

ORDINANCE NO. 13, 2013

AN ORDINANCE REGULATING TOWING OPERATORS WITHIN THE CITY OF LINWOOD AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED THE PROVISIONS OF WHICH ARE INCONSISTENT HEREWITH.

SECTION 1. Title.

This chapter shall be known and may be cited as the "Towing Ordinance of the City of Linwood."

SECTION 2. Definitions.

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

ABANDONED

Automobiles, trucks or any other motor vehicles that are left unattended for a period of time which would represent a violation of Chapter 269, Vehicles Unlicensed, of the City of Linwood and New Jersey state statutes.

CITY

The City of Linwood.

COMPOUND

An enclosed area suitable for the parking and storage of automobiles, trucks and other motor vehicles.

DOLLY-WHEELS

A portable device with wheels that is used in combination with a tow truck to transport automobiles, trucks or motor vehicles.

ILLEGALLY PARKED

Any automobile, motor vehicle, truck or bus that is parked in a fashion or in a place that is in violation of any parking ordinance of the City of Linwood, County of Atlantic or State of New Jersey.

LICENSED TOWING OPERATOR

A towing operator that has complied with all provisions of this chapter and whose name appears on the list of licensed towing operators maintained by the Clerk of the City of Linwood.

MOTOR VEHICLE

All vehicles propelled otherwise than by muscular power, except such vehicles as those that run exclusively on tracks. This term shall also include motorcycles and mopeds.

OMNIBUS

All motor vehicles used for the transportation of passengers for hire, including those used for the transportation of schoolchildren.

OPERATOR

Any person who is in actual physical control of an automobile, truck or motor vehicle.

PASSENGER AUTOMOBILE

Any automobile used and designed for the transportation of passengers.

PRIVATE PROPERTY

Real property owned by any person, partnership, firm or corporation and now owned by the City of Linwood or any other governmental body.

RESPONSE FEE

The monetary charge for the presence of a tow truck and operator where no towing service or road service is conducted or supplied.

ROAD SERVICES

Providing routine minor maintenance items, refueling or supplying equipment to automobiles, trucks or motor vehicles that are disabled or otherwise inoperable, including calls to assist persons locked out of their motor vehicles.

TOWING OPERATOR

A person, firm, corporation or other business entity engaged in the business of transporting disabled, wrecked or otherwise immobile motor vehicles, automobiles or trucks by means of tow trucks or other means.

TOWING SERVICE and/or TOWING

The providing of transportation of automobiles, trucks or motor vehicles that, as a result of accident, collision, breakdown, abandonment or otherwise, are unable to be moved under their own power. The term "towing service" also includes the transportation of illegally parked, police-impounded or abandoned automobiles, trucks or motor vehicles.

TOW TRUCK

A motor vehicle specifically designed, constructed, used or maintained for the safe transportation of automobiles, trucks or motor vehicles.

TRUCK

Every motor vehicle designed, used or maintained primarily for the transportation of property. This includes delivery vans and pickup trucks.

VEHICLE

Every device in, upon or by which any person or property is or may be transported upon a highway, except devices powered by human power or operated on stationary tracks.

WINCHING SERVICES

Providing the use of the mechanical cable device attached to a tow truck to move or transport any vehicle where the actual towing of the vehicle does not take place.

SECTION 3. Services to be provided by towing operators.

Towing operators licensed pursuant to this chapter agree to provide the following towing services to the City of Linwood in the following manner:

- A. Towing of illegally parked or police-impounded passenger automobiles, trucks or motor vehicles.
- B. Towing of abandoned passenger automobiles, trucks and motor vehicles.
- C. Towing of passenger automobiles, trucks and motor vehicles from accident scenes, including cleaning and removal of debris from the scene of the accident as well as any necessary waiting time. This shall also include the removal of any spilled or leaking liquids. In the event that minor spillages of motor vehicle fluids result from an accident, the towing operator shall apply absorbent material to the affected area and then place the material, double-bagged, in the vehicle prior to towing.
- D. Towing of all City police vehicles within the limits of Atlantic County, as well as the City limits of the City of Linwood.
- E. Towing of all City of Linwood owned police vehicles outside the Atlantic County limits.
- F. Providing winching services and dolly-wheel services at scenes of accidents and/or other places where passenger automobiles, trucks or motor vehicles become disabled on the roadway or off.
- G. Providing a flatbed truck for vehicles that cannot be towed in an ordinary fashion.
- H. Towing and impounding for police investigation purposes of any passenger automobile, truck or motor vehicle at the direction of the Duty Police Supervisor.
- I. Storage of any abandoned, wrecked or disabled passenger automobiles, trucks or motor vehicles that might be towed by the towing operator pursuant to this chapter.
- J. Providing of road service to disabled vehicles within the City limits of the City of Linwood.
- K. Towing and impounding for police investigation purposes of any passenger automobile, truck or motor vehicle at the direction of the Duty Police Supervisor from City Hall to the compound at no charge.

