

Introduced by:

Hon. Aron B. Wieder, Sponsor
Hon. Alden H. Wolfe, Sponsor
Hon. Paul C. Cleary, Sponsor
Hon. Lon M. Hofstein, Sponsor
Hon. Philip Soskin, Sponsor
Hon. Toney L. Earl, Sponsor
Hon. Joel Friedman, Sponsor

Referral No. 5508
June 18, 2024

**RESOLUTION NO. 352 OF 2024
AMENDING RESOLUTION NO. 192 OF 2024 APPROVING AN AMENDMENT TO THE
RULES AND REGULATIONS, ADOPTED BY THE OFFICE OF CONSUMER PROTECTION,
BY RESOLUTION NO. 355 OF 2021, WHICH IMPLEMENTED LOCAL LAW NO. 4 OF 2021,
WHICH REPLACED LOCAL LAW 9 OF 1979; AS AMENDED IN ITS ENTIRETY BY LOCAL
LAW 3 OF 2016 (CHAPTER 394 OF THE LAWS OF ROCKLAND COUNTY) WRECKERS AND
TOWERS, TO PROVIDE FOR LICENSING AND REGULATION OF BUSINESSES ENGAGED
IN THE PRACTICE OF NON-CONSENSUAL TOWING IN THE COUNTY OF ROCKLAND
[OFFICE OF CONSUMER PROTECTION]**

WIEDER/SHERIDAN: UNAN.

WHEREAS, By Resolution No. 192 of 2024, the Legislature of Rockland County ("Legislature") approved, those "Rules and Regulations Relating to the Laws of Rockland County Chapter 394 Towers and Wreckers" ("Rules and Regulations"), to provide licensing and regulation of businesses engaged in the practice of non-consensual towing in the County of Rockland as amended, adopted on February 20, 2024, after a public hearing, by the Board of Towers; and

WHEREAS, There were typographical errors on the previously attached Amendments to the Rules and Regulations with Resolution No. 192 of 2024; and

WHEREAS, The Director of Consumer Protection recommends to the County Executive and the Legislature to amend the Rules and Regulations attached to Resolution No. 192 of 2024 with attached amended Rules and Regulations; and

WHEREAS, The Planning & Public Works Committee met and approved this resolution by a unanimous vote and the Budget and Finance Committee of the Legislature met, considered and approved this resolution by a vote of 7 Ayes, 1 U.A. Nay and 3 Absent; now therefore be it

RESOLVED, That the Resolution No. 192 of 2024, is amended solely to the extent expressly provided in this Resolution, and that this Resolution is not intended to change any other terms, conditions, or limitations set forth in Resolution No. 192 of 2024; and be it further

RESOLVED, Resolution No. 192 of 2024 shall include the amended rules and regulations herein, and in all other respects be in full force and effect.

WH:mt
2024-07244
5/30/2024
6/11/2024 ds
6/12/2024, 6/20/2024/dmg

WRECKERS AND TOWERS

394 Attachment 1

Rules and Regulations
Relating to the
Laws of Rockland County Chapter 394
Towers and Wreckers
New Material is bolded and underlined
(Deleted Material is identified by ~~strike~~)

- I. Schedules for fees and charges
- A. Rate schedule for licensing fees.

There will be regular evaluation and adjustment for inflation of fees due the County of Rockland and rates due to Towers and Wreckers, using the Consumer Price Index for Motor Vehicle Maintenance and Servicing to ascertain the need for changes. All new fees and rates will be set by the Board of Towers and Wreckers.

- 1. Fees:
 - a. Application for a one-year license \$325
 - b. Renewal application for a one-year license \$225
 - c. Late fee- \$50
Renewal received between August 16 and August 31
 - d. Late fee – \$100
Renewals received between September 1 and October 31
 - e. Vehicle registration \$75
 - f. Duplicate original license \$10
- 2. Fees are non-refundable.
- 3. Payment of all fees will be by check, money order, or credit card. Cash is not accepted.

- B. Rate schedule of maximum towing charges for non-consensual tows.

- 1. Towing base fee.
Each vehicle towed will be charged a base fee in the amount of \$165.
- 2. Per mile charges.
These shall be charged for the shortest driving distance permitted to the tow truck from the site of removal to the entrance of the storage location.
 - a. Up to one mile \$0
 - b. Each additional mile or part thereof \$7.25
- 3. Driving Distance and Hourly Fuel surcharges
Each vehicle towed shall be charged a base fee surcharge and mileage fuel surcharge in addition to the towing base fee calculated on the cost of fuel. See example below.

