

## 4-13 Licensing of Towing.

*Editor's Note:* Prior ordinance history: Ordinance Nos. 91-18, 95-18, 98-31, 02-28, 06-33.

### 4-13.1 Title.

This section shall be known as the "Towing Ordinance of Warren." (Ord. No. 2016-33)

### 4-13.2 Definitions.

- a. *Word Usage.* When not inconsistent with the context, words used in the present tense include the future; words in the plural include the singular; and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.
- b. *Definitions.* For purposes of this section, the following terms, phrases, words and their derivations shall have the meaning given herein:

*Basic tow.* Pursuant to the Administrative Rules of the Division of Consumer Affairs, N.J.A.C. 13:45A-31.1 et seq., "basic tow" shall mean private property towing and other non-consensual towing as defined in this section and other ancillary services that include the following: arriving at the site from which a motor vehicle will be towed; 15 minutes waiting time; hooking a motor vehicle to, or loading a motor vehicle onto, a tow truck; transporting a motor vehicle to a storage facility; unhooking or unloading a motor vehicle from the tow truck; and situating the motor vehicle in the space in which it will be stored. "Basic tow" also includes issuing documents for the release of a motor vehicle to its owner or other person authorized to take the motor vehicle; issuing an itemized bill; three trips to the motor vehicle in storage, which, if applicable, include making a vehicle available to an insurance adjuster or appraiser; issuing documents for the release of a motor vehicle to its owner or other person authorized to take the motor vehicle; and retrieving a motor vehicle from storage during the hours in which the storage facility is open. (Ord. No. 2017-07 § 1)

*Chief* shall mean the Chief of the Police Department of the Township of Warren or anyone designated by him.

*Decoupling* shall mean releasing a motor vehicle to its owner or operator when the motor vehicle has been, or is about to be, hooked to or lifted by a tow truck, but prior to the motor vehicle actually having been moved or removed from the property.

*Director* shall mean the Director of the New Jersey Division of Consumer Affairs.

*Flat bed tow truck* shall mean a tow truck designed to transport a motor vehicle by means of raising the motor vehicle from road level up onto a hydraulic bed for transporting purposes.

*Heavy duty* shall mean a gross vehicle weight of at least 32,000 pounds.

*Light-medium duty* shall mean a gross vehicle weight of less than 32,000 pounds.

*Motor vehicle* shall mean all vehicles propelled other than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles, motorized scooters, motorized wheelchairs and motorized skateboards.

*Non-consensual towing* shall mean the towing of a motor vehicle without the consent of the owner or operator of the vehicle, including the towing of a motor vehicle when law enforcement orders the vehicle to be towed whether or not the owner or operator consents.

*Person* shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

*Private property towing* means non-consensual towing from a private property or from a storage facility by a motor vehicle of a consumer's motor vehicle that is parked illegally, parked during a time at which such parking is not permitted or otherwise parked without authorization or the authorization or immobilization of or preparation for moving or removing of such motor vehicle, for which a service charge is made, either directly or indirectly. This term shall not include the towing of a motor vehicle that has been abandoned on private property in violation of N.J.S.A. 39:4-56.6, provided that the abandoned vehicle is reported to the appropriate law enforcement agency prior to removal and the vehicle is removed in accordance with N.J.S.A. 39:4-56.6.

*Secure storage facility* shall mean a storage facility that is either completely indoors or is surrounded by a fence, wall or other man-made barrier that is at least six feet high and is lighted from dusk to dawn.

*Site clean-up* shall mean the removal of all debris from the scene to the satisfaction of the police officers at the scene and includes the use of absorbents to soak up any liquids from a motor vehicle at the site from which a motor vehicle will be towed.

*Storage facility* shall mean a space at which motor vehicles that have been towed are stored.

*Tarping* shall mean covering a motor vehicle to prevent weather damage.

**Tow truck** shall mean a motor vehicle equipped with a boom or booms, winches, slings, tilt beds or similar equipment designed for the towing or recovery of motor vehicles.

*Towing* shall mean the moving or removing from public or private property or from a storage facility by a motor vehicle of a consumer's motor vehicle that is damaged as a result of an accident or otherwise disabled, is recovered after being stolen, or is parked illegally or otherwise without authorization, or the immobilization of or preparation for moving or removing of such motor vehicle, for which a service charge is made, either directly or indirectly. Dues or other charges of clubs or associations which provide towing services to club or association members shall not be considered a service charge for purposes of this definition.

