

**BOROUGH OF MOUNTAIN LAKES
MORRIS COUNTY, NEW JERSEY**

ORDINANCE 13-15

ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES AND ESTABLISHING MUNICIPAL TOWING REGULATIONS

TAKE NOTICE that **Ordinance 13-15** was introduced at a Regular meeting of the Borough Council of the Borough of Mountain Lakes, in the County of Morris and State of New Jersey, held on **October 26, 2015**, and passed its first reading; and that said Ordinance will be considered for final passage at a meeting of the Borough Council of said Borough, to be held on **November 9, 2015 at 8 P.M.** or soon thereafter, in the Mountain Lakes Borough Municipal Building, Mountain Lakes Borough, at which time and place all persons who may be interested will be given an opportunity to be heard. Copies of said Ordinance are available at the office of the Borough Clerk during regular office hours.

BE IT ORDAINED by the Borough Council of the Borough of Mountain Lakes, in the County of Morris and State of New Jersey, as follows:

Section 1. The Revised General Ordinances of the Borough of Mountain Lakes shall be amended by the inclusion of new Chapter 230 which shall read, in its entirety, as follows:

CHAPTER 230 TOWING REGULATIONS

230-1 DEFINITIONS. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

Automobile shall mean a private passenger automobile or motor-cycle.

Basic towing service shall mean 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 that has left the roadway and does not include any additional labor required to clean up the scene.

Daytime hours shall mean from 8:00 a.m. until 4:30 p.m., prevailing time.

Nighttime hours shall mean from 4:31 p.m. until 7:59 a.m., prevailing time.

Outside storage shall mean 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.

Recovery of vehicle shall mean the recovery of an automobile from a position off the roadway, the recovery of a vehicle on the roadway which is overturned or on its side or in any other position other than its normal position. Recovery charges are in addition to any towing charges.

Tow vehicle shall mean a vehicle equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under reach equipment specifically designed by its manufacturer for the removal and transport of private passenger automobiles.

Truck shall mean any motor vehicle, including buses, other than an automobile as defined above. Trucks up to 6,999 lbs. GVWR shall be subject to light duty towing rates; vehicles between 7,000 lbs. GVWR and 29,999 lbs. GVWR shall be subject to medium duty towing rates and vehicles over 30,000 lbs. shall be subject to heavy duty towing rates.

Waiting time shall mean time spent at the scene standing or waiting for extrication of victims, police investigation, etc. after one-half (1/2) hour.

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.

Yard tow shall mean removal of the vehicle from the towing operator's storage yard for the benefit of another towing operator who is taking the vehicle from the storage site and whose tow vehicle is physically unable to gain access to the vehicle while it is inside the storage yard.

230-2 TOWING REGULATIONS.

230-2.1 Removal of Motor Vehicles.

Whenever a police officer orders the removal of automobiles from private or public property, the officers shall utilize the rotation lists established in subsection 230-2.2 of this chapter.

230-2.2 Towing Contractors.

At every annual reorganization meeting, the Borough Council shall establish by resolution a list of automobile towing contractors and a list of truck towing contractors to be utilized by the Police Department on a rotating basis. An operator may, if qualified, be on both lists. Such lists shall be utilized by members of the Police Department on a non-exclusionary and nondiscriminatory basis. Only those towing contractors who meet the minimum standards of operator performance set forth in this chapter shall be included on such lists. There shall be no limit on the number of operators on either list. Operators may be added to the list at any time.

a. **Equipment.** All towing operators shall meet the following requirements:

1. For classification as an automobile towing service the operator must possess one (1) flatbed-style tow truck and one (1) hoist-type tow truck with a wheel lift and one (1) other vehicle with wheel lift or flatbed capability.
2. For classification as a truck towing service, the contractor must have one (1) heavy duty tow vehicle capable of towing a fully loaded tractor trailer weighing eighty thousand (80,000) pounds.
3. All tow vehicles must carry the following equipment:
 - (a) Push broom
 - (b) Shovel
 - (c) Fire extinguisher
 - (d) Jumper cables
 - (e) Tire changing equipment
 - (f) Jack
 - (g) Hammer
 - (h) Pry bar or similar tool
 - (i) Speedy Dry or similar liquid absorbent
4. All towing vehicles must have amber emergency warning lights mounted on the vehicle so as to warn approaching traffic of their presence. The size and location of these lights must conform to New Jersey Division of Motor Vehicle standards. The operator must have an amber light permit.
5. All towing vehicles must carry a copy of their rate schedule. Said schedule must also be displayed in a conspicuous manner at the operator's place of business.