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When the US DOE fuel price per gallon reported on the first Monday of the month is (see <u>3dc</u>)	The towing base fee and mileage fuel surcharge on the 15th day of the same month will be:
Less than \$3.43	0%
From \$3.43 to \$3.58	1%
From \$3.59 to \$3.74	2%
From \$3.75 to \$3.90	3%
From \$3.91 to \$4.06	4%
From \$4.07 to \$4.22	5%
From \$4.23 to \$4.38	6%
From \$4.39 to \$4.54	7%
From \$4.55 to \$4.70	8%
From \$4.71 to \$4.86	9%
From \$4.87 to \$5.02	10%
From \$5.03 to \$5.18	11%
From \$5.19 to \$5.34	12%
From \$5.35 to \$5.50	13%
From \$5.51 to \$5.66	14%
From \$5.67 to \$5.82	15%
From \$5.83 to \$5.98	16%
From \$5.99 to \$6.14	17%
From \$6.15 to \$6.30	18%
From \$6.31 to \$6.46	19%
From \$6.47 to \$6.62	20%

** Amounts over \$6.62, see B 3b.

Example: if the US Department of Energy of self-service diesel fuel determined on the first Monday in November 2023 that the cost of fuel is \$3.70 per gallon, a two (2%) percent fuel surcharge is added to the Towing Base Fee (Hook-up) and mileage fee will apply for non-consensual tows as of November 15 through December 14.

- a. The fuel surcharge for the Towing Base fee and mileage fees shall only apply in addition to the Towing Base fee and the additional mileage fee.
- b. If the US DOE fuel price per gallon exceeds \$6.62, the 20 percent towing base fee and the mileage fuel surcharge will be increased by an additional 1% for every fifteen (\$0.15) cents, or fraction thereof, per gallon in the price above \$6.62 per gallon and the hourly fuel surcharge shall be increased by \$.25 for every fifteen (\$0.15) cents, or fraction thereof, per gallon in the price above \$6.62 per gallon.
- c. To determine the DOE reported price on the first Monday of each month, call the DOE Fuel Hotline at 202-586-6966 or visit the DOE website at www.eia.doe.gov/. Toward the bottom of the page, under top picks, click On Highway Retail Diesel

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Prices. Use the fuel price on the same line as Diesel (On Highway)—Central Atlantic.

4. Winching on.

Winching on is the act of preparing the vehicle to be towed to be removed from a site.

- a. Winching on time shall start at the arrival of the tow truck at the site and end when the vehicle is ready to be moved away from the location by use of the tow truck.
- b. The tow operator shall make every reasonable effort to minimize the winching on time.
- c. Time not spent winching on (i.e., taking telephone or radio calls not related to the winching on, etc.) shall not be charged.
- d. Winching on fees shall not be permitted if a licensee has access to keys for the vehicle and the vehicle to be towed can be driven.
- e. Winching on fees may be charged as follows:
 - i. First hour or part thereof \$75
 - ii. For each additional half hour or part thereof \$37.50
 - iii. Off road recovery \$150

5. Waiting fees.

Waiting fees are only allowed if the tow operator is prevented from towing the motor vehicle due to circumstances beyond his control for more than 15 minutes after arrival at the location of the vehicle to be towed.

- a. Per half hour or part thereof \$37.50

6. Cleanup.

Cleanup constitutes sweeping and removal of debris from the roadway and placing of absorbent materials at the site of an accident or other incident that requires such activity.

- a. Maximum charge for materials \$35
- b. Labor rate per half hour or part thereof \$50
- c. Crash wrap to include labor and materials per window, if window(s) are broken or will not close. \$25

7. Storage of towed vehicles.

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Storage time shall be calculated from the time the motor vehicle was first brought to a storage location. No storage shall be charged for any day that the storage location is not open for a vehicle to be retrieved between the hours of or during any twenty-four-hour period that the operator is unavailable for the owner/operator of the motor vehicle to reclaim/redeem his/her vehicle.

- a. Storage per day or part thereof \$65
- b. After-hours release fee \$50

8. Installation of a Booting Device.

Maximum charge for booting a vehicle regardless of how many wheels may be booted. If a vehicle is booted and then towed, only the towing fee shall be allowed to be charged.

- a. Flat Rate \$150

II. Towing licenses

A. License expiration.

1. All nonconsensual towing licenses shall expire each year on August 31, regardless of the duration of the license.
2. At the Director's sole discretion, the Director may prorate the license fee for licenses that may expire in less than one year.
3. All license applications shall be made on the form required by the Director.
4. No application shall be considered complete and acceptable to the Director until all required information and documentation is provided, and all fees, and outstanding fines or penalties charged pursuant to the Laws of Rockland County, Chapter 394, Wreckers and Towers, are paid in full.

