

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF ROXBURY BY REVISING SECTION 4-19 "TOWING OPERATORS"

BE IT ORDAINED, by the Township Council of the Township of Roxbury, in the County of Morris, and State of New Jersey, as follows:

Section 1. Chapter IV, General Licensing, Section 4-19 entitled "Towing Operators" is hereby amended and supplemented in its entirety to read as follows:

"4-19 TOWING OPERATORS

4-19.1 Definitions.

As used in this section, the following terms shall have the meanings indicated.

"Governing body" shall mean the governing body of the Township of Roxbury.

"Heavy Duty Towing" shall mean the towing /removal of a vehicle with a registered gross weight of 15,001 pounds or more.

"Light Duty Road Service" shall mean minor maintenance, such as changing a tire, supply of fuel or water, jump starting a vehicle or unlocking a vehicle, with a registered gross weight of 15,000 pounds or less.

"Light Duty Towing" shall mean the towing/removal of a vehicle with a registered gross weight of 15,000 pounds or less.

"Municipality" shall mean the Township of Roxbury.

"Owner" shall mean a person, firm or corporation who owns and/or operates a vehicle by reason of being disabled or unlawfully upon said roads which requires towing services.

"Police" shall mean the police department of the municipality and/or the State Police and/or County Police or such other police as may have jurisdiction upon the roadways on which the vehicle may be found in this municipality.

"Police chief" shall mean the chief of police of the Township of Roxbury or in his absence or disability the next highest ranking officer.

"Police department" shall mean the Police Department of the Township of Roxbury.

"Towing operator" shall mean a person, firm or corporation engaged in the business of providing wrecker services and storage services for vehicles towed, which services are made available to the general public upon such rates, charges and fees as determined by this section and who is licensed under the provisions of this section.

"Winching" shall mean the process of moving a vehicle by the use of the tow cable from a position that is not accessible for direct hook-up by conventional means for loading onto a tow vehicle. Winching shall not mean pulling a vehicle onto a flatbed or carrier or lifting a vehicle with a conventional tow truck. Winching will only be done in unusual cases where the location of the vehicle prevents the operator from being able to reach the vehicle with the cable and pull the vehicle onto the tow truck.

"Wrecker" shall mean a vehicle driven by mechanical power and employed for the purpose of towing, transporting, conveying or removing any and all kinds of vehicles, or parts of vehicles, which are unable to be operated under their own power for which a service charge or fee is assessed.

4-19.2 License Required.

No towing operator shall operate within the municipality without obtaining a license in accordance with the provisions of this section. Specifically exempt from this license requirement is the towing, transporting, conveying or removing of vehicles from private property within the municipality or by towing operators which are directly and privately engaged or designated by the owner of the vehicle to be towed, transported, conveyed or removed.

4-19.3 Standards for Licensing Equipment.

a. Equipment requirement. No license shall be issued to a towing operator who does not possess for utilization in its business the following equipment, which equipment shall be inspected by the police chief or his authorized representative prior to a license being issued and a report of said inspection furnished to the governing body.

Said equipment shall be designated as follows:

1. All towing operators must own or lease and have available at least one conventional tow truck or one flat-bed tow truck.
2. The minimum safety equipment to be carried on all trucks shall include universal towing sling; low hooks and chains; one snatch block for three-eighths to one-half inch cable; two high-test safety chains; auxiliary safety light kit to place on rear of towed vehicle; four-lamp or three-lamp revolving amber light; tool box with assortment of hand tools; rear working lights and rear marker lights; cab lights; body clearing lights located to clear towed vehicle; blocking choke for wrecker while working; safety cones; steering wheel lock or tie down; two-way radio communication system.

3. All towing operators' trucks shall be equipped with radio communications or beepers, enabling them to maintain contact with their places of business.

4. All towing operators' trucks shall be equipped with brooms and shovels for the purpose of clearing debris off roadways.

5. All towing operators' trucks shall have the name, address and telephone number of the towing operator on each side of the vehicle in letters and numbers at least three inches in height.

4-19.4 Towing Operator Base of Service.

a. The towing operator's principal place of business shall mean where the tow vehicle is stationed when not in use and shall meet the following standards:

1. It shall be located within the boundaries of the municipality.
2. It shall have telephone equipment able to handle more than one incoming call.

4-19.5 Storage Facilities.

a. Storage area. A towing operator shall own or lease a storage area for the placement of towed vehicles, which area shall meet the following standards:

1. It shall be located within the boundaries of the municipality.
2. It shall be located in an area permitted by the applicable Zoning Ordinance and meet all applicable zoning requirements.
3. It shall be lighted at night.
4. It shall always have available vacant space for at least five vehicles.
5. It shall be available 24 hours a day, 365 days per year and open to the public on weekdays during normal business hours which are designated as 8:00 a.m. to 5:00 p.m. and limited hours on Saturdays and Sundays which are designated as 8:00 a.m. to 12:00 noon.

