ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item
Meeting of November 13, 2007

DATE: November 8, 2007

SUBJECT: Request to advertise for a public hearing on December 15, 2007 for proposed amendments to the County's towing ordinance, Chapter 14.3 of the Arlington County Code, to add "vehicle" to the definitions; increase daily storage fee (after first twenty-four hours); add language to clarify that fees in addition to those contained in this chapter are not allowed; add a "drop fee;" increase the size of required signs; provide a one-year grace period for compliance with new signage requirements; and changes to clarify some sections and make all sections consistent.

C. M. RECOMMENDATION:

Authorize advertising for a December 15, 2007 public hearing on the proposed amendments to the County's towing ordinance, Chapter 14.3 of the Arlington County Code, set forth in Attachment A.

ISSUES: Whether the County Board should amend the towing ordinance to add a definition of "vehicle"; increase the daily storage fee to a maximum of $50.00 (after the first twenty-four hours); add language to clarify that fees in addition to those contained in this chapter are not allowed; add a drop fee of a maximum of $25.00; increase the size of required signs from 100 square inches (10 X 10) to a 12 X 18 inch sign; provide a one-year grace period for compliance with new signage requirements; and other changes to clarify some sections and make all sections consistent.

SUMMARY: The towing ordinance was adopted by the County Board on July 8, 2006, after review by the Advisory Board on Trespass Vehicle Towing. As required by state law, the Advisory Board met on October 2, 2007 to review the current ordinance and make recommendations based on the first year of experience under the new ordinance. Attachment A is a copy of Chapter 14.3 showing the County Manager recommended changes. An overview of the County Manager recommendations and the amendments proposed by the Advisory Board is attached as Attachment C. The critical issues are:

County Manager: _____

County Attorney: _____

Staff:

	Current	Advisory Board Recommendation	County Manager Recommendation
Base Tow Fee	$ 100.00	$ 125.00	$ 100.00
Storage Fee	$ 40.00	$ 50.00	$ 50.00
Drop Fee	-0-	$ 25.00	$ 25.00
Administrative Fee	-0-	$ 75.00	-0-

DISCUSSION: After a little more than a year of experience under the new ordinance, the number of trespass tow complaints has been low--only 75 complaints/inquiries since the date of adoption--and the majority of those complaints were resolved favorably or were legal tows. The number of complaints has decreased by approximately fifty percent since the ordinance was enacted. The significant decrease in the number of complaints indicates that the new consumer protections and the new ordinance provisions are working.

State statute requires the Advisory Board to meet at least annually to review the towing ordinance. In addition, prior to adopting or amending a towing ordinance, state law requires the Advisory Board to make recommendations concerning the provisions of the ordinance. The Advisory Board on Trespass Vehicle Towing, appointed by the County Board on April 24, 2007 and June 19, 2007, met on October 2, 2007 to review the towing ordinance and provide comments to the County Board for consideration. A copy of the Minutes of the Advisory Board meeting is attached as Attachment B.

A section-by-section review of the ordinance by the Advisory Board led to some minor changes being recommended for consistency and clarity:

- use of "vehicle" instead of "motor vehicle"
- including a definition of "vehicle"
- larger signs at lot entrances
- specificity with regard to the size of the lettering on the signs

In addition, the Advisory Board recommended a review of the fee structure (see Minutes, Attachment B, for full discussion). Current County Code allows a $100 flat base tow rate, $40 per day storage fees (after the first twenty-four hours), and prohibits a "drop fee." The Advisory Board recommended the following changes: $125.00 flat base tow rate, $50.00 per day storage fees, and a $25.00 drop fee.

State Code allows a maximum base tow fee of $125.00; for tows between 7:00 pm and 8:00 am or on any Saturday, Sunday, or holiday, an additional fee of no more than $25.00 per instance may be charged; however, in no event shall more than two such fees be charged. Set out below are the current fees for Arlington County and other Virginia jurisdictions:

	Weekday	Weekend	Storage	Drop Fee
Alexandria	$ 75.00	$ 85.00	$ 20.00	$ 25.00
Arlington County	$100.00	$100.00	$ 40.00	$ -0-

Fairfax County	$ 75.00*	$ 90.00	$ 25.00*	$ 25.00
Prince William County	$ 75.00	$100.00	$ 20.00	$ 25.00
Virginia Beach	$125.00	$125.00	$ 20.00	$ 25.00

*Includes $25.00 storage charge for first 24 hours

Loudoun County treats private property tows and public safety tows in the same way. The vehicle is removed in both cases at the request of the Sheriff and the vehicle owner is required to pay "all reasonable costs incident to removing, storing and locating the owner." If the vehicle remains unclaimed, it is treated the same as an abandoned vehicle.

The Advisory Board also recommended adding an Administrative Fee of $75.00 (after 72 hours) to cover the cost of registering a storage lien, preparing and completing documents to obtain a title and other procedures required prior to disposing of unclaimed vehicles. Virginia Beach has a similar provision that allows an administrative fee of $50.00. The other jurisdictions used for comparison purposes do not include an administrative fee in their codes.

As additional background information, the following police and private tow data is being provided. The two Police Tow Contract tow operators currently charge:

(1) $37 base tow rate; $37 administrative fee; $34 per day storage fee (after first twenty-four hours).

(2) $10.80 base tow rate; $30.90 administrative fee; $35.50 per day storage fee (after first twenty-four hours).

The cost of a private tow ranges from $35.00 to $50.00, plus $2.00 to $5.00 per mile. AAA Mid-Atlantic charges its basic members $3.00 per mile, with the first three miles free.

FISCAL IMPACT: None.

ATTACHMENT A

AMENDMENT TO CHAPTER 14.3 OF THE ARLINGTON COUNTY CODE

An ordinance to amend the Arlington County Code Chapter 14.3

BE IT ORDAINED BY THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

I. Chapter 14.3 is hereby adopted as follows:

Chapter 14.3

TOWING AND STORAGE OF ~~MOTOR~~ VEHICLES*

*** Editors Note:** Ord. No. 06-11, adopted July 8, 2006.
Cross References: Chapter 14.2 (Motor Vehicles and Traffic Code); Licenses generally, Ch. 11; street development and construction, Ch. 22; subdivisions, Ch. 23; taxicabs, Ch. 25; fuel tax, Ch. 54.

Section 14.3-1. Findings.
Section 14.3-2. Definitions.
Section 14.3-3. Applicability.
Section 14.3-4. Compliance with State Licensing Requirements.
Section 14.3-5. Removal of Trespassing ~~Motor~~ Vehicles.
Section 14.3-6. Notice.
Section 14.3-7. Storage Facilities.
Section 14.3- 8. Receipt Required.
Section 14.3-9. Fees.
Section 14.3-10. Manner of Payment.
Section 14.3-12. Violations.

CHAPTER 14.3

TOWING AND STORAGE OF ~~MOTOR~~ VEHICLES

Section 14.3-1. Findings.

The County Board has found that some members of the public and their property have been placed at risk in circumstances where their ~~motor~~ vehicles have been towed without their consent and placed in storage because of a variety of factors including, but not limited to, unfair and predatory towing and pricing practices, inadequate notice of when vehicles are subject to towing, unreasonable prices for towing and storage, and lack of adequate recourse in the event of

improper towing or storage, among others. Based upon the foregoing, the County Board has concluded that the regulations provided for by this chapter are required to protect the public health, safety and welfare generally, and particularly the safety of those members of the public whose ~~motor~~ vehicles have been towed without their consent and stored, as well as the public interest in ensuring that the prices charged for non-consensual tows occurring in instances when ~~motor~~ vehicles are trespassing on private property are fair and reasonable.

Section 14.3-2. Definitions.

Except as hereinafter set forth, the words used in this chapter shall have the same meaning as set forth in
Title 46.2-100 of the Code of Virginia, as such may be amended from time to time.

