

**TOWN BOARD SPECIAL MEETING
TOWN HALL, MAHOPAC, N.Y.**

A Special Meeting of the Town Board of the Town of Carmel was called to order by Supervisor Kenneth Schmitt on the 28th day of February 2018 at 7:12 p.m. at Town Hall, 60 McAlpin Avenue, Mahopac, New York. Members of the Town Board present by roll call were: Councilman Barile, Councilman Schneider, Councilman Lupinacci and Supervisor Schmitt. Councilwoman McDonough was absent.

The Pledge of Allegiance to the Flag was observed prior to the start of official business. A moment of silence was held to honor those serving in the United States Armed Forces.

Supervisor Schmitt announced that the Town Board met at 6:00 p.m. for a litigation update from Special Counsel Joseph Charbonneau; for a personnel discussion lead by Councilman Barile with Town Comptroller Mary Ann Maxwell; and for discussion lead by Councilman Lupinacci with Town Engineer Richard Franzetti and Engineering Consultant John Folchetti in connection with a contractual matter pertaining to the operation and maintenance of the water and sewer districts.

PUBLIC HEARING HELD - PROPOSED LOCAL LAW ENACTING CHAPTER 140 OF THE CODE OF THE TOWN OF CARMEL, ENTITLED "TOWING AND STORAGE"

With no one present in objection, reading of the following Notice of Public Hearing as published in the Town's official newspapers was waived. Copies of the Notice were made available to the public.

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Carmel will conduct a Public Hearing at the Town Hall, 60 McAlpin Avenue, Mahopac, New York 10541 on Wednesday, February 28, 2018 at 7:00 p.m. or as soon thereafter that evening as possible on a proposed Local Law enacting Chapter 140 of the Code of the Town of Carmel, entitled "Towing and Storage" as follows:

**TOWN OF CARMEL
PROPOSED LOCAL LAW
_____ OF THE YEAR 2018
A LOCAL LAW ENACTING
CHAPTER 140 OF THE CODE
OF THE TOWN OF CARMEL,
ENTITLED "TOWING AND
STORAGE"**

BE IT ENACTED by the Town Board of the Town of Carmel, County of Putnam, State of New York as follows:

SECTION 1: PURPOSE

The purpose of this local law is to establish procedures for the licensing of individuals and entities providing towing and storage services to the Town of Carmel Police Department and to also establish uniform policy and procedures and fees for the towing and storage services to be provided to the Town of Carmel Police Department.

SECTION 2: AUTHORITY

This chapter is adopted pursuant to the authority, of Article 2, § 10 of the New York State Municipal Home Rule Law.

SECTION 3: ENACTMENT OF CHAPTER 140

§ 140-1. PURPOSE AND SCOPE; APPLICABILITY

A. THE PURPOSES OF THIS CHAPTER ARE TO

(1) Establish a requirement and procedure for the licensing of individuals and entities providing towing and storage services to the Town of Carmel Police Department.

(2) Establish, in the interest of public safety, a uniform policy for the towing and storage of motor vehicles towed and stored at the request of the Town of Carmel Police Department.

(3) Establish uniform fees for towing and storage services.

B. THIS CHAPTER SHALL APPLY TO ALL MOTOR VEHICLE TOWING AND STORAGE OPERATIONS PERFORMED AT THE REQUEST OF THE TOWN OF CARMEL POLICE DEPARTMENT.

§ 140-2. DEFINITIONS

As used in this chapter, the following terms shall have the meanings indicated.

AUTOMOBILE
A private passenger motor vehicle or any vehicle included in the definition of "automobile" under NYS VTL.

BASIC TOWING SERVICE
The removal and transportation of an automobile from a highway, street or other public or private road or a parking area or from a storage facility and other services normally incident thereto, but does not include recovery of an automobile from a position beyond the right-of-way or berm or from being impaled upon any other object within the right-of-way or berm.

MOTOR VEHICLE
Includes all vehicles propelled other than by muscular power, except such vehicles as run only upon rails or tracks or motorized bicycles.

TOWN OF CARMEL
The Town of Carmel.

TOW OPERATOR
A person engaged in the business of towing and storing motor

vehicles or offering the services of a tow vehicle or tow truck and storage services.

TOW VEHICLE OR TOW TRUCK
Those vehicles equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under-reach equipment specifically designed by their manufacturer for the removal or transport of motor vehicles, including flatbed vehicles, employed for the purpose of towing, transporting, conveying and/or removing motor vehicles which are unable to be operated under their own power from one place to another for which a charge or fee is extracted.

§ 140-3. LICENSE REQUIRED

A. NO PERSON SHALL ENGAGE IN THE BUSINESS OF TOWING OR STORING MOTOR VEHICLES AT THE DIRECTION OF THE TOWN OF CARMEL OF POLICE DEPARTMENT WITHOUT FIRST OBTAINING A TOW OPERATOR'S LICENSE THEREFOR. NOTHING HEREIN SHALL REQUIRE LICENSING FOR THE RENDERING OF ROAD SERVICE OR FOR THE PROVISION OF TOWING AND STORAGE SERVICES WITHIN THE TOWN OF CARMEL OTHER THAN AT THE REQUEST OF THE TOWN OF CARMEL POLICE DEPARTMENT.

B. THE TOWN OF CARMEL POLICE DEPARTMENT IS RESPONSIBLE FOR THE APPROVAL AND ISSUANCE OF TOWING AND SERVICE LICENSES. THE NUMBER OF LICENSES ISSUED BY THE TOWN OF CARMEL POLICE DEPARTMENT SHALL BE DETERMINED BY THE SOLE DISCRETION OF THE CHIEF OF POLICE.

