

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

City

of Rockville Centre

Town

Village

Local Law No. 9 of the year 2011

A local law to amend the Code of the Village of Rockville Centre, in relation to

(Insert Title)

towing.

Be it enacted by the Board of Trustees of the

(Name of Legislative Body)

County

City

of Rockville Centre **as follows:**

Town

Village

Section one. Chapter 300 of the Code of the Village of Rockville Centre is hereby amended, to read as follows:

“Chapter 300. Towing.

§ 300-1. Purpose; intent.

- A. The purpose of this chapter is to ensure safety, traffic control and the orderly use of the streets and highways within the Village of Rockville Centre (Village). This chapter is necessary to provide an orderly arrangement for tow

(If additional space is needed, attach pages the same size as this sheet, and number each.)

service within the Village and to provide responsible tow service to owners and operators of motor vehicles.

- B. In furtherance of such intent, this chapter provides for issuance of tow licenses to tow services that tow at police request. Towing services that otherwise tow vehicles from property in the Village at the request of the vehicle owner or operator or at the request of the owner of private property from which such vehicles are towed are required to be licensed by the Town of Hempstead and to comply with §300-3 of this chapter.
- C. Except as provided in §300-3, which pertains to towing from private property, the intent of this chapter is to allow owners and operators of motor vehicles requiring tow service to select a tow operator of their choosing. If towing of a vehicle is necessary as provided in the Rules and Regulations of the Village Police Department, and such owner or operator does not select a tow service, the Village shall require the towing to be done using the call system established pursuant to the Village Police Department Rules and Regulations for the Towing of Motor Vehicles.

§ 300-2. Prohibited acts.

- A. Removal of motor vehicle from the scene of accident. It is unlawful for any person, firm or corporation to service or tow any motor vehicle that has been involved in an accident without the prior consent of the owner or operator or the police officer at the scene of the accident. No motor vehicle will be secured at or removed from the scene of an accident where a police officer requires or requests that an examination be made of the damaged motor vehicle to determine whether the motor vehicle is defective or for any other purposes, or where the police officer requires or requests that photographs and/or diagrams of the accident scene be completed prior to the removal of the motor vehicle.
- B. Failure to remove debris. Once called to the scene of an accident, the tow service is responsible for completely removing all debris from the roadway, including glass, metal fragments, etc., and for leaving the roadway free and broom clean from such debris. The tow service is prohibited from leaving the scene until the cleanup has taken place. The fees charged by a tow service for cleanup of the roadway at an accident scene shall not exceed the fees authorized by the Town of Hempstead for such services.
- C. Solicitation. It is unlawful for any owner, employee, operator or agent of a tow service to drive along any public street or highway within the Village of Rockville Centre, or park or stand on any public or private property, for the sole purpose of soliciting of towing and/or repair work. It is unlawful for any owner, employee, operator or agent of a tow service to solicit towing or repair work at the scene of any motor vehicle accident on public streets or highways within the Village of Rockville Centre. The stopping of any tow truck or service truck within 500 feet of the scene of any accident or disabled motor vehicle on any public street or highway in the Village of Rockville Centre, without the prior authorization of the operator of the motor vehicle, owner of the motor

vehicle or member of the Rockville Centre Police Department, will be presumptive evidence of the intent of the operator of a tow truck or service truck to solicit towing or repair work, except if the vehicle operator flags down a passing tow truck or service truck.

- D. Cruising. Cruising for the purpose of solicitation of towing or repair work is unlawful. "Cruising" is defined as driving along the public highways or roadways, or parking or standing on public or private property, solely for the purpose of soliciting towing or repair work without having first been called or otherwise requested to provide service.
- E. In addition to any other prohibition provided by law, no vehicle may be towed from any public or private property in the Village except by a tow truck and tow truck operator duly licensed by the Town of Hempstead to engage in such activities.

§ 300-3. Vehicles improperly parked on private property.

