

TOWNSHIP OF FRANKLIN  
COUNTY OF HUNTERDON

ORDINANCE NO. 2016 - 09

AN ORDINANCE TO AMEND, REVISE AND SUPPLEMENT CHAPTER 336  
"TOWING AND STORAGE OF VEHICLES" OF THE TOWNSHIP OF  
FRANKLIN, HUNTERDON COUNTY, NEW JERSEY TO REVISE THE  
TOWING ORDINANCE.

WHEREAS, in 2007, the legislature adopted the Predatory Towing Prevention Act (N.J.S.A. 56:13-7 et seq.) which amended and repealed various section of the existing law on which the Township's original Towing ordinance was based; and

WHEREAS, the Township Committee wishes to revise the Township's towing ordinance to be in compliance with the state statute and to include an application fee.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Township of Franklin, County of Hunterdon, State of New Jersey that Chapter 336, "Towing and Storage of Vehicles," of the Code of Franklin Township shall be amended as follows:

Section 1.

Section 336 shall be deleted in its entirety and replaced as follows:

**§336-1. Purpose.**

It is the purpose of this chapter to provide non-exclusionary and nondiscriminatory regulations governing the removal of motor vehicles from private or public property on a rotating basis and for the subsequent storage of such vehicles following removal, all as provided by N.J.S.A. 40A:11-5(1)(u).

**§336-2. Definitions.** As used in this chapter:

*Basic towing services* means towing as defined in this section and other ancillary services as may be specified by the director by regulation.

*Consumer* means a natural person.

*Decoupling fee* means a charge by a towing company for releasing a motor vehicle to its owner or operator when the vehicle has been, or is about to be, hooked or lifted by a tower, but prior to the vehicle actually having been moved or removed from the property.

*Director* means the Director of the Division of Consumer Affairs.

*Division* means the Division of Consumer Affairs in the Department of Law and Public Safety.

*Heavy-duty* means a gross weight of at least 32,000 pounds.

*Light-medium duty* means a gross weight of less than 32,000 pounds.

*Motor Vehicle* includes all vehicles propelled other than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles, motorized scooters, motorized wheelchairs and motorized skateboards.

*Non-consensual towing* means the towing of a motor vehicle without the consent of the owner or operator of the vehicle.

*Person* means an individual, sole proprietorship, partnership, corporation, limited liability company or any other business entity.

*Private property owner* means the owner or lessee of private property, or an agent of such owner or lessee, but shall not include a private property towing company acting as an agent of such owner or lessee.

*Private property towing* means the non-consensual towing from private property or from a storage facility by a motor vehicle of a consumer's motor vehicle that is parked illegally, parked during a time at which such parking is not permitted, or otherwise parked without authorization, or the immobilization of or preparation for moving or removing of such motor vehicle, for which a service charge is made, either directly or indirectly. This term shall not include the towing of a motor vehicle that has been abandoned on private property in violation of N.J.S.A. 39:4-56.5, provided that the abandoned vehicle is reported to the appropriate law enforcement agency prior to removal and the vehicle is removed in accordance with N.J.S.A. 39:4-56.6.

*Private property towing company* means a person offering or performing private property towing services.

*Secure storage facility* means a storage facility that is either completely indoors or is surrounded by a fence, wall or other man-made barrier that is at least six feet high and is lighted from dusk to dawn.

*Towing* means the moving or removing from public or private property or from a storage facility by a motor vehicle of a consumer's motor vehicle that is damaged as a result of an accident or otherwise disabled, recovered after being stolen or is parked illegally or otherwise without authorization, parked during a time at which such parking is not permitted or otherwise parked without authorization, or the immobilization of or preparation for moving or removing of such motor vehicle, for which a service charge is made, either directly or indirectly. Dues or other charges of clubs or associations, which provide towing services to club or association members, shall not be considered a service charge for purposes of this definition.

*Vehicle* means any device in, upon or by which a person or property is or may be transported upon a highway.