4-19.6 Licensing Procedure.

a. Application. Every applicant for a license shall submit the completed municipal application together with the required fee to the clerk of the municipality. The application shall include the following information:

1. The name of the person, firm or entity making the application, his or its residence and business address and telephone number.
2. A full description of all licensed towing vehicles that will operate in the municipality together with a colored two inch by three inch photograph of same.
3. A list of all equipment maintained on each tow vehicle.
4. A copy of the insurance policy in force and statement from the insurance company and/or its agent that said policy is in full force and effect.
5. Whether the applicant, or any shareholder, officer or employee of the applicant has been convicted of any crime involving moral turpitude, and if so, the nature and details of the offense.
6. A list of all employees together with photostats of their drivers' licenses that will operate tow vehicles in the municipality.
7. A sworn statement or affirmation by the person signing the application that the information therein given is full and true and known to him to be so.
8. The full description of the storage facility, including the owner thereof, its address, size, location, type of enclosures and a photograph of same. If not owned by the applicant, attach a copy of the lease.

b. Investigation of application. Upon receipt of the application, required fee and documents, the clerk shall forward it to the police chief who shall investigate the information contained therein and submit his report to the governing body within 30 days from the receipt thereof by the clerk setting forth his recommendation and reasons why the license should or should not be issued.

c. Issuance of license by governing body. Upon its review of the report of the police chief, the governing body shall either grant or deny the license to the applicant. In the event the report of police chief raises concerns regarding the qualifications of the applicant, an opportunity shall be given the applicant to demonstrate, to the satisfaction of the governing body, that they are thoroughly qualified and experienced in the towing and removal of vehicles and that they have the facilities, equipment, expertise, licensing, personnel and storage areas to perform the services required in a manner satisfactory to the governing body.

4-19.7 License Fees.

- a. The schedule of fees for a towing operator's license shall be as set forth in Chapter XXIV, subsection 24-4.1.
- b. Fees paid pursuant to this section shall not be refundable for any reason.
- c. The fees shall be for a full year term and there shall be no pro-rata reduction in the fee.

4-19.8 Term of License.

All licenses issued shall be for a period of one year, regardless of the date of application and shall commence on June 1st of the year of said application and run until May 31st of the succeeding year.

4-19.9 Number of Licenses.

In accordance with N.J.S.A. 40:48-2.49 and to assure for safe and efficient towing service throughout the municipality, all qualified towing operators shall be issued a towing license. There shall be no limit on the number of licenses to be issued by the municipality.

4-19.10 Insurance and Indemnity.

a. Indemnity. The tow operator shall indemnify and hold harmless the municipality and any of its agents, officers and employees from any and all claims for personal injury or property damage against the municipality, its agents, officers and employees arising out of the operation of any towing services or repair services under this section. The tow operator shall further defend the municipality, its agents, officers and employees at the tow operator's expense, in connection with any claim, demand, suit or action brought against the municipality, its agents, officers and employees and arising out of the operation of any towing, storage facility, garage or repair service under this section and any license issued pursuant thereto.

b. Insurance.

1. The tow operator shall be required to maintain during the life of the license comprehensive general liability insurance, comprehensive automobile liability insurance and worker's compensation insurance with limits of not less than those set forth below:

(a) Comprehensive general liability insurance. Limit of liability shall not be less than one million (\$1,000,000.00) dollars combined single limits (bodily injury and property damage) per occurrence and aggregate including premises operations and products/completed operations.

(b) Automobile liability insurance. Limit of liability shall not be less than one million (\$1,000,000.00) dollars combined single limits (bodily injury and property damage) per occurrence.

Note: Liability insurance policies shall be specifically endorsed to provide collision insurance, for vehicles in tow.

(c) Worker's compensation insurance. Statutory coverage including liability coverage with a limit of at least five hundred thousand (\$500,000.00) dollars.

(d) Excess umbrella in the amount of two million (\$2,000,000.00) dollars giving protection in excess of the one million (\$1,000,000.00) dollars general and auto liability coverage.

(e) On all liability policies, the municipality shall be named as additional insured, and insurance certificates shall indicate such coverage.

(f) The tow operator shall provide the municipality with certificates of insurance evidencing the coverage required above. Such certificates shall provide that the municipality be given at least 30 days' prior written notice of any cancellation of, intention not to renew, or material change, in such coverage.

(g) Failure to provide and continue in force such insurance as required above shall be deemed a material breach of the license and shall operate as an immediate revocation thereof.