*Towing list* shall mean a list maintained by the Police Department containing the names of those wreckers licensed and contracted by the Township to respond to requests for towing of vehicles made by the Police Department.

*Township* shall mean the Township of Warren.

*Waiting time* shall mean any time a towing company spends at a site from which a motor vehicle will be towed, during which the towing company is prevented from performing any work by another individual, beyond the time included as part of a basic **tow**.

*Winching* shall mean the process of moving a motor vehicle by the use of chains, nylon slings or additional lengths of winch cable from a position that is not accessible for direct hook up for towing a motor vehicle. Winching includes recovering a motor vehicle that is not on the road and righting a motor vehicle that is on its side or upside down, but does not include pulling a motor vehicle onto a flatbed **tow** truck.

*Window wrap* shall mean any material used to cover motor vehicle windows that have been damaged.

*Wrecker or towing company* shall mean a person in the business of, or offering the services of a towing service whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle adapted to and designated for that purpose.

(Ord. No. 2016-33; Ord. No. 2017-07 § 1)

#### **4-13.3 License.**

Any person who wishes to engage in business as a wrecker in the Township to **tow** vehicles on public and private property at the request of the Police Department shall be licensed by the Township pursuant to this section. The license shall not be transferable. (Ord. No. 2016-33)

#### **4-13.4 Application.**

Any person who desires to provide services as a wrecker at the request of the Police Department in the Township shall submit an application for a license to the Chief of Police or his designee, accompanied by a fee of two hundred (\$200.00) dollars, made payable to the Township of Warren. The application shall set forth the following information:

- a. The full name, address and telephone number of the applicant. If the applicant is a corporation, the name of the corporation and the name of the officers, directors, principals and its registered agent. If the applicant is a partnership, the names and addresses of the partners.
- b. The year, make and type of each vehicle used in said wrecker business by the applicant, the vehicle's serial number, registration number, a clear photograph of each vehicle showing the registration plate, and the name and address of its registered owner.
- c. The address of the wrecker's base of operation, where the wrecker's vehicles will be regularly garaged, stored and located. The wrecker's "base of operation," for the purposes of this section, is defined as where the wrecker's vehicles shall be garaged, stored and located, and shall be not more than two (2) miles, by roadway legally traveled in consideration of weight restrictions on certain roads, from any Township border.

- d. The telephone number or numbers available on a 24-hour, seven day per week basis, and the names, addresses and New Jersey Motor Vehicle driver's license numbers of all the wrecker's operators.
- e. The location, size and security features of the storage lot where vehicles shall be towed, a clear photograph or photographs of the lots, which lot shall be screened from public view, and which lot shall conform with all municipal ordinances, land use laws and the applicable zoning code. The wrecker agrees to ensure that the storage facility is safe and secure, utilizing all reasonable means to prevent theft, vandalism, damage to vehicles and/or any criminal activity. Any storage lot located outside of the Township shall be not more than two (2) miles, by roadway legally traveled in consideration of weight restrictions on certain roads, from any Township border.
- f. The name and address of the insurance carrier and agents and the policy limits and policy numbers of all insurance policies held by the applicant in regard to the wrecker and storage services.
- g. A certified statement of the willingness of the wrecker to be available on a 24 hour, seven day per week basis, and to abide by the instructions and directions of the Chief of Police, his subordinates, and the provisions of this section.

(Ord. No. 2016-33; Ord. No. 2017-07 § 2)

#### **4-13.5 Investigation.**

The Chief of Police shall investigate each application submitted to determine:

