

City Clerk File No. Ord. 18-030

Agenda No. 3.D 1st Reading

Agenda No. 4.D 2nd Reading & Final Passage



## ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 18-030

**TITLE:** ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 319 (TOWERS AND TOWING), SECTIONS 319-1, 319-11 AND 319-18 OF THE JERSEY CITY MUNICIPAL CODE, AUTHORIZING A CONTRACT FOR THE PROVISION OF IMPOUND SERVICES FOR THE CITY OF JERSEY CITY AND REQUIRING THAT ALL VEHICLES IMPOUNDED BY THE CITY AND UNCLAIMED FOR THE REQUISITE STATUTORY PERIOD BE SOLD AT PUBLIC AUCTION

**THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY HEREBY ORDAINS:**

**WHEREAS**, vehicles disabled or abandoned on public streets are towed to an impound facility to be stored until either the owners claim the vehicles, or the City of Jersey City (City) sells them at a public auction; and

**WHEREAS**, under the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., the City is required to have a contract with a contractor who provides the City with vehicle impound services; and

**WHEREAS**, the City has prepared a Request for Proposals (RFP) for the purpose of advertising for proposals under the Competitive Contracting Law, N.J.S.A. 40A:11-4.1 et seq. to provide the City with vehicle impound services; and

**WHEREAS**, before the RFP is issued Section 319-1, Section 319-11 and Section 319-18 of the Municipal Code require certain amendments related to the impound services described in the RFP.

**NOW, THEREFORE, BE IT ORDAINED** by the Jersey City Municipal Council that:

A. The following amendments Chapter 319 (Towers and Towing) are hereby adopted:

### CHAPTER 319 Towers and Towing

#### **§319-1. - Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**AUTHORIZED AGENT OF THE OWNER** - The driver of a vehicle if such driver is not the owner or the agent of the owner or the next-of-kin of the owner.

**CLASS A TOWER'S LICENSE (HEAVY DUTY)** - Required to be on police rotation list for Class I and Class II vehicles and/or to pick up vehicles abandoned on private property within the City of Jersey City and/or to operate a vehicle towing business within the City of Jersey City.

CLASS A TOWER'S LICENSE (LIGHT DUTY) - Required to be on police rotation list for Class I and Class II vehicles and/or to pick up vehicles abandoned on private property within the City of Jersey City and/or to operate a vehicle towing business within the City of Jersey City.

CLASS B TOWER'S LICENSE (INCIDENTAL) - Required to operate a vehicle towing business within the City of Jersey City for towing operations that are incidental to another business which is located within the City of Jersey City. e.g., junkyard, car dealership and auto repair shop. This license does not permit a tower to be on the rotation list.

CLASS I VEHICLE - Any motor vehicle not exceeding 6,000 pounds' gross weight. Examples in this weight class include passenger cars, pickup trucks, vans, motorcycles and some sport utility vehicles.

CLASS II VEHICLE - Any motor vehicle having a gross weight exceeding 6,000 pounds up to a maximum of 14,000 pounds.

CLASS III VEHICLE - Any motor vehicle having a gross weight over 14,000 pounds.

CRUISING - Operating a tower to and from a public highway at a slow rate of speed or in any other fashion calculated for the obvious purpose of soliciting business along the highway.

DIRECTOR - The Director of the Department of Housing, Economic Development and Commerce.

DISABLED VEHICLE - Any vehicle disabled as a result of an accident or mechanical failure which must be towed away for safety or traffic reason; or a vehicle parked illegally or abandoned; or a vehicle parked or left unattended on private property without the consent of the owner or other person in control or possession of the property or parked or left unattended for a period in excess of that for which consent was given, except in the case of emergency or disablement of the vehicle where the owner or operator has arranged for the expeditious removal of the vehicle.

DISTRICT - A section of the City designated by geographic area and shown on the Vehicle Impound District Map on file in the Office of City Clerk.

DIVISION DIRECTOR - The Director of the Division of Commerce.

IMPOUND FACILITY - A facility operated by an Impound Operator to receive any vehicle towed to the facility by a Tower at the request of the Division of Police or the Division of Parking Enforcement.

IMPOUND OPERATOR - A person, corporation, or other legal entity that operates an impound facility.

IMPOUND OPERATOR LICENSE - Required to operate ~~fa pound or storage area~~ an Impound Facility to receive any Disabled Vehicles towed to it by any Class A Licensees.

IMPOUND VEHICLE - A vehicle that the Division of Police or the Division of Parking Enforcement has directed a Tower to remove from the public right of way and towed to the Impound Facility.

