

## AN ORDINANCE No. 12-57

To amend the following sections of Spotsylvania County Code Chapter 12, Motor Vehicles and Traffic, Article VII, Towing, Section 12-226, Purpose; board; towers are independent contractors, to amend ordinance language to clarify that provisions of the article are only applicable to tows requested by authorized law enforcement officers, Section 12-227, Definitions, to amend the definition of “Law enforcement officer or Law-enforcement personnel” and add a definition of “Memorandum of understanding or MOU”, Section 12-231, Duties and requirements of authorized towers and authorized heavy-duty towers, to amend ordinance language to reflect changes to the definition of “Law enforcement officer or Law-enforcement personnel”, Section 12-235, Responsibilities and records of authorized towers and authorized heavy-duty towers and sheriff’s office, to amend ordinance language to reflect changes to the definition of “Law enforcement officer or Law-enforcement personnel”, Section 12-236, Compensation to authorized towers and authorized heavy-duty towers, to amend compensation rates to those recommended by the towing advisory board, Section 12-237, Law enforcement tow requirements, to amend Authorized requester requirements and clarify that law enforcement tow requests shall be made only by Law enforcement personnel, pursuant to the amended definition in Section 12-226, Section 12-238, Rotation System, to amend ordinance language to reflect changes to the definition of “Law enforcement officer or Law-enforcement personnel”, and Section 12-239, Solicitation of business by authorized towers or authorized heavy-duty towers, to amend ordinance language to reflect changes to the definition of “Law enforcement officer or Law-enforcement personnel”.

PUBLIC HEARING: August 9, 2022

**WHEREAS**, staff has reviewed the code amendments and recommends approval as stated in the executive summary dated August 9, 2022; and

**WHEREAS**, the Spotsylvania Board of Supervisors held a public hearing, duly advertised in a local newspaper for a period of two weeks, on July 26, 2022 and August 2, 2022, and interested citizens were offered an opportunity to be heard; and

**WHEREAS**, the general welfare is served by approval of the code amendments.

THE COUNTY OF SPOTSYLVANIA HEREBY ORDAINS:

§ 1. That Chapter 12, Article VII, Sections 12-226, 12-227, 12-231, 12-235, 12-236, 12-237, 12-238, and 12-239, be and are hereby **amended** and reordained as follows:

### **Sec. 12-226. - Purpose; board; towers are independent contractors.**

- (a) This article is promulgated by the board of supervisors of the county, pursuant to authority provided in the Virginia Code § 46.2-1217, to ensure storage, availability and service by persons and firms authorized to provide towing services at the request of law

enforcement personnel. The provisions of this article are only applicable to tows requested by authorized law enforcement officers.

- (b) On February 24, 1998, pursuant to the authority set forth in Virginia Code § 46.2-1217, the board of supervisors of the county established a towing advisory board, and made appointments to same, for the purpose of making a recommendation regulating towing services in the county.
- (c) Towing advisory board members shall be appointed in accordance with Virginia Code § 46.2-1217, by the county board of supervisors for a term of two (2) years beginning on April 1st of each odd-numbered year and ending on March 31st of the following odd-numbered year. The towing advisory board shall consist of: three (3) law enforcement representatives, one (1) citizen of the county and three (3) tower representatives (at least one (1) from each zone with at least one (1) being a heavy-duty tower). A chairman shall be elected by the towing advisory board biennially from the membership during the first meeting of each elected term.
- (d) Notwithstanding this article or any agreement executed pursuant to it, all authorized towers and authorized heavy-duty towers shall remain independent contractors and shall not be deemed to be employees of the county.

(Ord. No. 12-55, § 1, 6-28-18; Ord. No. 12-57, 8-9-22)

#### **Sec. 12-227. - Definitions.**

The following definitions shall be used in the interpretation and administration of this article. The definitions of various terms as presented herein do not necessarily represent the same definitions as may be found for the same terms in other articles of the Code.

*ABC fire extinguisher* is a fire extinguisher classified by fire type. The A, B, C rating system defines the kinds of burning materials each fire extinguisher is designed to fight. The number in front of the A, B, or C indicates the rating size of fire the unit can extinguish.

*Application* means the initial forms to be completed and submitted by a tower or heavy-duty tower to become an authorized tower or authorized heavy-duty tower in the county pursuant to this article.

*Authorized tower* or *authorized heavy-duty tower* means a towing business which meets the requirements of the towing ordinance and has entered into a towing service agreement to provide towing services and/or heavy-duty towing at the request of the sheriff's office or other law enforcement personnel.

*Auxiliary tow lights* are stop, tail and turn signal lights attached to the trailing end of the towed vehicle and operated as part of the towing vehicle lighting system.

*Boom* is a structural member, extending from a mast, that supports the load and is used to hold, extend or lift a load free of the ground and clear of the tow truck body.

*Box trailer* is a type of trailer that has walls and a roof to completely enclose the cargo and keep it protected from the elements during travel.

*Brake caging* is an emergency procedure used to move a truck or trailer off of a traveled portion of the roadway when there is a complete failure of the air brake system. This procedure releases the spring tension within the brake chamber, which will render the wheels with no brakes when completed.

*County* means the County of Spotsylvania.

*Deck rating* means maximum weight capacity for the ramp of a rollback.

*Dump trailer* or *dump container* is a bucket-like trailer or container with an open top for loading, commonly used for hauling bulk quantities of loose materials. One end may be raised for the load to slide out.

*Dump truck* is a truck used for transporting loose material, which is typically equipped with an open-box bed hinged at the rear and equipped with hydraulic rams to lift the front.

*Emergency* means a critical traffic problem, snowstorm, ice storm, hurricane or other extreme weather conditions; parade or other similar public event or a riot, disaster or similar event not ordinarily or usually occurring.

*Forklift* is a machine used to move items loaded on pallets or skids.

