

**BOROUGH OF FANWOOD
MAYOR AND COUNCIL SPECIAL MEETING
APRIL 1, 2019**

This Special Meeting of the Mayor and Council was held on April 1, 2019, at Fanwood Borough Hall, 75 North Martine Avenue, Fanwood, NJ at 7:00 pm.

Mayor Colleen Mahr presided and stated; I hereby announce and request that such be included in the minutes of this meeting that notice of the time, place and date of the meeting has been prominently posted on the bulletin board at the Borough Hall, mailed to The Times, the Star Ledger, the Courier News, Alternate Press, filed with the Borough Clerk and mailed to any person requesting the same in accordance with the requirements of the Open Public Meetings Act.

Present: Jeffrey Banks, Anthony Carter, Tom Kranz, Erin Mcelroy-Barker, Katherine Mitchell, Patricia Walsh

Absent: None

Also, Present: Colleen Mahr, Eleanor McGovern, Russell Huegel, Diane Dabulas, Liz Jeffrey

Mayor Mahr stated that this meeting was being held to consider the adoption of three ordinances, an award of contract and a Temporary Emergency Appropriation.

OLD BUSINESS

A. Administration and Finance (Councilman Kranz)

Ordinance 19-05-R

Kranz/Mitchell moved to open the Public Hearing on Ordinance 19-05-R. Motion carried.

No one spoke.

Kranz/Banks moved to close the Public Hearing. Motion carried.

Kranz/ Mcelroy-Barker moved to adopt Ordinance 19-05-R on second reading and public hearing. Motion carried with the following roll call vote.

ORDINANCE NO. 19-05-R

**AN ORDINANCE OF THE BOROUGH OF FANWOOD, COUNTY OF UNION, AND
STATE OF NEW JERSEY, ESTABLISHING SEWER RATE FOR 2019**

WHEREAS, the Borough of Fanwood (“the Borough”), pursuant to the New Jersey Municipalities & County Sewerage Act, N.J.S.A. 40A:26A-1 *et seq.* and Fanwood Ordinance No. 18-02-R created “The Fanwood Sewer Utility”; and

WHEREAS, the Borough desires to set the sewer rates for the year 2019:

BE IT ORDAINED by the Mayor and Council of the Borough of Fanwood, County of Union, State of New Jersey as follows:

Section 1. The following schedule shall be the annual charge for users of the sewer system for the year 2019:

<u>Range of Use per Gallons</u>	<u>Fee</u>
Less than 30,000	\$50.00
30,001 to 100,000	\$84.00
100,001 to 200,000	\$126.00
200,001 to 300,000	\$210.00
300,001 to 400,000	\$750.00
400,001 to 500,000	\$1,000.00
500,001 to 1,000,000	\$2,500.00
1,000,001 to 2,000,000	\$5,000.00
Over 2,000,001	\$7,500.00

Section 2. This Ordinance shall not apply to any Borough owned vacant lot properties.

Section 3. This Ordinance shall not apply to any tax code class 15 C properties owned by the Borough.

Section 4. This Ordinance shall not apply to all other vacant lot properties within the Borough.

Section 5. This Ordinance shall not apply to any property within the Borough served by septic tank instead of the public sewer lines covered by the Fanwood Sewer Utility established by Ordinance 18-02-R.

Section 6. This Ordinance shall apply to those properties within the Borough that are served by well water which shall be charged the same fee as those properties falling within the less than 30,000-gallon range.

Section 7. Payors of accounts maintained by the Fanwood Sewer Utility shall have a right to request a review of charges on their account. Payor requests shall be submitted in writing and accompanied by annual water bill showing consumption.

Section 8. This Ordinance shall supersede and replace any prior Resolution or Ordinance contrary hereto.

Section 9. If any part of this Ordinance shall be deemed invalid, such part shall be severed, and the invalidity thereof shall not affect the remaining parts of this Ordinance.

Section 10. This Ordinance shall take effect as provided by law.

FOR: Kranz, Mcelroy-Barker, Banks, Carter, Mitchell, Walsh
 AGAINST: None
 ABSENT: None

ABSTAIN: None

B. Public Safety (Councilman Carter)

Ordinance 19-06-R

Carter/Kranz moved to open the Public Hearing on Ordinance 19-06-R. Motion carried.

No one spoke.

Kranz/Mitchell moved to close the Public Hearing. Motion carried.

Carter/ Mitchell moved to adopt Ordinance 19-06-R on second reading and public hearing. Motion carried with the following roll call vote.

ORDINANCE NO. 19-06-R

AN ORDINANCE AMENDING CHAPTER 280, VEHICLES AND TRAFFIC, OF THE CODE OF THE BOROUGH OF FANWOOD, RELATING TO ARTICLE XVI WRECKERS AND TOWING

BE IT ORDAINED by the Mayor and Council of the Borough of Fanwood, County of Union, State of New Jersey, that Chapter 280, Vehicles and Traffic, of the Code of the Borough of Fanwood, County of Union is hereby amended as follows.

Section I. Section 280, Wreckers and Towing, is hereby amended to read as follows:

Article XVI, Wreckers and Towing

Purpose.

To establish rules and regulations, pursuant to N.J.S.A. 40:48-2.49, N.J.A.C 13:45A-31 and N.J.A.C. 17:33-47 and 48, for the towing and storage of motor vehicles damaged in accidents, utilized in the commission of crimes, recovered after being stolen, or otherwise impounded by the police department, from public roadways by operators engaged in the business of towing and storing motor vehicles.

§280-75. Scope.