B. Renewal of licenses.

1. Renewal applications are not deemed submitted until the date that all required information and documentation is provided, and all fees, and outstanding fines or penalties charged pursuant to the Laws of Rockland County, Chapter 394, Wreckers and Towers, are paid in full.
2. Applications for renewal are accepted by the Director no earlier than August 1 of each year.
3. A renewal is timely, and not subject to any late fee or penalty, when submitted between August 1 to August 16.
4. A late renewal submission will be accepted between August 17 and October 31 subject to such late fees as the Director may apply.
5. In the event no renewal is sought by October 31, the license shall expire, and any further license will have to be sought by a new application.

III. Procedures for hearings before the Director

A. Civil violations before the Director.

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1. An administrative proceeding to adjudicate a civil violation may be commenced before the Director on the basis of a complaint alleging a violation of the requirements or prohibitions of the Laws of Rockland County, Chapter 394, Wreckers and Towers, or its attendant rules and regulations. Such complaint may arise from the public, as the result of an investigation by the Director or Board of Towers, or on the Director's own volition.
2. Upon the receipt of a complaint, the Director shall notify the licensee, or other person alleged to have violated the provisions of the law or regulations, known herein as the respondent, of:
 - a. The nature of the violation for which the respondent will be charged, and state a date for a hearing on the violation, including the provisions of law, rule, or regulation that have been violated, and the factual circumstances of each violation, including but not limited to, the date, time, place and duration of the violation and any other pertinent facts.
 - b. The date and time of the hearing to be held to adjudicate the violations.
 - c. Advising the respondent that attorneys may appear to represent the interest of the respondent.
 - d. Advising the respondent that in the event of a default, the Director may make a finding against the respondent.
 - e. At the discretion of the Director, the respondent may be advised that submission of papers, including statements and affidavits will suffice in the place of a personal appearance.
3. The notice shall be delivered by hand delivery, or first-class mail.
 - a. In the case of a licensed respondent, notice shall be delivered to the address on a licensee's last application or renewal; and
 - b. For unlicensed respondents, to such address as the Director believes will provide adequate notice to the unlicensed respondent.
 - c. In addition to the methods of serviced described above, the Director may have the notice delivered to the respondent by such other methods as a respondent may agree to, or that the Director believes will enhance the opportunity for delivery to the respondent.
4. Upon the completion of the hearing, the Director shall make a determination stating a finding of fact and a finding as to whether or not the respondent violated any provision of all Chapter 394 or its rules or regulations, and the amount to be paid as a civil penalty. It shall also include a statement advising the respondent of the respondent's right to appeal to the Board of Towers, as provided for in Chapter 394.
5. The Director's determination shall be delivered to the respondent by hand delivery, or certified return receipt requested, or other trackable mail;
 - a. In the case of a licensed respondent, the determination shall be delivered to the address on a licensee's last application or renewal; and
 - b. For unlicensed respondents, to such address as the Director believes will provide adequate notice to the unlicensed respondent.
 - c. In addition to the methods of serviced described above, the Director may

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have the determination delivered to the respondent by such other methods as a respondent may agree to, or that the Director believes will enhance the opportunity for delivery to the respondent.

IV. Procedures of the Board

A. Conduct of hearings on revocations and suspensions.

1. Notice of hearing.

- a. Prior to any hearing on a revocation or suspension, the licensee whose license is in question (the "respondent"), shall be notified of a hearing by first class mail return receipt requested or other trackable mail, to the last recorded address received by the Director from the licensee. The Board may also cause such other service of the notice as it believes appropriate to be made upon the respondent.
- b. The notice shall include a statement of what violations of Chapter 394 or its regulations are alleged, and a statement of the allegations of fact supporting the claims of violation against the respondent.

