

**AN ORDINANCE AMENDING CHAPTER 5, SECTIONS 32.1, 32.3, 32.7, 32.8, 32.9,
32.10, 32.11, and 32.12 OF THE REVISED GENERAL ORDINANCES OF THE
TOWNSHIP OF WEST ORANGE
(Police-Requested Towing and Storage Services)**

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF WEST ORANGE, NEW JERSEY that Chapter 5 of the Revised General Ordinances of the Township of West Orange be and are hereby amended as follows:

I. PURPOSE

The purpose of this ordinance is to revise the municipal code provision governing the towing of vehicles within the Township of West Orange by licensed tow companies.

II. CHAPTER 5, SECTION 32.1 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

5-32.1 Definitions.

As used in this section:

Cruising shall mean the operation of a tow truck in and upon a Township street to solicit vehicle towing and storage business except in response to a Police request.

Licensee shall mean a towing operator having a license granted by the Township pursuant to the provisions of this section.

Owner shall mean any individual or entity who, or which, owns or leases, and/or operates, parks or abandons a vehicle within the Township.

Police shall mean the Police Department of the Township.

Storage services shall mean the storage or housing of vehicles by a towing operator.

Towing operator shall mean any entity lawfully engaged in the business of providing towing and storage services for vehicles towed, which services are made available to the general public upon such rates, charges and fees as determined by Township Ordinance.

Towing services shall mean the towing and/or removing of vehicles by the holder of a license issued pursuant to the provisions of this section.

Vehicle shall mean every device in, upon or by which a person or property is or may be transported upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

III. CHAPTER 5, SECTION 32.3 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

5-32.3 Application for License; Contents.

- a. Every applicant for a license under this section shall complete, sign and verify a written application, in triplicate, on forms furnished by the Business Administrator.
- b. The application shall state:
 1. The complete legal name and principal office address of the applicant.
 2. The complete home address and home telephone number of the applicant of a sole proprietorship or the complete home address and home telephone number of the shareholders, principal officers and partners if the applicant is a corporation or partnership.
 3. The serial number and registration of each vehicle to be operated by the applicant and certificate of title.
 4. The location of the storage area for the towing equipment listed in subsection 5-32.7 and the vehicles stored following their being towed by the licensee, record owner of same and name and addresses of any lienholders.
 5. The principal storage yard for all vehicles towed under this ordinance must be within the boundaries of the Township of West Orange.
 6. The name and address of the insurer and policy numbers of the garage keeper's liability and garage liability policies, proof of payment of premium which policies shall name the applicant as the insured as mandated in subsection 5-32.12 herein.
 7. Consent to appointment of the Township Clerk as the applicant's true and lawful attorney for the purpose of acknowledging service out of any court of competent jurisdiction to be served against the applicant.
 8. An agreement to be available for service or on call twenty-four (24) hours a day every day of the year and to abide by the fees contained in this section.
 9. Proof that the applicant holds title or is a bona fide lessee of the equipment and storage space used for the entire period of the contract.
 10. Proof that all storage facilities owned by the applicant are located in appropriately zoned for Storage Services.
- c. Applications shall be filed with the Business Administrator together with a certified check for the application fee specified in subsection 5-32.6.
- d. Applications in conformance with this section shall be submitted in triplicate no later than May 1.
- e. Applicants shall provide a current business registration certificate in accordance with N.J.S.A. 52:32-44.

IV. CHAPTER 5, SECTION 32.7 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

5-32.7 Equipment.

