

Ordinance 2019-05

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 8, ENTITLED “TOWING AND STORAGE”, OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY

WHEREAS, the Chief of Police has recommended that certain changes be made to the Borough’s towing ordinance; and

WHEREAS, the Mayor and Council agree with said recommendation.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Hightstown as follows:

Section 1. Chapter 8, “Towing and Storage”, is hereby amended as follows (underline for additions, strikethroughs for deletions):

Section 8-1 Purpose.

To establish rules and regulations, pursuant to N.J.S.A. 40:48-2.49, et seq., for the towing and storage of motor vehicles from public roadways by operators engaged in the business of towing and storing motor vehicles.

Section 8-2 Applicability of Provisions

a. The provisions of this chapter shall apply only when a towing service on the tow list is responding to a call initiated by the Hightstown Police Department.

b. This chapter shall only apply to all motor vehicle towing and storage operations within the Borough of Hightstown, which occur at the initiation of the Hightstown Police Department. Nothing herein limits the right of the owner or operator of a motor vehicle to request or summon a tow operator of his or her own choosing or a tow operator from another municipality, unless a borough police officer at the scene determines that the tow service to be summoned cannot arrive at the scene within the limited time specified section 8-7 hereof, or does not have the proper equipment to clear the scene, pursuant to subsection 8-10 hereof, and the safety of persons and motorists may be jeopardized thereby.

Section 8-3 Definitions.

As used in this chapter:

BASIC TOWING SERVICE

Refers to the removal and transportation of an automobile from a highway, street or other public or private roadway, or a parking area, or from a storage facility, and other services incident thereto, but does not include recovery of an automobile from a position beyond the right-of-way or berm, or from being impaled upon any other object within the right-of-way or berm.

DOUBLE TOW

When any motor vehicle is brought from the original location to police headquarters for investigative purposes and upon completion, is moved from police headquarters to a final destination, the charge will be one and one half times the actual rate for one tow.

ROADSIDE ASSISTANCE CALLS

Basic roadside assistance calls such as tire changing, up to two gallons of fuel, vehicle lockouts or jumpstarting. Due to traffic patterns, roadway design and the inability to conduct quick roadside assistance, the Borough of Hightstown does not recognize roadside assistance for vehicles in excess of 16,000 GVW. Disabled vehicles in excess of 16,000 GVW must be towed from the roadway or any other vehicle deemed to be unsafe on the roadway. If the roadside assistance call results in a tow, then the vehicle operator will only be charged for the towing.

ENVIRONMENTAL CLEAN-UP

Removal and/or disposal of any fluids or debris left on the roadway or property as a result of a motor vehicle accident or recovery.

COMMERICAL MOTOR VEHICLE

Any motor vehicle with a GVW greater than 16,000 pounds which is not classified as an automobile

MOTOR VEHICLE

shall mean any vehicle propelled otherwise than by muscular power, including trailers and recreational campers, excepting such vehicles as run only upon rails or tracks and motorized bicycles.

STORAGE RATE

shall mean fees charged for the storage of motor vehicles.

TOW LIST

Shall mean a rotating list of all towing services registered with the Borough of Hightstown kept by the Borough Chief of Police.

TOW OPERATOR

A person engaged in the business of or offering the services of a tow vehicle or tow truck and storage services.

TOWING RATES

Shall mean fees charged by a towing service for removal and transportation of a motor vehicle.

TOWING SERVICE

Shall mean a business engaged in the towing and storing of motor vehicles which has been approved for the towing list.

TOWING VEHICLE

Shall mean a motor vehicle employed by a towing service for the purpose of towing, transporting, conveying or removing motor vehicles from public roadways.

WINCHING

An operation by which a vehicle is moved into the roadway from a position off the roadway or other operation in which substantial work is required to prepare a vehicle for normal towing (i.e. lifting, dragging, up righting a vehicle etc.).

Section 8-4 Towing Service Registration.

a. 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 towing, a towing service must be located within five (5) miles of the geographic center of the Borough of Hightstown or within the Borough of Hightstown. Registration applications shall be made available by the Borough police department. A towing service that has met all the specifications and requirements of this chapter and has registered with the Borough shall be placed on the towing list by the Chief of Police; however, the maximum number of towing services on the Borough's towing list shall be up to (3) three ~~five (5)~~ such services. Currently the borough has (5) five towing services on its tow list. This number of approved towing services shall remain in effect, until such time that a currently approved towing company fails to re-register with the borough as an authorized towing service or is removed from the towing list for a violation of this chapter. A list of approved towing services is listed in section 8-19 of this chapter. Services shall be placed on the Borough's towing list on a first-come first-served basis. Vacancies shall be filled in the same manner. Each towing service must submit their schedule of basic towing and storage rates with their registration application. The rates and fees for towing and storage of motor vehicles shall not exceed the rates set by this chapter.

