

Ordinance 2004-09

BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

AN ORDINANCE ESTABLISHING A NEW CHAPTER 8, ENTITLED "TOWING AND STORAGE", OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, IN ORDER TO REGULATE THE TOWING AND STORAGE OF MOTOR VEHICLES WITHIN THE BOROUGH OF HIGHTSTOWN

BE IT ORDAINED by the Mayor and Council of the Borough of Hightstown, in the County of Mercer and State of New Jersey, as follows:

- That a new Chapter 8, entitled "Towing and Storage" is hereby established as follows:

Chapter 8 TOWING AND STORAGE.

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 Scope.

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

Section 8-3 Definitions.

As used in this chapter:

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

INTRO DATE: 4/19/04							ADOPT DATE: 5/3/04					
	Move	2nd	Aye	Nay	Abstain	Absent	Move	2nd	Aye	Nay	Abstain	Absent
HOLTZCLAW			✓									✓
LAUDENBERGER	✓		✓				✓		✓			
QUATTRONE					✓						✓	
SCHNEIDER			✓						✓			
SIKORSKI		✓	✓					✓	✓			
THOMPSON			✓						✓			
PATTEN												

ADVERTISE INTRO: 4/22/04

ADVERTISE ADOPT: 5/6/04

EFFECTIVE DATE: 5/6/04

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

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

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

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

"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, the operator having been arrested for driving without registration or insurance, or the operator having been arrested for stealing the motor vehicle, or the vehicle having been involved in a serious accident.

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

"Motor vehicle" shall mean all vehicles 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 rates" shall mean fees charged for the storage of motor vehicles.

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

"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.

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 light-duty 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 five (5) such services. 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 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 set 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 an 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, 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.
- 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.

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 between normal business hours at least five (5) days a week, excluding holidays.

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.

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.

Section 8-10. Towing Vehicle and Equipment Specifications.

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. Proof of capacity must be supplied to the police department at the time of registration.

b. All towing services engaged in heavy-duty towing shall have 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; air brakes so constructed as to lock rear wheels; and heavy-duty underreach.

c. All towing services engaged in heavy-duty recovery shall have two (2) heavy-duty wreckers with manufacturer's capacity of not less than twenty-seven (27,000) pounds gross vehicle weight and 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 (25,000) 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 extendible with a 360 degree swivel on the end of the boom; air brakes so constructed as to lock rear wheels; heavy-duty underreach; and two (2) snatch blocks with a twenty-five thousand (25,000) pound rating and two (2) 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 (1) five pound ABC-type fire extinguisher, safety chains, substances for application to small liquid spills, and stiff push brooms to clean up debris at the 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 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, it 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, it 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; not more than one (1) year for a third offense.

3. Permanently remove the violating party from the towing list for any violation after its third offense.

2. That all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

3. That, 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.

4. That this Ordinance shall take effect upon final passage and publication in accordance with the law.

5. That a certified copy of this Ordinance shall be submitted to the New Jersey Division of Consumer Affairs for review within ninety (90) days of the final adoption hereof.

ATTEST:

Candace B. Gallagher
Municipal Clerk

Robert F. Patten
Mayor