2. Conduct of the hearing.

- a. Hearings are presumed to occur in open session but may, in the sole discretion of the Board, be closed to the public.
- b. If the respondent so chooses, the respondent may appear by counsel or a non-attorney representative.
- c. The respondent may submit a written response to the allegations contained in the notice before or during the hearing.
- d. The Board and the respondent shall be allowed to present witnesses, documents and other evidence to support their claims at the hearing.
- e. The Board will consider the violations de novo. The Board may inquire of the complainant, the respondent, the Director of Staff of the Office of Consumer protection, or any other witness, for testimony or documents, in order to complete its review of the matter.
- f. In the event that the respondent is not represented by counsel, the Board at its discretion, may issue subpoenas for testimony or documents on behalf of the respondent.
 - i. In advance of the Board issuing any subpoena, the respondent shall be responsible for paying the expenses of service of the subpoenas, and appearance fees.
 - ii. To avoid the appearance of improper conflict of interest, the Board shall not issue subpoenas for any County employee or officer or any County documents.
- g. Upon completion of the hearing, the Board shall issue a decision on its findings. A decision shall include a statement of each violation described in the notice of hearing supported by the Board's finding on the violation and the facts and law upon which the finding is based. The Board shall also rule upon the question of revocation or suspension of a license.

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B. Pre-hearing suspension.

1. In the event that the underlying violation is accompanied by the complaint of facts that would constitute a crime including those described in Chapter 394, or injury to a person, or other appropriately significant circumstances, the Board may, prior to a hearing, suspend a license.
2. Such a suspension shall occur only after a vote of the Board, or such committee as the Board shall create for the purpose, finding probable cause to believe that the allegations before the Board are true.
3. Notice of a pre-hearing suspension shall be delivered to the licensee by certified return receipt or other trackable mail and shall take effect immediately upon delivery.
4. Notice of the hearing required by Section IV A1 shall be given at the same time as the notice of pre-hearing suspension or as soon afterwards as practicable.
5. Pre-hearing suspension may be lifted by the Board at any time, but in any case, will be resolved in the decision on the violations.

C. Conduct of appeals.

1. Appeals from a determination of the Director shall be made to the Board within 30 days of the respondent's receipt of the Director's determination.
2. The Board will consider any findings of the Director de novo.
3. At the Board's sole discretion, the Board may decide an appeal on:
 - a. The available record created supporting the Director's determination being appealed from, with no presentation of further argument by any party, witness, or representative; or
 - b. After presentation of oral or written arguments by the parties on the existing record; or
 - c. Upon a hearing conducted by the Board.
4. Where argument or a hearing is required by the Board, the respondent may appear by counsel or a non-attorney representative.
5. Where argument or a hearing is required by the Board, respondent may submit a written argument before or during the hearing.
6. The Board and the respondent shall be allowed to present witnesses, documents and other evidence to support their claims at the hearing.
7. Where a hearing is required by the Board, the Board may inquire of the complainant, the respondent, the Director or Staff of the Office of Consumer Protection, or any other witness, for testimony or documents, in order to complete its review of the matter.
8. Any argument or hearing may, in the sole discretion of the Board, be held in executive session. At the Board's discretion non-party witnesses may be excluded from the hearing during the testimony of others. Employees of a licensee are not parties.
9. Where a hearing is required by the Board on an appeal, if the respondent is not represented by counsel, the Board at its discretion, may issue subpoenas for

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testimony or documents on behalf of the respondent.

- a. In advance of the Board issuing any subpoena, the respondent shall be responsible for paying the expenses of service of the subpoenas, and appearance fees.
 - b. To avoid the appearance of improper conflict of interest, the Board shall not issue subpoenas for any County employee or officer or any County documents.
10. Upon completion of the hearing on appeal, the Board shall issue a decision on its findings. A decision shall include a statement of each violation described in the notice of hearing supported by the Board's finding on the violation and the facts and law upon which the finding is based. The Board shall also rule upon the question of revocation or suspension of a license. It shall also include a statement advising the respondent of the respondent's right to appeal to the County Legislature, as provided for in Chapter 394.

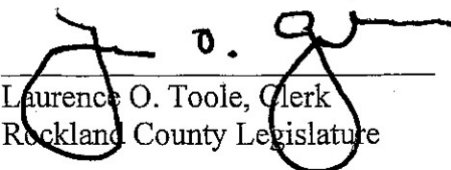
STATE OF NEW YORK)
) ss.
COUNTY OF ROCKLAND)

I, the undersigned, Clerk to the Legislature of the County of Rockland DO HEREBY CERTIFY that the attached is an original resolution of such Legislature, duly adopted on the 18th day of June 2024 by a majority of the members elected to the Legislature while such Legislature was in regular session with a duly constituted quorum of members present and voting.


I FURTHER CERTIFY that at the time said resolution was adopted said Legislature was comprised of seventeen members.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Legislature this 20th day of June 2024.

Date sent to the County Executive:
June 20, 2024



Laurence O. Toole, Clerk
Rockland County Legislature



Edwin J. Day, County Executive
County of Rockland

6/20/24

Date

RESOLUTION NO. 352 OF 2024