*Gross weight* or *gross vehicle weight* is the aggregate weight of a vehicle or combination of vehicles and the load thereon.

*GVWR* means gross vehicle weight rating as specified by the manufacturer (loaded weight of a single vehicle).

*Heavy-duty tow, heavy-duty tows* or *heavy-duty towing* means the act of removing an unattended, abandoned, wrecked or immobile vehicle, having a GVWR of greater than ten thousand (10,000) pounds, by heavy duty towing and recovery truck, within the county. The preparation of a vehicle for removal by a heavy-duty towing and recovery truck or the attachment of a vehicle to a heavy-duty towing and recovery truck, or both, does not, for purposes of this article, constitute a heavy-duty tow or heavy-duty towing.

*Heavy-duty road tractor* is a commercial, rear-wheel drive road tractor used for hauling semi-trailers and is heavy-duty off road capable.

*Heavy-duty tow rotation list* means the list maintained by the sheriff of those authorized heavy-duty towers meeting the requirements of subsection 12-232(b) herein, who are authorized to respond county-wide to the sheriff's or other law enforcement personnel's requests for heavy-duty towing.

*Heavy-duty towed vehicle* is any vehicle having a GVWR exceeding ten thousand (10,000) pounds, towed by an authorized heavy-duty tower pursuant to their towing service agreement and all heavy-duty towing requirements set forth in this article.

*Heavy-duty tower* is a person who 1) drives a heavy duty towing and recovery truck for a towing business, or 2) is engaged in the business of a) removing disabled vehicles, parts of vehicles, their cargoes, and other objects, having a GVWR of greater than ten thousand (10,000) pounds, to facilities for repair and safekeeping, and b) restoring to the highway or other location, where they either can be operated or removed to other locations for repair and safekeeping, vehicles that have come to rest in places where they cannot be operated.

*Heavy-duty towing and recovery truck* or *heavy-duty tow truck* is a truck for hire, with a manufacturers GVWR of at least thirty-two thousand (32,000) pounds, designed to lift, pull or carry another vehicle with a GVWR of greater than ten thousand (10,000) pounds, by means of a hoist or other mechanical apparatus.

*Heavy-duty towing and recovery unit* is any towing vehicle meeting the requirements set forth in subsection 12-232(b) herein, used by authorized towers on the heavy-duty tow rotation list to perform heavy-duty tows pursuant to law enforcement requested towing in the county.

*Heavy-duty towing fees* are amounts which may be charged by authorized heavy-duty towers on the heavy-duty tow rotation list, for law enforcement tows of vehicles, parts of vehicles, their cargoes, and other objects, having a GVWR of greater than ten thousand (10,000) pounds, and made with the heavy-duty towing and recovery units and equipment, each meeting the requirements set forth in subsection 12-232(b).

*Highway* means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the county, including the streets and alleys, and, for law enforcement purposes, (i) the entire width between the boundary lines of all private roads or private streets that have been specifically designated "highways" by this Code, and (ii) the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the county.

*Hoist* is an apparatus designed, manufactured and used to lift a load vertically over inclines greater than forty-five (45) degrees.

*Hydraulic wheel-lift* is a hydraulic device that tows a vehicle by lifting one end of the towed vehicle by the wheels to minimize the risk of damage, air foils and other aerodynamic styling features.

*Law enforcement agency* means the County Sheriff's Office. The Virginia Department of State Police falls within this definition only when entered into a memorandum of understanding with the County to provide towing services.

*Law enforcement officer* or *Law-enforcement personnel* means the Sheriff and those deputies, employees and agents of the Sheriff authorized to direct or regulate traffic within the County or to make arrests within the County for violations of this Chapter or Title 46.2 of the Code of Virginia, as amended. For purposes of this chapter, Virginia State Troopers fall within this definition only if an active Memorandum of understanding exists between the County and Virginia Department of State Police for the latter to request law enforcement tows within the County.

*Law enforcement requested towing scene* means the specific place where an authorized tower or authorized heavy-duty tower is directed to respond to provide towing services and/or heavy-duty towing at the request of law enforcement personnel pursuant to the towing service agreement.

*Law enforcement tow* or *law enforcement requested towing* is a request made by law enforcement personnel or a law enforcement agency pursuant to this article and/or the towing service agreement, and towing and/or heavy-duty towing requests made by a law enforcement officer at the request of the owner or operator of an unattended, abandoned, or immobile vehicle, when no specific service provider is requested by such owner or operator.

*Lienholder* means a creditor having a legal right or financial interest in a vehicle.

*Lift arms* are devices that attach to the lift bar for engaging the tires of towed vehicles.

*Lift bar* is a transverse, horizontally pivoting member attached to the boom of a wheel-lift or underlift, to which towing accessories may be attached.

*Log* means a list of vehicles towed by an authorized tower or authorized heavy-duty tower at the request of law enforcement personnel, which shall be maintained by each authorized tower or authorized heavy-duty tower.

*Memorandum of understanding* or *MOU* means a written agreement between two or more parties working in conjunction to achieve the purposes of this chapter.

*Minor traffic infraction* means a driving-related violation of a section within Virginia Code, Title 46.2 or a substantially similar statute or ordinance the United States federal government, or a state or local government within the United States, which is classified as neither a felony nor a misdemeanor, and is punishable by a fine of not more than that provided for the lowest-level misdemeanor in that jurisdiction. No violation listed in Virginia Code § 46.2-341.20, or substantially similar violations in other jurisdictions, shall be considered a minor traffic infraction.

*Motor carrier inspector* is an individual who performs safety inspections on commercial vehicles for the Commonwealth of Virginia.

*Motor vehicle* means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this chapter.

*National Fire Protection Association (NFPA) 10* means requirements to ensure that portable fire extinguishers will work as intended to provide a first line of defense against fires of limited size.