4-19.11 Rules and Regulations.

The following rules and regulations shall apply:

a. The governing body hereby designates the police department generally as its specific designee and the police chief particularly as the supervising authority to enforce the provisions of this section, as well as the rules and regulations adopted with the ultimate authority vested in the governing body.

b. Prior to license renewal, each towing operator licensed shall be inspected for fitness by a representative of the police department and shall appropriately complete a new application for each year.

c. Each licensed towing operator at all times shall maintain and carry the necessary equipment to remove disabled or locked vehicles.

d. Each towing operator, prior to departure from the scene of towing services, shall clean and clear the streets of any customary debris resulting from any accident at such scene and shall at all times carry the necessary equipment to perform such cleaning services.

- e. No towing operator licensed hereunder shall respond to the scene of an accident except upon the request of the driver or owner of the vehicles involved or except upon notification through the channel of communication established by the police department to notify licensed towing operators of the necessity of their presence.
- f. Refusal to tow at the scene of the towing and the type of car refused shall be reported by the police officer assigned to the incident to his superior. The report of refusal shall be furnished to the police chief as soon as practicable.
- g. Towing operators shall arrive at the scene to which dispatched within a reasonable time after being dispatched. Under normal circumstances, such reasonable time limit is hereby defined as within 20 minutes.
- h. When any unusual situation occurs which may threaten or be dangerous to the safety or health of the public, the police chief or his designee shall contact the New Jersey Department of Environmental Protection for the purpose of assuming control of the danger or threat.
- i. Where no designation has been made, licensed towing operators are authorized to remove the vehicle to the towing operator's storage facility.
- j. When vehicles are towed to premises controlled by the police department for the purpose of utilizing the vehicle or its contents as evidence or for other purposes, such vehicle shall not be released from police custody unless the owner of the vehicle furnishes the police department with a receipt that towing service fees have been paid.
- k. In all cases where vehicles are to be towed for illegal parking or other offense, summons shall be issued prior to towing.
- l. All fees must be itemized on a service bill to be provided to the vehicle operator or mailed or delivered to the owner within 48 hours. As a minimum, this bill must contain the following: name and business address of the tow operator; name of the employee performing the towing; location of storage area containing the vehicle and itemized list of services performed and fee charged for each.
- m. The motorist shall retain the right to specify which towing operator he wishes to use or where he wishes his vehicle to be towed provided that this request does not result in an extensive delay in clearing an accident scene and/or correcting a traffic hazard. The towing operator has a right to refuse to tow a vehicle more than 20 miles from the municipal limits.
- n. All operators shall be capable of performing minor car service and repair at the scene or their base of operations at the time of service call. Minor car service is defined as the jump starting of vehicles, providing fuel, changing tires, and similar semi-skilled activities.

o. Towing operators shall be responsible for all vehicles and contents in their custody.

p. All vehicles impounded or confiscated by the police shall not be released without prior written police authorization.

q. Records of inspections.

1. The towing operator shall record all vehicles towed on forms provided by the municipal police department as soon as possible after each vehicle is towed.

2. Records shall be kept for a seven year period.

3. The towing operator shall maintain a record of all personal property in a towed vehicle that he can observe in sight at the time the vehicle comes into his possession.

4. Authorized representatives of the police department or their designees shall have access to any of the records required to be kept by the contractor.

r. Rights of owners.

1. The owner of any vehicle towed shall have the right to remove property belonging to him from the stored vehicle unless a "Police Hold" is marked on towing form.

2. Vehicle owner or his representative shall have the right to take photographs of stored vehicle for insurance purposes.

s. Dealing with the public. In all his dealings with the public in connection with the operation, the towing operator is expected always to act in a professional manner and at all times to be courteous and respectful toward members of the public.

t. Such additional rules and regulations that may be adopted by governing body by resolutions. A copy of any such rule or regulation shall be forwarded to each towing operator by certified mail, return receipt requested.

4-19.12 Rotational Duty List.

a. Procedure.

1. Each tow operator shall be placed on a rotational duty list completed by the police chief. Such licensee shall be called upon to respond to the needs of the police department of the municipality on a structured rotational basis.

2. Towing operators shall advise the police dispatcher if they are unable to respond to a call and the reason therefore.

3. Tow operators shall notify the police dispatcher if a vehicle is gone upon their arrival.

4. The police chief shall establish a structured rotational procedure and provide each towing operator with a copy thereof. It shall list when an operator shall be charged or not charged for failing to respond to a call and how he will be rotated on the call list.

