sought. Where such applicant is required to pay the New York City commercial motor vehicle tax for one or more tow trucks pursuant to Chapter 8 of Title 11 of the Administrative Code, the applicant shall furnish proof of payment of such tax for each tow truck for which an exemption is sought. Such proof shall consist of a validated New York City Department of Finance Motor Vehicle Tax Receipt issued pursuant to such chapter.

(d) Each tow truck for which an exemption is sought must be registered under the same name as the applicant applying for the exemption.

(e) An exemption certificate is not transferable. An exemption certificate shall be deemed void upon

(1) any change of corporate or partnership ownership of the applicant of the type described in §§20-110 or 20-111 of the Administrative Code unless prior written approval of the commissioner has been obtained, or

(2) any change in the ownership of a tow truck for which an exemption certificate has been issued.

(f) Any applicant who is issued one or more exemption certificates may not also own or operate any tow truck licensed by the department for use in the same business for which one or more exemption certificates were obtained.

(g) The biennial fee for each exempt tow truck shall be twenty-five dollars (\$25). All exemption certificates issued pursuant to this section shall expire on December 31st in odd numbered years, unless such exemption is removed or revoked.

(h) Upon payment of the fee prescribed in subdivision g of this section and completion of the processing of the exemption application by the department, the commissioner will issue an exemption certificate to the applicant for each tow truck which is exempt under this section. Such certificate shall be affixed to the passenger side front windshield of each exempt tow truck, and may be affixed only by department personnel.

(i) After due notice and an opportunity for a hearing, any person who holds an exemption certificate issued pursuant to section 20-524 of subchapter 31 of chapter 2 of title 20 of the New York City Administrative Code who is found not to be in compliance with one or more of the conditions for granting such exemption as set forth in section 20-524(a)91) of such code shall have all exemption certificates issued to such person revoked.

§2-377 Duties Pertaining to the Nonconsensual Towing of Vehicles from Private Property.

(a) Every applicant for a renewal of a license issued pursuant to §496* of Chapter 2 of Title 20 of the New York City Administrative Code shall file with the application:

(1) A list of properties from which the licensee has contracted to tow vehicles. Such list shall include the address(es) from which the licensee has contracted to tow vehicles, the address to which such vehicles are towed, and the name, address and telephone number of the person(s) who contracted for the towing from each listed address; or,

(2) An affidavit stating that the applicant does not tow vehicles from private parking lots.

(b) Unless the licensee who has contracted to perform the towing has previously provided to the Department, in writing, the information required by subdivision (a)(1) of this section, within fifteen days of the execution of any contract for the towing of vehicles from private property, the licensee shall submit to the Department, in writing, the information specified in paragraph (a)(1) and not previously provided to the Department in writing.

(c) Within fifteen days of the date of the termination of any of its agreements to tow vehicles from private property, the licensee shall notify the Department, in writing, that the agreement has terminated and the date of such termination.

(d) A towing company shall not remove a vehicle from private property without the consent of such vehicle's owner or operator unless signs are posted on such property which are plainly visible and which contain the following information:

(1) The words "Warning!" and "Private Parking Lot";

(2) The words "Vehicles Subject to Towing";

(3) The conditions under which vehicles are subject to towing, including the hours and days when such towing may occur; and

(4) The name, address, telephone number, and DCA license number of the towing company that is authorized to tow vehicles from the property. The telephone number shall be within one of the telephone or cellular area codes assigned to telephones within New York City.

(5) The fees that will be charged for towing and storage, which shall not exceed the amounts specified in §19-169.1(a) of the administrative code of the City of New York; and

(6) The hours during which the owners or operators of vehicles towed from such property may redeem towed vehicles, provided that such hours shall include all times during which vehicles may be towed from such property and at least 60 minutes after the latest time that vehicles are subject to towing from such property each day.

(e)(1) The signs required to be posted on private property pursuant to subdivision (d) of this section shall read substantially as follows (with the designated information to be inserted at the indicated spaces):

WARNING! (in red letters at least 5 inches high).

PRIVATE PARKING LOT (in letters at least 2.5 inches high).

(The following text shall be in letters at least 2 inches high.)

