

**LOCAL LAW NO. 3 OF 2016**  
**COUNTY OF ROCKLAND**  
**STATE OF NEW YORK**

Mr. Schoenberger offered the following Local Law, which was seconded by Mr. Earl, Mr. Jobson, Mr. Moroney and Mr. Soskin and unanimously adopted

A local law amending local law number 9 of 1979 as amended by local law number 1 of 1982, local law number 3 of 1982, local law number 7 of 1987, local law number 4 of 1990, local law number 1 of 1994, and local law number 7 of 2002 (chapter 394 of the laws of Rockland county) relating to towing regulations for motor vehicles less than 6,500 pounds gross vehicle weight in the county of Rockland.

Be it enacted by the legislature of the county of Rockland as follows:

A local law amending local law number 9 of 1979 as amended by local law number 1 of 1982, local law number 3 of 1982, local law number 7 of 1987, local law number 4 of 1990, local law number 1 of 1994, and local law number 7 of 2002 (chapter 394 of the laws of Rockland county) relating to towing regulations for motor vehicles less than 6,500 pounds gross vehicle weight in the county of Rockland.

Section 1. §394-1 Legislative Intent is amended as follows:

**§ 394-1 Legislative intent.**

It is the intent of the Legislature of Rockland County in enacting this chapter to safeguard the public health, safety and welfare and to protect the general public from unsafe practices by operation of towing services such as what is commonly called "wreck chasing" and assure that consumers are protected from predatory pricing practices by operation of towing motor vehicles less than 6,500 pounds in the County. In addition, the intent of this legislation is to assure that the vehicles used are equipped with the appropriate safety items and carry appropriate insurance to protect the general public and the operator and employees of towing entity. The rates for towing services as set forth in this chapter shall only apply to non-consensual tows as defined herein.

Section 2. §394-2 Definitions is amended as follows:

**§ 394-2 Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**BOOT OR BOOTING**

To clamp, affix or lock a booting device onto the wheel of a motor vehicle to prevent the wheel from rotating, thereby immobilizing the vehicle

**DIRECTOR**

The Director of Rockland County Consumer Protection

**HOLIDAY**

- A. New Year's Day, the first day of January.
- B. Martin Luther King, Jr. Day, third Monday in January.
- C. President's Day, the third Monday in February
- D. Memorial Day, the last Monday in May.
- E. Independence Day, the fourth day of July.
- F. Labor Day, the first Monday in September.
- G. Columbus Day, the second Monday in October.
- H. Veteran's Day, the 11th day in November.
- I. Thanksgiving Day, the fourth Thursday in November.
- J. Christmas Day, the 25th day of December.

**LICENSE**

A license issued to a licensee in the County of Rockland.

**LICENSEE**

Person issued a license to operate a wrecker or tow truck in the county of Rockland

**NON-CONSENSUAL TOW**

Includes the towing and storage of a motor vehicle which is disabled and the removal of same from the public highway or other property as requested by law enforcement or by the owner of the property where the vehicle is located.

**PERSON**

Includes any individual, partnership, corporation or limited liability company or any other legal entity able to conduct business in New York State.

**WINCHING**

Includes when the motor vehicle is unable to be moved or removed in any other manner, including, but not limited to, an unrolling vehicle

**WRECKER or TOW TRUCK**

A motor vehicle owned or operated by a person or by the employees or agents of such person for the purpose of towing, transporting, conveying or removing any motor vehicle not owned by the owner or operator of the "wrecker" or "tow truck."

Section 3. §394-3 License requirements is amended as follows:

**§ 394-3 License requirements.**

- A. No person shall operate any wrecker or tow truck or conduct any wrecking or towing service within Rockland county without first having obtained a license.
- B. The name of the licensee's legal entity must be either painted or permanently affixed on each side of a wrecker or tow truck. Magnetic devices are prohibited. All lettering setting forth the licensee's legal entity as required herein, shall be at least six inches in height.
- C. The Rockland county Office of Consumer Protection shall issue a license decal to each licensee for each wrecker or tow truck owned or operated by the licensee which shall be displayed by the licensee on the vent window of the driver's door of each wrecker or tow truck that is subject to this chapter. If the wrecker or tow truck does not have a vent window, the decal shall be displayed on the upper front portion of the driver's door window of the wrecker or tow truck in such a way as to not impair the driver's vision.
- D. Each licensee shall submit each wrecker or tow truck to the Director of Consumer Protection or his/her designee upon the original application for a license for inspection. Inspection shall be done at a location designated by the Director or his/her designee within Rockland county. Such inspection shall include an examination of the licensee's name, as well as a determination whether such wrecker or tow truck carries a fire extinguisher rated for combustible liquid fire by the National Board of Fire Underwriters, six highway flares, a safety chain, a street broom and shovel, cable in the minimum amount of 50 feet and a minimum strength of 3,700 pounds, flashers and emergency lights as set forth in the Vehicle and Traffic Law. The aforesaid items shall be carried at all times on each wrecker or tow truck.