C. ALL COMPLETE APPLICATIONS SHALL BE FORWARDED TO THE CHIEF OF POLICE. THE CHIEF OF POLICE, OR HIS/HER DESIGNEE, SHALL HAVE SOLE DISCRETION IN DECIDING WHICH RECIPIENT TOWING COMPANIES WILL BE AWARDED THE LICENSES. THIS APPLICATION PROCESS SHALL BE REPEATED ON A YEARLY BASIS.

§ 140-4. APPLICATION FOR LICENSE; APPLICATION FEE

A. APPLICANTS FOR A LICENSE UNDER THIS

CHAPTER SHALL FILE WITH THE TOWN OF CARMEL CLERK A SWORN APPLICATION ON A FORM TO BE FURNISHED BY THE CLERK WHICH SHALL INCLUDE THE FOLLOWING INFORMATION AND CERTIFICATION.

(1) The full name and address of the applicant. If the application is made for a corporation, it shall state the names and addresses of the officers and directors thereof, its registered agent and the names and residential addresses of every stockholder owning more than 10% of the issued stock.

(2) The year, make and type of each tow vehicle used in said business, its vehicle identification number, registration number and registered owner.

(3) The address where the tow vehicle or vehicles shall be regularly garaged, the telephone number or numbers and the hours during which service is available at those numbers and the names, addresses and New York driver license numbers of all operators.

(4) The location, size and security features of the storage lot or space in which towed vehicles will be stored, including the number of spaces available. The storage lot shall be designated either as:

a) "Inside building" a vehicle storage facility that is completely indoors, having one or more openings in the walls for storage and removal of vehicles that are secured by a locking device on each opening; or

b) "Outside secured" a vehicle storage facility that is not indoors and is secured by a fence, walls or other man-made barrier that is at least six feet high. The facility is to be lighted at night so that all vehicles may be plainly visible.

(5) The name and address of the insurance carriers and the policy numbers of all insurance policies as required by § 140 of this chapter.

(6) A certification that on-call towing and storage services will be available 24 hours per day, every day of the year.

(7) A certification that the fees and procedures required by this chapter shall be complied with at all times.

(8) A statement that the Chief of Police or his/her designee may at any reasonable time conduct an inspection of the towed vehicles or storage facility of any applicant or licensee for the purpose of determining compliance with this chapter. The Town of Carmel Police Department may have a Commercial Vehicle Safety Bureau Inspector from the New York State Department of Transportation.

28 FEBRUARY 2018
TOWN BOARD SPECIAL MEETING

(Cont.)

LEGALS

FROM PAGE 34

portation inspect any tow truck at any time throughout the licensing period.

(9) Such other information as the Town of Carmel Clerk or Chief of Police may reasonably prescribe.

B. ALL COST FOR A TOW OPERATOR'S LICENSE SHALL BE PAYABLE TO THE TOWN OF CARMEL CLERK UPON APPROVAL OF THE APPLICANT'S LICENSE. SAID FEE SHALL BE ESTABLISHED ANNUALLY BY RESOLUTION OF THE CARMEL TOWN BOARD.

§140-5. APPLICATION REVIEW

A. THE TOWN OF CARMEL CLERK SHALL FORWARD ALL COMPLETE APPLICATIONS TO THE CHIEF OF POLICE, WHO SHALL CONDUCT OR CAUSE TO BE CONDUCTED SUCH INVESTIGATION AS HE DEEMS NECESSARY TO DETERMINE THE TRUTH AND ACCURACY OF THE INFORMATION CONTAINED IN THE APPLICATION AND WHETHER THE APPLICANT MEETS THE FOLLOWING MINIMUM STANDARDS.

(1) Neither the applicant nor any tow vehicle operator has any criminal convictions or prior motor vehicle infractions which might adversely affect public safety or welfare.

(2) The applicant has the ability to respond to the scene in response to any request for assistance within 25 minutes after notification.

(3) The applicant can provide on-call towing services 24 hours per day, every day of the year.

(4) The tow trucks and equipment are in safe and sound condition and in compliance with all applicable laws, rules and regulations. All applicants must meet minimum standards of operator performance, including but not limited to standards concerning the adequacy of the applicant's equipment and storage facilities and availability.

(5) The applicant owns or has a valid lease to a storage facility within three miles of the Town of Carmel, in an area legally zoned for such use, and such storage facility shall have a minimum of 20 spaces for passenger automobiles and will be either an inside building or outside secured facility as defined in § 140-2 A (4) above for storage of all vehicles towed or impounded.

(6) The applicant is in compliance with and/or has the ability to comply with all other

requirements and standards set forth herein.

(7) Storage facility must meet local zoning requirements.

B. IN ADDITION TO THE MINIMUM STANDARDS OF PERFORMANCE REFERRED TO IN THE PRECEDING SUBSECTION, ALL APPLICANTS ARE SUBJECT TO DISQUALIFICATION IF FOUND DEFICIENT IN ANY ONE OF THE FOLLOWING AREAS.

(1) The applicant provided false or inaccurate information on the application form.

(2) The applicant lacks experience and/or does not have good references from prior customers of the applicant's towing and storage services.