- A. Prohibition, and limitation on fees. A vehicle improperly parked on private property other than a one or two family residence may be towed from such property only with the express consent of the owner or operator of the vehicle, or as provided in this section. Where a vehicle improperly parked on private property is towed from such private property without the express consent of the vehicle owner or operator, a tow car operator licensed by the Town of Hempstead may collect fees from the owner of such vehicle or other person in control of such vehicle, payable before the vehicle is released, provided that such charges do not exceed the charges set by and in effect in the Town of Hempstead as of the date that the motor vehicle is towed. No fee may be collected unless a licensed tow car operator has removed a vehicle because it is improperly parked on private property that has posted instructions in compliance with §300-3(B), and the motor vehicle removal is pursuant to a contract between the owner of private property and the licensed tow car operator for the removal of any such improperly parked vehicles.
- B. Signage required on private property. No owner or operator of parking facilities on private property shall tow or cause any motor vehicle to be towed from such private property without the express consent of the vehicle owner or operator unless such facility owner or operator shall conspicuously post and maintain upon such private property a sign stating the name, address and telephone number of the tow operator, the hours of operation for vehicle redemption, and the hours vehicles are prohibited from parking and subject to tow. Any signs installed pursuant to this section must comply with Chapter 335 of the Code of the Village of Rockville Centre.
- C. Written authorization by private property owner. No vehicle shall be removed by a tow car operator from private property without express written authorization by the owner of the private property or his or her agent as designated in the contract between the owner of the private property and the tow car operator.

- D. Occupied vehicles. A tow car operator is prohibited from removing any vehicle that is occupied by a person.
- E. Storage requirements. When a vehicle is towed pursuant to this section, it must be taken directly to a facility for storage that is maintained by the tow car operator who has removed such vehicle. Such facility for storage must be a secure place for the safekeeping of vehicles, and may be located a distance no more than two miles from the Village police station.
- F. Village Police notification. Any person who removes a vehicle pursuant to this section shall remove the vehicle directly to its facility and shall, within one hour of the vehicle's removal, notify the Police Department in writing and via facsimile. The written notification must include the purpose of reporting, the location of the storage site, the time the vehicle was removed, the location from which the vehicle was removed, the name of the person who authorized the removal, and the fact that the removal was pursuant to a contract with the owner of the private property. The person notifying the person at the Police Department must maintain records that include the name of the person at the Police Department who took the report, as well as the time and date that the vehicle was removed and the location from where the vehicle was removed.
- G. Vehicle disconnection. If the registered owner or other person in control of a vehicle arrives at the tow scene prior to the removal of the vehicle and the vehicle has already been connected to any apparatus for removal, the vehicle shall immediately be disconnected from such apparatus and such registered owner or other person in control of such vehicle shall be allowed to remove the vehicle from the premises without interference. The fee for the disconnection service shall be no more than 1/2 of the charge allowed for removal, as set forth in the charges that are set by and in effect in the Town of Hempstead as of the date that the motor vehicle is connected to the apparatus.
- H. Release of vehicle. When the registered owner or other person in control of a vehicle arrives at the storage facility, upon proper payment, in accordance with paragraph A of this section, the storage facility must release the vehicle within one hour of the arrival of the owner or other person in control of the vehicle. No vehicle shall be towed to any facility unless that storage facility is open and available seven days a week from 8:00 a.m. until 12:00 midnight to release vehicles to the registered owner or other person in control of the vehicle.
- I. Waiver of liability prohibited. No waiver of liability for the person or entity who has towed the vehicle may be required as a condition of release of the vehicle from the owner or other person in control of the towed vehicle. A detailed, signed receipt showing the legal name of the person or company removing the vehicle must be given at the time of payment to the person paying the removal and storage charges.
- J. No charge for tow in violation of Chapter 300. When a vehicle is towed in violation of any section of this chapter, the owner of private property and the agent designated in the contract to tow from the private property shall not charge any fee for the towing or storage of the vehicle. Any excess fee that

has been charged and received must be refunded within three days of demand.

- K. Emergency vehicle removal prohibited. No person may, under the authority of this chapter, cause the removal of any ambulance, police vehicle, civil defense emergency vehicle, emergency ambulance service vehicle, environmental emergency response vehicle, sanitation patrol vehicle, hazardous materials emergency vehicles or Armed Forces vehicle.

§ 300-4. Tow services which tow at police request; licenses. No person, firm, corporation or company may engage in the business of towing of motor vehicles within the Village without first obtaining a license in accordance with the provisions of this chapter, Chapter 222 of the Village Code and in accordance with the Rockville Centre Police Department Rules and Regulations for Towing of Motor Vehicles. Expiration and renewal of licenses issued by the Village will take place in accordance with Chapter 222 of the Incorporated Village of Rockville Centre, except as otherwise provided by law. No licensee shall have any vested or property right to the renewal of any license.

§ 300-5. Fees and charges.