The provisions of this chapter shall apply to those businesses that engage in the towing and storage of motor vehicles within the borough through the police department.

§280-76. Definitions.

As used herein, the following terms shall have the meaning indicated:

A. "Abandoned vehicle" shall mean a vehicle which the owner or operator leaves on a public roadway and fails to notify the police and does not attempt to repair and remove the same within a reasonable period of time.

B. "Accident vehicle" shall mean a motor vehicle which has been involved in an accident.

C. "Basic tow" means private property towing and other non-consensual towing as defined in this section and other ancillary services that include the following: arriving at the site from which a motor vehicle will be towed; 15 minutes waiting time; hooking a motor vehicle to, or loading a motor vehicle onto, a tow truck; transporting a motor vehicle to a storage facility; unhooking or unloading a motor vehicle from the tow truck; and situating the motor vehicle in the space

in which it will be stored. "Basic tow" also includes issuing documents for the release of a motor vehicle to its owner or other person authorized to take the motor vehicle; issuing an itemized bill; three trips to the motor vehicle in storage, which, if applicable, include making a vehicle available to an insurance appraiser or adjuster; issuing documents for the release of a motor vehicle to its owner or other person authorized to take the motor vehicle; and retrieving a motor vehicle from storage during the hours in which the storage facility is open.

D. *"Consensual towing"* means towing a motor vehicle when the owner or operator of the motor vehicle has consented to have the towing company tow the motor vehicle.

E. *"Consumer"* means a natural person.

F. *"Decoupling"* means releasing a motor vehicle to its owner or operator when the motor vehicle has been, or is about to be, hooked to or lifted by a tow truck, but prior to the motor vehicle actually having been moved or removed from the property.

G. *"Disabled vehicle"* shall mean any motor vehicle which is unable to operate under its own power.

H. *"Flatbed tow truck"* means a tow truck designed to transport a motor vehicle by means of raising the motor vehicle from road level up onto a hydraulic bed for transporting purposes.

I. *"Heavy-duty recovery"* shall mean that recovery of any motor vehicle over 10,000 pounds gross vehicle weight which requires the vehicle to be up righted or recovered from either on or off the traveled portion of a public roadway.

J. *"Heavy-duty towing"* shall mean the towing of any motor vehicle over 10,000 pounds gross vehicle weight.

K. *"Impounded vehicle"* shall mean a vehicle which, at the direction of the police department is taken into police custody because the operator of the vehicle was engaged in a violation of the law, including but not limited to the operator being arrested on a DWI charge; operator has been arrested for driving without registration or insurance; the operator has been arrested for stealing the motor vehicle; vehicle involved in a serious accident, e.g.; death by auto.

L. *"Light-duty towing"* shall mean the towing of any motor vehicle up to 10,000 pounds gross vehicle weight.

M. *"Motor vehicle"* includes all vehicles propelled other than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles, motorized scooters, motorized wheelchairs and motorized skateboards.

N. *"Non-consensual towing"* means the towing of a motor vehicle without the consent of the owner or operator of the vehicle. "Non-consensual towing" includes towing a motor vehicle when law enforcement orders the vehicle to be towed whether or not the owner or operator consents.

O. *"Person"* means an individual, sole proprietorship, partnership, corporation, limited liability company or any other business entity.

P. *"Private property towing"* means non-consensual towing from private property or from a storage facility by a motor vehicle of a consumer's motor vehicle that is parked illegally, parked during a time at which such parking is not permitted or otherwise parked without authorization or the immobilization of or preparation for moving or removing of such motor vehicle, for which a service charge is made, either directly or indirectly. This term shall not include the towing of a motor vehicle that has been abandoned on private property in violation of N.J.S.A. 39:4-56.5, provided that the abandoned vehicle is reported to the appropriate law enforcement agency prior to removal and the vehicle is removed in accordance with N.J.S.A. 39:4-56.6.

Q. *"Private property towing company"* means a person offering or performing private

property towing services.

R. *"Secure storage facility"* means a storage facility that is either completely indoors or is surrounded by a fence, wall or other man-made barrier that is at least six feet high and is lighted from dusk to dawn.

S. *"Site clean-up"* means the use of absorbents to soak up any liquids from a motor vehicle at the site from which a motor vehicle will be towed.

T. *"Storage facility"* means a space at which motor vehicles that have been towed are stored.

U. *"Storage rates"* shall mean fees charged for the storage of motor vehicles.

V. *"Tarping"* means covering a motor vehicle to prevent weather damage.

W. *"Tow truck"* means a motor vehicle equipped with a boom or booms, winches, slings, tilt beds or similar equipment designed for the towing or recovery of motor vehicles.

X. *"Towing"* means the moving or removing from public or private property or from a storage facility by a motor vehicle of a consumer's non-commercial motor vehicle that is damaged as a result of an accident or otherwise disabled, recovered after being stolen or is parked illegally or otherwise without authorization, parked during a time at which such parking is not permitted or otherwise parked without authorization or the immobilization of or preparation for moving or removing of such motor vehicle, for which a service charge is made, either directly or indirectly. Dues or other charges of clubs or associations, which provide towing services to club or association members, shall not be considered a service charge for purposes of this definition.

Y. *"Towing company"* means a person offering or performing towing services.

Z. *"Towing list (Wrecker Rotation)"* shall mean a rotating list of all towing services registered with the borough kept by the borough clerk. When the police require the towing and storage of a motor vehicle from public roadways, they shall contact the towing service on the top of the rotating towing list as determined by this chapter.