Section 4. §394-4 Application for license is amended as follows:

**§ 394-4 Application for license.**

The application for a license as required by the preceding § 394-3 shall be made to the Office of Consumer Protection of Rockland County on the prescribed form and shall accurately specify the following information, the truth of which shall be sworn to by the applicant:

- A. The year, make, type and registration number of the wrecker or tow truck.
- B. The name and address of the applicant and, if a corporation, the name and address of each officer and director thereof and, if a partnership, the name and address of each partner thereof and, if a limited liability company, the name and address of each member thereof.
- C. The name and address of the owner of the wrecker or tow truck, if other than the applicant.
- D. The location or locations of the premises at which the wrecker or tow truck is domiciled or garaged.
- E. The location or locations of the premises to which the motor vehicles are to be towed and the maximum number of vehicles to be stored at such premises.
- F. A complete list of all criminal convictions, except minor traffic violations, of the applicant or, if a corporation, of each officer and director thereof or, if a partnership, of each partner thereof or, if a limited liability company, of each member thereof.

Section 5. §394-5 Insurance is amended as follows:

**§ 394-5 Insurance.**

Each application for a license shall be accompanied by certificates for a current automobile liability policy and a current garage liability policy issued by an insurance company authorized to do business in the State of New York. Policy limits for automobile liability insurance shall be in the amount as set forth in section 345-3 of the New York State Vehicle and Traffic law. In addition, each applicant and licensee shall have and keep in effect the required New York State Worker's Compensation and Disability Benefits insurance coverage. Policy limits for garage keepers liability insurance shall be a minimum of \$1,000,000 per occurrence.

Section 6. §394-6 Registration of employees, agents and licensees not required is amended as follows:

**§ 394-6 Registration of employees, agents and licensees not required.**

No registration of licensees or of employees or agents of licensees who operate a wrecker or tow truck shall be required other than a valid New York State driver's license. If employee or agents or licensees present an out of state driver's license it must be valid for operation of a wrecker or tower in New York State.

Section 7. §394-7 License fee; copies of license; validity is amended as follows:

**§ 394-7 License fee; copies of license; validity.**

Each wrecker or tow truck shall be licensed separately. The fee, which is non-refundable, for each such license shall be as set forth in the rules and regulations for each wrecker or tow truck. Each such license shall be issued in duplicate. One copy of the license shall be kept at all times in the wrecker or tow truck, and the second copy shall be kept at all times at the principal place of business of the licensee. Each license shall be valid for one year from the date of its issuance.

Section 8. §394-8 License renewal is amended as follows:

**§ 394-8 License renewal.**

Any license issued hereunder may be renewed for additional periods of one year upon:

- A. Submission to the Officer of Consumer Protection of a renewal application on the form prescribed by the Director of Consumer Protection stating that there have been no changes in the original application or setting forth any changes. Presentation of renewal insurance certificates as required by § 394-5 hereof.
- B. Payment to the Office of Consumer Protection of a renewal shall be accompanied by the required fee as set forth in the rules and regulations per wrecker or tow truck. The Office of Consumer Protection may, within 30 days after the submission of all items required by this chapter, deny the renewal of any license if it finds that the applicant no longer demonstrates the ability to comply with the terms of this chapter, for any reason specified in § 394-10 of this chapter or for other just cause. Failure to make application for such renewal within (10) days prior to the expiration date of the license shall subject the licensee to a penalty as set forth in the rules and regulations, which shall be paid, together with the renewal fee, prior to the issuance of the renewal. After the expiration date of the license, the licensee shall be considered no longer licensed as required by section 394-3 and for purposes of the penalties established by section 394-19.

