

ORDINANCE 2014:20

AN ORDINANCE PROVIDING FOR AN ORDERLY SYSTEM OF TOWING SERVICES

-
-
-
-
-

10.40.060-1 Title

The purpose of this chapter is to establish, pursuant to N.J.S.A. 40:48-2.49, an orderly system to protect the public health, safety, morals and welfare by establishing procedures, requirements and fees for towing operators for towing, road services and storage of damaged vehicles in accidents and other abandoned, illegally parked, disabled or impounded vehicles within the Borough of Stratford at the request of the police department of the borough and providing fines and penalties for violation thereof.

10.40.060-2 Word usage and definitions.

- A. As used in this chapter and unless otherwise indicated by the context, the words or terms herein shall have the meanings indicated. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include words in the singular number and words in the singular number include the plural number.
- B. As used in this chapter, the following terms shall have the meaning indicated:

Borough means the Borough of Stratford, County of Camden, State of New Jersey.

Chief of Police means the Chief of Police of the Borough of Stratford.

Cruising means the operating of an unengaged wrecker along a public street at a slow rate of speed or in any fashion calculated, designed or having the effect of soliciting towing business on a public street.

Impound Area means the fenced-in area within four miles of the geographically boundary of the Borough of Stratford, specifically used by a tower, on the approved towing list of the Borough, for storage of towed vehicles. Not more than two impound areas may be contained with each ½ acres of any one storage facility.

Licensed tower means one or more towing operators engaged in the business of offering towing services approved by the mayor and council, with the recommendation of the police chief, to provide towing, road service and storage at the request or call of authorized personnel of the police department in cases of emergency or an accident involving motor vehicles or for abandoned or illegally parked vehicles.

Person means any person, firm, individual, partnership, association, corporation, company or organization of any kind.

Shall is always mandatory and not merely directory.

Wrecker means a vehicle designed and equipped for removing and transporting wrecked or disabled vehicles. This term shall also include a flatbed, tow truck or other vehicles used for or to perform towing services.

- **10.40.060-3 List of licensed towers.**

Towers shall be selected pursuant to completed applications, such applications to be received by December 1, of each year, and to be approved by mayor and council by December 31, of each year, pursuant to the following procedures:

Towing.

A.

A tower interested in being licensed by the borough shall submit a sworn application on the form provided by the police department, a certificate of insurance covering the operations to be performed under this chapter, proof that any towed or stored vehicle shall be kept in a secure compound or lot and all other similar documents or items that are required by this chapter to show compliance with the provisions of this chapter or that may be required by the police chief to assure the necessary capacity and ability to perform the services needed by such an operator.

B.

Approval as a licensed tower shall expire on December 31 of the following year. Renewal is permissible upon the complete submission of current documents as required and set forth by this chapter.

C.

The status as a licensed tower shall not be transferable. Upon the sale or transfer of a towing business, approval as an authorized tower of the borough shall be null and void.

D.

Removal from the list of licensed towers of the borough shall only be accomplished by a majority vote of the mayor and council for cause, including but not limited to the following reasons:

(1)

Fraudulent or inaccurate application information or the submission of all false or inaccurate supporting documents.

(2)

Violation of the provisions of this chapter or any municipal regulation or ordinances.

(3)

Unsatisfactory service, including poor service or unresponsive service.

(4)

Violation of the rules and regulations promulgated by the New Jersey Department of Insurance (N.J.A.C. 11:38-1 et seq.).

- E. Selection by the mayor and council as an approved or licensed tower under this chapter shall be made in accordance with the ability and capacity of the applicant to conform to or otherwise meet the provisions of this chapter, based upon, but not limited to, the applications and supporting documents submitted therewith.
- F. Selection by mayor and council as an approved or licensed tower under this chapter shall be upon the recommendation of the police chief, after completion of the background checks and after the submission and review of all documents in support of the application.
- G. The police chief shall be the municipal officer designated to enforce the provisions of this chapter in accordance with due process of law.
- H. Upon approval by the mayor and council, a tower shall be placed on a list to be utilized by the borough police department on a rotating basis, with a switch of towers every month, if there is more than one approved tower.

