

ORDINANCE NO. MC-1065

AN ORDINANCE AMENDING CHAPTER 24 OF THE HOMEWOOD MUNICIPAL CODE REVISING POLICE TOWING LICENSE PROCEDURES

WHEREAS, on September 14, 2010, the Village Board passed ordinance MC-836 establishing a system governing how the Police Department selects towing companies to move vehicles on public streets; and

WHEREAS, the Police Department has recommended revisions to the Police Tow License System; and

WHEREAS, the Village Board has determined that the revisions are in the best interests of the Police Department, the Village, and its residents.

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Homewood, Cook County, Illinois, as follows:

SECTION ONE - AMENDMENT TO THE HOMEWOOD MUNICIPAL CODE:

Chapter 24, Article III "Police Towing License System" of the Homewood Municipal Code is amended as shown in Exhibit A to this ordinance. (additional language underlined, deleted language ~~stricken~~):

SECTION TWO - EFFECTIVE DATE:

This ordinance shall be in full force and effect from and after its passage, approval, and publication in accordance with law.

PASSED and APPROVED this 13th day of September, 2022.

Village President

ATTEST:

Village Clerk

Ayes: _____

Nays: _____

Abstain: _____

Absent: _____

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ARTICLE III. POLICE TOWING LICENSE SYSTEM

DIVISION 1. GENERALLY

Sec. 24-60. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned vehicle means any vehicle as described in 625 ILCS 5/4-201, for which the police department initiates abandoned vehicle procedures and does not include those vehicles defined herein as an "unclaimed vehicle."

Heavy duty means involving vehicles and vehicle combinations, 26,001 pounds GVWR/GCWR or heavier.

Light duty means involving vehicles up to, and including, 10,000 pounds GVWR.

Medium duty means involving vehicles from 10,001 pounds up to, and including, 26,000 pounds GVWR.

Normal business hours. Licensee towing businesses shall have normal business hours of at least Monday through Friday 8:00 a.m. to 5:00 p.m., except for official state-recognized holidays.

Police tow means a tow requested by the village police department for:

- (1) Vehicles that are disabled where the person in charge of the vehicle has no preference for any particular tow service or is unable to make such decision.
- (2) Village-owned vehicles.
- (3) Vehicles impounded by the village police department for evidentiary, investigative or seizure purposes, or arrests.
- (4) Abandoned vehicles that are towed pursuant to village police department procedures.
- (5) Illegally parked vehicles that pose a traffic hazard.

Specifically excluded from this definition is the moving by tow truck, of vehicles within, or from one village lot to another for purposes related to auctioning or seizure.

Police towing license means a license issued by the village authorizing a person or firm to engage in the business of vehicle towing at the request of the police department.

Police towing licensee means a person or firm engaged in the business of, or offering the services of, vehicle towing whereby motor vehicles are or may be towed or otherwise relocated from one place to another, or serviced on scene, by use of a tow truck, and by request of the police department and approved by the police department.

Police towing licensee list means a list maintained by the police department containing the names of those licensees approved by the police chief to respond to requests by the police department for the towing of vehicles.

Standby means when a licensee is called out and the tow driver is asked by police or fire personnel to wait at the scene before the tow driver can start the requested service.

Tow driver means an agent that works for a licensee, driving or operating a tow truck, or working at the scene of a license call.

Tow truck has the meaning as defined in the state vehicle code, 625 ILCS 5/1-205.1.

Unclaimed vehicles means vehicles that have been towed by a licensee to their storage lot and have not been picked up or disposed of by their owner.

Uprighting means bringing a vehicle that is either overturned or on its side to the upright position to tow.

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Winching means bringing a vehicle that is completely off of the road surface onto the road surface.

(Code 1997, § 34-100; Ord. No. MC-836, § 1, 9-14-2010)

Sec. 24-61. Violation and penalty.

Any person who violates any provision of this article shall be fined not less than \$100.00 and not more than \$750.00 for each offense.

Secs. 24-62—24-80. Reserved.

DIVISION 2. LICENSE PROCEDURE

Sec. 24-81. Application for police towing license; duty to supplement; nonrefundable fee.

