

Chapter 253, TOWING

[HISTORY: Adopted by the Mayor and Council of the Borough of Laurel Springs 3-2-1992 by Ord. No. 483 (Ch. 81 of the 1973 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic -- See Ch. 260.

§ 253-1. Purpose.

The towing and storage of motor vehicles damaged, stolen or impounded within the Borough of Laurel Springs shall be performed by towing operators qualified and licensed pursuant to the provisions set forth below on a rotating basis without competitive bid.

§ 253-2. Definitions.

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

AUTOMOBILE -- A private-passenger automobile of a private-passenger or station wagon type that is owned or hired and is neither used as a public or livery conveyance for passengers not rented to others with a driver; and a motor vehicle with a pickup body, or delivery sedan, a van or a panel truck or a camper-type vehicle used for recreational purposes owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the owner other than farming or ranching. An automobile owned by a farm family copartnership or corporation, which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered a private-passenger automobile owned by two or more relatives resident in the same household. Excluded are corporation-owned trucks or vans.

BASIC TOWING SERVICE -- 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 from a position beyond the right-of-way or berm, or from being impaled upon any other object within the right-of-way or berm.

INSIDE SECURED -- A vehicle storage facility that is completely indoors, having one or more openings in the walls for storage and removal of vehicles and that is secured by a locking device on each opening.

MOTOR VEHICLE -- All vehicles propelled otherwise than by muscular power, except such vehicles as run only upon rails or tracks and motorized bicycles.

MOTOR VEHICLE ACCIDENT -- An occurrence in which a motor vehicle or automobile, as defined herein, is damaged or comes in contact with any other object, as a result of which the motor vehicle or automobile must be towed or removed for placement in a storage facility. This includes damage caused by vandalism, fire or drunken drivers, but does not include mechanical breakdowns or impounded vehicles.

OUTSIDE SECURED -- An area not indoors secured by a fence, wall or barrier at least six feet high and continuously lighted at night, with all gates, doors or entryways secured by locks.

OUTSIDE UNSECURED -- An area not indoors that is not secured by a fence, wall or other barrier and to include all other areas not defined as an inside building and outside secured facility.

STORAGE CHARGES PER TWENTY-FOUR-HOUR PERIOD -- Starts at 12:01 a.m. for a twenty-four-hour period or fraction thereof.

TOW VEHICLE -- Those vehicles equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under-reach equipment specifically designed by its manufacturer for the removal or transport of private-passenger automobiles.

TOW VEHICLE'S BASE OF SERVICE -- The towing operator's principal place of business where the tow vehicle is stationed when not in use.

§ 253-3. Rotating call list.

Towing operators performing towing services for the Borough of Laurel Springs shall perform on a rotating basis. The Chief of Police is hereby authorized and directed to establish a tow truck call list of towing operators licensed pursuant to this chapter and to establish a system of rotation in the assignment of tow trucks. Towing operators shall be assigned duties from the tow truck call list only. No licensed towing operator or other party shall respond to the scene of an accident except upon notification by the officer in charge or upon request of the driver or owner of the disabled vehicle.

§ 253-4. License required for towing operators; duration; license fee.

A. In order for a towing operator to be listed on the tow truck call list, a license is required pursuant to the provisions set forth below. Each license issued hereunder shall terminate on December 31 of the year in which it is issued, and each renewal license shall be for the one-year period of January 1 through December 31.

B. Specifically exempted from the licensing requirement is the towing, transporting, conveying or removing of motor vehicles from private property by towing operators who have been privately engaged or designated by the owner of the vehicle to be so removed.

C. All applicants for licenses shall pay the sum of as provided in the Annual Fee Ordinance at the time the application is filed. This is a nonrefundable fee which shall be utilized to cover the cost of investigation and review and shall also be considered to be the fee for the balance of the year for which the application is filed. Thereafter, the annual fee shall be in the amount provided in the Annual Fee Ordinance.

§ 253-5. Application for license.

Licenses hereunder shall be approved by the governing body of the Borough of Laurel Springs and issued by the Borough Clerk. The application therefor shall contain the following information:

A. The full name and address of the applicant and, if such applicant is a corporation, the names and addresses of the officers and directors thereof, and the registered office and registered agent thereof; or, if such applicant is a partnership, the names and addresses of all partners.