AA. *"Towing rates"* shall mean fees charged by a towing service for removal and transportation of the vehicle.

BB. *"Towing service"* shall mean a business engaged in the towing or storing of motor vehicles which has been approved for the towing list.

CC. *"Towing vehicle"* shall mean a motor vehicle employed by the towing service for the purpose of towing, transporting, conveying or removing of motor vehicles from public roadways.

DD. *"Transmission disconnect"* means manipulating a motor vehicle's transmission, so that the motor vehicle may be towed.

EE. *"Truck"* means every motor vehicle designed, used or maintained primarily for the transportation of property, including but not limited to buses, tractor/trailers and any motor vehicles having a gross registered weight in excess of 10,000 pounds.

FF. *"Vehicle"* means any device in, upon or by which a person or property is or may be transported upon a highway.

GG. *"Waiting time"* means any time a towing company spends at the site from which a motor vehicle will be towed, during which the towing company is prevented from performing any work by another individual, beyond the time included as part of a basic tow.

HH. *"Winching"* means the process of moving a motor vehicle by the use of chains, nylon slings or additional lengths of winch cable from a position that is not accessible for direct hook up for towing a motor vehicle. "Winching" includes recovering a motor vehicle that is not on the road and righting a motor vehicle that is on its side or upside down, but does not include pulling a motor vehicle onto a flatbed tow truck.

II. *"Window wrap"* means any material used to cover motor vehicle windows that have been

damaged.

JJ. “*Wrecker*” means any self-propelled vehicle equipped and employed for the purposes of towing, transporting and conveying or removing any and all kinds of vehicles which are unable to be or actually are not operated under their own power, for which services a charge or fee is exacted.

KK. “*Wrecker Rotation (Towing List)*” means the system by which licensees are rotationally contacted by the Police Department to provide wrecker services to vehicle operators. The party providing wrecker services herein shall be referred to as the “rotation wrecker”.

§280-77. Towing Service Registration and License.

A. No wrecker shall operate upon any road/street in Fanwood Borough without first registering with the Borough Clerk and obtaining a license from the Borough Clerk.

B. Nothing in this chapter shall apply to wreckers who:

(1) Pick up disabled vehicles outside the Borough limits and are in the course of taking such vehicles to a garage either in or about the Borough.

(2) Are from outside the Borough limits and whose services are requested by the owner or driver of a disabled vehicle for the purposes of removing the vehicle from outside Borough limits to a residence or business within or outside Borough limits.

C. No towing service shall be placed upon the towing list for the towing or storing of motor vehicles within the borough, unless the towing service shall first register with the borough. In order to be placed upon the towing list for light-duty towing, a towing service must be located within five miles of the geographic center of Fanwood Borough or within Scotch Plains Township. The Borough Clerk shall make registration applications available. The Borough Clerk shall place a towing service that has met all the specifications and requirements of this chapter and has registered with the borough, on the towing rotation list. No towing service on the Fanwood Borough police department towing rotation list shall exceed the fees set forth in the attached fee schedule, and may be adjusted annually effective July 1 of each year pursuant to 280-79(B) at the request of any one of the registered towing services.

D. The towing service owner or its authorized representative shall sign the fully completed registration application form indicating that the full requirements of this chapter have been met by the towing service applicant.

E. If any information provided by a towing service in its registration application changes, the towing service is responsible for notifying the police department, police commissioner and borough clerk of the change in the registration information within 30 days of such change. Failure to comply with this provision will be deemed a violation of the chapter.

F. The annual fee for such license shall be \$250 per year and shall be attached to the completed application. Said fee shall not be prorated during the given year.

G. The license shall be issued for one year – commencing January 1 and expiring December 31 and shall not be prorated.

H. All license applications shall be completed in full, with all required attachments and submitted on or before December 1 of the expiring year.

I. The application shall contain:

(1) The full name and residential address of the owner, lessee or bailee and the applicant.

(2) The full name and address of the business.

(3) The type of vehicle(s) for which the license is desired.

(4) The location, description and hourly availability of the tow trucks owned or operated

by the applicant.

(5) An indication that the applicant has available space for properly accommodating and storing all motor vehicles to be towed and otherwise removed from the location where they exist.

(6) A proposed list of Towing Fees to be charged.

(7) An indication of the applicant's desire to be included or excluded from the Towing List/Wrecker Rotation.

(8) Any other information that the Public Safety Committee of Fanwood Borough may deem necessary to protect the public interest.

J. The application shall have affixed thereto an affidavit sworn to by the applicant that all statements in the application are true and notarized by a currently licensed Notary Public.

K. Each Applicant shall provide the following documentation:

(1) A fully completed affidavit of non-collusion.

(2) Nondiscrimination statements as required by N.J.S.A. 10:5-31 et seq.

(3) A list of the equipment required by this ordinance including the name, make, model, vehicle identification number and mileage.

(4) The insurance information for each vehicle as required by this ordinance.

(5) A notarized statement that such person owns, leases or controls all of the equipment required.

(6) A notarized statement providing the names and residential addresses of principles of the business and, in the case of a corporation, the names and residential addresses of the officers and directors and all persons owning at least 10% of the corporation.

L. The chief of police or his/her designee, borough clerk and police commissioner are hereby authorized to administer and enforce all provisions of this chapter related to wreckers and towing.

M. All applicants for towing and/or storage of vehicles shall be submitted to the borough clerk.

N. The borough clerk or his/her designee and Public Safety Committee, using the requirements of this article, shall approve all applications for towing operators to be used on a rotational basis for the purpose of providing emergency towing, road and storage services to the owners of motor vehicles utilizing all roadways in Fanwood Borough.

