

BOROUGH OF HIGHLAND PARK
ORDINANCE NUMBER 22-2049

AN ORDINANCE OF THE BOROUGH OF HIGHLAND PARK, COUNTY OF MERCER,
STATE OF NEW JERSEY CONCERNING REGULATIONS FOR WRECKER OPERATORS
AND AMENDING THE "CODE OF THE BOROUGH OF HIGHLAND PARK".

BE IT ORDAINED by the Council of the Borough of Highland Park, County of Middlesex, as follows:

1. The current Chapter 407 of the "Code of the Borough of Highland Park" which sets forth regulations for wrecker operators within said Borough be and the same is hereby REPEALED AND REPLACED with the following updated provisions of Chapter 407.

Chapter 407.

WRECKERS

§ 407-1. Short Title. This Chapter shall be known and may be called the "Borough of Highland Park Wrecker Ordinance."

§ 407-2. Definition. As used in this Section:

Cruising shall mean the driving of a "wrecker" along any Borough street for the purpose of soliciting business in the Borough.

Owned shall mean owned, rented or leased.

Owner shall mean one who owns, rents or leases.

Wrecker shall mean a vehicle used for the purpose of towing, transporting or otherwise removing any and all kinds of vehicles which are disabled.

Automobile means a private passenger automobile of a private passenger or station wagon type that is owned or hired and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; and a motor vehicle with a pickup body, or delivery sedan, a van, or a panel truck or a camper type vehicle used for recreational purposes owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family co-partnership or corporation, which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered a private passenger automobile owned by two or more relative's resident in the same household.

Basic Towing Service means 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 any 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.

Motor Vehicle includes all vehicles propelled otherwise than by muscular power, except such vehicles as run only upon rails or tracks, or motorized bicycles.

Motor Vehicle Crash means an occurrence in which a private passenger automobile comes in contact with any other object for which the private passenger automobile must be towed or removed for placement in a storage facility. This includes all situations which are accidental as to the insured even if they were caused by the intentional acts of a perpetrator where the perpetrator was not the insured or not otherwise involved with the insured.

Tow Operator means 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* means 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.

Tow Vehicle Base of Service means the towing operator's principal place of business where the tow vehicle is stationed when not in use.

Outside Secured means an automobile storage facility that is not indoors and is secured by a fence, wall 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.

Outside Unsecured means an automobile 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.

Storage Charges for a 24-Hour Period means the maximum allowable amount to be charged by a storage facility for a 24-hour period or fraction thereof. A new 24-hour period begins at 12:01 A.M.

Borough means the Borough of Highland Park.

§ 407-3. Expiration. All licenses issued under this Section shall be issued to expire and shall expire on the last day of February, or the expiration date of insurance, unless sooner suspended or revoked by the Borough Council as hereinafter provided.

§ 407-4. License Fees. The fee for a license for a wrecker shall be two hundred (\$200.00) dollars per year and the fee for any such license issued on or after September 1st of any year shall be one hundred (\$100.00) dollars. All fees shall be payable to the Borough Clerk.

§ 407-5. Application for Wrecker License.

Any company interested in towing for the Borough of Highland Park shall pick up an application from Police Headquarters. The forms shall be stated under oath. All companies shall submit the application for a towing license and return it to the Chief of Police or his designee. This application will consist of name of the company or trade name, business owner information such as name, business address, contact phone numbers, size of storage lot, security features and location where customers will come and claim stored vehicles. A company agrees to provide service on a twenty-four hour a day basis each day of the year. Photos of all the equipment and storage facilities will be forwarded with the application. Complete listing of the insurance policies, carriers and agents the owner would place into effect upon license approval. A statement that the towing company / owner indemnify and hold harmless the Borough in the event that any claim or recovery is made against the Borough arising out of the towing and storage of vehicles. Upon completion of the application and investigation of the application, the Chief of Police or his designee will forward a copy of the application to the Borough of Highland Park Council along with a letter of recommendation for approval or disapproval of the license with the reasons if any.