- a. A towing operator, when filing an application for and at all times while holding a license under this section, shall own or lease the following items of equipment:
 1. At least two (2) light-medium wrecker with a gross vehicle weight rating of eleven thousand eight hundred (11,800) pounds.
 2. One (1) heavy duty wrecker with a gross vehicle weight rating of at least a forty (40) ton boom rating and rotating capacity.
 3. At least two (2) flat bed carriers with at least two (2) car capacity and a gross vehicle weight rating of at least twenty-thousand (20,000) pounds.
- b. All tow trucks shall be properly lettered on both sides in accordance with law to include the name of the licensee. The lettering shall be permanently affixed to the sides of the tow trucks. Lettering affixed magnetically to the sides of the tow trucks will not be sufficient to meet this requirement.
- c. All equipment used by a licensee in performing its obligation under the license shall be maintained in good and safe condition and may be inspected for such condition by the Police at any time wherever located. Any deficiency in such condition reported by the Police to the licensee shall be promptly corrected and any failure to correct may be cited as grounds for revocation of the license pursuant to subsection 5-32.16.
- d. No licensee may be listed more than once in the West Orange Township rotation.
- e. All tow vehicles shall be insured in the licensee's name. Any vehicles owned by the licensee and/or leased pursuant to a lease-purchase and/or lease-finance agreement shall be registered in the licensee's name. All tow vehicles listed by the licensee in its application shall be continuously under the control of the licensee during its period of active duty in the rotation. Any present or existing licensee which cannot comply with the requirements of this paragraph shall have a period of six (6) months from the date of adoption of this provision to comply with its requirements.
- f. On January 15 of each year, or the next business day thereafter, each licensee shall submit to the Township a list of all employees, including each employee's duties, driver abstracts and criminal history checks for all of those employees. Those employees whose duties include driving, shall at all times possess valid driver's licenses in accordance with Title 39 of the New Jersey Statutes.
- g. Within ten (10) days of employing, hiring, and/or engaging a new employee or new employees, the licensee shall submit the names, duties, social security numbers, and criminal history checks of each new employee to the Township.
- h. All costs in connection with the application, including, but not limited to costs of obtaining criminal history checks, and/or fingerprints, shall be borne by the applicant, and the Township shall have no responsibility to aid and/or assist the applicant in obtaining said information.
- i. Each licensee shall maintain adequate and complete records showing all vehicles towed, stored and released, all services rendered and all fees charged and collected. All records

shall be available for inspection by the Township at any time during normal business hours.

- j. INTENTIONALLY OMITTED
- k. Each licensee shall make available to the Township for inspection at any time, all vehicles. All changes to the roster of vehicles must be filed with the Chief of Police prior to those vehicles being placed in service.
- l. Every vehicle must display the licensee's license and shall have the name of the licensee displayed on the vehicles in such manner and of such lettering as conforms to the provisions of N.J.S.A. § 39:4-46.

V. CHAPTER 5, SECTION 32.8 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

5-32.8 Storage and Garage Facilities.

- a. *General Storage.* Each licensee shall have dedicated storage space within West Orange, or a community adjacent and contiguous to West Orange sufficient to accommodate at least eighty (80) vehicles, including storage space within the confines of West Orange sufficient to accommodate at least fifty (50) vehicles, outdoors or indoors, for at least thirty (30) days.
- b. *Indoor Storage; Police.* In addition to the storage space referred to in paragraph a. above, each licensee shall have indoor storage space sufficient to accommodate at least four (4) vehicles for exclusive use by the West Orange Police Department for impounded vehicles and vehicles that are the subject of any Police investigation. This facility must be located within the boundaries of West Orange.
- c. *Equipment Facility.* Each licensee shall have an area and facility adequate for the storage and servicing of the equipment required by subsection 5-32.7.
- d. *Condition of Facilities; Signs; Moving of Vehicles.* All storage and garage facilities shall be adequately safeguarded against vandalism and theft. The licensee shall assume and be solely responsible for all costs incident to moving vehicles from one (1) storage area to another storage area owned or operated by the licensee. The facilities shall also be clean and in good order and the hours of recovery of vehicles shall be prominently posted and previously approved in writing by the Township. A licensee must have, at least, the following hours of recovery: Monday through Friday, excluding holidays, 8:00 a.m. to 6:00 p.m. and Saturday, excluding holidays, 8:00 a.m. to 1:00 p.m.

