

ORDINANCE NO. 22-2024

ORDINANCE OF THE BOROUGH OF MADISON AMENDING AND SUPPLEMENTING CHAPTER 176 OF THE BOROUGH CODE ENTITLED “TOWING AND STORAGE” AND REPEALING AND REPLACING TOWING OPERATOR APPLICATION FORM

WHEREAS, the Borough Administrator, Borough Police Chief and Borough Attorney have recommended that Chapter 176 of the Borough Code entitled “Towing and Storage” be amended to reflect current State guidance and update Borough requirements for towing operator applicants; and

WHEREAS, the Borough Administrator, Borough Police Chief and Borough Attorney have further recommended that the Towing Operator Application form be updated to reflect the changes to the Borough Code; and

WHEREAS, the Borough Council agrees with the recommendations as same are in the best interest of the Borough.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Madison, in the County of Morris, State of New Jersey, as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The Borough Code of the Borough of Madison, Chapter 176, Towing and Storage, “Application to Be Listed as Towing Operator (3-Year Period)”, is hereby repealed and replaced, in its entirety, by **Exhibit A** to this Ordinance, which is incorporated herein.

Section 3. Chapter 176 of the Borough Code entitled “Towing and Storage”, Section 1, entitled “Purpose” is hereby amended and supplemented as follows (additions ****between asterisks and in bold****, deletions ~~{within brackets and struck through}~~; text in *italics* is meant to guide the reader and is not intended to be adopted as part of this ordinance):

§ 176-1 Purpose.

The purpose of this chapter is to provide for the nondiscriminatory and nonexclusionary regulation of local towing and storage operators engaged in the business of removing and storing motor vehicles ****for police-requested nonpreference towing and storage services without competitive bidding****, pursuant to N.J.S.A. 40:48-2.49 ****et seq. and N.J.S.A. 40A:11-5(u), under the supervision of the Madison Police Department****.

Section 4. Chapter 176 of the Borough Code entitled “Towing and Storage”, Section 3, entitled “Towing Regulations” is hereby amended and supplemented as follows (additions ****between asterisks and in bold****, deletions ~~{within brackets and struck through}~~; text in *italics* is meant to guide the reader and is not intended to be adopted as part of this ordinance):

§ 176-3 Towing regulations.

- A. No change.
- B. No change.
- C. Towing operators.

- (1) Every three **(3)** years the Borough Council shall establish by resolution a list of licensed towing operators pursuant to § 176-7 to be utilized by the Police Department on a rotating basis. Such list shall be utilized by members of the Police Department on a nondiscriminatory basis. Only those towing operators who meet the minimum standards of operator performance set forth in this chapter shall be included on such list. The list may be modified by Council at any time.
- (2) No change.
- (3) Application.
 - (a) No change.
 - (b) Additionally, any and all employees of a towing service applying for police towing who will be operating towing equipment involved in police towing shall be required to submit for a criminal background check. Employees of said towing companies shall be required to complete and submit a Request for Criminal History Record Information form for this purpose **with the New Jersey State Police** ~~{, at a cost of \$18. The form for tow company employees requires a cashier's check, certified check or money order payable to the Division of State Police SBI}~~.
 - (c) No change.
 - (d) Towing service owners applying to be included in the list of licensed towing operators must complete and submit an application form and accompanying documentation to the Borough Clerk.**
- (4) No change.
- (5) Facilities. Each operator must have a storage lot and place of business within Madison Borough, or within a two-mile radius of the Madison Borough corporate limits. **The office must be staffed and used for pickup by vehicle owners whose vehicles were impounded within Madison Borough.** The towing business and storage lot must comply with all zoning ordinances and regulations.
- (6) Availability and response time. Each operator must be available 24 hours a day, seven days a week, and must respond within 20 minutes during daytime hours and 30 minutes during nighttime hours of the original telephone call request by the Police Department.
- (7) Towing operators may not have been barred from inclusion on any municipal, county or State towing operator rotation list in the State of New Jersey.**

Section 5. Chapter 176 of the Borough Code entitled "Towing and Storage", Section 4, entitled "License Fees, Terms" is hereby amended and supplemented as follows (additions **between asterisks and in bold**, deletions ~~{within brackets and struck through}~~; text in *italics* is meant to guide the reader and is not intended to be adopted as part of this ordinance):

§ 176-4 License fees, terms.