*Off road recovery unit* means any towing vehicles and/or towing equipment necessary to effectuate the safe and proper towing of a vehicle from an area in which the towing vehicle must leave the boundaries of the designated highway or roadway, including, but not limited to: fields, ditches, ravines, woods, or bodies of water. Recovery services include winching, hoisting, and any other necessary efforts to position the towed vehicle so the towing vehicle may hook up or load the towed vehicle, as well as any necessary removal and clean-up services.

*Operator* means any person who 1) either drives or is in actual physical control of a vehicle on a highway, or 2) is exercising control over or steering a vehicle being towed by a motor vehicle.

*Owner* means a person who holds the legal title to a vehicle, along with all other definitions for "owner" set forth in Virginia Code § 46.2-100.

*Pickup truck or panel truck* means (i) every motor vehicle designed for the transportation of property and having a registered gross weight of seven thousand five hundred (7,500) pounds or less or (ii) every motor vehicle registered for personal use, designed to transport property on its own structure independent of any other vehicle, and having a registered gross weight in excess of seven thousand five hundred (7,500) pounds but not in excess of ten thousand (10,000) pounds.

*Receipt* means a printed, numerated, dated receipt which includes company name, company address and business number, and receipt signed by vehicle owner, operator, lienholder, or another person authorized by the vehicle owner via his or her written and signed permission.

*Road tractor* is a high-powered truck designed to pull box trailers or semi-trailers.

*Roadway* means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two (2) or more roadways if divided by a physical barrier or barriers or an unpaved area.

*Rollback* is a motor vehicle that is designed with a ramp on wheels and a hydraulic lift with a capacity to haul and tow another vehicle, used to move disabled, improperly parked, impounded, or otherwise indisposed motor vehicles.

*Rotator* is a rotating recovery boom built, manufactured and certified as a tow truck or heavy-duty towing and recovery truck.

*Safety chains* are used to connect the towing and towed vehicles as a secondary coupling system to prevent separation of a vehicle trailer, converter dolly, or towed vehicle, should the primary coupling become detached.

*SCC* means the Virginia State Corporation Commission.

*Sheriff* means the Spotsylvania County Sheriff or his designee.

*Shoulder* means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curb line or ditch.

*Skid steer loader* is a small, rigid-frame, engine-powered machine with lift arms used to attach a wide variety of labor-saving tools and attachments.

*Suspension* means temporary removal from the towing rotation list and/or heavy-duty tow rotation list for a violation of the towing ordinance or breach of the towing service agreement.

*SHRP2* means Strategic Highway Research Program 2 training, which is traffic incident management responder training offered free of charge by the Virginia State Police.

*Standard towing fees* are amounts which may be charged by authorized towers on the towing rotation list, for law enforcement tows of vehicles, parts of vehicles, their cargoes, and other objects, having a GVWR of less than ten thousand (10,000) pounds, and made with the required towing vehicles and equipment as required in subsection 12-232(a).

*Storage site* means a secured location required to be kept by authorized towers and authorized heavy-duty towers for storage of towed vehicles. May consist of an outside lot or a building, facility, or service bay dedicated to the inside storage of towed vehicles.

*Termination* means permanent removal from the towing rotation list and rescission of the towing service agreement.

*Tow, tows, towing or towed* means the act of removing a vehicle, by tow truck, from public highways, roadways, shoulders and other public property within the county. The preparation of a vehicle for removal by a tow truck or the attachment of a vehicle to a tow truck, or both, does not, for purposes of this article, constitute a tow or towing.

*Tow sling* is a device used for lifting and towing vehicles with a partial load supported on rubber straps.

*Tow truck or regular wrecker* means a truck for hire 1) designed and equipped to lift, pull or carry another vehicle by means of a hoist or other mechanical apparatus, and 2) having a manufacturer's GVWR of at least ten thousand (10,000) pounds.

*Tow truck operator* means a person who drives a towing vehicle and performs tows and/or heavy-duty tows for an authorized tower and/or authorized heavy-duty tower.

*Towed vehicle* is any vehicle towed by an authorized tower pursuant to the towing service agreement and this article.

*Tower* means a person who is engaged in the business of a) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair and safekeeping and b) restoring to the highway or other location, where they either can be operated or removed to other locations for repair and safekeeping, vehicles that have come to rest in places where they cannot be operated.

*Towing advisory board* means the Spotsylvania County towing advisory board.

*Towing business* means towing operation(s) owned, controlled and/or operated by an individual, corporation, partnership or firm having legal or equitable title in said operation(s) at one (1) location within the county for a minimum of one (1) year, along with meeting all of the requirements set forth in subsection 12-230(b).

*Towing equipment* means apparatus needed to perform safe and proper towing according to the industry tow standards.

*Towing ordinance* means Spotsylvania County Code, chapter 12, article VII.

*Towing rotation list* means the list maintained by the sheriff of those towers authorized to respond in each zone of operation to law enforcement personnel's requests for the towing of vehicles. The towing advisory board may recommend and the board of supervisors may determine, by resolution, how many authorized towers shall be on the list. However, in no event shall the sheriff remove existing authorized towers on the list due to more restrictive limits on the number of authorized towers set by the board of supervisors.

*Towing service agreement* is the written contract between the sheriff's office and an authorized tower or authorized heavy-duty tower regarding towing services and/or heavy-duty towing services. Only one (1) towing service agreement shall be executed by any one (1) towing business, which shall encompass all of the tow truck operators who are employed by, or perform law enforcement requested tows for, that towing business.

*Towing vehicle* is any tow truck, regular wrecker, rollback, heavy-duty towing and recovery unit, road tractor, and dump truck used by authorized towers and authorized heavy-duty towers to tow vehicles pursuant to the towing service agreement and this article.



*Tractor truck* means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

*Trailer* means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.