"Storage fee" means the compensation payable for the storage of a towed ~~motor~~ vehicle that has been stored at or in a facility owned, operated, leased or used by a tow truck service.

'Tow," 'tows," or "towing" means the act of removing, by tow truck, a ~~motor~~ vehicle from privately-owned property within the County where it is parked. The preparation of a ~~motor~~ vehicle for removal by a tow truck or the attachment of a ~~motor~~ vehicle to a tow truck, or both, does not, for purposes of this chapter, constitute a "tow" or "towing."

"Towing fee" means the compensation payable for the towing of a ~~motor~~ vehicle.

"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated. The term includes any employee, authorized agent or legal representative of such individual or entity. Any person who in any way advertises himself as a towing and recovery operator or in any way conveys the impression that he is engaged in services of providing towing and recovery of vehicles shall be deemed to be engaged in towing and recovery services. The term does not, for purposes of this chapter, include an individual or entity that removes ~~motor~~ vehicles from public streets and other locations, pursuant to a contract with the County.

"Tow truck" means a ~~motor~~ vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks."

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway.

Section 14.3-3. Applicability.

This chapter applies (i) to the towing, by a towing and recovery operator, of ~~motor~~ vehicles from privately-owned property within the County without the consent of the vehicle owner or driver, (ii) to the fees that are charged for such towing of vehicles, and (iii) to the fees that are charged for the storage and retrieval of such towed vehicles. This chapter does not apply to the towing of ~~motor~~ vehicles from public streets and other locations that is performed pursuant to a contract with the County, or to the storage of such vehicles.

Section 14.3-4. Compliance with State Licensing Requirements.

All towing and recovery operators and all tow trucks engaged in business in the County shall comply with state licensing requirements imposed by state law, and shall provide evidence of such upon request by any representative of the County authorized to enforce the provisions of this chapter.

Section 14.3-5. Removal of Trespassing ~~Motor~~ Vehicles.

A. The owner, operator, or lessee, or authorized agent thereof, of any property, may have any vehicle occupying the property without the permission of its owner, operator, lessee, or authorized agent thereof, removed by towing to a storage facility until reclaimed by the owner or his agent provided the provisions of this chapter are complied with, as well as the following;

(1) Signs shall be posted at all ~~motor~~ vehicle entrances to the property clearly, conspicuously, and legibly disclosing that vehicles parked without permission will be towed. Such signs shall be posted so that the locations on the property subject to towing shall be clearly identified. The signs shall meet the following requirements and include the following information;

(a) each sign shall be not less than ~~100 square inches~~12 X 18 inches;

(b) the lettering on each sign shall be ~~not less than three inches in height~~as follows: "towing at owner's expense" not less than three inches in height; "24 hrs/7 days" not less than one inch in height and placed just above the tow truck symbol; the tow truck symbol, not less than two inches in height. Other lettering may vary in size but in no case be less than one-half inch in height;

(c) each sign shall contain a pictorial symbol of a tow truck;

(d) each sign shall contain a statement to the effect that trespassing vehicles are subject to towing and storage at the expense of the vehicle owner;

(e) each sign shall state the hours and days of the week when trespassing vehicles are subject to towing ~~unless towing may occur at all times~~;

(f) each sign shall provide the telephone number of the responsible towing and recovery operator to contact for information related to the location of vehicles towed from

the property, which telephone number shall be answered by a person twenty-four hours each day; ~~and~~

(g) each sign shall provide the non-emergency telephone number of the County Police~~.~~; and

(h) there will be a grace period of one year from the date of adoption to bring all signs into compliance.

(2) The foregoing requirement for signs shall not apply on any parcel of property used at the time of removal for one single-family residence or one two-family residence; and provided further, however, that parking spaces parallel to or at an angle to a public street and entered directly from a public street shall be deemed to be providing signs properly when the signs are placed along the sidewalk (or in a similar location when there is no sidewalk) adjacent to the space or row of spaces and there is at least one of the signs required by this chapter within forty feet of each such space.

(3) The towing and recovery operator performing the tow shall obtain authorization of the owner, operator, or lessee of the property from which the vehicle is towed, or the authorized agent thereof. For the purposes of this subsection, "authorized agent" may include a representative of the towing and recovery operator. The towing and recovery operator, and the owner, operator, or lessee of the property, shall maintain for public inspection at its business offices, and at the property, respectively, copies of all contracts or other documents that appoint the operator as the authorized agent for the owner, operator or lessee of the property for purposes of authorizing tows from the property.

(4) The towing and recovery operator performing the tow shall obtain and retain the following, and shall provide a copy of each to the owner, operator, or lessee of the property;

(a) digital and/or Polaroid photographs or videos of the vehicle in the location from which the vehicle is being towed;

(b) digital and/or Polaroid photographs or videos of the condition of the vehicle prior to the tow; and

(c) to the extent available, other documentary evidence substantiating the reason for the removal.

(5) The tow truck used to perform the tow shall include the name, street address, and current, local telephone number of the towing and recovery operator permanently affixed in a conspicuous location on the exterior of the truck.

B. This section shall not apply to public safety and public health vehicles or where a vehicle, because of a wreck or other emergency, is parked or left temporarily on the property of another.

Section 14.3-6. Notice.

A. Immediately prior to a trespassing vehicle being removed or towed as permitted by this chapter. notice of this action shall be given by the towing and recovery operator to the County Police. Such notice shall include the following information:

(a) the name of the towing and recovery operator removing vehicle;

(b) a description of the vehicle towed including make, model, VIN number and license plate;

(c) the location of trespassing vehicle and the date and time of the tow;

(d) the location of the storage facility to which the vehicle was towed; and

(e) the name and address of the individual and/or entity who authorized the tow.

B. Failure to report such tow as required by this section shall constitute a traffic infraction punishable by a fine of not more than $100. Such failure to report shall limit the amount which may be charged for the storage and safekeeping of the towed vehicle to an amount no greater than that charged for one day of storage and safekeeping.

Section 14.3-7. Storage Facilities.

A. All towing and recovery operators engaged in towing vehicles without the consent of their owners shall conspicuously display at their main place of business and at any other storage facilities where towed vehicles may be reclaimed, in locations readily visible to those reclaiming vehicles, signs that clearly and legibly provide the following information:

(a) a comprehensive list of all their fees for towing, recovery, and storage services. Charges in excess of those posted shall not be collectable from any ~~motor~~ vehicle owner whose vehicle is towed or stored without his consent;

(b) the maximum fees permitted to be charged by this chapter;

(c) that payment may be made by cash, traveler's check, money order, insurance company check, or debit, credit or charge card;

(d) that a receipt shall be provided;

(e) that the vehicle owner shall have the opportunity to inspect the vehicle for damage prior to payment and a tow company or tow truck operator shall not require a vehicle owner to sign any waiver of the owner's right to receive compensation for damages to the owner's vehicle as a condition of the vehicle's release.

(f) the non-emergency telephone number of the Police Department where the storage facility is located; and

(g) the business telephone number of the County official responsible for handling consumer complaints.

B. The fees authorized by this chapter shall be the maximum allowed and an additional fee for use of a debit, credit or charge card, or other form of payment, shall not be permitted.

C. Towing and recovery operators shall make change, up to $100, for those who pay in cash for towing and storage charges applicable to vehicles towed under the provisions of this chapter.

D. Storage facilities to which vehicles towed under the provisions of this chapter are towed shall be open twenty-four hours a day.

E. Storage facilities to which vehicles towed under the provisions of this chapter are towed shall be located within the County or at a location in the Commonwealth of Virginia that is within three miles of the boundary line of the County.

F. In the event that a vehicle is towed from the County and stored in or released from a location in another locality, the provisions of this chapter shall apply.

Section 14.3- 8. Receipt Required.

