

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in D.C. Official Code § 47-2851.01 *et seq.* (2001), Section 2 of the Towing Regulation and Enforcement Authority Emergency Act of 2003, effective November 13, 2003 (D.C. Official Code § 47-2850 (2004 Supp.)), and Mayor's Order 2003-78, dated June 26, 2003, hereby gives notice of the intent to adopt in not less than thirty (30) calendar days the following amendments to Chapter 4 of Title 16 of the District of Columbia Municipal Regulations (DCMR), Towing Service for Motor Vehicles, which were published as final rules on May 23, 2003 (50 DCR 3935). This proposed rulemaking supercedes the proposed rulemaking published in the *D.C. Register* on December 5, 2003 (50 DCR 10405).

Pursuant to Section 2 of the Towing Regulation and Enforcement Authority Emergency Act of 2003, this proposed rulemaking was being transmitted to the Council of the District of Columbia for a 45-day period of review. The proposed rules will become effective in not less than thirty (30) days from the publication of this notice in the *D.C. Register*, or upon approval by the Council by resolution, whichever occurs later, and publication of the final rules in the *D.C. Register*. If the Council does not approve or disapprove the proposed rules, in whole or in part, within the forty-five (45) day period, the proposed rules shall be deemed disapproved.

The following sections of Title 16 DCMR (Consumers, Commercial Practices & Civil Infractions) (July 1998), Chapter 4 are amended to read as follows:

402 LICENSES REQUIRED FOR TOWING BUSINESSES AND TOWING SERVICE STORAGE LOTS

- 402.1 No person or entity may own or operate a towing business without having first obtained a Basic Business License and a Basic Business License Endorsement for a Towing Business as required by D.C. Official Code § 47-2851.01 *et seq.* (2001).
- 402.2 No person or entity may own or operate a towing service storage lot without having first obtained a Basic Business License and a Basic Business License Endorsement for a Towing Service Storage Lot as required by D.C. Official Code § 47-2851.01 *et seq.* (2001).
- 402.3 Each person or entity making application for a Basic Business License Endorsement for a Towing Business shall submit relevant information requested by the Director, in a form and manner specified by the Director, which information shall include the following:
- (a) The trade name, primary location of business, and primary phone number of the towing business;
 - (b) A list of all other locations from which the towing business will operate, and the phone numbers for such locations;

- 411.15 Adjudication of any civil infraction shall be pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, (D.C. Official Code § 2-1801.01 *et seq.* (2001)).

499 DEFINITIONS

Section 499 is amended by deleting the definitions for 'Master Business License', 'Master Business License Endorsement for a Towing Business', and 'Master Business License Endorsement for a Towing Service Storage Lot', and by adding the following definitions:

Basic Business License – the single document designed for public display issued by the business license center that certifies District agency license approval and incorporates the endorsements for individual licenses included in the Basic Business License system.

Basic Business License Endorsement for a Towing Business – the individual license endorsement required for the conducting of a towing business in the District of Columbia.

Basic Business License Endorsement for a Towing Service Storage Lot - the individual license endorsement required for the maintenance of a towing service storage lot in the District of Columbia.

Extraordinary Circumstances – Conditions or events that are beyond what is usual, regular, or customary and which require special towing functions or services to commence or complete a tow.

Normal Business Hours – The hours of 8:00 a.m. through 6:00 p.m.

Persons desiring to comment on these proposed regulations should submit comments in writing to Julie Lee, General Counsel, Department of Consumer and Regulatory Affairs, Suite 9400, 941 North Capitol Street, N.E., Washington, D.C. 20002, not later than thirty (30) days after publication of this notice in the D.C. Register. Copies of the proposed rules can be obtained from the address listed above. A copying fee of one dollar (\$1.00) will be charged for each requested copy of the proposed rulemaking.