O. Any license issued to an applicant is not transferable by the licensee to another person that is not listed on the current application.

§280-78. Insurance.

A. No license shall be issued to an applicant hereunder until he/she has deposited with Fanwood Borough the current Proof of Insurance with the amounts of coverage listed. The minimum amounts of insurance a towing company shall secure and maintain are:

(1) Motor vehicle liability for a tow truck capable of towing a motor vehicle that is up to 26,000 pounds, for the death of, or injury to, persons and damage to property for each accident or occurrence in the amount of \$750,000, single limit; and

(2) Motor vehicle liability for a tow truck capable of towing a motor vehicle that is more than 26,000 pounds, for the death of, or injury to, persons and damage to property for each accident or occurrence in the amount of \$1,000,000, single limit; and

(3) A garage keeper's liability policy covering fire and theft in the amount of \$100,000 per vehicle and collision coverage in the minimum amount of \$100,000 per accident; and

(4) A garage keeper's liability policy covering the operation of the applicant's business,

equipment and vehicles and for any bodily injury or property damage. This policy will be in the amount of \$100,000 for any one person killed or injured and \$500,00 for more than one person killed or injured in any one accident. This policy shall also provide \$100,000 coverage for all damages arising out of injury or destruction of property.

B. A towing company shall also secure and maintain, for every tow truck, insurance that covers garage keeper legal liability in the amount of \$100,000, and "on-hook" coverage, either as an endorsement on the insurance required by (a) above or in the amount of \$100,000.

C. The insurance required by (a) and (b) above shall be obtained from an insurance company authorized to do business in New Jersey.

D. Each policy must contain a Hold Harmless Clause that agrees to release, indemnify, and hold harmless Fanwood Borough and their agents and employees, from and against all claims, damages, losses, and expenses, including reasonable attorneys' fees in case it shall be necessary to file an action, which is (1) for bodily injury, illness or death, or for property damage, including loss of use, and (2) caused in whole or in part by the actions of the applicant and/or their agents and employees.

E. Each policy required herein must contain an endorsement providing for 30 days' notice to Fanwood Borough in the event of any material change or cancellation.

F. During any period the applicant does not maintain insurance the license shall be suspended until proof of required coverage is presented to the borough clerk, police chief and police commissioner.

§280-79. Rates and Fees.

A. All fee schedules must be legible and shall be posted in plain sight at the entry of the office area and in plain sight of any area where payments are accepted. All fee schedules must be presented to the customer immediately upon request.

B. All fee schedules shall be kept on file in the police department and with the Borough Clerk and shall be available for inspection by the public during normal business hours of the municipality.

C. Fees and rates for towing and storage of motor vehicles damaged in accidents, utilized in the commission of crimes, recovered after being stolen, or otherwise impounded by the police department, shall not exceed the limits set forth in the attached fee schedule, and may be adjusted annually effective July 1 of each year pursuant to 280-79(B) at the request of any one of the registered towing services.

D. All fee limits set by this section shall be increased or decreased by an amount equal to the annual percentage rate as determined by the U.S. Department of Labor, Consumer Price Index (CPI) for the New York Metropolitan Area

E. Fees and services covered by this ordinance:

(1) Basic tow, which shall be a flat fee; and

(2) In the case of a motor vehicle involved in an accident the following additional services, if actually performed:

a. Waiting time in excess of 15 minutes, which shall be calculated based upon each 15 minutes spent at the site from which a motor vehicle will be towed, with fewer than 15 minutes rounded up to 15;

b. Brush cleaning, including collection of debris that can be picked up by hand, which shall be a flat fee;

c. Site cleanup, which shall be calculated based upon the number of bags of

absorbent used;

d. Winching, which shall be based upon each one-half hour spent performing winching;

e. The use of window wrap, which shall be a flat fee;

f. Tarping, which shall be a flat fee;

g. Transmission disconnect, a flat fee, which shall be charged only if a motor vehicle is locked and the towing company is unable to obtain the keys for the motor vehicle;

h. Use of a flatbed tow truck, a flat fee, which shall be charged if a motor vehicle can be transported only by a flatbed tow truck;

i. Use of special equipment other than the first tow truck to recover a motor vehicle that cannot be recovered by winching or pieces of a motor vehicle that cannot be moved by hand, which may be both a labor and an equipment charge billed in half-hour increments;

j. Decoupling;

k. Storage at a towing company's storage facility;

l. More than three trips to the motor vehicle in storage, which may be invoiced as an administrative fee, which shall be a flat fee; and

m. Releasing a motor vehicle from a towing company's storage facility after normal business hours or on weekends, which shall be a flat fee.

F. A towing company that engages in private property towing or other non-consensual towing shall not charge for the use of a flatbed tow truck if a motor vehicle can safely be towed in an upright position by another type of tow truck, even if the private property towing company chooses to use a flatbed tow truck for the tow.

G. A towing company that engages in private property towing or other non-consensual towing shall calculate storage fees based upon full 24-hour periods a motor vehicle is in the storage facility. For example, if a motor vehicle is towed to a storage facility at 7:00 P.M. on one day and the owner of the motor vehicle picks up the motor vehicle before 7:00 P.M. the next day, the towing company shall charge the owner of the motor vehicle only for one day of storage. If a motor vehicle is stored for more than 24 hours, but less than 48 hours, the towing company may charge for two days of storage.

H. A towing company shall not charge any fee for private property towing or other nonconsensual towing and related storage services not included in (e) above.