- B. The year, make, model and serial number, registration number and owner of each tow vehicle which is to be used by the applicant in responding to calls from the Laurel Springs Police Department requesting the towing and storage of disabled motor vehicles.
- C. The tow vehicle's base of service for each tow vehicle to be used by the licensed operator.
- D. The location to which the applicant will tow, transport, convey or remove, and thereafter store, any motor vehicle towed, transported, conveyed or removed by the applicant pursuant to the provisions of this chapter.
- E. The specific area at the location referred to above that the applicant has available for properly storing and protecting disabled motor vehicles. The applicant shall attach to the application a diagram of the property showing the secured area (inside or outside secured) intended for the storage and protection of vehicles removed from the roadway.
- F. The place and location where the applicant will maintain an office at which any person whose vehicle has been towed, transported, conveyed or removed may obtain information relative thereto, attend to the payment of any money to be paid in connection therewith and arrange for any further removal or possession of such vehicle.
- G. A statement that the applicant has sufficient personnel and equipment to provide twenty-four-hour towing and storage services and is able to respond to police calls in accordance with the requirements of this chapter.
- H. A certification that the fees charged will not exceed those set forth in this chapter.
- I. The name of the insurance company and its address and policy number showing the limits of coverage required by this chapter, along with a certification that the Borough of Laurel Springs will be added as an additional insured under the liability provisions of said policy.
- J. A representation that the applicant will execute an indemnification and hold harmless agreement with the Borough of Laurel Springs.
- K. A listing of the applicant's prior towing experience, including the years in business and other municipalities served.
- L. Such other information as deemed appropriate by the governing body of the Borough of Laurel Springs.

§ 253-6. Investigation and licensing authority.

- A. Application forms may be obtained from the Borough Clerk, and all completed applications, together with the licensing fee, shall be submitted to the Borough Clerk.
- B. All applications shall be investigated and evaluated by the Borough Police Chief or his designee regarding the applicant's background and qualifications and a report of the Police Chief's findings and recommendations shall be submitted to the governing body within 30 days of the receipt of said application. All applicants shall execute a release for information to be obtained by the Police Chief to complete the investigation and evaluation.
- C. All applications are subject to review and approval by the governing body of the Borough of Laurel Springs. Only those applicants which are responsible and qualified pursuant to the provisions of this chapter shall be approved. All approved applicants shall be required to execute a contract with the Borough of Laurel Springs to provide the towing and storage services referred to herein.

§ 253-7. Licensing standards.

No license shall be issued unless all of the following standards are met:

- A. Equipment requirement.
- (1) No license shall be issued to a towing operator who does not possess, for utilization in this business, the following tow vehicles and equipment, which tow vehicles and equipment shall be inspected by the Chief of Police or his authorized representative prior to a license being issued:
- (a) At least one four-ton tow vehicle with a boom and drum rating of four tons; a one-hundred-foot long three-eighths-inch diameter cable with a recommended working limit of at least 3,500 pounds; recommended gross vehicle weight of truck or chassis of 10,000 pounds; and dual rear wheels maintained and equipped in accordance with manufacturer's specifications.
- (b) At least one sixteen-ton tow vehicle with two booms and two drums, with each boom having an eight-ton capacity and each drum having an eight-ton capacity, and each drum having a two-hundred-foot long one-half-inch cable; recommended gross vehicle weight of truck or chassis of 16,000 pounds; dual rear wheels; heavy-duty truck tow bar air brakes; connecting air lines for connection with air compressor and air brake lines of the towed vehicle; two-speed rear axle and differential or dual transmission or five-speed transmission; two heavy-duty high-test pickup chains; and heavy-duty truck sling and tow bar. In lieu of having this piece of equipment in its possession, the licensee may supply the Borough Clerk with an agreement in writing between the licensee and any other entity, or corporation or person who possesses this specific equipment that he or it will provide services to the provisions of this chapter for the term of the license. This agreement shall provide that the response time shall be in accordance with the provisions of this chapter and that the licensee shall assume all responsibility for compliance with the provisions of this chapter. The licensee shall make provision for the equipment to be available for inspection at his place of business at the time and place requested by the Chief of Police or his authorized representative prior to the issuance of the license. If said agreement shall be canceled for any reason, the licensee must notify the Borough of Laurel Springs within 24 hours.
- (c) At least one flatbed or car carrier with at least one-car capacity; wheel chokes; and four tie-down chains or grab hooks. In lieu of having this equipment in his possession, the licensee may supply the Borough Clerk with an agreement in writing between the licensee and any other entity, or corporation or person who possesses this specific equipment that he or it will provide services to the licensee pursuant to the provisions of this chapter for the term of the license. This agreement shall provide that the response time shall be in accordance with the provisions of this chapter and that the licensee shall assume all responsibility for compliance with the provisions of this chapter. The licensee shall make provisions for the equipment to be available for inspection at his place of business at the time and place requested by the Chief of Police or his authorized representative prior to the issuance of the license. If said agreement shall be canceled for any reason, the licensee must notify the Borough of Laurel Springs within 24 hours.
- (d) At least one vehicle equipped with tie-down equipment for carrying motorcycles.

