

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. -- OF 2020**

A LOCAL LAW AMENDING CHAPTER 55 OF THE TOWN CODE ENTITLED “TOW TRUCKS”

BE IT ENACTED by the Town Board of the Town of North Hempstead, as follows:

Section 1. Legislative Intent.

The Board finds that it is in the best interest of the Town of North Hempstead to make amendments to Chapter 55 entitled “Tow Trucks” in order to provide that the fees that may be charged by licensed tow truck operators for towing, storage and labor charges are to be found in the Town of North Hempstead Fee Schedule. The amendments also provide greater protection to the public against fraud and prevent potential abuses in the towing for hire industry by extending the Town’s rate setting authority to include tows from private property.

Section 2.

§ 55-2 of the Town Code is hereby amended as follows:

§ 55-2. Words and terms defined.

Unless otherwise expressly provided, for the purpose of this chapter the following words shall have the meanings herein indicated:

ACCIDENT

Any incident or occurrence in which one or more vehicles come into contact with each other or other objects, thereby causing personal injury or property damage.

AUTHORIZED AGENT

An individual, excluding the tow truck owner or operator, authorized by the property owner to act on the property owner’s behalf to authorize a tow. [Added 7-19-2005 by L.L. No. 4-2005]

DRIVER

Any person driving a tow truck for hire within the enforcement jurisdiction of the Town of North Hempstead.

FOR HIRE

Any incident where a fee, charge or other consideration is directly or indirectly imposed for towing, carrying or removing any vehicle and shall be inclusive of repairs made on a towed vehicle for a consideration although no charge is expressly imposed for the towing of such vehicle.

OPERATE

The control and direction of the use of a vehicle for towing from places within the enforcement jurisdiction of the Town of North Hempstead.

OPERATOR

A person or entity that controls and directs the use of a vehicle for towing from places within the enforcement jurisdiction of the Town of North Hempstead.

OWNER

A person owning, leasing or controlling one or more tow trucks and driving, operating or causing any such vehicle to be operated for hire within the enforcement jurisdiction of the Town of North Hempstead.

PERSON

An individual, partnership, unincorporated association, corporation or other entity.

RESTRICTED LICENSE

That license issued to the owners of towing trucks and authorizing the holder thereof to engage in all tow truck operations, except that he/she may not respond to the scene of an accident or remove a disabled vehicle from the scene of an accident; nor may he/she solicit any person involved in an accident at the scene of such accident for the towing of such vehicle, whether directly or indirectly, on his/her behalf or on behalf of any other person, firm or corporation; nor may he/she at the scene of an accident where towing is required make an estimate of the cost of repairs or offer to make such an estimate or offer to make such repairs, although no charge is imposed for towing. No such solicitation shall be made at the scene of the accident nor from private property in the vicinity of the scene of the accident.

SCENE OF ACCIDENT

Any area of a street or private property where a vehicular accident has occurred or to which a vehicle is removed to prevent obstruction of traffic and will remain so until the vehicle or vehicles are removed either under its/their own power or by a properly licensed tow truck.

SOLICIT

To entreat, to approach with a request or plea, to strongly urge, to accost or to try to obtain by asking.

TERMINAL

Any place of business maintaining twenty-four-hour service and located within the Town of North Hempstead or within an incorporated village located within the area of the Town of North Hempstead where the licensee, as the sole business activity conducted on the premises, or in conjunction with a business activity on the premises owned or operated by the licensee, maintains a licensed tow truck to respond to calls regarding motor vehicles.

TOWING

The moving or removing of a disabled or abandoned motor vehicle by another vehicle for hire.

TOWING TRUCK or TOW TRUCK

A vehicle which either is towing or is equipped with a crane, winch or similar device designed to raise, remove, push, pull or carry a motor vehicle or the front or rear end thereof. For the purpose of this definition, the following shall not be considered "towing trucks":

- A. Vehicles of a governmental agency.
- B. Vehicles used exclusively for towing motor vehicles which are owned, leased or operated by the owner or lessee of the towing vehicle or by a person, firm or corporation which is affiliated with the owner or lessee of the towing vehicle, and such vehicles have legibly inscribed on each side, in letters no less than three inches high, the legend "not for public hire."

