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San Jose, CA Code of Ordinances

**Chapter 6.66
TOW-CAR BUSINESS 13**

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6.66.010 Definitions.

Unless the context otherwise requires, the definitions and general provisions set forth in this section govern the construction of this chapter.

A. "Conducting a tow-car business" means the conducting or assisting in the conduct or operation of a tow-car business, as an owner employee, agent or otherwise, by:

1. Soliciting the tow-car business;
2. Seeking disabled or illegally parked vehicles for towing purposes;
3. Operating any of the equipment of a tow-car for the purpose of hooking onto or hoisting a vehicle preparatory to its towing or leaving, or to disengage a vehicle after towing;
4. Preparing a vehicle that is intended to be towed away by opening the vehicle or tying down its steering wheel, or disengaging its transmission system or by other means, or by the actual towing or transporting of another person's vehicle from place to place;
5. Assisting in the storage or safekeeping of a vehicle and its contents after towing before its return to the owner thereof.

B. "Person" means an individual, a firm, a partnership, a corporation, a company, an association, and a joint-stock association.

C. "Tow-car" means a motor vehicle used in the tow-car business to tow or transport motor vehicles.

D. "Tow-car business" is the business of towing motor vehicles in the city, whether or not the towing extends beyond the city. Such business also includes the storage of towed vehicles, pending their return to the rightful owners thereof, by the person or corporation which towed such vehicles, or by some other person or corporation which towed such vehicle. Government agencies and public utilities are exempt from this chapter.

E. "Property owner" will have the same meaning as any other property owner described by commonly accepted real estate documents, codes, deeds, contracts and leases. Property owners may be either an individual, a firm, corporation, partnership, company or association.

F. "Person in lawful possession of property" may be its owner, agent, resident manager, employee, tenant or member of a security patrol.

G. "Notifications" required by this chapter are responsibilities that are transferred to the tow-car company as a condition of accepting the authority to place possessory liens on their towed vehicles.

(Prior code §§ 6711.1, 6711.3 - 6711.6; Ord. 21906.)

6.66.020 Acts by employees deemed acts by employer.

In constructing and enforcing the provisions of this chapter relating to penalties, or relating to grounds for denial or revocation of any license or permit, the act, omission or failure of any officer, agent or employee of any person or corporation, acting within the scope of his official duties or employment is the act, omission or failure of the employing person or corporation.

(Prior code § 6711.2.)

6.66.030 Rules to implement chapter provisions - Chief of police authority.

The chief of police is hereby authorized to make and promulgate any and all rules that may be reasonably necessary to effectuate the purposes of the provisions of this chapter.

(Prior code § 6711.32.)

6.66.040 Tow-car business permit - Required.

No person shall engage in or conduct a tow-car business in the city without first having applied for and obtained a tow-car business permit of the type hereinafter provided for in this chapter, nor shall any person continue to engage in or conduct a tow-car business in the city after such tow-car business permit has expired or has been suspended or revoked.

(Prior code § 6711.7.)

6.66.050 Tow-car business permit - Includes tow-car business assistant permit when.

A. The issuance of a tow-car business permit to a natural person to engage in and conduct a tow-car business shall authorize the recipient of such permit to also function as a tow-car business assistant for said business without his procuring a separate tow-car business assistant permit, unless such person is expressly excluded in the tow business permit from so acting for reasons that would have justified the rejection of such person's application, if filed for a tow-car business assistant permit.

B. The issuance of a tow-car business permit to a corporation or other artificial entity shall not invest any director, officer or employee of the corporation with the right or privilege of assisting in the conduct of a tow-car business without first having applied for and obtained a tow-car business

assistant's permit.

(Prior code § 6711.9.)