*Truck* means every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of seven thousand five hundred (7,500) pounds. Truck does not include any pickup or panel truck.

*Vehicle* means every device in, on or by which any person or property may be transported or drawn on a highway, except electric personal delivery devices and devices moved by human power or used exclusively on stationary rails or tracks.

*VSA-41* is an application to request a mechanic's or storage lien, as provided in Virginia Code §§ 46.2-644.01, 46.2-644.02 and 46.2-644.03.

*Wheel loader* is a versatile piece of equipment used to handle and transport material, transfer material to and from trucks, and to excavate at or above wheel level.

*Wheel straps* are devices used to tie down the wheels of the towed vehicle, when using wheel-lift, car carrier, or dolly towing equipment, to limit the potential for separation of the towed vehicle from the towing apparatus. Two (2) must be installed.

*Winch* or *winching* is a device, or using such device, for winding and unwinding cable.

*Zone of operation* means the geographical areas of the county as designated from time to time by the sheriff or his designee as operating areas for authorized towers and authorized heavy-duty towers within the county.

(Ord. No. 12-55, § 1, 6-28-18; Ord. No. 12-57, 8-9-22)

**Sec. 12-231. - Duties and requirements of authorized towers and authorized heavy-duty towers.**

- (a) Authorized towers and authorized heavy-duty towers shall, at the request of, and as directed by law enforcement personnel as defined in this Article, tow vehicles in the county in a manner that is damage-free to the towed vehicle or heavy-duty towed vehicle and by the most safe and direct route.
- (b) Authorized towers and authorized heavy-duty towers shall comply with all applicable federal, state and local laws, including but not limited to, the securing of all necessary federal, state and local licenses and registration fees. All authorized towers and authorized heavy-duty towers shall display a tag (tow truck for hire) or a Virginia-

apportioned tag. All authorized towers and authorized heavy-duty towers must remain current in all financial obligations to the county.

- (c) All authorized towers and authorized heavy-duty towers shall provide service twenty-four (24) hours/day, three hundred sixty-five (365) days/year.
- (d) Authorized towers and authorized heavy-duty towers shall have available sufficient qualified personnel to receive calls and execute all requested towing and/or heavy-duty towing at all times.
- (e) Authorized towers shall have at least one (1) tow truck and one (1) rollback to perform towing services under this article.
- (f) Authorized towers and authorized heavy-duty towers shall give the sheriff twenty-four (24) hours-notice prior to a change in their phone number and/or address. No beepers or voice transfer devices will be allowed.
- (g) Time is of the essence in the performance of towing services. The authorized tower shall arrive at the law enforcement requested towing scene within thirty (30) minutes of receiving a call, with a grace period of ten (10) minutes if the tower contacts the requesting law enforcement agency within the first twenty-five (25) minutes after receiving the call. If such time limit is not met, the sheriff's office or any other law enforcement personnel will notify a second authorized tower and service from the first authorized tower is considered canceled. Neither the sheriff's office, other law enforcement personnel, nor the vehicle owner shall be liable for any payment to the first authorized tower notified. Authorized heavy-duty towers are exempt from the 30-minute time limit, so long as they contact the requesting law enforcement agency within the first twenty-five (25) minutes of receiving the call and they arrive on the scene within one (1) hour after receiving the call. If such time limit is not met, the sheriff's office or any other law enforcement personnel will notify a second authorized heavy-duty tower and service from the first authorized heavy-duty tower is considered canceled. Neither the sheriff's office, other law enforcement personnel, nor the vehicle owner shall be liable for any payment to the first authorized heavy-duty tower notified.
- (h) Authorized tower or authorized heavy-duty tower will not be held responsible for unavoidable delays caused by circumstances beyond its control such as natural disasters or acts of God. However, if excessive delays are caused by circumstances within the authorized tower or authorized heavy-duty tower's control such as negligence, lack of manpower, poorly conditioned equipment, etc., law enforcement personnel may recommend to the towing advisory board that the authorized tower or authorized heavy-duty tower be suspended/terminated from the towing rotation list and/or heavy-duty tow rotation list. Such matters shall be decided by the towing advisory board pursuant to the provisions of sections 12-240 through 12-243 of this article.

- (i) Authorized towers and authorized heavy-duty towers shall respond to calls for towing and/or heavy-duty towing using only their own towing vehicles, equipment and personnel. Calls shall not be passed on to another tower or heavy-duty tower, including an authorized tower or authorized heavy-duty tower, except by a law enforcement agency pursuant to this article.
- (j) If a towing vehicle is not available or the authorized tower or authorized heavy duty tower cannot, for whatever reason, respond within the time required by this article, that authorized tower or authorized heavy-duty tower shall immediately indicate to the dispatcher that they cannot respond and the reason why. The dispatcher shall then notify the next authorized tower or authorized heavy-duty tower on the towing rotation list or heavy-duty tow rotation list for that zone of operation.
- (k) If upon arrival at the law enforcement requested towing scene, the authorized tower or authorized heavy-duty tower determines that the towing equipment he has brought will not be sufficient, he or she will be permitted by law enforcement personnel to notify his or her towing business to get the necessary additional towing equipment, which shall arrive at the scene within thirty (30) minutes of his or her call.
- (l) Initial response to calls for towing equipment from another towing business, regardless of ownership, is prohibited. The initial authorized tower or authorized heavy-duty tower may, however contract with another authorized tower or authorized heavy-duty tower to assist at the scene if specialized towing equipment not normally owned by a towing company is needed, and he or she reasonably believes that additional assistance is necessary in order to effectuate a safe and damage-free tow or heavy-duty tow.
- (m) All towing equipment used by authorized towers and authorized heavy-duty towers must be in good working order.
- (n) Authorized towers and authorized heavy-duty towers may use crossovers located on the interstate only when directed to do so by the sheriff's office or any other law enforcement agency pursuant to § 46.2-920.1 of the Code of Virginia.
- (o) All authorized towers and authorized heavy-duty towers shall have the towing business' name, address (as required by state law), and telephone number printed on both sides of the towing vehicle in letters and numbers of such size, shape and color as to be readily legible during daylight hours from a distance of fifty (50) feet while the towing vehicle is not in motion.
- (p) Authorized towers and authorized heavy-duty towers may use any towing equipment they own to assist them at the scene and to tow the vehicle as long as the authorized tower or authorized heavy-duty tower is initially on the scene within the allotted time frame.

