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TOWING AND STORAGE

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Chapter 54

TOWING AND STORAGE

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[HISTORY: Adopted by the Mayor and Council of the Borough of Helmetta 5-25-1994 by Ord. No. 8-1994. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 55.

§ 54-1. Purpose and scope.

A. The purposes of this chapter are:

- (1) To establish a requirement and procedure for the licensing of individuals and entities providing towing and storage services to the borough.
- (2) To establish, in the interest of public safety, a uniform policy, for the towing and storage of motor vehicles towed and stored at the request of the borough.
- (3) To establish uniform fees for towing and storage services.

B. This chapter shall apply to all motor vehicle towing and storage operations performed at the request of the Borough of Helmetta.

§ 54-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AUTOMOBILE — A private passenger motor vehicle, or any vehicle included in the definition of "automobile" under N.J.A.C. 11:3-38.2.

BASIC TOWING — The removal and transportation of an automobile from a highway, street or other public or private road, or a parking area, or from a storage facility, and other services normally 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.

BOROUGH — The Borough of Helmetta.

MOTOR VEHICLE — Includes all vehicles propelled otherwise than by muscular power except such vehicles as run only upon rails or tracks, or motorized bicycles.

TOW OPERATOR — A person engaged in the business of towing and storing motor vehicles or offering the services of a tow vehicle or tow truck and storage services.

TOW VEHICLE or TOW TRUCK— Those vehicles equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under-reach equipment specifically designed by their manufacturer for the removal or transport of motor vehicles, including flatbed vehicles, employed for the purpose of towing, transporting, conveying and/or removing motor vehicles which are unable to be operated under their own power from one place to another for which a charge or fee is extracted.

§ 54-3. License required.

No person shall engage in the business of towing or storing motor vehicles at the direction of the Borough of Helmetta without first obtaining a tow operator's license therefor. Nothing herein shall require licensing for the rendering of road service or for the provision of towing and storage services within the borough other than at the request of the borough.

§ 54-4. Application for license; fee.

- A. Applicants for a license under this chapter shall file with the Borough Clerk a sworn application on a form to be furnished by the Clerk, which shall include the following information and certification:
- (1) The full name and address of the applicant. If the application is made for a corporation, it shall state the name and addresses of the officers and directors thereof, its registered agent and the names and residential addresses of every stockholder owning more than 10% of the issued stock.
 - (2) The year, make and type of each tow vehicle used in the business, its serial number, registration number and registered owner.
 - (3) The address where the tow vehicle or vehicles shall be regularly garaged, the telephone number or numbers and the hours during which service is

available at those numbers and the names, addresses and New Jersey driver's license numbers of all operators.

- (4) The location, size and security features of the storage lot or space in which towed vehicles will be stored, including the number of spaces available. The storage lot shall be designated either as:
 - (a) Inside building: a vehicle storage facility that is normally indoors, having one or more openings in the walls for storage and removal of vehicles that is secured by a locking device on each opening.
 - (b) Outside secured: a vehicle storage facility that is not indoors and is secured by a fence, walls or other man-made barrier that is at least six feet high and is installed with a passive alarm system or a similar on-site security measure. The facility is to be lighted at night.
 - (c) Outside unsecured: a vehicle storage facility that is not indoors and is not secured by a fence, wall or other man-made barrier, and all other storage facilities not defined above as inside building or outside secured.
- (5) The name and address of the insurance carriers and the policy numbers of all insurance policies as required by § 54-9 of this chapter.
- (6) A copy of the operator's current fee schedule for towing and storage services.
- (7) A certification that on-call towing and storage services will be available 24 hours per day, every day of the year.
- (8) A certification that the fees and procedures required by this chapter shall be complied with at all times.
- (9) A certification that all tow vehicles are equipped with two-way radios or cellular phones.

