

**SANTA CLARA COUNTY TOWING FEES**  
**January 2008**

AGENCY	TOW	OUTSIDE STORAGE		LABOR 1/4 HR.	SERVICE (Hourly)	GATE
		VEH	MC			
CAMPBELL	140.00	40.00	40.00	35.00	70.00	70.00
CHP	140.00	45.00	40.00	NONE	70.00	70.00
GILROY	165.00	50.00	50.00	41.25	80.00	80.00
LOS ALTOS	160.00	50.00	50.00	80.00	160.00	80.00
LOS GATOS	140.00	40.00	40.00	35.00	70.00	70.00
MILPITAS	125.00	40.00	40.00	31.25	50.00	62.50
MORGAN HILL	150.00	40.00	40.00	37.50	75.00	75.00
MT. VIEW	165.00	50.00	25.00	41.25	165.00	80.00
PALO ALTO	140.00	40.00	40.00	30.00	NONE	70.00
SAN JOSE	110.00	35.00	15.00	27.50	110.00	30.00
SANTA CLARA	140.00	40.00	40.00	35.00	70.00	70.00
SUNNYVALE	145.00	45.00	45.00	72.50	145.00	60.00
<b>AVERAGE</b>	<b>145.00</b>	<b>43.18</b>	<b>38.63</b>	<b>43.50</b>	<b>101.50</b>	<b>68.63</b>

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS  
RELATING TO THE MILPITAS TOW SERVICE AGREEMENT**

**WHEREAS**, Section V-100-12.09.6 and 12.09.7 of the Milpitas Municipal Code authorizes the Chief of Police to adopt rules and regulations for a City Tow Truck List; and

**WHEREAS**, the Chief of Police has adopted the rules and regulations contained in this resolution; and

**WHEREAS**, the City Council of the City of Milpitas hereby ratifies, approves and conforms said rules and regulations; and

**WHEREAS**, this resolution supersedes Resolution No. 6629 entitled “A Resolution of The City Council of The City of Milpitas Relating To The Milpitas Tow Truck List”, adopted by the Milpitas City Council on March 18, 1997.

**NOW, THEREFORE, BE IT RESOLVED** that, in order to obtain placement on the Milpitas City Tow Truck Rotation List, each applicant must meet and continue to meet the following requirements of the City of Milpitas Tow Service Agreement (MTSA):

1. Must be in the towing business in the City of Milpitas, with facilities property located within a commercial or industrial zone within the City as required by the City Zoning Ordinance.
  - (a) In the event a large commercial vehicle (tractor-trailers) tow is needed, the City (Police Officer) may request a tow from a company equipped to handle heavy vehicle tows that does not maintain a business location within the City.
2. Service and drivers must at all times comply with all Federal, State and City Laws and Ordinances.
3. Must maintain 24-hour service. The Police Rotation Tow Company shall have a legally permitted business office (defined as a building or room(s) where an employee/owner is present from Monday through Friday and between the hours of 8:00 a.m. and 5:00 p.m.) located within the City of Milpitas. Business hours shall be posted in plain view to the public. Offices staffed with only one employee may be closed for one hour at lunch. A sign shall be posted with the reason for the closure. The sign shall have a phone number where a request will result in an immediate response to release property or vehicles. Response to the office shall be within the time frame allowed for the response to a tow contained within paragraph 7 (a). Also, the business office must have its own telephone number separate from any other office operated by the tow operator, as well as have access to tow documents relating to vehicles which have been towed and/or impounded by the Milpitas Police Department. All related business licenses/permits required by the City of Milpitas shall be adhered to.