### **§336-3. License, Towing list**

All applicants for a license shall submit an application in accordance with §336-4 to the Franklin Township Police Department for investigation of the truth and accuracy of the information contained therein. Upon completion of his investigation, the Officer in Charge shall forward a copy of said application to the Township Clerk along with a recommendation for approval or disapproval of the license and the reasons, if any, for disapproval. If the Officer in Charge finds that the applicant has met the requirements of this section, a license shall be issued to the applicant and the applicant's name placed at the end of the towing list. All licenses expire on June 30<sup>th</sup> of each year.

### **§336-4. Application process.**

A. All applications to be placed on the towing list shall be submitted to the Officer in Charge of the Franklin Township Police Department on the application form developed by the Police Department.

B. Minimum Standards of Operator Performance. All applicants must be able to meet the following minimum standards of performance:

1. Applicants must be appropriately licensed by the State of New Jersey.
2. Applicants must be able to reach the scene of a vehicle to be towed within twenty-five (25) minutes.
3. Applicants must be equipped to provide service during their scheduled frame of duty.
4. Applicants must submit to a background check by the Township Police Department.
5. With respect to the storage of towed vehicle, the applicant shall:
  - a. Demonstrate sufficient storage capacity for a minimum of five vehicles. Storage area shall be at the applicant's place of business;
  - b. Accept responsibility for the safe storage of towed vehicles;
  - c. Have access to a storage facility twenty-four (24) hours a day, three hundred sixty-five (365) days per year and shall provide access to the public to such facility during normal business hours.

- d. All towing services shall be capable of providing reasonable roadside services to disabled vehicles such as, but not limited to, jump starting, the changing of flat tires, and providing motor fuel. Such services will only be performed if they can be done so safely, as determined by the police officer on scene.
  6. Applicants must agree that, in addition to towing services, they will provide limited site cleanup of glass, debris, etc., at the site such that the roadway will be safe to travel and no unsightly material will be left on the roadside.
  7. Applicants must provide proof of adequate insurance as provided in this chapter.
- C. The towing service owner or its authorized representative shall sign the registration application form indicating that the full requirement of this policy have been met by the towing service applicant.
- D. An application for tow truck registration shall contain the following information:
1. The name and address of the towing company's principal owner or owners;
  2. The address of the principal business office of the towing company;
  3. The location of any garage, parking lot, or other storage area, where motor vehicles or other objects moved by the towing company may be stored or placed;
  4. A valid certificate of insurance and a schedule of insured vehicles that are to be utilized by the towing company from an insurer authorized to do business in the State, including the amounts of the garage keeper's legal liability coverage and any "on hook" coverage as an endorsement or contained in a separate schedule, and liability insurance coverage, including in the case of each light-medium duty tow truck, motor vehicle liability insurance coverage for the death of, or injury to persons and damage to property for each accident or occurrence in the amount of at least \$750,000 single limit, and in the case of each heavy-duty tow truck, motor vehicle liability insurance coverage for the death of, or injury to, persons and damage to property for each accident or occurrence in the amount of at least \$1,000,000 single limit; and
  5. Documentation of the manufacturer's gross vehicle weight rating for each tow truck.
- E. A one-hundred and fifty (\$150) dollar application fee shall be submitted with each

application.

**§336-5. Insurance.**

A. A towing company shall carry insurance of the following types with the minimum policy limits noted for each type:

1. In the case of each light-medium duty tow truck, motor vehicle liability insurance coverage for the death of, or injury to, persons and damage to property for each accident or occurrence in the amount of at least \$750,000 single limit, and in the case of each heavy-duty tow truck, motor vehicle liability insurance coverage for the death of or injury to persons and damage to property for each accident or occurrence in the amount of at least \$1,000,000 single limit.
2. Worker's compensation in the minimum amounts required by law.
3. Garage keepers' liability insurance of at least seventy-five thousand dollars (\$75,000.00) per location.
4. Garage liability insurance in an amount of seventy-five thousand dollars (\$75,000.00) combined single limit coverage.
5. Comprehensive general risk liability coverage of one million dollars (\$1,000,000.00).

B. Policies shall be endorsed to provide for collision coverage for vehicles in tow.

C. The Township of Franklin shall be named as an additional insured on all policies

D. Proof of coverage shall be provided to the Township and the policies shall provide that the Township be notified in the event of the wrecker service's failure to pay premiums or in the event of cancellation, termination or revision of the policies or amounts of coverage.