LICENSEE - A person who has been issued a tower license by this city and its employees or agents.

OPERATING A VEHICLE TOWING BUSINESS WITHIN THE CITY OF JERSEY CITY - Towing, transporting, conveying or moving a motor vehicle from one location within the City of Jersey City to another location within the City of Jersey City.

OWNER - The owner of a motor vehicle.

PRINCIPAL LICENSE - The initial tower license issued to any person.

SEIZED VEHICLES - Any vehicle impounded by the Department of Public Safety or Hudson County Prosecutor's office as contraband or evidence in a criminal proceeding.

SHORTWAVE RECEIVER - A radio receiver which is capable of operating on a frequency assigned by the Federal Communications Commission for fire, police, municipal or other governmental uses.

SOLICITING - Requesting or attempting to persuade an owner or someone on his or her behalf to give permission to a tower to remove, repair or store a motor vehicle, for a consideration, without a previous request from the owner or someone on his or her behalf.

SUPPLEMENTAL LICENSE - All additional licenses for additional towers issued to a person to whom a principal license was issued.

TOWER - A mechanically propelled light- and heavy-duty vehicle used to tow, transport, convey or move a motor vehicle from one place to another place.

**§319-2. - Through §319-10. - No Change.**

**§319-11. Schedule of Maximum Prices; Disclosure.**

**A. Maximum fees to tow, transport, convey or move vehicles (Class A Licensee).**

- (1) No licensee shall charge more than the following maximum fees to tow, transport, convey or otherwise move a vehicle from one location within the City of Jersey City to another location within the City of Jersey City:
  - (a) Class I vehicle: \$150 (one hundred fifty dollars), inclusive of a forty-dollar (\$40) administrative fee.
  - (b) Class II vehicles: \$200 (two hundred dollars), inclusive of a forty-dollar (\$40) administrative fee.
  - (c) Class III vehicles: \$225 per hour (minimum two hours).
- (2) In addition to the above charges, recovery of an overturned vehicle, up righting it or removing it from a hill, ditch or other similar precarious position will be charged no more than the rate of \$50, \$125, and \$225 per hour for vehicle Classes I, II and III, respectively. If an issue arises as to these charges, it shall be the burden of the tower to provide documentation in the form of photographs as to the particular circumstances requiring the additional charges, i.e., position of the vehicle.
- (3) No charge shall be imposed on a rotation list tow for waiting time, clean-up, yard fee or any other service not specifically authorized under this chapter.
- (4) The above fees are chargeable once a vehicle is hooked-up by the tower.

**B. Maximum fees for vehicle storage (Impound Storage Licensee).**

- (1) No licensee shall charge more than the following maximum fees per day, or portion thereof, for storage of a disabled vehicle towed away pursuant to this chapter:
  - (a) Class I vehicles: \$30 per day.
  - (b) Class II vehicles: \$60 per day.
  - (c) Class III vehicles: \$100 per day.

- (2) No vehicle shall be released from storage by a licensee unless proper owner and vehicle identification are shown.

C. Maximum fees for vehicle storage of vehicles impounded at the City's Request.

- (1) No Impound Operator shall charge more than the following maximum fees per day, or portion thereof, for storage of a vehicle towed from the public right of way pursuant to the request of the City's Division of Police or the City's Division of Parking Enforcement:

- (a) Class I, II, and III vehicles: \$3.00 per day for the first 30 days of storage per vehicle.
- (b) Class I, II, and III vehicles: \$2.00 per day for the 31<sup>st</sup> day of storage and any day thereafter.
- (c) Class I, II, and III vehicles: A limit of \$400.00 per vehicle stored regardless of the duration of the storage, except that a waiver may be granted for good cause upon the request of the City by the Division of Local Government Services in the Department of Community Affairs.

- (2) No vehicle shall be released from storage by a Impound Operator unless proper owner and vehicle identification are shown.

C.D. Each driver of a Class A licensee shall have a schedule of the maximum prices when responding to the scene of a disabled, abandoned or other vehicle.

D.E. Before performing any service pursuant to this chapter, the licensee shall furnish the owner or driver of the vehicle with a copy of the schedule of prices. In the event that the owner or driver is incapacitated, the licensee shall furnish such schedule to the owner's authorized agent as defined herein before such person pays for the services rendered.

F. Neither a towing nor a storage fee shall be charged to an owner of an impounded vehicle under the following conditions provided the owner reclaims the vehicle within seven (7) days after receiving notice of the impoundment:

- (a) the vehicle is impounded as the result of a civil emergency such as fire, a utility malfunction or emergency construction work;
- (b) the vehicle is impounded as evidence in a criminal proceeding by a law enforcement agency and subsequently released from impoundment by the agency; or
- (c) the vehicle is impounded by order of a law enforcement officer in support of an investigation by a law enforcement agency.
- (d) the vehicle is impounded in error.

