

ORDINANCE NO. 3384
INTRODUCED BY: COMMISSIONER ALPHONSE PETRACCO
INTRODUCED ON: MAY 1, 2018
PUBLISHED: MAY 10, 2018
PUBLIC HEARING: JUNE 7, 2018
PUBLISHED: JUNE 14, 2018

ORDINANCE NO. 3384

**AN ORDINANCE TO AMEND AN ORDINANCE CODIFIED IN THE
CODE OF THE TOWNSHIP OF NUTLEY, CHAPTER 673, ENTITLED
“VEHICLES, IMPOUNDMENT AND TOWING”, TO ADD SECTION 5
ENTITLED “TOWING”**

§ 673-5 Towing

TITLE.

For reference purposes, this chapter shall be known as the "Vehicles, Impoundment and Towing Ordinance" of the Township of Nutley.

PURPOSE AND INTENT.

The purpose and intent of this chapter is to provide criteria and standard operating procedures that are reasonable, non-exclusionary and nondiscriminatory in the selection and use of towing operators, on a rotational basis, in providing towing, road services and towing of vehicles that are abandoned, disabled, illegally parked, stolen, involved in accidents and/or suspected or identified by the Township as being involved in criminal activities.

DEFINITIONS.

As used in this chapter, the terms listed shall be defined as follows:

Basic towing service shall mean the removal and transportation of a vehicle from a highway, street or other public or private road, parking area, storage facility or other area requested by the Township.

Classification of towing vehicles.

1. Light Duty.
 - (a) Commercially manufactured chassis, rated capacity of not less than ten thousand (10,000) pounds GVWR;
 - (b) Commercially manufactured lifting apparatus with a minimum capacity of four (4) tons;
 - (c) Dual rear wheels;
 - (d) Universal tow sling or wheel-lift or wheel lift with system seven (7) safety chains;
 - (e) One (1) snatch block, three (3) ton rating;
 - (f) Proper safety lights;
 - (g) Amber rotation emergency flashing light;
 - (h) Two (2) flood lights to the rear of the vehicle;
 - (i) One (1) motorcycle sling;
 - (j) Two-way radio, cellular telephone, or other communications system approved by the Chief of Police.

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2. Heavy Duty.

- (a) Commercially manufactured chassis, rated capacity of not less than thirty-two thousand nine hundred (32,900) GVWR;
- (b) Commercially manufactured lifting apparatus with a minimum capacity of thirty-five (35) tons;
- (c) Two (2) snatch blocks, twelve (12) ton rating;
- (d) Air brake hook-up lines;
- (e) Tow sling or wheel- lift or under-reach with system seven (7) safety chains;
- (f) Proper safety lights;
- (g) Amber emergency flashing lights;
- (h) Two (2) flood lights to the rear of the vehicle;
- (i) Two-way radio, cellular phone, or other communications system approved by the Chief of Police;

Disabled vehicle shall mean a vehicle which has been abandoned or rendered inoperable as a result of mechanical failure, or involvement in a motor vehicle accident, or impounded pursuant to an investigation of criminal activity. A vehicle, the location of which constitutes a hazard to the motoring public, shall also be deemed disabled for the purpose of this chapter.

Heavy recovery shall mean services for overturned trucks, buses, tractor-trailers, and heavy machinery.

Impoundment shall mean the act of storage and confining a vehicle upon an order of the Police Department at either the towing operator's storage area or a Township facility as a result of abandonment, forfeiture, involvement in an accident, or suspected criminal activity.

Inside secured storage facility shall mean a vehicle storage facility that is completely indoors, is secured by a locking device, and of sufficient size to accommodate two (2) full size motor vehicles.

Outside secured storage facility shall mean a vehicle storage facility with a minimum capacity of thirty (30) medium sized vehicles that is not completely indoors and that is secured by a fence, wall or other man made barriers that are at least six (6) feet in height and is protected with onsite security or an alarm system. Outside storage facilities shall also maintain adequate lighting to protect stored vehicles from vandalism.

