

Ord.#12-2019 An Ordinance of the Township of Mount Olive, in the County of Morris and State of New Jersey, Amending Chapter 367, Towing of the Township Code to Clarify Towing Rates and the Protections of the Predatory Towing Prevention Act.

CLERK:

Delivered to Mayor:

Date: 6/26/2019

Time: 9:00am

Signed: _____

Township Clerk
Michelle Masser

MAYOR:

Action by Mayor:

Approved: ☒ _____

Date: 6/26/19

Vetoed: _____

Date: _____

(Reasons for which Mayor has withheld approval of Ordinance, item or part Thereof.)

Signed: _____

Mayor

CLERK:

Returned:

Date: 6/26/19

Time: 9:11 am

Not returned with in (10) days

Date: _____

Signed: _____

Township Clerk

ORD.#12-2019

**AN ORDINANCE OF THE TOWNSHIP OF MOUNT OLIVE, IN THE
COUNTY OF MORRIS AND STATE OF NEW JERSEY, AMENDING
CHAPTER 367, TOWING, OF THE TOWNSHIP CODE TO CLARIFY
TOWING RATES AND THE PROTECTIONS OF THE PREDATORY
TOWING PREVENTION ACT**

WHEREAS, the Predatory Towing Prevention Act, N.J.S.A. 56:13-1 et seq., was enacted by the New Jersey Legislature in 2009 to regulate towing from private property, and towing initiated by law enforcement, to protect the health, safety and welfare of the general public; and

WHEREAS, the Township has received an alarming number of complaints from Township residents regarding unreasonable charges associated with nonconsensual towing of vehicles; and

WHEREAS, in response to these complaints, the Mayor and Council of the Township of Mount Olive have determined that it is in the best interest of the Township to amend the Township Code to clarify towing rates and the protections of the Predatory Towing Prevention Act.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Mount Olive, in the County of Morris and State of New Jersey, as follows:

SECTION 1. Chapter 367, Towing, is hereby amended to read as follows in its entirety:

§ 367-1 Purpose

The purpose of this Chapter is to establish rules and regulations, pursuant to N.J.S.A. 40:48-2.49 et seq. and the Predatory Towing Prevention Act, N.J.S.A. 56:13-1 et seq., to regulate towing operations within the Township of Mount Olive.

§ 367-2 Qualifications for rotation list.

A. The Administrator of the Township of Mount Olive is hereby authorized to compile a list of all towers and to amend and supplement the list from time to time. A towing operator shall be required to meet the following minimum qualifications to be included on the list:

(1) All towing operators must own or lease and have available at least one conventional tow truck and one flatbed tow truck, in addition to other equipment which is necessary to provide safe and efficient towing. Each tow vehicle must have the name of the towing operator and his phone number on the side of the vehicle.

(2) All towing operator's trucks must be equipped with radio communications or beepers, enabling them to maintain contact with their places of business.

(3) All towing operator's trucks shall be equipped with brooms and shovels for the purpose of clearing debris off roadways. All towing operator's trucks shall be equipped with 25 pounds of absorbent material for minor spills/leaks of fuel, oil, etc., as well as an approved container for the storage of contaminated absorbent material.

(4) All towing operators shall have telephone equipment at their place of business that is able to handle more than one incoming call.

(5) All towing operators shall carry public liability insurance with a limit of \$1,000,000. Property damage shall be carried in at least an amount of \$100,000 per accident and be specifically endorsed to include vehicles in tow. A certificate showing these coverages shall be required.

(6) No tower shall store vehicles unless the storage area shall be lighted, fenced and secured and within five miles of driving of the Township's Municipal Building.

(7) Applicants approved to tow for the Township will not subcontract to other towers. The approval will only be applicable to the individual or corporation whose name appears on the submitted application.

B. The Township Council of the Township of Mount Olive may grant a waiver to any of the prerequisites which a provider of towing services is required to have under Subsection A to be included on the list of towers, provided that the tower makes an application to the Township Council and the Township Council determines that the tower will provide an acceptable alternative to the requirement for which the waiver is sought.

§ 367-3 Additions to and deletions from list.

After the initial list is prepared, the Administrator may add names to the approved list when additional towing operators meet the appropriate qualifications. The Administrator may also delete names from the list when an operator fails to perform properly or to continue to meet the basic requirements, but no deletion shall occur without notice to the towing operator involved and the opportunity for a hearing before the Administrator. The decision of the Administrator may be appealed to the Township Council.