§407-6. Application for a Heavy-Duty Wrecker License

Any company interested in towing heavy duty vehicles for the Borough of Highland Park shall pick up an application from Police Headquarters. The forms shall be stated under oath. All companies shall submit the application for a towing license and return it to the Chief of Police or his designee. This application will consist of name of the company or trade name, business owner information such as name, business address, contact phone numbers, size of storage lot, security features and location where customers will come and claim stored vehicles. A company agrees to provide service on a twenty-four hours a day basis each day of the year. Photos of all the equipment and storage facilities will be forwarded with the application. Complete listing of the insurance policies, carriers and agents the owner would place into effect upon license approval. A statement that the towing company / owner indemnify and hold harmless the Borough in the event that any claim or recovery is made against the Borough arising out of the towing and storage of vehicles. Upon completion of the application and investigation of the application, the Chief of Police or his designee will forward a copy of the application to the Borough of Highland Park Council along with a letter of recommendation for approval or disapproval of the license with the reasons if any.

§407-7. Standards of Performance.

All operators of the licensed towing company who have entered into contracts with the Borough shall be obligated to comply with the following duties:

- (A) Remove and tow to the designated location all vehicles directed by the Borough of Highland Park to be removed and towed because such vehicles are designated as abandoned, illegally parked, disabled, involved in a motor vehicle crash, or to be impounded.**
- (B) Store such vehicles in accordance with this ordinance.**
- (C) Provide twenty-four hour, seven-days a week service to the Borough during the terms of the contract.**
- (D) Respond promptly to all requests for towing service. In any event, the wrecker shall respond and be present at the location for service in 15 minutes of receipt of notice of the towing requirement between the hours of 8 a.m. and 4:30 p.m. (daytime), and within 20 minutes of receipt of notice between the hours of 4:30 p.m. and 7:59 a.m. (nighttime). In the event a wrecker does not arrive at the call for service within the above time periods, the police officer on scene shall have the right to have the next company on the rotation called to the location who will then have the right to perform the service. The original company contacted shall have no right to payment from any party.**
- (E) Clean up all broken glass, debris and fluid spill at the scene of accidents, which work may be billed to the vehicle owner.**
- (F) When a police officer indicates to an operator that a vehicle is being impounded, the licensed towing company shall not release the vehicle until authorization is received to do so by the police department. A police officer may indicate to an operator that a vehicle is being impounded via written notice or verbally (as long as the verbal notice is captured on the police officer's body worn camera (BWC). Authorization to release a vehicle should be sent to a towing company via fax or email. The officer-in-charge (OIC) or their designee may provide such authorization verbally over a recorded telephone line.**
- (G) Furnish additional towing equipment and services during storm periods of snow emergencies, traffic emergencies and natural disasters.**
- (H) Maintain records of all vehicles towed by the Borough of Highland Park along with a report of personal property found with the vehicle and an accounting of all monies received for fees for towing. The Chief of Police or his designee shall have access upon request to any and all invoices and records required.**

- (I) In all of the wrecker's dealings with the public, the wrecker operator/owner shall act in a professional manor, courteous at all times and respectful to the public, as well as representative of the Borough.
- (J) The towing company must have a permanent place of business.
- (K) The towing company shall also accept payment in either cash or a valid major credit card.
- (L) The towing company shall not release any impounded vehicles from their facility until written authorization from the Police Department is received. This authorization may be received via facsimile or electronic mail.

§ 407-8. Suspension, Termination, & Appeals due to Violating the Standards of Performance

The Chief of Police or his designee are empowered to take the following actions:

- A. Vendors may be removed or suspended from the towing list for three failures to respond in a timely basis, failure to demonstrate the skills necessary to perform towing and recovery in a safe, prompt and efficient manner, or three unresolved customer complaints.
- B. Termination may occur if the application is fraudulent, the owner's insurance is canceled, or if there is evidence indicating a pattern of consumer fraud and/or a serious violation as determined by the Borough of Highland Park or the Chief of Police or his designee.
- C. Vendor should be able to appeal any disciplinary actions against them to the Chief of Police or his designee. If not satisfied with the Chief of Police or his designee, an appeal may be made with the Borough of Highland Park.
- D. Any equipment violations by State, US DOT or FMCSA will be suspended until all violations are corrected.