- (a) Any person or business desiring to perform police towing work at the request of the police department shall submit an application to the police chief. Application forms may be obtained from the police department.
- (b) The application shall be accompanied by a nonrefundable application fee in the amount provided in the village fee schedule for each driver listed on the application to cover the cost of background investigations. No application may be processed or approved without payment of the application fee.
- (c) The tow license application period will be from October 1 through October 15 of each year, with the licenses issued for a period from January 1 to December 31. Each licensee applying must have a completed and correct application returned to the police department by 3:00 p.m. on October 15, or the next business day where October 15 falls on a weekend or holiday, along with the fees specified in this article.
- (d) Applications will be accepted from current licensees wishing to retain their license for the next period.
- (e) In the event a license becomes available at any time during the license period applications will be accepted from all other interested parties.

Sec. 24-82. Certain persons ineligible for license.

No person shall be approved as a licensee or a tow driver, nor shall any licensee knowingly permit such a person to be a tow driver pursuant to a license call who has been convicted of any felony within the last five years, or is a sex offender as defined by 730 ILCS 150/2, or has ever been convicted of any felony involving theft or possession of a stolen motor vehicle or essential part thereof.

Sec. 24-83. Hiring additional drivers.

If a police towing licensee hires a tow driver during pendency of a license application or after the licensee's application is approved, the licensee shall notify the police department in writing and submit an application fee in the amount provided in the village fee schedule to cover the costs of a background check. No person shall work as a tow driver pursuant to this article without payment of the application fee and approval by the police department.

Sec. 24-84. Investigation and approval or disapproval.

By December 1 of each year, after receiving a complete application for a police towing license, the police department will conduct an investigation to determine the truth and accuracy of the information contained in the application. The police department will also inspect the licensee's towing equipment and business location. Upon completion of the investigation, the applicant will be notified in writing that the application is either approved or

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disapproved and if disapproved the notification will state the reasons for such disapproval. Reasons for disapproval include, but are not limited to, the following:

- (1) The applicant has furnished false or misleading information or has failed to provide relevant information on the application.
- (2) The applicant has not obtained insurance as required by this division.
- (3) The location where the applicant will conduct business fails to meet applicable zoning or fire codes or the requirements of this division.
- (4) The applicant or any of the owners or partners have been permanently removed from the police towing licensee list for cause pursuant to this division.
- (5) The applicant does not meet all requirements of this division or the towing license agreement.

Sec. 24-85. License nontransferable.

Any license granted pursuant to this division shall be personal to the individual or entity to whom issued and may not be transferred to any other person or entity. Such license shall not be sold, leased, transferred, assigned, or otherwise disposed of, either in whole or in part, whether by forced sale, merger, consolidation, bankruptcy, reorganization under bankruptcy laws, or otherwise, without reapplication pursuant to this division.

Sec. 24-86. Appeal of disapproval of application.

Any applicant deemed ineligible by the police chief will have the right to appeal the police chief's decision to the village manager, or designee. Appeals must be made by filing a written notice of appeal with the village manager within ten days of notice of the police chief's decision. The village manager will hear the appeal within 14 days after the appeal is filed, unless otherwise agreed. The village manager will notify the applicant of the decision within seven days after the decision is made. The village manager may affirm or overrule the police chief's decision. The village manager's decision will be final.

Sec. 24-87. Number of active licenses restricted; preference in issuance.

- (a) The village will limit the number of active police tow licenses to three for light/~~medium duty~~, ~~two for medium duty~~ and two for heavy duty, for a total of ~~seven~~ five active licenses.
- (b) Preference in issuing the licenses will be given to those companies that were issued a license the prior year, as long as they still meet the criteria for the issuance of a license; provided, however, that an application must be submitted each year by all applicants, including those currently licensed.

Sec. 24-88. Insurance required.

- (a) Each licensee under this division will obtain and maintain general liability, automobile liability, garage keeper's legal liability and workers' compensation insurance throughout the period of the agreement as determined by the village and written in the towing license agreement. The village will be named as an additional insured by the licensee on each insurance policy.
- (b) The licensee will provide certificates of insurance to the village which indicate coverage for the above mentioned insurance, which carries the provision that the insurance will not be canceled without giving the village at least 30 days' notice of cancellation or material change.

Sec. 24-89. Inspections.

The police department shall conduct an inspection of all licensees at least annually. Inspection shall include the vehicles used by the licensee for license tows and service calls. It will also include the physical location of the business and any place where license vehicles are stored, all records associated with license calls, a check of

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employees for criminal and traffic records, and any other documentation necessary to verify licensees' compliance with this division.