C. THE CHIEF OF POLICE SHALL ENDORSE HIS/HER APPROVAL OR DISAPPROVAL OF THE APPLICATION WITHIN 30 DAYS OF RECEIPT BY HIM. IF THE APPLICATION IS DISAPPROVED, THE REASONS THEREFOR SHALL BE SET FORTH IN WRITING. THE TOWN OF CARMEL CLERK SHALL NOTIFY THE APPLICANT IN WRITING THAT THE APPLICATION HAS BEEN GRANTED OR DENIED. IF THE APPLICATION IS DENIED, THE REASONS FOR SUCH DENIAL SHALL BE SET FORTH IN THE NOTICE, ALONG WITH THE APPLICANT'S RIGHT TO APPEAL THE DENIAL TO THE TOWN OF CARMEL TOWN BOARD PURSUANT TO § 140-6.

§140-6. ISSUANCE OF LICENSE; RENEWAL; DISPLAY; TRANSFERABILITY

A. A TOW OPERATOR'S LICENSE SHALL BE ISSUED BY THE TOWN OF CARMEL CLERK TO AN APPROVED APPLICANT UPON PROVISION OF INSURANCE CERTIFICATION PURSUANT TO § 140-7 AND APPROVAL BY THE CHIEF OF POLICE. THE TOWN OF CARMEL CLERK SHALL SEND A COPY OF THE LICENSE TO THE POLICE DEPARTMENT FOR FILING AND SHALL KEEP A PERMANENT RECORD OF ALL LICENSES ISSUED.

B. ALL LICENSES ISSUED UNDER THIS CHAPTER SHALL EXPIRE AT THE END OF THE CALENDAR YEAR IN WHICH ISSUED. APPLICATIONS FOR RENEWAL, CERTIFYING ANY CHANGES TO THE ORIGINAL APPLICATION

OR CERTIFYING NO CHANGE, SHALL BE FILED WITH THE CLERK AT LEAST 30 DAYS BEFORE EXPIRATION ON FORMS PROVIDED BY THE CLERK. RENEWAL APPLICATIONS WILL BE FORWARDED TO THE CHIEF OF POLICE FOR REVIEW AND ANY NECESSARY INVESTIGATION IN ACCORDANCE WITH THE PROCEDURES AND STANDARDS SET FORTH IN § 140-3. IF APPROVED, A RENEWAL LICENSE SHALL BE ISSUED UPON PAYMENT OF THE LICENSE FEE AND PROVISION OF REQUIRED INSURANCE CERTIFICATIONS.

C. ALL LICENSES ISSUED UNDER THIS CHAPTER, OR CERTIFIED COPIES THEREOF, SHALL BE DISPLAYED PROMINENTLY ON ALL TOW VEHICLES AND AT THE TOW OPERATOR'S PRINCIPAL PLACE OF BUSINESS.

D. ALL LICENSES ISSUED UNDER THIS CHAPTER ARE NONTRANSFERABLE.

§140-7. REVOCATION AND SUSPENSION

A. LICENSES ISSUED UNDER THIS CHAPTER MAY BE REVOKED BY THE CHIEF OF POLICE AFTER REASONABLE NOTICE AND HEARING FOR ANY OF THE FOLLOWING REASONS.

(1) False or materially inaccurate information in the application or a change of circumstances which would have caused disapproval of the application if existing at the time of approval.

(2) Failure to comply with any of the requirements of this chapter, any additional regulations promulgated by the Chief of Police or any state, federal or local law relating to motor vehicle operation or storage.

(3) Unsatisfactory service which jeopardizes public safety. More than three unexcused failures to respond and/or valid complaints (as determined by the Chief of Police after investigation) within a twelve-month period shall be considered grounds for suspension and/or revocation.

(4) For certain violations, the Department may elect to impose penalties. Below is a listing of violations and associated penalties.

Violation Description	First Violation	Second Violation	Third Violation
Late response to call	A	B	C
Refusing to accept a credit card	A	C	D
Refusing service	A	C	D
Failure to clean up debris	A	B	C
Rudeness to customers	A	B	C
Cruising	A	B	C
Towing out of rotation	A	B	C
Failure to respond to requests for information	A	B	C
Use of improper/incomplete rate sheet	B	C	D
Failure to maintain insurance	B	C	D
Failure to respond to call	B	C	D
Lack of 24 hour availability	B	C	D
Refusing to release a vehicle	B	C	D
Refusing to release property in a vehicle	B	C	D
Refusing to tow vehicle where customer directs	B	C	D
Unsafe practices	B	C	D
Overcharge	B	C	D
Refusing to follow police directives	B	C	D
Inspection fraud	C	D	-
Assault	D	-	-

A = Letter of Reprimand

B = One Week Suspension from List

C = Four Week Suspension from List

D = Removal and One Year Ban From List

(5) The Chief of Police shall promulgate such rules, regulations and procedures, not inconsistent with this code, as may be reasonable and necessary to carry out the provisions of this code. Such changes to this code may be made at any time by the Police Department at their discretion and will require the tow operator to sign a written acknowledgement notification of the change. The Police Department will accept requests for rule changes from the tow operators and the public. All requests must be made in writing. The Chief of Police or designee will respond, in writing to each request. Failure to comply with applicable rules, regulations and procedures may be cause for suspension and or removal from the tow roster.

B. NOTICE OF SUSPENSION AND/OR REVOCATION SHALL BE IN WRITING AND SHALL INCLUDE THE REASONS THEREFOR AND NOTICE OF THE LICENSEE'S RIGHT TO APPEAL TO THE TOWN OF CARMEL TOWN BOARD PURSUANT TO § 140-6.