6.66.060 Tow-car business permit - Application - Contents required.

Any person who desires to obtain a tow-car business permit shall prepare, subscribe and file an application for such permit with the chief of police of the City of San José, which application shall contain the following information:

- A. The name, residence address and telephone number of the applicant for a tow business permit; if a partnership, the name, residence address and telephone number of each partner; if a corporation, the name, residence address and telephone number of each director, each officer and the general manager;
- B. The name under which the business operates;
- C. The business address and telephone number of the business;
- D. The make, year, model, color, license number, registered owner and legal owner of every tow-truck that will be operated in the tow-car business;
- E. The name of the city, county, state and specific address in which the applicant engaged in or conducted a tow-car business, or was employed as a tow-car business assistant within the last five years;
- F. A statement of all felonies and misdemeanors (including moving traffic violations) for which the applicant has been convicted, excepting parking citations;
- G. Proof of good moral character, which may be shown by such evidence as, but not limited to, statements of persons other than relatives of the applicant;
- H. Such other information as the chief of police may deem relevant and necessary to investigate and evaluate the qualifications of the applicant.

(Prior code § 6711.11.)

6.66.070 Employment of tow-car business assistants - Permits required.

No person shall employ or permit any person to assist in the conduct of tow-car business in the city unless such assistant has a valid tow-car business assistant's permit, and a valid California driver's license of the proper class, in full force and effect. Except, however, a newly employed tow-truck driver or tow-car business assistant can accompany a tow-truck driver with a valid permit for one week of training. After the one-week training period, the newly employed tow-truck driver shall submit an application for a tow-car business permit or tow-car business assistant's permit. The required fees shall accompany the application. This section shall apply only to individuals who are directly associated with the actual towing, hooking onto or hoisting of vehicles and shall not apply to those employees who work only in the offices of the tow-car business.

(Prior code § 6711.10; Ord. 21906.)

6.66.080 Tow-car business assistant permit - Required.

No person shall assist in the conduct of a tow-car business in the city without first having applied for and obtained a tow-car business assistant permit of the type hereinafter provided for in this chapter; nor shall any person continue to assist in the conduct of a tow-car business within the city after his tow-car business assistant permit has expired or has been suspended or revoked.

(Prior code § 6711.8.)

6.66.090 Tow-car business assistant permit - Application - Contents required.

Any person who desires to obtain a tow-car business assistant's permit shall prepare, subscribe and file an application for such permit with the chief of police of the city, which application shall contain the following information:

- A. The name, age, marital status, resident address and telephone number of applicant;
- B. The experience of the applicant in the tow-car business, including years and months of such experience;
- C. The name and business address of all persons by whom the applicant has been employed during the five-year period prior to making application;
- D. A statement of all felonies and misdemeanors (including moving traffic violations) for which the applicant has been convicted, excepting parking citations;
- E. Proof of good moral character, which may be shown by such evidence as, but not limited to, statements of persons other than relatives of the applicant;
- F. Such other information that the chief of police may deem relevant and necessary to investigate and evaluate the qualifications of the applicant.

(Prior code § 6711.12.)

6.66.100 Permit applications - Preparation procedures - Signatures required.

A. The application for a tow business permit or tow-car business assistant's permit shall be submitted to the chief of police, and subscribed to by the applicant under penalty of perjury. Applications by partnerships shall be signed and subscribed to under penalty of perjury by all of the partners. Applications by corporations shall be signed and subscribed to under penalty of perjury by the president and secretary of the corporation.

B. Where facts are unknown or not within the personal knowledge of a subscriber to an application, but within the realm of personal knowledge of other subscribers, the subscriber may qualify his execution by specifying that certain facts are not personally known to him, or that his execution is based upon information and belief.

(Prior code § 6711.13; Ord. 21906.)

6.66.110 Permit fees.

Applicants for tow-car business permits and tow-car business assistant's permits shall pay a nonrefundable fee as set forth in the schedule of fees and as amended from time to time by resolution of the city council.

(Prior code § 6711.14; Ords. 20640, 21285, 21906.)

6.66.120 Persons signing permits - Fingerprinting and photographing required.

As a condition to acceptance of any application for a tow-car business permit or a tow-car business assistant's permit, to facilitate investigation by the chief of police, all persons who subscribe their names to the application, as above provided, shall be photographed and fingerprinted by personnel of the police department of the city.