(2) Safety equipment to be carried on all trucks shall include universal towing sling; tow hooks and chains; one snatch block for three-eighths to one-half-inch cable; two high-test safety chains; four-lamp or three-lamp revolving amber emergency light with New Jersey state permit; a toolbox with assortment of hand tools; rear working lights and rear marker lights; cab lights; body clearing lights located to clear the towed vehicle; a block choke for the tow vehicle while working; safety cones; a shovel and broom; and a steering wheel lock or tie-down.

B. The tow vehicle's base of service, the towing operator's place of business, the proposed storage areas and any other premises to be utilized by the towing operator as set forth in the license application shall comply with all provisions of Chapter 270, Zoning, Chapter 193, Property Maintenance, and all other applicable laws of the Borough of Laurel Springs, or the municipality wherein the property is located, pertaining to the use or condition of said premises.

C. Each towing operator shall have the ability to store all motor vehicles within an inside secured or outside secured area. The enclosure shall be in good repair and well maintained and must be continuously lighted from dusk to dawn. No vehicles shall be stored in an outside unsecured area. Each storage area shall be subject to inspection and approval by the Chief of Police or his designee prior to a license being issued.

D. The secured storage area must be available 24 hours a day, 365 days per year and open to the public on weekdays during normal business hours and limited hours to be approved by the governing body of the Borough of Laurel Springs on Saturdays and Sundays.

E. All towing operators shall maintain and produce proof of the following insurance coverage, with the Borough of Laurel Springs named as an additional insured, with the application when submitted to the Borough Clerk:

(1) Automobile liability in an amount not less than \$1,000,000 combined single limit.

(2) Comprehensive liability insurance in an amount not less than \$1,000,000 combined single limit.

(3) Garage keepers' liability in an amount not less than \$75,000, both on hook and for each storage location.

(4) Garage liability in an amount not less than \$1,000,000 combined single limit.

(5) The policies shall be endorsed to provide collision coverage for vehicles in tow.

F. In order to provide the public with prompt and adequate tow truck service, the licensee must respond within 20 minute after being summoned.

G. Operators and their employees shall be fully trained and knowledgeable in the operation of all required equipment and shall be subject to background investigations by the Borough of Laurel Springs Police Department.

H. All billings for towing and storage services shall be itemized for the service actually rendered pursuant to the fee schedules set forth herein. A copy of the fee schedule set forth in this chapter shall be available to the public at the towing operator's place of business during normal business hours.

I. The towing operator shall agree to defend, indemnify and hold harmless the Borough of Laurel Springs for any and all suits, judgments, costs and expenses, including attorney's fees and claims on account of breach of contract, damaged property or personal injuries, including death, arising out of or in any way connected with the towing and storage services to be provided.

§ 253-8. Rules and regulations.

A. The governing body hereby designates the Police Department generally and the Chief of Police in particular as the supervising authority to enforce the provisions of this chapter as well as the rules and regulations adopted hereunder.

B. Each licensed towing operator shall at all times maintain the necessary equipment to remove disabled vehicles as required by this chapter. 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 motor vehicle accident at such scene and shall at all times carry the necessary equipment to perform said cleaning services.

C. Refusal to tow an abandoned or stolen motor vehicle or at the scene of a motor vehicle accident may result in the disqualification of any towing operator and a report of said refusal shall be furnished to the Chief of Police and the Borough Clerk by the investigating officer at the scene of the accident, as soon as possible.

D. If the licensee summoned is unable to respond within the time constraints specified in this chapter, he shall so notify the individual requesting the service, and the next-named towing operator on the tow truck call list shall be called to respond.

E. No towing operator operating pursuant to the license issued hereunder shall employ, either directly or indirectly, any personnel or employees of the Borough of Laurel Springs.

F. The Borough of Laurel Springs Police Department shall maintain a log record of calls to licensed towing operators and said record shall be available for inspection by any licensed tow operator upon reasonable notice.

G. An individual whose motor vehicle has been towed and/or stored has the right to retrieve any of his or her personal possessions therefrom, even when said motor vehicle is within the possession of the towing operator. Personal property shall be defined to mean anything that is not permanently attached to the motor vehicle so as to be an integral part thereof. An individual seeking the retrieval of any personal items shall arrange with the towing operator to obtain said items and shall be required to execute a receipt therefor. The towing operator shall maintain copies of all said receipts.

H. The Borough of Laurel Springs reserves the right to review the qualifications of any personnel employed by the towing operator at any time.

I. The towing operator and any of its employees are independent contractors, and they do not represent nor are they employed by the Borough of Laurel Springs.

J. The towing operator shall at all times be responsible for the conduct of its employees and shall be liable to the Borough of Laurel Springs as the owners of any motor vehicles towed or stored by the towing operator for any injuries, damages or costs incurred as a result of the conduct of said employees.

K. All towing operators shall comply with all state and federal laws and regulations concerning the hiring of employees, their wages, hours and terms of employment.