TOWN

The unincorporated area of the Town of North Hempstead, including both public highways and private property, and excluding the incorporated villages located therein unless provisions of § 55-53B are applicable.

UNRESTRICTED LICENSE

That license which is issued to the owners of towing trucks authorizing the holder thereof to engage in all tow truck operations, including responding to the scene of an accident as hereinafter provided. The Town Clerk shall have authority to limit the number of unrestricted towing truck licenses to be issued hereunder to any one licensee in accordance with such reasonable standards as he/she may establish.

Section 3.

§ 55-7 of the Town Code is hereby amended as follows:

§ 55-7. Additional requirements.

Every individual applicant for an owner's license shall, at the time of submitting his/her application:

- A. Submit two (2) individual photographs of the applicant taken within thirty (30) days prior to the date of the application, such photographs to be one and one-half by one and one-half (1 ½ x 1 ½) inches in size, and such pictures must be in a true likeness of the applicant and must show neck, shoulders and uncovered head.
- B. Be fingerprinted under the direction and supervision of the Town Clerk.
- C. **Submit copies of any written agreements which authorize the applicant to tow unauthorized parked cars from private property pursuant to Section 55-40 of this chapter.**

Section 4.

§ 55-37 of the Town Code is hereby amended as follows:

§ 55-37. Towing, storage and labor charges; exceptions.

- A. Towing charges. [Amended 5-14-2002 by L.L. No. 7-2002; 2-16-2010 by L.L. No. 1-2010]
 - (1) The charges for towing shall be based solely upon the distance that the motor vehicle is to be towed and shall not be estimated or based upon the availability of tow trucks. Towing charges shall be at the rates [of not more than \$125] found in the Town of North Hempstead Fee Schedule for the first mile or part thereof and for each additional mile or part thereof.
- B. Storage charges. **An operator may impose** o[~~o~~]outside storage charges [~~shall be~~] at the rate **found in the Town of North Hempstead Fee Schedule.** [~~of not more than \$15 per day for the next seven days and not more than \$30 for each day thereafter.~~] Inside storage charges may be determined by written agreement between the parties. All vehicles must be stored on the premises of the licensee, whether indoors or outdoors, and shall not be permitted on any public highway. [Amended 5-14-2002 by L.L. No. 7-2002; 2-16-2010 by L.L. No. 1-2010]
- C. Labor charges. [~~An additional charge shall not exceed \$50 per half hour or part thereof when the use of special skills is required to right an overturned vehicle or to remove it from an off the road location.~~] **An Operator may impose labor charges at the rate(s) found in the Town of North Hempstead Fee Schedule.** [Amended 2-16-2010 by L.L. No. 1-2010]

- D. Fuel surcharge. A fuel surcharge may be imposed by tow truck owners or operators only upon authority of the Town Board, acting upon the recommendation of the Town Clerk.-[Added 7-19-2005 by L.L. No. 4-2005]
- E. Exceptions. The maximum towing and storage charges set forth in **the Town of North Hempstead Fee Schedule** [~~this section~~] shall not apply to: [Amended 7-19-2005 by L.L. No. 4-2005]
- (1) Motor trucks exceeding one and one-half tons' capacity.
 - (2) Towing of motor vehicles pursuant to a contract executed prior to the need for towing, provided that such motor vehicles are either owned or leased by the contracting party.

Section 5.

Section 55-40 of Article IX of Chapter 55 of the Town Code is hereby amended as follows:

§ 55-40 Towing from private property
[Amended 7-19-2005 by L.L. No. 4-2005]

No motor vehicle which is parked on private property without authorization of the property owner shall be towed therefrom unless the following conditions are met:

A. The property owner or his/her authorized agent shall file with the police precinct having jurisdiction a copy of a written agreement authorizing one or more tow truck owners to tow unauthorized parked cars. The agreement shall set forth:

- (1) Explicit authorization to tow or remove unauthorized vehicles;
- (2) The rate to be charged vehicle owners and operators;
- (3) The business location, within the Town of North Hempstead, where vehicles will be towed or removed and stored, and where they may be redeemed; and
- (4) Copies of all licenses, certificates, and permits issued by the Town.