(Prior code § 6711.15.)

6.66.130 Investigation of applicants - Chief of police authority.

Upon acceptance of an application for a tow-car business permit or a tow-car business assistant's permit, the chief of police shall investigate the applicant or applicants to determine whether or not there are grounds for denial of the permit or permits for which application has been made.

(Prior code § 6711.16.)

6.66.140 Tow-car business permit - Insurance requirements.

A. Every applicant for a tow-car business permit shall produce evidence that he can be insured and as a condition of the issuance of the permit will be insured for comprehensive automobile liability, for bodily injury liability and property damage liability insurance issued by a reputable insurer in the minimum limits of liability:

1. Bodily injury and property damage with a combined single limit of six hundred thousand dollars.

2. Uninsured motorists' insurance with a minimum limit of thirty thousand dollars combined single limit.

3. The above coverages are to apply for all owned, nonowned, and hired vehicles.

B. Proof of insurance shall be in the form of a certificate of insurance issued to the risk manager's office with the following endorsements attached to the certificates and made a part of the insurance policy itself.

1. The City of San José, its employees, officers, agents, and contractors are hereby added as additional insureds.

2. This policy shall be considered primary insurance as respects any other valid and collectible insurance the City of San José may possess, including any self-insured retention the city may have, and any other insurance the city does possess shall be considered excess insurance only.

3. This insurance shall act for each insured and additional insured as though a separate policy had been written for each. This, however, will not act to increase the limit of liability of the insuring company.

4. A thirty-day written notice of cancellation shall be given to the City of San José in the event of cancellation and/or reduction in coverage of any nature. Such notice shall be sent to the risk manager.

C. Permittee shall maintain such insurance in full force and effect throughout the term of such permit and each renewal thereof.

(Prior code § 6711.17; Ord. 21906.)

6.66.150 Temporary permits - Issuance conditions.

If the chief of police has no reason to believe that any grounds exist for denying an application for a tow-car business permit or a tow-car business assistant's permit, but has not yet completed his investigation, he may, in his discretion, pending completion of his investigation of the applicant, issue temporary permits for periods of time not to exceed thirty days' duration each, but subject to revocation at any time without cause or advance notice of such revocation.

(Prior code § 6711.18.)

6.66.160 Probationary permits.

A. If after investigation of an applicant for a tow business permit or a tow-car business assistant's permit, the chief of police is not satisfied that the applicant is entitled to the permit but

wishes to observe applicant in the actual conduct of the business or work for which a permit is requested before finally deciding whether to issue a regular permit, he may issue to the applicant a probationary permit.

B. A probationary permit shall not be for more than six months duration and shall be subject to revocation by the chief of police upon his being satisfied that a regular permit shall be issued or denied and his issuance or denial of a regular permit.

(Prior code § 6711.19.)

6.66.170 Issuance of permits - Terms.

If after investigation of an applicant for a tow-car business permit or a tow-car business assistant's permit the chief of police finds that no grounds exist for denial of the permit, he shall issue a regular tow-car business permit or a regular tow-car business assistant's permit, as the case may be, to the applicant for a period of two years from date of issuance; or, if a temporary or probationary permit shall have previously been issued, for a period of two years from date of issuance of the temporary or probationary permit.

(Prior code § 6711.20; Ord. 21906.)