VI. CHAPTER 5, SECTION 32.9 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

5-32.9 Licensee's Personnel.

- a. Each towing licensee shall comply with New Jersey State Law regarding commercial vehicles, including all applicable Commercial Driver's License ("CDL") requirements. Each driver shall be of good moral character, mentally alert, and present a neat appearance at all times. Possession of a CDL license, when required by law, shall be mandatory.
- b. All tow truck drivers of a licensee shall be fully trained and knowledgeable in tow truck and storage operations and equipment, and have obtained a certification from TRAA,

Wreckmaster or other similar entity, agency or association, and consent to background investigation by the Township Police if requested by the Township Police at any time. All tow truck drivers currently performing such services for a licensee pursuant to such certification for six (6) months from the passage of this section, at which time all tow truck drivers must have obtained such certification.

- c. Each tow truck driver of a licensee shall appear in person at the Township Police Department to be registered as a tow truck driver prior to the driver's operation of any tow truck on Township streets.
- d. No licensee shall employ directly or indirectly any employees of the Township.

VII. CHAPTER 5, SECTION 32.10 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

5-32.10 Towing and Storage Services.

Towing and storage services shall be governed by the following provisions:

- a. Towing services by licensees will be rotated on a weekly basis on a twenty-four (24) hour, seven (7) day week basis, without exception, with a week's "duty" shift starting at 12:00 midnight on Monday and continuing until 11:59 p.m. the following Sunday.
- b. Licensees will respond to a Police request for service when requested by the Township Police desk officer or other officer expressly authorized to communicate such request by dispatching one (1) or more tow trucks to arrive at the scene to which dispatched within a reasonable time. For normal circumstances such reasonable time shall be deemed to be within twenty (20) minutes.
- c. A licensee shall immediately notify the Township Police if the licensee is wholly or partially not operational due to failure of any equipment or any personnel insufficiency and shall furnish such details thereof in writing as may be requested by the Police.
- d. Tow trucks of a licensee will not cruise and will not respond to any scene where towing may be required except upon Police request or as permitted by this section. This prohibition does not include tows at an automobile owner's request, such as contract tows, tows from private property or a tower's customer's specific request.
- e. No flashing lights or sirens shall be used on a tow truck except as permitted by the Township Police Chief under applicable law.
- f. All tow trucks shall be operated in accordance with all existing traffic regulations and in a safe and prudent manner. Tow truck drivers will request Police assistance during the course of servicing when they find it necessary to turn around, back up, tow in a direction opposite to normal traffic, to cross a median, or other required help.
- g. Each licensee will be responsible for all vehicles and visible contents in their custody that are towed off the roads under direction of the Police. An inventory shall be made at the scene to note such contents of each vehicle.