§ 367-4 Establishment of rates.

The Township has the authority to and will establish tower rates, consistent with the prevailing rates for the area (ten-mile radius). No fees, other than established by the Township, are authorized to be charged. Towing/storage fees are to be reviewed every three years by the Police Department.

§ 367-5 Duties of towing operators.

A. Approved towing operators shall respond to a vehicle within 20 minutes after being notified by the desk officer of the Police Department of a necessary service call.

B. A towing operator shall immediately dispatch tow trucks when requested by the desk officer to respond to an emergency situation.

C. A towing operator shall not permit a vehicle to be removed without proper authorization.

D. A towing operator's drivers shall request police assistance during the course of servicing when they find it necessary to turn around, back up, tow in the opposition direction, cross the median, etc.

E. Towers shall remove all debris from the roadway and scene from which the vehicle will be towed.

§ 367-6 Use of list by Police Department.

A. The Administrator shall submit to the Police Department from time to time a list of towing operators to be utilized.

B. The list shall be utilized by the Police Department to provide towing services when necessary. The Police Department shall call for towing services when necessary. The Police Department shall call the towing operators in a sequential rotation of seven days on so that every towing operator is given an equal opportunity to provide towing services. The Police Department shall give each tower at least seven days' notice of his turn in the sequential rotation of seven days on.

§ 367-7 Semiannual report.

The Police Department shall, on a semiannual basis, provide the Administrator with a report as to the quality of towing services provided by those towing operators on the list.

§ 367-8 Disposition of towed vehicles.

All vehicles will be removed to the tower's secured lot, unless otherwise directed by the Police Department. Vehicles may be towed to a designated location by the customer if approved by the Police Department and at an additional cost to the customer.

§ 367-9 Predatory Towing Practices.

Predatory towing practices are prohibited pursuant to N.J.S.A. 56:13-1 et seq.

A. While the majority of towing companies in New Jersey are reputable service providers, some unscrupulous towing companies are engaged in predatory practices victimizing consumers whose vehicles are parked on public streets and on private property. Such practices are strictly prohibited.

B. Predatory towing practices include charging unwarranted or excessive fees, particularly in connection with towing vehicles from private parking lots which do not display adequate warnings to vehicle owners, or overcharging consumers for towing services provided under circumstances where the consumer has no meaningful opportunity to withhold consent.

C. The legitimate business interests of towing companies and the needs of private property owners for relief from unauthorized parking must be balanced with the interest in providing appropriate protection to consumers.

D. Therefore, wherever authority exists in the law to regulate towing and towing companies it is in the public interest to create a coordinated, comprehensive framework to establish and enforce minimum standards for tow truck service providers.

E. It shall be an unlawful practice for any towing company to:

- (1) Fail to provide a schedule of rates/fees.

(2) Fail to provide a schedule of rates/fees to any person who was not present at the time the towing services were provided.

(3) Make, give or cause any undue or unreasonable preference or advantage or undue or unreasonable prejudice or disadvantage to any person in any particular locality, with respect to providing towing services.

(4) 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 towing from privately owned property motor vehicles parked without authorization. Nothing in this section shall preclude a towing company, acting on behalf of a club or association, from charging members of the club or association a fee at a rate established by contract between the towing company and the club or association, which is lower than that rate specified in the towing company's schedule on file with the Township Clerk, provided that membership to such club or association is generally available to the public.

(5) Fail, when so requested by the owner or operator of a vehicle subject to nonconsensual 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 more than a decoupling fee.

(6) Charge any rate/fee, other than those charges established by municipal ordinance, or the rate/fee specified in the towing company's schedule on file with the Township Clerk, or to charge a rate/fee in an amount or for a service not listed on the schedule on file with the Township Clerk at the time. Nothing in this section shall preclude a towing company, acting on behalf of a club or association, from charging members of the club or association a rate/fee established by contract between the towing company and the club or association, which is lower than the rate/fee specified in the towing company's schedule on file with the Township Clerk, provided that membership in such club or association is generally available to the public.

(7) Refuse to accept payment in lieu of such as a debit card, charge card or credit card, if the operator ordinarily accepts such payment at his place of business. Terms of use for debit, charge and/or credit cards shall be posted by the towing company in accordance with this chapter.

