

**BOROUGH OF WESTWOOD
NOTICE**

NOTICE IS HEREBY GIVEN that the following Ordinance was introduced and passed on first reading on regular meeting of the Mayor and Council on the 6th day of February, 2018, and that said Ordinance will be taken up for further consideration for final passage at a regular meeting of the Mayor and Council to be held on the 20th day of February, 2018 at 8:00 p.m. or as soon thereafter as said matter can be reached, at which time and place all persons who may be interested therein will be given an opportunity to be heard concerning same.

Karen Hughes, Borough Clerk
Borough of Westwood

**Ordinance #18-3
An Ordinance to Revise Chapter 358 Towing**

BE IT ORDAINED by the Mayor and Council of the Borough of Westwood that Chapter 358 Towing, be amended as follows (deleted sections are noted by ~~strike throughs~~, new sections are **underlined and bold**):

Section 1. § 358-1 License required; application deadlines; number of licenses.

- A. No towing operator shall operate for police-requested towing services and/or storage services within the Borough of Westwood unless the towing operator has obtained a license issued **annually** by the Borough.
- B. ~~The requirement for a license shall commence as of 60 days following the adoption of this chapter and shall be required to be renewed each year thereafter on or before January 1 of that year. All applications for renewal, as well as any new applications, must be submitted to the office of the Borough Clerk by November 1 of the current year.~~ **The Borough Clerk shall advertise the availability of towing license applications in the fourth quarter of the current year. Said advertisement shall set the submission deadline for applications which must be strictly adhered to by all applicants.**
- C. The number of licenses to be issued shall be established by resolution of the Mayor and Council.

§ 358-2 Exception for owner-requested service.

No license shall be required for the on-site repair and/or towing or storage of any vehicle when the request is received by the towing operator from the owner prior to a police request or if the owner or operator of a vehicle requests the police contact a tow company of their choice.

§ 358-3 Term of license.

Licenses shall be issued for one calendar year, commencing January 1, or as an interim license for any unexpired term of a license, expiring the next succeeding January 1 at 12:00 midnight.

§ 358-4 Requirements for application for license; fee.

- A. Form; required information. An application for a license shall be in writing, signed by the applicant, and shall contain all information necessary to evidence the applicant's identity and legal address, compliance with the requirements of this chapter and the ability to perform the towing services and storage services contemplated by this chapter.
- B. Application fee. There shall be charged a fee of \$200 to cover the administrative expenses incurred by the Borough in processing the applications.
- C. Rotating lists. The Borough shall accept and place on its rotating list of towing operators the number

of operators specified by resolution as necessary from those which submit completed application forms and which comply with all the requirements of this chapter. Selection shall be by first-come-first-served basis.

- D. The licensee must be of good business character and reputation.
- E. A licensee must have at least three years' experience as a sole proprietor, partner or as an employee in the towing of vehicles in order to be considered for the issuance of a license.
- F. The licensee shall submit proof of ownership by record title or lease of the required equipment. A copy of the registration for each vehicle and copies of the current and valid insurance policies and cards shall be submitted to the Borough Clerk.
- G. The licensee shall maintain a certified New Jersey driver's abstract on all employees towing for the Borough. These certified New Jersey drivers' abstracts will be maintained by the licensee and renewed each year with renewal requests. The certified New Jersey drivers' abstracts will be available for inspection during normal business hours. No licensee shall allow an employee whose driving privilege is suspended to tow for the Borough of Westwood.

§ 358-5 Review of application for license.

- A. The applications received by the Borough Clerk shall be reviewed by the Borough Clerk and **submitted to** the Police Chief within ~~40~~ **15** business days of their submission.
- B. **Within 15 days of receipt**, the Chief of Police shall recommend to the Mayor and Council the issuance of a license after consideration of the application.

§ 358-6 Rotating list; operating guidelines.

- A. Each of the approved licensees shall be placed on a list on a rotating basis by the Chief of Police. A calendar shall be prepared designating each day on the calendar as the day that a licensed tow truck operator is responsible. A licensed towing company may, in an emergency, substitute another company with the advance approval of the Chief of Police, or his designee, for the date scheduled for the towing company if the substitute company is on the licensed towing list.
- B. The licensed tow company must be available to tow motor vehicles on a twenty-four-hour, seven-days-per-week basis, inclusive of holidays. If the company on duty is not available on a particular day, then the next listed company will be called. Nonavailability on the date scheduled will be considered a violation of the license.
- C. A designated towing company will be responsible for cleaning any vehicular debris or material left at the accident scene, with the exception of hazardous materials.
- D. A response time of 20 minutes will be expected from each towing company called by the Police Department. If the towing company on duty fails to respond within the time period, the next listed towing company will be called. Failure to respond within the stated time frame without good cause will be considered a violation of the license.
- E. Each owner/operator must maintain a recordkeeping system as required by the Borough of Westwood Police Department and the laws of the State of New Jersey.

§ 358-7 Suspension of license; removal from rotating list.