G. A motor vehicle, impounded for any of the offenses listed in paragraph a. of N.J.S.A. 39:3-40.3<sup>1</sup> and reclaimed by a lessor or the holder of a lien, shall be released without payment pursuant to paragraph b. of N.J.S.A. 39:3-40.3. The violator shall be liable for

<sup>1</sup> § 39:3-40.3 Impoundment of motor vehicles.

a. A motor vehicle subject to the provisions of this act may be impounded by any law enforcement officer if the registrant:

- (1) Knowingly permits an unlicensed driver to operate that motor vehicle;
- (2) Operates or permits the operation of that motor vehicle without a valid temporary registration or valid temporary plates as authorized under Section 3 of P.L. 1995, c. 286 (C.39:3-40.2); or
- (3) Fails to surrender a registration certificate and registration plates in accordance with the provisions of subsection b. or c. of section 2 of P.L. 1995, c. 286 (C.39:3-40.1).

all outstanding costs, fines and penalties. The City shall have a lien against the property and income of the violator for the total amount of the outstanding costs, fines and penalties.

**§319-12. - Through §319-17. - No Change.**

**§319-18. - Seized vehicles; impound operator requirements; disposition of unclaimed vehicles; fees for storage; release of vehicles.**

- A. Licensed Impound Operators must maintain ~~{within the city limits}~~ either within a District or no farther than three (3) miles from the boundary lines of a District, a single site or location with a minimum of ~~{three hundred (300)}~~ seventy-five (75) storage spaces for Class I vehicles, ~~{ten (10)}~~ five (5) spaces for Class II vehicles, and ~~{ten (10)}~~ five (5) spaces for Class III vehicles. Impound operators shall use the auto impound tracking computer software program prescribed by the City and be governed by the City's usage policies and procedures for such software.
- ~~{B. Should there be no licensed impound operator with a storage facility with the minimum number of storage spaces required by this Chapter, the Business Administrator may reduce the minimum storage spaces required from three hundred (300) to as few as one hundred fifty (150) spaces, on a single site or location.}~~
- ~~{C.}~~ Pursuant to N.J.S.A. 39:10A-1, vehicles left unclaimed may be sold at public auction after ~~{twenty (20)}~~ thirty (30) business days but shall be sold by the City no later than ninety (90) business days provided that the Director of Public Safety may withhold from public auction up to three (3) vehicles a month for police purposes. ~~{Impound Operator Licensee will have the right to recover its fees from the vehicle owner when the vehicle is auctioned, with the difference between the moneys owed the impound operator and the auction price to be returned to the city.}~~
- ~~{D.}~~ All impound operator licensees shall maintain (and provide access or copies to the City) adequate records relating to the processing of tows, impounds, releases (including storage fees and other receipts). Impound Operators shall also provide quarterly financial statements prepared in accordance with generally accepted accounting principles summarizing fees and income collected. When possible, all viable personal property from the impounded vehicles must be removed from the vehicle by the owner prior to being towed to the tow pound. Operators will provide access for release of vehicles to the public between the hours of 8:00 a.m. to 6:00 p.m., Monday through Saturday.
- ~~{E.}~~ Upon receipt of an impounded vehicle, the impound operator licensee shall pay the tower ninety dollars (\$90.00) for a Class I Vehicle and one hundred forty dollars (\$140.00) for a Class II Vehicle, and for a Class III Vehicle, a minimum of three hundred ninety dollars (\$390.00) no later than thirty (30) days of receipt of the vehicle. The tower shall not receive any additional payment. Upon payment of the fees, as set forth in Section 319-11, by the owner or person entitled to claim the vehicle, the City shall receive an administrative fee of forty dollars (\$40.00) and the {licensed storage facility} Impound Operator a fee of twenty dollars (\$20.00). For a vehicle that is not claimed by the owner or person entitled to claim the vehicle, the City shall sell the vehicle at public auction pursuant to N.J.S.A. 39:10A-1 et seq. The sale proceeds shall be used to pay the Tower's fee and the Impound Operator's storage fee. The storage fee shall be calculated using the rates set forth in §319-11(C) of this Chapter. If the auction proceeds are not sufficient to pay these fees, the City shall pay the Tower its fee and shall transfer the vehicle to the Impound Operator.
- ~~{F.}~~ Seized Vehicles shall be towed to a City-owned facility or as determined by the Director of Public Safety. Upon release of such vehicles by the appropriate authority, the City shall sell any unclaimed vehicles at public auction pursuant to N.J.S.A. 39:10A-1.