A. No change.

- B. No change.
- C. The Borough Council shall set the fees for the three-year period for towing and storage. ~~{This license will take effect January 1, 2003.}~~
- D. The application fee will be \$500 for the three-year term of the license.
- E. No change.
- F. It is the responsibility of the applicant to notify the Borough of Madison at once upon cancellation of business insurance. ****Required insurance policies shall not be cancelled or substantially changed without 30 days written notice to the Borough, except 10 days written notice is permitted solely with respect to non-payment of premium.****
- G. No change.

Section 6. Chapter 176 of the Borough Code entitled “Towing and Storage”, Section 5, entitled “Insurance” is hereby amended and supplemented as follows (additions ****between asterisks and in bold****, deletions ~~{within brackets and struck through}~~; text in *italics* is meant to guide the reader and is not intended to be adopted as part of this ordinance):

§ 176-5 Insurance.

- A. No change.
- B. The applicant shall maintain insurance coverage as set forth herein during the entire length of the towing contract ****and/or license****.
- C. The applicant shall provide a certificate of insurance indicating the applicant has the minimum coverage of insurance as follows:
 - (1) ****Commercial**** Automobile liability ****for the death of or injury to persons and damage to property for each accident or occurrence**** in an amount not less than \$1,000,000 combined single limit******, **which must include coverage for towing operations****.
 - (2) Workers' compensation for all employees******, **providing statutory coverage, with Employer’s Liability of not less than \$1,000,000 in Limits****.
 - (3) Garage keepers' liability in an amount not less than ~~{\$60,000 per location}~~ ****\$100,000, to include on-hook coverage for each vehicle damaged while in the course of towing****.
 - (4) Garage liability ****covering the applicant's business, equipment and vehicles**** in an amount not less than \$1,000,000 ~~{combined single limit}~~ ****per occurrence****.
 - (5) ~~{Comprehensive}~~ ****Commercial**** general liability ****in the amount of \$1,000,000 per occurrence**** ~~{to provide complete protection to the borough against any and all risks of loss or liability}~~.
 - (6) Policies endorsed to provide collision coverage for vehicles in tow.

(7) The Borough shall be named as an additional insured ****for all applicable Liability insurance policies, on a Primary & Non-Contributory basis and a Waiver of Subrogation shall apply in favor of the Borough****.

(8) Theft insurance on stored vehicles**** , including items therein****.

**** (9) Excess/Umbrella liability insurance policy in the amount of \$2,000,000 to include all Liability coverages outlined above as underlying.****

D. No change.

Section 7. Chapter 176 of the Borough Code entitled “Towing and Storage”, Section 6, entitled “Fees Established” is hereby repealed in its entirety.

§ 176-6 {~~Fees established.~~} ****Reserved.****

A. {~~Automobiles and motorcycles. The fee schedule for towing services, storage and administrative services shall be established by the Borough Council by resolution.~~}

B. ~~Trucks. The fee schedule for towing services and storage shall be established by the Borough Council by resolution.~~

C. ~~Inelement weather conditions. The towing operator may, during inclement weather conditions, such as but not limited to snow storm, ice storm, black ice conditions, flooding, or during a state of emergency, charge an extra 20% of the final invoice (if towed under normal conditions) for towing services provided (See Fee Schedule).~~

D. ~~Use of a Hazmat kit by licensed tower associated with the cleanup of fluid spills is \$75 per kit.~~}

Section 8. Chapter 176 of the Borough Code entitled “Towing and Storage”, Section 8, entitled “Regulations for Towing Service Operators” is hereby amended and supplemented as follows (additions ****between asterisks and in bold****, deletions {~~within brackets and struck through~~}; text in *italics* is meant to guide the reader and is not intended to be adopted as part of this ordinance):

§ 176-8 Regulations for towing service operators.