SECTION 4. Duties of towing operators.

- A. A licensed towing operator shall provide a compound which shall at all times be in compliance with all New Jersey statutes and regulations, as well as all ordinances promulgated by the City of Linwood. The compound shall be serviced by roads which are not subject to any tolls.
- B. Said compound shall be enclosed by a six-foot-high fence and be of sufficient size to accommodate at least 12 passenger automobiles at one time.

- C. The compound shall be available 24 hours a day, 365 days per year, and open to the public on weekdays during normal business hours and limited hours on Saturdays and Sundays.
- D. The licensed towing operator shall make available for service to the City of Linwood at least two tow trucks having two-way communication equipment on a twenty-four-hour call, seven days a week.
- E. The licensed towing operator shall provide tow trucks capable of handling and transporting heavy passenger automobiles and equipped to provide appropriate towing services and road service. All tow vehicles shall be registered in the name of the licensed tow operator in compliance with all traffic laws and regulations of the State of New Jersey.
- F. Licensed towing operators shall equip their tow trucks to provide the following: mechanic's tools to perform complete emergency work: towing and safety equipment and warning devices such as lights, flares and flags to warn other motor vehicle operators of the presence of a disabled or parked vehicle.
- G. The tow trucks provided by the licensed towing operator shall be of such type and design to properly and safely perform all towing services and road services as set forth in this chapter. They shall comply at all times with the statutes and regulations of the State of New Jersey and be subject to the inspection by the Chief of Police of the City of Linwood.
- H. Operators of tow trucks shall be courteous and competent mechanics and present a clean and neat appearance. All operators shall be at least 18 years of age and possess a current valid New Jersey driver's license appropriate for the category of vehicle they may drive. A commercial driver's license with all endorsements may be necessary. Said driver's license shall be subject to inspection by the Chief of Police of the City of Linwood.
- I. The licensed towing operator agrees that no rates or fees for towing services, road service or any other service shall be charged in excess of the maximum rate and fees set forth hereafter by resolution by the City Council of the City of Linwood. Nothing in this chapter shall limit the fees charged to persons to whom services are supplied outside the scope of this chapter by any towing operator.
- J. The tow trucks provided by the licensed towing operators shall be strategically located within a reasonable area to be prescribed by the Chief of Police of the City of Linwood.
- K. The licensed towing operator shall see to it that said tow trucks shall be operated in such a fashion as will produce adequate service to the public as determined from time to time by the Chief of Police of the City of Linwood. During adverse weather and heavy traffic conditions, the licensed tow operator shall arrange to make available additional tow trucks to stand by as necessary to serve the City of Linwood. It is the stated purpose of this chapter to provide towing service and road service to the City of Linwood which will result in emergency towing and/or road service within a maximum of 15 minutes from the time that the

licensed towing operator is notified by the City of Linwood Police Department. Should the tow operator fail to respond as provided herein, the City of Linwood Police Department reserves the right to cancel the tow and call upon the next available licensed tow operator on the rotation list.

- L. The fees and charges established pursuant to this chapter shall be conspicuously posted at the compound or any other business location of the licensed towing operator.

SECTION 5. Qualifications of towing operators.