6.66.180 Tow-car business permit - Tow-car business assistant's permit - Grounds for denial - Notice required.

A. The chief of police may deny a tow-car business permit or tow-car business assistant's permit if, after investigation, he finds that any of the following things are true:

1. That applicant does not possess or cannot obtain the minimum required amount of bodily injury and/or property damage insurance; or

2. That applicant does not possess the requisite knowledge or ability, tow-car equipment or facilities reasonably necessary to operate a tow-car business in such a manner as to adequately protect vehicles of the public that are towed and stored, from damage, theft or pilferage; or

3. That applicant has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business, profession or trade for which the permit is to be issued; or

4. That applicant was convicted of three or more moving violations of the California Vehicle Code in the last twelve months; or

5. That applicant is on parole or probation for a criminal offense, if the criminal offense is substantially related to the qualifications, functions or duties of the business, profession or trade for which the permit is to be issued; or

6. That applicant has done any act involving dishonesty, fraud or deceit with intent to substantially benefit himself or another, or substantially injure another; or,

7. That applicant has knowingly made a false statement of fact required to be revealed in an application for the permit, or in any report required to be made thereunder: or

8. That applicant has had a permit under the provisions of this chapter revoked within the previous three years from date of application.

B. The chief of police shall notify the applicant, in the manner specified in Section 6.66.190, of his denial of any such permit, setting forth the grounds and basis for denial.

(Prior code § 6711.21; Ord. 21906.)

6.66.190 Tow-car business permit - Tow-car assistant's permit - Suspension or revocation authorized when.

A. The chief of police may suspend, for not more than sixty days, or revoke any tow-car business permit or tow-car assistant's permit for any of the following reasons:

1. Conviction of a felony by a holder of such permit during the period for which the tow or tow assistant's business permit was issued, if the felony is substantially related to the qualifications, functions or duties of the business, profession or trade for which the permit was issued; or
2. Conviction of three or more moving violations or equipment violations of the California Vehicle Code, in the conduct of the tow-car business, by a holder of such permit during any twelve-month period in which said permit is in effect resulting in the suspension or revocation of the permittee's California driver's license;
3. Conviction of the crime of theft during the permit period by a holder of such permit;
4. The imposition of unreasonably high towing, storage or other charges in violation of the provisions of Section 6.66.110, to maximum fees or rates which may be charged for services or materials;
5. Demanding, charging or asserting any lien against any vehicle or claim against any person in excess of the maximum fees or rates established by the city council pursuant to Section 6.66.260 below;
6. The unauthorized or illegal towing or removal of any vehicle from public or private property;
7. Repeated acts of negligence in the conduct of said business resulting in damage to vehicles while in the process of being hooked up, towed or stored, or resulting in theft of such vehicles or of property therein;
8. Failure or refusal to satisfy any judgment awarded to the owner of a towed vehicle against the holder of the tow-car business permit, where such judgment resulted from the hooking up, removal, towing or storage of such vehicle;
9. Failure to keep in full force and effect the required bodily injury and property damage insurance;
10. Conviction of a misdemeanor or felony involving assault by a tow-car business owner or assistant against the owner or person entitled to possession of any vehicle that has been hooked up, removed, towed or stored;
11. Employing, retaining in employment, or using any person as a tow-car business assistant or tow-car driver who has not been issued or has not in force a valid tow-car business assistant's permit;
12. Knowingly submitting false facts and/or false information in an application for a tow-car business permit, or intentionally omitting or failing to indicate in the application facts which, if submitted, could have resulted in a denial of a permit;
13. Failing to report vehicle removals or tows as required by law;
14. Failing to report agreements with the owners or persons entitled to possession of real property that authorize tows of vehicles from private property, as required by this chapter;
15. Anything which would authorize denial of a new permit if one were applied for;
16. Falsification of tow-car business permit or any other document required pursuant to this chapter;
17. Possession of any firearm, loaded or unloaded, or any other dangerous weapon in or on

the tow truck, or either exposed or concealed upon the person of any tow-car business assistant or tow-car driver. This does not include tools used by the tow-truck driver or tow-car business assistant in the ordinary course and conduct of the tow business, unless, however, such tool is used in a threatening or offensive manner.

(Prior code § 6711.22; Ord. 21906.)

6.66.200 Appeal from denial of permit.

Within ten days after having been given written notice of the denial of tow-car business permit or a tow-car business assistant's permit, the person who was denied such permit may appeal the action of the chief of police to the code enforcement appeals commission. Such shall be done by filing written notice of appeal with said commission within said time. If written notice of appeal is not filed with said commission within said time, the action of the chief of police shall be final.