- a. The truth and accuracy of all information contained in the application.
- b. Whether public convenience and/or necessity will be served by awarding the license to the applicant wrecker.
- c. The applicant's practical and technical ability to perform the wrecker service as described in this section.
- d. The applicant's and his operators' fitness to engage in the wrecker business licensed pursuant to this section.
- e. Whether the applicant has demonstrated, by the adequacy of its equipment and facilities, availability and response time (see requirements of subsection 4-13.10d.) and the security of its storage facilities that it shall be able to comply with the requirements of this section.
- f. Whether the applicant wrecker's equipment is safe and in good and sound condition, and that it complies with the rules, regulations and standards of this section, as well as any applicable provision of New Jersey law, including, without limitation, New Jersey Motor Vehicle law.
- g. That the applicant wrecker have a minimum of three vehicles which meet the minimum standards set forth below:
  - 1. At least one light duty wreckers with a minimum chassis rating of 11,000 pounds gross vehicle weight and equipped with a minimum four ton capacity lifting device;
  - 2. At least two flat bed type wreckers with a minimum chassis rating of 11,000 pounds gross vehicle weight;
  - 3. At least one of the above vehicles must have four-wheel drive;
  - 4. All required vehicles as set forth above must be operable.
  - 5. All vehicles must be equipped with two-way radios, cab mounted amber emergency warning lights (conforming to New Jersey Motor Vehicle law standards and all light permits being obtained), tow sling type bars with rubber straps and/or wheel lift capability with safety straps to prevent damage to towed vehicles, and with steering locks for towing vehicles from the rear.
- h. In addition to the requirements of subsection 4-13.6g. above, the applicant must own or have access to a heavy duty wrecker and equipped with a minimum 25 ton capacity lifting device.

The Chief of Police, upon completion of the foregoing investigation, shall forward a copy of the wrecker's application for licensure to the Township Committee, along with any recommendation for approval or disapproval of the license and the reasons, if any, for disapproval. The Township Committee shall then determine whether or not the applicant has complied with all the necessary standards and criteria, and thereupon award or deny the wrecker's license. If the license shall be awarded to the applicant, the applicant's name shall be added to the end of the rotation list for towing, pursuant to subsection 4-13.11 of this section.

(Ord. No. 2016-33; Ord. No. 2017-07 § 3)

#### **4-13.6 Issuance of License.**

The Chief of Police shall issue a license for a term of three years to the applicant wrecker, upon notice from the Township Committee that the applicant has been approved by the Township Committee, and has complied with all the requirements of this section. (Ord. No. 2016-33; Ord. No. 2017-07 § 4)

#### **4-13.7 Indemnification.**

By submitting an application, the wrecker assumes all liability and agrees to indemnify and save the Township, its subdivisions, departments, agents, and employees, harmless from damages or losses sustained by vehicles while being towed, stored or released from wrecker's possession and from all personal injuries and property damage occurring to any persons, or property, as a result of the wrecker's performance of the wrecker's services, including, but not limited to, towing, storage or other activities relating to the licensed wrecker's services. All responsibility for the release of a stored vehicle shall be on a wrecker only. (Ord. No. 2016-33)

#### **4-13.8 Insurance.**

Each operator must have the insurance coverage required by N.J.A.C. 13:45A-31.3. Each policy (except employer's liability) is to name the Township of Warren as an additional insured. Insurance coverage shall be as follows:

- a. Motor vehicle liability for the death of, or injury to, persons and damage to property for each accident or occurrence in the amount of one million (\$1,000,000) dollars, single limit.
- b. For every **tow** truck, an operator shall secure and maintain insurance that covers garage keeper legal liability in the amount of two hundred fifty thousand (\$250,000) dollars, and "on-hook" coverage, either as an endorsement on the insurance required by paragraph a. above, or in the amount of two hundred fifty thousand (\$250,000) dollars.
- c. *Garage Liability Policy.* A garage liability policy shall be maintained with a combined single limit of one million (\$1,000,000.00) dollars per occurrence with a one million (\$1,000,000) dollar aggregate for bodily injury, death or property damage.
- d. *Worker's Compensation Policy.* A worker's compensation policy covering all of applicant's employees and operators, containing statutory coverage including liability coverage of at least one million (\$1,000,000.00) dollars for each accident per person, one million (\$1,000,000.00) dollar policy aggregate limit per disease, and one million (\$1,000,000.00) dollars for each disease per person.

Each operator shall furnish to the Chief of Police a certificate of insurance from an insurance company satisfactory to the Township with the policy limits set forth above and naming the Township as an additional insured. Each certificate of insurance shall identify the coverage provided and shall provide that such insurance shall not be changed or canceled without giving thirty (30) days prior written notice to the Township by certified mail, return receipt requested.