Owner shall mean the person, firm, corporation or partnership who owns and/or operates a vehicle on the roads and highways in the Township of Nutley, which vehicle, by reason of being disabled or being abandoned on the roads and highways of the Township requires towing and/or

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storage.

Principal place of operation shall mean and include, but not be limited to, storage facilities in accordance with section 27-6c. and an office which is of sufficient size and is equipped to facilitate the towing operator's performance of its obligation pursuant to this ordinance and any contract entered into pursuant hereto with the Township.

Towing operator shall mean a person, firm, corporation or partnership engaged in the business in providing towing, road and storage services for vehicles.

Winching shall mean moving a vehicle by use of the cable or winch from a position that is not accessible for direct hookup by conventional means of loading onto a tow vehicle. It shall not include pulling a motor vehicle onto a tilt bed or car carrier or lifting a vehicle with a conventional tow sling or wheel lift.

ADMINISTRATION OF CHAPTER.

The Chief of Police and the Director of Public Safety are hereby designated to administer and enforce all provisions of the "Towing, Road Service, and Storage of Vehicles Ordinance".

QUALIFICATION CRITERIA AND APPLICATION PROCEDURES FOR EMERGENCY TOWING AND ROAD SERVICE.

- a. It shall be the responsibility of the Director of Public Safety to approve all applications for towing operators to be utilized on a rotational basis for the purpose of providing emergency towing, road and storage services to the owners of motor vehicles utilizing Township roads when he determines that the following requirements have been met by the applicant. On application forms, prepared by the Township, and provided by the Township Clerk, all towing operators shall submit written documentation that they are in compliance with the qualification requirements set forth below:
 1. Submission of Certificates of Insurance. All towing operators shall submit a current certificate of insurance and maintain a current certificate on file with the Township. This shall be submitted to the Director of Public Safety, and filed with the Township Clerk, and shall name the Township as an additional insured. Failure to have a current certificate on file shall result in the towing operator's company being removed from the rotational list and reapplication shall be required. The certificate shall provide the evidence that the towing operator carries the following insurance coverage:

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- (a) Comprehensive General Liability: Coverage in minimum limits of \$5,000,000.00 for bodily injury, per person and \$500,000.00 for property damage.
 - (b) Automobile Liability. Coverage in minimum limits of \$5,000,000.00 per accidental occurrence and in the aggregate for bodily injury and property damage. This insurance must also include adequate coverage to protect the owners of private vehicles that are in the care, custody and control of the towing operator. Said coverage must provide at least \$100,000.00 in minimum coverage for any damages or losses arising out of theft of vehicle contents, the theft of vehicle itself, or due to fire or explosion.
 - (c) Excess Liability (Umbrella Form). A minimum of \$5,000,000.00 for bodily injury, per person and property damage combined.
 - (d) Worker's Compensation. Coverage A - statutory: Coverage B - \$100,000.00 each accident with a \$500,000.00 policy limit and \$100,000.00 each employee.
- b. The towing operators agree that they shall defend, indemnify, and hold harmless the Township from and against any and all claims, suits, judgments and demands whatsoever, including, without limitation, cost, litigation expense, counsel fees, and liabilities with respect to injury or to death of any person or persons whatsoever, or damage to property of any kind by whomever owned, arising out of, or cause or claim to have been caused in whole or in part by the negligent acts or omissions of the towing operators, or any other person directly or indirectly employed by the towing operators, while in the performance of rendering any service pursuant to the scope of this chapter.
- c. The towing operator shall not hold the Township liable for any and all fees for any towed or stored vehicles which are unclaimed or abandoned on the towing operator's facilities.
- d. The towing operator shall provide towing services, which include, but are not limited to, towing and roadside assistance, for all Township police vehicles, at no cost to the Township, on a twenty-four (24) hour basis.
- e. The towing operator must submit proof, within twenty (20) days of approval of towing rotation, that they can supply the Township with an "E-trak" or similar equivalent computer software package which is compatible with the Police Department's management and records software which provides automated towing and storage records. The towing operator may provide, with the approval of the Director of Public Safety, a separate computer which is compatible and can communicate with the towing operator's computer system for automated storage and

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towing records retrieval by the Records, Traffic or Bureau and Director of Public Safety. This software or computer shall be provided at no cost to the Township.