(Prior code § 6711.23; Ord. 20879.)

6.66.210 Hearing before suspension or revocation of permit.

The chief of police shall not suspend or revoke any permit issued under this chapter unless he shall have first given the permittee a notice in writing, setting forth the grounds for such proposed revocation or suspension, and unless he first gives permittee a full and reasonable opportunity to be heard regarding the grounds for such act. Said notice shall specify a time and place for hearing. The chief of police, or his designated representative, shall preside at the hearing. The chief of police shall establish reasonable rules of procedure for the conduct of such hearing. Within ten days from and after the conclusion of the hearing, the chief of police shall give permittee a written notice of his decision. If he should suspend or revoke the permit, he shall specify the grounds for the suspension or revocation. No suspension or revocation shall become effective until such time as said notice has been given.

(Prior code § 6711.24; Ords. 20490, 21906.)

6.66.220 Appeal from suspension or revocation of permit.

Within ten days from and after giving notice of the suspension or revocation of a permit, the permittee may appeal the action of the chief of police to the code enforcement appeals commission. Such appeal shall be done by filing written notice of appeal with said commission within the time required under San José Municipal Code Chapter 2.08. If written notice of appeal is not filed with said commission within said time, the action of the chief of police shall be final.

(Prior code § 6711.25; Ord. 21906.)

6.66.225 Prohibition from participation.

A. It shall be unlawful for any person who conducts or owns a tow-car business in the City of San José, or who holds a tow-car business permit pursuant to this chapter:

1. To allow, permit, or suffer to be present on, the business premises any person whose tow-car business permit or tow-car business assistant's permit has been revoked by the chief of police for a period of three years after the revocation becomes final, except when that person is temporarily present on the business premises for purposes unrelated to the management and conduct of the business.

2. To allow, permit, or suffer any person whose tow-car business permit or tow-car business assistant's permit has been revoked by the chief of police for a period of three years after the revocation becomes final to manage, direct, conduct, consult, be employed, be a contractor for, provide services to, assist in the operation of, or otherwise participate in, a permitted tow-car

business.

B. In addition to the grounds set forth elsewhere in this chapter, the chief of police may deny an application for a tow-car business permit to, or suspend or revoke the tow-car business permit of, a person who violates any of the provisions of subsection A.

C. It shall be unlawful for any person who has conducted or owned a tow-car business in the City of San José, or who has held a tow-car business permit or tow-car business assistant's permit which has been revoked, for a period of three years after the revocation becomes final:

1. To be present on the business premises, except when that person is temporarily present on the business premises for purposes unrelated to the management and conduct of the business.

2. To manage, direct, conduct, consult, be employed, be a contractor for, provide services to, assist in the operation of, or otherwise participate in, a permitted tow-car business.

(Ord. 25937.)

6.66.230 Procedure for serving notices.

Any notice required by this chapter may be given in any manner in which service of summons from the superior court of the state may be effected, or by deposit in a sealed, postage-prepaid envelope which is addressed to the person to whom notice is being given at the said person's business or residence address that is specified in the application for a tow-car business permit or tow-car business assistant's permit. Service by United States mail shall be deemed to have been completed at the time of deposit in a United States mail depository or United States post office.

(Prior code § 6711.26.)

6.66.240 Removal of vehicles from private property - Agreement with property owner - Required display - Required signs - Responsibility of maintaining signs.

A. Every holder of a tow-car business permit who intends to engage in removing vehicles from private property and who intends to hold those vehicles under a possessory lien as a guarantee of payment for services, shall make application to the chief of police.

B. The chief of police shall establish reasonable rules and regulations regarding the responsibilities of the tow-car operators including, but not limited to, the following:

1. Each tow-car company will be responsible for responding to service requests from private property owners.

2. Each tow-car company shall contact the police department auto desk within twenty minutes after departing the private property with the towed vehicle. The tow-car driver shall report the license number of the vehicle, the vehicle identification number if the license number is not available, the make and year of the vehicle, the time and location of removal, and the location where the vehicle is being stored.