- A. General. The Chief of Police shall have the right to ~~recommend to the Mayor and Council that the Borough~~ suspend any license issued under this chapter upon the determination that there have been two violations of the licensed towing company guidelines and regulations in one calendar year.
- B. The Chief of Police shall be the sole administrator of the list, and any violations or complaints concerning any designated tow truck company shall be addressed by the Chief of Police. Before any

license shall be suspended in accordance with this section, the licensee shall have the right to a hearing before the Mayor and Council after receiving written specification of the basis for the recommendation of the Chief of Police.

- (1) Licensed towing companies shall be advised, in writing, as to any violation of policy committed.
 - (2) Service of notice of violation will be via personal service or certified mail.
- C. Any license suspended shall be removed from the list. The designated tow company which has been suspended may reapply to be on a rotating list on the first of January of the year after suspension has been lifted.

§ 358-8 Equipment requirements.

- A. A designated tow truck company, when filing an application for and at all times while holding a license under this chapter, shall own or lease and have available for use in the performing of the services required by the license the following equipment:
- (1) Tow truck.
 - (2) Flatbed tow truck.
 - (3) Heavy-duty tow equipment (tractor-trailer/bus accidents).
- B. Tow truck lettering. All tow trucks shall be properly lettered in accordance with local, state and federal law.
- C. Maintenance. All equipment used by the company in performing its obligations under the license shall be maintained in good and safe condition and may be inspected for condition by the Westwood Police Department at any time, wherever located. Any deficiency in such condition reported by the police to the licensee shall be promptly corrected, and any failure to correct may be cited as a violation by the licensee pursuant to this chapter.

§ 358-9 Storage facilities.

- A. Each licensee shall have an area with space for a minimum of 10 vehicles.
- B. The required storage area shall be within 10 miles of the intersection of Broadway and Westwood Avenue, Westwood, New Jersey. The hours for recovery of the vehicles shall be from 8:00 a.m. to 4:30 p.m., Monday through Saturday, inclusive. The required storage area shall be operated in conformity with local zoning regulations, fenced with locked gates.

§ 358-10 Removal of unauthorized vehicles from private property.

The following provisions shall apply to any towing operator, whether or not licensed by the Borough of Westwood, when engaged by the owner or other person in control or possession of private property to remove an unauthorized vehicle therefrom pursuant to the provisions of N.J.S.A. 39:4-56.6 or this chapter:

- A. No vehicle shall be removed to a storage facility located at a distance greater than three miles from the Borough of Westwood.
- B. No towing operator so engaged shall charge any rates greater than those authorized by § 358-18 of this chapter, nor shall any charge be made for any service not specifically set forth in § 358-18 of this chapter.
- C. Whenever a vehicle is towed from private property, the Westwood Police Department shall be immediately notified as to the reason of the towing; the year, make and license number of the

vehicle; the name and address of the owner, if known; the name and address of the tower; and the address or location to which the vehicle was towed.

§ 358-11 Storage fee limits.

All fees to be paid to an operator by a municipality for the storage of removed motor vehicles shall not exceed the following:

- A. A limit of \$3 per day for the first 30 days of storage per vehicle; and
- B. A limit of \$2 per day for the 31st day of storage and any day thereafter; and
- C. A limit of \$400 per vehicle stored, regardless of the duration of the storage, except that a waiver may be granted for good cause upon the request of a municipality by the Division of Local Government Services in the Department of Community Affairs.

§ 358-12 Liability for service charges.

The Borough shall not be liable to an owner or permitted licensee with respect to service rendered to any owner pursuant to the license. The licensee shall look only to the owner of such vehicle for payment of service charges or any other compensation.

§ 358-13 Requirements for drivers and personnel.

- A. Each tow truck driver of a licensee must have an appropriate valid New Jersey driver's license and valid New Jersey commercial driver's license and meet all the required standards as outlined under current state and federal law.
- B. All tow truck drivers and other personnel of a licensee shall be fully trained and knowledgeable in tow truck storage and operations and equipment.

§ 358-14 Insurance.

- A. The licensee shall have in effect, prior to the application, and at all times during the term of the license, the following insurance:
 - (1) Automobile: bodily injury, liability, property damage, combined single limit: \$1,000,000.
 - (2) Premises liability: bodily injury, liability, property damage, combined single limit: \$1,000,000.
 - (3) Workers' compensation: in accordance with New Jersey Law.
- B. The licensee shall supply a certificate of insurance to the Borough Clerk describing every policy of insurance identifying the Borough of Westwood as the additional insured. Each such certificate of insurance shall contain a provision that no cancellation of the policy shall become effective until after the expiration of 15 days' written notice of the such proposed cancellation is forwarded by the insurance company to the Borough Clerk.

§ 358-15 Indemnification.

The application of a towing operator for a license pursuant to this chapter shall include an agreement by the towing operator that, upon issuance of a license, the licensee shall indemnify the Borough against all claims of third parties relating to towing services, storage services or any other roadside services provided by the licensee, including reasonable attorney fees incurred.

§ 358-16 Supplementary rules and regulations.