At the time a vehicle owner or agent reclaims a towed vehicle, the towing and recovery operator shall provide a written receipt that contains the following information:

(a) the name and address of the towing and recovery operator;

(b) the address from which the vehicle was towed;

(c) the date and time that the vehicle was towed;

(d) the date and time that the vehicle entered the facility at which it was placed for storage;

(e) an itemized list of all the fees that are being charged; and

(f) a signature of an authorized representative of the towing and recovery operator.

In addition, the towing and recovery operator shall provide to the vehicle owner or agent a Consumer Information Sheet supplied by the County which sheet will include, among other things, information about how to file a complaint with Arlington County and the fee limits established by this chapter.

Section 14.3-9. Fees.

A. Charges imposed for the towing, storage, and safekeeping of any vehicle removed, towed, or stored without the consent of its owner shall not be in excess of the maximum charges provided for in this section.

B. The maximum fees that may be charged for the towing of ~~motor~~ vehicles and for the storage of such towed vehicles are as follows:

(a) for the towing of a ~~motor~~ vehicle, the maximum fee shall be $100;

(b) for the storage of a towed ~~motor~~ vehicle, the maximum fee for each twenty-four hour period of storage, or portion thereof, shall be $50~~$40~~; provided~~,~~ that no storage fee may be charged for the first twenty-~~-~~four hours of storage, or any portion thereof, following the arrival of a towed vehicle at a storage facility.

C. Except for fees authorized by this chapter, no other fees or charges shall be imposed. ~~during the first twenty-four hour period.~~

D. No towing and recovery operator having custody of a vehicle towed without the consent of its owner may impose storage charges for that vehicle for any period during which the vehicle could not be reclaimed because the storage facility was closed.

E. If the owner ~~of a motor vehicle~~ or representative or agent of the owner of the trespassing vehicle is present and ~~capable of~~ removes~~ing~~ the trespassing vehicle from the premises before it is removed by a towing and recovery operator, the vehicle shall not be towed ~~and no fee shall be charged.~~ but the owner or representative or agent of the owner of the trespassing vehicle shall be liable for a reasonable fee, not to exceed $25.

Section 14.3-10. Manner of Payment.

Towing and recovery operators shall accept payment for towing fees, storage fees, retrieval fees and the "in lieu of towing' fee provided for in this chapter in each of the following ways:

(a) cash in United States currency;

(b) insurance company check

(c) travelers' checks or money orders payable in United States currency; and

(d) any debit, credit or charge card that the towing and recovery operator is authorized by the issuing credit or charge card company to accept, and that is accepted by the towing and recovery operator in the ordinary course of business.

Section 14.3-11. Records.

A. Every towing and recovery operator shall maintain a record of the following information for each ~~motor~~ vehicle that it has towed from a location within the County:

(a) the date and time that the vehicle was towed;

(b) the date and time that the vehicle entered the facility at which it was placed for storage;

(c) the make, model, year, VIN number, and license plate number of the vehicle;

(d) the address of the property from which the vehicle was removed;

(e) the name and address of the person and/or entity who authorized the tow:

(f) the video or photographs taken at the time of the tow;

(g) the towing and storage fees actually charged;

(h) the date and time the vehicle was reclaimed, and by whom; and

(i) a copy of the receipt provided to the vehicle owner or agent.

B. Such record shall be maintained for a period of at least one year from the date of each tow, and shall be made available, during normal business hours, for inspection and copying by any representative of the County authorized to enforce the provisions of this chapter. In addition, the portion of such log or record pertaining to a particular ~~motor~~ vehicle shall be made available, during normal business hours, for inspection and copying by the owner of the vehicle or the owner's authorized representative.

Section 14.3-12. Violations.

Except as otherwise specifically provided, any violation of this chapter is unlawful and punishable by a fine not to exceed one thousand dollars ($1,000.00).

II. This amendment shall become effective upon adoption.

ATTACHMENT B

ADVISORY BOARD ON TRESPASS VEHICLE TOWING

MINUTES OF OCTOBER 2, 2007 MEETING

The Advisory Board on Trespass Vehicle Towing meeting was held at 2100 Clarendon Boulevard, Room 311.

The meeting was attended by: Captain Kamran Afzal, Sgt. Darrin Cassedy, Corporal Christopher Hennigh, Nancy Iacomini, Al Leach, Bruce MacQueen, John O'Neill, Roslyn Rubin, Fred Scheler, Ralph Wilcher, and staff coordinator, Mary-Alice Gray. Two non-voting members, Susan Anderson and Guillermo Christensen were unable to attend. Several guests (other tow operators and one interested party) also were in attendance.

The meeting was called to order at approximately 6:30 pm by staff coordinator, Mary-Alice Gray. The staff coordinator thanked the members for agreeing to serve. Guests were advised that this was a public meeting but not a public hearing and only Advisory Board members were allowed to participate in the discussion. Guests also were reminded that they would have an opportunity to speak at the County Board Meeting.

The staff coordinator introduced JoAnn Harrison from the County Manager's Office. Ms. Harrison attended the meeting because she will be the point of contact in the Manager's Office for towing complaints. Introduction of all attendees followed.

The staff coordinator then briefly reviewed the Charge & Scope, the composition of the Advisory Board and explained the voting/non-voting members' participation. The first order of business was the election of a Chairman as required by Code of Virginia § 46.2-1233.2. Nancy Iacomini nominated herself, seconded by Captain Afzal. Al Leach nominated John O'Neill, seconded by Fred Scheler. A vote was taken. Nancy Iacomini received four votes and John O'Neill received three votes. Nancy Iacomini was elected Chairman of the Advisory Board on Trespass Vehicle Towing.

Ms. Iacomini asked if any members would like to make additions to the Tentative Agenda. There were several: Rate increase, addition of a drop fee (John O'Neill); clarification of § 14.3-6 "Notice" provisions with regard to when the car may be moved/hooked up (Kamran Afzal); clarification of signage provisions with regard to placement and consistent definitions throughout (e.g., vehicle/motor vehicle) (Christopher Hennigh); second signature (Bruce MacQueen).

The Board then discussed the experiences of the first year under the new ordinance: The number and types of complaints were discussed. Both the towers and the Police indicated that complaints are fewer and more are resolved through the cooperation of towers and Police.

The Board then reviewed and discussed the 2006 consensus recommendations and made additional recommendations:

14.3-2. Definitions.

Add: "Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway and having a registered gross vehicle weight of less than 10,000 pounds. ***[I am asking the County Attorney if we can add to the Code of Virginia definition of "Vehicle."***

14.3-5.A.1(a).: The tow operators suggested changing the size of the sign from 100 square inches to 12 X 18 which is larger and the size typically used now. All members agreed.

14.3-5.A.1(b): There was a lot of discussion about the size of the lettering on the signs. The ordinance now requires "not less than three inches in height." With the amount of information needed to be included on the sign, the towers pointed out that the sign would need to be very large with three-inch lettering. It was decided that "towing at owner's expense" should be in three-inch lettering; "24 hrs/7 days" should be in one-inch lettering just above the tow truck symbol; ***[It does not appear that we can reach consensus on this issue. I suggest the minutes reflect what we actually discussed. I will flag this section for the County Manager and let him know we did not have a discussion about the size of the remaining lettering.]***

14.3-5.A.1(e): Remove the final phrase "unless towing may occur at all times" because it is important to state the actual times on the signs even if 24 hours a day, 7 days a week. All members agreed.

Tow operators will have a grace period of one year to bring all signs in compliance with the provisions of l4.3-5.A.1.

14.3-5.A.4: None of the members objected to the requirement to take pictures. However, the tow operators requested the use of "digital" photographs and Ms. Iacomini favored Polaroids. The tow operators suggested the expense of Polaroids could become prohibitive if needed for every trespass tow. Ms. Iacomini objected to the use of digital photos because they can be altered. No real consensus was reached but the vote was to include the words "digital and/or Polaroid."