§ 407-9. Issuance of License. Upon approval of the application by the Borough Council, upon receipt of payment from the applicant of the proper license fee for each wrecker license; and upon receipt of insurance policies approved by the Borough Attorney, the Borough Clerk shall issue a license dated in accordance with the expiration date stated herein.

§ 407-10. Insurance Policies. No wrecker shall be licensed hereunder, nor shall any licensed wreckers be operated within the Borough unless there shall be deposited with the Borough Clerk the following insurance policies or certificates of insurance:

- A. *Auto Garage Keepers' Policy.* Auto Garage Keepers' Legal Liability Policy, covering fire, theft and explosion and collision in the minimum amount of fifty thousand

(\$50,000.00) dollars and collision coverage subject to one hundred (\$100.00) dollar deductible with each accident deemed a separate claim.

B. *Auto Garage Legal Liability Policy.* Auto Garage Legal Liability Policy covering the operation of the licensee's equipment or wrecker and bodily injury and property damage. This policy will be in the amount of two hundred fifty thousand (\$250,000.00) dollars per person and five hundred thousand (\$500,000.00) dollars per accident for bodily injury or five hundred thousand (\$500,000.00) dollars combined single limit, and in the amount of one hundred thousand (\$100,000.00) dollars for property damage. Each policy herein must contain an endorsement providing ten (10) days' notice to the Borough in the event of any material change therein or intention to cancel the policy for any cause. In the event that any policy is changed so as to fail to conform with any of the above requirements, or if any policy of insurance is to be canceled for any reason, the Chief of Police shall notify the person responsible for the policy and it shall be corrected or reinstated or replaced with a conforming policy within ten (10) days after the notice is received by the Borough, but before the date of cancellation. If the policy or certificate is not corrected, reinstated or replaced prior to the date of cancellation, the Chief of Police shall immediately suspend the wrecker license and shall pick up from the owner all proof of licensing, including any stickers, cards or other means of identification.

C. The Borough of Highland Park shall be named an additional insured on all policies and certificates at the expense of the applicant or licensee. Copies of same must be filed with the Borough Clerk.

§ 407-11. Fee Schedule.

- A. No person shall be liable to any tow operator who tows or stores an automobile for any fees in excess of the following:

Basic Towing Service Fees	
	Maximum Fee
Days:	
1 mile or less	\$115
Each additional mile	\$3.50
Nights, weekends and New Jersey State holidays:	
1 mile or less	\$125
Each additional	\$4
Vehicles over 12,500 pounds, straight truck	\$120 plus \$5 per mile
Vehicles in excess of 12,500 pounds, tractor trailer	\$325 plus \$7 per mile
Storage Fees	
Inside building	\$50 per day
Outside secured storage	\$35 per day
Accident Fees	
Clean up depending on severity	\$50 plus cost of material(s)
Labor	\$75 per hour/per man/half hour rate applied
Administrative fees/yard fees	\$35
Waiting times	\$25 per 15 minutes
Road service calls (tire repair/lockouts, etc.)	\$75
Other Fees	
Decoupling fee	TBD
Decoupling fee and Related fees	TBD

B.

(1) All tow operators or storage facilities shall comply with the requirements of N.J.S.A. 56:13-7 et seq. and any and all regulations promulgated by the New Jersey Department of Law, Division of Consumer Affairs. As required by N.J.S.A. 40:48-2.54.b all complaints and

disputes arising from the towing and storage of motor vehicles without the consent of the owner shall be called to the attention of the Chief of Police in writing to be investigated and resolved.

(2) Applicability of rates.

(a) When towing services are required at the scene of an automobile crash, 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.

C. Storage fees are for each 24 hour period or fraction thereof. A new 24 hour period begins at 12:01 a.m.

(1) 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.