I. If a towing company charges a consumer a fee for a private property or other nonconsensual towing service that is disputed by the consumer, the parties shall use good faith efforts to resolve the dispute. If the parties are unable to resolve the dispute and the borough administrator and Public Safety Committee determine the fee to be unreasonable under this ordinance or N.J.A.C. 13:45A-31.5, the borough administrator shall order the towing company to reimburse the consumer for an amount equal to the difference between the charged fee and a reasonable fee, plus interest, as calculated pursuant to (m) below.

J. The interest rate imposed pursuant to (i) above shall be based on the average rate of return, to the nearest whole or one-half percent, for the corresponding preceding fiscal year terminating on June 30, of the State of New Jersey Cash Management Fund (State accounts) as reported by the Division of Investment of the Department of the Treasury.

K. A towing company performing a private property tow or other non-consensual tow shall take the motor vehicle being towed to the towing company's storage facility having the capacity to receive it that is nearest to the site from which the motor vehicle is towed.

L. A bill for a private property tow or other non-consensual tow shall include the time at which a towed motor vehicle was delivered to a towing company's storage facility.

M. Unreasonable fees

(1) A fee for private property towing or other non-consensual towing services, and storage services, shall be presumed unreasonable if it is:

a. More than 25 percent higher than the fee charged by the towing company or storage facility for the same services when provided with the consent of the owner or operator of the motor vehicle; or

b. More than 50 percent higher than the fee charged for such other non - consensual towing or related storage service by other towing companies or storage facilities operating in the municipality from which the vehicle was towed.

(2) Notwithstanding (a) above, a fee will be presumed unreasonable if it exceeds the maximum amount that may be charged for the service according to a schedule of fees set forth in this ordinance adopted pursuant to section 1 of P.L. 1979, c. 101 (N.J.S.A. 40:48-2.49).

§280-80. Rules and Regulations.

The rules and regulations governing wreckers and copies of the fee schedules shall be available to the public through the borough clerk during normal business hours of the Borough – Monday through Friday, holidays excluded, and are as follows:

A. All towing services placed on the police department towing list shall be available to respond to a police request for a tow 24-hours a day, seven days a week, including holidays.

B. No driver of any wrecker shall seek employment by repeatedly and persistently driving his wrecker to and from in a short space or by otherwise interfering with the proper and orderly progress of traffic along the public highways.

C. No driver or owner of a wrecker shall solicit or attempt to divert prospective patrons of another wrecker and shall not solicit or divert prospective patrons of any garage to another garage.

D. No driver or owner of a wrecker shall solicit, demand or receive from any person any pay, commission or emolument, except the proper fare for transporting the disabled vehicle in accordance with the schedule of charges as given in § **280-80** of this article. He/she shall not give or offer to give any gratuity, fee or other compensation for gifts to any member of the Police Department.

E. No flashing lights or sirens shall be used on a wrecker, except by permission granted by the State Director of Motor Vehicles under the provisions of N.J.S.A. 39:3-50.

F. Wreckers shall keep and maintain towing equipment which is adequate to perform such towing service in a reasonable workmanlike manner.

G. Wreckers shall not employ or use illegally a shortwave radio to obtain information as to the location of the scene of an accident or disabled vehicle.

H. All towing companies shall respond to a call in any part of the borough within 30 minutes. If a towing company does not respond within 30 minutes of a call, the towing company next on the list shall be called and entitled to provide services as needed, and the first towing company shall lose any claim to compensation.

I. All drivers and operators of towing vehicles shall be properly licensed to operate a motor vehicle within the State of New Jersey and are subject to driver's license checks by the borough police department at the time of registration and at least on an annual basis

thereafter. All drivers and operators of towing vehicles shall be Certified Towing Operators by one of the two nationally recognized towing safety organizations – Wreck Master or Towing and Recovery Association of America. All towing vehicles shall be properly registered and inspected in accordance with any applicable law.

J. All applicants and/or agents must submit to a criminal history check in compliance with the New Jersey State Police Criminal Information Unit, State Bureau of Identification (SBI form 212B). The applicant and/or agents and/or operators shall not have received a DWI/DUI and/or criminal conviction within the last ten years for any indictable offense or any offense involving stolen or embezzled vehicles, fraud relating to the towing business, stolen property, or any other offense of similar nature.

K. All vehicles must be towed in a safe manner.

L. All towing companies shall be capable of providing reasonable roadside services to disabled vehicles such as, but not limited to, jump-starting, changing of flat tires and providing fuel. Such services will only be performed if they can be done so safely, as determined by the police officer on the scene.

M. All towing companies shall make available a copy of its basic rates and a business card to all owners and operators of motor vehicles which will be towed.

N. Towing companies shall not remove any motor vehicle which has been abandoned or involved in an accident in any public roadway without first notifying the borough police department.

O. The police department shall not call a towing company to remove a vehicle from private property unless the vehicle was involved in an accident or suspected criminal activity. The police department shall provide the property owner with all available information regarding the ownership of the motor vehicle on their property, and the property owner will then be responsible for making their own arrangements to remove the vehicle.

P. The towing company shall notify the police department, borough clerk and police commissioner of all vehicles found by the towing company to have been abandoned and not claimed within 14 days after being stored. The police department shall, upon notification, expeditiously process the vehicle in accordance with the New Jersey Motor Vehicle Code concerning abandoned and unclaimed motor vehicles.

Q. The borough clerk and police commissioner may promulgate an application and minimal requirements for vehicular towing, which requirements shall not be inconsistent with this chapter and which shall be enforced pursuant to the procedures set forth in this chapter.