14.3-5.A.5: This section currently reads: "The tow truck used to perform the tow shall include the name, street address, and telephone number of the towing and recovery operator in a conspicuous location on the exterior of the truck." The Advisory Board voted to insert the words "current, local" before telephone number and "permanently affixed" before in a conspicuous location.

The proposed 14.3-5.A.5 would read: "The tow truck used to perform the tow shall include the name, street address, and ***current, local*** **telephone number of the towing and recovery operator** ***permanently affixed*** **in a conspicuous location on the exterior of the truck."**

14.3-6.A: This section deals with notifying Police prior to tow and generated a lot of discussion. The tow operators object to the current provisions because of driver safety concerns. John O'Neill cited an instance when one of his driver's had a gun pulled on him because it took so long for the driver to call the information in to the ECC.
The tow operators said their usual practice is to remove the car from the lot and stop a short distance away to call in the information. John O'Neill also noted that on busy nights (such as July 4) the tow representative trying to call the Emergency Call Center (ECC) may be kept on hold for as much as ten minutes. Captain Afzal suggested that the driver could remain at a distance from the vehicle and immediately call in the license plate number, make and model of the vehicle. Then, within fifteen minutes, the remaining information would be provided to the County Police. Sgt. Hennigh offered to find out if it would be possible to send the remaining information by fax within fifteen minutes. That would eliminate two calls to the ECC for each vehicle and it would be easier for the tow operator to comply within fifteen minutes. ***[Sgt. Hennigh: Are you going to follow-up with ECC on whether they will accept the remaining information by fax?]***

14.3-7.A(f): This section was changed to read "the non-emergency telephone number of the Police Department where the storage facility is located" to avoid a situation where the Arlington Police Department telephone number is posted at a storage facility located outside of Arlington.

14.3-9.B.(a): There was considerable discussion about rates. The towers made note of the fact that it is very expensive to do business in Arlington County because of the cost of land. Towers also noted that the new registration/licensing requirements imposed by the state Board of Towing and Recovery Operators add to the fees each tow operator will be required to pay. In addition, the State Code allows for a $125 base tow rate. The Advisory Board proposed a flat rate of $125.00 for the towing of a vehicle – no extra charge for evenings, weekends or holidays; and no storage fee for the first twenty-four hours whether or not the vehicle was picked up after the initial twenty-four-hour period. The final vote on the base rate of $125.00 was 5 in favor; 1 opposed; 1 abstention.

14.3-9.B.(b): See comments in (a) above. Also apply to storage rate. The Advisory Board proposed an increase to $50.00. The final vote on the storage rate of $50.00 was 5 in favor; 1 opposed; 1 abstention.

14.3-9.E: The tow operators proposed reinstating the "drop fee." Section 14.3-9.E would read: "Notwithstanding the foregoing provisions of this section, if the owner or representative or agent of the owner of the trespassing vehicle is present and removes the trespassing vehicle from the premises before it is actually towed, the trespassing vehicle shall not be towed, but the owner or representative or agent of the owner of the trespassing vehicle shall be liable for a reasonable fee, not to exceed $25 or such other limit as the governing body of the county, city, or town may set by ordinance, in lieu of towing; provided that the towing and recovery operator issues a receipt to the vehicle owner or agent. " [***The rationale for reinstating the drop fee was that this will serve as a disincentive for people playing chicken with the tow truck driver. It will give the management some teeth to keep non-compliant folks off their property.***]

Add the following new section:

14.3-9.F: If a vehicle is not redeemed by the owner or agent within seventy-two (72) hours after it is towed, the towing and recovery operator shall be entitled to recover an additional fee, not to exceed seventy-five dollars ($75.00), as payment for the cost of any search conducted to determine the registered owner and lien holder, if any, of the vehicle. The final vote on the addition of an administrative fee was 7-0 in favor.

Bruce MacQueen raised the question of second signature and Chairman Nancy Iacomini added that she would like to discuss this, as well. Mr. MacQueen said he thought the prospect of including a second signature requirement placed too great a burden on the property owners/managers and should not be considered. Mr. Scheler, who serves on the State Ad Hoc Second Signature Committee, said second signature is as good as defeated at the State level. Nancy Iacomini said she is still of the opinion that the property owners/managers should have some level of responsibility in the trespass vehicle tow process. It is her opinion that the property owners/managers are allowed to take a completely hands-off approach and doesn't think that is appropriate. Ms. Iacomini also suggested that, if property owners/managers are not interested in a provision such as second signature, perhaps they should be required to pay the tow company for the services provided. Mr. MacQueen strongly disagreed with that concept. The Advisory Board is not making a recommendation with regard to second signature.

The meeting was adjourned at 9:00 pm.

Attachments to Minutes:

Handouts provided by Advanced Towing:
- **Arlington Non Consent Towing Fee Limit Increase**
- **Administrative Fees – Non Consent Towing**
- **Warning Signs – Non Consent Towing**
- **Non Consent Towing – Complaints**

Handout provided by Henry's Wrecker Service:
- **Board of Towing and Recovery Operators**
  Working Paper dated September 26, 2007

Arlington Non Consent Towing Fee Limit Increase

1.) Non-Consent Towing Fee Limits Need Increase - Admittedly Established Using Outdated Information in 2006

Below are fee limits excerpted from towing ordinances in other Virginia jurisdictions used by Arlington County in 2006 to establish existing non-consent towing fee limits. Copies of some of the ordinances have been provided by the Arlington County Manager's Office (ACMO) for the 2007 Towing Advisory Board's (TAB) review.

Jurisdiction	Initial Tow (1st 24 Hours)	After Hours/Weekend /Holiday/Special Equip.	Storage (Per day)	Year Limits Were Established
Prince William	$ 75	$ 25	$ 25	1992 (15 years old)
Alexandria City	$ 75	$ 0	$ 20	1993 (14 years old)
Fairfax County	$ 50	$ 15/$35	$ 15	1994 (13 years old)
Blacksburg	$125	$ 25/$25/$25	$ 50	2001/2006
Virginia Beach	$125	$ 25/$25/$25	$ 50	2005/2006
Loudoun/Sterling	$125	$ 25/$25/$25	$ 50	2006
State of Virginia	$125	$ 25/$25/$25	$ 50	2006
Arlington County	$100*	$ 0*	$ 40*	2006

*In July 2006 information the Arlington County Board (ACB) used to establish it's current non-consent, initial towing fee limit of $100 was based on comparisons with exceptionally low, outdated fee limits established by neighboring jurisdictions more than a decade ago. Although the above list represents a very small portion of the total number of political subdivisions in Virginia, note the jurisdictions in much less costly areas of the State which have established much higher limits.

Towing contractors and private property owners do not believe ACMO and ACB *intentionally* used outdated towing fee limits for comparison as it would violate federal law (ICC Termination Act**) and state law to intentionally impose a fee structure that is confiscatory. We believe it was simply an unfortunate error.

***(The sponsor of the ICC Termination Act, Congressman Bud Shuster of Pennsylvania, stated the following: "I would note that with the restoration of the authority of local units of government to regulate prices to be charged for non-consensual towing, the Congress fully expects the rates so established be reasonable and compensatory." Congressional Record at Page H15600).*

2. Expensive To Operate In Arlington and Region

I think everyone can agree, without research, real estate is generally more expensive in Northern Virginia than anywhere else in the state. A towing contractor's largest expense, other than payroll, is usually for real estate to temporarily store impounded vehicles and provide long term storage for vehicles not reclaimed by their owners. *Towing* and *storage* fee limits should reflect this.