E. In the event the Township deems, in its discretion, that appropriate coverage is not in place, the contractor shall be so advised and shall be removed from the towing list until such time as appropriate coverage is restored.

**§336-6. Indemnification.**

The contractor shall agree to indemnify and hold the Township, its officers, appointees, employees, representatives or agents, whether paid or unpaid (including, without limitation, members of the Township police department) harmless against any and all

liability or claims of liability for damage or injury to persons or property resulting from the towing services provided by the contractor pursuant hereto, with the exception of damage or injury to persons or property resulting solely from the willful or negligent acts or omissions of such officers, appointees, employees, representatives or agents.

**§336-7. Operations of towing list.**

- A. Contractors will be called according to their respective duty frame as indicated on the duty schedule provided by the Township Police Department. Contractors will rotate as indicated on the schedule.
- B. In the event a contractor cannot be reached by telephone or radio and/or fails to respond to a request for towing services on two consecutive occasions, or five times within a six-month period, the contractor will be removed from the list and will be required to reapply.

**§336-8. Consent required for towing from privately owned property.**

- A. No person shall tow any motor vehicle parked for an unauthorized purpose or during a time at which such parking is not permitted from any privately owned parking lot, from other private property or from any common driveway without the consent of the motor vehicle owner or operator, unless:
  - 1. The person shall have entered into a contract for private property towing with the owner of the property;
  - 2. There is posted in a conspicuous place at all vehicular entrances to the property which can easily be seen by the public, a sign no smaller than 36 inches high and 36 inches wide stating:
    - a. The purpose or purposes for which parking is authorized and the times during which such parking is permitted;
    - b. That unauthorized parking is prohibited and unauthorized motor vehicles will be towed at the owner's expense;
    - c. The name, address, and telephone number of the towing company that will perform the towing;
    - d. The charges for the towing and storage of towed motor vehicles;
    - e. The street address of the storage facility where the towed vehicles can be redeemed after payment of the posted charges and the times during which the vehicle may be redeemed; and
    - f. Such contact information for the Division of Consumer Affairs as may be required by regulation;
  - 3. The property owner has authorized the person to remove the particular motor vehicle; and
  - 4. The person tows the motor vehicle to a secure storage facility that is located within a reasonable distance of the property from which the vehicle was towed.
- B. No private property owner shall authorize the towing of any motor vehicle parked for an authorized purpose or during a time at which such parking is not permitted

from the private property owner's property without the consent of the motor vehicle owner or operator, unless:

1. The private property owner has contracted with a private property towing company for removal of vehicles parked on the property without authorization; and
  2. A sign that conforms to the requirements of paragraph (2) of subsection a. of this section is posted on the property.
- C. This section shall not apply to a motor vehicle parked on a lot or parcel on which is situated a single-family unit or an owner occupied multi-unit structure of not more than six units or in front of any driveway or garage entrance where the motor vehicle is blocking access to that driveway or garage entrance.
- D. The requirements of paragraph (2.) of subsection a. of this section shall not apply to a residential community in which parking spaces are specifically assigned to community residents, provided that:
1. The assigned spaces are clearly marked as such;
  2. There is specific documented approval by the property owner authorizing the removal of the particular vehicle; and
  3. A sign, which can easily be seen by the public, is posted in a conspicuous place at all vehicular entrances to the residential community property, stating that unauthorized parking in an assigned space is prohibited and unauthorized motor vehicles will be towed at the owner's expense, and providing information or a telephone number enabling the vehicle owner or operator to immediately obtain information as to the location of the towed vehicle.

The exemption in this subsection shall not apply to any private parking lot or parcel owned or assigned to a commercial or other nonresidential entity located in such residential communities.