4. Must demonstrate the ability to properly tow and store vehicles within a fenced, properly zoned, and reasonably protected area.
5. All tow truck drivers must meet and adhere to the following standards:
  - (a) Must maintain a polite and businesslike attitude when dealing with the public and City.
  - (b) All tow truck drivers and owner/operators must enroll in the Employer Pull Notice program within 30 days of hire. Notices shall be kept on file in the company office. Notification of any changes to the driver's license record shall be made to the Tow Liaison Officer within 48 hours.
  - (c) All rotation drivers shall be enrolled in a quarterly drug testing program. If a driver does not submit to a test or fails a test, the driver will be disqualified as a rotation driver. Test enrollment records and result records will be maintained at the company office for inspection.
  - (d) Uniforms: All rotation tow drivers shall wear an identifiable uniform shirt displaying the company and driver's names while engaged in rotation tow operations.
  - (e) Safety Vests: All rotation tow drivers shall wear a safety vest or reflectorized clothing, meeting OSHA requirements.
  - (f) Any conviction of the operator or employee involving a stolen or embezzled vehicle, fraud related to the towing business, stolen or embezzled property, a crime of violence, a drug-related offense, felony driving while under the influence of alcohol and/or a drug, misdemeanor driving while under the influence of alcohol and/or a drug may be cause for removal of the employee from the list of rotation tow truck drivers, denial of the application, or removal from the rotation list. An operator arrested/charged for any of the listed crimes may be suspended until the case is adjudicated.
6. Must, in fact, be a separate and distinct business, not affiliated with any other towing operation within the City. This is to encourage fair competition and competitive service to the community.
7. All police calls must be answered promptly, and with the following allowable maximum response times:
  - (a) Maximum response time for light duty tow trucks is 15 minutes for daytime response (6:00 a.m. to 9:00 p.m.), 20 minutes for nighttime response (9:00 p.m. to 6:00 a.m.).
  - (b) Maximum response time for medium/heavy duty tow trucks is 30 minutes for daytime and nighttime response.
  - (c) The tow company must notify Milpitas Police Dispatch within 10 minutes of an extended response time, or if they are unable to respond.

8. Adequately trained personnel must be maintained, and meet the requirements of training per Article 3.3 (Tow Truck Drivers) of the California Vehicle Code pursuant to Sections 2430(a) through 2432.3(g). Additionally, the requirements of Article 3.5 (Emergency Roadside Assistance) of the California Vehicle Code pursuant to Sections 2435(a) through 2440 shall be met within 6 months of date of hire. Possession of a training certificate from the California Tow Truck Association, or other competent organization, shall meet the requirements outlined in Section 2436.5 of the California Vehicle Code. Training certificates will be renewed every 5 years.
  
9. Trucks that are properly equipped, maintained and capable of moving automobiles, light trucks and motorcycles in a safe manner, must be available for police calls. Tow facilities and equipment shall include, but not be limited to:
  - (a) All tow trucks will be equipped with a two-way radio system with a base station.
  - (b) A telephone answering service that can receive and dispatch phone requests promptly and efficiently.
  - (c) All tow trucks are required to meet current CHP requirements (CHP Form 234 — Tow Truck Inspection Guide Form).
  - (d) A minimum of two tow trucks is required, and one of the required tow trucks shall be a car carrier.
  
10. Unsolicited responses to accidents or incidents involving the removal of vehicles are prohibited and will not be tolerated.
  
11. Equipment, facilities, records and stored vehicles must be made available for reasonable inspection by a Law Enforcement Agency. All records must be maintained a minimum of 3 years.
  
12. Stored and/or impounded vehicles must be made available for inspection by their owners (registered and/or legal) and responsible agents (last driver of the vehicle) during normal business hours -- that is, 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding National or State holidays.
 

“Personal Property” may be released Monday through Friday during normal business hours, and on weekend/holidays (same hours apply) by calling the tow company ahead of time to make an appointment. These dates/hours do not preclude special circumstances of retrieving items such as medications, child car seats, etc. Operators may charge an after-hours release fee consistent with the provisions outlined in EXHIBIT A. [Effective 01-25-02]
  
13. Abandoned vehicles are to be towed Monday-Friday, 8:00 a.m. to 5:00 p.m. Abandoned vehicle may be towed outside those hours with approval of the Watch Commander.