- (10) A statement that the Police Director or his designee may, at any reasonable time, conduct an inspection of the tow vehicles or storage facility of any applicant or licensee for the purpose of determining compliance with this chapter.
 - (11) Such other information as the governing body may prescribe.
- B. All applications for a tow operator's license shall be accompanied by a fee of \$100 to cover the borough's costs in processing the application and monitoring compliance with the requirements of this chapter.

§ 54-5. Application review; approval or denial.

- A. The Borough Clerk shall forward all complete applications to the Police Director, who shall conduct or cause to be conducted such investigation as he deems necessary to determine the truth and accuracy of the information contained in the application, and whether the applicant meets the following minimum standards:
- (1) Neither the applicant nor any tow vehicle operator has any criminal convictions or prior motor vehicle infractions which might adversely affect public safety or welfare and that they hold a valid New Jersey driver's license.
 - (2) The applicant has the ability to respond to any request for assistance within 20 minutes.
 - (3) The applicant can provide on-call towing services 24 hours per day, every day of the year.
 - (4) The tow trucks and equipment are in safe and sound condition and in compliance with all applicable laws, rules and regulations.
 - (5) The applicant has the ability to perform mechanical inspections of and minor repairs to disabled vehicles.

- (6) The applicant owns or has a valid lease to a storage facility within, or within three miles of, the borough, in an area legally zoned for such use, and such storage facility includes a minimum of 10 outside spaces and an inside secured facility for storage of impounded vehicles.
 - (7) The applicant is either in compliance with or has the ability to comply with all other requirements and standards set forth herein and agrees to adhere to such requirements as are presently in effect or as amended from time to time.
- B. The Police Director shall endorse his approval or disapproval of the application within 10 days of receipt by him. If the application is disapproved, the reasons therefor shall be set forth in writing. The Borough Clerk shall notify the applicant in writing that the application has been granted or denied. If the application is denied, the reasons for such denial shall be set forth in the notice, along with the applicant's right to appeal the denial to Borough Council pursuant to § 54-8.

§ 54-6. Issuance of license; fee; renewal; display; transferability.

- A. A tow operator's license shall be issued by the Borough Clerk to an approved applicant upon provision of insurance certification pursuant to § 54-9. The Borough Clerk shall send a copy of the license to the Police Department for filing and shall keep a permanent record of all licenses issued.
- B. All licenses issued under this chapter shall expire at the end of the calendar year in which they are issued. Applications for renewal, certifying any changes to the original application or certifying no change, shall be filed with the Clerk at least 30 days before expiration on forms provided by the Clerk. Renewal applications will be forwarded to the Police Director for review and any

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necessary investigation in accordance with the procedures and standards set forth in § 54-5. If approved, a renewal license shall be issued upon payment of the license fee and provision of required insurance certifications.

- C. All licenses issued under this chapter, or certified copies thereof, shall be displayed prominently on all tow vehicles and at the tow operator's principal place of business.
- D. All licenses issued under this chapter are nontransferable.

§ 54-7. Revocation.

- A. Licenses issued under this chapter may be revoked by the Police Director after reasonable notice and hearing pursuant to § 54-8 for any of the following reasons:
 - (1) False or materially inaccurate information in the application, or a change of circumstances which would have caused disapproval of the application if existing at the time of approval.
 - (2) Failure to comply with any of the requirements of this chapter, any additional regulations promulgated by the Police Director, or any state, federal or local law relating to motor vehicle operation.
 - (3) Unsatisfactory service which jeopardizes public safety. More than three unexcused failures to respond and/or valid complaints (as determined by the Police Director, after investigation) within a twelve-month period shall be considered grounds for revocation.
- B. Notice of revocation shall be in writing and shall include the reasons therefore and notice of the licensee's right to appeal to Borough Council pursuant to § 54-8.

§ 54-8. Appeals.