- A. Towing. Charges for towing of motor vehicles pursuant to this chapter shall not exceed those in effect in and set by the Town of Hempstead as of the date the motor vehicle is towed.
- B. Storage. Charges for storage of towed motor vehicles pursuant to this chapter shall not exceed those in effect in and set by the Town of Hempstead as of the date the motor vehicle is stored.
- C. Repairs and clean up. Charges for repairing towed motor vehicles and/or for the clean up of debris from the roadway and scene pursuant to this chapter shall not exceed those in effect in and set by the Town of Hempstead as of the date the motor vehicle is repaired or the clean up takes place.
- D. Licenses. The fee for any license required by the provisions of this chapter to be obtained from the Village shall be established or amended from time to time by resolution of the Village Board of Trustees.

§300-5.1. Limitation on number of licenses; qualifications for licenses.

A. Pursuant to its authority to determine the best interests of the Village, and the appropriate manner in which to assure the provision of towing services at police request, the Board of Trustees may impose a limit on the number of licenses to be issued by the Village for towing of vehicles at police request, and/or may establish or amend a system of licensing in which potential licensees are required to submit bids or proposals to provide such services. All licensees shall be placed on one or more rotational lists, as deemed appropriate by the Police Department, to assure to a reasonable degree that each licensee shall have equivalent opportunities to provide towing services as may be required by the Police Department and which such licensee is capable to provide.

B. The Board of Trustees may determine, in its sole discretion, to limit the number of towing licenses or issue such licenses on other or different terms and conditions as may be determined by the Board, including limiting the number of such licenses and issuing licenses by random selection among qualified applicants therefore, or by public auction, provided however that no such method shall terminate any license prior to the expiration of the term thereof.

C. In addition to any requirements reasonably imposed by rule or regulation of the Police Department, no license to provide towing services at police request shall be issued unless the licensee maintains a bona fide business location and vehicle storage facility, including a staffed office and appropriate yard space, within a direct line distance of 1.5 miles from the Rockville Centre Village Hall. If such yard space is shared with any other business or entity, the Police Department shall determine whether sufficient yard space is available to the licensee for the purposes of storing vehicles towed at the request of the Police Department.

D. The Police Commissioner is authorized to promulgate standard forms of towing authorizations and/or towing contracts. In the event any such standard form are promulgated, no licensee may use any other authorization or contract, nor require the owner or operator of any vehicle to sign any other authorization or contract, with respect to any vehicle towed at police request.

E. Except as may be provided in a standard form authorization or contract promulgated pursuant to this section, no licensee may enter into any agreement with any owner or operator for the repair of a vehicle towed or being towed at police request unless such agreement provides for cancellation by the owner or operator within seventy-two hours after it is executed, and no licensee shall commence any repair of such vehicle until the expiration of the required cancellation period. Any repair agreement entered into in violation of this section shall be null and void, and no licensee shall be entitled to be paid for any repair made pursuant to a repair agreement entered into in violation of this section. Violation of the provisions of this section shall be grounds for revocation or suspension of a towing license issued by the Village pursuant to this chapter.

§ 300-6. Suspension or revocation of license. Any license issued pursuant to this chapter is subject to suspension or revocation in accordance with this chapter, Chapter 222 of the Village Code and/or the Rules and Regulations of the Village Police Department.

§ 300-7. Penalties. Any person who shall violate any provision of this chapter shall, upon conviction, be subject to the penalty provisions of §1-2 of this Code and such other provisions of law as may be applicable.

§ 300-8 Severability. If any part of this chapter is deemed or found to be unenforceable, illegal or unconstitutional, or otherwise void, such judgment will not affect or impair the validity of the remainder of the chapter or the application of the chapter.”

Section two. This law shall take effect on July 1, 2011. Notwithstanding such effective date, the Village may accept and process applications on or after June 1, 2011 for licenses to be issued pursuant to this local law, provided that no such license shall be issued with an effective date prior to July 1, 2011.

(Complete the certification in the paragraph that applies to the filing of this local law and

strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

~~Thereby certify~~ ^{Name of Legislative Body} that the local law annexed hereto, designated as local law No. 9 of 2011 of the ~~(County)(City)(Town)(Village)~~ of Rockville Centre was duly passed by the Board of Trustees on April 26, 2011, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20__, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20__, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20__, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20__. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20__, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20__, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20__. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20__, in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)

***Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____20__, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____20__, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph __1__, above.

Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body.

(Seal)

Date: April 26, 2011

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF NASSAU

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

Village Attorney
Title

County

City

of Rockville Centre

Town

Village

Date: April 26, 2011