L. The Borough of Laurel Springs is not liable for any of the services performed by the contractor unless those services are performed for municipal vehicles. The contractor shall proceed directly against the individual owner of the motor vehicle for all fees and charges incurred.

M. No licensed towing operator shall pile or store vehicles on public streets or sidewalks.

N. Each towing operator shall maintain a record of all vehicles towed, including the date towed, where the vehicle was stored, when the vehicle was released and the fees charged, together with any and all other services rendered. Said records shall be maintained at the principal place of business of the towing operator as set forth on the application and said records shall be maintained for a minimum of three years.

§ 253-9. Towing and storage fees.

A. The fees for basic towing services and/or storage of an automobile as defined above, which is damaged in a motor vehicle accident or recovered after being stolen or abandoned, shall not exceed the fees established by the New Jersey Department of Insurance and set forth at N.J.A.C. 11:3-38.6, and as may be from time to time amended.

B. The fees charged for basic towing services and storing of all other motor vehicles whether damaged, stolen or impounded shall be the same as set forth at N.J.A.C. 11:3-38.6, and as may be amended from time to time; provided, however, that a licensed towing operator may petition the governing body of the Borough of Laurel Springs for permission to charge fees other than as set forth at N.J.A.C. 11:3-38.6 for the towing and storing of motor vehicles other than automobiles as defined above. Said fees must be approved by resolution of the governing body, shall be valid for a minimum period of one year or until modified by the governing body and must be on file with the Borough Clerk and at the principal place of business of the towing operator and available to the public during normal business hours.

C. Towing operators may charge additional fees for nonbasic towing services involving the recovery of an automobile from a position beyond the right-of-way or berm, or from being impaled upon any object within the right-of-way or berm. A schedule of said additional fees shall be attached to the license application and shall be subject to approval by the governing body.

D. The fees charged by a licensed towing operator to the Borough of Laurel Springs shall not exceed those fees established at N.J.S.A. 40:48-2.50.

E. Storage charges per twenty-four-hour period shall start at 12:01 a.m. for a twenty-four-hour period or fraction thereof.

F. Towing rates shall be calculated based on the total distance traveled from the tow vehicle's base of service to the motor vehicle to be towed and to the storage area by way of the shortest route available. Fractions shall be rounded up to the nearest whole mile. There shall be no additional charges to the vehicle owner when picking up or removing a vehicle from the storage area, or for flatbedding, waiting time, winching, cleanup costs and additional labor.

G. The Borough Clerk and each licensed towing operator shall have available at the municipal building and the principal place of business of the towing operator a copy of the fee guidelines established by the New Jersey Department of Insurance at N.J.A.C. 11:3-38.1 through N.J.A.C. 11:3-38.6 and shall make the same available to the public during normal business hours.

§ 253-10. Denial, revocation or suspension of license.

A license may be denied, suspended or revoked upon any of the following grounds after an appropriate hearing in accordance with the terms of this chapter:

A. Submitting a fraudulent or misleading application.

B. A criminal conviction of the towing operator or a named principal of the towing operator.

C. Failure to respond reliably and promptly to calls for assistance or any other action which interferes with the proper operation of the rotating system maintained by the Police Department.

D. Violations of motor vehicle laws and/or municipal ordinances.

E. Failure or refusal to tow or remove a motor vehicle when requested to do so by an appropriate municipal official.

F. Violations of Chapter 270, Zoning, Chapter 193, Property Maintenance, or any other applicable ordinances or codes of the Borough of Laurel Springs pertaining to the use or condition of the premises used by the licensee in conducting the towing business.

G. Violation of the provisions of this chapter or any of its rules or regulations.

§ 253-11. Hearings.

A. Proceedings for the suspension or revocation of a license shall be initiated by the service of a notice of charges filed against the licensee. Said notice shall be served by the Chief of Police or his designee, either personally or via certified mail, return receipt requested, and shall contain a date, time and place for a hearing to be held by the governing body of the Borough of Laurel Springs. Said hearing shall be scheduled no less than seven days, nor more than 30 days, after the notice of the proposed suspension or revocation shall be served upon the licensee. The licensee shall have the right to file an answer to the notice and to appear in person, or be represented by counsel, and give testimony at the place and time fixed for the hearing.

B. When an application for a license is denied by the Borough of Laurel Springs, the applicant may request a hearing on said application by the service of a notice requesting a hearing. Said notice shall be served on the Borough Clerk, and at the next regularly scheduled meeting of the governing body a hearing date shall be set which shall be no less than seven days, nor more than 30 days, from the date scheduled.

§ 253-12. Violations and penalties.

Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be subject to the penalties provided in Chapter 1, § 1-15. These penalties shall be in addition to and separate from any action taken by the Borough of Laurel Springs pursuant to § 253-10 hereof.