- A. Any person, company or corporation applying for a contract must have at least five years' experience as a municipal tow operator engaged in the towing of vehicles and vehicle storage in order to be considered for a contract.
- B. License required; application and investigation; insurance. All towing operators, in order to provide towing services to the City of Linwood, shall be licensed with the Clerk of the City of Linwood.
 1. The Clerk of the City of Linwood shall take applications for the licensing of tow operators from any towing operator who asserts that he can comply with the terms of this chapter.
 2. A background check will be made by the Police Department of the applicant and his employees or officers, and a conviction for a crime will disqualify an applicant unless waived by the City Council upon application and good cause shown.
 3. Each licensed towing operator will be charged a non-refundable annual renewal fee of \$250.
 4. The application form shall be prescribed by the Clerk of the City of Linwood. It shall include the name, business address and telephone number of the towing operator, the location of the compound, the name of its insurance company, the insurance policy number and any other information the Clerk, Police Chief or his designee deems relevant and appropriate.
 5. The towing operator must date and sign the application and certify that he has read this chapter and agrees to abide by all of the terms and specifications of the same.
 6. Upon submission of the application form, the Clerk of the City of Linwood shall furnish the Chief of Police of the City of Linwood with a copy of said application. The Chief of Police of the City of Linwood or his designee, upon receipt of said application from the Clerk of the City of Linwood, shall conduct an investigation of the towing operator and its operation. Said investigation by the Chief of Police of the City of Linwood or his designee shall consist of an inspection of the proposed compound, an inspection of the tow trucks and whether the towing operator and his employees or officers meet with the requirements of this chapter.
 7. The aforementioned insurance policy shall be so endorsed to include the City of Linwood as an additional named insured and shall provide a standard severability of interest clause. The

insurance policy shall also provide that the City of Linwood will be defended and indemnified by said insurance company.

8. Such certificate of insurance shall provide that the insurance policy will not be canceled or materially changed without 30 days' prior written notice addressed to the Clerk of the City of Linwood.

C. Compound.

1. At all times, the aforesaid compound shall be maintained by the licensed towing operator in a clean and orderly fashion. Reasonable measures shall be taken by the licensed towing operators at all times to prevent vandalism, theft or damage to any passenger automobiles, trucks or motor vehicles stored at said compound.
 2. If said compound is to be located within 1,000 feet of the nearest edge of the right-of-way of any interstate highway or primary highway, it shall at all times comply with N.J.S.A. 27:5E-1 et seq. (the Junkyard Control Act) and any New Jersey Administrative Code regulations enacted pursuant to said New Jersey statute.
 3. The licensed towing operator shall maintain his business operation at the same location as the compound.
- D. The licensed towing operator shall provide transportation from City Hall in the City of Linwood to the compound for the owners of any passenger automobile, truck or motor vehicle towed by the licensed towing operator during regular business hours only, at no cost or expense to the City or the owner of the vehicle.
- E. The licensed towing operator shall, on the first day of each month, provide in writing to the City of Linwood that month's list of all passenger automobiles, trucks or motor vehicles in the possession of the licensed towing operator over 20 days. Said list shall state the make and model of the passenger automobile, truck or motor vehicle, the year of the same, the registration number of the motor vehicle, the vehicle identification number and mileage and detailed list of all charges and expenses relating to said passenger automobile, truck and motor vehicle and date the vehicle was towed. In the event that the licensed towing operator does not provide or supply such information in a timely fashion, the licensed towing operator shall indemnify and hold the City of Linwood harmless for any claims arising from the registered towing operator's failure to do so.
- F. In the event that passenger automobiles, trucks and motor vehicles that are stored or towed by the licensed towing operator are abandoned or unclaimed by the owners thereof, the licensed towing operator agrees to make no claims whatsoever against the City of Linwood, its agents, representatives and/or employees for towing fees or charges, storage fees or charges, or road service fees or charges or any other fees or charges whatsoever.
- G. The licensed towing operator shall not employ any additional operators as other employees after a mercantile license is issued unless the City of Linwood Police Department has conducted a background check and cleared those individuals.

- H. The licensed towing operator shall provide a roster of employees to the City of Linwood Police Department on a monthly basis.

SECTION 6. Licensing of towing operators.