(2) When basic towing services are rendered there shall be no additional charges other than those provided for in (a) above, including but not limited to waiting time, winching, cleanup costs and additional labor.

(3) 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.

(4) Tow vehicles transporting multiple vehicles at one time may charge the applicable fee for each vehicle transported.

(5) Upon the request of the Police Department, some parked, unoccupied vehicles may be moved from one location to another within the Borough. When these requests are made, the operator shall charge the designated movement + decoupling fee. This bill shall be sent to the registered owner via certified USPS mail. A copy of the bill shall also be sent to the Chief of Police or his designee. The vendor may choose to charge the registered owner any USPS fees incurred. If full payment is not made within 90 days after proof of service, the vendor may submit the debt to a collections agency.

§ 407-12. Requirement for Driver. No person shall drive a wrecker who is under the age of eighteen (18) years and who has not in his/her possession a license duly issued to him to operate a motor vehicle in the State of New Jersey.

§ 407-13. Duties of Licensee. A wrecker license hereunder shall be issued subject to the following conditions:

- A. No licensee, employees or agents shall solicit or engage in "cruising", demand or receive from any persons, any pay, commission or emolument whatever, except the proper fee authorized for transporting the disabled vehicle in accordance with the schedule of service rates listed in subsection 407-11.
- B. Licensees shall keep and maintain towing equipment which is adequate to perform such towing in a reasonably workmanlike manner.
- C. Each licensee shall record in a book kept solely for such purpose the details of each vehicle towed, serviced or transported by him/her or his/her agents or employees, together with full information concerning the details surrounding the hire, the name of the owner of the towed vehicle and of the patron engaging him/her; which book shall be open for inspection at all times to a duly authorized representative of the Police Department of the Borough or a duly authorized representative of the Borough Council.

§ 407-14. Rotating Call List.

Vendor must present for service one truck, consisting of one flatbed, which meet the following minimum requirements:

- A.
10,000 pounds GVWR minimum commercially manufactured
- B.
Dual rear wheels
- C.
3,000 pounds minimum wheel lift capacity
- D.
8,000 pounds minimum winch capacity
- E.
Vehicle manufacture serial place must be legible for inspection
- F.
3/8" x 100' winch cable
- G.
(2) Safety chains 3/8" x 10" with a minimum of grade 7
- H.
Wheel lift safety straps
- I.
Motorcycle towing equipment

J.
Amber Emergency lights (with a valid permit from the State of New Jersey)

K.
Two work lights rear facing

L.
Jumper box

M.
Flashlight, Fire extinguisher, first aid kit, one box Traffic Triangles

N.
5-gallon US dot approved gas can

O.
Lug wrench / jack

P.
Broom & shovel speedy dry

Q.
Traffic Vest min class 2 ANSI 1999 or above

R.
17' or longer hydraulically operated 8,000 lb. bed

S.
(2) Tire Skates and (4) point tie down straps

T.
Must comply with all laws of the State of New Jersey and all Federal laws, including but not limited to the inspection requirements set forth in 49 C.F.R. 396 and other applicable regulations of the United States Department of Transportation ("US DOT") and the Federal Motor Carrier Safety Administration ("FMCSA") set forth at 49 C.F.R. 105, et seq.

§ 407-15. Heavy Duty Rotating Call List

Heavy Duty / Service vendors shall tow any vehicle that is over 10,000 pounds GVWR.