Any person aggrieved by the action of the Police Director or the Borough Clerk in the denial of an application for a license, or in revocation thereof, or in the suspension from the borough's on-call towing list, may appeal to the Borough Council by filing with the Clerk, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written request for a hearing, setting forth fully the grounds for the appeal. The Council will set a time and place for hearing on such appeal, and notice shall be served on or mailed to the applicant or licensee at least five days prior to the hearing. The Council's determination shall be made by resolution and shall become effective immediately.

§ 54-9. Insurance requirements.

A. Every licensee shall carry insurance as follows:

- (1) Comprehensive automobile liability in an amount not less than \$1,000,000 combined single limits.
- (2) Workers' compensation coverage as required by state law.
- (3) Garage keeper's liability in an amount not less than \$60,000.
- (4) Garage liability in an amount not less than \$1,000,000 combined single limits.
- (5) Comprehensive general liability coverage in an amount not less than \$1,000,000 for each person and \$3,000,000 for each accident.
- (6) Endorsements providing for collision coverage for vehicles in tow.
- (7) Endorsements incorporating the indemnification provision set forth in § 54-9b.
- (8) Endorsements naming the borough as an additional insured in all insurance policies (except workers'

compensation policies) for licensees on the borough's on-call towing-list.

- B. All licensees shall hold harmless and indemnify the borough, its officers, employees and agents from any and all liability claims, losses or damage arising or alleged to arise from the performance of the towing services requested of or rendered by the licensee. The foregoing indemnification language shall be incorporated in the general comprehensive liability policy required by § 54-A.
- C. All insurance policies shall be written by insurance companies acceptable to the borough and authorized to do business in the State of New Jersey.
- D. No license shall be issued or renewed until the applicant has filed with the Borough Clerk certificates of insurance evidencing the insurance coverage and endorsements required in § 54-9A. All certificates must provide for 30 days, prior written notice to the borough of policy cancellation or material change.
- E. Any license issued under this chapter will be automatically revoked upon expiration or cancellation of the required insurance or material change in coverage which renders that coverage not in compliance with the requirements of § 54.9A.

§ 54-10. On-call towing list.

- A. The Police Director shall maintain a list of those tow operators licensed by the borough to respond to calls from the Borough Police Department. In order to be included on the towing list, an applicant must meet all of the requirements of this chapter.
- B. Calls to tow operators on the on-call list shall be made on a nondiscriminatory rotating basis, pursuant to procedures established by the Police Director. Nothing herein shall prohibit the Police Director or his designee

from calling a tow operator out of sequence or seeking the services of a tow operator not on the on-call list if the circumstances require specialized equipment or if the interests of public safety so require.

- C. The fees to be charged for towing and storage services shall be as set forth in § 54-11. The borough shall not be liable for the cost of any towing and/or storage services unless those services are performed on a municipal vehicle.
- D. Inclusion on the on-call towing list shall be automatically revoked upon expiration or revocation of the tow operator's license. The Police Director may also suspend a licensed tow operator's inclusion on the oncall list for such period of time as he considers appropriate for violations of this chapter, after a hearing on such violations. Suspensions may be appealed pursuant to the procedures set forth in § 54-8.
- E. Nothing in this section shall prohibit a motorist or motor vehicle owner from summoning a tow operator of his or her own choosing, except that any borough police officer at the scene of an incident requiring towing services shall be responsible for making the final determination as to when towing shall take place and which tow operator shall be called.
- F. All vehicles towed at the request of the borough must be removed to an approved storage facility unless the owner or operator of the vehicle specifically requests that it be towed to another destination. Any borough police officer at the scene shall be responsible for making the final determination as to the towing destination.

§ 54-11. Fee schedule.