§140-8. APPEALS

A. ANY PERSON AGGRIEVED BY THE ACTION OF THE CHIEF OF POLICE OR THE TOWN OF CARMEL CLERK IN THE DENIAL OF AN APPLICATION FOR A LICENSE OR IN REVOCATION THEREOF OR IN THE SUSPENSION FROM THE TOWN OF CARMEL'S ON-

CALL TOWING LIST MAY APPEAL TO THE TOWN OF CARMEL TOWN BOARD BY FILING WITH THE CLERK, WITHIN 14 DAYS AFTER NOTICE OF THE ACTION COMPLAINED OF HAS BEEN MAILED TO SUCH PERSON'S LAST KNOWN ADDRESS, A WRITTEN REQUEST FOR A HEARING, SETTING FORTH FULLY THE GROUNDS FOR THE APPEAL. THE TOWN BOARD WILL SET A TIME AND PLACE FOR A HEARING ON SUCH APPEAL, AND NOTICE SHALL BE SERVED ON OR MAILED TO THE APPLICANT OR LICENSEE AT LEAST FIVE DAYS PRIOR TO THE HEARING. THE TOWN BOARD'S DETERMINATION SHALL BE MADE BY RESOLUTION AND SHALL BECOME EFFECTIVE IMMEDIATELY.

§140-9. INSURANCE REQUIREMENTS

A. EVERY LICENSEE SHALL CARRY INSURANCE AS FOLLOWS.

(1) Comprehensive General Liability Insurance, including completed operations coverage, personal injury liability coverage, broad form property damage liability coverage and contractual liability coverage insuring the agreements contained herein. The minimum limits of liability carried on such insurance shall be two million dollars (\$2,000,000) each occurrence.

(2) Workers' Compensation insurance with statutory coverage including employer's liability insurance with limits of liability of at least one hundred thousand dollars (\$100,000) each employee.

28 FEBRUARY 2018
TOWN BOARD SPECIAL MEETING

(Cont.)

LEGALS

FROM PAGE 35

(3) Automobile liability insurance for owned, non-owned and hired vehicle's. The minimum limit of liability carried on such insurance shall be one million dollars (\$1,000,000) per person and two million dollars (\$2,000,000) per incident or each accident.

(4) Insurance companies utilized must be admitted to do business in New York and shall have a rating of (A) or better.

(5) Contractor agrees to furnish certificate(s) of the aforementioned insurance to the Town of Carmel upon execution of this agreement and, with respect to the renewals of the current insurance policies, at least thirty days in advance of each renewal date. Such certificate(s) shall, with respect to comprehensive general liability and auto liability insurance, name the Town of Carmel and the Town of Carmel Police Department as an additional insured and, with respect to all policies shall state that in the event of cancellation or material change, written notice shall be given to the Town of Carmel Police Department, 60 McAlpin Ave., Mahopac, NY 10541 at least (30) days in advance of such cancellation or change.

(6) The purchase of the insurance required or the furnishing of the aforesaid certificate(s) shall not be a satisfaction of Contractor's indemnification responsibilities to the Town of Carmel and the Town of Carmel Police Department.

B. ALL LICENSEES SHALL HOLD HARMLESS AND INDEMNIFY THE TOWN OF CARMEL, ITS OFFICERS, EMPLOYEES AND AGENTS FROM ANY AND ALL LIABILITY CLAIMS, LOSSES OR DAMAGE ARISING OR ALLEGED TO ARISE FROM THE PERFORMANCE OF THE TOWING SERVICES REQUESTED OF OR RENDERED BY THE LICENSEE. THE FOREGOING INDEMNIFICATION LANGUAGE SHALL BE INCORPORATED IN THE GENERAL COMPREHENSIVE LIABILITY POLICY REQUIRED.

C. ALL INSURANCE POLICIES SHALL BE WRITTEN BY INSURANCE COMPANIES ACCEPTABLE TO THE TOWN OF CARMEL AND AUTHORIZED TO DO BUSINESS IN THE STATE OF NEW YORK.

D. ANY LICENSE ISSUED UNDER THIS CHAPTER WILL BE AUTOMATICALLY REVOKED UPON EXPIRATION OR CANCELLATION OF THE REQUIRED INSURANCE OR MATERIAL CHANGE IN COVERAGE WHICH RENDERS THAT COVERAGE NOT IN COMPLIANCE WITH THE AFOREMENTIONED INSURANCE REQUIREMENTS.

§ 140-10 ON-CALL TOWING LIST.

A. THE CHIEF OF POLICE SHALL MAINTAIN A LIST OF THOSE TOW OPERATORS LICENSED BY THE TOWN OF CARMEL TO RESPOND TO CALLS FROM THE TOWN OF CARMEL POLICE DEPARTMENT. IN ORDER TO BE INCLUDED ON THE ON-CALL TOWING LIST, AN APPLICANT MUST MEET ALL OF THE REQUIREMENTS OF THIS CHAPTER AND SHALL ENTER INTO AN AGREEMENT WITH THE TOWN OF CARMEL FOR A TERM OF ONE YEAR, SAID AGREEMENT TO BE PREPARED BY THE TOWN OF CARMEL ATTORNEY.