MINIMUM STANDARDS GOVERNING OPERATOR PERFORMANCE.

- a. Any person, firm, corporation or partnership operating a towing and storage business shall maintain a principal place of operation within two miles of the Township. In maintaining a principal place of operation, any person, firm, corporation or partnership operating a towing and storage business shall conform with all of the Township's zoning, land use, and property maintenance codes. Failure to comply with the Township's zoning, land use, development, and property maintenance codes shall subject an operator to suspension from the rotational duty service list upon request to the Director of Public Safety.
- b. Nothing herein shall preclude a towing operator from storing its towing vehicles and equipment at another location outside the boundaries of the Township, provided it has exhausted all of its available space within the Township. The minimum required towing apparatus shall be maintained within the required distance of Township of Nutley as stated in paragraph a, conforming to all state laws, local ordinances, and zoning regulations.
- c. All towing operators shall have a storage facility. The storage facilities shall be lighted, fenced and/or secured in order to guarantee the safe storage of all vehicles in accordance with minimum requirements for indoor and outdoor, secured and unsecured storage facilities as defined under Section 27-3 of this chapter.
- d. In addition to other equipment which is necessary for the safe performance of towing, emergency road and storage services, all towing operators must own and have available at least two (2) or more wheel lift wreckers, two (2) or more flatbed tow trucks, and two (2) or more heavy duty hydraulic tow trucks.
- e. All towing operators' tow trucks must be equipped with either two-way radio and/or mobile cellular phone or other communications system equipment, licensed by the Federal Communications Commission (when necessary), approved by the Chief of Police. Said communications equipment shall also be operational at their principal place of business, including their garage and/or storage facilities to ensure the proper availability of services and equipment on behalf of the Township motorists.
- f. All towing operators' tow trucks must be equipped with brooms, shovels and other street sweeping equipment for clearing debris off roadways.

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The towing operator shall, at the time of removing any motor vehicle and in response to a police request, remove from the public or private roads or highways, any motor vehicle debris or materials in the area surrounding the vehicle, except for any debris or materials in the area which may be hazardous and requiring specialized removal such as oil, gasoline, kerosene or other petroleum or chemical products. Charges to the vehicle owner shall not exceed the maximum fees listed within this chapter.

- g. The towing operators' tow trucks and all other motor vehicles shall be properly licensed and registered with the New Jersey Division of Motor Vehicles. All towing operators' tow trucks shall display New Jersey commercial towing or apportioned license plates, and required towing permits issued by the Division of Motor Vehicles.
- h. All towing operators shall have facilities and equipment that will ensure and guarantee the furnishing of prompt and efficient services for all vehicles.
- i. The towing operator's company name, address and telephone number shall be prominently and permanently displayed on both sides of all tow trucks and other towing vehicles.
- j. The towing operator shall employ a sufficient number of employees to comply with the minimum operational requirements.
 - 1. No person shall be employed by the towing operator for this chapter unless he has first obtained a fingerprint record check by MORPHO TRAK, paid for by the towing operator, and has been approved by the Chief of Police.
 - 2. All drivers of the towing operator shall be over the age of eighteen (18) years and must have a valid, current New Jersey State Driver's license, appropriate for the class tow vehicle being operated, and shall be in good health and of high moral character.
 - 3. The towing operator shall submit to the Police Department names, addresses and the driver's license numbers of all proposed drivers and employees who will be rendering services under this chapter. No driver or employee shall perform services under this chapter, unless previously listed by the towing operator, to the Township. Failure to submit this shall subject said towing operator to immediate disqualification.
 - 4. All employees of the towing operator shall wear uniform clothing with a name patch indicating the employee's first name and the name of the towing company. All employees shall be clean, neat

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and make a good appearance.