A. Fees enumerated.

- (1) No person shall be liable to pay any operator who tows or stores an automobile which was damaged in

an accident or recovered after being reported stolen for any fees in excess of the following:

- (a) Basic towing services fees.
 - [1] Days:
 - [a] First mile or less: \$40.
 - [b] Each additional mile: \$1.75
 - [2] Nights, weekends and New Jersey State holidays:
 - [a] First mile or less: \$50.
 - [b] Each additional mile: \$1.75.
- (b) Storage fees.
 - [1] Inside building, storage capacity of:
 - [a] 21 or more spaces: \$15 per day.
 - [b] Ten to 20 spaces: \$20.
 - [c] Less than 10 spaces: \$25.
 - [2] Outside secured, storage capacity of:
 - [a] 21 or more spaces: \$10.
 - [b] Ten to 20 spaces: \$10.
 - [c] Less than 10 spaces: \$15.
 - [3] Outside unsecured, storage capacity of:
 - [a] 21 or more spaces: \$8.
 - [b] Ten to 20 spaces: \$10.
 - [c] Less than 10 spaces: \$12.
- (2) The above fees are set by the Commissioner of Insurance pursuant to N.J.A.C. 11:3-38.1 et seq. and shall be superseded by any fee changes implemented by the Commissioner. It shall be the responsibility of the tow operators to comply with all applicable Department of Insurance rules and fee regulations.

(3) Day, night and weekend rates.

(a) When towing services are required at the scene of an automobile accident, the day rate shall apply when the time of the accident is between 8:00 a.m. and 4:30 p.m., Monday through Friday, except New Jersey State holidays. The night, weekend and holiday rate shall otherwise apply.

(b) When towing services are otherwise required, the day rate shall apply when the vehicle is transported (pickup to delivery) entirely between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday, except New Jersey State holidays. The night, weekend and holiday rate shall otherwise apply.

(4) Storage fees are for each twenty-four period or fraction thereof. A new twenty-four period begins at 12:01 a.m.

B. No person shall be liable to any tow operator for any other towing or storage services for any fees in excess of the licensee's approved fee schedule. Current fee schedules shall be submitted for approval on an annual basis at the time of application for license renewal.

C. When basic towing services are rendered as the result of a motor vehicle accident or theft recovery, there shall be no additional charges other than those provided for in Subsection A above, including but not limited to flatbedding, waiting time, winching, cleanup costs and additional labor.

D. Towing rates shall be calculated based on the total distance traveled from the tow vehicle's base of operations to the job site and return, by way of the shortest available route. Fractions shall be rounded to the nearest whole.

- E. Tow vehicles transporting multiple vehicles at one time may charge the applicable fee for each vehicle transported.
- F. Prior to hookup or flatbedding of a motor vehicle, the tow operator shall present a copy of its fee schedule to the owner or operator of the vehicle. The fee schedule shall also contain the name, address and telephone number of the tow operator and a statement of the hours when the motor vehicle may be claimed.

§ 54-12. Regulations and procedures.

The Police Director shall promulgate such rules, regulations and procedures not inconsistent with this chapter as may be reasonable and necessary to carry out the provisions of this chapter. Copies thereof shall be provided to all licensed tow operators and shall be made available to the public, along with copies of current fee schedules, during normal business hours. Failure to comply with applicable rules, regulations and procedure, may be cause for revocation of a tow operator's license.

§ 54-13. Register of wreckers; identification cards; driving record.

- A. The Police Director shall keep a register of the names of all those owning or operating wreckers accepted under this license, together with the license number and the description of such wreckers and the date and complete record of inspection made of them. This register shall be maintained by all zones.
- B. All drivers must obtain police identification cards and maintain a safe driving record.

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§ 54-14. Record book to be kept.

Every person licensed hereunder shall record in a book kept solely for such purpose the details of each disabled vehicle towed, serviced or transported together with full information concerning the details surrounding the hiring, the names of the owners of the towed vehicle and of the patron engaging him and the charges paid for his services. The record book herein described shall be kept open for inspection at all times by any duly authorized representative of the borough.

§ 54-15. Enforcement.

The Police Director is hereby designated to enforce the provisions of this chapter and any applicable rules and regulations.