3. No tow-car company may take possession of any vehicle parked upon such private property until such time as the owner or agent has signed the tow receipt or similar document describing the tow and the vehicle being towed. Such agent shall be the private property owner, the property manager, security officer, or tenant in lawful possession. In no event shall the tow-car company act as or be an agent for the prime property owner. However, with respect to fire lanes, handicapped lanes or other areas clearly marked and identified as a safety hazard, the tow-truck driver need not obtain the signature of the private property owner or his agent, but may initiate the tow for public safety reasons. Public areas designated as public safety areas shall be so designated by the chief of police and may include the following: fire hydrants, emergency parking and driveways. The signed document authorizing the tow must be maintained in the office of the tow-car company for a

minimum of thirty days and available for inspection upon request by the owner of the vehicle and/or to the chief of police.

4. During nonbusiness hours, the tow-car owner or agent must be available on an on-call basis and shall respond to the tow garage where towed vehicles are towed within twenty-five minutes of receiving a call from the vehicle owner or police department. If upon arrival, the vehicle owner is not at the premises, the tow-truck operator shall wait twenty-five minutes for the vehicle owner to return before departing the premises.

C. This section shall not apply to private property owners requesting to have their personal vehicles towed from private property to another location.

(Prior code § 6711.28; Ords. 20879, 21906.)

6.66.250 Display of required documents.

A. All tow-truck companies shall at all times display, in their primary place of business, their business permit, the current rates setting maximum tow and service rates, and the name and telephone number of the San José police department's tow liaison unit.

B. Those tow-truck companies which engage in private property towing shall also display a notice that advises their public that all of the following are available for review in the business office upon request:

1. The tow-car permit or business assistant's permit of any person on the premises; and
2. The name and address of the persons / property owner who directed them to remove the vehicle.

(Prior code § 6711.27; Ord. 21906.)

6.66.270 Removal of vehicles from private property - Approval - Retention of agreement.

A. No property owner shall remove vehicles owned by other persons from their private property without the approval of the chief of police.

B. Applications for approval shall be submitted to the chief of police. Upon receipt of such application, the chief of police shall cause an inspection to be made of the real property. Such inspection shall verify that the site is posted in conformance with the provisions of this chapter and that all signs convey sufficient warning that vehicles will be towed away at the vehicle owner's expense. The chief of police shall establish reasonable rules and regulations relating to the number and locations of primary and secondary signs and if any special message must be conveyed. Required signs must be posted before final approval from the chief of police.

C. The chief of police shall provide the owner of the real property with any or all of the following in order to facilitate the proper posting of signs on the property and generate a sufficient message to the motoring public that might wrongfully assume that the property was open for public use:

1. One or more on-site inspections leading up to the certification of the property;
2. Notice that it is the responsibility of the property owner to post and to maintain all required signs; and, further, that should the property owner direct a tow, knowing that one or more of the required signs was missing, then said property owner may be subject to civil damages.

D. No property owner or agent shall cause the removal of any vehicle from such private property unless the property owner or his agent first signs the tow receipt in possession of the tow-car driver or tow-car business assistant, and by such a signature declares that at the time of the tow there were displayed in plain view at each entrance to the property, sufficient signs giving the public

warning that public parking is prohibited and that all unauthorized vehicles would be towed away. Such signs, as well as any additional signs and/or markings or curb paintings declared necessary by the chief of police, must be posted in such a manner and location as to be visible during daylight and visible at night by the light of ordinary headlights.

E. Vehicles may be towed from fire lanes and handicap zones without the signature of the property owner or his agent when such areas are clearly designated.

F. The chief of police shall maintain records of all approved applications from private property owners. Such records shall be maintained for a period of three years.

G. This section shall not apply to private property owners wishing to have their personal vehicles towed from private property to another location.

(Prior code § 6711.29; Ords. 21568, 21906.)