5. The towing operator agrees that the owner(s) or officers of the company shall be responsible for the negligent acts of the employees while acting pursuant to this chapter.
- k. All towing operators selected to serve on a rotational basis must guarantee to the Township the availability of all services to be provided seven (7) days a week, twenty-four (24) hours a day. In this respect, a towing operator shall immediately respond to any type of towing, emergency road service, or storage call with the appropriate vehicle and/or equipment within twenty (20) minutes after receipt of telephone notification from the Township Police Department. Unless heavy or unusual traffic conditions or inclement weather within the Township prevents a towing operator from arriving at the scene within twenty (20) minutes, failure to respond within this time frame shall be considered a violation of this chapter. Upon such violation, the Township shall have the right to contact the next available towing operator from the rotational list.
- l. The Township of Nutley reserves the right to contact other towing services operators who may not be on the rotational list, within the sole discretion of the Director of Public Safety in the event of emergency, disaster, or unavailability of towing operators on the rotational list. Failure to respond within the prescribed time to three (3) consecutive calls shall result in suspension from the rotational list for up to sixty (60) calendar days.
- m. The owner, or in the absence of the owner, the driver of the vehicle involved in an accident shall have the right to designate a towing operator of his/her choice. If the vehicle to be towed is situated in a dangerous position in the roadway, and the towing company selected has not responded within twenty (20) minutes from the time the driver is notified of this right, the Township reserves the right to contact the rotational towing company. If the Police Officer on the scene determines that immediate removal is a necessity for public safety, the driver or owner of the vehicle shall not have the right to designate a towing operator of his choice.
- n. Employees of the towing operator, in responding to a call, shall request and be afforded police assistance during the course of providing towing, emergency road services, or removal of abandoned or accident vehicles when such employees find it necessary to turn around, back up, tow in the opposite direction of traffic or to cross the median.
- o. A towing operator shall not permit a vehicle to be removed from the site of

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a motor vehicle accident, the scene of a crime, or any other instance or situation without the prior approval and permission of the Police Officer in charge at the scene. A towing operator shall not place or remove any items from a vehicle, which is involved in a motor vehicle or criminal investigation without the expressed approval from the Police Officer in charge on the scene.

- p. During a Township, County, or State declared snow, rain, or flood emergency, the towing operator shall have available, within one (1) hour of such request, a minimum of five (5) light duty tow trucks to assist the Police Department to move, tow-vehicles or otherwise clear the streets, where needed.
- q. The towing operator shall release a towed vehicle after the owner obtains the proper tow form releasing the vehicle from the Township impoundment, from the Vehicle Impound Department of the Township Police Department, and paying the authorized towing and storage fees. Releases from the towing operator shall be available Monday through Friday 8:00 a.m. to 5:00 p.m., including Township Holidays.

ESTABLISHMENT OF ANNUAL TOWING OPERATORS' ROTATIONAL LIST.

- a. Following the review of the applications by the Chief of Police, and upon the Commissioner's approval thereof, a towing operators list will be maintained and updated annually by the Police Department. It shall be the responsibility of the Director of Public Safety to establish a towing operators' rotational duty service list. The Police Department shall call the towing operators in accordance with the rotational duty service list as set forth by the Chief of Police. The Police Department shall have the right to call the next towing operator on the list should a towing operator fail to respond to a call within twenty (20) minutes or if the first operator called cannot be reached by telephone or advises that he is unable to respond.
- b. Weekly, the towing operator shall submit to the Vehicle Impound Department original copies of released tow sheets and copies of all corresponding towing bills showing itemized charges paid by the party taking possession of said towed/impounded vehicle and shall have the person's name, address, telephone number, and signature on said bill and copy. Each approved towing operator shall, periodically or upon request submit a report of unclaimed vehicles remaining in their possession as of the date of the report.
- c. The towing operator shall forward to the Vehicle Impound Department Bureau Commander a list of all vehicles towed under this chapter at the beginning of every month since the previous forwarded list.

