

Chapter 215

TOWING AND TOWING BUSINESSES

[HISTORY: Adopted by the Town Council of the Town of Windham 2-25-1986 (Ch. 220 of the 1991 Code). Amendments noted where applicable.]

§ 215-1. Purpose.

In order to protect persons who operate motor vehicles within the Town limits; to ensure that the streets, public ways and public property of the Town remain open and free of hazard to the public; and to further effectuate the enforcement of the Town's traffic, parking, snow removal and other regulatory ordinances, it is determined necessary to register and regulate businesses engaged in vehicle wrecker and towing services. The following regulations are promulgated by the Town of Windham for that purpose.

§ 215-2. Definitions.

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

ADEQUATE EQUIPMENT — Equipment capable of accomplishing the following:

- A. Hoist and remove, by straight tow, a disabled vehicle.
- B. Hoist and remove a vehicle which cannot be removed on its own wheels with dolly wheels.
- C. Hoist and remove a vehicle which is off the side of a roadway and down an incline or in a similar situation that prohibits a straight tow.

BUSINESS — A business entity that files a separate and distinct federal income tax return.**[Amended 11-24-1992]**

DAYTIME — 6:00 a.m. to 6:00 p.m.**[Amended 6-9-2020]**

NIGHTTIME — 6:00 p.m. to 6:00 a.m.**[Amended 6-9-2020]**

NONPREFERENCE REQUEST — When a vehicle operator does not designate a specific towing business or auto club or similar entity that provides roadside service, the request shall be considered a nonpreference request by the Town, thereby subject to the Town's towing rotation list.**[Added 4-10-1995]**

RECOVERY/EXTRACTION — This is a fee which may be collected when the vehicle to be towed is located in an extraordinary situation requiring unusually difficult and skilled efforts and/or special equipment during the recovery of said vehicle. Examples are: a vehicle in a body of water; a vehicle no longer resting on its wheels; a vehicle well off the road into a wooded area or a field with an unstable surface; or a vehicle well off the road over a steep embankment. (The fact that all four tires of the vehicle are not on the pavement does not constitute a recovery/extraction under this definition.)**[Amended 6-9-2020]**

STORAGE FEE — A fee which may be collected by the towing business for storage of a towed vehicle at the towing business' storage location listed on the wrecker rotation application filed by the towing business. There shall be no fee charged for the first 24 hours after the towing business takes possession of a vehicle. The daily fees listed in

the fee schedule may be applied in twenty-four-hour intervals after the first 24 hours of possession has expired. **[Amended 6-9-2020]**

TOWING BUSINESS — A business engaged in or offering the services of a vehicle wrecker or towing service whereby motor vehicles are towed or otherwise removed from one location to another by use of a vehicle specifically designed and equipped for that purpose. **[Added 4-10-1995]**

TOWING ROTATION LIST — A list maintained by the Police Department, containing the names of those towing businesses licensed by the Town to respond to nonpreference requests for the towing of vehicles at the request of the Police Department. **[Added 4-10-1995]**

§ 215-3. Minimum requirements for a registered towing business.

The following minimum regulations must be met on a continuous basis by the registered towing business:

- A. Each registrant shall own and operate its own wrecker(s) and shall supply to the Chief of Police satisfactory evidence, including vehicle registration and title, if applicable, a notarized bill of sale or a notarized lease agreement, to show ownership by the resident towing business. **[Amended 11-28-1995]**
- B. Each towing business shall maintain satisfactory levels of insurance as described in § 215-4.
- C. In registering, a towing business shall hold the Town harmless from all claims for damages to property and injuries to persons resulting from the towing business's negligence in the towing of or storage of vehicles pursuant hereto.
- D. Each towing business shall maintain such records as hereinafter may be required by the Chief of Police and shall permit their inspection during normal business hours. Among other requirements, the Chief of Police may require that a prescribed vehicle accident-damage form be completed prior to towing any vehicle; that a receipt be kept, acknowledged by the claimant of a towed vehicle, showing all charges assessed for towing, storage and repair; and that all records indicate the place of vehicle storage and any damage sustained during or after the towing operation.
- E. Each registrant shall permit the Chief of Police or his designee to conduct regular inspections of each towing vehicle and of each storage area during normal business hours.
- F. Licensees shall arrive on the scene within 30 minutes of receipt of a request for service from the Police Department.
- G. Vehicles must be towed and secured at the towing business's storage location listed on the wrecker rotation application filed by the towing business. Vehicles may not be driven to a storage lot. **[Amended 6-9-2020]**
- H. No vehicle shall be towed to/stored at a lot outside the Town of Windham. **[Amended 6-9-2020]**