3. CPA Study Confirms Arlington's Existing Non-Consent Towing Rates Are Not Commensurate with Costs Incurred By Towing Contractors (TAB has Copy)

A CPA study commissioned by towing contractors, provided to Arlington County in 2006, confirmed non-consent towing rates should reflect the upper rate limit established by the State. If the State's non-consent rate limits are acceptable to less populated, less expensive areas of the state, why not in Arlington where towing contractors incur the largest expenses for real estate, payroll, fuel, insurance and other costs of doing business.

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Administrative Fees – Non Consent Towing

1.) Administrative (or Processing) Fees Are Necessary To Offset Costs

Municipalities, auto dealerships, mortgage companies, real estate settlement agencies, towing contractors and other businesses all have something in common. All charge administrative or processing fees in connection with costs incurred to complete or process documents related to the business transactions they are performing. Administrative fees are neither unusual or inappropriate.

By law, towing contractors must complete and process a series of documents related to vehicles abandoned or kept in their possession for more than a few days. The procedures and documents include and are not limited to notifying DMV towing contractors have possession of vehicles, notifying registered vehicle owners and lien holders about vehicle possession, registering a storage lien, preparing and completing documents to obtain a title or to properly dispose of salvage vehicles.

Due to the complexity of certain DMV filings and the need for accuracy, many towing contractors choose to hire a title service company to perform these tasks on behalf of the towing contractor. Title services are similar to the permit services construction contractors use to obtain building and repair permits from municipalities. Towing contractors of course, have to pay for that service.

2.) Arlington County Police Towing Contractor Administrative Fees

Arlington County's Police Towing Contractors both charge administrative fees as part of their fee structure for towing and storing impounded vehicles or vehicles towed for other reasons by the police department.

3.) Virginia Towing And Recovery Operators (VATRO)

Administrative charges for processing documents related to vehicle impoundment have been charged by towing contractors throughout the state for decades. Notwithstanding, a small number of towed vehicle owners have complained about the fees. When a question was raised by Arlington County on behalf of a small number of towed car owners who complained, the Virginia Association of Towing and Recovery Operators responded with the attached letter to confirm the fee is necessary, commonplace and not excessive.

4.) Fairfax County To Adopt Proposed Administrative Fee For Non Consent Tows

In drafting Fairfax County's proposed towing ordinances changes in 2007 The Fairfax County Department of Cable Communications and Consumer Protection proposed that an administrative fee be included in the non-consent towing fee schedule in addition to towing and storage rates that are commensurate with Virginia's limits.

December 21, 2006

Captain Kamran Afazal
Arlington County Police Department
1425 N. Courthouse Road
Arlington, Virginia 22201

Dear Captain Afazl:

My name is Susan Brassell and I am the Administrator for the Virginia Association of Towing and Recovery Operators with our main office located in Manassas, Virginia. Our Association has been around since 1979 and has been instrumental in presenting legislation to the General Assembly last year in promoting self-regulation of the towing industry statewide. Information relating to our Association is at our website www.vatro.org. The website is still being tweaked but has lots of information about our members.

I have been approached by some towing companies in the Arlington County area relating to fees charged for administrative practices within the scope of towing in the county. It is a standard practice with our industry all over the Commonwealth to levy this fee. I want to go on the record in reporting to you that in Prince William, Fairfax, and Stafford, which are areas around yours, all allow these charges. As a matter of fact in Prince William law enforcement tows, towers charge $150 till the 16th day the charge is $285. In some court instances, the courts have required our towers to have the notification in hand to the owner of the vehicle by certified mail by the 7th day after possession of the vehicle. If that is the case, we must begin the process by the third day at the latest. We believe the laws do not specifically prohibit this administrative fee and we are urged by the banking/leinholders to begin the process as soon as possible to also protect their investments. A very reputable title company in Roanoke charges $185 to obtain the information and make notification of vehicles with the scope of the Code of Virginia and rather than sub the work out, we must hire staff to deal with all the nuances of the notification process.

As you know, the towing industry is stuck with abandoned vehicles since the preponderance of the law allows owners to sell their vehicles without reporting the sale to the DMV. In many instances we carry huge losses because of all the overhead we must put out in dealing with these vehicles.

Please know, VATRO is here to help and to be a clearinghouse of information not only to our towers but to all law enforcement. Anything we can do to help resolve problems and issues we are happy to help. Please call me if I can be of any assistance to you.

Very truly yours,

Susan Brassell
Virginia Association of Towing and Recovery Operators

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ADVANCED TOWING

Warning Signs – Non Consent Towing

1.) Most Towing Warning Signs Are the Same Size As Certain County Parking Signs

In Arlington, the overwhelming majority of towing warning signs displayed on private property where towing is enforced are a minimum of 12" x 18". These signs are the same size as public or private fire lane signs and "No Parking" signs. In Arlington, a fire lane sign is required to be posted every 70 feet if applicable. Lettering on Arlington fire lane signs doesn't exceed 3" because by vision standards for signs, 3" lettering should be visible up to 75 feet. Arlington County fire lane sign lettering actually varies from 1" to 2.5" inches depending on the particular content.

2.) Arlington's 2006 Towing Sign Requirement A Mistake and Contradicts Intent

When discussed by the 2006 TAB, the only substantive addition to Arlington's previous towing warning sign requirement was to add the non-emergency police telephone number. In an apparent transcription error, the ~~sign~~ ORDINANCE calls for all lettering to be 3" inches or more and the minimum sign size to be 100" square inches or more. The 10" x 10" inch minimum sign size is unusually small and not sufficient for any version of a towing sign that is adequately legible. Arlington's previous towing ordinance required the language indicating towing is enforced be printed in at least 3" letters. It is our belief that when Arlington transcribed information from the old ordinance into the new version, it accidentally did not specify that only the "towing enforced" phrase be printed in 3" lettering. Instead, the new law says "all lettering to be 3", an obvious mistake. If all letters on a Arlington towing sign had to be 3", the sign would have to be 39" to 41" in height.

Arlington's original intent can be demonstrated by looking at the brochure entitled "Towing in Arlington". The page discussing warning signs says "Towing At Owner's Expense" must be in 3" lettering, other lettering may be smaller".

3.) Some Warning Information On Signs Only Necessary "After Towing"

All information contained on towing signs is not necessary when entering private property and therefore should be smaller and not emphasized. For example, the telephone number of the towing contractor and the police department is not information one needs to know when entering private property. The phrase "Towing At Owner's Expense" clearly indicates towing exists.

Arlington's fire lane signs are a good example, the words "Fire Lane" are emphasized in 3" letters, not the phrase"Penalty $2,500 or 12 Mos. Max."

4.) Appearance of Private Properties

The City of Alexandria, normally concerned with it's historic appearance, requires exceptionally large 24" x 24" towing warning signs. In 1993, The City of Alexandria was persuaded to require property owners to post these unusually large, unattractive towing signs due to a limited number of complaints from disgruntled towed car owners who claimed "I didn't see the sign".

Fourteen years after Alexandria adopted the 24" x 24" sign requirement, the volume of vehicles towed is more than it has ever been. The first line of defense of most towed car owners is still "I didn't see the sign". Arlington has a number of areas where signs are required every 40 feet. The Buckingham area is a good example. There are approximately 300+/- 12" x 18" signs in a few block radius. To make the signs larger would drastically alter the appearance of the landscape and detract from the curb appeal of properties affected.

2 OF 2

ARLINGTON APTS.
PERMIT REQUIRED

TOWING AT OWNER'S EXPENSE

24 HOURS

ADVANCED TOWING

703-525-0550

NON-EMERGENCY 703-558-2222

CARS TOWED

NO PARKING

FIRE LANE

FINE

$2500. - 12 MO. MAX

Non Consent Towing - Complaints

PROVIDED BY ADVANCED TOWING

1.) Number Of Complaints Low

The number of towed vehicle owner complaints registered with Arlington County compared to the estimated number of tows performed in Arlington (by consensus of towing companies) is exceptionally low.

