

Be it enacted by the Mayor and Trustees of the Village of Chester as follows:

Chapter 90 of the Village Code, entitled "Towing" is hereby restated in its entirety to read as follows:

CHAPTER 90

TOWING

- § 90-1. Legislative intent; purpose.
- § 90-2. Definitions.
- § 90-3. Cruising.
- § 90-4. License required; exception.
- § 90-5. Application for license.
- § 90-6. Investigation of applicant.
- § 90-7. Standards for license approval; fees.
- § 90-8. Issuance of license; transferability.
- § 90-9. Identification of towing vehicle; display of license.
- § 90-10. Insurance.
- § 90-11. Towing rates, fees and charges.
- § 90-12. Driver qualifications.
- § 90-13. Equipment on wreckers.
- § 90-14. Schedule of rates and fees.
- § 90-15. Rotating call list.
- § 90-16. Information supplied to towed vehicle's operator/owner.
- § 90-17. Police power to remove vehicles.
- § 90-18. Responsibility to clean up debris.
- § 90-19. Suspension or revocation of license.
- § 90-20. Hearings.
- § 90-21. Penalties for offenses.

GENERAL REFERENCES

Vehicles and traffic — See Ch. 92.

§ 90-1. Legislative intent; purpose.

The Village of Chester hereby determines that providing regulations for the prompt and safe removal of disabled, abandoned and impounded vehicles from public streets within the Village is necessary for the public health, safety and general welfare of the residents and traveling public within the Village. This chapter will not supersede any specific orders issued by police agencies addressing specific situations (such as vehicles impounded for criminal investigation purposes).

§ 90-2. Definitions.

Whenever used in this chapter, unless a different meaning clearly appears from the context, the following terms shall have the meanings indicated.

ACCIDENT -- Any incident or occurrence in which a motor vehicle or more than one motor vehicles shall contact one another or other objects, thereby causing personal injury or property damage.

CRUISING - The driving of a wrecker along any Village street or highway for the purpose of soliciting business in the Village.

DRIVER — Any person driving a tow truck for hire upon public streets.

FOR HIRE — Any incident where a fee, charge or other consideration is directly or indirectly imposed for towing, carrying or removing of a vehicle, including any case where any person makes repairs on a towed vehicle for compensation, even if no charge is expressly imposed for towing such vehicle.

IMPOUND/STORAGE FACILITY — Secured, fenced-in area for at least five towed or impounded vehicles. The license holder must have the ability to store at least two vehicles inside a building or garage on the facility premises.

OWNED — Owned, rented or leased.

PERSON — Any individual, sole proprietorship, firm, partnership, association, corporation, or other organization, and the singular or plural, masculine, feminine, or neuter thereof, unless the contrary is clearly expressed.

RECOVERY — The retrieval of a disabled or abandoned motor vehicle from off the paved portion of a street by another vehicle for hire.

SERVICE CALL — A request for assistance from a tow truck which does not involve towing but is limited to rendering emergency assistance for such categories as battery charges, flat tires, lockouts or gasoline.

TOWING — The moving or removing of disabled motor vehicles or abandoned motor vehicles by another vehicle for hire. "Towing" includes recovery, unless the context indicates otherwise.

WRECKER — A vehicle registered as a tow truck and used for the purpose of towing or carrying another vehicle that has been or is involved in an accident or is disabled, abandoned or illegally parked.

§ 90-3. Cruising.

Cruising, as defined hereby, is prohibited within the Village of Chester.

§ 90-4. License required; exception.

A. It shall be unlawful for any person, as defined in § 90-2, to engage in the business of towing for the Village of Chester unless a license shall have first been obtained.

B. Exception. Tow operators without a license from the Village of Chester may enter the Village of Chester to remove a motor vehicle when a situation exists and no licensed tow truck operator is available; or when a licensed Village truck operator's wrecker does not have the capacity to handle the vehicle to be removed; or upon owner request at the scene of an accident or disabled vehicle; or towing in response to a request of the New York State Police or pursuant to a New York State Thruway license; or when a vehicle is already in tow when entering the Village of Chester.

§ 90-5. Application for license.

A. Each application for a license to be issued hereunder shall be made upon forms prepared and made available by the Chester Police Department and shall state:

(1) The name, home address and proposed or actual business address of the applicant and whether he or she is the owner or lessee.

(2) A description of the wrecker for which the license is desired, including the year, make, model, type, registration number, type of registration, VIN, length of service as a tow vehicle, highway usage permit number, and DOT number (if applicable).