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- d. The Nutley Police Vehicle Impound Department shall pay the cost of preparing, sending registered letters regarding the abandoned car auctions, administrative paperwork for Junk/Salvage/Clear titles with the NJMVC, and the initial tow release letter explaining criteria required for release. Where so authorized by the Chief of Police, the towing operator may request conventional titles on vehicles, which are resalable and roadworthy. Requests to seek conventional titles must be submitted, in writing, to the Chief of Police.
- e. The Township shall conduct auctions of unclaimed vehicles on a timely basis as prescribed by law.

SUPERVISION OF TOWING OPERATORS' SERVICES.

- a. The Chief of Police is hereby authorized to establish reasonable rules and regulations for supervision, inspection and safe operation of tow trucks, wreckers, and other related vehicles and equipment in accordance with the standards outlined in this chapter. The Vehicle Impound Department shall have the right, at all times, to inspect all towing vehicles and related equipment which perform services pursuant to this chapter.
- b. At any time, should the Vehicle Impound Department determine that any vehicle being utilized is unsafe, he shall direct the immediate correction of the condition or direct that a substitute vehicle be provided immediately.

SUSPENSION AND REMOVAL FOR NONCOMPLIANCE.

- a. The Chief of Police shall have the authority to suspend a towing operator from the rotational duty service list for a period up to sixty (60) calendar days for failure to comply with any section of this chapter. A subsequent violation shall result in the removal of the towing operator from the rotational duty service list for a period up to thirty-six (36) months. A towing operator so affected may appeal the decision of the Chief of Police as to either a suspension or a removal. In such cases, an appeal shall be filed with the Director of Public Safety within ten (10) business days of the suspension/removal decision. The operator, Chief, and such witnesses that may be called shall be afforded an opportunity to be heard by the Director of Public Safety who shall render his determination within twenty (20) business days following the conclusion of the hearing. The Director of Public Safety's determination, as rendered, shall be final and conclusive.
- b. Failure to comply with the zoning, land use, and property maintenance codes of the Township shall also subject a towing operator to suspension

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from the rotational duty service list. Any towing operator suspended from the rotational duty service list for any violation of the Township's zoning, land use and development and/or property maintenance codes shall have the right to appeal as set forth in Section 27-9a above.

VIOLATIONS AND PENALTIES.

Any person, firm or corporation who violates any of the provisions of this chapter shall, upon conviction, be subject to a fine not exceeding one thousand (\$1,000.00) dollars and/or to imprisonment for a term not exceeding ninety (90) days or both. Every violation of this chapter, or every day that any violation shall be permitted to continue shall be construed as a separate and distinct violation hereof. The Police Department is designated as the enforcement agency for this chapter.

TOWING AND STORAGE FEE SCHEDULE.

- a. The Township shall from time to time adopt and/or amend the Towing and Storage Fee Schedule, which shall set forth the maximum permitted fees that shall be charged for towing and/or storage of passenger automobiles or other vehicles by towing operators on the rotational list. Towing operators transporting multiple passenger cars at one time shall receive the applicable fees for the number of vehicles transported. The fee rates for towing and storage are located at the end of this chapter. The towing rates shall apply to within one and one-half (1 1/2) mile of the Township boundaries. The towing operator may charge an additional towing fee to the standard rates, listed, of two (\$2.00) dollars per mile, outside the Township boundaries.
- b. It shall be the responsibility of all towing operators to provide all motorists utilizing the towing operator's services with a written schedule of fees, which lists in full all fees, to be charged for towing, storage, and road service. Towing operators shall not exceed the maximum charges set forth on the Towing and Storage Fee Schedule for vehicles regulated under the provisions of this chapter.
- c. The Towing and Storage Fee Schedule of all towing operators serving the Township of Nutley shall be filed with the Township Clerk, Director of Public Safety, and Chief of Police within ten (10) days of notification of approval, and shall be made available to any citizen upon request. The fee schedule shall be made available at the Nutley Public Safety Building, 228 Chestnut Street, Nutley, Monday through Friday, except Township holidays, between the hours of 8:30 a.m. and 4:00 p.m.
- d. The fees set forth for storage are the maximum storage charges per calendar day period that shall apply to a vehicle that is stored as a result

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of accidents, abandoned vehicles, repairs, emergencies or suspected criminal activities.