### **§336-9. Rates and Fee Schedule**

A. Fees and rates for towing of motor vehicles shall not exceed the following:

1. Light duty rate (8:00 a.m. to 5:00 p.m.):  
\$85.00 to 125.00 per towing vehicle dispatched, plus any fees for additional services performed, plus mileage (4.00 per mile) from the scene.
2. Light duty night rate (5:00 p.m. to 8:00 a.m.): \$100.00 to 175.00, plus any fees for additional services performed, plus mileage (4.50 per mile) from the scene. The night rate shall apply on Sundays and legal holidays in the State of New Jersey.
3. Medium towing for motor vehicles with gross weight between 10,000 pounds and 32,000 pounds: \$175.00 to 250.00 per hour with a minimum of one hour per towing vehicle dispatched regardless of the time of day, plus \$5.00 per mile from the scene.
4. Heavy duty towing for motor vehicles with a gross weight over 32,000 pounds, which can be moved with a conventional wrecker: \$350.00 to 500.00 per hour plus \$6.00 per mile from scene per towing vehicle dispatched regardless of the time of day.

5. Heavy duty towing for motor vehicles with a gross weight over 32,000 pounds where under reach towing is required: \$450.00 to 600.00 per hour plus \$6.00 per mile from the scene. Minimum one hour per towing vehicle dispatched regardless of the time of day.

B. Road Service Rates shall not exceed the following:

1. Motor vehicles with a gross weight of less than 10,000 pounds:  
\$75.00 to 125.00 per hour day rate, \$125.00 to 150.00 per hour night rate, with one-hour minimum charge, plus costs of any materials used, including but not limited to motor fuel.
2. Motor vehicles with a gross weight greater than 10,000 pounds:  
\$100.00 to 125.00 per hour day rate, \$125.00 to 175.00 per hour night rate, with a one-hour minimum charge, plus costs of any materials used including but not limited to motor fuel.

C. Storage Rates shall not exceed the following:

Storage rates shall not exceed \$34.00 per day for outside storage for motor vehicles under 22 feet in length or \$100.00 per day or any part thereof per unit for all other motor vehicles.

1. Vehicles stored at the Franklin Township Police Impound (or other designated) area for investigative purposes will not incur a fee during the time said investigation is active. Upon notification that the investigation has been completed, owner or secured party will be charged a fee of \$35.00 per day beginning seventy-two (72) hours after notification has been made.
2. \$65.00 to 75.00 for extra help if needed per hour and any additional equipment necessary to clear roadway debris is an extra charge. All rates are subject to weather conditions. Winching and recovery charges are subject to conditions pertaining to accident scene and weather conditions.

**§336-10. Unreasonable fees.**

- A. A fee for private property towing or other non-consensual towing services, and storage services, shall be presumed unreasonable if it is:
  1. More than 25 percent higher than the fee charged by the towing company or storage facility for the same services when provided with the consent of the owner or operator of the motor vehicle; or
  2. More than 50 percent higher than the fee charged for such other non-consensual towing or related storage service by other towing companies or storage facilities operating in the municipality from which the vehicle was towed.
- B. Notwithstanding (A.) above, a fee will be presumed unreasonable if it exceeds the maximum amount that may be charged for the service according to the schedule of fees set forth in §336-9.



**§336-11. Requirements for storage facility used by towing company.**

- A. No person shall tow a motor vehicle to a storage facility or store such vehicle at a storage facility unless the storage facility:
  - 1. Has a business office open to the public between 8:00 a.m. and 6:00 p.m. at least five (5) days a week; excluding holidays.
  - 2. Is secured, and if it is an outdoor storage facility, lighted from dusk to dawn.
- B. A towing company shall provide reasonable accommodations for after-hours release of stored motor vehicles..

**§336-12. Unlawful practices for towing company.**

- A. It shall be an unlawful practice for any private property towing company or for any other towing company that provides non-consensual towing services:
  - 1. To give any benefit or advantage, including a pecuniary benefit, to any person for providing information about motor vehicles parked for unauthorized purposes on privately owned property or otherwise in connection with private property towing of motor vehicles parked without authorization or during a time at which such parking is not permitted.
  - 2. To fail, when so requested by the owner or operator of a vehicle subject to non-consensual towing, to release a vehicle to the owner or operator that has been, or is about to be, hooked or lifted but has not actually been moved or removed from the property when the vehicle owner or operator returns to the vehicle, or to charge the owner or operator requesting release of the vehicle an unreasonable or excessive decoupling fee. Such a fee shall be presumptively unreasonable and excessive if it exceeds by more than 25 percent, or a different percentage established by the director by regulation, the usual and customary decoupling fee charged by the towing company for a vehicle subject to consensual towing, or if it exceeds by more than 50%, or a different percentage established by the director by regulation, the usual and customary decoupling fee charged for vehicles subject to non-consensual towing by other private property towing companies operating in the municipality in which the vehicle was subjected to non-consensual towing;
  - 3. To charge a fee for a private property or other non-consensual towing or related storage service not listed on the schedule of services for which a fee may be charged as established by the director except as may be permitted by the director by regulation; or to charge an unreasonable or excessive fee;
  - 4. To refuse to accept for payment in lieu of cash or an insurance company check for towing or storage services a debit card, charge card or credit card if the operator ordinarily accepts such card at his place of business, unless such refusal is authorized in accordance with N.J.S.A. 56:13-4.
  - 5. To monitor, patrol, or otherwise survey a private property for the purposes