**§319-19. - No Change.**

B. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

C. This ordinance shall be a part of the Jersey City Code as though codified and fully set forth therein. The City shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.

D. This ordinance shall take effect subject to the terms of this ordinance at the time and in the manner as provided by law.

E. The City Clerk and the Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

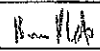
**NOTE:** New matter is underlined; deleted matter in ~~[brackets]~~.  
For purposes of advertising only, new matter is indicated by **boldface** and repealed matter by *italic*.

RR  
4-2-18

APPROVED AS TO LEGAL FORM

  
\_\_\_\_\_  
Corporation Counsel

APPROVED: \_\_\_\_\_

APPROVED:   
\_\_\_\_\_  
Business Administrator

Certification Required ☐

Not Required ☐

**RESOLUTION FACT SHEET – NON-CONTRACTUAL**

This summary sheet is to be attached to the front of any resolution that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the resolution.

**Full Title of Ordinance/Resolution**

**ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 319 (TOWERS AND TOWING), SECTIONS 319-1, 319-11 AND 319-18 OF THE JERSEY CITY MUNICIPAL CODE, AUTHORIZING A CONTRACT FOR THE PROVISION OF IMPOUND SERVICES FOR THE CITY OF JERSEY CITY AND REQUIRING THAT ALL VEHICLES IMPOUNDED BY THE CITY AND UNCLAIMED FOR THE REQUISITE STATUTORY PERIOD BE SOLD AT PUBLIC AUCTION**

**Initiator**

Department/Division	Department of PublicWorks	
Name/Title	Patrick Stamato	Director
Phone/email	547-4404	PStamato@jcnj.org

Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

**Resolution Purpose**

Vehicles disabled or abandoned on public streets are towed to an impound facility to be stored until either the owners claim the vehicles, or the City sells them at a public auction. The City has prepared a Request for Proposals (RFP) for the purpose of advertising for proposals under the Competitive Contracting Law, N.J.S.A. 40A:11-4.1 et seq., to provide the City with vehicle impound services. Before the RFP is issued, Section 319-1, Section 319-11 and Section 319-18 of the Municipal Code require certain amendments related to the impound services described in the City's RFP.

I certify that all the facts presented herein are accurate.

\_\_\_\_\_  
Signature of Department Director

\_\_\_\_\_  
Date

# Ordinance of the City of Jersey City, N.J.



ORDINANCE NO. Ord. 18-030  
TITLE: 3.D APR 11 2018 4.D APR 25 2018

Ordinance amending and supplementing Chapter 319 (Towers and Towing), Section 319-1, 319-11 and 319-18 of the Jersey City Municipal Code, authorizing a contractor for the provision of impound services for the City of Jersey City and requiring that all vehicles impounded by the City and unclaimed for the requisite statutory period be sold at public auction.

RECORD OF COUNCIL VOTE ON INTRODUCTION <u>APR 11 2018 9-0</u>											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	✓			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMANN	✓		
BOGGIANO	✓			ROBINSON	✓			LAVARRO, PRES.	✓		

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING <u>APR 25 2018 8-0</u>											
Councilperson <u>RIVERA</u> moved, seconded by Councilperson <u>PRINZ-AREY</u> to close P.H.											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	✓			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMANN	ABSENT		
BOGGIANO	✓			ROBINSON	✓			LAVARRO, PRES.	✓		

✓ Indicates Vote

N.V.--Not Voting (Abstain)

## SPEAKERS:

JAYSON BURG  
MIKE KULOWSKI  
DAN SICARDI

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY											
Councilperson _____ moved to amend* Ordinance, seconded by Councilperson _____ & adopted											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY				YUN				RIVERA			
PRINZ-AREY				SOLOMON				WATTERMANN			
BOGGIANO				ROBINSON				LAVARRO, PRES.			

RECORD OF FINAL COUNCIL VOTE <u>APR 25 2018 8-0</u>											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	✓			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMANN	ABSENT		
BOGGIANO	✓			ROBINSON	✓			LAVARRO, PRES.	✓		

✓ Indicates Vote

N.V.--Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on APR 11 2018  
Adopted on second and final reading after hearing on APR 25 2018

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on APR 25 2018

Robert Byrne, City Clerk

\*Amendment(s):

APPROVED:

Rolando R. Lavarro, Jr., Council President

Date APR 25 2018

APPROVED:

Steven M. Fulop, Mayor

Date APR 26 2018

Date to Mayor APR 26 2018