- **10.40.060-4 Minimum standards.**

An approved tower of the borough, in order to be selected as a licensed tower, shall comply with the following minimum standards:

- A. Payment of the annual approved towing fee of \$100.00 shall be made to the Borough of Stratford. Also, all other municipal obligations, including taxes and licensing fees, shall be current and paid in full.
- B. A completed and accurate application (form to be provided by the police department), stating under oath the following information, shall be provided to the borough:
 - (1) The name, social security number, telephone number, home address and proposed or actual business address of the applicant and whether he is the owner, or lessee.
 - (2) A description of all wreckers to be used, including year, make, model, type, serial number of the body and motor capacity and the length of time for which the wrecker has been used as a wrecker.
 - (3) Proof that the applicant has available space for properly accommodating and protecting all disabled motor vehicles to be towed or otherwise removed from the place where they are disabled and that the disabled vehicles will not be stored or allowed to remain on any property without the consent of the owner. The following information shall be provided in proof of this requirement:

- (a) Information regarding the capacity of the storage facility.
 - (b) Height and construction of security fence.
 - (c) Proof of ownership or lease of storage area, including name of owner, lot and block numbers and size of storage facility or impound area.
 - (d) Lighting provided for security in storage area.
 - (e) Location of storage area or location of any extra storage areas or facilities.
 - (f) Proof of legal use and zoning of storage.
 - (g) Hours of operation of storage facility, with hours of access and release of vehicles for the public.
- (4) The names, social security numbers, home addresses and telephone numbers of all personnel to be engaged by the applicant in the towing operation. At any time that the applicant hires new personnel during the course of the approved year, the applicant shall file an amended application providing this information within two weeks after such hire.
- (5) Copies of all legal documents, duly filed or recorded, evidencing the nature, trade name and/or legality of the applicant. This will include if the applicant is an individual, partnership, association, corporation, company or other type of entity and all persons owning an interest in the applicant and, if a corporation, the names and addresses of all officers and stockholders with the interest held by each. No Official, employee or member of the Stratford Police Department shall have any interest in any towing operator or storage facility utilized.
- (6) Proof of ownership or lease of all wreckers or tow trucks to be utilized in the towing operation pursuant to this chapter.
- (7) Such other information which the police chief shall deem necessary or proper to effectuate the purpose of this chapter and to determine whether there has been compliance with the terms thereof.
- C. A satisfactory background check, performed by the Stratford Police Department, shall be made. An applicant shall cooperate fully with the police department and shall provide whatever documents or information that may be requested pursuant to said background check. No tower shall be approved who has been convicted of a crime

or who employs as part of his towing operation someone who has been convicted of a crime unless specifically waived by the mayor and council for cause.

D.

All approved towing operations shall have communication between the tow vehicle and business on a 24-hour basis, seven days a week, providing availability to the borough police and central communications.

E.

All approved towing operations shall be able to respond to an emergency call from the Stratford Police Department promptly and shall therefore be located within such a proximity to the borough as to be so available for such emergencies.

• **10.40.060-5 Rules and regulations.**

An approved tower shall comply with the following rules and regulations:

A.

Cleanup of all accident debris at the scene of an accident emanating from said accident shall be done promptly including all liquids.

B.

Charges for services shall be made in accordance with the established fees and charges listed in said application. Such fees and charges shall be posted on the premises of the towing operations, which rates are to be clearly visible to the customers. A copy of said fees and charges are to be provided to the public upon request. In addition, a copy of the fee schedule shall be available to the public during normal business hours of the borough.

The Borough shall not be liable for charges and fees for towing and storage performed or provided by towing operators. The towing operator shall proceed and charge all fees for towing services and storage against the owner of the vehicle receiving such services. There will be no cost to the Borough for the towing of any Borough-owned vehicles requested by the Police Department.

For towing and storage services rendered to a private passenger automobile as a result of an accident or theft recovery, the fees for towing and storage services shall not exceed the maximum fees set forth by New Jersey law.

C.

All towers shall comply with the insurance provisions as set forth in this chapter.

D.

All wreckers shall be thoroughly safe and sanitary condition properly licensed and equipped in compliance with title 39 of the statutes of the State of New Jersey and shall, in addition, comply with the following minimum standards:

(1)

A wrecker shall be able to handle all makes of passenger cars and small trucks, such as pickup and panel trucks up to 1½ tons.

- (2) All wreckers shall be a minimum of three-fourths ton according to the manufacturer's specifications.
- (3) A wrecker shall have a power-takeoff-controlled winch with a minimum cable thickness of three-eighths inch or equivalent.
- (4) Each wrecker shall have a gross weight equal to the vehicles to be towed, with a minimum of 5,500 pounds.
- (5) Each wrecker shall have a three-eighths-inch safety chain. The lift chain and the safety chain are not to be attached in any form or manner to the same part of the wrecker.
- (6) Each wrecker shall have front and rear flashing hazard lights.
- (7) Each wrecker shall have a 360-degree rotating amber beacon light mounted over the cab or approved light bar.
- (8) All lights shall be of such candlepower in intensity as to be visible one-fourth mile away.
- (9) All companies will have the company name, address and phone number permanently affixed (in letters and numbers a minimum of three inches high) on both sides of each wrecker.
- (10) Each wrecker shall be equipped with a portable car dolly and sufficient equipment to clean up debris on the roadway.