14. Adequate insurance must be maintained (naming the City as an additional insured) against liability for injuries to persons or property and to protect towed or impounded vehicles in the event damage or theft occurs as a result of a police ordered tow. In the event of any judgment against the City arising from such an incident, the tow service involved agrees to indemnify the City and its agents or representatives against any such judgment. The tow service also agrees to appear at all court appearances and assume all costs for the defense of any such action. Certificates of Insurance shall be filed with the City that shall demonstrate:
  - (a) Minimum Level of Financial Responsibility (as required by Section 34631.5 of the California Vehicle Code) – Bodily injury and property damage with a combined single limit of not less than \$750,000 for Class A tow trucks. The combined limits for Classes B, C, and D shall not be less than \$1,000,000. These minimum standards are to include non-owned and hired auto coverage.
  - (b) Coverage shall be primary insurance as to City.
  - (c) City, its officers and employees are not precluded from claim.
  - (d) Workers' Compensation Insurance – Legal minimum requirement. (This requirement is currently done with application of the CHP Tow Service Agreement. If the Police Rotation Tow Company is not on this Agreement with CHP, they will be required to keep one on file with the Milpitas Police Department).
15. Current authorized rate schedules for towing and storage are attached hereto as Exhibit A and made a part hereof. Rate schedules will be consistent with other tow services in the County and will be adjusted annually, after a survey of rates has been conducted by the Police Department. Any tow that exceeds the minimum hourly rate shall be called in within 24 hours of completion of the tow to the Tow Liaison Officer.
16. Tow companies must maintain complete records of all police tows and impounds to include, but not limited to the following items:
  - (a) Date and time of start of tow and end time of tow.
  - (b) Exact location of vehicle pick-up.
  - (c) Description of vehicle including license number and V.I.N.
  - (d) Nature of tow.
17. The vehicles ordered to be HELD by any Police Officer may not be released, tampered with, or any property removed without a written release from the Police Department.
18. Prior to any lien sale or other disposition of any vehicle, the contents of said vehicles are to be listed and the Police Department advised. The Police Department may take possession of any and all such property to dispose of in

conformity with State law and City policies. In the event any weapon or other contraband is located, the Police Department is to be promptly notified and the item delivered to the police for disposition.

- (a) Lien Sales Fees for vehicles of value less than \$4000.00 as listed in EXHIBIT A.

Reference: Section 3068.1(b) CA Civil Code [Lien Sale proceedings pursuant to Section 3072 CA Civil Code shall commence within 15 days of the date the lien arises. No storage shall accrue beyond the 15-day period unless lien sale proceedings pursuant to Section 3072 CA Civil Code have commenced. The storage lien may be for a period not exceeding 60 days if a completed notice of a pending lien sale form has been filed pursuant to Section 3072 CA Civil Code within 15 days after the lien arises].

- (b) Lien Sales Fees for vehicles of value more than \$4000.00 as listed in EXHIBIT A.

Reference: Section 3068.1 (c) CA Civil Code [Lien Sale proceedings pursuant to Section 3071 CA Civil Code shall commence within 15 days of the date the lien arises. No storage shall accrue beyond the 15-day period unless lien sale proceedings pursuant to Section 3071 CA Civil Code have commenced. The storage lien may be for a period not exceeding 120 days if an application for an authorization to conduct a lien sale has been filed pursuant to Section 3071 CA Civil Code].

- 19. Any tow service requesting City rotation tow calls must agree to the following charges for City-owned vehicles as listed in EXHIBIT A.
- 20. Any vehicle towed or impounded by Police Officers for EVIDENTIARY PURPOSES ONLY will be towed for the rate listed in EXHIBIT A to be billed to the vehicle owner or the Police Department at the discretion of the Police Department. No storage charges will be assessed on the vehicle if left at the Milpitas Police Department only.
- 21. In the event any provision of this resolution is violated, the police shall order the tow service from any scene upon stating the reason for the removal. Refusal to comply with any order of a Police Officer to leave the scene, or becoming involved in any police detail, may cause the removal of any tow service from the City List.
- 22. Any tow service removed from the City List may appeal in writing to the Police Chief within fifteen (15) days of notification of removal. If the Police Chief declines to restore the tow service to the List, the Chief will submit a written report concerning this decision to the City Manager and the tow service involved within ten (10) days of the request to be relieved of the removal. The company may further appeal the decision to the City Manager within 15 days of notification of the Police Chief's decision. The City Manager's decision shall be final. Notification may be by regular mail (with proof of Service by Mail) addressed to the tow service at the address given on its application or as known to the Police Department.