b. **Facilities.** Each operator must have a storage lot and place of business within five (5) miles of the Mountain Lakes Borough corporate line. The towing business and storage lot must comply with all zoning ordinances and regulations in the municipality in which they are located.

c. **Availability and Response Time.** Each operator must be available twenty-four (230) hours a day, seven (7) days a week and must respond within twenty (20) minutes during daytime hours and thirty (30) minutes during nighttime hours of the original telephone call request by the Police Department.

230-3.1 Fees Established.

The following is the fee schedule for towing services and storage:

a. **Automobiles and Trucks.** The fee schedule for towing services and storage for automobiles and trucks shall be established by the Borough Council by resolution.

b. **Cancellation.** No fee may be charged when a request for towing service is canceled by a Borough Police Officer, even if the towing request is canceled after the towing operator has arrived at the scene.

c. **Appeal.** In the event of a dispute over charges, the owner of the vehicle shall have the right to appeal the validity of the charges to the Chief of Police who shall conduct a hearing as soon as is practicable. If, after the hearing, the Chief of Police determines that there is a legitimate basis to dispute the billing, he shall order the vehicle released upon payment of the undisputed amount and the parties may address the balance due in such proceedings as they deem appropriate.

230-4 REGULATIONS FOR TOWING SERVICE OPERATORS.

230-4.1 Release of Impounded Vehicles.

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 4:00 p.m., Monday through Saturday (excluding New Jersey State holidays). In accordance with N.J.S.A. 39:3-40.6, no motor vehicle which has been impounded shall be released by the Police Department unless proof of valid motor vehicle insurance for that vehicle is presented to the Department. The recovery or salvage of the impounded motor vehicle by, or on behalf of, an insurer, financial institution or other lending entity, shall not require proof of valid motor vehicle insurance for that vehicle.

230-4.2 Insurance; Indemnity.

a. Each operator on the approved lists shall furnish the Borough Clerk with a certificate of insurance from an insurance company satisfactory to the Borough. Each certificate of insurance shall identify the coverage provided and shall provide that such insurance shall not be changed or canceled without giving ten (10) days prior written notice to the Borough by certified mail, return receipt requested. Specific reference to the rotating lists of towing operators shall be made on all policies of insurance.

b. Each operator must have bodily injury liability, property damage liability, employer's liability and motor vehicle liability coverage with combined policy limits of one million (\$1,000,000.00) dollars. Each approved operator must also have statutorily required workers' compensation coverage.

c. Each operator shall indemnify and save the Borough harmless from all damages and claims for damages which may be made by any person for bodily injury or property damages as a result of the operator's performing pursuant to this chapter.

230-4.3 Enforcement.

The Police Department is designated to enforce the provisions of this chapter in accordance with due process of law. In carrying out the provisions of this chapter, the Police Chief is hereby authorized to adopt additional reasonable regulations which are not inconsistent with this chapter.

230-4.4 Abandoned or Unclaimed Vehicles.

a. **Junk Vehicles.** A junk vehicle shall be defined as a motor vehicle incapable of being operated safely or of being put in a safe operational condition except at a cost in excess of the value thereof. If the vehicle is unclaimed by the owner or other person having legal right thereto for a period of fifteen (15) business days, the contractor shall notify the Chief of Police or his designee that the vehicle has been held for the statutory time and that the vehicle is ready for sale. The Borough shall supply titles for abandoned junk vehicles in accordance with N.J.S.A. 39:10-1 and 3.