The Chief of Police may issue rules and regulations from time to time on the operation of the towing services and storage facilities to implement but not exceed the purpose of this chapter. Copies of same shall be provided to all licensees and applicants for licenses under this chapter.

§ 358-17 Transfer and assignment of licenses.

The license required by this chapter shall not be transferred or assigned without prior written consent of the Chief of Police and the Mayor and Council.

§ 358-18 Rates.

A. No towing operator or firm licensed under this chapter may charge rates in excess of the following for towing, conveying, road service or storage of a motor vehicle when dispatched by the Westwood Police Department.

(1) Service charges shall be as follows:

(a) Jump starts:

[1] Between 8:00 a.m. and 6:00 p.m., weekdays: ~~\$20~~ **\$45**.

[2] Between 6:00 p.m. and 8:00 a.m. the following day: ~~\$30~~ **\$55**.

(b) Road service at any other time: ~~\$50, plus \$1.75 per mile~~ **\$65, plus \$3.00 per mile**.

(c) The service charge assessed for the release of a towed vehicle during other than the business hours of 8:00 a.m. to 6:00 p.m.: \$0 (no charge).

(2) Towing charges shall be as follows:

(a) Automobiles, between 8:00 a.m. and 6:00 p.m., weekdays: ~~\$40, plus \$1.75 per mile~~ **\$85, plus \$3.00 per mile**.

(b) Automobiles, between 6:00 p.m. and 8:00 a.m., weekends and holidays: ~~\$50, plus \$1.75 per mile~~ **\$95, plus \$3.00 per mile**.

(c) Vehicles over 10,000 pounds: not to exceed ~~\$200~~ **\$250** per hour, which includes operator and vehicle.

(3) Dolly service charges shall be as follows:

(a) Any automobile, at any time: ~~\$25~~ **\$35**.

(b) Flatbed truck, between 8:00 a.m. and 6:00 p.m.: ~~\$60, plus \$1.75 per mile~~ **\$85, plus \$3.00 per mile**.

(c) Flatbed truck, between 6:00 p.m. and 8:00 a.m.: ~~\$70, plus \$1.75 per mile~~ **\$95, plus \$3.00 per mile**.

(4) **Medium Duty Tow Truck**

(a) Medium Duty Tow Truck, between 8:00 am and 6:00 pm: \$135, plus \$3.00 per mile.

(b) Medium Duty Tow Truck, between 6:00 pm and 8:00 am: \$150, plus \$3.00 per mile.

(5) Winching service charges shall be ~~\$30~~ **\$50** per hour.

(6) The service charge for storage **of passenger vehicles/suv's shall be charged on a daily rate after 24 hours** shall be as follows:

(a) Inside building storage facility with a capacity of 21 or more spaces: ~~\$30~~ **\$45** per day.

(b) Outside secured storage facility with a capacity of 21 or more spaces: ~~\$20~~ **\$35** per day.

(c) Outside storage for commercial vehicles or trucks over one ton (**F450 class and above**) - ~~buses, tractor-trailers~~: ~~\$50~~ **\$65** per day.

(d) Outside storage for commercial vehicles over 25,999 GVW, buses, tractor-trailers, etc: \$85 per day.

B. Notwithstanding the foregoing provisions, no towing operator licensed by the Borough of Westwood shall charge or receive fees for towing, services or storage at rates higher than that customarily permitted by the Department of the Attorney General, Consumer Affairs.

§ 358-19 Violations and penalties.

Any person, firm or corporation found guilty in the Municipal Court of the Borough of Westwood of a violation of the terms of this chapter shall be subject to a fine not exceeding \$2,000 or imprisonment for a period not exceeding 30 days.

§ 358-20 Inspection and Enforcement

Any company that applies to be a municipal towing provider for the Borough of Westwood shall maintain a file that is in order by date of service. The file shall be stored and available for immediate inspection, at the business office of the towing operator, by the Borough of Westwood Police Chief or his designee. This file shall hold all towing requests and bills for service provided by the towing operator and include the following information:

1. **Date of Service**
2. **Name of Person whose vehicle was towed with a contact phone number**
3. **An itemized listing of all fees charged**
4. **Disposition of payment and who was the payee**
5. **Original signature of the payee once bill is satisfied. In lieu of an original signature, a copy of an insurance check can be included in the file for payment received from an insurance company.**

This file shall be up to date and available for inspection during the hours of 8:00 am and 4:30 pm Monday through Saturday. Failure to have this file up to date or placement of false or misleading information on this file shall subject the towing operator to immediate suspension from the rotation list pending a hearing in front of the Westwood Governing Body.

Section 2. If any section, subsection, paragraph, sentence or any other part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

Section 3. All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 4. If any section, subsection, part, clause or phrase of this Ordinance shall be declared invalid by judgment of any court of competent jurisdiction, such section, subsection, part, clause or phrase shall be deemed to be severable from the remainder of this Ordinance.

Section 5. This Ordinance shall take effect immediately upon final passage and publication as required by law.

Adopted: _____

Approved:

Attest:

John Birkner, Jr., Mayor

Karen Hughes, Borough Clerk