A. Release of impounded vehicles. ****Vehicles impounded within Madison Borough must be stored and available for release and pickup at the towing operator’s facility located within Madison Borough or within a two-mile radius of Madison Borough corporate limits. Towing operator shall accept cash, check and credit cards for payments.**** No impounded vehicle is to be released without proper authorization from the Police Department. Vehicle release arrangements must be available from the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, ****and from the hours of**** 8:00 a.m. to 12:00 noon******, Saturday (excluding New Jersey state holidays). The owner of the vehicle (or his designee) shall provide a paid receipt from the towing operator, and then respond to the Madison Borough Police Department to arrange for the release of his/her vehicle from the police impound yard, or towing operator’s facility, as may be the case. An invoice for the towing service provided, (when a vehicle is towed to the police impound yard) will be left with the vehicle, as well as the keys for said vehicle. The Police Department will retain custody of both the invoice and keys for all vehicles towed to the police impound yard. All transactions of this type will be recorded in a log book, and the principal of the towing establishment will be required to sign

the log book to acknowledge receipt of said payment. The hours for release of the impounded vehicle shall be Monday through Friday 8:00 a.m. through 5:00 p.m. and 8:00 a.m. through 1:00 p.m. on Saturday. Appointment for release of the vehicle shall be made through the Shift Supervisor, who shall be responsible to ensure that all laws and procedures concerning the release of vehicles are followed. The Borough shall supply junk titles or good titles for abandoned vehicles in accordance with the provisions of N.J.S.A. 39:10.1 et seq., for vehicles unclaimed over 30 days. The Borough shall compensate the towing service for the towing bill for such vehicles unclaimed for over 30 days, for vehicles stored in the police impound yard. A junk title shall be applied for, and the towing invoice paid after the Borough recovers the value of the vehicle. For any vehicles that are towed and stored by the towing operator, the Borough shall apply for a junk title, and compensate the towing operator for towing fees and storage, up to the limit of the value of said vehicle.

- B. No change.
- C. No change.
- D. No change.
- E. No change.
- F. No change.
- G. No change.
- H. Removal of towed vehicles; location for storage.

(1) No change.

(2) A vehicle that is removed by a towing company ****within Madison Borough**** that the Police Department has no interest in (i.e. disabled motor vehicle or one that is involved in a crash without further Police Department investigation required) ~~{may}~~ ****shall**** be towed back to the towing operator's facility ****located within Madison Borough or within a two-mile radius of Madison Borough corporate limits****, or to a location of the vehicle owner's choice, provided the towing operator is in a position to comply with such a request.

**** (3) All towing operators must have safe and sufficient storage areas on their premises to store not fewer than 15 vehicles. Outside secure storage facilities shall be fenced-in and secured with a passive alarm system or a similar on-site security measure. The storage facility must be located within Madison Borough or within a two-mile radius of Madison Borough corporate limits, in an area that permits the towing and storage of vehicles. All land proposed to be used as a storage facility must be level and clear of debris. Towing operators will provide and have available a protected area for the storage of vehicles involved in criminal cases, if the Madison Borough Garage does not have the facilities. "Protected area" shall include inside storage or fenced-in storage of said vehicle to deny access to such vehicle by unauthorized persons. The vehicle must be covered if the same is stored outside. ****

Section 9. Chapter 176 of the Borough Code entitled "Towing and Storage", Section 10, entitled "Towing and Storage Fees" is hereby amended and supplemented as follows (additions

****between asterisks and in bold****, deletions {~~within brackets and struck through~~}; text in *italics* is meant to guide the reader and is not intended to be adopted as part of this ordinance):

§ 176-10 Towing and storage fees. ****Towing, winching and storage fees shall be the current maximum rates established by the New Jersey State Police. Such rates shall be deemed to be renewed on a yearly basis to the rates established by the New Jersey State Police.**

A. ~~{Fee schedule.}~~ ****The current rates are those in effect for the calendar year 2024 and are as follows:**

{Service	Fee
Service call	\$65, cars; \$95, trucks
Light duty calls	\$125
Heavy duty	\$350 per hour
Recovery calls	\$150, cars; \$350, trucks
Storage rate (daily)	\$35, cars; \$85, trucks; \$175, tractor trailer
Inside storage rate (daily)	\$45
Mileage rate	\$4.50, cars
Hourly rate (heavy and recovery)	\$350
Recovery rates	\$150, cars; \$350, trucks
Sliding crane service	\$450 per hour
Cleanup	\$25 minimum
Yard/administration fee	\$40
Waiting time	\$85 per hour
Additional man/labor	\$85 per hour
Fuel surcharge (when applicable)	20% of service/tow rate }