- I. A towing business shall clean the accident area of any and all debris resulting from a traffic accident the business responds to. If multiple vehicles are involved, responding towing businesses will work cooperatively to clear the scene of all debris.
- J. Each licensee shall comply with all applicable state, federal and local laws and regulations, including Chapter 120, Land Use, of the Code of the Town of Windham. **[Amended 3-14-1988]**
- K. Once approved by the Town, each licensed towing vehicle will be referenced by a sticker to be affixed by the Town. No vehicle shall have more than one Town of Windham towing sticker.

§ 215-4. Insurance required. [Amended 3-14-1989]

- A. No towing business shall be issued a license until the applicant has deposited with the Chief of Police a certificate of insurance, indicating the following coverages:
 - (1) Garage keeper's policy, covering fire, theft, wind storm, vandalism, and explosion in the amount of at least \$25,000.
 - (2) Garage keeper's liability policy, covering the operation of the applicant's business, equipment and vehicles for any bodily injury or property damage. This policy shall be in the minimum single limit amount of \$300,000.
 - (3) Road service liability, covering the lifting, hoisting and towing of vehicles in the minimum of \$25,000.
- B. Each policy shall contain an endorsement from the insurer, providing 30 days' notice to the Windham Police Department before cancellation or amendment of the policy.
- C. Failure to maintain the required insurance in force shall result in the immediate termination of the towing business's license without any action on the part of the Town or refunding of licensing fees. **[Amended 6-9-2020]**

§ 215-5. Towing rotation list.

- A. Those towing businesses wishing to be placed on the towing rotation list shall complete a prescribed registration form at the Town Clerk's office and shall submit other required documents to the satisfaction of the Chief of Police or his designees.
- B. Upon satisfactorily meeting the registration requirement as herein set forth, the towing business's name and phone number shall be placed on the towing rotation list, which shall be utilized in response to nonpreference requests in which a vehicle is to be towed from a public way or public property, or from any private property at the request or direction of the Town.
- C. When a request for towing a vehicle is received at the regional communications center, the dispatcher or his/her supervisor shall select the name of the towing business from the towing rotation list. Names shall be selected on a rotating basis; that is, the name shall be selected which next succeeds the last towing business called for towing services. The selections shall proceed in this manner until the end

of the list is reached, at which point a towing business shall be selected from the top of the list, and so on, consecutively.

- D. The dispatcher shall dial a single and separate telephone number when contacting each towing business. This telephone call shall be considered a telephone request. If the telephone request is not confirmed within three minutes, the next towing business on the list will be contacted. If the towing business is unable to or chooses not to accept the request for service, the next towing business on the list will be contacted. In either circumstance, the telephone request will constitute a turn on the rotation. **[Amended 6-9-2020]**
- E. Those towing businesses maintaining more than one towing vehicle shall be selected only once during each rotation of the towing rotation list.

§ 215-6. Additional regulations.