(3) The names, dates of birth, endorsements/restrictions and client identification number of all wrecker operators.

(4) Proof of insurance as required below in a form approved by the Village Board or Chief of Police.

(5) Any other relevant information which the Village Board or Chief of Police may require from time to time as it deems appropriate.

B. No application will be considered except one made on behalf of a New York State licensed repair shop, owned and operated independently from any other licensee, located at the same site as the associated impound/storage facility.

C. All license holders are required to take credit cards or personal checks for all tow list services except impounds, for which cash is required.

§ 90-6. Investigation of applicant.

Within seven days after receipt of an application as herein provided, the Chief of Police shall cause an investigation to be made of the applicant and of his proposed business operation to be licensed. The Chief of Police may delegate the inspection of the wrecker(s) to an independent person, who may not be engaged in business in the Village, who shall be qualified by experience and training to make such inspection and who shall report to the Chief of Police whether the wrecker(s) is/are in a thoroughly safe and sanitary condition. Within 14 days after completion of the inspection and investigation, the Chief of Police shall either approve or deny the application.

§ 90-7. Standards for license approval; fees.

A. The Chief of Police shall approve the issuance of a license upon making the following findings:

(1) That there has been total compliance with the requirements of this chapter and all other governing laws, statutes and ordinances.

(2) That the tow vehicle has been properly registered and inspected by the State of New York and has the necessary stickers affixed. No tow vehicle shall be licensed as a wrecker, which is using dealer license plates.

(3) That the insurance policies or certificates required herein have been procured and supplied.

(4) That the applicant maintains an impound/storage facility within three miles driving distance of any point in the Village of Chester as measured along public thoroughfares and that such facility meets the criteria as required.

(5) The required impound area shall have the capacity to store at least five motor vehicles out of doors within a secured area surrounded by a fence with a minimum height of six feet as well as space to accommodate no fewer than two vehicles in an inside secured area.

(6) That the applicant is capable of collecting impound and storage fees at the impound facility where such vehicles are stored.

(7) That the licensee agrees to record the details of each vehicle towed, serviced or transported by him, his agents or employees, together with full information concerning the details surrounding the hire, the name of the owner of the towed vehicle, when available, and the name of the patron engaging him, which records shall be kept open for inspection at all times to a duly authorized representative of the Police Department of the Village or the Village Board. Records as described above need only be kept with respect to tows made off the Village of Chester tow list.

(8) An impound storage list as provided must be completed and returned to the Village of Chester Police Department within five business days following the end of every month.

(9) Impounded vehicles shall not be released unless authorized in writing by the Village of Chester Police Department.

(10) Access to personal property inside a vehicle which is stored in impound shall be permitted with the approval of the Village of Chester police during normal business hours. A licensee shall not withhold personal property or access thereto in order to obtain satisfaction of towing or impound fees.

B. The fee for a license is \$1,000 per year subject to adjustment from time to time by the Village Board as the Village Board may deem appropriate.

90-8. Issuance of license; transferability.

Upon the approval of the Chief of Police, the Village Clerk shall issue a license to the applicant, a copy of which must be kept in all towing vehicles while conducting operations under the license. All licenses issued hereunder shall expire on the 31st day of December next succeeding the date of issuance, unless sooner suspended or revoked by the Chester Village Board as hereinafter provided. Licenses are not transferable, delegatable or assignable.

§ 90-9. Identification of towing vehicle; display of license.

A. On each side of every tow vehicle, the license holder shall display, or cause to display by painting, magnetic sign, or other similar means, the name, address, and phone number of the licensee by letters and numbers of not less than three inches in height and of contrasting color to the tow vehicle.

B. The owner shall also display or cause to be displayed the towing license in a location easily observed from the rear of the tow vehicle.

§ 90-10. Insurance.

A. No tow vehicle shall be licensed hereunder, nor shall any licensed tow vehicle be operated within the Village, unless there shall be deposited with the Village Clerk the following insurance policies or certificates of insurance.

(1) Auto garage keeper's legal liability policy covering fire, theft, and explosion in the minimum amount of \$50,000 with each accident deemed a separate claim, naming the Village of Chester as an insured or an additional insured. Proof of the Village's insurance shall be submitted to the Chief of Police prior to issuance of a permit.

(2) Auto garage legal liability policy covering the operation of the licensee's equipment or tow vehicle for any bodily injury or property damage. This policy will be in the amount of \$1,000,000 per person and \$3,000,000 per accident, and naming the Village of Chester as an insured or an additional insured. Proof of the Village's insurance shall be submitted to the Chief of Police prior to issuance of a permit.