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

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

Section 8-5 Insurance.

a. No towing service shall operate within the Borough unless it carries liability insurance in the following amounts:

1. Garage Liability/Comprehensive General Liability insurance policy in an amount not less than One Million Dollars (\$1,000,000.00) combined single limit covering bodily injury and property damage liability, including but not limited to personal injury, products liability, independent contractor and completed operation coverage;

2. Garage Keepers Legal Liability insurance policy in an amount not less than One Hundred Thousand Dollars (\$100,000.00);

3. For heavy-duty towing and heavy-duty recovery vehicles, One Million Dollars (\$1,000,000.00) combined single limit with endorsement MSC-90;

4. Automobile Liability insurance policy in an amount not less than One Million Dollars (\$1,000,000.00) combined single limit covering bodily injury and property damage liability, including but not limited to owned, non-owned and hired vehicles;

5. Worker's Compensation insurance as required by law, including but not limited to statutory New Jersey Worker's Compensation Benefits and employer's liability coverage;

6. All policies shall provide an endorsement for collision coverage for motor vehicles and cargo towed by towing service vehicles; and

7. On all liability policies, the Borough of Hightstown shall be added as an additional insured, and insurance policies and/or certificates shall indicate such coverage as primary coverage notwithstanding any insurance carried by the Borough.

Section 8-6 Rates and Fees.

a. Fees and rates for the towing, roadside assistance and storage of motor vehicles shall be established by resolution of the Mayor and Borough Council, which rates shall be based on the usual, customary and reasonable rates of operators towing and storing motor vehicles in the Borough.

b. Fees and rates for the towing and storage of motor vehicles shall be reviewed by the Chief of Police on an annual basis, and shall be revised, if necessary, by resolution of the Mayor and Borough Council. The Chief of Police shall advise all towing services placed on the towing list of any such revisions.

c. The fees and rates shall be set in Section 8-18 of ~~by~~ this chapter, and any subsequent revisions thereto, shall be submitted to the Division of Consumer Affairs for review, and shall be made available to the public during normal business hours of the Borough.

Section 8-7 Rules and Regulations.

a. All towing services placed on the towing list shall be available to respond to a call in accordance with the towing rotation schedule of on-call status established by the Chief of Police.

b. All towing services shall respond to a call in any part of the Borough within twenty (20) minutes. If a towing service does not respond within twenty (20) minutes of a call, the towing service next on the list shall be called and entitled to provide services as needed, and the first towing service shall lose any claim to compensation.

c. 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 a bi- annual basis thereafter. All towing vehicles shall be properly registered and inspected in accordance with any applicable law.

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

e. All towing services shall be capable of providing reasonable roadside services to disabled vehicles such as, but not limited to, jump-starting, changing of flat tires, vehicle lockouts 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. The fees charged for these services shall be in accordance with this chapter.

f. All towing services 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.

g. All towing services 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 upon request.

h. Towing services 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.

i. The police department shall not call a towing service to remove a vehicle from private property. 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.

j. The towing service shall notify the police department of all vehicles found by the towing service to have been abandoned and not claimed within fourteen (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.

k. Towing service shall be in compliance with the state affirmative action statutes and rules.

l. Towing service must be in compliance with the Americans with Disabilities Act.

m. Towing service shall confirm that it is an independent contractor and does not represent or act for the Borough of Hightstown in any way.

n. All towing services authorized by the Borough of Hightstown must perform emergency roadside assistance when so requested by the Hightstown Police Department.

o. Nothing in this chapter shall preclude the right of a motorist or vehicle operator to summon a tow operator of his or her own choosing, pursuant to the provisions of 8-2.

p. The Borough of Hightstown shall not be liable for the cost of any services performed by the towing service unless those services are performed on borough vehicles.

Section 8-8 Towing List; Rotation.

a. A towing list will be kept with the Chief of Police. The towing list shall include all towing services which have registered with the Borough. A towing service 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 in paragraphs b, c and d of this section.

b. When the need arises, the police department will call the towing service on the top of the list, which is on-call on the towing rotation schedule. The towing service called, if it shall perform any of the services covered by this chapter, shall be placed at the bottom of the towing list and not called again until all other on-call towing services on the towing list have been called.

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

d. If a towing service, after being dispatched, is recalled and does not perform any duties or services covered by this chapter, the towing service shall remain on the top of the towing list. However, if a towing service 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 on-call towing service on the list shall be called.