R. The Borough may grant a license hereunder when it is determined that:

(1) The public convenience and necessity require the proposed wrecking service for which the application has been submitted.

(2) Insurance policies, as required by this chapter, have been procured.

(3) The applicant is a reputable person.

(4) All applicants and/or agents submitted to a criminal history check in compliance with the New Jersey State Police Criminal Information Unit, State Bureau of Identification (SBI form 212B). The applicant and/or agents and/or operators have not received a DWI/DUI and/or criminal conviction within the last ten years for any indictable offense or any offense involving stolen or embezzled vehicles, fraud relating to the towing business, stolen property, or any other offense of similar nature.

(5) The applicant has suitable and secure, indoor and outdoor storage space for towed vehicles.

(6) The requirements of this chapter and all other governing laws, statutes and ordinances have been met.

(7) The applicant has a minimum of two trucks, one of which must be the flatbed type.

(8) In the event that a truck meeting the criteria of the Commercial Driver License Act is towed, it shall be the responsibility of the licensed tower to arrange for removal and/or storage of said vehicle.

§280-81. Towing List: Rotation.

A. A towing list will be kept with the police department, borough administrator and police commissioner. The towing list shall include all towing companies that have registered with the borough. A towing company shall be placed on the bottom of the towing list upon registration with the borough. The towing list shall be a rotating list as provided for in paragraphs b, c and d.

B. When the need arises, the police department will call the towing company on the top of the list. The towing company called, if it shall perform any of the services covered by this chapter, shall be placed on the bottom of the towing list and not called again until all other towing companies on the towing list have been called.

C. If a towing company is unavailable to perform required services when called by the police department, for whatever reason, said towing company shall be charged with a call and placed on the bottom of the towing list, and the next available towing company shall be called. The towing company that responds in its place shall remain at the top of the list.

D. If a towing company, after being dispatched, is recalled and does not perform any duties or services covered by this chapter, the towing company shall remain on the top of the towing list. However, if a towing company arrives at the scene of an incident in which its services are required and cannot perform said services, it shall lose its place on the towing list, and the next towing company on the list shall be called.

E. No licensee shall respond to the scene of an accident, except upon notification by the police officer in charge at police headquarters or upon request of the driver or owner of the disabled vehicle.

F. No vehicles are to be towed into the Fanwood Police Department parking lot unless specifically ordered, in writing, by the chief of police or his/her designated representative. Vehicles under police investigation shall be towed free of charge.

G. Towers shall provide free brake tests and inspections to the Fanwood Police Department for towed vehicles, upon request. The tower will also be responsible to testify in court with regard to the brake test and/or inspection so conducted.

H. The police department shall keep records of all towing services assigned by a police officer, listing the date, time and licensee performing the towing service and the owner of the disabled vehicle. A monthly report of the towing record shall be provided in the monthly report to the police commissioner.

§280-82. Storage Facilities.

A. All storage facilities operated or used by towing companies shall meet requirements of the commission of insurance set forth in N.J.A.C. 11:3-38.1 et seq., as well as all local zoning and code requirements, and must be located within five miles of the geographic center of Fanwood Borough or within Scotch Plains Township.

B. All towing companies shall have a secure indoor storage facility at its disposal for motor vehicles that have been involved in criminal activity and impounded by the police department.

- C. All applicants shall provide a diagram of the applicant’s property showing the space(s) designated for accommodating disabled vehicles and have a minimum storage space for 6 (six) vehicles.
- D. If the storage property is leased by the applicant, a copy of the lease shall be provided with the application and the duration of the lease shall be concurrent with the duration of the license.
- E. All storage facilities shall have a business office open to the public between 7:00 AM and 5:00 PM at least five days a week, excluding holidays recognized by Fanwood Borough.
- F. All towing companies shall have secure storage facilities that can be reasonably protected from unauthorized entry.
- G. A towing company that engages in private property towing or other non-consensual towing shall provide or arrange for after-hours release of stored motor vehicles.
- H. A towing company that does not release a stored motor vehicle to its owner, or other person authorized to take the motor vehicle, during normal business hours when requested, as required by c. above, shall not charge a fee for after-hours release of the stored motor vehicle.
- I. All storage areas shall be kept in a safe and sanitary condition and screened from public view. Screening shall comply with existing Borough zoning requirements.
- J. The chief of police, or his/her designee and police commissioner, or his/her designee shall be permitted to enter to enter storage areas to assure compliance with this chapter.
- K. Any complaints or disputes arising from the towing and storage of motor vehicles required by the municipality shall be resolved by the Public Safety Committee.
- L. All licensees shall maintain reasonable security for all towed vehicles to safeguard against vandalism and theft.
- M. Storage facilities shall be safe and sanitary and accessible to the public between the hours of 7:00 AM and 5:00 PM every day except Saturdays, Sundays and Borough recognized holidays.

§280-83. Recordkeeping.