B. CALLS TO TOW OPERATORS ON THE ON-CALL LIST SHALL BE MADE ON A NONDISCRIMINATORY ROTATING BASIS, PURSUANT TO PROCEDURES ESTABLISHED BY THE CHIEF OF POLICE. NOTHING HEREIN SHALL PROHIBIT THE CHIEF OF POLICE OR HIS DESIGNEE FROM CALLING A TOW OPERATOR OUT OF SEQUENCE OR SEEKING THE SERVICES OF A TOW OPERATOR NOT ON THE ON-CALL LIST IF THE CIRCUMSTANCES REQUIRE SPECIALIZED EQUIPMENT OR IF THE INTERESTS OF PUBLIC SAFETY SO REQUIRE. IF THE TOW OPERATOR SELECTED DOES NOT RESPOND TO THE SCENE WITHIN THE 25 MINUTES AFTER NOTIFICATION, THE CHIEF OF POLICE OR HIS/HER DESIGNEE SHALL BE PERMITTED TO SUMMON THE NEXT AVAILABLE TOW OPERATOR. WHEN ANY UNUSUAL SITUATION OCCURS WHICH MAY BE DANGEROUS TO THE SAFETY OF THE PUBLIC, SUCH AS A SPILL OF TOXIC MATERIAL OR OTHER DANGEROUS CARGO, THE TOWN OF CARMEL POLICE DEPARTMENT MAY SELECT ANY QUALIFIED TOW OPERATOR.

C. THE TOWN OF CARMEL POLICE DEPARTMENT RESERVES THE RIGHT TO CALL ANY TOW SERVICE DESIGNATED BY THE OWNER OF A VEHICLE INVOLVED IN AN ACCIDENT, OR DESIGNATED BY THE OWNER OF A DISABLED VEHICLE.

D. THE FEES TO BE CHARGED FOR THE TOWING AND STORAGE SERVICES OF AUTOMOBILES SHALL BE AS SET FORTH IN § 140-9. THE TOWN OF CARMEL SHALL NOT BE LIABLE FOR THE COST OF ANY TOWING AND/OR STORAGE SERVICES UNLESS THOSE SERVICES ARE PERFORMED ON A MUNICIPAL VEHICLE.

(1) Tow operators must accept cash payment and at least two major credit cards with at least one being a bank credit card. The only exceptions are that tow operators may charge cash only for impounds or abandoned vehicles with plates removed at their discretion. The tow operator must maintain an interbank charge card in its own name, in the form of a Merchant's Account with a qualified financial institution. Patrons will be given a reasonable amount of time to obtain cash/credit card during off hours prior to the vehicle being retained at the tow operator's location. Tow operators must be able to take credit card payment roadside. Questions as to what is reasonable, if there is a dispute, will be determined by the on-duty Police Supervisor. If the tow operator disagrees with the decision, they must still accept the decision at the time and submit the dispute in writing to the Chief of Police, within 72 hours of the incident.

E. INCLUSION ON THE ON-CALL TOWING LIST SHALL BE AUTOMATICALLY REVOKED UPON EXPIRATION OR REVOCATION OF THE TOW OPERATOR'S LICENSE. THE CHIEF OF POLICE MAY ALSO SUSPEND A LICENSED TOW OPERATOR'S INCLUSION ON THE ON-CALL TOWING LIST FOR SUCH PERIOD OF TIME AS HE CONSIDERS APPROPRIATE FOR VIOLATIONS OF THIS CHAPTER, AFTER A HEARING ON SUCH VIOLATIONS. SUSPENSIONS MAY BE APPEALED PURSUANT TO THE PROCEDURES SET FORTH IN § 140-6.

F. THE LICENSEES WILL NOTIFY THE OWNER OF ANY VEHICLE, THAT THE

LICENSEES HAS TOWED PURSUANT TO THIS CHAPTER WHEN SAID VEHICLE HAS BEEN ON THE LICENSEES LOT IN EXCESS OF THIRTY (30) DAYS FROM THE TIME AT WHICH IT WAS ORIGINALLY TOWED.

G. THE LICENSEES MAY EXERCISE ANY LIEN IT MAY HAVE ON A TOWED VEHICLE PURSUANT TO NEW YORK STATE LAW EXCEPT THAT:

(1) The Licensees shall release to the owner or operator of any towed vehicle, any and/or all essential (e.g. medication, eyeglasses, clothing) personal property contained within but not attached to such vehicle upon request by the owner or operator without regard to any lien, which the Licensees may have on said property pursuant to New York State Law.

G. ABANDONED VEHICLES WILL BE TOWED AT NO CHARGE TO THE TOWN OF CARMEL, AND AT THE TOW RATES PURSUANT TO § 140-9 OF THIS CHAPTER TO THE VEHICLES OWNER.

H. THE LICENSEES AGREES TO STORE ANY VEHICLE, WHICH MAY BE IMPOUNDED BY THE TOWN OF CARMEL POLICE DEPARTMENT AT NO COST TO THE TOWN OF CARMEL, OR THE TOWN OF CARMEL POLICE DEPARTMENT. STORAGE FEES MAY BE CHARGED FOR EACH CALENDAR DAY TO THE OWNER AND/OR OPERATOR THEREOF. AN IMPOUND FEE WILL BE COLLECTED BY THE CARMEL TOWN CLERK. SAID FEE SHALL BE ESTABLISHED ANNUALLY BY RESOLUTION OF THE CARMEL TOWN BOARD. THE OWNER OF THE VEHICLE WILL PAY THE IMPOUND FEE AND RECEIVE A RELEASE FROM THE POLICE DEPARTMENT BEFORE THE CAR CAN BE RELEASED. THE OWNER OF THE VEHICLE WILL BE INSTRUCTED TO BRING THE RELEASE TO THE TOW OPERATOR IN ORDER TO PROVE THAT THE IMPOUND FEE HAS BEEN SATISFIED. THIS IMPOUND FEE WILL NOT INCLUDE VEHICLES THAT ARE CONSIDERED ABANDONED.