- (c) The name, address, and telephone number of each person or entity with an ownership interest in the towing business or towing service storage lot;
- (d) The primary storage location, year, make, model, Vehicle Identification Number (VIN), and license plate number of each tow truck that will be used by the towing business;
- (e) A list which includes the name, address, date of birth, driver's license number, and Social Security number of all tow truck operators, employees, agents and contractors who will be involved in the towing business;
- (f) The location and description of the towing service storage lot to be used for the storage of towed vehicles, together with a copy of a deed, lease, contract, or other proof of the right to use the space as a vehicle storage lot, a copy of the Site Plan or D.C. Surveyor's Plat and a copy of a valid Certificate of Occupancy permit for that use and location;
- (g) Proof of current insurance coverage in the form of an all-risk or public liability insurance policy of at least \$750,000.00 that remains in effect or is renewable for the duration of the license period. A new certificate of insurance shall be provided whenever the coverage is changed, amended, renewed, canceled, or re-written;
- (h) A surety bond in the minimum amount of \$25,000.00;
- (i) Two copies of the billing form that the towing business proposes to use, which reflects current rates for private tows and storage services, trade name(s), business address(es) and business telephone number(s);
- (j) A completed Basic Business License application;
- (k) A Certificate of Occupancy for the location of the business, if the business is not located on the same premises as the towing service storage lot;
- (l) A Clean Hands Before Receiving License or Permit Act of 1996 certification form as required by D.C. Official Code § 47-2861 *et seq.* (2001);
- (m) Certification that the business is registered with the Office of Tax and Revenue.

402.4

Each person or entity making application for a Basic Business License Endorsement for a Towing Service Storage Lot shall submit relevant information requested by the Director, in a form and manner specified by the Director, which information shall include the following:

- 410.18 It shall be unlawful for any towing business or tow truck operator to tow vehicles in the District of Columbia without current insurance coverage in the form of an all-risk or public liability insurance policy of at least \$750,000.00.
- 410.19 It shall be unlawful for any towing business to refuse to provide a refund to customers within 72 hours of receipt of the Director's notice of disapproval, when charges described in § 408.3 are not approved by the Director.

411 PENALTIES AND ENFORCEMENT

- 411.10 The Tow truck operator shall report the presence and the location of debris believed to contain hazardous materials to the DPW Towing Control Center by telephone. Failure to do so shall be grounds for disciplinary action, including fines, suspension or revocation of the tow truck license, and suspension or revocation of the towing business's license.
- 411.11 Upon the request of any District government official, a towing business or a tow truck operator shall provide documentary proof of current insurance coverage in the form of an all-risk or public liability insurance policy of at least \$750,000.00. Failure to do so shall be grounds for disciplinary action, including fines, suspension or revocation of the tow truck license, and suspension or revocation of the towing business's license.
- 411.12 Failure to provide a refund as described in § 410.19 shall be grounds for disciplinary action, including fines, suspension or revocation of the tow truck license, and suspension or revocation of the towing business's license.
- 411.13 If the person or entity licensed under § 402.3 is unable to use the towing storage lot identified in § 402.3(f) for any reason during the license period, then:
- (a) The licensee shall report this fact in writing to the Director at least ten (10) calendar days prior to the day when the towing service storage lot will become unavailable;
 - (b) The Basic Business License Endorsement for a Towing Business shall be automatically suspended by operation of law during the period that the towing service storage lot is unavailable for use by the licensee; and
 - (c) The Basic Business License Endorsement for a Towing Business may be reactivated without charge for the remainder of the license period when written evidence of the availability of a substitute towing service storage lot is supplied to the Director by the licensee and verified by the Director, or his designee.
- 411.14 Instead of any criminal sanctions authorized by law, civil fines and penalties may be imposed as alternative sanctions for any infraction of these regulations.

- (a) The trade name, primary location of business, and primary phone number of the towing service storage lot;
- (b) A list of all other locations from which the towing service storage lot owner/operator will operate, and the phone numbers for such locations;

- (e) Proof of a current Garage Keeper's Legal Liability Insurance Policy of at least \$50,000.00, which remains in effect or is renewable for the duration of the license period. A new certificate of insurance shall be provided whenever the coverage is changed, amended, renewed, canceled, or rewritten; and

402.5 The Basic Business License, the Basic Business License Endorsement for a Towing Business, and the Basic Business License Endorsement for a Towing Service Storage Lot shall be valid for two (2) years from the date of issue, unless earlier revoked or voluntarily relinquished, as provided by D.C. Official Code § 47-2851.09 (2001).