- 23. The Milpitas City Tow Truck Rotation List is limited to four (4) active members. New members may apply upon the removal or separation of a current member or at such time the City deems the need for additional towing resources.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2008, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael J. Ogaz, City Attorney

## EXHIBIT A

### TOW RATES FOR SERVICE CALLS

- |    |   |                             |
|----|---|-----------------------------|
| 1. | Basic Rate (accidents/storage impounds)<br>*This includes all services, dollying, fender pull out, dropping of drive shaft.<br>If more than one truck is needed, the tow charge will be added per truck<br>(each tow operator called to the scene for the same vehicle is entitled to<br>a fee as per the fee schedule.)  | \$145.00                    |
| 2. | Labor after first 30 minutes (added in 15 minute increments-\$174.00 per hour)  | \$43.50<br>Per Qtr.<br>Hour |
| 3. | Storage Per Day (no charge exceeding that for one day of storage if, 24<br>hours or less after the vehicle is placed in storage, the vehicle is released.<br>If the release is made more than 24 hours after the vehicle is placed in storage,<br>charges may be imposed on a full, calendar-day basis for each day, or part<br>thereof, that the vehicle is in storage.) (Reference: 3068.1(a) CA Civil Code)<br><Effective 8/16/05> | \$43.00                     |
| 4. | Road Service Call<br>(no minimum response time for citizen request only)  | \$100.00                    |
| 5. | Extended distance tow (over 3 miles outside city limits)<br>per mile  | \$5.00                      |
| 6. | Gate fee for after hours vehicle and property releases at a maximum 30<br>minute labor rate. (Normal business hours are 8 a.m. to 5 p.m. Monday to<br>Friday, except State holidays.) After hours property releases for child seats,<br>medications, or other items of medical necessity are exempt.<br>(Reference: 22851(b) CVC)   | \$68.50                     |

### TOW RATES FOR CITY OF MILPITAS SERVICE CALLS

- |    |  |               |
|----|--|---------------|
| 1. | Evidence tow - no storage charges assessed on the vehicle, and one time fee<br>per vehicle if left at the Milpitas Police Department only.<br><br>If the vehicle is returned to the Milpitas Police Department Rotation Tow Company,<br>the <b>Basic Tow Rate (\$145.00) and Storage Charge (\$43.00 per day) shall<br/>apply</b> as noted in item #1 and item #3 of Exhibit A on this page. (Reference: Tow<br>Rates For Service Calls: Basic Rate and Storage Per Day—with reference to:<br>3068.1(a) CA Civil Code) | \$70.00       |
| 2. | City vehicle tows<br>(\$10.00 within 10 miles of the City Garage. \$70.00 if over 10 miles of the City Garage)   | \$10.00/70.00 |

3. City vehicle calls. Flat tire change - battery jumps within 10 miles of the City Garage. Further than 10 miles from the City Garage \$70.00.  
None/\$70.00

**MEDIUM/HEAVY DUTY TOW RATES**

1. Prices shall conform to current CHP tow service agreement which is on file at San Jose CHP Office.
2. Price list shall be filed with Milpitas Police Department for each current contract year.
3. Additionally, medium and heavy-duty tow companies must have on file: current proof of insurance, and a City of Milpitas business license with the Milpitas Police Department.

**LIEN SALE**

- |    |  |          |
|----|--|----------|
| 1. | Lien Sales Fees for vehicles of value less than \$4000.00    | \$70.00  |
| 2. | Lien Sales Fees for vehicles of value greater than \$4000.00 | \$100.00 |