of identifying vehicles parked for unauthorized purposes and towing a motor vehicle parked for an unauthorized purpose from such private property without having been specifically requested to tow such vehicle by the owner of the property.

**§336-13. Availability of records.**

Every towing company that performs private property or other non-consensual towing shall retain and make available for inspection by the division for a period of three years, invoices, job orders, logs, claims for reimbursement from insurance companies and other documentation relating to all consensual and non-consensual towing services performed and rates charged for the services.

**§336-14. Miscellaneous rules.**

- A. The Officer in Charge of the Township Police Department shall be responsible for enforcing the provisions of this chapter and shall decide whether or not an applicant's qualifications are sufficient to be placed on the towing list. Any aggrieved party shall be afforded the opportunity of appealing any adverse decision of the Office in Charge to the Franklin Township Committee.
- B. The regulations set forth in this chapter shall be made available to the public at the Township municipal building during normal business hours.
- C. Employees of the contractor are not to be deemed to represent nor be employed by the Township and the contractor shall accept responsibility for the conduct of its employees.
- D. Complaints concerning the services provided or fees charged by the contractor shall be investigated by the Office in Charge who will prepare a written report to be presented to the Township Committee for such further action as it deems fit.
- E. Contractors shall disclose the rate of fees charged by, at a minimum, posting the rates in a conspicuous place at the storage area.
- F. The Township of Franklin shall assume no liability for any services performed by the contractor unless those services are performed for municipal vehicles.

**§336-15. Employees.**

- A. The contractor shall employ a sufficient number of employees to comply with the minimum operational requirements.
- B. All drivers of the contractor shall be over the age of eighteen (18) years and must have a valid, current New Jersey state driver's license and shall be in good health

and of high moral character.

- C. The service, equipment and personnel are subject to periodic inspections and approval by the Township of Franklin.
- D. Dealing with the Public.
1. In all of his dealings with the public, the contractor is expected always to act in a professional manner and at all times to be courteous and respectful toward members of the public as well as representatives of the Township of Franklin. While members of the public, especially those whose cars may have been towed or impounded, may at times resort to strong language, threats and unbecoming behavior toward the tower, the tower is expected to exercise restraint and not to respond in kind, and thereby reflect unfavorably on the Township of Franklin and/or the Police Department.  
  
Reports of discourteous behavior by the contractor or his employees may be considered by the Township as sufficient cause for removal from the towing list.
  2. Upon completion of the background check of the applicant, the finding of a conviction for a felony will be considered ample reason to disqualify any applicant, unless waived by the Township upon application and for good cause.
  3. In the event that the contractor has been summoned by the Township for the purpose of towing a vehicle, and the owner of the vehicle arrives on the scene prior to the removal of the vehicle by the contractor, the owner may be charged by the tower the "loading and show-up charge."
  4. The contractor shall remove and tow to the Franklin Township storage facility (or other facility so designated by the Franklin Township Police Department) all vehicles as directed by the Franklin Township Police Department.

Section 2:

All other sections shall remain unchanged.

Section 3:

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 4. Repealer.

Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

Section 5. Effective Date.

This Ordinance shall take effect upon final passage and publication.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Committee of the Township of Franklin held on September 8, 2016, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on October 13, 2016 at 7:30 p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the Municipal Building, 202 Sidney Road, Pittstown, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Ursula V. Stryker

Township Clerk

Adopted: 10-13-2016