4-19.13 Towing and Storage Fees.

a. The towing rates shall be calculated based on the total distance traveled from the tow vehicle's base of service to the job site and return, by way of the shortest available route. Fractions shall be rounded up to the nearest whole mile.

b. Tow vehicles transporting multiple carts at one time shall receive the applicable fees for each vehicle transported.

c. When towing services are required at the scene of an automobile accident, the day rate shall apply when the time of the accident is between 8:00 a.m. and 4:30 p.m., Monday through Friday, except New Jersey State holidays. The night, weekend and holiday rate shall otherwise apply.

d. When towing services are otherwise required, the day rate shall apply when the vehicle is transported (pickup to delivery) entirely between the hours of 9:00 a.m. and 6:00 p.m., Monday through Friday, except New Jersey State Holidays. The night, weekend and holiday rate shall otherwise apply.

e. The following is the fee schedule for towing services:

Light-Duty Road Service \$ 50.00

Light-Duty Towing Rates:

Days:

First mile or less \$ 90.00

Each additional mile \$ 3.00

Nights, Weekends and

New Jersey State holidays:

First mile or less \$100.00

Each additional mile \$ 3.00

Heavy Duty Towing Rates:

Tandem Axle:

Straight truck up to 70,000 lbs. \$250.00 per hour

Straight Truck over 70,000 lbs. \$290.00 per hour

Tractor Trailer:

Tractor trailer up to 70,000 lbs. \$300.00 per hour

Tractor trailer over 70,000 lbs. \$360.00 per hour

Winching Fee \$125.00 Flat Fee

f. No Administration Fee or Miscellaneous Fee not provided for in this section may be charged by the tow company.

g. No Fuel Fee or Fuel Surcharge Fee may be charged by the tow company.

h. Unless the officer at the scene deems it necessary to impound the vehicle for evidence purposes, the owner or operator of the vehicle may designate the location to where the vehicle shall be transported.

i. Storage fees. The fees set forth below are the maximum storage charges per 24 hour period that shall apply to a private passenger automobile that is stored by a person as a result of an accident, theft recovery or towed as a result of being unable to be operated for any reason under its own power. The 24 hour period shall commence at the time of the tow and continue for a 24 hour period from that time until the vehicle is picked up. (ex. Vehicle is towed at 9pm on Friday shall incur a one day storage fee up until 9pm on Saturday. A second day storage fee would end on Sunday at 9pm, etc.)

1. Storage Fee Schedule.

Inside Building:

Storage Facility Capacity

21 or more spaces \$ 40.00

10-20 spaces \$ 45.00

Less than 10 spaces \$ 50.00

Outside Secured:

Storage Facility Capacity

21 or more spaces	\$ 25.00
10-20 spaces	\$ 27.00
Less than 10 spaces	\$ 30.00

Outside Unsecured:

Storage Facility Capacity

21 or more spaces	\$16.00
10-20 spaces	\$ 20.00
Less than 10 spaces	\$ 24.00

Heavy Duty Storage:

Tandem Axle Straight Truck	\$73.00
Tractor Trailer	\$87.50

2. No vehicle shall be stored inside a building unless authorized by the owner, operator or by the police officer on duty at the scene when the police officer deems it necessary to utilize the vehicle or its contents as evidence.

4-19.14 License Suspension or Revocation.

The governing body shall have the right to suspend or revoke any license issued pursuant to this section for good cause upon written complaint of the police chief or his designee. In the event a towing operator fails or refuses to retain the proper equipment, personnel or facilities necessary to perform the services required for towing operators, or that the services performed are not satisfactory or violates any provision of this section, rule or regulation duly adopted, the police chief or his designee shall file a written complaint with the governing body that there is probable cause for revocation or suspension. Written notice of such complaint and the basis of the complaint shall be given to the towing operator and said operator shall be entitled to a hearing before the governing body prior to final determination of the complaint by the governing body.

4-19.15 Assignment of License.

a. No license issued pursuant to this section may be assigned, transferred, sold or posted as collateral.

b. Any transfer of ownership with or without consideration in a licensee's business shall render the license immediately void. In the event of sale or transfer, the new applicant, if any, shall make a new application, pay fees and be approved by the governing body.

4-19.16 Violations and Penalties.

Any person, firm or corporation violating the provisions of this section shall, upon conviction thereof, be subject to a fine of not more than one thousand (\$1,000.00) dollars or imprisonment for not more than 90 days or both in the discretion of the judge of the municipal court.”

Section 2. This Ordinance may be renumbered for codification purposes.

Section 3. All Ordinances of the Township of Roxbury which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 4. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

Section 5. This Ordinance shall take effect immediately following adoption and publication as required by law.

INTRODUCED: April 25, 2017

ADOPTED: May 09, 2017

Attest:

Amy E. Rhead
Township Clerk

EFFECTIVE: June 01, 2017