- (q) All authorized towers and authorized heavy-duty towers shall have business cards which contain the following information: name of the towing business, address of business (no P.O. Box numbers), a telephone number, and an after-hours telephone number if necessary. All tow vehicles shall be stocked with a supply of such business cards sufficient to ensure that cards are available for distribution to citizens whose vehicles are towed and to other interested parties.
- (r) All tow truck operators shall possess a valid Virginia driver's license or commercial driver's license (as may be required by law) and shall be qualified to operate the tow vehicle and its equipment. Authorized towers shall ensure that all of their employees meet these requirements.
- (s) Fifty (50) percent of the tow truck operators of every towing business for authorized towers and authorized heavy-duty towers will be required to attend a nationally accredited towing course, which may be taken online, within one (1) year of initial acceptance to the towing rotation list and/or heavy-duty tow rotation list, and maintain all of their current towing certifications. Authorized heavy-duty towers must additionally be certified in all services they provide (i.e. hazardous materials, heavy recovery, etc.). In addition, all authorized towers and authorized heavy-duty towers registered with the county after July 1, 2018 will be required to attend SHRP2 (Strategic Highway Research Program 2) training. SHRP 2 training is traffic incident management responder training, which if offered free of charge by the Virginia State Police.
- (t) Authorized towers and authorized heavy-duty towers shall remove all litter, glass and debris caused by the incident which necessitated towing and/or heavy-duty towing.

(Ord. No. 12-55, § 1, 6-28-18; Ord. No. 12-57, 8-9-22)

**Sec. 12-235. - Responsibilities and records of authorized towers and authorized heavy-duty towers and sheriff's office.**

- (a) If an owner or lienholder fails to claim any vehicle; or if an authorized tower or authorized heavy-duty tower wants to satisfy any lien which it has on a vehicle, it shall be the authorized tower or authorized heavy-duty tower's responsibility to dispose of or sell the vehicle in compliance with the Virginia Code.
- (b) Authorized tower or authorized heavy-duty tower shall be reasonably responsible for vehicle(s) towed and any contents from the time the vehicle is towed until one (1) of the following events occurs:
  - (1) The vehicle is delivered to a location specified by the owner or a person authorized in a written and signed statement from the owner.

- (2) The vehicle and its contents are released to and accepted by the owner, lienholder or a person authorized in a written and signed statement from the owner or lienholder, in the same condition as originally towed. A facsimile of the written and signed authorization shall be acceptable as a form of release from the owner or lienholder of the vehicle along with a photocopy of the owner's or lienholder's and authorized person's photo identifications.
  - (3) The vehicle is otherwise disposed of according to law.
- (c) The authorized tower and/or authorized heavy-duty tower shall keep records of all vehicles which have been towed pursuant to the towing service agreement. These records shall include, at a minimum, the date and time of the tow or heavy-duty tow, the vehicle's license plate number and state of issue, the model and color of the vehicle, the location from which it was towed, the charges for towing or heavy-duty towing and storage, the disposition of the vehicle, and date of disposition.
  - (1) Such records Such records shall be available for inspection by the sheriff or his designee during the authorized tower and/or authorized heavy-duty tower's normal business hours
  - (2) The towing business shall retain a copy of these records for at least twelve (12) months from the date of tow or heavy-duty tow.
- (d) Authorized towers and/or authorized heavy-duty towers shall promptly arrange for the release of vehicles towed or stored pursuant to this article. There must be an attendant on duty from the hours of 8:00 a.m. through 5:00 p.m., except on weekends and state holidays, for the purpose of permitting inspection or release of towed vehicles from storage sites. After hours, authorized towers, authorized heavy-duty towers or storage site attendants must be available by telephone, as well as available twenty-four (24) hours a day each day of the year to go to the storage site for the purpose of releasing towed vehicles.
- (e) Authorized towers and/or authorized heavy-duty towers, upon receiving a request to release or permit an inspection of a towed vehicle from the owner, operator, lienholder or a person authorized in a written and signed statement from the owner or lienholder, shall release that vehicle to the owner, lienholder or other authorized person between the hours of 8:00 a.m. and 5:00 p.m. upon full payment being paid to the authorized tower or authorized heavy-duty tower.
- (f) Authorized towers and/or authorized heavy-duty towers, upon receiving a request to release or permit an inspection of a towed vehicle by an owner, lienholder or a person authorized in a written and signed statement from the owner or lienholder during non-business hours, shall allow and otherwise require two (2) hours-notice for the release of such vehicle.

- (g) Authorized towers and/or authorized heavy-duty towers shall not release any vehicle designated as "seized" or "seized for forfeiture" by a law enforcement agency until the authorized tower or authorized heavy-duty tower obtains permission from the requesting agency. The authorized tower or authorized heavy-duty tower shall bill the requesting agency for the cost of the tow, or heavy-duty tow, and storage.