A.
(2) 33,000 pounds GVWR minimum commercially manufactured chassis, hydraulic with a boom and under reach

B.
Air brakes

C.
One truck with a minimum towing capacity of 80,000 pounds

D.
5/8" x 200' cable

E.
(2) Safety chains 1/2 x 8' alloy

- F.
(4) Winching chains 1/2 x 8' alloy
- G.
(4) Chain Binders
- H.
(2) Recovery Straps 6" x 20' or longer
- I.
Axle lift safety straps or equivalent retention device
- J.
(2) 12-ton Snatch Blocks
- K.
Amber lights (with a valid permit from the State of New Jersey)
- L.
Two work lights rear facing
- M.
Assortment of wood blocks and boards
- N.
Assortment of tools
- O.
Tow light bar or magnetic tow lights
- P.
Hydraulic bottle jack
- Q.
Flashlight, Fire extinguisher and first aid kit
- R.
Broom & Shovel
- S.
(1) Air cushion recovery system with air pump, lifting capacity of 100,000 pounds
- T.
Semi-tractor with fifth wheel or wrecker with fifth wheel attachment
- U.
Must comply with all laws of the State of New Jersey and all Federal laws, including but not limited to the inspection requirements set forth in 49 C.F.R. 396 and other applicable regulations of the United States Department of Transportation ("US DOT") and the Federal Motor Carrier Safety Administration ("FMCSA") set forth at 49 C.F.R. 105, et seq.

§ 407-16. Application.

a. Except as to the prohibition against cruising, the provisions of this Section are applicable to the engaging of wreckers by the Borough Police Department either on its own initiative or at the request of owners, drivers, or lessees of vehicles requiring the service of wreckers.

b. Nothing in this Section shall prevent the owner, lessee, agent or driver of a vehicle which is disabled, from calling a wrecker of his/her choice to remove his/her vehicle provided there is no obstruction of traffic or public right-of-way, or unless a police officer at the scene determines that the wrecker cannot arrive at the scene within the time limits specified in Subsection 407.7.D. and the safety of persons or motorists may be jeopardized thereby. Charges for such service shall be such rate as is agreed upon between the owner, lessee, agent or driver and the wrecker selected.

§ 407-17. Police Powers. The Police Department shall have the power to require wreckers to remove vehicles immediately where:

- A. There is obstruction of public right-of-way or private property.
- B. A vehicle has been vandalized or presents a fire or safety hazard or an attractive nuisance.
- C. An abandoned vehicle bears no discernible registration or identification data.
- D. An abandoned vehicle is not licensed or operable.
- E. A vehicle is reasonably believed to have been involved in the commission of a public offense.
- F. A vehicle is violating any emergency, or "no parking" provisions as set forth in Chapter VII Traffic.
- G. A vehicle is violating Section 278-6 of this Code.
- H. Any other condition where permitted or required by law.
- I. The Chief of Police 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 procedures may be cause for evocation of a tow operator's license.
- J. The Chief of Police is hereby designated to enforce the provisions of this Chapter and any applicable rules and regulations.

§ 407-18. Borough Not to be Held Liable. Since the bailment of impounded vehicles is solely for the benefit of the public at large, the Borough, its agents or employees, shall assume no liability to owner of any such vehicles or any other party, arising out of the removal, impoundment and disposition of any vehicles pursuant to this Section and otherwise in accordance with law.

§ 407-19. Licenses Limited. It is hereby determined under the lawful exercise of the police power of the Borough that the public convenience and necessity require that the number of wreckers to be licensed with the Borough shall be limited to fifteen (15) because of the limited area of the Borough.

§ 407-20. Penalty. Any person who shall violate any of the provisions of this Section shall upon conviction be punished by a fine not less than twenty-five (\$25.00) dollars and not to exceed the penalty as established in Section 1-5 of this Code.

In addition, the Mayor and Council, after a hearing, may revoke or suspend any license issued hereunder or may refuse to renew any license previously issued hereunder for violation of any of the provisions of this Section.

§ 407-21. On Call Towing List.

- A. The Chief of Police 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 on-call 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 non-discriminatory rotating basis, pursuant to procedures established by the Chief of Police. Nothing herein shall prohibit the Chief of Police 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 Section 407-11. 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 Chief of Police may also suspend a licensed tow operator's inclusion on the on-call towing list for such period of time as he considers appropriate for violations of performance standards as set forth previously in this Chapter.**
- 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.
2. This ordinance shall take effect upon its passage and publication as provided for by law.

Introduced and Passed on First Reading: April 5, 2022

Adopted: _____, 2022

Approved: _____, 2022

Attest: _____
Jennifer Santiago, Municipal Clerk

Gayle Brill-Mittler, Mayor