§ 367-10 Rates.

The following fees are the maximum amounts that may be charged by any towing company operating within the Township of Mount Olive:

A. Basic towing for automobiles:

(1) Days:

(a) Hookup: \$80.

(b) Each mile after hookup: \$5 (round trip).

(2) Nights:

(a) Hookup: \$90.

(b) Each mile after hookup: \$5 (round trip).

B. Basic towing for motorcycles:

(1) Days:

(a) Hookup: \$90.

- (b) Each mile after hookup: \$5 (round trip).
- (2) Nights:
 - (a) Hookup: \$100.
 - (b) Each mile after hookup: \$5 (round trip).

C. Basic towing for medium-duty trucks:

- (1) Days:
 - (a) Hookup: \$160.
 - (b) Each mile after hookup: \$10 (round trip).
- (2) Nights:
 - (a) Hookup: \$180.
 - (b) Each mile after hookup: \$10 (round trip).

D. Basic towing for heavy-duty trucks:

- (1) Days:
 - (a) Hookup: \$375 per hour, minimum one hour.
 - (b) Each mile after hookup: \$15 (round trip).
- (2) Nights:
 - (a) Hookup: \$450 per hour, minimum one hour.
 - (b) Each mile after hookup: \$15 (round trip).

E. Special services:

- (1) For winching and/or preparation prior to towing automobiles: \$120 per one hour (to be billed in one-quarter-hour increments, minimum one hour) per tow truck.
- (2) For additional labor except tow truck driver, minimum one hour, followed by one-quarter-hour increments: \$100 per hour.
- (3) For medium- /heavy-duty recovery winching and/or other preparation prior to towing, minimum one hour, followed by one-quarter-hour increments: \$550 per hour.
- (4) Road service: charge for basic road service:
 - (a) Day: \$75, plus cost of fuel provided, if applicable, plus \$2 per mile.
 - (b) Nights: \$85, plus cost of fuel provided, if applicable, plus \$2 per mile.
 - (c) Winch only: \$120 (to be billed in one-quarter-hour increments, minimum one hour).
- (5) Inclement weather: The towing company may, at their discretion, charge an extra 20% of the total standard towing fee during times of inclement weather.
- (6) Administrative charge: The towing company may, at its discretion, charge for post-accident services, including but not limited to services such as physical inspections, telephone and/or fax calls, removal of personal items or paperwork. An itemized list of additional services must be provided. Administrative time shall be billed at a rate of \$10 per fifteen-minute interval, excluding the first 15 minutes.
- (7) Waiting time: additional time a tow operator spends at the scene other than the time required for the actual tow and/or recovery. Examples of waiting time may include, but are not limited to, EMS services which must be performed and/or police investigations. Waiting time shall be billed at a rate of \$10 per fifteen-minute interval, excluding the first 15 minutes.
- (8) This fee schedule will be reviewed and may be amended by the Township Committee by resolution, in conjunction with the three-year towing operator qualification schedule.

(9) Yard tow: \$25.

F. Outside secured storage:

(1) Automobiles: \$35 per day, if not claimed within 12 hours, then based on each overnight period after the initial twelve-hour period.

(2) Medium-/heavy-duty trucks: \$80 per day, if not claimed within 12 hours, then based on each overnight period after the initial twelve-hour period.

(3) Tractor-trailers: \$150 per day, if not claimed within 12 hours, then based on each overnight period after the initial twelve-hour period.

G. Outside unsecured storage:

(1) Medium-/heavy-duty trucks: \$55 per day, if not claimed within 12 hours, then based on each overnight period after the initial twelve-hour period.

(2) Tractor-trailers: \$105 per day, if not claimed within 12 hours, then based on each overnight period after the initial twelve-hour period.

SECTION 2. This Ordinance may be renumbered for the purposes of Codification.

SECTION 3. If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portions of the Ordinance.

SECTION 4. All ordinances or parts of ordinances of the Township of Mount Olive that are inconsistent herewith are repealed to the extent of such inconsistency.

SECTION 5. This Ordinance shall take effect twenty (20) days following final passage, approval, and publication as required by law.

Introduced: 6/11/2019

Adopted: 6/25/2019

Effective Date: 7/19/2019

TOWNSHIP OF MOUNT OLIVE



Joe Nicastro, Township Council President

Attest:

6/25/19



Michelle Masser, Township Clerk