6.66.275 Inspection fees.

A. Fees for police department inspections of private property to determine compliance with the signage requirements for private towing specified in Section 6.66.270 shall be as set forth in the schedule of fees adopted by resolution of the city council.

B. A certification application shall not be deemed complete until the fees required under subsection A. have been paid by the property owner.

(Ord. 24919.)

6.66.280 Posting required signs upon private property - Maintenance of signs required - Responsibility.

A. It shall be the responsibility of the owner of real property to maintain the required signs prior to causing the removal of any vehicle from said private property.

1. The property owner shall be liable to the vehicle owner in the event required signs were not properly posted;

2. The property owner is solely responsible for the proper posting and maintaining of the required signs;

3. Each sign shall be no smaller than eighteen inches high and twenty-four inches wide;

4. Each sign shall carry the warning:"PARKING RESTRICTED 24 HRS. A DAY - UNAUTHORIZED VEHICLES WILL BE TOWED AWAY AT THE VEHICLES OWNER'S EXPENSE" - "PARKING AUTHORIZED ONLY BY:" - and the name of the business establishment authorizing the public parking;

5. There shall exist a vivid contrast between the painted letters and the background, with the words "PARKING RESTRICTED 24 HRS. A DAY" and "TOWED AWAY," and "AUTHORIZED ONLY BY:", giving additional highlighting.

6. The words "PARKING RESTRICTED 24 HRS. A DAY," "TOWED AWAY," and "AUTHORIZED ONLY BY:", shall be printed in letters no less than three inches high. The remaining warning shall be printed in letters not less than one inch high.

7. Each sign shall convey the message in words no less than one inch in height that the persons seeking to locate their towed vehicles should contact the San José police department, auto desk, (408) 277-4000 and the name of the tow company and telephone number.

8. In accordance with the California Vehicle Code, all signing or curb markings warning of tow-

away where determined necessary by the chief of police may require warning as to who determines which vehicles are authorized, length of permitted parking to conduct necessary business, and other appropriate cautions to warn away the prohibited public use of the property.

(Prior code § 6711.31a; Ords. 21568, 21906.)

6.66.290 Charges for services - Establishment - Overcharging prohibited - Satisfaction of lien.

A. The city council may, from time to time, by ordinance or resolution, establish or amend a schedule of maximum fees or rates which may be charged for any service or materials, including but not limited to towing, storage, opening a locked vehicle, use of any special equipment, safe keeping any vehicle or its contents, delivery of any towed vehicle to any location other than the regular place of business of the holder of a tow-car permit, towing from a public street and towing from private property, furnished by a tow-car business permit holder in connection with the conduct of a tow-car business within the City of San José.

1. No resolution or ordinance establishing or amending such a schedule of charges shall be adopted until after a public hearing has been held by the city council to determine if such rates shall be established or amended, and, if so, what such rates should be.

2. Fifteen days' notice of such hearing shall be given by the city clerk to each tow-car business permit holder by letter directed to the address contained in the permittee's application for a permit for a tow-car business permit, or such other address the permit holder may request, or by an advertisement appearing on two different days in a newspaper of general circulation in the City of San José more than fifteen days prior to the date of such hearing.

3. At such hearing, the council shall permit any person to present any oral or documentary evidence or opinion on any matter material to the subject of the establishment of reasonable rates for tow-car business services, or any charges thereof.

B. The charges established by such resolution or ordinance shall become effective no earlier than ten days after a copy of such schedule of charges or amendment is mailed by the city clerk to each tow-car business permit holder at the address on his/her application, or such other address as the permit holder may request. A current copy of such schedule of charges shall be conspicuously posted at the place of business of any permit holder.

C. After the effective date of charges established as herein provided, no person conducting a tow-car business within the city shall charge or demand, for any service or material, any fee or consideration in excess of the charges so established. Proof of any such overcharge shall be grounds for revocation or suspension of any tow-car business permit issued pursuant to provisions of this chapter.