(Ord. No. 12-55, § 1, 6-28-18; Ord. No. 12-57, 8-9-22)

**Sec. 12-236. Compensation to authorized towers and authorized heavy-duty towers.**

- (a) All costs incident to towing and storage shall be paid to the authorized tower and authorized heavy-duty tower by the owner or lienholder of the towed and stored vehicle or a person authorized in a written and signed statement from the owner or lienholder.
- (b) The towing and storage fees charged by the authorized tower or authorized heavy-duty tower shall comply with its towing service agreement and shall not exceed the maximum rates set forth below. There shall be no additional charges for mileage within a single zone. Storage charges shall be charged daily after the towed vehicle had been at the storage site a minimum of twenty-four (24) hours, based on a 24-hour period, with day hours being Monday through Friday, from 8:00 a.m. to 5:00 p.m., and after hours from 5:00 p.m. to 7:59 a.m. every day, and all day on weekends and holidays:

(1) *Standard towing fees.*

a. Basic law enforcement tow (accident and clean up). Includes, but not limited to, sweeping up and removing glass and vehicle and its parts from roadway.	\$325.00/day \$375.00/after hours
b. Basic law enforcement tow non-accident (impound, disabled).	\$200.00/day \$225.00/after hours
c. Additional cleanup. Including but not limited to, a need for more than five (5) gallons of absorbent, or removal of trees or other excessively large items.	\$50.00
d. After hours release/gate fee.	\$65.00
e. Third/subsequent visit to vehicle (first two (2) free).	\$20.00 per visit
f. Second tow truck required. Exception: Second tow truck is for a second vehicle requiring an additional VSA-41.	\$175.00/day \$200.00/after hours
g. Daily vehicle storage fee, calculated per 24-hour period No charge if pick up within twenty-four (24) hours of arrival at storage site.	\$75.00 per unit
h. Cutting off locks (boat/trailer).	\$35.00
i. Tarp fee.	\$55.00
j. Administrative fees—After third business day with proof of work	\$250.00
k. Winching/recovery fees:	

1. Winching/recovery 20—74 feet:	\$125.00
2. Advanced winching/recovery seventy-five (75) feet and up. (Overturned vehicles/cutting of trees)	\$200.00
l. Law enforcement out-of-zone towing mileage (from border of assigned zone to drop-off point).	\$4.50 per mile
m. Standby fee (after first hour).	\$100.00 per hour
n. Off-road recovery fee	Prices set at reasonable rate compared to other local towers.
o. Extra manpower (laborer) recovery (per non-operator employee)	\$65.00 per hour
p. Authorized tower may sub-contract (must have receipt)	Cost + 35%

(2) *Heavy-duty towing fee.*

a. Basic law enforcement heavy-duty tow (HDT)	
First two (2) hours	\$800.00
Each subsequent hour (same HDT vehicle)	\$400.00
b. Daily vehicle storage fee—Calculated per 24-hour period and no charge if picked up within 24 hours of arrival at storage site.	\$100.00
c. Administrative fees (after third business day with proof of work).	\$250.00
d. After hours release/gate fee. Fee begins when gate opens.	\$65.00 per hour
e. Brake caging fee.	\$65.00
f. Extra manpower (laborer) recovery (per non-operator employee):	\$95.00 per hour
g. Air bags—Authorized tower may sub-contract at minimum rate.	\$1,200.00 minimum
h. Land-all style trailer fee.	\$450.00 per hour
i. Other equipment standby fee.	\$150.00 per hour
j. Recovery price per pound.	Based on acceptable industry standards.
k. Specialized equipment.	Based on acceptable industry standards.

- (c) Authorized towers and authorized heavy-duty towers may charge a fee for the use of credit cards which complies with federal and Virginia law.
- (d) An itemized numbered receipt for payment shall be issued to the owner, owner-authorized operator, lienholder, or a person authorized in a written and signed statement from the owner or lienholder making payment. Said receipt shall also include a signature line for the owner, owner-authorized operator, lienholder or other owner or lienholder-authorized person acknowledging receipt of the vehicle.

- (e) Additional fees may be charged for extraordinary conditions, including when there is a declared state of emergency for the county. All additional fees must be documented.
- (f) The current Tow Board shall review towing and recovery charge rates under Section 12-236 at least once every two years on or about January 1<sup>st</sup> before a new Tow Board is appointed by the Board of Supervisors to ensure fees are properly adjusted to the economy.

(Ord. No. 12-55, § 1, 6-28-18; Ord. No. 12-57, 8-9-22)

**Sec. 12-237. - Law enforcement tow requirements.**

- (a) *Authorized requester requirements.* Law enforcement tow requests shall be made only by Law enforcement personnel, as defined in Section 12-226.
  - (1) The County and Virginia Department of State Police may enter into a Memorandum of understanding for the latter to provide for towing services within the County; and
  - (2) During the duration of such MOU, the Virginia Department of State Police shall be considered a Law enforcement agency, as defined in this Chapter; and
  - (3) During the duration of such MOU, those troopers, employees and agents of the Virginia Department of State Police, who are authorized to direct or regulate traffic or make arrests within the County for violations of this Chapter or Title 46.2 of the Code of Virginia, shall be considered Law enforcement personnel, as defined in this Chapter; and
  - (4) During the duration of such MOU, those personnel described in subsection (a)(3) above, shall be authorized to request Law enforcement tows within the County.
  - (5) Upon termination, revocation or expiration of such MOU, the designations conferred upon the Virginia Department of State Police and its personnel in this subsection, and the authority of same to request Law enforcement tows within the County, shall cease.
- (b) *Safety requirements.*
  - (1) No authorized tower, authorized heavy-duty tower or tow truck operator shall participate in a law enforcement tow unless the towing vehicle being used is equipped with the following equipment:
    - a. A power winch, winch line, and boom, with factory-rated lifted capacity of not less than eight thousand (8,000) pounds, single line capacity or a hydraulic wheel-lift with a lifting capacity of not less than two thousand five hundred (2,500) pounds;
    - b. A hydraulic lift sufficient to prevent swinging of any towing equipment and/or vehicle being transported and/or towed. This subsection does not apply to a rollback unless the wheels of a towed vehicle are in contact with the ground. In the event that a self-contained non-propelled towing device, or some other form of auxiliary device is used,



the vehicle to which that device is attached and which is providing the motive and braking forces, does not need to provide this equipment;