- h. No vehicle will be removed from Township roads or highways traversing the Township without proper authorization from the Police at the scene or the owner, as the case may be.
- i. No tow shall be effected to any area outside the Township between the hours of 6:00 p.m. and 8:00 a.m. The vehicle shall be towed to the licensee's storage area unless the licensee and vehicle owner and/or driver agree to tow further at no cost to the Township.
- j. The Police Officer investigating the incident is in complete charge of the incident scene (excluding actual towing operations), and all drivers shall comply with the officer's instructions.
- k. Each licensee, prior to departure from the scene of towing services, shall clean and clear the streets and surrounding areas of any debris resulting from any accident at such scene to the reasonable satisfaction of the Police, and at all times carry the equipment necessary to perform such services. Such services may be charged in conformance with subsection 5-32.11 herein.
- l. In the event a licensee refuses to tow at the scene of the incident or refuses to tow when requested by the owner, the Police Officer assigned to the incident shall report the refusal in writing to his/her superior with all pertinent details. The report of refusal shall be furnished to the Township Police Chief and the Mayor as soon as practicable for evaluation of the licensee's performance of its obligation under the license. No towing operator shall be required to tow any vehicle in an unsafe manner or in such a way as to cause further damage to the vehicle towed or the towing vehicle.
- m. No vehicles shall be towed for illegal parking before the issuance of an illegal parking summons.
- n. Each licensee shall provide the Township Police with a typewritten list of vehicles in its custody that are unclaimed at 12:00 noon every Friday.
- o. Vehicles impounded or confiscated by the Police and stored by the licensee shall not be released by the licensee without prior written authorization by the Police.
- p. If a licensee finds that it is unavailable to respond to a Police request for service that licensee shall immediately notify any other holder of a license issued pursuant to this section of such unavailability and request that licensee to respond.
- q. The Police Department shall dispose of unclaimed vehicles as may be reported pursuant to subsection 5-32.14b in accordance with the requirements of N.J.S.A. § 39:10A-1 et seq.
- r. Every licensee shall attach a copy of its invoice for each tow to a copy of the release that is returned to the Township Police Department.
- s. All licensees shall be required to tow any damaged Township vehicle to the appropriate designated automobile repair facility within one business day.

VIII. CHAPTER 5, SECTION 32.11 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

5-32.11 Towing and Storage Charges.

- a. The maximum rate for towing and storage of vehicles pursuant to this section shall be as follows:

<i>Type of Service</i>	<i>Amount</i>
All passenger automobiles, motor vehicles and similar vehicles	\$110.00.
Medium-duty trucks, campers, and similar vehicles weighing more than 8,000 lbs. and less than 15,000 lbs.	\$210.00 per hour with a one (1) hour minimum.
Heavy-duty trucks, tractor-trailers, campers, and similar devices with dual wheels with a gross variable weight over 15,000 lbs.	\$325.00 per hour with a one (1) hour minimum.
Road service including jumpstarts, tire changes and related services	\$85.00.
Recovery/winching for cars	\$95.00.
Rollover of cars	\$125.00.
Heavy duty recovery services	\$650.00 per hour with a one (1) hour minimum.
Waiting time for each hour or part thereof	\$50.00 per hour.
Normal cleanup provided in subsection 5-32.10k. herein	\$55.00.
Storage charges (outside)	\$40.00 per day.
Storage charges (inside)	\$50.00 per day.
Outside storage for trucks, tractor-trailers, and campers	\$75.00 per day.
Inside storage for trucks, trailers, campers	\$105.00 per day.
Administrative fee which may be	\$45.00.

charged to a third party (non-owner) (i) for physical visits to a stored vehicle; or (ii) requests requiring an inordinate amount of clerical time. Documentation of such clerical time must be available upon request. This fee may be charged each time access is sought to the vehicle. Any owner shall be permitted access to the vehicle on one (1) occasion at no charge

Yard fee \$45.00

- b. *Reserved.*
- c. *Reserved.*
- d. An administrative fee of twenty (\$20.00) dollars shall be paid to the Township for each vehicle towed by the licensee in accordance with this section. This fee is to be paid by the licensee on a monthly basis upon the filing of monthly reports in form satisfactory to the Township's Chief Financial Officer. All reports and payments must be received by the fifteenth of the next month.
- e. The Township and its Police shall not be liable to a licensee with respect to service rendered to any owner pursuant to the licensee or otherwise. The licensee shall look only to the owner of such vehicle for payment of service charges or any other compensation.
- f. Any vehicle towed will only be released upon presentation of a duly authorized and executed release from the Police Department authorizing such release.
- g. Licensee shall **not** charge a storage or towing fee when it tows a vehicle designated to be impounded or stored as part of a criminal investigation by the West Orange Police Department or other law enforcement agency operating within the Township of West Orange, except that this provision shall not prevent Licensee from seeking restitution including storage or towing fees in a criminal prosecution resulting from the criminal investigation.
- h. Licensee shall **not** charge a storage or towing fee for the transport or storage of any vehicle owned by the Township being transported or stored en route to a designated automobile repair facility.
- i. Licensee shall **not** charge a storage or tow fee when a vehicle is towed or impounded in error, whether by error on the part of Licensee or by error on the part of the West Orange Police Department in misidentifying a vehicle for towing or impounding. Licensee shall refund to the owner of the vehicle any storage or tow fee already paid for a vehicle towed or stored in error.