D. 1. All tow companies, including franchisees, conducting businesses within the City of San José shall release such vehicles to their owners or operators upon the receipt of full payment in the form of:

- a. United States currency;
- b. Personal check;
- c. MasterCard or Visa credit cards.

2. With reference to personal checks, the tow-business permittee may require that:

- a. The check be personalized;
- b. It be written upon a California bank; and
- c. The person presenting the check show a valid California driver's license or valid California

identification card.

3. With reference to credit cards, the tow-business permittee may require:
 - a. An accompanying valid California driver's license or valid California identification card; or
 - b. Verification from a bank or credit reference service.

(Prior code § 6711.31; Ords. 21568, 21874.)

6.66.300 Removal of vehicles from private property - Responsibility of tow-car company.

A. Every tow-car business permittee, pursuant to this chapter, who intends to engage in removing vehicles from private property, and who intends to hold those vehicles under a possessory lien as a guarantee of payment for services as a condition to the operation of said business, shall provide the following safeguards:

1. Each tow permittee will be responsible for responding to service requests from private property owners;
2. Each tow permittee will be responsible to contact the police department auto desk by telephone within twenty minutes after departing from the property with the towed vehicle. The tow-car driver shall give the following information to the police department auto desk: the license number of the vehicle, the vehicle identification number if the license number is not available, make and year of the vehicle, time and location of removal, and the location where the vehicle is being stored;
3. No tow-car permittee may take possession of any vehicle parked upon such private property until such time as the property owner or property owner's agent has authorized and signed the tow receipt or similar document describing the tow and the vehicle being towed. Such a signed document must be maintained in the office of the tow-car permittee and available for inspection upon request by the owner of the vehicle and/or by the chief of police;
4. A lighted, enclosed office offering protection from weather;
5. Provide a pay telephone or a business telephone within the office for use by the vehicle owner. In the absence of a pay telephone, the permittee shall allow the vehicle owner two local calls of not more than five minutes in duration for each call.

(Ords. 21568, 21906.)

6.66.310 Keeper liens and expenses involved in the tow - Establishment of liens - Drop charges defined and prohibited - Evading lien.

A. Each tow-car business permittee who removes a vehicle to his place of business may assert a keeper lien on its possession until such time as all authorized towing, storage and special charges are satisfied. Nothing in this chapter shall supersede lien assertions established under state or federal law.

B. It is unlawful to charge the vehicle owner any fee to drop the vehicle or otherwise release the vehicle back to his control at any point between its location on the private property and its arrival at the tow-car storage facility. Such a "drop charge" to the vehicle owner is defined as reimbursement from the vehicle owner for services rendered by the tow-truck permittee. These services include, but are not limited to, unlocking the vehicle, tying off the steering wheel, disconnecting the drive shaft or related system, and recovery of time and wages of the tow-truck operator.

C. It shall be unlawful to remove any vehicle from private property once its owner or person in lawful control has returned to its location on the property and declared his opposition to the

removal. In order to make this declaration, it is not required that the person produce any identification connecting him with the vehicle. The person declaring opposition to the removal must remove the vehicle within five minutes to a legal or nonrestrictive parking area or the vehicle will be towed.

(Ord. 21906.)

6.66.320 Recordkeeping requirements.

A. Each tow-car permittee shall maintain complete books of account showing all towing business and charges transacted by him, both in and outside the city, supported by records or receipts and expenses, including separate records of receipts from towing originating in the city, and statements, vouchers and other documents accurately reflecting all such business. All such records shall be subject to audit and inspection at any reasonable time on request by the city and its authorized officers.

B. Such records shall be maintained for a period of three years.

(Ord. 21906.)

6.66.330 Required signs.

A. All permit holders or franchise tow-truck operators shall at all times display, in a conspicuous location in their primary place of business, a sign with the following information:

1. Checks and credit cards accepted;

2. The San José police tow liaison unit may be called regarding complaints about tows at (408) 277-4636.

(Prior code §§ 6711.30, 6.66.260; Ord. 21906.)