I. DURING SNOW EMERGENCIES, TOWN OF CARMEL POLICE OFFICERS MAY DIRECT THE REMOVAL OF VEHICLES. TOW TRUCKS WILL BE DISPATCHED AND TOW THE VEHICLE(S) ASSIGNED TO THEM BY THE

OFFICER AT THE SCENE. TOW OPERATORS WILL NOT TOW ANY VEHICLE THAT WAS NOT AUTHORIZED FIRST, BY THE OFFICER.

(1) The Licensees shall release to the owner or operator of any towed vehicle, any and/or all essential (e.g. medication, eyeglasses, clothing) personal property contained within but not attached to such vehicle upon request by the owner or operator without regard to any lien, which the Licensees may have on said property pursuant to New York State Law.

(2) The Licensees shall provide at least one (1) tow truck for each snow emergency, unless otherwise instructed by the officer in charge at the scene. The officer in charge at the scene will decide if more or fewer tow trucks are needed for each snow emergency.

(3) It is understood by both parties that in the event of a snow emergency, tow trucks may be tied up handling said emergencies. In this event they will respond as soon as possible.

J. NOTHING IN THIS SECTION SHALL PROHIBIT A MOTORIST OR MOTOR VEHICLE OWNER FROM SUMMONING A TOW OPERATOR OF HIS OR HER OWN CHOOSING, EXCEPT THAT ANY TOWN OF CARMEL POLICE OFFICER AT THE SCENE OF AN INCIDENT REQUIRING TOWING SERVICES SHALL BE RESPONSIBLE FOR MAKING THE FINAL DETERMINATION AS TO WHEN TOWING SHALL TAKE PLACE AND WHICH TOW OPERATOR SHALL BE CALLED.

K. ALL VEHICLES TOWED AT THE REQUEST OF THE TOWN OF CARMEL POLICE DEPARTMENT MUST BE REMOVED TO AN APPROVED STORAGE FACILITY UNLESS THE OWNER OR OPERATOR OF THE VEHICLE SPECIFICALLY REQUESTS THAT IT BE TOWED TO ANOTHER DESTINATION. ANY TOWN OF CARMEL POLICE OFFICER AT THE SCENE SHALL BE RESPONSIBLE FOR MAKING THE FINAL DETERMINATION AS TO THE TOWING DESTINATION.

L. NO VEHICLE SHALL BE RELEASED BY THE TOW OPERATOR UNTIL THE OWNER OR AGENT OF THE VEHICLE PRODUCES A RELEASE FORM FROM THE TOWN OF CARMEL POLICE

SEE LEGALS PAGE 37

28 FEBRUARY 2018
TOWN BOARD SPECIAL MEETING

(Cont.)