- A. All towing operators, in order to provide towing services to the City of Linwood, shall be licensed with the Clerk of the City of Linwood.
- B. Provided the maximum number of licensed towing operators governed by this chapter is not met or exceeded, the Clerk of the City of Linwood shall take applications for the licensing of tow operators from any applicant who asserts that he can comply with the terms of this chapter. In the event the maximum number of licensed towing operators governed by this chapter is met or exceeded, the Clerk of the City of Linwood shall not accept any new applications for the licensing of tow operators.
- C. Each licensed towing operator will be charged a nonrefundable application fee of \$500. Said fee shall be paid upon the submission of the signed application to the Clerk of the City of Linwood and shall be nonrefundable. Each licensed towing operator will be charged a nonrefundable annual renewal fee of \$250.
- D. The application form shall be prescribed by the Clerk of the City of Linwood. It shall include the name, business address and telephone number of the towing operator, the location of the compound, the name of its insurance company, the insurance policy number and any other information the Clerk deems relevant and appropriate.
- E. The towing operator must date and sign the application and certify that he has read this chapter and agrees to abide by all of the terms and specifications of the same.
- F. Within three business days of the submission of a complete application form, the Clerk of the City of Linwood shall furnish the Chief of Police of the City of Linwood with a copy of said application.
- G. The Chief of Police of the City of Linwood, upon receipt of said application from the Clerk of the City of Linwood, shall conduct an investigation of the towing operator and its operation.
- H. Said investigation by the Chief of Police of the City of Linwood shall include but not necessarily be limited to an inspection of the proposed compound, an inspection of the tow trucks and a determination as to whether the towing operator meets the requirements of this chapter.
- I. After the investigation authorized by this chapter, the Chief of Police of the City of Linwood shall report to the Clerk, in writing, whether or not the towing operator meets the requirements of this chapter.
- J. If the Chief of Police of the City of Linwood advises the Clerk of the City of Linwood that the towing operator meets the requirements of this chapter and of the approval of the towing operator, said towing operator shall be added to the list of

licensed towing operators of the City of Linwood and notified, in writing, accordingly.

- K. If the Chief of Police determines that the towing operator does not meet the requirements of this chapter, he shall report, in writing, to the Clerk of the City of Linwood his determination, findings and reasons for his rejection/denial of the application of the towing operator. The Chief of Police shall simultaneously supply a copy of his report to the applying towing operator and the Council for the City of Linwood.
- L. Any applicant aggrieved by the rejection/denial of an application to be added to the list of licensed towing operators of the City of Linwood shall, upon written notice provided to the Chief of Police and the Clerk of the City of Linwood made by the aggrieved applicant within seven calendar days of that rejection/denial, be entitled to a hearing before the Council of the City of Linwood at said Council's next available meeting.
- M. The licensee shall comply with all state and federal laws and regulations concerning wages, hours and terms of employment.
- N. The licensee shall not discriminate in its hiring practices and shall comply with all state and federal laws and regulations regarding nondiscrimination in employment.

SECTION 7. Use and number of licensed towing operators by City; suspension of licenses.

- A. The City Clerk shall maintain a list of all licensed towing operators approved by the Chief of Police of the City of Linwood.
- B. In the event that more than one towing operator shall become a licensed towing operator, the towing services needed by the City of Linwood shall be rotated among licensed towing operators for time periods to be prescribed by the Chief of Police of the City of Linwood on an equal basis. Each new licensed towing operator shall initially be placed last on the rotary list. The maximum number of licensed towing operators providing towing services to the City of Linwood at any given time shall be capped at four licensed towing operators. Notwithstanding the foregoing, if at the time of the adoption of this section, there are more than four approved licensed towing operators, said licensed towing operators shall remain licensed and able to provide towing services in the City of Linwood until said towing operators' licenses are suspended, terminated or revoked.
- C. The licensed towing operator for any one period of time will be selected pursuant to the list maintained by the City Clerk and provided to the Chief of Police.
- D. If the Chief of Police determines at any time that the licensed towing operator or any licensed towing operator is unable to fulfill the requirements of this chapter, or in times of emergency, the Chief of Police may call upon other towing operators to provide services to the City of Linwood. Any towing operator called shall comply with this chapter.

- E. The Chief of Police of the City of Linwood shall be responsible for enforcing provisions of this chapter. Further, the Chief of Police or his designee shall conduct at least two inspections of the licensed towing operator's facility to ensure continued compliance. No prior notice will be necessary.
- F. If the Chief of Police of the City of Linwood finds at any time that a licensed towing operator is not in compliance with any provision of this chapter, he shall advise the Clerk of such violation, and the Clerk shall suspend the offending licensed towing operator's license and remove his name from the list of licensed towing operators.
- G. No further towing services, as described in this chapter, may be performed by a towing operator suspended from the list of licensed towing operators until he complies with all of the provisions of this chapter.
- H. Any license issued by the City of Linwood may be terminated upon the finding that the licensed towing operator provided fraudulent or inaccurate application information; violated any federal, state or municipal regulations; has provided unsatisfactory service; or has violated any Department of Insurance rules or regulations. In this event, upon receipt of written direction from the Chief of Police of the City of Linwood, the City Clerk shall suspend the offending licensed towing operator's license and remove his name from the list of licensed towing operators.
- I. Any towing operator aggrieved by the actions of the Chief of Police of the City of Linwood or the Clerk of the City of Linwood in suspending the licensed towing operator's license and/or removal of his name from the list of licensed towing operators of the City of Linwood shall, upon written notice provided to the Chief of Police and the Clerk of the City of Linwood made by the aggrieved towing operator within seven calendar days of that suspension/removal, be entitled to a hearing before the Council of the City of Linwood at said Council's next available meeting.