B. Each policy herein must contain an endorsement providing 30 days' notice to the Village in the event of any material change therein or intention to cancel said policy for any cause.

C. In the event that any policy is changed so as to fail to conform to any of the above requirements or if any policy or insurance is to be canceled for any reason, the Chief of Police shall notify the person responsible for the policy, and it shall be corrected or reinstated or replaced with the conforming policy within 30 days after notice is received by the Village, but before the date of cancellation. If the policy or certificate is not corrected, reinstated or replaced within 10 days prior to the date of cancellation, the Chief of Police shall immediately suspend the towing license and shall pick up from the owner all indicia of licensing, including any stickers, cards or other means of identification.

§ 90-11. Towing rates, fees and charges.

Charges for the transportation, hauling or services of disabled or impounded vehicles shall not exceed the rates established by the Chester Village Board, which rates may be reviewed annually by the Police Department and the Chester Village Board and may be adjusted or revised from time to time by the Chester Village Board.

§ 90-12. Driver qualifications.

No person who is under the age of 18 years shall drive a tow vehicle. Tow vehicle operators must possess a valid driver's license for the class of vehicle that is being operated, along with the tow truck endorsement.

§ 90-13. Equipment on wreckers.

The wreckers of licensees shall be equipped at all times with emergency flashing amber lights visible from front and rear a CO₂ or dry-powder fire extinguisher with a minimum capacity of 10 pounds, one container of oil-absorbing material with a minimum capacity of five gallons, a carton containing at least one dozen red railroad-type flares, a dolly/dolly wheels and a shovel and a broom for clearing the highway of nonhazardous debris, if any. All equipment shall be maintained in good condition and in satisfactory working order.

§ 90-14. Schedule of rates and fees.

A. No licensee may charge for towing services, cleanup or storage covered by these regulations more than the schedule of charges established and/or approved by the Village Board.

B. A licensee shall not require that a vehicle be towed to any particular shop for repairs, but the licensee may tow the vehicle to any location designated by the operator of the towed vehicle as provided in Subsection E(9) below.

C. No licensee shall induce or require any operator of any motor vehicle being charged for towing or other services to execute a waiver of liability for damages to his vehicle caused by the licensee, and no such waiver of liability shall be legally enforced. This shall not apply in cases of off street recovery or lockouts.

D. No yard charges will be assessed for moving of vehicles while in the licensee's possession. Vehicles must be available for release at the rates approved by the Village Board, Monday through Friday, between the hours of 8:30 a.m. and 5:30 p.m., and Saturday between the hours of 8:30 a.m. and 3:00 p.m. A reasonable additional charge may be imposed for release of the vehicle after those hours or on Sundays or legal holidays.

E. Towing/impounding rates applying to all tow call list services.

(1) Day rate (8:00 a.m. to 6:00 p.m.): \$65.

(2) Night rate (6:00 p.m. to 8:00 a.m.): \$85.

(3) Weekend/holiday (all hours): \$85.

(4) Street service calls (nontowing):

(a) Day rate: \$50.

(b) Night rate: \$75.

(c) Weekend/holiday: \$75.

(d) Lockout rate: \$35.

(5) Snow Ordinance towing' : \$100.

(6) Motor vehicle accident (MVA) towing (includes impounds if involved in accident) (subject to Village Board review on a yearly basis): No set rate.

(7) MVA storage fees:

(a) Outside: \$40.

(b) Inside: \$50.

(8) All impound storage fees:

(a) Outside: \$25.

(b) Inside: \$30.

(9) Towing to other locations at customer's request, at applicable rate above plus a per-mile charge agreed to by the licensee and the customer before the tow is commenced.

NOTE: No storage fees will be charged for vehicles released within the first 24 hours from time of tow. This shall not preclude the licensee from collecting a storage fee for the first 24 hours when a vehicle is released subsequent to that initial period.

F. No license holder shall solicit any vehicle owner for permission to tow to any lot or location other than the designated impound/storage lot unless the owner agrees, in writing, on a form approved in advance by the Village Board and the Village Attorney. Without an owner's request or written permission, all tows must be to the license holder's designated lot. Failure to do so is a violation of the license requirements.

§ 90-15. Rotating call list.