(Ord. No. 2016-33; Ord. No. 2017-07 § 5)

#### **4-13.9 Standards of Operator Performance.**

All operators of licensed wreckers shall be obligated to comply with the following duties:

- a. Remove and **tow** to the designated storage facility all vehicles directed by the Chief of Police to be removed and towed because such vehicles are, in the Chief's of Police's sole discretion, designated as abandoned, illegally parked, disabled, involved in an accident, or to be impounded because of criminal or other investigation.
- b. Provide 24 hour, seven day a week service to the Township during the term of the license.
- c. Respond promptly to all requests for towing services by the Chief of Police. In any event, the wrecker shall respond and be present at the location (all locations in the Township) for towing services within 15 minutes of receipt of notice of the towing required between the hours of eight o'clock in the morning (hereinafter "daytime") and within 25 minutes of receipt of notice between the hours of 5:01 in the evening and 7:59 in the morning (hereinafter "nighttime"), unless otherwise directed by the Chief of Police. In the event a wrecker does not arrive at the **tow** location within the above time periods, the police officer on the scene shall have the right to have a substitute wrecker called to the location who will have the right to perform the **tow** services. The originally called wrecker shall have no right to payment from any party.
- d. Not charge any fee for replacement of equipment or materials provided at the scene of the **tow**.

- e. **Tow** any and all disabled Township owned or operated vehicle upon request of the Chief of Police to a location within the Township. The wrecker shall not charge the Township for the towing of passenger vehicles or pick-up trucks within two miles of the Township border.
- f. Clean up all broken glass and debris at the scene of accidents (all wreckers must be equipped with a broom and a shovel).
- g. Furnish additional towing equipment and towing services during storm periods, periods of snow emergencies, traffic emergencies, natural disasters, any acts of God, and for any other reason when so designated by the Chief of Police. Such standby service shall begin when the Chief of Police notifies the wrecker and shall end when the Chief of Police notifies the wrecker. The Township reserves the right, during any such emergency, to designate temporary areas owned or leased by the Township and/or wrecker for the storage of disabled vehicles, and to direct the wrecker to remove such disabled vehicles to said areas.
- h. Record and keep for three years the following documents:
  - 1. Invoices for both consensual towing and non-consensual towing services;
  - 2. Job orders;
  - 3. Documentation of waiting time;
  - 4. Logs, which include the time when a towed motor vehicle was delivered to the wrecker's storage facility from a private property or other non-consensual **tow** and the date and purpose of each trip to the motor vehicle in storage;
  - 5. Documents relating to private property and other non-consensual towing services performed and rates charged for services; and
  - 6. Any contracts under which the private property wrecker is authorized to perform private property towing services.

A wrecker that engages in private property or other non-consensual towing shall make records available to the New Jersey Division of Consumer Affairs for review upon request. Additionally, the Chief shall have access upon demand to any and all records required to be kept pursuant to this section.

- i. In all of the wrecker's dealings with the public, the wrecker shall act in a professional manner, courteous at all times, and respectful to members of the public, as well as representatives of the Township. Reports of discourteous behavior by the wrecker or his operators which may be substantiated and documented shall be considered by the Township as sufficient cause for revocation and termination of the wrecker's license. All new licensed wreckers shall be assigned to the rotation list at the bottom of such list. The rotation list shall be composed so as to permit a reasonable rotation of licensed wreckers.
- j. The wrecker shall be bound and abide by all of the requirements of the Predatory Towing Act of 2008, N.J.S.A. 56:13-7 et seq. as well as the regulations promulgated thereunder, N.J.A.C. 13:45A-13.1 et seq., as same may be amended from time to time.
- k. The storage facility to which the vehicle is towed shall have a business office open to the public between 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding holidays. To accommodate customers who cannot retrieve the vehicle within that time frame on those days, the towing company shall allow the vehicle to be released on Saturday between 8:00 a.m. and 12:00 p.m. or shall make other reasonable arrangements to allow the vehicle to be released. The **tow** companies shall not delay the release of any vehicle upon the owner's request, by any means, without the permission of the Chief of Police, excluding nonconsensual towing. In instances of nonconsensual towing, vehicles shall be released only with the consent of the Chief of Police or his designee.

(Ord. No. 2016-33; Ord. No. 2017-07 § 6)