SECTION 8. Enactment of rates and fees.

The following rates shall apply for licensed towing operators within the City of Linwood:

- A. Towing of illegally parked or police-impounded passenger automobiles, trucks and motor vehicles, to include storage for the first 24 hours:

7:00 a.m. to 12:00 Midnight	\$75.00
12:00 Midnight to 7:00 a.m.	\$85.00
- B. Towing of abandoned passenger automobiles, trucks and motor vehicles, to include storage for the first 24 hours:

7:00 a.m. to 12:00 Midnight	\$75.00
12:00 Midnight to 7:00 a.m.	\$85.00
- C. Towing of passenger automobiles not in excess of 6,000 pounds from accident scenes, to include cleaning and removal of area debris, including liquid debris, pursuant to this chapter, waiting time and storage for the first 24 hours:

7:00 a.m. to 12:00 Midnight	\$75.00
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- 12:00 Midnight to 7:00 a.m. \$85.00
- D. Towing of trucks and all other motor vehicles, including passenger automobiles in excess of 6,000 pounds, from accident scenes, to include cleaning and removal of area debris, including liquid debris, pursuant to this chapter, waiting time and storage for the first 24 hours:
- 7:00 a.m. to 12:00 Midnight \$105.00
- 12:00 Midnight to 7:00 a.m. \$115.00
- E. Charge for each additional twenty-four-hour storage: \$20.00
- F. No charge for towing of all City police vehicles within the City of Linwood and the County of Atlantic.
- G. Towing of all City-owned police vehicles outside the limits of Atlantic County: \$2.00 per mile
- H. Providing winching service: \$30.00
- I. Additional charges for providing dolly-wheels: \$50.00
- J. Additional charges for providing flat bedding of vehicles that cannot otherwise be towed in a normal fashion:
- 7:00 a.m. to 12:00 Midnight \$105.00
- 12:00 Midnight to 7:00 a.m. \$115.00
- K. No charge for towing of any passenger automobiles, trucks or motor vehicles or impounding of any such passenger automobiles, trucks or motor vehicles for investigation purposes at the direction of the Duty Police Supervisor (to include storage).
- L. Response fee (no tow): \$20.00
- M. Road service to disabled vehicles during normal business hours and for nonbusiness hours (no tow):
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|--------------|------------------------|---------|
| Normal Hours | 8:00 a.m. to 6:00 p.m. | \$25.00 |
| After Hours | 6:00 p.m. to 8:00 a.m. | \$35.00 |
- N. Towing or transport of mopeds: \$40.00
- O. Towing or transport of motorcycles:
- 7:00 a.m. to 12:00 Midnight \$50.00
- 12:00 Midnight to 7:00 a.m. \$60.00
- P. Road service to Linwood Police vehicles: \$25.00

SECTION 9. Severability

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by a Court of Competent jurisdiction, such portion shall be deemed a separate and distinct and independent provision, and such holdings shall not affect the validity of the remaining portions hereof.

SECTION 10. Repealer

Any and all Ordinance inconsistent with this Ordinance, in whole or part, is hereby repealed to the extent of their inconsistency.

SECTION 11. **Effective Date**

This Ordinance shall take effect upon final adoption and publication as provided by law.

FIRST READING: July 10, 2013

PUBLICATION: July 15, 2013

PASSAGE: August 14, 2013

The within Ordinance was introduced at a meeting of the Common Council of the City of Linwood, County of Atlantic and State of New Jersey held on July 10, 2013, and will be further considered for final passage after a public hearing thereon at a meeting of said Common Council on August 14, 2013.

LEIGH ANN NAPOLI, CLERK

RICHARD L. DEPAMPHILIS, III, MAYOR