- A. Every driver of a wrecker shall immediately provide the customer a receipt for the fee charged/paid.
- B. All towing companies shall keep accurate records of all motor vehicles towed and stored at the direction of the borough police department. A copy of such records shall be provided to the borough clerk and police commissioner on a monthly basis.
- C. A towing company that engages in private property towing or other non-consensual towing shall make records retained pursuant to b. above available for review by the police department upon request.
- D. A towing company that performs private property or other non-consensual towing shall retain, for three years. Video footage shall be stored for a minimum of 90 (ninety) day or longer if directed by the chief of police and/or by applicable laws. The following records and a copy of such records shall be provided to the borough clerk and police commissioner on a monthly basis on or before the 15th of each month:
 - (1) Invoices for both consensual towing and non-consensual towing services;
 - (2) Job orders;
 - (3) Documentation of waiting time;
 - (4) Logs, which shall include the time when a towed motor vehicle was delivered to the towing company's storage facility from a private property or other non-consensual

tow and the date and purpose of each trip to the motor vehicle in storage;

(5) A written and video report of the condition of the interior and exterior of the vehicle prior to the vehicle being removed from the scene;

(6) An inventory on the contents of the vehicle;

(7) Documents relating to private property and other non-consensual towing services performed and rates charged for services; and

(8) Any contracts under which the private property towing company is authorized to perform private property towing services.

§280-84. Towing and Vehicle Equipment Specifications.

A. All towing companies engaged in light-duty towing shall have at least one rollback truck and one wrecker, with necessary brooms and equipment to do the complete removal. Each truck must have a manufacturer's capacity of at least 10,000 pounds, gross vehicle weight and a manufacturer's boom capacity of four tons. Proof of capacity must be supplied to the police department at the time of registration.

B. All towing companies engaged in heavy-duty towing shall have one heavy-duty wrecker with a manufacturer's capacity of not less than 33,000 pounds gross vehicle weight and a boom capacity of not less than 12 tons independently or 24 tons jointly; air brakes so constructed as to lock rear wheels; heavy-duty underreach.

C. All towing companies engaged in heavy-duty recovery shall have two heavy-duty wreckers with manufacturer's capacity of not less than 33,000 pounds gross vehicle weight and boom blocks with a 12-ton rating and two scotch blocks capacity of not less than 12 tons independently or 24 tons jointly; two power winches with pulling capacity of not less than 12 tons each; at least 200 feet of cable at least nine-sixteenths of an inch diameter on each drum; double boom to permit splitting, or single boom hydraulically elevated and extendible with a 360 degree swivel on the end of the boom; air brakes so constructed as to lock rear wheels; heavy-duty underreach; two snatch blocks with a 12-ton rating and two scotch blocks.

D. All towing vehicles must have radio equipment with a 24-hour dispatch service or a cellular telephone for the purpose of maintaining communications with the police department radio desk.

E. All towing vehicles must be equipped with at least one five-pound ABC-type fire extinguisher, safety chains, substances for application to small liquid spills, and stiff push brooms to clean up debris at scene.

F. Proof of towing vehicle and equipment specifications shall be provided to the borough with the registration application.

G. All towing vehicles are to conform with all applicable State and Federal laws and shall be subject to inspection by borough officials during normal business hours at the time of registration and on a semi-annual basis thereafter.

§280-85. Rights of Owner/Operators of Motor Vehicles Required to be Towed.

If a motor vehicle operator or owner wishes to have his vehicle towed by a particular towing company, their request shall be honored, providing the police officer in charge at the scene has not already determined that the motor vehicle in question will not be removed in an expeditious or safe manner and will jeopardize the public safety, in which case the motor vehicle operator or owner shall be required to utilize a compensated dispatched towing

company.

A. The owner or operator of any motor vehicle required to be towed or stored shall have the right to remove all personal items and effects from the motor vehicle unless the police department has placed a police hold on any such items.

B. The motor vehicle owner or his representative shall have the right to take photographs of any stored vehicles for insurance purposes.

C. Upon request of the motor vehicle owner or his representative, a towing company shall provide a detailed and itemized bill for all services rendered.

§280-86. Collection of Fees.

All towing companies shall be responsible for collection of all fees for services rendered.

§280-86. COMPLAINTS; VIOLATIONS; HEARINGS; Suspensions; Penalties.

A. Any person who shall violate any provision of this article shall, upon conviction thereof, be punished by a fine not exceeding \$2,000 or by imprisonment for a term not exceeding 90 days, or by a period of community service not exceeding 90 days; and each violation of any of the provisions of this article and each day there is a violation thereof shall be deemed and taken to be a separate and distinct offense.

B. The chief of police, or his/her designee and police commissioner, or his/her designee shall be permitted to enter to enter storage areas to assure compliance with this chapter. If noncompliance is determined, the findings will be reported to the Public Safety Committee, who may authorize up to 10 days to comply. The borough clerk shall immediately notify the licensee of the noncompliance and the ruling of the Public Safety Committee. Upon such notice, the licensee may request a public hearing before the public safety committee to discuss the noncompliance and offer remedies to eliminate the violations. The request for such hearing shall be made to the Public Safety Committee Chairperson, in writing, within 14 days of notification of noncompliance. In the event that compliance is not met within the specified time period, the license shall be revoked and shall not be reinstated until approval by the Mayor and Council.

C. All violations of this chapter and all complaints by the public or police departments against any towing company shall be forwarded to the borough clerk and police commissioner.

D. The borough administrator and police commissioner shall determine if any complaint or violation against a towing company is of such a serious nature as to warrant a hearing and possible disciplinary measures. If they decide that a hearing is required, the borough administrator and police commissioner shall upon proper notice to all interested parties, conduct a hearing in which all parties may present evidence. If, after a hearing, the borough clerk and police commissioner find that a towing company has violated any provision of this ordinance, the borough administrator and police commissioner may, depending on the seriousness of the offense:

(1) Fine the violating party not more than one thousand (\$1,000.00) dollars;

(2) Suspend the violating party from the towing list for not more than three months for a first offense; not more than six months for a second offense; not more than one year for a third offense

(3) Permanently remove the violating party from the list for any violation after its third offense

E. The violating party shall have the right to appeal a decision of the borough administrator and police commissioner to the Fanwood Borough Council or its designee

F. In addition to the procedures and penalties set forth in this section, a violation of any of the rules set forth in this ordinance shall be considered an unlawful practice to the extent so provided under P.L. 1960, c. 39 (N.J.S.A. 56:8-1 et seq.)