<p>LEGALS FROM PAGE 36</p> <p>DEPARTMENT NO VERBAL RELEASES ARE TO BE ACCEPTED. THE TOWN OF CARMEL IS NOT RESPONSIBLE FOR ANY COSTS, COMPENSATION OR DAMAGE WHICH A TOW OPERATOR MAY SUFFER BY THE TOWN OF CARMEL AGREEING FOR A VEHICLE TO BE RELEASED. VEHICLES MAY ONLY BE RETRIEVED DURING THE NORMAL WORKING HOURS OF THE TOW OPERATOR.</p> <p>M. UP TO 20 VEHICLES TOWED AT THE REQUEST OF THE TOWN OF CARMEL POLICE DEPARTMENT MUST BE STORED TOGETHER AT THE APPROVED STORAGE FACILITY AND NOT SCATTERED THROUGHOUT THE PREMISES.</p> <p>N. NO TOW OPERATOR SHALL DISPOSE, DESTROY, REMOVE, SELL OR OTHERWISE TRANSFER ANY VEHICLE TOWED AT THE REQUEST OF THE TOWN OF CARMEL POLICE DEPARTMENT WITHOUT FIRST COMPLYING WITH ALL APPLICABLE LAWS OF THE STATE OF NEW YORK AND NOTIFYING THE TOWN OF CARMEL POLICE DEPARTMENT OF ITS INTENTION TO DO SO, IN WRITING, AT LEAST 14 DAYS PRIOR TO EFFECTUATING THE SAME.</p> <p>O. UPON REQUEST BY THE TOWN OF CARMEL POLICE DEPARTMENT, THE TOW OPERATOR SHALL STORE A MOTOR VEHICLE IN AN INSIDE BUILDING AS DEFINED IN § 140-2 A (4). VEHICLES DESIGNATED BY THE POLICE AS BEING SUSPECTED OF BEING USED IN CRIMINAL ACTIVITY SHALL BE STORED IN A SEPARATE SPACE FOR THE EXCLUSIVE USE OF THE POLICE DEPARTMENT AND SHALL NOT BE RELEASED WITHOUT THE WRITTEN PERMISSION OF THE CHIEF OF POLICE, ACTING CHIEF OF POLICE, LIEUTENANT OR SERGEANT.</p> <p>P. IN ADDITION TO ANY REQUIREMENTS SET FORTH ELSEWHERE IN THIS CHAPTER, ALL APPROVED TOWING SERVICES MUST PROVIDE, IN WRITING, AN EMPLOYMENT NONDISCRIMINATION STATEMENT PRIOR TO THE ISSUANCE OF SAID</p>	<p>APPROVAL AND MUST AGREE TO COMPLY WITH ALL STATE AND FEDERAL LAWS AND REGULATIONS CONCERNING WAGES, HOURS AND TERMS OF EMPLOYMENT.</p> <p>Q. EMPLOYEES OF AN APPROVED TOWING SERVICE SHALL IN NO WAY BE DEEMED TO REPRESENT OR BE EMPLOYED BY THIS MUNICIPALITY, AND ALL SUCH TOWING SERVICES SHALL BE RESPONSIBLE FOR THE CONDUCT OF THEIR EMPLOYEES.</p> <p>R. ALL TOWING AND STORAGE FEES SHALL BE DISCLOSED IN AN APPROPRIATE NOTICE ON THE FRONT OR TOP PAGE OF ALL INVOICES AND RECEIPTS. ADDITIONALLY, ADEQUATE PUBLIC POSTING OF SUCH FEES MUST BE MADE AT THE STORAGE AREA, IN EASY VIEW OF THE PUBLIC.</p> <p>§ 140-11. FEE SCHEDULE</p> <p>A. ESTABLISHMENT OF A FEE SCHEDULE; RESTRICTIONS.</p> <p>(1) No person shall be liable to any tow operator who tows or stores an automobile which was damaged in an accident and recovered after being reported stolen, for any fees in excess of those fees as listed by the fee schedule, which shall be kept on file with the Chief of Police or his/her designee, as well as by the Town of Carmel Clerk. Said fee shall be established annually by resolution of the Carmel Town Board, which shall change from time to time upon the consideration of any suggestions or recommendations of the Chief of Police according to changes to the prevailing rates for towing. Any changes in the fee schedule are hereby permitted to be done by resolution, which shall be passed by the Town of Carmel Town Board. The fee schedule shall include basic towing service fees, storage fees, and miscellaneous charges.</p> <p>(2) For all towing services other than those defined as basic towing and for all vehicles other than those defined as automobiles, the tow operator shall set reasonable and customary fees for the Town of Carmel area for the towing and storage of such vehicles. The tow operator shall submit annually as part of its application or renewal thereof its fee schedule for the towing and storage of all motor vehicles other than automobiles, which shall be subject to the review and approval of the Town of Carmel Town Board.</p> <p>(3) It shall be the responsibility</p>	<p>of the tow operators to comply with all applicable Department of Insurance rules and fee regulations.</p> <p>(4) Ledgers, records, impound releases and bills shall be kept for all vehicles towed and shall be available to the Town of Carmel Police Department upon request. These records will be kept for a period of three (3) years.</p> <p>B. NO PERSON SHALL BE LIABLE TO ANY TOW OPERATOR FOR ANY OTHER TOWING OR STORAGE SERVICES FOR ANY FEES IN EXCESS OF THE TOWN OF CARMEL APPROVED FEE SCHEDULE.</p> <p>C. WHEN BASIC TOWING SERVICES ARE RENDERED FOR ANY AUTOMOBILE, THERE SHALL BE NO ADDITIONAL CHARGES OTHER THAN THOSE PROVIDED FOR IN SUBSECTION A ABOVE, INCLUDING BUT NOT LIMITED TO FLAT BEDDING, SERVICE CALL, SECOND TOW TRUCK/ OR WINCHING, CLEANUP COSTS AND ADDITIONAL LABOR.</p> <p>D. TOW VEHICLES TRANSPORTING MULTIPLE VEHICLES AT ONE TIME MAY CHARGE THE APPLICABLE FEE FOR EACH VEHICLE TRANSPORTED.</p> <p>E. PRIOR TO HOOKUP OR FLAT BEDDING OF A MOTOR VEHICLE, THE TOW OPERATOR SHALL PRESENT A COPY OF ITS FEE SCHEDULE TO THE OWNER OR OPERATOR OF THE VEHICLE. THE FEE SCHEDULE SHALL ALSO CONTAIN THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE TOW OPERATOR AND A STATEMENT OF THE HOURS WHEN THE MOTOR VEHICLE MAY BE CLAIMED.</p> <p>F. LICENSEES MUST MEET THE REQUIREMENTS OF ALL STATE LAWS WHICH PERTAIN TO TOWING SERVICES, WHICH ARE NOW ENACTED OR MAY BE ENACTED DURING THE LIFE OF THIS CONTRACT</p> <p>G. EVERY TOW TRUCK SHALL DISPLAY LETTERING ON BOTH SIDES OF THE VEHICLE THAT INDICATES THE NAME OR TRADE NAME OF THE TOWING SERVICE, THE TOWN/ VILLAGE/CITY AND STATE IN WHICH THE TOW TRUCK IS CUSTOMARILY BASED, THE BUSINESS</p>	<p>TELEPHONE NUMBER, AND THEIR DOT OR ICC NUMBER. SAID LETTERING SHALL CONTRAST SHARPLY IN COLOR WITH THE BACKGROUND AND BE A MINIMUM OF TWO (2) INCHES IN HEIGHT.</p> <p>H. CONTRACTORS SHALL POSSESS A TOW TRUCK HAVING A MANUFACTURER'S G.V.W. OF 10,000 LBS., WITH DUAL WHEELS AND A FOUR-(4) TON MINIMUM WINCHING CAPACITY. "TOW TRUCK" SHALL HAVE THE SAME MEANING AS SECTION 148-B OF THE NEW YORK STATE VEHICLE AND TRAFFIC LAW. EACH TOW TRUCK SHALL HAVE.</p> <p>(1) In the absence of having a ramp truck (flatbed), "Dolly" wheels (tires with legal tread reading), snatch blocks, chains and nylon straps for towing.</p> <p>(2) Broom, shovel, and a container to place debris into once it has been picked up and such other items or materials as would be needed to fulfill this contract.</p> <p>(3) Each tow truck shall also carry a supply of "Speedy Dry" and/or sand, which the Contractor will place upon fluids at an accident scene, or as otherwise directed. The Contractor shall be responsible for the clean-up and removal of "Speedy Dry" and/or sand at the scene.</p> <p>I. CLEAN UP OF THE ACCIDENT SCENE IS THE RESPONSIBILITY OF THE TOW TRUCK OPERATOR. EXAMPLE, VEHICLE PARTS MUST BE PICKED UP AND BROKEN GLASS MUST BE SWEEPED AND REMOVED FROM THE SCENE AND NOT JUST SWEEPED TO THE SIDE OF THE ROAD.</p> <p>§ 140-12. REGULATIONS AND PROCEDURES</p> <p>The Chief of Police shall promulgate such rules, regulations and procedures, not inconsistent with this chapter, as may be reasonable and necessary to carry out the provisions of this chapter. Copies thereof shall be provided to all licensed tow operators and shall be made</p>	<p>available to the public, along with copies of current fee schedules, during normal business hours. Failure to comply with applicable rules, regulations and procedures may be cause for revocation of a tow operator's license.</p> <p>§ 140-13. ENFORCEMENT</p> <p>The Chief of Police is hereby designated to enforce the provisions of this chapter and any applicable rules and regulations.</p> <p>SECTION 4 HOME RULE</p> <p>Nothing in this Local Law is intended, or shall be construed (a) to limit the home rule authority of the Town under State Law to limit the Town's discretion in setting fees and charges in connection with any applications requiring Town approval.</p> <p>SECTION 5: SEVERABILITY</p> <p>If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Carmel hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.</p> <p>SECTION 6: EFFECTIVE DATE</p> <p>This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.</p> <p>At said Public Hearing, all interested persons shall be heard on the subject thereof. The Town Board will make every effort to assure that the Public Hearing is accessible to persons with disabilities. Anyone requiring special assistance and/ or reasonable accommodations should contact the Town Clerk.</p> <p><i>By Order of the Town Board of the Town of Carmel</i> Ann Spofford, Town Clerk</p>
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Supervisor Schmitt explained that the purpose of the proposed Local Law is to establish procedures for the licensing of individuals and entities providing towing and storage services to the Town of Carmel Police Department and to also establish a uniform policy and procedures and fees for the towing and storage services to be provided to the Town of Carmel Police Department. Supervisor Schmitt expressed his support of the proposed Local Law and commented that it should have been created years ago. He then opened the Public Hearing for public comment at 7:17 p.m. Twenty (20) people were in attendance.