A. A licensee performing towing services for the Village or as requested by a police officer shall perform on a rotating basis. When the owner or operator of a disabled vehicle requests a particular tow company, that tow company shall be called, and no tow vehicle shall be assigned from the rotating tow list. No licensee shall respond to the scene of an accident except upon notification by the police officer in charge, police headquarters, or upon the request of the owner or operator of a disabled vehicle.

B. Such additional rules and regulations regarding the rotation of tow vehicles as they may be hereafter promulgated by the Chester Village Board or Chief of Police shall take effect immediately after service of a copy thereof on holders of all licenses for wreckers in the Village. Service upon a licensee may be made by sending, via ordinary mail, a copy of such additional rules and regulations to said licensee's business address.

§ 90-16. Information supplied to towed vehicle's operator/owner.

Each towing firm responding for a call for service must supply the owner/operator of the vehicle who is at the scene with a card containing the tow firm's business name, address, telephone number, hours of operation, a written estimate of the expected charges and the accepted manner of payment.

§ 90-17. Police power to remove vehicles.

Police have the power to remove vehicles under the following circumstances:

- A. There is obstruction of a public right-of-way or private property pursuant to vehicle and traffic laws.
- B. A vehicle has been vandalized or presents a fire or safety hazard or is an attractive nuisance.
- C. An abandoned vehicle bears no discernible registration or identification data.
- D. An abandoned vehicle is not licensed or operable.
- E. A vehicle is violating any emergency no-parking provisions as set forth in the Village Code.²
- F. Any other condition exists where removal at the behest of the Police Department is permitted or required by law.

§ 90-18. Responsibility to clean up debris.

A licensee called to the scene of an accident must, in accordance with the New York State Vehicle and Traffic Law, at the scene, sweep away or clean up any nonhazardous debris, provided that he is furnished with police protection against moving vehicles at the scene. There shall be no charge by the licensee for the cleanup of debris resulting from the accident.

§ 90-19. Suspension or revocation of license.

A. Any license issued hereunder may be suspended immediately by the Chief of Police or Village Board and shall be so suspended in the case of a loss of insurance as described in §90-10 above, for up to 30 days if the licensee violates any provision of this chapter, any rule or regulation adopted hereunder or any local law of the Village, provided that any suspension for a reason other than the loss of insurance, shall be ordered only after investigation by the Police Department, which investigation shall include input from the licensee. If the license holder does not accept the suspension, he/she may request a hearing before the Village Board, to be held within 10 days. If the licensee is convicted of any felony, crime or is guilty of making a false statement or misrepresentation in his application, any license issued hereunder may be suspended pending a hearing for revocation by the Village Board.

B. No license shall be revoked by the Village Board hereunder without a hearing thereon, except that, if a license shall have been suspended on account of a lapse in insurance coverage and such insurance coverage shall not have been restored within 30 days, then such license shall be automatically revoked, without any further action on the part of the Chief of Police or the Village Board.

§ 90-20. Hearings.

A. The Village Clerk shall give notice thereof, stating the name and address of the applicant or licensee concerned, the subject matter of the hearing and the date, place and hour designated therefor, by mailing the copy of the notice of hearing to the applicant or licensee concerned at the address shown upon the most recent application of such applicant or licensee at least 15 days before such hearing, by certified mail. The hearing is to take place within 30 days of the suspension.

B. Upon any hearing, the applicant or licensee involved shall be entitled to be represented by legal counsel and to present such competent material testimony or other evidence in his own behalf as may be relevant to the subject matter of the hearing.

C. All witnesses shall be sworn and examined under oath.

D. Within 45 days after the hearing, the Village Board shall render its decision, which may be to suspend or revoke any license issued hereunder. Such decision shall be in writing, with the reasons for such decision, and shall be mailed to the parties involved by certified mail.

§ 90-21. Penalties for offenses.

Any person who shall violate any of the provisions of this chapter shall, upon conviction, be punished by a fine not to exceed \$250 or by imprisonment for a period not to exceed 30 days, or by such fine and imprisonment. Each violation of any of the provisions of this chapter and each day there is a violation thereof shall be deemed and taken to be a separate and distinct offense. In addition, the Village Board, after a hearing, may suspend or revoke any license issued hereunder for violation of any of the provisions of this chapter for such period of time as found appropriate after the hearing.

MYMZT Corp.
18 Old rt. 17M
Chester, NY 10918

To Whom this may Concern,

Enclosed you will find the deed of recent sale on above property as well a check of \$426.72 to pay off the old water balance from previous owner as discussed on the phone.

And I need the water to be turned on as soon as possible.

With appreciation

MYMZT Corp

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