§280-87. Employment by Borough; Liability of Borough.

Employees of a licensed tower shall not be employed by the Borough nor shall such person(s) act as agent or representative of the Borough in any capacity. The Borough shall not be responsible for the conduct of any employee of a licensed tower.

Section II. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed.

Section III. This ordinance shall take effect immediately upon final passage and publication as required by law.

FOR:	Carter, Mitchell, Banks, Kranz, Mcelroy-Barker, Walsh
AGAINST:	None
ABSENT:	None
ABSTAIN:	None

C. Land Use and Historic Preservation (Councilman Banks)

Ordinance 19-07-R

Mitchell/Kranz moved to open the Public Hearing on Ordinance 19-07-R. Motion carried.

Jack Molenaar is against this density ordinance and requests that the Council votes no to its adoption. He feels that the ordinance is not transit friendly.

Michael Lewis was confused about Jack Molenaar’s statements.

Mitchell/Kranz moved to close the Public Hearing. Motion carried.

Carter/Banks moved to table the adoption of Ordinance 19-07-R. Motion carried.

A. NEW BUSINESS

Resolution 19-04-81

Kranz/ Mitchell moved to adopt Resolution 19-04-81. Motion carried with the following roll call vote.

RESOLUTION 19-04-81

WHEREAS, the Borough Council is desirous of assessing the Borough’s IT security system and providing cyber security training for its employees, and

WHEREAS, Harbor Technology Group, 2 East Broad Street, Hopewell, NJ 08525, submitted a proposal to provide an onsite assessment of the Borough’s current IT security system for an amount not to

exceed \$4,000.00 and an education, reinforcement and measurement program for the employees for a unit price of \$30.00 per employee, to begin in April 2019.

NOW, THEREFORE, BE IT RESOLVED the Borough Council of the Borough of Fanwood hereby authorizes the award of a contact to Harbor Technology Group for an assessment of the current computer security system and cyber security training for the employees of the Borough.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to sign a Consulting Agreement with Harbor Technology Group, as approved by the Borough Attorney

FOR: Kranz, Mitchell, Banks, Carter, Mcelroy-Barker, Walsh
 AGAINST: None
 ABSENT: None
 ABSTAIN: None

Resolution 19-04-82

Kranz/ Mitchell moved to adopt Resolution 19-04-82. Motion carried with the following roll call vote.

WHEREAS, an emergent condition has arisen in that the Borough of Fanwood is expected to enter into contracts, commitments or payments prior to the CY 2019 Budget and no adequate provision has been made in the CY 2019 temporary budget for the afore said purposes, and

WHEREAS, N.J.S.A.: 40-20 provides for the creation of an emergency temporary appropriation for said purpose, and

WHEREAS, the total emergency temporary appropriation resolutions adopted in the year CY 2019 pursuant to the provisions of Chapter 96, P.L. 1951 (N.J.S.A. 40A:4-20) including this resolution total \$5,568,758.86

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Fanwood, in the County of Union, State of New Jersey, (not less than two-thirds of all the members thereof affirmatively concurring) that in accordance with the provisions of N.J.S.A. 40A:4-20:

Emergency temporary appropriation is and the same are hereby made in the amount of \$921,925.00 as follows:

Salary:

Parks & Recreation	\$4,500.00	Administration S&W	\$25,000.00
Finance S&W	\$20,000.00	Mayor S&W	\$1,000.00
Tax Assessment S&W	\$2,500.00	Zoning S&W	\$3,000.00
Police S&W	\$300,000.00	Prosecutor S&W	\$3,000.00
Environmental S&W	\$525.00	Tax S&W	\$11,000.00
Court S&W	\$20,000.00	Crossing Guard S&W	\$15,000.00
Fire Official S&W	\$3,000.00	Road Repair S&W	\$100,000.00
Sanitation S&W	\$500.00	Board of Health S&W	\$2,000.00
Communication S&W	\$1,100.00		

Operations:

Administration O&E	\$5,000.00	Finance O&E	\$10,000.00
Engineering O& E	\$12,000.00	Zoning O&E	\$300.00
Group Insurance O&E	\$250,000.00	Police O&E	\$2,000.00
Road Repair O&E	\$20,000.00	Shade Tree O&E	\$20,000.00
Environmental O&E	\$500.00	Parks & Rec. O&E	\$5,000.00
Utilities	\$20,000.00	Street Lights	\$20,000.00
Traffic Lights	\$2,000.00	Social Security	\$32,000.00
Court O&E	\$1,000.00		

FOR: Kranz, Mitchell, Banks, Carter, Mcelroy-Barker, Walsh
 AGAINST: None
 ABSENT: None
 ABSTAIN: None

PRIVILEGE OF THE FLOOR BY THE PUBLIC

Mitchell/Kranz moved to open the meeting to the public. Motion carried.
 No one spoke.
 Mitchell/Kranz moved to close the meeting to the public. Motion carried.

ADJOURNMENT

Mitchell/Kranz moved to adjourn at 7:25 pm. Motion carried.

Respectfully Submitted,

Eleanor McGovern
 Borough Clerk