Section 9. §394-9 Transfer of license or registration is amended as follows:

**§ 394-9 Transfer of license or registration.**

No license or registration required by this chapter shall be transferred or assigned without the prior written approval of the Office of Consumer Protection, nor shall the domicile of any wrecker or tow truck licensed hereunder be changed without prior written notification to the Office of Consumer Protection.

Section 10. §394-10 Revocation or suspensions of license is amended as follows:

**§ 394-10 Revocation or suspension of license.**

In addition to any penalties which may be imposed for the violation of any provision of this chapter, the Office of Consumer Protection may refuse to issue or renew or, may suspend or revoke any license required by this chapter, after written notice and public hearing, for any of the following reasons:

Section 11. §394-11 Powers of Office of Consumer Protection is amended as follows:

**§ 394-11 Powers of Office of Consumer Protection.**

In addition to the powers and duties elsewhere prescribed in this chapter, the Office of Consumer Protection shall have the power:

- A. To examine into the qualifications and fitness of applicants for licenses required by this chapter.
- B. To keep records of all licenses issued, refused, suspended or revoked and shall be kept pursuant to the County's record retention policy.
- C. To adopt such rules and regulations not inconsistent with the provisions of this chapter as may be necessary with respect to the form and content of applications for licenses, the reception thereof, the investigation and examination of applicants and their qualifications and with respect to the other matters incidental or appropriate to its powers and duties as prescribed by this chapter and for the proper administration and enforcement of the provisions of this chapter, as well as, to amend or repeal any such rules and regulations and to file such rules and regulations with the Rockland county Legislature and Rockland county Office of Consumer Protection.

Section 12. §394-12 Removal of towed vehicles outside of County is amended as follows:

**§ 394-12 Removal of towed vehicles outside of County.**

No person shall tow or remove, or cause to be towed or removed, any motor vehicle from a location within Rockland county to a location outside Rockland county without the express consent of the owner thereof; provided, however, that if a towed vehicle remains unclaimed at the premises of the owner or operator of a wrecker or tow truck for more than 20 days, then and in that event said motor vehicle may be removed by such owner or operator of a wrecker or tow truck without the owner's consent to a location outside Rockland county; provided, further, however, that at least five days prior to any such removal, the owner of such motor vehicle shall be notified by certified mail, return receipt requested, of the intent to remove such motor vehicle to a location outside Rockland county and of the address of such location.

Section 13. §394-13 Towing charges; review of provisions is amended as follows:

**§ 394-13 Towing charges; review of provisions.**

No owner or driver of a wrecker or tow truck may charge in excess of the following rates for towing, winching or waiting time:

- A. Motor Vehicles less than 6,500 pounds gross vehicle weight.
  - (1) For towing of vehicles:
    - a. Between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, the maximum charge shall be \$108.
    - b. Between the hours of 5:01 p.m. and 7:59 a.m., Monday through Friday and all day Saturday, Sunday and holidays, as defined in section 394-2 of this chapter, the maximum charge shall be \$146.
  - (2) The maximum charges set forth in section 394-13(A)(1) above shall be for the initial pickup, which shall include the first mile of towing, and there shall be a maximum charge of \$5.80 per mile thereafter.
- B. Winching of a motor vehicle with a gross vehicle weight less than 6,500 pounds shall be at the maximum rate of \$27 per half hour or part thereof, and \$27 for each additional half hour or part thereof. Winching fees shall not be permitted if licensee has access to keys or ability to remove motor vehicle from roadway.
- C. In the event that the tow truck operator is prevented from towing the motor vehicle due to circumstances beyond his control for more than 15 minutes after his arrival at the location of the vehicle to be towed, there shall be a maximum waiting charge at the rate of \$27 per half hour or part thereof.
- D. No tow truck owner or operator shall charge a fee for services or impose any other charge whatsoever, except those set forth in this chapter, as from time to time amended.
- E. No tow truck owner or operator shall charge a fee for waiting charges by man-hour, debris cleanup, additional personnel, off-loading, yard charges, towing prep charges or other charges for towing services or any charge or fee of a similar nature, except for material used in cleanup of oil, grease and other liquids at the accident/incident location not to exceed \$21.00 and labor for roadway cleanup at said location not to exceed \$40.00 per half hour or part thereof, per incident.
- F. No tow truck owner or driver shall charge a fee for installation and removal or a booting device in excess of subsection A.(1)(a.) and A(1)(b.).