Secs. 24-90—24-106. Reserved.

DIVISION 3. LICENSEE LIST

Sec. 24-107. Compilation of eligibility list; drawing for selection of certain eligible applicants.

- (a) After the deadline for submitting applications, an initial eligibility list will be created. The first names on the initial eligibility list will be those firms that held a license the previous year, as long as they have submitted a renewal application.
- (b) The remainder of the initial eligibility list will be filled with the remaining applicants, if applicable, through a drawing. The date, time, and location of the drawing will be announced at the time the application period begins. All interested parties will be allowed to attend the drawing.
- (c) The final eligibility list will be used at the beginning of and throughout the term of the tow license year, in numeric order, for the issuance of licenses based on the investigation and approval pursuant to this division, and consistent with the maximum number of licenses that may be issued.

Sec. 24-108. Procedure for assigning tow events from list of licensees.

- (a) The police department will maintain ~~three~~ two police towing licensee lists, one for light/medium duty, ~~one for medium duty~~, and one for heavy duty. When tow services are required, the police department will ensure that licensees are called in rotation from the list of licensees as far as is reasonable and practicable under the circumstances.
- (b) Except upon request of the owner, operator or person legitimately in possession of the vehicle to be serviced, the police department will not call any tow truck not on the police towing licensee list unless all such licensees are unavailable.
- (c) The police department may deviate from the order of normal rotation if, in the police department's judgment, deviation is necessary to protect the public health, safety, or welfare or to ensure proper traffic, incident, or accident management. The police department may also deviate from the order of normal rotation if the licensee next on rotation is, in the police department's sole discretion and judgment, incapable or improperly equipped for handling a specific task.
- (d) If a licensee is unable to respond to a request for service within the timeframes required in the towing license agreement, the licensee or his employee shall advise the police department that they are not available due to an extended response time. The licensee will then be placed at the bottom of the list for his class. The police dispatcher will then call the next licensee on the list for the towing class required. No licensee is permitted to substitute another tow company, licensed or unlicensed, to render service due to licensee's unavailability.
- (e) When a request for service is canceled after a licensee has been dispatched by the police department, the cancelled licensee will be put back at the top of the list for his class.

Sec. 24-109. Village may terminate or modify license procedure unilaterally at any time.

The village reserves the right to terminate or modify its license procedure unilaterally at any time without any notice and without recourse.

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Sec. 24-110. Removal from police towing licensee list.

- (a) *Grounds for removal.* The police chief or his designee may remove any licensee temporarily or permanently if it is determined that:
- (1) The license was secured by fraud or concealment of a material fact, which if known would have caused disapproval of the application.
 - (2) The licensee has violated any of the provisions of this article, or the police department towing license agreement.
 - (3) The service provided by the licensee has been substantially inadequate, which shall include, but not be limited to, failing to be available for or not accepting calls, slow response time, excessive damage claims, theft, repeated complaints from citizens, inadequate services or towing equipment.
 - (4) During the term of the license, any licensee or a tow driver for a licensee's towing business is convicted of any felony in any state, is determined to be a sex offender as defined by 730 ILCS 150/2, or is convicted of any felony involving theft or possession of a stolen motor vehicle or essential part thereof.
- (b) *Temporary removal limited to 30 days.* If the removal of the licensee from the police towing licensee list is temporary, such temporary removal shall not be for more than 30 days at any one time.
- (c) *Pending suspension and removal.* If the police chief or his designee determines the alleged offense does not constitute an immediate threat to the health, safety or welfare of the public, the police chief shall provide the licensee with written notice at least 15 days prior to the effective date of the temporary or permanent removal by delivering the notice to the licensee's place of business. The written notice shall include:
- (1) The effective date of the removal.
 - (2) Whether the removal is temporary or permanent.
 - (3) The allegations which form the basis of the removal.
 - (4) The actions, if any, the licensee may take to prevent the removal from occurring.
 - (5) The procedure that the licensee must follow to request a hearing to appeal the removal.
- (d) *Immediate suspension and removal.* If the police chief, or his designee, determines that a licensee presents an immediate threat to the health, safety or welfare of the public, or if the licensee has not provided proof of valid insurance in the amounts required by ordinance, the police chief shall provide the licensee with written notice that the licensee is being removed from the police towing licensee list immediately. The written notice shall be delivered to the licensee's place of business on the first day the removal is effective, and shall state:
- (1) That the removal is effective immediately.
 - (2) Whether the removal is temporary or permanent.
 - (3) The allegations which form the basis of the removal.
 - (4) The actions, if any, the licensee may take to be reinstated.
 - (5) The procedure that the licensee must follow to request a hearing to appeal the removal.
- (e) *Request for hearing; scheduling.* A licensee seeking to contest the police chief's decision pursuant to this section must submit a written request to the village manager within ten days of receiving notice of the police chief's decision. The village manager or his designee shall schedule the hearing within seven days after receiving the written request. If the village is unable to provide a hearing within the seven-day period, the police chief's decision shall be stayed until the hearing.
- (f) *Hearing procedure.* The village manager or his designee shall act as the hearing officer. The hearing shall be informal and provide both sides with the opportunity to present all evidence relevant to the police chief's decision.