PARKING PERMITTED ;finsert if applicable;rb

FROM TO FOR (insert exact conditions under which parking is allowed*).

VEHICLES ARE SUBJECT TO TOWING ;finsert if applicable;rb

FROM TO (insert exact conditions under which vehicles are subject to towing**).

\$ Fees: (insert applicable lawful fee for towing and storage).***

(The following text shall be at least 3/4 of an inch high.)

Towing performed by: (insert name of licensee).

(Insert licensee's business address.)

Consumer Affairs License Number: (insert licensee's license number)

Call: (insert business phone number to release vehicle) to be called to release vehicle (or if applicable identify on site location where person can go to request the release of the vehicle).

Redemption period: (insert applicable time during which vehicles may be redeemed.)

DCA Complaint Number: (insert current telephone number).

*The statement that "Parking permitted for patrons of [X, Y, Z stores] only" or a substantially similar statement that clearly identifies, by name, the store(s) that customers must be patronizing shall be used to describe the condition that parking is permitted only while at least one of the vehicle's occupant is patronizing an identified store or business establishment that is contiguous to such lot.

**A statement that "A vehicle is subject to towing if its occupants leave the private parking lot and no such occupant is patronizing any of the specified stores or business establishments for any reason or for any length of time" or a substantially similar statement shall be used to describe the condition that vehicles are subject to towing if all of its occupants leave the private parking lot and specified stores or business establishments for any reason or for any length of time.

***The maximum amount to be paid to the towing company to release the towed vehicle, which amount may not exceed the charges authorized in §19-169.1(a) of the New York City Administrative Code.

(2) The telephone number posted on the sign described in paragraph one of this subdivision shall be the telephone number that a person can call to request the redemption of the towed vehicle as provided in paragraph 6 of subsection (e) of this section.

(f) The background color for the signs specified in subdivisions (d) and (e) of this section shall be a color that is sharply distinct from both the red color used for the word "warning" as required in such subdivisions and the color of the text of such signs. The

text of such signs shall be composed of capital block letters. The text and the background color of such signs shall be treated with a luminescent coating which shall make such text and such signs clearly visible twenty-four hours a day.

(g) The signs containing the information specified in subdivisions (d) and (e) of this section shall be placed in the following locations at or adjacent to the private property from which vehicles are towed:

(1) At each entry for vehicles, positioned so that the information on the sign is clearly and conspicuously visible to the driver as he or she drives the vehicle onto such private property.

(2) Along the outside perimeter of such private property and spaced so that signs are posted not more than 250 feet apart along the entire perimeter line of the private property, except that if a side along the perimeter is less than 250 feet from where a sign is required to be posted at an entrance or pedestrian access point, no such additional sign is required to be posted on such side. The top of each sign posted pursuant to this paragraph shall be not more than 8 feet nor less than 6 feet above the ground. Each such sign shall be positioned so that the required information is clearly and conspicuously visible to a person viewing it from the private property where vehicles are parked. The signs required to be posted pursuant to this paragraph are not required to be posted along the perimeter of the property where signs are posted pursuant to paragraph (3) of this subdivision and where pedestrian access to such private property is limited to the locations where such signs are posted.

(3) At each pedestrian exit from such private property to the adjacent street or sidewalk and at each point of pedestrian access from such private property to each store or business establishment that is contiguous to or near such private property, except that if the distance between entrances to adjacent stores or business establishments is 50 feet or less, such sign may be posted midway between the two adjacent entrances. The top of each sign posted pursuant to this paragraph shall be not more than 8 feet nor less than 6 feet above the ground. Each such sign shall be faced so the required information is clearly and conspicuously visible to anyone entering the store or business establishment from such private property.

(h) No tow operator shall remove a vehicle from private property without first obtaining written authorization from the owner of such property or the owner's agent who has been designated in writing to authorize such towing. The written authorization must be legible and shall include the date, time, location, make, model, color, and license plate number of the vehicle to be removed, and the name, title and signature of the person authorizing the towing. The licensee shall provide the owner or operator of the towed vehicle a copy of such authorization that also includes an itemized list of the fees that may be collected for the towing and storage of a vehicle towed from the property.