B. The property owner shall post in a conspicuous place or places, and at all entrances, signs stating that unauthorized parked cars will be towed away at the vehicle owner's expense and stating where the vehicle can be recovered. No owner or operator of parking facilities on private property shall tow or cause to be towed from such private property any motor vehicle unless such owner or operator shall have conspicuously posted and maintained upon such private property a sign or signs setting forth the name and telephone number of the tow owner. Any signs required to be installed pursuant to this section must comply with the Building Zone Ordinance of the Town of North Hempstead.

C. No vehicle shall be removed by a tow truck owner or operator from private property without first obtaining contemporaneous direction to tow by the owner of the private property or

his or her authorized agent. The following shall be recorded in a log book by the tow owner or operator at the time of the tow: the identity of the person who authorized the tow, the time the authorization was received, the place of the tow, and the make, model and license plate number of the vehicle to be towed. Log books shall be retained by the tow owner for at least one year and shall be made immediately available to the Town Clerk upon request.

D. Solicitation of towing work by the owner, operator or other occupant of a tow truck while on private property is prohibited. Prior to each individual tow, contemporaneous authorization must precede the tow truck operator's entry onto private property for towing purposes.

E. Any tow truck owner or operator who tows a vehicle shall remove the vehicle directly to its facility and shall, within one hour of the vehicle's removal, notify the local police precinct having jurisdiction over the area from which the vehicle was removed. Thereafter, within 1 1/2 hours of the vehicle's removal, the tow truck owner or operator shall notify the same local police precinct of the following, in writing by hand delivery or via facsimile: the location of the vehicle's storage site, the time the vehicle was removed, the location from which the vehicle was removed, the name of the person who authorized the removal, a description of the vehicle, proof of the tow truck operator's valid North Hempstead tow truck license, and the fact that the removal was pursuant to a contract with the owner of the private property. The tow truck owner or operator shall obtain the name of the person at such police precinct to whom such information was reported and note such name on a trip record, together with the time and date that the vehicle was removed, as well as the location from where the vehicle was removed.

F. If the registered owner or other person lawfully in possession of the keys to the vehicle arrives at the scene of the tow prior to the removal of the vehicle, and the vehicle is connected to any apparatus for removal, then upon request and upon payment of a service fee ~~described herein~~ **found in the Town of North Hempstead Fee Schedule**, the vehicle shall be disconnected from such apparatus, and such registered owner or other person lawfully in possession of the keys to the vehicle shall be allowed to remove the vehicle from the premises without interference. ~~[The service fee shall not be more than half of the charge allowed for removal pursuant to the written agreement on file with the police precinct.]~~ **Upon payment of the service fee** for which a receipt shall be given by the tow truck owner or operator. Each tow truck operator shall carry a legible copy of this section of the law, with this paragraph highlighted, and shall show it to a vehicle owner or other person lawfully in possession of the keys to the vehicle who arrives at the scene of the tow prior to the removal of a vehicle.

G. A vehicle may not be removed if it is occupied by a person or if the removal may cause physical harm to a person.

H. Notwithstanding any other provision of this chapter, where a licensed Operator removes a vehicle because it is parked on private property in a manner inconsistent with posted instructions and restrictions, and the removal is pursuant to a contract between the owner of the private property and the Operator, the Operator may collect no more than the maximum charges as may be established by resolution of the Town Board and found in the Town of North Hempstead Fee Schedule from the vehicle owner or other person in control of such vehicle, payable before the vehicle is released, except that no charge may be collected for removal of a vehicle pursuant to this section by a person who is not licensed to engage in towing pursuant to this chapter.

Section 6.

This local law shall take effect immediately upon filing with the Secretary of State.