Section 14. §394-14 Availability of schedule of charges; responsibility for payment of fees is amended as follows:

**§ 394-14 Availability of schedule of charges; responsibility for payment of fees.**

- A. Every owner and operator of a wrecker or tow truck shall maintain a written schedule of all rates and charges, in compliance with the limitations of § 394-13 of this chapter, and shall make such schedule available to any person requesting the same at any time.
- B. Whenever practicable, the owner or operator of any motor vehicle utilizing towing or wrecker services shall be given a copy of a full schedule of rates at the time the wrecking or towing services are rendered. In any event, a full schedule of rates shall be annexed to each bill for wrecking or towing services.
- C. Notwithstanding any provision of this chapter to the contrary, the owner and operator of any motor vehicle who requests any services regulated by this chapter shall be responsible for payment to the licensee of any fees and charges permitted by and charged in accordance with § 394-13 of this chapter.

Section 15. §394-15 Storage charges is amended as follows:

**§ 394-15 Storage charges.**

No wrecker or tow truck owner or operator shall charge an outdoor storage charge in excess of \$20.00 per half day or part thereof for or in excess of \$20. per each additional half-day or part thereof, or charge an indoor storage charge for necessary indoor storage \$25. per half day thereof, or in excess of \$25. per each additional half-day or part thereof, for any motor vehicle which has been towed pursuant to this chapter. For the purpose of this §394-15 of this chapter, time shall be calculated not by calendar days but from the time the motor vehicle was originally stored. No storage shall be charged if the place of business of the licensee is not open for retrieval of the vehicle. No wrecker or tow truck operator shall charge for storage during any twenty-four hour period that the operator is unavailable for the owner/operator of the motor vehicle to reclaim/redeem their vehicle.

Section 16. §394-16 Towing from private property is amended as follows:

**§ 394-16 Towing from private property.**

No owner or operator of a wrecker or tow truck shall tow a motor vehicle from private property except at the express written request of the owner or lessee of the property or at the express written request of the owner of the vehicle and the motor vehicle and the owner or lessee of the property.

Section 17. §394-17 Towing of vehicle without owner's consent is amended as follows:

**§ 394-17 Towing of vehicle without owner's consent.**

Every owner and operator of a wrecker or tow truck shall, prior to removal or towing of any motor vehicle without the express consent of the owner or operator thereof, notify the appropriate law enforcement authority of the year, make, model and license number of such motor vehicle, the location from which it is removed and the location to which it is removed.

Section 18. §394-18 Nonapplicability is amended as follows:

**§ 394-18 Nonapplicability.**

The terms and provisions of this chapter shall not apply to the owner or operator of any wrecker or tow truck which:

- A. Tows a disabled motor vehicle outside the County limits.
- B. The services of which, not being domiciled in Rockland county are requested by the owner or operator of a motor vehicle only for the purpose of towing outside the County.
- C. Undertakes the booting and removal by a municipality or law enforcement agency.
- D. Undertakes the removal of a vehicle with the consent of the owner. In such cases, the rates set forth in 394-13 shall not apply.

Section 19. §394-19 Penalties for offenses is amended as follows:

**§ 394-19 Penalties for offenses.**

- A. Any person who shall violate any provision of this chapter or, having had his license suspended or revoked, shall continue to engage in such business shall, upon conviction thereof, be punished as follows:
  - 1. A failure to comply with the provisions of § 394-3A of this chapter shall constitute a Class A misdemeanor, punishable by a fine of not less than \$500 nor more than \$1,000 or imprisonment not exceeding six months, or by both such fine and imprisonment.
  - 2. A failure to comply with any other section of this chapter shall constitute a violation and shall be punishable by a fine not exceeding \$250 or imprisonment for a period not exceeding 15 days, or by both such fine and imprisonment for a first offense; and for a second and subsequent offense, by a fine not exceeding \$500 or by imprisonment for not exceeding 15 days, or both such fine and imprisonment.
  - 3. The Director of Consumer Protection or his designated employee shall have the power to issue appearance tickets as the same are defined in Article 150 of the Criminal Procedure Law.
  - 4. Notwithstanding any other provision of this chapter to the contrary, the Director of Consumer Protection may prescribe and impose civil penalties for any violations of this chapter, not exceeding \$500 for a single violation, to be sued for and recovered by him/her in any court of competent jurisdiction.
- B. Violations of this chapter shall be prosecuted by the Office of Consumer Protection in any court of competent jurisdiction within Rockland County. Nothing herein contained shall prevent the Legislature of Rockland County from proceeding to enforce, by civil action, the requirements of this chapter, and the Legislature may authorize proceedings of both civil and criminal nature at the same time.