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- (g) *Final decision following hearing.* The hearing officer shall issue a written decision within seven days of the hearing whether the police chief's decision is supported by a preponderance of the evidence. The decision shall be sent to the address listed on the licensee's application with a copy retained in the licensee's application file at the police department. If the decision favors the licensee, the license towing privileges may be reinstated as soon as possible.
- (h) *Additional appeal.* If the licensee disagrees with the hearing officer's decision, he may appeal the decision in any manner provided by law.

Secs. 24-111—24-133. Reserved.

DIVISION 4. OPERATION AND PREMISES REQUIREMENTS

Sec. 24-134. Facilities and contractual requirements.

- (a) *Towing agreement required.* All applicants issued a license, and their agents, will enter into a towing license agreement with the village, with separate signatures for each licensee and agent. The written agreement will be in a form approved by the village attorney.
- (b) *Village to be held harmless.* Each licensee will defend, indemnify and hold harmless the village, the village council, and village officers and employees, from any suits, claims, or actions brought, or disease or illness or damages sustained or arising out of the operation of towing services and storage of vehicles and arising out of the performance of any requirement of this article by the licensee or in consequence thereof.
- (c) *Notice of changes from original application required.* Licensees must immediately, and in writing, inform the police department regarding any changes of the information on their original application for license. Failure to comply with this requirement may constitute grounds for removal from the police towing licensee list.
- (d) *Two-way communication equipment required.* All tow trucks shall have working two-way communication equipment with their base station located at the point where calls are received.
- (e) *Attendant and 24-hour availability required.* Each licensee shall provide 24-hour per day service each day of the year. There shall be an attendant or answering service on duty for the purpose of receiving calls.
- (f) *Storage facility to be maintained.* All licensees shall comply with the storage facility requirements of this division.
- (g) *Storage of vehicles towed for investigative purposes.* Vehicles towed for investigative purposes shall be stored at no cost to the village at the request of the police chief or his designee.

Sec. 24-135. Truck equipment and service requirements.

- (a) *Services to be provided by light/medium duty licensees.* Licensees of light/medium duty trucks shall provide towing, changing of flat tires and jump starts for police vehicles at no cost to the village, provided the vehicle is within five miles of the village boundaries.
- (b) *Dollies required; transport of motorcycles required.* All tow trucks (except flatbed car carriers) shall carry at least one set of wheel dollies at all times. All licensees shall be able to safely transport motorcycles.
- (c) *Warning lights and other equipment required.* All tow trucks shall be equipped with warning lights and all other equipment required by federal, state or village laws.
- (d) *Light/medium duty licensees to have two trucks available.* Licensees on the light/medium duty tow list must maintain at least two operational tow trucks at all times.

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- (e) *Removal of debris and other cleanup at accident site.* Every licensee or tow driver shall remove or cause to be removed all glass and debris deposited on any street or highway by the vehicle being serviced. The licensee or tow driver shall also spread oil-dry upon that portion of any street or highway where any fluids have been deposited by the vehicle being serviced, unless the fire department has taken charge of the cleanup, at which point the licensee will follow the instructions of fire department personnel regarding cleanup.

Sec. 24-136. Driver requirements.