402.6 Deleted.

403 TOW TRUCK LICENSES

403.1 No person may operate or use any tow truck in a towing business unless such tow truck has been identified in the application (or amended application) for the Basic Business License Endorsement for such towing business, and unless the Director has inspected, approved, and authorized issuance of a DCRA unique alphanumeric identifier for such tow truck.

404 REQUIRED TOW TRUCK EQUIPMENT AND MARKINGS

404.10 All tow trucks shall have the following equipment, in good working order:

- (g) A set of tools which includes a set of screwdrivers, a wrecking bar, a working flashlight, a set of lug wrenches, a jack, jumper cables, and a first-aid kit.

- (b) The Notice of Infraction, or other legal authority for removal of the car;
- (c) An itemized statement of the charges due;
- (d) A receipt for all monies paid; and
- (e) A copy of the Owner's Bill of Rights for Towed Vehicles.

- 408.12 Not less than one year after publication of this final rulemaking, the schedule of maximum rates will be reviewed upon written request, which includes a cost justification, for consideration by the Director. Subsequent written requests for review of the schedule of maximum rates will be considered not less than 24 months after a prior rate review.
- 408.13 After considering a request for review of the schedule of maximum rates, the Director, in consultation with the DPW Director, shall determine if the schedule of maximum rates should be changed.

409 ITEMIZED STATEMENTS AND RECEIPTS

- 409.6 The owner of a towed vehicle shall be responsible for paying all charges for a public tow, and all related towing services charges, in an amount not to exceed the charges authorized by the Director pursuant to § 408.1.
- 409.7 Payment of all lawful towing and storage charges shall be made by the owner of the vehicle, an agent of the owner, or the insurer of the vehicle before the vehicle is released by the towing business, the tow truck operator, or towing service storage lot operator.

410 PROHIBITED ACTS

- 410.13 Prior to payment of fees and release of a vehicle, no towing service provider may refuse the right of physical inspection of the towed vehicle when requested by the owner, an authorized agent of the owner, the lien holder, or the insurer of the vehicle.

- 410.17 It shall be unlawful for any tow truck operator to tow any type of vehicle in a manner that is not in accordance with the vehicle manufacturer's instructions for the vehicle. In addition, it shall be unlawful for any tow company to utilize any tow truck or equipment in a manner that is not in accordance with the tow crane manufacturer's instructions for towing vehicles.

405 TOWING STORAGE LOT REQUIREMENTS

405.1 A towing storage lot shall be located on a secured lot in the District of Columbia, with appropriate and descriptive signage, and be in full compliance with all District of Columbia laws and regulations, including zoning regulations.

405.3 Prior to releasing a public tow vehicle, the operator of a storage lot shall contact the DPW Towing Control Center by telephone and report the date and time of the scheduled release, the condition of the vehicle and to whom the vehicle is to be released.

405.4 The holder of a Basic Business License Endorsement for a Towing Service Storage Lot shall apportion the lot into storage lot sections and clearly identify or designate the towing business responsible for each apportioned section.

405.5 When a towing service storage lot is used by more than one towing business, the holder of a Basic Business License Endorsement for a Towing Service Storage Lot shall clearly designate individual storage spaces for each vehicle and shall clearly identify the towing business assigned to each space.

405.6 The holder of a Basic Business License Endorsement for a Towing Service Storage Lot shall employ reasonable procedures and requirements to insure that vehicles are released to rightful owners or other authorized individuals.

405.7 A printed "Owner's Bill of Rights for Towed Vehicles" statement, issued by the Director, shall be given to the vehicle owner or operator by the tow truck operator before initiating the tow, if either the vehicle owner or operator is on the scene of the tow. The holder of a Basic Business License Endorsement for a Towing Service Storage Lot shall conspicuously post, at each towing service storage lot, the Owner's Bill of Rights for Towed Vehicles statement and, upon release of the vehicle, shall provide a copy of this statement to the person to whom the vehicle is released.

