

DRAFT LOCAL LAW NO. ____ OF 2018

**CITY COUNCIL
CITY OF BEACON**

**PROPOSED LOCAL LAW TO
CREATE CHAPTER 211, ARTICLE VI OF THE CODE OF THE
CITY OF BEACON**

A LOCAL LAW to
create Chapter 211,
Article VI of Code of
the City of Beacon,
concerning
Operation of Towing
Companies.

BE IT ENACTED by the City Council of the City of Beacon as follows:

Section 1. Chapter 211, Article VI of the Code of the City of Beacon entitled “Operation of Towing Companies” is hereby created as follows:

§ 211-46. Legislative findings.

The City therefore desires to regulate booting services and certain towing services within the City through licensing of the businesses providing such services and establishing guidelines for the property owners/operators who employ them. These regulations are hereby enacted to safeguard the public against future fraud and improper booting practices and certain towing practices and to better serve the overall health, safety, welfare and good order of the City of Beacon and its inhabitants.

§ 211-47. Definitions.

TOW

The lawful moving of a vehicle which has been parked illegally or improperly on the privately owned real property of another or which has been disabled, abandoned or improperly or illegally parked on a public street.

TOWING COMPANY

Any business or person lawfully engaged in the practice of towing vehicles for a fee in the City of Beacon. For purposes of this article, "towing company" shall also include any

business or person lawfully engaged in the practice of booting motor vehicles for a fee in the City of Beacon.

TOW TRUCK

A motor vehicle used for towing, usually equipped with a crane, winch, tow bar, push plate, flat bed or other device or feature used to push or pull another motor vehicle.

§ 211-48 Registration requirements.

A. Towing company registration. No towing company shall provide booting services or tow a vehicle that has been booted within the City of Beacon without first applying for and receiving a license from the City.

(1) Application. All towing companies wishing to provide booting services and/or subsequent towing services within the City of Beacon shall complete an application filed with the office of the City Clerk. Such applications shall include the following items and such other information as the City Clerk deems necessary:

- (a) The name of the towing company;
- (b) The postal and e-mail address and telephone number of the towing company's primary place of business;
- (c) The names, postal and e-mail addresses and telephone numbers of the owners, managers, and chief operating officers of the towing company;
- (d) Copies of the current licenses/identification cards of all employees of the towing company whose job it shall be to tow or boot motor vehicles, subject to the additional requirement that the list of employees held by the City must be kept current and up-to-date by the towing company;
- (e) Certificates of insurance naming the City of Beacon as a certificate holder entitled to notice of cancellation or nonrenewal and evidencing public liability insurance covering personal injury, property damage, fire and theft, held by the towing company and issued by an insurance carrier licensed to do business in New York State; and
- (f) Copies of the signed contracts for towing and/or booting services executed between the applicant towing company and the owners/operators of any privately owned real property that shall receive such services, provided that the towing company is also responsible for furnishing the City with copies of all contracts for towing and/or booting services executed following issuance of a license pursuant to this article.

(2) Acknowledgment. All applications filed with the City shall have an attached acknowledgment, signed by an owner, manager, or chief officer of the towing company, stating that the towing company understands and is in compliance with all local and state laws concerning towing and booting operations.

- B. Annual registration. Towing companies must register/reregister with the City of Beacon on an annual basis, and fees for towing licenses and booting licenses shall be assessed and paid separately in accordance with the City's fee schedule.
- C. No license granted pursuant to this article may be transferred to another party or individual.

§ 211-49 Fees.

- A. Towing fees. The maximum fee that can be assessed against the owner/operator of a motor vehicle for towing of the vehicle from privately owned real property is \$150, plus applicable taxes. Under no circumstances shall the owner/operator of a motor vehicle be charged more than this amount.
- B. Storage fees. The maximum fee that can be assessed against the owner/operator of a motor vehicle that has been towed and stored at an impound lot is \$15/day. Under no circumstances shall the owner/operator of a motor vehicle be charged more than this rate.
- C. Prohibition on hookup fees. A towing company may not charge the owner/operator of a motor vehicle for merely attaching a motor vehicle to a tow truck where the vehicle is not subsequently removed from the premises. This provision does not prevent a towing company from collecting a fee for attachment of a booting device as defined in Article V of this chapter.
- D. Booting fees. The maximum fee that can be assessed against the owner/operator of a motor vehicle for attachment/removal of a booting device is \$25, plus applicable taxes. Under no circumstances, shall the owner/operator of a motor vehicle be charged more than this amount.
- E. Prohibition on double fees for booting. The fee charged for attachment and removal of a booting device to a motor vehicle is a one-time charge, and a booting company may not charge for attachment and removal of a booting device separately.