- j. All fees charged pursuant to this ordinance shall be due and payable prior to the tow operator being required to return the vehicle to the owner or other person authorized by the owner to obtain possession of the towed vehicle.

IX. CHAPTER 5, SECTION 32.12 SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

The licensee shall have in effect, prior to application and at all times during the term of the license, the following insurance:

- a. Garage keeper's liability policy in the amount of one million (\$1,000,000.00) dollars for any one (1) claimant, and one million (\$1,000,000.00) dollars for more than one (1) claimant with five hundred thousand (\$500,000.00) dollars coverage for property damage for any one (1) event.
- b. Automobile liability insurance issued by a financially sound insurance corporation of or authorized to transact business in the State, insuring the licensee and every tow truck operator against liability imposed by law for damages because of bodily injury, including death, sustained by any person and injury to or destruction of property, including the loss of use thereof, caused by accident and arising out of the ownership, maintenance or use of the tow trucks of the licensee. The amount of the limits of liability coverage to be afforded by such policy shall be seven hundred fifty thousand (\$750,000.00) dollars for bodily injury to each person, one million (\$1,000,000.00) dollars for bodily injuries in each accident and five hundred thousand (\$500,000.00) dollars for property damage in each accident. Financially sound Insurance Corporation shall be defined to require a rating of at least A-Plus from A.M. Best Company or such other comparable rating entity that may exist.
- c. The licensee shall supply a certificate of insurance to the Township Clerk describing every policy of insurance and identifying the Township as an insured party. Each certificate of insurance shall contain a provision that no cancellation of the policy shall become effective until after the expiration of thirty (30) days written notice of such proposed cancellation forwarded by the insurance company to the Township Clerk.
- d. The form and content of the insurance policy and certificate of insurance shall be submitted to the Township Attorney's office for review and approval.

X. REPEAL OF CONFLICTING ORDINANCES

Any Ordinances of the Township which are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

XI. SEVERABILITY

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereof shall not affect the remaining parts of this Ordinance.

XII. EFFECTIVE DATE

This Ordinance shall take effect upon final passage and publication in accordance with the law.

Jerry Guarino, Council President

Robert D. Parisi, Mayor

Introduced: September 29, 2015

Adopted: October 27, 2015

Approved as to form on the basis of the facts provided:

Karen J. Carnevale, Municipal Clerk

Legislative History

This ordinance is drafted to revise the municipal code provisions governing the towing of vehicles by licensed tow companies. This Ordinance specifically adds the following requirements:

1. Addition of requirement that license applicants demonstrate appropriate zoning for their storage facilities.
2. Revisions to the equipment necessary to obtain a towing license.
3. Revisions to the requirements necessary to demonstrate sufficient storage capacity for including the additional requirement to demonstrate the ability to store at required capacity for at least thirty (30) days.
4. Extension of certification requirements to all tow truck operators.
5. Modification and increase of maximum rates allowed for towing and storage.
6. Increase in required garage keeper's liability insurance from seven hundred fifty thousand dollars to one million dollars.
7. Requires towing of damaged police vehicles to designated facilities within one business day.
8. Prohibits towing companies from charging towing or storage fees to the Township when a vehicle is being towed and impounded as part of a criminal investigation.
9. Prohibits towing companies from charging towing or storage fees to the Township when a Township owed vehicle is being transported for repairs.
10. Prohibits towing company from charging tow or storage fees when a vehicle is impounded or towed in error.