- e. The fees set forth shall be exclusive of any other repair service costs provided by the towing operator, including, but not limited to, such activities as repairing flat tires or installing new and/or spare parts to a disabled vehicle. The towing operator shall be permitted to charge an additional fee based on the prevailing hourly labor rates and charges for parts or materials. Wherever applicable, it shall be the responsibility of the towing operator to first inform the owner of the vehicle the hourly labor rates and the estimated total cost for parts and/or materials. Wherever applicable, it shall be the responsibility of the towing operator to first inform the owner of the vehicle of the hourly labor rates and the estimated total cost for parts and/or materials prior to the performance of road repair services. The towing operator shall inform the owner that any repair services be performed by it for the owner are not sanctioned by the Township or the Township Police Department. The towing operator shall secure the signature of the owner of the vehicle on a form to be provided by the Township which shall advise the owner that any repairs provided by the towing operator are not sanctioned by the Township or the Township Police Department. The towing operator shall have the owner sign the form provided prior to the commencement of any repair work. A copy of the form shall be filed with the Township Police Department. Failure to obtain the signature of the owner, by the towing operator, prior to the commencement of any repair work, shall result in the suspension or removal of the towing operator.
- f. In the event that use of the heavy-duty tow truck is required, the maximum fee permitted for heavy-duty towing services shall not exceed three hundred (\$300.00) dollars an hour plus three dollars and fifty (\$3.50) cents a mile at any time and on any day. Use of a heavy-duty tow truck shall, in each instance, be recommended by the towing operator and approved by the Township Police Department.
- g. As used in Section 27-11, Towing and Storage Fee Schedule, the term heavy recovery is defined as services for overturned trucks, buses, tractor-trailers, and heavy machinery.
- h. A one-time fee of forty (\$40.00) dollars may be charged in the case of totally wrecked vehicles, which need to be relocated within the storage lot, when access to said vehicle by a salvage company who purchased said vehicle is needed to remove that vehicle from the storage lot.
- i. In addition to the charges for towing, service, and storage, the towing operator shall charge and collect a twenty (\$25.00) dollar administration fee on every vehicle towed to compensate the Township for its administrative costs. The towing operator shall submit on the first township business day of each month, a Monthly Report to the Director of Public Safety, Chief of Police, Nutley Police Department Vehicle Impound Department, on forms provided by the Police Department. A

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copy of said Monthly Report and a check for the total amount due for the administrative fee from the previous month shall be sent by the towing operator to the Chief Financial Officer, Township of Nutley, 1 Kennedy Drive, Nutley NJ, 07110.

TOWING AND STORAGE FEE SCHEDULE

Service Provided	Fee
Flatbed Tow	\$75.00
Wheel Lift Tow	\$75.00
Road Service	\$75.00
Snow/Rain or Flood Emergency Tow (non-heavy duty)	\$100.00
Outside Storage	\$25.00 per day
Inside Storage	\$35.00 per day
Yard Fee	\$40.00
Pin Pulls and Drive Train Reconnection	\$25.00
Winching Fees	Not to exceed \$125.00
Cleanup Fees	Not to exceed \$75.00
Heavy Recovery (Minimum two (2) hours per task)	\$350.00 per hour per unit
	\$175.00 per hour per equipment truck
	\$500.00 per hour per heavy duty air cushion recovery unit
	\$75.00 per our fork lift service
	\$250.00 per hour lowboy landall trailer service

Record of Vote	Commissioner Steven L. Rogers	Commissioner Mauro G. Tucci	Commissioner Thomas J. Evans	Commissioner Alphonse Petracco	Mayor Joseph P. Scarpelli
Yes	X	X		X	X
No					
Not Voting					
Absent/Excused			Excused from 8:45PM to 8:52PM		