Emerson Cargain, owner of Skyline Towing stated that the proposed Local Law is a fantastic idea. Mr. Cargain agreed with Supervisor Schmitt, commenting that it should have been adopted a long time ago to keep tow companies in compliance and protect the public from being overcharged. However, he stated that he did have concerns. Mr. Cargain commented that he did not agree with the provision with regard to a three mile radius outside of the Town. He commented that the only tow companies permitted should be those companies within the Town; to keep the business of the Town, in the Town. Mr. Cargain noted that all of the tow companies on the current roster are located within the Town.

28 FEBRUARY 2018
TOWN BOARD SPECIAL MEETING

(Cont.)

With regard to the insurance requirements included in the proposed Local Law, Mr. Cargain commented that the minimum liability limits of \$1,000,000 and \$2,000,000 are high and would be costly for the tow companies. With regard to the rates, he commented that a good compromise could be reached.

Councilman Schneider asked Mr. Cargain if he was aware of AAA's insurance requirements.

Mr. Cargain stated \$750,000 for one occurrence with a maximum of \$1 million.

Councilman Schneider asked Legal Counsel if there is any issue with restricting it to operators that are inside of the Town.

Legal Counsel Gregory Folchetti stated that there is. He explained that there are appellate cases that prohibit the restriction of the tow companies within exclusive geographic boundaries. Mr. Folchetti stated that a reasonable radius is fine or some other practical and measurable metrics for a response time for a provider to respond to an emergency call. Mr. Folchetti concluded that he would not recommend including a geographic limitation that the company be located within the boundaries of the Town.

Councilman Schneider inquired if the three mile radius would be the minimum acceptable threshold.

Mr. Folchetti stated that the way the proposed Local Law was drafted was acceptable, with objective criteria for determining an appropriate response time for a call within the Town's borders without limiting the providers to be within the Town's borders.

John Bryson from Bryson's Towing stated that there are many towing companies that are requiring payment from insurance companies in cash and he commented that he does not agree with that. Mr. Bryson stated that the Local Law should be made as simple as possible. He suggested that the fees should be the same for daytime and nighttime, and that charging for mileage should not be permitted. Mr. Bryson concluded by expressing his agreement with Mr. Cargain in that tow companies located in the Town should have the exclusive right to tow in the Town.

Police Chief Michael Cazzari inquired if the suggested changes to the insurance requirements included in the proposed Local Law would necessitate holding another Public Hearing.

Mr. Folchetti explained that the changes would be substantive and that a new Public Hearing would be required.

Supervisor Schmitt indicated that the suggested changes to the proposed Local Law will be discussed and that a new Public Hearing may be held at a future date.

ADJOURNMENT

With no one else present wishing to be heard on the subject of the Public Hearing, on motion by Councilman Schneider, seconded by Councilman Lupinacci, with all members of the Town Board present in agreement, the Public Hearing was closed at 7:26 p.m. to the scheduled Work Session.

Respectfully submitted,

Ann Spofford, Town Clerk