

ORDINANCE 2013-19

AN ORDINANCE REPEALING ORDINANCE 2013-9, WHICH HAD REPEALED CHAPTER 5.36 ENTITLED TOWING OPERATION AND REPLACING SAME WITH NEW CHAPTER 5.37 ENTITLED TOWING BUSINESSES.

Be it ordained by the Township Committee of the Township of Ocean in the County of Ocean and State of New Jersey that Chapter 5.36 is hereby repealed and replaced with the following:

15.37.010 DEFINITIONS.

The following words and terms, when used in this ordinance shall have the following meaning, unless the context clearly indicates otherwise:

AUTOMOBILE – A private passenger automobile of a private passenger or station wagon type that is owned or hired, a motor vehicle with a pickup body, or delivery sedan, a van, or a panel truck or a camper type vehicle.

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 of berm.

INSIDE BUILDINGS – A vehicle storage facility that is completely indoors, having one (1) or more openings in the walls for storage and removal of vehicles and that is secured by a locking device on each opening.

OUTSIDE SECURED – An automobile storage facility that is not indoors and is secured by a fence, wall or other man-made barrier that is at least six (6) feet high and is installed with a passive alarm system or a similar on-site security measure. The facility is to be lighted at night.

OUTSIDE UNSECURED – An automobile storage facility that is not indoors and is not secured by a fence, wall or other man-made barrier, and all other storage facilities not defined above as inside building or outside secured.

STORAGE CHARGES FOR 24 HOUR PERIOD – The maximum allowable amount to be charged by a storage facility for a twenty-four (24) hour period or fraction thereof. A new twenty-four (24) hour period begins at 12:01 A.M.

TOW VEHICLE – Only those vehicles equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under-reach equipment specifically designed by its manufacturer for the removal or transport of private passenger automobiles.

TOW VEHICLE'S BASE OF SERVICE – The towing operator's principal place of business where the tow vehicle is stationed when not in use.

15.37.020 TOWING LIST ESTABLISHED

The Chief of Police shall establish a list of persons or firms who shall be utilized by the Police Department of the Township of Ocean to provide towing and wrecking services for abandoned or wrecked vehicles. The list shall be comprised of a maximum of five (5) operators. The Chief of Police shall also establish and maintain a waiting list for operators in the event the number of authorized operators exceeds five (5), or if there needs to be a person or firm to replace one (1) of the five (5) operators. The placement on the waiting list shall be based on the date of the filing of the application by the person or firm wanting to be used by the Police Department for towing and wrecking services.

15.37.030 LICENSE REQUIRED

No person or firm shall operate a towing business within the Township of Ocean without having first obtained a license authorizing the operation of such business under the provisions of this ordinance.

15.37.040 APPLICATION: FEE: INSURANCE.

Application of the issuance of licensing for the purpose of this ordinance shall be made by the person or firm engaged in the towing or wrecking operation. This application shall be made on forms furnished by the Township Clerk with an application fee made payable to the Township of Ocean in the amount of one hundred dollars (\$100). There will be a one hundred dollar (\$100) license fee upon the awarding of the same. The application shall contain the following information:

- A. The full name and address of the applicant. If the application is made for a partnership or corporation it shall state the names and addresses of all partners, officers and directors of the corporation or partnership along with the registered agent and registered office address.
- B. The year, make, model and registration number of each towing vehicle, flatbed or other vehicle to be used by the applicant in connection with the towing business. The towing vehicle may not be permitted to display dealer plates.
- C. The address where any such towing vehicle, flatbed or other vehicle shall be garaged.
- D. The address and description of the storage facility to be used by the applicant for the storage of towed vehicles.
- E. A copy of the certificate of insurance evidencing that the applicant has obtained insurance for all towing vehicles, flatbed or other vehicles in policy limits of no less than one hundred thousand dollars (\$100,000) for a single accident for a personal injury and

one million dollars (\$1,000,000) per accident for property damage. Each applicant shall have garage keeper's liability insurance in an amount not less than one million dollars (\$1,000,000) per location and garage liability insurance in an amount not less than one million (\$1,000,000) single limit. Each applicant shall also meet the requirements of New Jersey Workers' Compensation laws. The Township of Ocean shall be named as an insured with regard to each of the insurance policies with the exception of workers' compensation insurance.

15.37.050 INDEMNIFICATION

Each applicant shall be required to execute an indemnification agreement in a form satisfactory to the Township Attorney which shall fully indemnify the Township or any of its agents, servants or employees with respect to the applicant's activities under this ordinance.

15.37.060 LICENSE REQUIREMENTS

A. Each applicant shall be required to provide for basic towing services on a twenty-four (24) hour basis, seven days per week for each day of the year.