E.

All drivers shall carry business cards, which shall be given to the owner/driver of every vehicle towed.

F.

Every driver of a wrecker shall give the owner/driver of the vehicle a written receipt for the fee paid.

G.

No person shall pay any gratuity, tip or emolument to any third person not involved in the accident or to any police officer for any information as to the location of any accident or for soliciting the employment of the operator's services nor give any gratuities, fees or other compensation or gifts to any members of the police department.

H.

The owner or operator shall maintain a ledger of all tows or wrecking jobs handled, the name of the owner or operator of the towed vehicle, if known, the charges made

for the service and the date and amount of payment, for review by the police chief at his request.

I.

The towing operator is responsible at all times for the security of the storage facility and shall provide safe storage for any towed vehicle.

J.

The towing operator is responsible to be open to the public on weekdays during normal business and limited hours (at least three hours) on Saturday.

K.

No release fees can be charged for releasing vehicles after normal business hours. No fees can be charged in excess of the established fees as set by the borough.

L.

The towing operator is responsible for the removal of all vehicles needing to be towed from the public rights-of-way within the borough, including those vehicles that may exceed the capacity of the wrecker, even if a special outside towing operator needs to be involved.

- **10.40.060-6 Insurance.**

A.

No towing operation shall be approved hereunder unless there shall provided to the police chief the following insurance policies or certificates of insurance:

(1)

Auto garagekeeper's policy. An auto garagekeeper's legal liability policy covering fire, theft and explosion in the minimum amount of \$100,000.00 and collision coverage subject to a deductible of \$500.00 with each accident deemed a separate claim.

(2)

Garage liability policy. A garage liability policy covering the operation of the applicant's equipment or vehicles for any bodily injury or property damage. This policy shall be in the minimum amount of the \$100,000.00/\$300,000.00 collision coverage for vehicles in tow shall be provided.

(3)

Automobile liability policy. An automobile liability policy covering general liability in the minimum amount of \$100,000.00/\$300,000.00 collision coverage for vehicles in tow shall be provided.

(4)

Worker's compensation policy. A workers' compensation policy as required by the state statutes.

B.

Each policy required must contain an endorsement providing 30 days' notice to the borough in the event of any material changes or cancellation of any cause.

C.

In the event that the policy is changed so as to fail to conform the above requirements or if any policy or any approved towing operation is canceled for any reason, the police chief shall notify the person responsible for the policy within ten days after the notice is received and before the date of cancellation. If the policy or certificate is not corrected, reinstated or replaced within the required time, the police chief shall immediately suspend the approved status of the tower.

D.

The borough must be named as an additional insured under the liability portion of the insurance coverage.

E.

Indemnification and liability. The approved tower shall indemnify and hold harmless the borough for liability from any and all obligations, liabilities, judgments, claims and demands for personal injuries, including wrongful death, as well as all claims for damages to property which may arise out of this agreement and the work performed hereunder, provided that the same results from the negligent actions or omissions of the approved tower.

- **10.40.060-7 Applicability.**

Nothing in this chapter shall prevent the owner, agent or lessee of a vehicle which is disabled from calling a wrecker or tower of his choice to remove his vehicle, if able to be done without causing a public safety hazard.

The Chief of Police from time to time shall make and promulgate reasonable rules and regulations for the proper administration and enforcement of this chapter and its purposes. Such rules, however, shall not be inconsistent with the terms of this chapter.

- **10.40.060-8 Removal of vehicles.**

The police department shall have the power to require an approved tower to remove vehicles 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 violating any emergency no parking provision.

F.

Any other condition where permitted or required by law.

- **10.40.060-9 Violations and penalties.**

Any person who violates any provision of this chapter may be removed from the approved towing list and, in addition, upon conviction, shall be liable for fines and penalties as set forth in Section 1.08 of the Code of the Borough of Stratford. Each day that a violation occurs shall be deemed a separate and distinct violation, subject to the penalty provision of this chapter.

10.40.60-10 Preemption by public bid.

Notwithstanding anything in this chapter to the contrary, this chapter shall be rendered inoperative during the term of a contract for towing services by the Borough Council of the Borough of Stratford, pursuant to the process as set forth in the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

THE BOROUGH STRATFORD

BY: _____

John Gentless, Mayor

I, John D. Keenan, Jr., Clerk of the Borough of Stratford hereby certify the foregoing to be a true and correct copy of an Ordinance adopted by the Mayor and Council at their meeting of _____, 2014, held in the Justice Facility, 315 Union Avenue, Stratford, NJ.

John D. Keenan, Jr., R.M.C.

Introduced: _____

Public Hearing: _____

Adopted: _____