If the information was interpreted properly, the number of non-consent towing complaints registered from 9/01/2006 to 9/6/2007 totaled 46 out of approximately 24,000+ tows performed in the same year. There were just under 4 complaints per month out of 2,000 tows.

The figures are astounding considering all of the tows are performed without the consent of the vehicle owner. Each vehicle owner is unhappy they are towed and still only 46 registered complaints in a 12 month period.

2.) If More Cars Are Towed More Complaints Will Be Registered

Of the 46 complaints registered, 22 were registered against our company, Advanced Towing. Of the 22, 13 were found to be either without any merit or were resolved favorably. Of the remaining 9 complaints that are not listed as resolved favorably, the towed parties and our company were either unable to mediate a resolution or the complaints could not be investigated further. **It is important to note that none of the 22 complaints were determined by Arlington County to be violations of the state or local towing ordinance**.

3.) Low Number of Complaints Demonstrate Towing Contractors Are Compliant

The low number of complaints indicate Arlington's ordinance is clearly working although there are minor areas of disagreement between the county, towing contractors and property owners. Compared to number and type of complaint statistics registered prior to 2006, it is apparent there are significantly fewer complaints regarding charges not in compliance with statutes. This is for three reasons in our opinion. Towing contractors voluntary compliance with local ordinance fee limits, reasonable or unreasonable, the potential seen by towing contractors for an increase in local trespass towing fee limits and the disappearance of a particular towing company who generated the many complaints.

PROVIDED BY HENRY'S
WRECKER SERVICE

Board of Towing and Recovery Operators

Licensing and Regulatory Affairs Committee

Working Paper

September 26, 2007

INDEX

Purpose / Requirement for regulation.

24 VAC 27-30-10. Definitions.

24 VAC 27-30-15. Fees.

24 VAC 27-30-20. General Requirements for Operator's licensure.

24 VAC 27-30-25. Operator's Licensure without examination.

24 VAC 27-30-30. Operator's Licensure by examination.

24 VAC 27-30-35. Operator's Licensure by endorsement.

24 VAC 27-30-40. Exemptions

24 VAC 27-30-45. Transfer of operator's license.

24 VAC 27-30-50. Temporary Towing Permits or duplicate applications

24 VAC 27-30-55. Trip permits, regulations, fees

24 VAC 27-30-60. Unprofessional conduct.

24 VAC 27-30-65. Standards of practice.

24 VAC 27-30-70. Operating without a license, penalties.

24 VAC 27-30-75. Expedited process to consider consumer complaints.

24 VAC 27-30-80. Prerequisites for Application for Driver's Authorization.

24 VAC 27-30-85. Exemptions from tow truck driver authorizations

24 VAC 27-30-90. Requirements for Drivers.

24 VAC 27-30-95. Renewal of licensure; reinstatement; renewal of fees.

24 VAC 27-30-100. Requirements for continuing education.

Part I. General Provisions

Purpose / Requirement for regulation.

Section 46.2-2805 of the Code of Virginia establishes the authority of the Board for Towing and Recovery Operators to establish requirements and oversight of towing and recovery operators and the towing and recovery industry, to ensure their possessing and maintaining minimal levels of competency for the public safety and welfare, to establish the necessary qualifications for licensure and regulation of towing and recovery operators, to ensure the competency and integrity of the regulated industry, to examine applicants, to establish renewal schedules, to administer fees to cover the administrative expenses of the regulatory program, and to take disciplinary action for violation of laws and regulations, and to provide oversight for and enforcement of authorized documentation of drivers of towing and recovery vehicles.

24 VAC 27-30-10. Definitions.

The following words and terms when used in these regulations, by the Virginia Board for Towing and Recovery Operators, or the Board's related documents, unless expressly stated otherwise, shall have the following meanings:

"Board" or **"BTRO"** means the Virginia Board for Towing and Recovery Operators.

"Class A Operator" means a towing and recovery business towing vehicles of an unlimited gross vehicle weight.

"Class B Operator" means a towing and recovery business towing vehicles of a gross vehicle weight of 26,000 pounds or less.

"Driver" means a person who drives or is in actual physical control of a tow truck. A driver shall have obtained an authorization document issued by the Board in order to drive a tow truck while providing towing or recovery services.

"Equipment" means any tow truck, vehicle or related machinery or tools used to provide towing or recovery services.

"Gross vehicle weight" means the aggregate weight of a vehicle and the load thereon.

"Gross vehicle weight rating" means as defined in Section 46.2-341.4. of the Code of the Virginia.

"**Law-enforcement officer**" means any officer authorized to direct or regulate traffic or to make arrests for violations of the Code of Virginia or local ordinances authorized by law relating to driver's or driving of motor vehicles.

"Operator" means, for the purposes of these regulations, the same as "Towing and recovery operator", notwithstanding the provisions of §46.2-100, which defines operator differently.

"Private Property / Trespass Tow" means requests for towing and recovery services made by the owner, operator or lessee of private property, or the authorized agent thereof, pursuant to the provisions of Article 3 of Chapter 12 of Title 46.2 of the Code of Virginia, or local ordinances adopted under that Article, or under contract between such person and a towing and recovery operator which specifies what tows are to be made from the property when a motor vehicle or vehicle or self propelled apparatus is on the property in violation of law or rules promulgated by the owner, operator or lessee of the private property.

"Responsible Individual" means an individual identified through the Operator's licensure process who is designated by the operator to represent and be accountable for all aspects of licensure for the operator and who is either the principal owner or chief executive officer of the business entity and/or manager of business operations for the operator.

A **"Tow"** shall be considered to have occurred when the towing vehicle has engaged the towed vehicle by a physical, mechanical means which causes the towed vehicle to be lifted off of the ground, or moved for any distance whatsoever.

"Towing and recovery operator" means any person, including a business, corporation, or sole proprietor, offering services involving the use of a tow truck and services incidental to the use of a tow truck. Such shall include but not be limited to those engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated.

"Towing and Recovery Services" means services offered by a towing and recovery operator. Any person who in any way advertises himself as a towing and recovery operator or in any way conveys the impression that he is engaged in services of providing towing and recovery of vehicles shall be deemed to be engaged in towing and recovery services.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks." "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as defined in § 46.2-100

of the Code of Virginia.

"Tow Truck Decal," "Decal" or similar words mean a Board issued decal to be affixed to the driver side door of a tow truck owned, leased or operated by a licensed towing and recovery operator.

24 VAC 27-30-15. Fees.

A. The following fees shall be applicable:

Initial Fee Structure/Application Fee .....$ 500
(Includes the fee for one driver authorization)

Annual license renewal: Class A Operator ..... $ 500
(Includes the fee for one driver authorization)

Annual license renewal: Class B Operator ..... $ 500
(Includes the fee for one driver authorization)

Annual tow truck decal, per vehicle ..... $ 10

Annual driver authorization documentation, per driver ..... $ 50

Late renewal (operator, truck decal and driver) .....150% of renewal fee

Reinstatement following revocation or suspension of license ..... $ 1000

Verification of licensure to another jurisdiction or government entity ..... $ 25

Returned check ..... $ 35

Duplicate copy of license, tow truck decal or driver authorization ..... $ 10

Out of state temporary trip permit (each permit)..... $ 50

B. All fees are nonrefundable.

C. Examination fees shall be determined by the Board.

24 VAC 27-30-20. General Requirements for Operator's licensure.

As a condition for licensure, all operators shall:

A. Be an individual or other entity legally authorized to conduct business in the Commonwealth of Virginia.

B. Provide the name of the individual or business entity under which the applicant intends to be licensed. However, the applicant/licensee, at time of application and each renewal of license, shall provide the Board with any and all trade or fictitious names under which the operator conducts or offers towing and recovery services.

C. Designate and advise the Board of their main or principal office and all additional satellite facilities and their physical addresses. Should such change, the Board shall be notified within 30 days such change occurs.