B. Each applicant shall have the ability to provide for basic towing services and shall not exceed thirty (30) minutes response time after a call from the Township representatives.

C. Each applicant shall have an office or place of business located within a reasonable distance as determined by the Township Chief of Police.

D. Each applicant providing towing services shall show proof of ownership or a lease agreement for a proper area to store a minimum of fifteen (15) towed motor vehicles. Each storage area shall be approved for security and safety by the Township Chief of Police or his designee.

E. Each tower shall have an enclosed garage so as to provide inside security storage for at least five (5) towed vehicles.

F. Each applicant providing towing services must be available for recovery during nonbusiness hours and must post an emergency telephone number for recovery during nonbusiness hours clearly displayed on the entrance of the applicant's lot.

G. Courtesy towing for township-owned vehicles.

(1) During the term of the license, applicants shall provide to the township, towing services, free of charge for any and all township-owned vehicles in need of such services either within the township or within a fifteen (15) mile radius of same.

(2) Agreement to provide courtesy towing services shall be a condition of the applicant's licensure throughout its term with the Township.

H. Filing of application; investigation.

Every applicant for a license or license renewal under this section shall complete, sign, and verify a written application, in duplicate, on such forms as are prescribed and furnished by the Township Clerk and shall pay to the Township Clerk a nonrefundable fee of fifty dollars (\$50). The form to be supplied by the Clerk shall contain the following.

(1) Name, address, and driver's license number of the applicant and any employees of the applicant that are expected to be involved in the operation of the applicant's vehicular equipment in accordance with this section.

(2) The applicant shall be given a copy of this section and shall certify that he or she has read and understood the section.

(3) A certification by the applicant and each of the applicant's employees that are expected to participate in the applicant's activities as approved by this section that each individual has not been convicted of a crime or disorderly persons offense involving moral turpitude within a period five (5) years preceding the date of the application. The application shall be filed with the Police Department and shall be processed as follows:

(a) The Chief of Police or his designee shall be charged with the investigation of applicants and shall recommend to the Police Commissioner for the approval of Mayor and Township Committee the issuance of a license when he finds that:

[1] The applicant and all employees are properly licensed under all applicable motor vehicle laws of the State of New Jersey and are trained in the safe and efficient operation of the applicant's vehicular equipment as set forth in this section; and

[2] The application submitted by the applicant complies with the requirements of this section and all other applicable ordinances of the Township.

(b) Upon notification of either approval or denial of the application by the Mayor and Township Committee, the Township Clerk shall, within five (5) days, notify the applicant by registered or certified mail of the approval or denial of his application, and in the event of approval, shall issue the license.

(c) The license shall contain the name and address of the licensee, number of the license, and fee paid, date of issuance and expiration date, and the signature of the Township Clerk and the seal of the Township.

(d) The license shall state whether or not the licensee is authorized to provide emergency towing services for any impounding vehicle.

I. Display of License.

Upon issuance, a copy of the license shall be visibly displayed in any vehicles used for towing purposes within the Township.

15.37.070 EQUIPMENT REQUIREMENTS.

Each wrecker shall meet the requirements of N.J.S.A. 39:1-1 et. seq. In addition, each wrecker shall have at a minimum the following equipment:

- A. One (1) large broom and shovel.
- B. One (1) set of dolly wheels.
- C. Steering wheel lock for towing vehicles from the rear.
- D. Tow sling type tow bar to prevent any part of towing crane metal from touching the towed vehicle.
- E. Emergency warning lights.
- F. Portable safety lights.
- G. Safety flares for night work.
- H. A flatbed trailer capable of removing a motor vehicle.

15.37.080 RECORDING OF LICENSES AND ROTATING LIST.

The Chief of Police shall maintain a list of licenses under this ordinance in such order as the Chief of Police shall deem appropriate so as to ensure that no licensee shall be excluded or in any way discriminated against. Such list shall contain the names, addresses and twenty-four (24) hour telephone numbers of each licensee. The Chief of Police shall direct the members of his Department that the requests of any towing services of licensees under this ordinance shall be in the sequence that they appear on the list. Such list shall rotate on at least a weekly basis. In addition, the Chief of Police shall keep a record of requests made for the service of licenses under this ordinance as well as a record of the response time of each licensee and shall record any and all complaints received from member of the public as to the quality of service or fees exacted by each license.

15.37.090 ISSUANCE OF LICENSE.

- A. No license will be issued without the approval of the Chief of Police or his designee.
- B. License shall be issued by the Municipal Clerk's Office.
- C. License shall be issued for one (1) year to expire on December 31. No license will be prorated.