****Road service**

Cars (light)	\$150.00 per hour plus parts
Trucks (medium/ heavy)	\$200.00 per hour plus parts

Towing – basic

Light duty- up to 10,000 lbs.	Hook-up \$155
Medium duty- 10,001-16,000 lbs.	\$300.00 per hour
Heavy duty- 16,001 and above	\$500.00 per hour
Decoupling fee (if tow is not performed)	½ of basic rate

On-hook mileage

Light duty	\$7.00/ per loaded miles
Medium duty	N/a
Heavy duty	N/a

Recovery/ winching (in addition to towing – per truck including driver)

Light/ medium duty 10,001-16,000 lbs.	\$350.00 per hour charged in ½ hour increments of \$175. Per ½ hour
Heavy duty 16,001 and above	\$650.00 per hour
Specialized recovery equipment	
Rotator/ crane recovery unit	\$1200.00 per hour

Tractor with landoll trailer or detach trailer	\$500.00 per hour
Tractor/ transport hauler only	\$350.00 per hour
Refrigerated trailer w/ tractor	\$550.00 per hour
Box trailer w/ tractor	\$500.00 per hour
Air cushion unit	\$1000.00 per hour
Light tower	\$250.00 per hour
Pallet jack	\$200.00 flat rate
Rollers	\$200.00 flat rate
Any other specialized equipment	\$300.00 per hour
Loader/ backhoe/ telescopic handler/ bulldozer/ bobcat	\$400.00 per hour each
Forklift	\$400.00 per hour
Dump truck/ dump trailer w/ tractor	\$400.00 per hour
Roll-off with container	\$400.00 per hour plus disposal
Recovery supervisor vehicle	\$150.00 per hour
Scene safety equipment, communication equipment, traffic management equipment, etc.	\$250.00 per hour each type used
Recovery support vehicle/ trailer additional recovery equipment	\$350.00 per hour

Labor- all labor min of 1 hour

Accident minor clean-up and disposal of debris	\$75.00 per hour one hour minimum plus absorbent materials used
Recovery supervisor and/ or level iii recovery specialist	\$250.00 per hour *charges limited to one per incident
Certified towing operator	\$150.00 hour per man
Manual laborers	\$125.00 per hour per man

Storage – per calendar day (inside rates two times outside rate)

**** storage billed per calendar day****

Cars/ light trucks -10' x 20' space	\$50.00 per day
Trucks (dual wheels)/ single axle	\$125.00 per day
Tractor/ dump truck/ tractor and trailer combo/ trailers	\$125.00 per unit per day
Buses	\$150.00 per day
Roll-off	\$125.00 per day for each
Cargo/accident debris/ load storage/ vehicle components	\$50.00 per space used per day
10' x 20' space	
Rental of any tow company supplied trailer post incident	\$500.00 per day

Additional services/ notes

Fuel/ haz-mat/ cargo spills	Time and material
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clean-up and disposal	
Hazmat and trash recovery	Surcharged 10%
Subcontractor mark-up	20%
Administrative charge only after 3rd visit to vehicle	Cars only - \$50.00
Administration charge	Medium/ heavy truck - \$200.00
After hours release	\$85.00
Notification documentation fee	\$75.00
Tarping/ wrapping vehicle	\$90.00 per car \$250.00 per truck

Fuel surcharge chart - tow and mileage cost only

<u>Fuel cost</u>	<u>Fuel surcharge percentage</u>
\$2.50	0%
\$3.00	1%
\$3.50	2%
\$4.00	3%
\$4.50	4%
\$5.00	5%
\$5.50	6%
\$6.00	7%
\$6.50	8%
\$7.00	9%
\$7.50	10%
\$8.00	11%**

B. No change.

Section 10. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be judged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision, and the remainder of this Ordinance shall be deemed valid and effective.

Section 11. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 12. This Ordinance shall take effect according to law.

ADOPTED AND APPROVED
July 22, 2024

ROBERT H. CONLEY, MAYOR

Attest:

ELIZABETH OSBORNE, Borough Clerk

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