Section 20. §394-20 Tower/Wrecker Advisory Committee is removed in its entirety.

Section 21. §394-20 Consumer's Request for Preferred Drop Off is added as follows:

§394-20 Consumer's Request for Preferred Drop Off.

If the owner or operator of any motor vehicle to be removed or towed requests the owner or operator of the wrecker or tow truck, whose services have been engaged to remove or tow the motor vehicle, to a place requested by the owner or operator of the motor vehicle, the owner or operator of the wrecker or tow truck shall do so, provided however, that the place to which the motor vehicle is requested to be towed is at that time available and willing to accept the motor vehicle and, in addition, that arrangements, satisfactory to the owner or operator of the wrecker or tow truck, for payment of fees and charges permitted by and charged in accordance with this chapter have been made by the owner or operator of the vehicle

Section 22. §394-21 Fuel Surcharge is added as follows:

§394-21 Fuel Surcharge.

Should the average retail price in Rockland County of regular unleaded gasoline and/or the average retail price of diesel fuel exceed an amount as set forth in the rules and regulations as determined by a gas survey conducted by the Office of Consumer Protection then in addition to the permitted fees above a "fuel surcharge" shall be set by the Office of Consumer Protection, and if and when the average retail price declines the right to charge said fuel surcharge shall also end. No fuel surcharge shall be implemented prior to the approval of the Director.

Section 23. 394-22 Appeals Panel is added as follows:

§394-22 Appeals Panel.

Any person aggrieved by a determination made under §394-10 (Revocation or suspension of license), or 394-11 (Powers of the Office of Consumer Protection), or 394-19-E (Penalties for Offenses) shall have the right to appeal such determination to a panel consisting of the following:

- The Director of Consumer Protection or his/her designee; and
- A police officer, appointed by the County Executive, from any of the town/villages police departments or Rockland County's Sheriff's department who is generally familiar with the towing industry in Rockland County; and
- The holder of a Rockland County towing license, appointed by the County Executive, not involved in the matter to be determined.

Said panel shall review the determination made and may uphold said determination in whole, or in part, may void the prior determination or impose such penalty as it deems appropriate.

Section 24. Separability.

If any part of this local law, or the application thereof to any person or circumstance shall be judged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the parts of the provision directly involved in the controversy in which such judgment shall have been

rendered and shall not affect or impair the validity of the remainder of this law or application thereof to any other persons or circumstances.

Section 25. Effective date.

This local law shall take effect immediately upon filing in the office of the secretary of state pursuant to section 27 of the municipal home rule law.

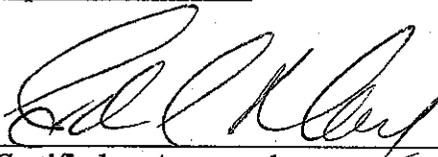
STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF ROCKLAND )

I, the undersigned, Clerk to the Legislature of the County of Rockland DO HEREBY CERTIFY that the attached is an original Local Law of such Legislature, duly adopted on the 20th day of September 2016 by a majority of the members elected to the Legislature while such Legislature was in regular session with a duly constituted quorum of members present and voting.

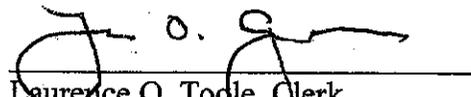
I FURTHER CERTIFY that at the time said Local Law was adopted said Legislature was comprised of seventeen members.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Legislature this 21<sup>st</sup> day of September 2016.

Date sent to the County Executive:  
September 21, 2016



Certified or Approved  
Edwin J. Day, County Executive  
County of Rockland

  
\_\_\_\_\_  
Laurence O. Toodle, Clerk  
Rockland County Legislature

9/23/16  
\_\_\_\_\_  
(date)

LOCAL LAW NO. 3 OF 2016