D. Designate a Responsible Individual who shall be knowledgeable of all applicable state, federal or local laws and regulations related to those towing and recovery services offered or rendered by the operator, and who shall be responsible for assuring that the operator conforms to them.

E. List the principal owner's name or owners' names and the name of the Responsible Individual and of the principal manager and of all other individuals involved in the management and operation of the business on the application for license and advise the Board of any change of same.

F. Certify on the application whether any owner, manager, or other individual involved in the management or operation of the business entity, including the Responsible Individual, has been convicted of any criminal offense, whether felony or misdemeanor.

1. <u>An applicant will not be refused a license or a tow truck driver's authorization document by the Board solely because of a prior criminal conviction against such applicant or against any individual who is an owner, manager or other person involved in the management or operation of the applicant's business, including the Responsible Individual, unless the criminal conviction directly relates to the provision of towing and recovery services or the safety of the users of such services offered by a licensee or holder of a tow truck driver's authorization document. However, the Board will refuse to issue a license or tow truck driver's authorization document if, based upon all the information available, including the record of prior convictions of the applicant or any individual who is an owner, manager or other person involved in the management or operation of the applicant's business, including the Responsible Individual, it finds that the applicant is unfit or unsuited to engage in providing towing and recovery services.</u>

2. The Board will consider the following criteria in determining whether a criminal conviction directly relates to the provision of towing and recovery services or the safety of the users of towing and recovery services:

   a. The nature and seriousness of the crime;

   b. The relationship of the crime to the purpose for requiring a license or tow truck driver's authorization document to provide towing and recovery services, which includes protecting the safety of users of such services;

   c. The extent to which providing towing and recovery services might offer an opportunity to engage in further criminal activity of the same type as that in which the convicted person had been involved;

   d. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of providing towing and recovery services;

   e. The extent and nature of the person's past criminal activity;

   f. The age of the person at the time of the commission of the crime;

   g. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

   h. The conduct and work activity of the person prior to and following the criminal activity; and

   i. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release or at any time following the conviction.

3. The Board will consider the criminal information as contained in the state or national criminal history record of the applicant or of each individual who is an owner, manager, or other person involved in the management or operation of the applicant's business, including the Responsible Individual, if such record is available, in lieu of the applicant providing certified copies of court records as to such convictions in determining whether a criminal conviction directly relates to the provision of towing and recovery services, and in determining whether an applicant is unfit or unsuited to engage in towing and recovery services. The Board may request additional information from the applicant or relevant individuals in making such determination.

The following criminal convictions will not be considered a bar to licensing by the Board, meaning that the inclusion of these items on the record of any individual who is

an owner, manager or other person involved in the management or operation of the business entity, including the Responsible Individual, shall not be sufficient as the sole grounds for denial of an operator's license.

i. Felony convictions more than ten years old with no subsequent reportable convictions, unless the conviction resulted in incarceration where the release date is less than three years from the date of the application. This does not include convictions involving murder, manslaughter, sexual assault, rape, robbery, or indecent liberties.

ii. Misdemeanor convictions more than three years old from the date of application.

iii. Felony convictions for possession of controlled substances more than two years old from the date of application, where the applicant has completed a deterrence program.

iv. Felony convictions of Title 46.2 of the *Code of Virginia* (Traffic Code) more than three years old from the date of application.

v. Convictions of grand larceny, breaking and entering, and/or burglary, more than five years old with no subsequent convictions, provided they did not result in incarceration where the release date is less than three years from the application date.

G. Provide the Board with information indicating all tow trucks owned, leased or used by the operator, and obtain the appropriate tow truck decal for each such tow truck. Such information shall include a basic description of the type of tow truck, make, model and vehicle identification number, and its license plate number and state issuing such license plate. Information shall be provided no less frequently than on an annual basis, at time of initial licensure or renewal of license, and when obtaining a decal for any tow truck newly acquired.

H. Provide the Board with a list of all drivers employed by the operator to drive tow trucks, including their driver's license numbers and driver authorization document numbers, at the time of initial licensure and at each renewal of the license.

24 VAC 27-30-25. Operator's Licensure without examination.

Applicants for licensure to take effect July 1, 2008 are required to:

A. Submit an application for license on a form provided by the Board, indicating on the

application whether it is for a Class A or Class B operator's license, and remit payment of fees applicable for application and first year license, including fees for tow truck decals. Applications shall include the operator's federal tax identification number.

B. Certify in writing that the Responsible Individual has read and understands the laws and regulations governing towing and recovery services.

C. In order to qualify for "grandfather status" so that no examination is required for initial licensure, the applicant shall submit evidence to the Board that the operator was actively engaged in the business of towing and recovery services on January 1, 2006. Such evidence shall include a date prior to January 1, 2006 and the business name of the operator and may include but shall not be limited to a copy of a state or federal tax return, local business license, receipt for payment of other taxes or government fees, paid purchase order forms or similar documents related to repair, lease or purchase of a tow truck. The grandfather exemption shall expire if the application for license has not been received by close of business July 1, 2008.

24 VAC 27-30-30. Operator's Licensure by examination.

Applicants for licensure who were not engaged in the towing and recovery business before January 1, 2006 and/or who do not qualify for grandfather status are required to:

A. Submit an application for license on a form provided by the Board, indicating on the application whether it is for a Class A or Class B operator's license, and remit payment of fees applicable for application and first year license, including fees for tow truck decals. Applications shall include the operator's federal tax identification number.

B. For license as a Class A Operator, submit evidence of passage by the principal owner or Responsible Individual of all sections of Level I and of Level II of the Towing and Recovery Association's certification examination or the appropriate sections of any other examination deemed by the Board to be equivalent. Examinations which the Board has deemed equivalent will be posted on its Website.

C. For license as a Class B Operator, submit evidence of passage by the principal owner or Responsible Individual of all sections of Level I of the Towing and Recovery Association's certification examination or the appropriate sections of any other examination deemed by the Board to be equivalent. Examinations which the Board has deemed equivalent will be posted on its Website.

D. The principal owner or Responsible Individual of applicants for Class A and Class B operator's license shall additionally successfully pass an open book jurisprudence examination provided by the Board on the laws and regulations governing towing and recovery operators.

24 VAC 27-30-35. Operator's Licensure by endorsement.

An applicant may receive licensure by endorsement providing they (1) provide evidence of passage of the applicable examination requirements set out herein for a Class A or Class B license, (2) submit evidence that they have been actively engaged in towing and recovery services in another state for the past five consecutive years, (3) provide a statement from a government entity in the state in which they have been conducting business(es) in the past five consecutive years that the applicant's business has not violated or been disciplined for violation of their state laws and regulations governing towing and recovery services, (4) have passed the Board required jurisprudence examination and (5) submitted the required applications and fees to the Board.

24 VAC 27-30-40. Exemptions.

The following shall be exempt from these regulations.

A. "Rollbacks" used exclusively to transport cargo other than vehicles.

B. "Automobile or watercraft transporters," "stinger-steered automobiles or watercraft transporters" or "tractor trucks" as defined in § 46.2-100 of the Code of Virginia. Such transporters are only exempt if capable of transporting five (5) or more vehicles and have appropriate and required interstate operating authority.

C. "Household goods carriers" as defined in Section 46.2-100 of the Code of Virginia providing they have been issued a valid "certificate of public convenience and necessity" means by the Virginia Department of Motor Vehicles.

D. Tow trucks solely owned and operated directly by a government entity used for public safety towing or non-commercial purposes, providing such do not impose a fee for services rendered.

E. Tow trucks which are properly registered and domiciled in another state and have proper interstate operating authority may be operated within the Commonwealth of Virginia while passing through the Commonwealth to another jurisdiction or while delivering a vehicle within the Commonwealth, but only if the pick up of the vehicle and origin of the trip is outside of the Commonwealth. However, tow trucks registered and domiciled in another state are not exempt from licensure or provisions of applicable State laws or regulations of the Board if pickup or hook up of a vehicle is in Virginia. Such tow trucks must obtain a temporary trip permit from the Board prior to operating in Virginia authorized by the Board, unless licensed by the Board.