406 PUBLIC TOWS

406.8 Any loss or damage sustained by a vehicle as the result of a public tow by a towing business shall be the sole and entire responsibility of the towing business and not the Government of the District of Columbia, any department or agency thereof, or any government official who requested the tow. The towing business shall assume all liability for the vehicle and the property inside the vehicle, from the point of hook-up until the vehicle is released to its owner or authorized representative. The towing business shall take all precautions necessary to protect persons or property against injury or damage, and shall provide personnel

- 408.2 No rates charged by a towing business for private tows may exceed the rates set forth in the towing business's Basic Business License Endorsement application (including amendments thereto).
- 408.3 The holder of a Basic Business License for a Towing Business may collect extra charges on-site for the use of cranes, winches, dollies, or other equipment or services to perform a public tow under extraordinary circumstances or for the restoration or cleaning of an accident site. Within 72 hours after collecting extra charges, the towing business must submit documentary evidence of the extraordinary circumstances to the Director along with a written request for approval of the charges. The Director shall provide a written response within 14 calendar days of receipt of the request for approval. If the Director does not approve extra charges, the licensee of a towing business must provide a refund to the customer in the amount of the disapproved charges within 72 hours of receipt of the Director's notice of disapproval.
- 408.4 Storage charges may accrue for any day that the facility is closed to the public so long as the facility is open for the reclaiming of vehicles for at least ten (10) hours per day, Monday through Friday, during normal business hours, and for at least five (5) hours a day, during normal business hours, on either Saturday or Sunday.
- 408.5 If a tow truck responds to a dispatch, and the police officer or other official who requested the public tow determines that services are no longer required, no charge shall be made by the towing business or service, except as may be authorized by a contract with a government agency. If a towing control number has been issued, the towing business shall notify the DPW Towing Control Center by telephone.
- 408.6 If a tow truck has applied chains, a dolly, a winch, or other towing device to prepare a vehicle for public tow, and the owner or operator of the vehicle appears and asks that the tow be discontinued, upon concurrence by the police officer or other official who requested the tow, (if present), the tow truck operator shall comply, upon payment by the vehicle owner or operator of the rates established for a discontinued public tow. If a towing control number has been issued, the towing business shall promptly notify the DPW Towing Control Center by telephone.
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- 408.8 Towing businesses and towing services storage lots shall accept as payment for public towing and storage charges, cash, insurance draft, certified check, bank check, money order, and at least two (2) of the most widely-used, nationally recognized credit cards.
- 408.9 The owner or operator of the towing service storage lot shall provide to the person to whom the vehicle is released the following:
- (a) The towing control number;

sufficiently trained and capable to perform tows in accordance with the vehicle manufacturer's directions for towing a particular vehicle.

- 406.9 When an authorized government official directs the towing of a vehicle to a towing service storage lot, the government shall notify the vehicle owner of record in accordance with DPW procedures, of the tow and storage, the storage location of the vehicle, and all other information required to be given under applicable District law.

408 PAYMENT FOR SERVICES

- 408.1 The maximum rates that may be charged for all public tows initiated within the District of Columbia, and for all other services, including vehicle storage charges, related to public tows shall be as follows:

- (a) \$50 for providing Road Service for all vehicles, including all services provided to restore and or maintain operation of a vehicle, including services such as repairing tires, recharging batteries, and delivering gasoline;
- (b) For Standard Towing Services, which apply to any passenger vehicle or any other vehicle with a Gross Vehicle Weight of 8,000 pounds, or less:
 - (1) \$100.00 for Preparation, hoist and tow to location within the District (Roll-back or wheel lift – use of dollies included);
 - (2) \$3.00 for Towing charge per mile for each mile beyond the District line (at owner's request); and
 - (3) \$20.00 for Storage, per 24-hour period, or part thereof.
- (c) For Heavy-Duty Towing, which applies to any vehicle with a Gross Vehicle Weight over 8,000 pounds:
 - (1) \$275.00 for Preparation, Hoist, and tow to a location beyond the District line (Rollback or wheel lift – use of dollies included);
 - (b) \$6.00 for Towing charge per mile beyond the District line (at owner's request); and
 - (2) \$20.00 for Storage per 24-hour period, or part thereof.
- (d) \$50.00 for Discontinuance Fee ("Drop Fee") that is charged when the Operator of a vehicle that is to be towed asks that the tow be discontinued and the police officer or other official who requested the tow agrees to discontinue the tow, in accordance with 16 DCMR § 408.6.