§ 211-50 Limitations on towing and booting.

- A. No towing company employee shall tow or boot an unattended motor vehicle improperly or illegally parked on privately owned real property sooner than five minutes after the vehicle has been parked. The time when the towing company personnel arrived at the location of the improperly or illegally parked vehicle shall be recorded in the log book maintained by the towing company pursuant to § **211-52A** of this article.
- B. No towing company employee shall tow or boot a motor vehicle where the owner or operator of the vehicle appears and offers to remove the vehicle from the place where it is improperly or illegally parked and the towing company employee shall remove any connective or booting devices from the motor vehicle free of charge.
- C. Any vehicle towed from privately owned real property in the City of Beacon must be taken to an impound lot or other storage facility located within a ten-mile radius of Beacon City Hall, 1 Municipal Plaza, Beacon, NY 12508.

- D. Payment of the applicable fee, pursuant to § **211-38A** through **B**, for towing and storage of a motor vehicle shall be paid immediately prior to return of the vehicle to its owner and a receipt memorializing the transaction shall be given to the vehicle owner and a copy thereof retained by the towing company.
- E. The owner of an impounded motor vehicle shall have the right to inspect his/her vehicle for damage prior to payment of the prescribed fees for towing and storage of motor vehicles.
- F. Nothing herein shall prevent a City official or agent of the City from having a vehicle towed immediately in the event of an emergency, or where a motor vehicle is improperly or illegal parked on public land.
- G. Where a booting company employee boots a motor vehicle on privately owned real property, the employee, or another employee of the company, must remove the boot from the vehicle within 20 minutes after being contacted by the vehicle's owner or operator.
- H. Payment of the applicable fee, pursuant to § **211-38D** through **E**, for attachment and removal of the booting device shall be paid immediately prior to removal of the device and a receipt memorializing the transaction shall be given to the vehicle owner or operator and a copy thereof retained by the booting company employee.

§ 211-51 Denial, suspension or revocation of license.

After a hearing held on no fewer than 14 days' notice to the licensee towing company, served either in person or by certified mail to the mailing address on the towing company license application, the Police Department may, in a writing setting forth such reasons, deny a towing or booting license, refuse renewal of a towing or booting license, or suspend or revoke a towing or booting license where:

- A. The towing company application does not comply with one or more of the provisions set forth in this article;
- B. The towing company made intentional misrepresentations in its towing license application;
- C. The towing company is found to have violated the provisions of this article on three occasions or more; or
- D. There have been two or more complaints against the towing company or its personnel alleging fraudulent or abusive practices which are corroborated following a reasonable investigation by the Beacon Police Department.

§ 211-52 Recordkeeping provisions.

- A. Log books. All towing companies operating in the City of Beacon shall maintain a log book, in either paper or digital form, in each of their trucks.

(1) Log books shall contain:

- (a) The records of all incidents where an improperly or illegally parked motor vehicle has been towed from privately owned real property or booted, specifying information concerning the date, time and address or location of the activities, as well as the make, make model, year and license plate of the affected motor vehicles.
 - (b) Laminated/protected copies of the towing company's current towing and/or booting licenses; and
 - (c) A schedule of all applicable fees for towing, booting and storage services.
- (2) Completed log books must be retained by the towing company and stored for no less than three years.
- B. The Office of the City Clerk shall promulgate a system for receiving applications for towing company registration; maintaining records of applications; recording payment of application fees; and shall maintain separate lists of registered towing companies operating within the City of Beacon. The City Clerk shall furnish copies of the specified lists to the City of Beacon Police Department.
- C. The City of Beacon Police Department shall promulgate rules for approving/denying applications for licenses and for responding to and recording reports made by towing companies regarding their towing activities within the City of Beacon and public complaints concerning the same.

SECTION 3. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 211 of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 4. Numbering for Codification

It is the intention of the City of Beacon and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the City of Beacon; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word "Local Law" shall be changed to "Chapter," "Section" or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

SECTION 5. Severability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the

legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

SECTION 6. Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State.

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