- A. No towing business shall respond to the scene of an accident or other emergency unless specifically called there by the Police Department or the person involved in the accident or emergency. It is intended that no towing business owner, his agent or employee solicit towing contracts at the scene. However, nothing in this subsection shall be construed as prohibiting a towing business from privately contracting with any person.
- B. In the event that a vehicle owner or operator requests a wrecker of his own preference, the Police Department will attempt to secure the services of the wrecker chosen, provided they are reasonably available, given the nature of the circumstance.
- C. In the event that towing services are performed by other than the next wrecker on the towing rotation list, e.g., when the vehicle owner selects his own wrecker, then the towing rotation list shall be disregarded and the manner of the rotation shall be unchanged.
- D. In regard to vehicles that have been impounded, it shall be the responsibility of the towing business to record the date and time as well as record the name of the authorized Police Department official that releases a vehicle from impound. In the event that a vehicle is released from impound without documented authorization from a Police Department official, then the towing business shall be subject to action by the Chief of Police in accordance with § 215-9. **[Amended 6-9-2020]**
- E. The Town shall not be held responsible for any storage fees incurred as a result of a vehicle that has been impounded. The only exception to this will be if the vehicle is owned by the Town of Windham. Refer to 29-A M.R.S.A. §§ 1861 and 2069, Subdivision 4, for further clarification. **[Amended 6-9-2020]**
- F. No wrecker operator or employee of a towing business who responds to an accident/crime scene for a wrecker rotation request shall photograph or video record any element of the accident or crime scene being investigated by the Windham Police Department, to be shared with the public, the news media, or to be posted on any aspect of social media. Violation of this subsection may compromise an ongoing criminal investigation and will be considered a serious offense when applying § 215-9. Photo and video documentation of towed vehicles for towing

business purposes is permitted. **[Amended 6-9-2020]**

§ 215-7. Special conditions.

At his discretion, the Chief of Police or his designee may select a towing business that does not appear on the towing rotation list sequence when warranted by the requirement for special equipment and procedures or when due to the location or exigent circumstances surrounding vehicle removal.

§ 215-8. Nonexclusivity.

Nothing in these regulations should be construed as creating vested exclusive rights of a towing business to be called or selected for a towing operation requested by an employee or official of the Town of Windham; neither are the provisions contained herein designed or intended to restrain the course of free trade nor restrict the number of qualified registrants on the towing rotation list.

§ 215-9. Removal from towing list.

- A. The Chief of Police may remove or suspend any registrant from the towing rotation list when the Chief finds:
- (1) That the towing rotation list registration was secured by fraud or by concealment of a material fact by the towing business owner and that such fact, if known, would have caused disqualification.
 - (2) That the towing business owner has violated any of the requirements or regulations established herein.
 - (3) That the Town is not satisfied with the general services of the towing business or its employees or with the cooperation it has received when services are rendered.
- B. A towing business may voluntarily suspend itself from the towing rotation list for a specific period of time due to health concerns, equipment failure, or vacation as long as proper notice has been provided to the Chief of Police or his designee. **[Amended 6-9-2020]**

§ 215-10. Term of license. [Amended 6-9-2020]

Licenses shall remain in effect for one year, terminating on January 1 annually, unless terminated or revoked as provided herein. (Notation: The 2020 license year will be adjusted to accommodate the change over from May 15 to January 1. See the notation at the end of § 215-11 for the fee adjustment for the 2020 year.)

§ 215-11. License fee. [Amended 6-9-2020; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

An annual license registration fee for each towing business requesting placement on the towing rotation list and an annual vehicle administrative fee for each vehicle shall be set by the Town Council. These fees will be payable in advance and nonrefundable. The administrative fee for each tow vehicle is vehicle-specific and nontransferable. These

fees are not in lieu of required state inspections, but merely to assure that the vehicles are properly registered, have an appropriate inspection sticker and meet the requirements of this chapter.

§ 215-12. Regulation of rates. [Amended 10-13-2015 by Order 15-144; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

Maximum rates for services regulated by this chapter may be established by the Town Council and filed in the office of the Town Clerk.

§ 215-13. Appeal.

Any licensee aggrieved by the actions of the Chief of Police taken pursuant to § 215-9 hereof may appeal to the municipal officers, in writing, within 10 days of such actions. After a hearing, which must be held within two weeks of filing of the appeal, the municipal officers may reverse, nullify or sustain the decision of the Chief.