- c. Five-sixteenths-inch link steel safety chains for towing a vehicle with a gross vehicle weight of ten thousand (10,000) pounds or less and three-eighths-inch highest steel chains or their equivalent for towing vehicles with a gross vehicle weight over ten thousand (10,000) pounds. These link sizes are minimums.
- d. One (1) five-pound ABC fire extinguisher. All fire extinguishers shall be properly filled, operable, and located so as to be readily accessible for use. Fire extinguishers shall meet the minimum requirements of the National Fire Protection Handbook 10, and shall be so labeled;
- e. One crowbar or wrecking bar that is not less than thirty-six (36) inches in length with a wedge head;
- f. One broom of a type designed for pushing with an eighteen (18) inch head, and a handle of not less than thirty-six (36) inches;
- g. One flat-edged shovel of at least nine (9) inches, with a handle of not less than thirty-six (36) inches;
- h. A box or bucket to carry glass and/or debris removed from accident scenes;
- i. Rope or wire suitable for securing doors, hoods, trunks, etc.;
- j. A functioning spotlight or flashlight;
- k. Outside rearview mirrors on both sides of the towing vehicle;
- l. Emergency lights;
- m. Three (3) portable red emergency triangle reflectors, orange cones at least eighteen (18) inches tall, or flares;
- n. Auxiliary tow lights;
- o. A high mounted stop lamp shall be mounted on any towing vehicle if its overall width is less than eighty (80) inches, or its GVWR is ten thousand (10,000) pounds or less and is manufactured on or after September 1, 1993; and
- p. Work lights shall be wired to a separate switch and shall not be illuminated when the towing vehicle is in motion. These lights must be steady burning white lights that project light to the rear of the towing vehicle.

(2) No authorized tower, heavy-duty tower or tow truck operator shall use or operate a towing vehicle to tow a vehicle without using auxiliary tow lights unless the towed vehicle or heavy-duty towed vehicle is loaded on a rollback.

(3) No authorized tower or tow truck operator shall equip a towing vehicle with a two-way radio or scanner, any two-way radio that can transmit on any law enforcement frequency, or any other such devices. Any authorized tower or authorized heavy-duty tower found transmitting on any law enforcement frequency shall be subject to suspension or revocation in accordance with this article.

(4) No authorized tower, authorized heavy-duty tower or tow truck operator shall equip a towing vehicle with any device designed to detect or monitor radar, laser, or any other speed-measuring instrument or perform a law enforcement tow using a towing vehicle so equipped.

(5) No authorized tower, authorized heavy-duty tower or tow truck operator shall perform a law enforcement tow without using safety chains or two (2) wheeled straps per recommended guidelines from the manufacturer of the towing vehicle or equipment.

(6) No authorized tower, authorized heavy-duty tower or tow truck operator shall use a towing vehicle to lift more than its factory-rated lifting capacity allows.

(7) An authorized tower, authorized heavy-duty tower or tow truck operator shall ensure that while lifting a vehicle in preparation for a law enforcement tow, all nonessential persons are a safe distance from the towing vehicle and towed vehicle. A safe distance is at least twice the distance between the end of the boom and the point of hook-up on the vehicle being winched or twice the distance the vehicle is being lifted, whichever is greater. If a hydraulic lift is being used, a safe distance is twice the distance to which the lift arm is extended. A tow truck operator is responsible for maintaining safe conditions around the towing vehicle during any preparation for towing and winching of the vehicle.

(8) If a towing vehicle or towed vehicle or heavy-duty towed vehicle is in a lane of traffic, the tow truck operator shall ensure that the flow of traffic is diverted. A tow truck operator shall not place or operate a towing vehicle cable across a lane or lanes of traffic, unless the traffic is stopped or diverted by law enforcement personnel, or in the event law enforcement personnel have not yet arrived on scene and there is imminent danger or actual risk of fire or explosion, the fire chief or fire officer in charge of the scene, in person or by deputy, may permit safe winching or lifting of the vehicle to be towed.

(9) An authorized tower, authorized heavy-duty tower and tow truck operators shall maintain and keep in good working order all safety mechanisms of the towing vehicles they own and operate, respectively, including, but not limited to, all headlights, tail lights, turn signals, brakes, brake lights, hazard lights, flashing warning lights, windshield wipers, wiper blades, handles opening doors and windows, and tires.

(10) All towing vehicles shall operate within the applicable recommended towed vehicle and heavy-duty towed vehicle manufacturer's safety policies and procedures.

(11) Each towing vehicle shall meet the safety requirements of all other applicable statutes in addition to meeting the safety requirements of this article.

(c) *Law enforcement requested towing scenes.* The following rules apply to law enforcement requested towing scenes:

(1) Except in an emergency or at the direction of a law enforcement officer, tow truck operators shall park all towing vehicles at least one hundred (100) feet from any law enforcement scene. A tow truck operator may only use beacon lights as directed by state law.

(2) The tow truck operator shall park the towing vehicle on the same side of the road as the vehicle to be towed.

(3) The tow truck operators of the authorized tower(s) and or authorized heavy-duty tower(s) selected to perform the law enforcement tow shall remove all debris from the law enforcement requested towing scene, and taking care to avoid any areas which contain evidence pertinent to an investigation as directed by law enforcement officers.

(4) Any tow truck operator soliciting a vehicle operator at the scene after law enforcement officers arrive, or soliciting any injured operator at any time, shall not be allowed to perform the law enforcement tow. An injured party will be defined as a person who has visible injuries or who claims injuries.