- D. License shall be renewed annually, renewal application shall be submitted sixty (60) days prior to expiration of existing license.
- E. Renewal of license is the sole responsibility of the licensee.

15.37.100 FEES AND CHARGES.

Pursuant to N.J.A.C. 11:3-38.6 the following fees and charges are established:

A. Maximum basic towing and storage charges for passenger vehicles, motorcycles, all-terrain vehicles and mopeds shall be as follows:

- (1) Days: First mile or less: seventy-five dollars (\$75); each additional mile, three dollars and fifty cents (\$3.50), based upon a one way charge.
- (2) Nights, weekends and New Jersey State holidays: first mile or less, eighty-five dollars (\$85), each additional mile, three dollars and fifty cents (\$3.50), based upon a one way charge.

B. Maximum storage fee charges shall be as follows:

- (1) Inside building: ten (10) to twenty (20) spaces, forty-five dollars (\$45) per day.
- (2) Outside building: ten (10) to twenty (20) spaces, thirty-five dollars (\$35) per day
- (3) Outside unsecured: ten (10) to twenty (20) spaces, nine dollars (\$9) per day

C. Recovery services. Where it is necessary that certain recovery services be performed in order to preserve the condition of a motor vehicle while moving the damaged vehicle to a towable position, the rate for such services shall be one hundred dollars (\$100) per hour, or any portion thereof.

D. The aforesaid fees may change from time to time by resolution to be consistent with the provisions of NJAC 11:3-38.6 or the relevant New Jersey Administrative Code Statutory Provisions and Regulations.

E. Maximum rates and charges for trucks and other vehicles with gross weight of one and one-half (1 1/2) tons or more shall be as follows:

- (1) First mile or less, one hundred dollars (\$100); each additional mile, two dollars and seventy-five cents (\$2.75), based upon a one-way charge.

F. Maximum storage fee charges shall be as follows:

- (1) Inside building; ten (10) to twenty (20) spaces, fifty dollars (\$50) per day.
- (2) Outside building: ten (10) to twenty (20) spaces, forty dollars (\$40) per day.
- (3) Outside unsecured: ten (10) to twenty (20) spaces, eighteen dollars (\$18) per day.

G. Recovery services. Where it is necessary that certain recovery services be performed in order to preserve the condition of a motor vehicle while moving the damaged vehicle to a towable position, the rate for such services shall be one hundred dollars (\$100) per hour; or any portion thereof.

H. The aforesaid fees may change from time to time by resolution to be consistent with the provision of NJAC 11:3-38.6 or the relevant New Jersey Administrative Code Statutory Provisions and Regulations.

15.37.110 REQUIREMENTS

Each licensee shall provide a prompt response to each call for towing services. In the case of any motor vehicle accident, shall be responsible for removing any debris at the site resulting from the accident, except that a licensee shall not be required to remove any substance that has been classified as hazardous or toxic by any law. No licensee shall cruise with a towing vehicle for the purpose of soliciting towing business within the Township of Ocean.

15.37.120 REVOCATION OF LICENSE.

Should the Chief of Police determine that any licensee shall have violated any provision of this ordinance, the Chief of Police shall give the licensee notice by certified mail of the noncompliance by the licensee. The Chief of Police may remove the tower from any list of authorized towers if he finds noncompliance with any provision of this ordinance. Should the licensee desire a hearing on such a determination the licensee shall, within ten (10) days of the mailing of such notice by the Chief of Police, advise the Township Committee of the licensee's desire for such a hearing. Upon the receipt of such request the Township Committee shall, not less than ten (10) days prior to the date of such hearing notify the licensee of the date, time and place of such hearing. Following such a hearing the Township Committee may revoke or suspend the license issued under this ordinance upon a determination that the licensee has violated any provision of this ordinance or any applicable state or federal law.

15.37.130 PENALTIES

Any person or entity who shall be found in violation of this ordinance shall be subject to a fine of not more than five hundred dollars (\$500) or a term of thirty (30) days in jail for each and every violation of this ordinance.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed by the Township Committee of the Township of Ocean on first reading at a meeting held on the 13th day of June, 2013. The Ordinance will be considered for second and final reading at a meeting of the Township Committee which is scheduled for the 11th day of July 2013, at 6:30 p.m., or as soon thereafter as the matter may be reached, at the Municipal Building located at 50 Railroad Avenue, Waretown, New Jersey, at which time the public is invited to ask questions, raise objections, or provide public comment with regard to the proposed adoption of this Ordinance.

Diane B. Ambrosio, RMC
Municipal Clerk