

ORDINANCE #743
AN ORDINANCE REGULATING
TOWING AND STORAGE OF VEHICLES

WHEREAS, the Borough of Harrington Park is desirous of establishing criteria and procedures for the selection of towing contractors to be utilized by the Borough on a rotational and as-needed basis; and

WHEREAS, N.J.S.A. 40:48-2.49 authorizes municipalities to establish by ordinance reasonable, non-exclusionary and non-discriminatory regulations for the towing and storage of vehicles; and

NOW, THEREFORE, be it ordained by the Mayor and Council of the Borough of Harrington Park, County of Bergen and State of New Jersey as follows:

Section 1. Purpose.

The purpose of this Ordinance is to establish, pursuant to N.J.S.A. 40:48-2.49, (i) a list of towing contractors to provide towing services for the Borough of Harrington Park on a rotating basis (“Towing List”) and (ii) regulations governing operators engaged in the removal of motor vehicles.

Section 2. Application and Licensure.

A. An individual or entity seeking placement on the Towing List shall be required to submit an application and receive the approval of the Police Department of the Borough of Harrington Park (“Police Department”) prior to the issuance of a license.

B. All applicants are required to complete a form furnished by the Police Department, providing any and all information prescribed by the Chief of Police of the Borough of Harrington Park (“Chief of Police”). Any application deemed incomplete will be disregarded without any further notification.

C. Each towing contractor (“Towing Contractor”) must be able to demonstrate to the Borough that it is thoroughly qualified and experienced in the towing and removal of vehicles of all types, and that it has adequate facilities, equipment, expertise, licensing, and personnel to perform the services required by these specifications in a manner satisfactory to the Police Department.

D. The Police Department shall conduct a background check of the Towing Contractor, its officers and employees prior to making a determination of placement on the Towing List.

E. A license may be denied, suspended, or revoked upon any of the following grounds:

1. Submitting a fraudulent or misleading application.
2. A criminal conviction of the towing operator or a named principal of the towing operator.

3. Failure to respond reliably to calls for assistance or any other unsatisfactory performance action which interferes with the proper operation of the rotating system maintained by the Police Department.
4. Failure to utilize safe and adequate equipment as defined herein.
5. Violations of motor vehicle laws and/or municipal ordinances.
6. Failure or refusal to tow or remove a motor vehicle when requested to do so by an appropriate municipal official.
7. Violations of the zoning ordinance or any other applicable ordinances or codes of the Borough of Harrington Park pertaining to the use or condition of the premises used by the Towing Contractor in conducting the towing business.
8. Violations of the provisions of this ordinance or any of its rules, regulations, and policies promulgated hereto.

F. Licenses shall be applicable for a one (1) year term, which shall commence January 1 through December 31. An Application must be submitted to the Police Department on or before December 1 for review to serve for the succeeding year. All applications shall be accompanied by a non-refundable fee in the amount of One Hundred and Twenty Five (\$125.00) Dollars.

G. Licenses shall be renewed annually by December 31 of the preceding year. Towing Contractors already on the Towing List will receive a renewal application by mail. The renewal fee shall be in the amount of Seventy-five (\$75.00) Dollars.

Section 3. Denial, Suspension, Revocation, Hearing.

A. When an application for a license is denied by the Borough of Harrington Park, the Applicant may serve a Notice requesting a hearing. Said Notice shall be served on the Borough Clerk and the Applicant shall set a hearing at a regularly scheduled meeting of the governing body.

B. Proceedings for the suspension or revocation of a license shall be initiated by the service of a Notice setting forth the charges proffered against the Towing Contractor. Said Notice shall be served by the Chief of Police or his/her designee, either personally or via certified mail, return receipt requested, and shall contain a date, time and place for a hearing to be held by the governing body of the Borough of Harrington Park. The Towing Contractor shall have the right to file an answer to the Notice and to appear in person, or be represented by counsel, and give testimony at the place and time fixed for the hearing.

Section 4. Towing List; Rotation.

A. A Towing List of the accepted Towing Contractors shall be kept with the Chief of Police. Each new Towing Contractor 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. The Police Department will call the Towing Contractor on the top of the Towing List on the towing rotation schedule, on an add-needed basis. The Towing Contractor that is 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 Contractors on the Towing List have been called.

C. If a Towing Contractor is unavailable to perform required services when called upon by the Police Department, for any reason whatsoever, the Towing Contractor shall be charged with a call and placed at the bottom of the Towing List, and the next available on-call Towing Contractor shall be called.

D. If a Towing Contractor, after being dispatched, is recalled and is not required to perform any duties or services covered by this Ordinance, the Towing Contractor shall remain on the top of the Towing List. However, if a Towing Contractor 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 Contractor on the Towing List shall be called.

Section 5. Rules and Regulations.

A. All Towing Contractors placed on the Towing List shall be available 24 hours per day, 7 days per week, 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 Contractors shall respond to a call in any part of the Borough within fifteen (15) minutes. If a Towing Contractor does not respond within fifteen (15) minutes of a call, the Towing Contractor next on the list shall be called and entitled to provide services as needed, and the first Towing Contractor shall forfeit 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 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 the applicable laws.