Section 8-9 Storage Facilities.

a. All storage facilities operated or used by towing services shall meet all local zoning and code requirements, and must be located within five (5) miles of the geographic center of the Borough of Hightstown or within the Borough.

b. All towing services shall have an indoor storage facility at its disposal for motor vehicles which have been involved in criminal activity and impounded by the police department.

c. All storage facilities shall have a business office open to the public at least six (6) days in a calendar week and at least 40 hours in the week, excluding weeks that contain New Jersey State holidays. An employee is required to be at the storage yard during these hours, unless the employee is out on a towing assignment. The business hours of operation are to be posted in a conspicuous space.

d. All outside storage facilities shall be secured and fully enclosed by a sturdy fence having a minimum height of six (6) feet, with a lockable gate for ingress and egress, and shall be lighted from dusk to dawn.

e. A towing service shall not charge a release fee or other charge for releasing motor vehicles to their owners after normal business hours or on weekends. During all other hours and legal holidays, vehicle may be released at the sole discretion of the towing/storage facility.

f. All towing services shall be responsible for ensuring the proper and safe storage of all motor vehicles towed pursuant to this chapter, and shall be liable for any damage incurred by such motor vehicles while in transit to or while stored in the storage facilities.

g. All vehicles towed must be removed to an approved storage facility unless the owner or operator of the vehicle specifically requests that it be towed to another place and the police officer at the scene does not direct otherwise.

h. Storage begins at the date and time the vehicle is placed on the property of the towing service or storage facility and will be charged for each 24 hour period. Any vehicle released prior to 12 hours storage will be charged only half of the 24 hour rate.

Section 8-10. Towing Vehicle and Equipment Specifications; Cleanup at Scene.

a. All towing services engaged in light-duty towing shall have at least one (1) rollback truck and one (1) wrecker, with necessary brooms and equipment to do the complete removal. Each truck must have a manufacturer's capacity of at least ten thousand (10,000) pounds gross vehicle weight and a manufacturer's boom capacity of four (4) tons; one (1) heavy-duty wrecker with a manufacturer's capacity of not less than twenty-seven thousand (27,000) pounds gross vehicle weight and a boom capacity of not less than twenty-five thousand (25,000) pounds independently or twenty-four (24) tons jointly; two (2) power winches with pulling capacity of not less than twenty-five thousand pounds each; at least two hundred (200) feet of cable at least nine-sixteenths (9/16) of an inch diameter on each drum; double boom to permit splitting, or single boom hydraulically elevated and extendable with a 360-degree swivel on the end of the boom; air brakes so constructed as to lock rear wheels; heavy-duty under reach; two (2) snatch blocks with a twenty-five thousand (25,000) pound rating and two (2) scotch blocks.

b. 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.

c. All towing vehicles must be equipped with amber beacons or strobe lights, and amber-colored safety tow lights or magnetic tow lights for towing vehicles at night, as permitted by the State of New Jersey. All tow vehicles must have at least one (1) five pound ABC-type fire extinguisher, safety chains, flares, jumper cables, shovel, pry bar, heavy-duty push broom and substances for application to small liquid spills.

d. Each tow operator, prior to departure from the scene of towing, shall clean and clear any customary or usual debris from the accident scene. Each tow operator shall also clean, clear, absorb or dilute any usual oil, gasoline or other motor vehicle fluid spill at the scene of the towing service. All materials disposed of by a tow operator shall be properly disposed of in accordance with the requirements of the New Jersey Department of Environmental Protection

and the Federal Environmental Protection Agency. Nothing in this chapter shall prevent the Hightstown Police Department from summoning any other person, if an unusual or potentially dangerous situation occurs or it is otherwise necessary to do so. Such situations include, but are not limited to, accidents or breakdowns involving dangerous or potentially dangerous cargo, or spills of chemicals, solvents or other fluids.

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

f. 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 an annual basis thereafter.

Section 8-11 Rights of Owners/Operators of Motor Vehicles Required to be Towed.

a. If a motor vehicle operator or owner wishes to have his vehicle towed by a particular towing service, their request shall be honored, providing the police officer in charge at the scene has not already dispatched a towing service or the police officer has 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 service.

b. 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.

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

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

Section 8-12 Collection of Fees.

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

Section 8-13 Complaints; Violations; Hearings.

a. All violations of this chapter and all complaints by the public or police department against any towing service shall be forwarded to the Mayor and Borough Council.

b. The Mayor and Borough Council, in their discretion, shall determine if any complaint or violation against a towing service is of such a serious nature as to warrant a hearing and possible disciplinary measures. If the Mayor and Borough Council decide that a hearing is required, they shall, upon proper notice to all interested parties, conduct a hearing in which all parties may present evidence. If, after a hearing, the Mayor and Borough Council find that a towing service has violated any provision of this chapter, they may, depending on the seriousness of the offense:

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

2. Suspend the violating party from the towing list for not more than three (3) months for a first offense; not more than six (6) months for a second offense; and permanently remove the violating party from the towing list for a third offense.