b. **Abandoned Vehicles.** An abandoned vehicle shall be defined as a motor vehicle which cannot be certified for a junk title certificate pursuant to N.J.S.A. 39:10A-3. If the vehicle is unclaimed by the owner or other person having legal right thereto for a period of twenty (20) business days, the contractor shall notify the Chief of Police or his designee that the vehicle has been held for the statutory time and that the vehicle is ready for sale pursuant to N.J.S.A. 39:10A-1 and 4.

c. **Conduct of Sale.** Sales of all junk and abandoned vehicles shall be conducted in accordance with the provisions of N.J.S.A. 39:10A-1 et seq.

d. **Proceeds from Sale.** Proceeds from the sale of junk or abandoned vehicles shall be used to satisfy any towing or storage charges which may have accumulated on the subject vehicle. Excess proceeds shall be paid to the Borough Treasury. If the proceeds are insufficient to cover the accumulated costs, such excess cost shall be waived by the contractor and no further funds will be due from the Borough or the purchaser of the vehicle. This section will be administered in accordance with N.J.S.A. 39A:10-1 et seq.

e. **Failure to Follow Statutory Procedures.** Any operator found to be disposing of vehicles in violation of this procedure will be charged with misapplication of entrusted property (N.J.S.A. 2C:21-15) and will be prohibited from providing service for Mountain Lakes.

230-4.5 Rights of Owners.

a. The owner of any vehicle towed shall have the right to remove property belonging to him or her from the stored vehicle unless a "police hold" is marked on the towing form.

b. The vehicle owner or his or her authorized representative shall have the right to take photographs of stored vehicles.

c. If the Police Department receives any complaints arising from the towing and storage of motor vehicles required by the Borough without the consent of the owner, such complaints shall be heard and decided by the Chief of Police or his designee.

230-4.6 Public Inspection.

This chapter, all regulations adopted by the Police Chief and the fee schedules of individual towers shall be available to the public during normal business hours.

230-4.7 Operator Dealings with Public.

a. The operator shall always act in a professional manner and at all times to be courteous and respectful toward members of the public, as well as representatives of the Borough of Mountain Lakes. While members of the public, especially those whose cars may have been towed or impounded, may at times resort to strong language, threats and unbecoming behavior toward the operator, the operator is expected to exercise restraint and not to respond in kind and thereby reflect unfavorably on the Borough of Mountain Lakes and/or the Police Department.

b. Repeated reports of discourteous behavior by the operator, which can be substantiated and documented, may be considered by the Borough as sufficient cause for termination of the contract.

230-4.8 Liability of Borough.

There shall be no privity of contract between the Borough and any towing operator on the rotation list and utilized by the Police Department pursuant to subsection 230-2.2. Except to the extent that the Borough will use the proceeds from the sale of abandoned and junk vehicles to satisfy towing and storage charges pursuant to subsection 230-4.4, the Borough will not be liable for any towing or storage or related charges for services rendered pursuant to this chapter.

230-5 VIOLATIONS AND PENALTIES.

230-5.1 Violations and Penalties.

a. Any contractor who violates any section of this chapter, in addition to any other penalties provided by law, shall be subject to suspension of towing privileges for one (1) month for a first offense, three (3) months for a second offense and six (6) months for a third offense. If the contractor commits a fourth offense, its right to provide towing services to the Borough shall be permanently revoked.

b. Any contractor who violates the operator rate schedule shall receive a fine of one hundred (\$100.00) dollars and suspension of towing privileges for one (1) month. A second violation will result in a fine of two hundred fifty (\$250.00) dollars and suspension of towing privileges for six (6) months. A third violation will result in a fine of five hundred (\$500.00) dollars and permanent revocation of towing privileges.

c. In all cases, if a contractor overcharges a vehicle owner, the excess moneys paid will be returned by the contractor.

d. A towing operator may be removed from the annual list by resolution of the Borough Council if its performance is determined to be unreliable or inadequate. If there is a breach of any of the provisions of this chapter or applicable regulations, an operator may be removed from the list by the Chief of Police pending action by the Borough Council.

Michele Reilly, RMC, Borough Clerk

G. Douglas McWilliams, Mayor