(5) The owner and/or operator of a vehicle to be towed will be allowed to determine who will tow the vehicle and, if any, the trailer connected to same and the load thereon and therein to safety from a law enforcement requested towing scene, except if the owner and/or operator is under arrest or the vehicle is an immediate traffic hazard.

(6) All towing vehicles are subject to on-scene inspections by any law enforcement officer designated as towing vehicle inspector, any motor carrier inspector, or any sheriff's office designee.

(7) Authorized towers, authorized heavy-duty towers and tow truck operators shall obey all federal, state, and county laws and ordinances. Violators are subject to arrest, and penalties authorized by law, including the suspension or revocation of any.

(8) Once a towed vehicle or heavy-duty towed vehicle has been fully hooked up and a law enforcement tow has been initiated, the authorized tower or authorized heavy-duty tower may charge for the tow or heavy-duty tow only as authorized pursuant to this article.

(9) At any law enforcement requested towing scene, any law enforcement officer may inspect any towing vehicle and towing equipment for violations of this article.

(10) Unless otherwise directed by a law enforcement officer, vehicles towed from law enforcement scenes shall be taken directly to the storage site for the authorized tower or authorized heavy-duty tower with whom the tow truck operator is employed or sponsored.

(Ord. No. 12-55, § 1, 6-28-18; Ord. No. 12-57, 8-9-22)

**Sec. 12-238. - Rotation system.**

- (a) The sheriff and his designees shall ensure that authorized towers are called on a rotating basis according to the towing rotation list for the zones of operation to which they are assigned. When heavy-duty towing is required, the sheriff or his designees shall ensure that authorized heavy-duty towers are called on a rotating basis according to the heavy-duty tow rotation list, which applies county-wide.
- (b) The owner or operator of a vehicle to be towed shall be allowed to specify the tower or heavy-duty tower of his or her choice, whether or not the tower or heavy-duty tower is an authorized tower or authorized heavy-duty tower, unless the vehicle to be towed constitutes a traffic hazard and the requested tower or heavy-duty tower will have an unacceptable response time.
- (c) Law enforcement personnel shall not call a tower or heavy-duty tower who does not have a towing service agreement with the sheriff's office unless all authorized towers on the towing rotation list or, if heavy-duty towing is needed, authorized heavy-duty towers on the heavy-duty tow rotation list are unavailable or an emergency exists.
- (d) The senior patrol supervisor on duty may temporarily suspend the towing rotation list and/or heavy-duty tow rotation list for reasons such as, but not limited to, bad weather and any emergency events. However, any towers and heavy-duty towers who are randomly used at the request of law enforcement officers, during suspensions of either list, must be reported to the sheriff's office communications office for record purposes. In the event an authorized tower or authorized heavy-duty tower responding to a law enforcement tow is not used, for reasons not the fault of the authorized tower or authorized heavy-duty tower, that authorized tower or authorized heavy-duty tower will be placed back on top of their respective list.
- (e) The law enforcement personnel at a law enforcement requested towing scene may reject the services of the authorized tower or authorized heavy-duty tower dispatched if tow the truck operator arrives unfit to perform the tow. Unfitness shall include, but is not limited to, possession of an improper or inadequate towing vehicle or equipment according to provisions and requirements of this article, and/or operation by personnel who, due to obvious signs of intoxication or other incapacity, are not able to perform the tow or heavy-duty tow safely. In the event that the tow truck operator is determined to be unfit, law enforcement personnel shall notify the sheriff's office communications office to dispatch the next authorized tower or authorized heavy-duty tower on the appropriate list, shall report said decision to the senior patrol supervisor on duty, and shall file a written report with the

sheriff. Any representation of an authorized tower or authorized heavy-duty tower who law enforcement personnel deems unfit to perform the tow, will, at a minimum, cause the authorized tower or authorized heavy-duty tower to lose that turn in the rotation, and fall to the bottom of their respective list. Additional violations may cause the tow truck operator and authorized tower or authorized heavy-duty tower to be suspended or terminated pursuant to sections 12-240 through 12-243 of this article.

- (f) Law enforcement personnel will call another authorized tower or authorized heavy-duty tower if the first authorized tower or authorized heavy-duty tower fails to answer the telephone or a busy signal is received after two (2) attempts within five (5) minutes.
- (g) This is an equal call system, giving each authorized tower in a zone, and each authorized heavy-duty tower in the county, equal opportunity to respond. If an authorized tower or authorized heavy-duty tower does not answer his/her telephone or refuses the call, that authorized tower or authorized heavy-duty tower loses that turn in rotation, falls to the bottom of their respective list, and will not be called until their list rotates again.

(Ord. No. 12-55, § 1, 6-28-18; Ord. No. 12-57, 8-9-22)

**Sec. 12-239. - Solicitation of business by authorized towers or authorized heavy-duty towers.**

- (a) No authorized tower or authorized heavy-duty tower shall respond to an accident scene for the purpose of towing the involved vehicles unless specifically called there by authorized law enforcement personnel or a person involved in the accident or emergency. Violation of this section shall result in suspension from the towing rotation list and/or heavy-duty tow rotation list for thirty (30) days for the first offense, sixty (60) days for the second offense, and termination from the towing rotation list and/or heavy-duty tow rotation list for a third offense. Violations of this section shall be punishable as Class 3 misdemeanors.
- (b) Law enforcement personnel may direct an authorized tower to provide necessary towing services in such instances when immediate assistance is necessary to protect persons or property.
- (c) Authorized towers and authorized heavy-duty towers are prohibited from soliciting towing business at the scene of accidents; however, authorized towers and authorized heavy-duty towers are not otherwise prohibited from contracting with any person, firm or corporation.

(Ord. No. 12-55, § 1, 6-28-18; Ord. No. 12-57, 8-9-22)

§ 2. This ordinance shall be in force and effect upon adoption.