- (a) *Safety apparel to be worn at scene of call.* While at the scene of any call for a license tow, every license tow driver will wear safety apparel compliant with national highway traffic safety administration standards for high visibility safety apparel, as appropriate to the task being performed and the conditions present.
- (b) *Identification apparel or equivalent to be displayed at scene of call.* While at the scene of any call for a license tow, every license tow driver will wear outer apparel that clearly identifies the company for which they work and the tow driver's first name. The name of the tow driver shall be on the front of their apparel. This identification must be able to be read by a person with normal vision at a distance of at least ten feet. This identification can be incorporated into the requirement for high visibility safety apparel.
- (c) *Responding personnel to be free of alcohol and drugs.* No licensee or tow driver shall respond to a license call for service while having any alcohol, controlled substances, or both in their system. They shall also not have prescribed or over the counter medication in their system that renders them incapable of safely driving or operating the tow truck.
- (d) *Drivers to be on duty for only one tow company.* Tow drivers are not allowed to be on duty for more than one tow company at any one time.

Sec. 24-137. Storage facility required; location and operation requirements.

- (a) Each licensee shall maintain a secure storage lot of adequate size to store all towed vehicles safely, but in no event shall the capacity be smaller than 20 vehicles. The lot shall be completely enclosed by a fence not less than six feet in height and shall have a lockable and securable gate. All storage facilities must meet applicable zoning and fire code requirements.
- (b) The licensee shall maintain an office at the storage lot that is staffed and open to the public during normal business hours.
- (c) The storage lot for light/medium duty tows shall be located within ten miles of the village limits, and the storage lot for ~~medium duty tows and~~ heavy duty tows shall be located within 15 miles of the village limits.
- (d) When instructed by the police department that a vehicle in storage must be secured for evidentiary purposes, the operator shall store the vehicle so that it is not accessible to any person except upon specific approval of the police department. This storage will be at the licensee's storage facility and can be within the fenced lot or within a building at the storage lot, at the discretion of the licensee.
- (e) No vehicle shall be released from storage without a signed release from the police department.

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Sec. 24-138. Maximum towing fees.

- (a) The maximum towing fees for all tows performed pursuant to the police towing license and the police towing rotation list are as provided in the table below. A copy of all current allowable fees shall be available on each tow truck and at the licensee's business location.
- (b) Maximum fees shall be adjusted annually on or about January 1 based on the federal Department of Labor's Consumer Price Index (CPI).
- (c) Each fee shall be calculated and adjusted separately. The calculation will be cumulative each year but adjustments to the fees contained herein will only be made in increments of \$5.00 and rounded down to the nearest \$5.00, except for mileage and accident cleanup fees which will be rounded down to the nearest \$1.00. Yearly adjusted rates will be contained within the police department towing license agreement. No licensee shall impose any fee not specifically provided for above for any tow performed pursuant to a police towing license.

Maximum Rates for Towing and Related Services

Base Towing Rates (conventional or flatbed tow truck)		
	Light duty vehicle tow—each	\$140.00
	Medium duty vehicle tow—each	\$165.00
	Heavy duty vehicle tow—each	\$280.00
Accident Scene Services		
	Winching/uprighting vehicle (in addition to towing fee)—each	\$55.00
	Accident cleanup surcharge—each accident	\$22.00
	Cleanup of spilled cargo—(Details must be documented on invoice)	
	First 15 minutes	\$0.00
	Each ¼ hour after first 15 minutes	\$20.00
Mileage		
	Within village limits or to licensee's storage facility	\$0.00
	Outside village limits if tow is not to designated storage facility	
	Light duty vehicles—per loaded mile	\$3.00
	Medium duty vehicles—per loaded mile	\$4.00
	Heavy duty vehicles—per loaded mile	\$5.00
Standby—(Details must be documented on invoice, with name of person ordering standby)		
	First 15 minutes—all truck classes	\$0.00
	Light duty vehicles—per ¼ hour per truck after first 15 minutes	\$20.00
	Medium duty vehicles—per ¼ hour per truck after first 15 minutes	\$45.00
	Heavy duty vehicles—per ¼ hour per truck after first 15 minutes	\$55.00
Other Services—(No towing required)		
	Lockout, vehicle starting, tire changing, vehicle out of gas—each	\$55.00
	After hours release of vehicle—each	\$45.00
Storage (per vehicle, no charge for first day)		
	Light duty—per day or part thereof	\$25.00
	Medium duty—per day or part thereof	\$35.00
	Heavy duty—per day or part thereof	\$50.00