Section 8-14 Solicitation of Business.

A. No tow service may respond to the scene of an accident or emergency with the purpose of towing vehicles unless specifically called there by the police for a person involved in the accident or emergency. This section is intended to prohibit tow operators from soliciting business at the scene of accidents or emergencies and shall not be construed to prohibit any person from summoning a tow operator of his or her own choice in accordance with 8-2 of this chapter.

Section 8-15 Vehicles Involved in Suspected Crimes.

a. Tow operators shall comply with the directions of the police investigator in connection with vehicles involved in suspected crimes.

Section 8-16 Unethical Conduct Prohibited.

a. No reward, gratuity, gift or any type of remuneration shall be offered to any Hightstown Borough Police Officer, borough official or borough employee by any towing service or tow operator.

Section 8-17 Final Determination by Officer at Scene.

a. When a borough police officer is at the scene of an accident requiring towing service, said officer shall be responsible for making the final determination as to when towing shall take place. The officer shall not be limited to the tow list when it is clear that special towing equipment is required for large vehicles and/or public safety may be threatened by vehicles requiring removal.

Section 8-18 Towing, Storage and Roadside Assistance Rates and Fees. (For the purpose of setting towing and storage rates, vehicles shall be classified into four (4) categories):

- 1) Light-Duty (Class 1): Shall consist of all vehicles with a GVW of 10,000 pounds or less.
- 2) Medium-Duty (Class 2): Shall consist of all vehicles with a GVW between 10,000 and 16,000 pounds.
- 3) Heavy-Duty (Class 3): Shall consist of all vehicles with a GVW greater than 16,000 pounds.
- 4) Motorcycles: Shall consist of all types of motorcycle, dirt bikes, mopeds, ATV, Side by Side, off road utility vehicle, snowmobile, golf cart or any type of similar unlisted vehicle.

A. Towing fee rates:

Light Duty: \$150.00

Medium Duty: \$250.00

Heavy Duty: \$500.00

Heavy Duty with wheel lift required: \$550.00

Motorcycle: \$125.00

B. Winching rates:

Light Duty: \$50.00 per ½ hour

Medium Duty: \$50.00 per ½ hour

Heavy Duty: \$50.00 per ½ hour

Additional personal needed on scene: \$75.00 per hour.

C. Specialized equipment rates:

Crane service: \$450.00 per hours

Heavy-Duty Flatbed/Lowboy: \$350.00 per hour

D. Vehicle prep work needed to complete tow. (i.e. remove bumper, airlines, damaged vehicle parts, etc.)

Light/Medium/Heavy Duty: \$50.00 per ½ Hour

Additional personnel needed at scene to complete tow: \$75.00 per hour

Stand-by/wait time: \$60.00 per hour

E. Environmental Service:

Environmental Service: \$65.00 per hour

Additional absorbent: \$ 20.00 per bag

F. Roadside assistance rates: If road side assistance results in a tow, then the towing service may only charge the rate of the tow and not the rate of the roadside assistance or both)

Light-Duty: \$100.00

Medium-Duty: \$ 225.00

Heavy-Duty:\$450.00

G. Storage rates: (Any vehicle released prior to 12 hours storage will be charged only half of the 24 hour rate).

Light-Duty: \$45.00 per day

Medium-Duty: \$75.00 per day

Heavy-Duty: \$150.00 per day

Motorcycles: \$30.00 per day

H. Additional storage fees:

Administrative fee- Light-Duty: \$50.00

Administrative fee – Medium-Duty: \$ 100.00

Administrative fee - Heavy-Duty: \$ 100.00

Yard service fee- Light-Duty: \$45.00

Yard service fee- Medium-Duty: \$75.00

Yard service fee – Heavy-Duty: \$175.00

Wrapping/Trapping fee: \$ 75.00 per hour.

Section 2. This Ordinance shall become effective immediately upon final passage and publication in accordance with the law.

Section 3. All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 4. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to that portion of the Ordinance actually adjudged to be invalid, and the remaining portions of this Ordinance shall be deemed severable therefrom and shall not be affected.

Introduction: March 4, 2019

Adoption: March 18, 2019

ATTEST:

DEBRA L. SOPRONYI
MUNICIPAL CLERK

LAWRENCE D. QUATTRONE
MAYOR