D. All drivers and operators of towing vehicles must tow their vehicles in a safe manner.

E. All Towing Contractors 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 shall only be performed if they can be done safely, as determined by the police officer on the scene.

F. All Towing Contractors 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 Contractors shall keep accurate records of all motor vehicles towed and stored at the direction of the Police Department. A copy of such records shall be provided to the Borough upon request.

H. Towing Contractors shall not remove any motor vehicle which has been abandoned or involved in an accident in any public roadway without first notifying the Police Department.

I. The owner of a motor vehicle shall have the right to request a towing service only if there is no emergency situation or imminent road hazard as determined by the Police Department.

J. The Towing Contractor shall notify the Police Department of all vehicles found by the Towing Contractor 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. In the case of multiple vehicles, the Towing Contractor or the Police Department may request the help of another Towing Contractor on the Towing List.

Section 6. Storage Facilities.

A. All storage facilities operated or used by Towing Contractor shall meet all local zoning and code requirements, and must be located within four (4) miles of the geographic center of the Borough of Harrington Park or within the Borough.

B. All Towing Contractors 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 Contractor shall not charge a release fee or other fee for releasing motor vehicles to their owners after normal business hours or on weekends.

Section 7. Towing and Storage Rates.

The following fees are established as being the usual and customary rates for towing and storage of automobiles, trucks, vans, motorcycles, mopeds, and scooters:

1. A fee in connection with towing services for impounded or abandoned vehicles shall be in the amount of One hundred dollar (\$100.00) Dollars per vehicle and includes mileage.

2. Towing in connection with accident calls shall be at a minimum in the amount of one hundred dollars (\$100.00) Dollars per vehicle. Additional time spent at the accident scene over ½ hour shall be in the amount of Seventy (\$70.00) Dollars per hour.

3. Storage Fees shall be in the amount of Thirty-Five (\$35.00) Dollars per day.

4. Service calls, which constitute any service other than towing, use of flatbed, or winching, shall be in the amount of seventy-five (\$75.00) Dollars per call to the scene.

5. A decoupling fee shall not exceed \$25.00.

6. Towing and storage of vehicles 16,000 lbs. and over shall not exceed those fees established for towing vehicles as established and accepted by the New Jersey State Police.

Section 8. Rights of Owners/Operators of Motor Vehicles.

A. The owner or operator of any motor vehicle requiring towing or storage 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.

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

C. Upon request of the motor vehicle owner or his or her representative, a Towing Contractor shall provide a detailed and itemized bill for all services rendered.

Section 9. Equipment.

A. All towing vehicles providing towing services herein shall meet all of the requirements of Revised Statutes Title 39, "Motor Vehicles and Traffic Regulation".

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 at least one fire extinguisher, safety chains, substances for application to small liquid spills, and stiff push brooms to clean debris at the scenes, one broom and shovel, emergency warning lights, and one (1) set of dolly wheels.

Section 10. Collection of Fees.

Owners of vehicles towed shall be responsible for all fees for services rendered. Tow Operator shall look solely to owner for payment of fees.

Section 11. Insurance Requirements.

Towing Contractors shall be required to purchase, maintain and provide during the time of service on the Towing List, proof of insurance furnished by a reputable insurance company licensed to do business in the State of New Jersey containing the following coverage:

1. Fire, theft, collision and comprehensive including vandalism and malicious mischief in the minimum amount of Fifty Thousand (\$50,000) Dollars.

2. Liability and property damage insurance covering the Towing Contractor's business, equipment and other vehicles in the minimum amount of Five Hundred Thousand

(\$500,000) Dollars for single-limit coverage and One Hundred Thousand (\$100,000) Dollars for all damages arising from the injury.

3. Worker's Compensation insurance as required by law, including, but not limited to statutory New Jersey Worker's Compensation Benefits, and Employers' Liability in the minimum amount of One Hundred Thousand (\$100,000) Dollars.

Section 12. Violations; Penalties; Suspension

A. All violations of this Ordinance, and all complaints by the public or Police Department against any Towing Contractor, 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 Contractor 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 Contractor has violated any provision of this Ordinance, it may in accordance with the gravity of the offense:

1. Fine the violating party an amount not exceeding the sum of One Thousand (\$1,000.00) Dollars.

2. Suspend the violating party from the Towing List for a period of time not exceeding than three (3) months for a first offense; not exceeding six (6) months for a second offense; not exceeding one (1) year for a third offense.

3. Permanently remove the violating party from the Towing List for any violation after its third offense.

Section 13. Indemnity Clause

The Towing Contractor shall execute a separate certification stating that it will hold harmless, indemnify and defend, at the Towing Contractor's expense, the Borough, its employee and officials from any and all claims, demands, suits or actions for personal injury or property damage brought against the Borough, its employees, and officials for any activities which arise out of any services performed pursuant to this Ordinance.

Section 14. Repealer.

All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed as to said inconsistencies and conflicts.

Section 15. Severability.

If any section, part of any section, or clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this Ordinance, and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section 16. Effective Date.

This Ordinance shall take effect immediately upon passage and publication according to law.