F. Tow trucks owned by a person and used exclusively to transport vehicles owned by such

person providing there is no charge or acceptance of fees or payment for services. In such situations, ownership of vehicles being transported must be supported by possession of title, bill of sale, registration or other legal document while the vehicle is being transported and signage must be permanently posted on the door of both sides of said tow truck indicating "NOT FOR HIRE." Letters for such sign shall be each be at least 3 inches in height and each 1/4" in width and in a color contrasting with the tow truck's color.

G. Tow trucks owned by tow truck dealers or tow truck manufacturers operating with a legally recognized dealer license plate. Such tow trucks may only be operated by an employee of the dealer or manufacturer for the sole purpose of transporting it to and from the location of sale or demonstration. Such tow trucks shall be required to have temporary or permanent lettering with the dealer's or manufacturer's name, city and state and the words "NOT FOR HIRE" displayed on both on the door of sides of the tow truck. Letters for such sign shall be each be at least 3 inches in height and each 1/4" in width and in a color contrasting with the tow truck's color.

24 VAC 27-30-45. Transfer of operator's license.

A. Except as provided in subsection B, an Operator's license is not transferable.

B. Transfer of an Operator's license under emergency circumstances, as agreed to by the Board Executive Director, may be granted for up to 90 days.

24 VAC 27-30-50. Temporary Trip permits, regulations, fees

The Board may, on application on forms provided by the Board, issue a temporary trip permit to any owner of a tow truck who would otherwise be subject to licensure by the Board but is not currently registered. The permit shall be valid for three days and shall show the vehicle identification number, tag number, authorized driver's name and the beginning point and the point of destination, and other information as may be required by the Board, including certification that the driver is not required to register as a sex offender in any jurisdiction.

24 VAC 27-30-60. Unprofessional conduct.

It shall be deemed unprofessional conduct, which may be subject to disciplinary action or sanctions imposed by the Board, for any licensed operator in the Commonwealth to violate any statute or regulation governing towing and recovery services, or to fail to:

A. Employ only tow truck drivers who comply with the Board's requirements for drivers and hold a valid driver's authorization document from the Board.

B. Advise the Board in writing of any change in ownership listed on the application or management, including a change in the Responsible Individual, or in the licensee's principal or business mailing address within 30 days of such change occurring.

C. Have the licensee's trade name, clearly indicated on all of the operator's tow trucks. Provided, however, that if the licensee's towing business is exclusively limited to towing only vehicles which are being repossessed, then the name of the licensee and any other markings which might identify the vehicle as associated with the business of repossessing vehicles shall not be required except for their Board issued decal.

D. Retain for a minimum of one year, from last date of service, records of services and fees charged or collected. If said records are not maintained at the operator's principal place of business, the location of such records shall be made known to the Board at the Board's request.

E. Allow an authorized agent of the Board to review or inspect, during regular business hours, the operator's records of services rendered and fees charged or collected, facilities and equipment. Such inspections shall be limited to that which is related to compliance with laws or regulations governing towing and recovery operators and towing and recovery services.

F. Accept at least one of two nationally recognized credit cards. However, any individual credit card offered in payment, even if of a type normally accepted, may be considered unacceptable by the operator if the credit card processing company denies charges being applied to said card or if the actual card is not presented to the Operator for inspection. Operators may insist payment by credit card be made at their principal place of business or any location at which payment for fees for services is normally accepted. Operators may also insist on accepting a credit card only from the owner of the vehicle towed or impounded.

G. All operators engaged in towing passenger vehicles without the consent of their owners pursuant to Va. Code §46.2-1231, also known herein as private property/trespass towing, shall prominently display, at their main place of business and at any other location where towed vehicles may be reclaimed, a comprehensive list of all their fees for towing and recovery or the basis of such charges. This requirement to display a list of fees may also be satisfied by providing, when the towed passenger vehicle is reclaimed, a written list of such fees, either as part of a receipt or separately, to the person who reclaims the vehicle. Charges in excess of those posted shall not be collectable from any motor vehicle owner whose vehicle is towed, recovered without his consent. If the owner or representative or agent of the owner of the trespassing passenger vehicle is present and removes the trespassing vehicle from the premises before it is actually towed, the trespassing vehicle shall not be towed, but the owner or representative or agent of the owner of the

trespassing vehicle shall be liable for a reasonable fee, not to exceed the fee set out in section §46.2-1233.1 of the Code of Virginia, or such other limit as the governing body of the county, city, or town may set by ordinance, in lieu of towing.

H. Provide, at the customer's request, a price list indicating the maximum fees normally charged for basic services for towing, recovery and processing fees for vehicles weighing 26,000 pounds or less. If storage fees are not included in said list of charges, the list shall include a statement indicating storage fees may be additional and vary according to size and condition of vehicle, length of time vehicle is stored and other costs which may be incurred by the operator when storing the vehicle.

I. Have affixed on the driver's side of all of the operator's tow trucks a tow truck decal issued by the Board to all licensed operators.

J. To display his operator's license in a conspicuous place in the principal office in which he operates and display a copy of his operator's license at all other locations at which payment for fees is accepted.

24 VAC 27-30-65. Standards of practice.

Violations of any standard of practice set out in this section may be subject to Board disciplinary actions or sanctions, including suspension or revocation of an operator's license and imposition of civil penalties.

A. All of an operator's places of business, including their offices and storage facilities shall comply with any required state or local building or zoning laws or codes.

B. If required by the locality in which the operator designates as his principal place of business, an operator must maintain a valid business license from that locality.

C. Any operator permanently ceasing to provide towing and recovery services shall notify the Board in writing and return the Board issued operator's license for voluntary cancellation and termination within 15 days.

D. A licensed operator must maintain the following proof of insurance; A. $750,000 for Automobile Liability, B. $750,000 for Commercial General Liability C. $50,000 for Garagekeepers Liability, D. $50,000 On Hook coverage, E. Worker's Compensation as required by state and federal entities.

E. Operators shall assure that only equipment designed and rated for the type of vehicle being transported is used. Operators shall additionally assure that at no time shall one of their tow trucks exceed the manufacturer's gross vehicle weight rating, for a Class B Operator a minimum of 14,500 pounds on a rollback and a minimum of 10,000 on a

wrecker, for a Class A Operator a minimum of 29,000 gross vehicle weight rating for a wrecker and or manufacturer's rated capacity for towing apparatus.

F. All tow trucks shall meet all federal Department of Transportation and applicable Virginia regulations. Towing or rollback units shall be a factory manufactured unit and only used as designed and rated to haul the vehicle being transported. Tow trucks shall be able to retain 50% of its front axle weight during towing operations. Safety chains or straps shall be used in all towing operations with such chains or straps rated to secure the towed vehicle to the tow truck.

G. Any and all advertisements, promotions, offers for services shall include the operator's trade name and Board license number. Invoices shall include the operator's trade name, address, telephone number and Board license number.

H. Operators shall be responsible for the supervision and all actions of their employees and drivers, including their compliance with laws and regulations governing towing and recovery services.

I. Operators shall not provide a public safety towing and recovery services unless they have met the criteria established by the Board pursuant to Va. Code §46.2-2826 and have been placed on the list authorized by that Code section.

J. Whenever a trespassing vehicle is removed or towed without the owner's consent pursuant to Va. Code §46.2-1231, then in accordance with that Code Section, notice of the removal or towing shall forthwith be given by the driver of the tow truck to the State Police or the local law-enforcement agency of the jurisdiction from which the vehicle was towed. Should the driver fail to report such action, it shall limit the amount which may be charged for the storage and safekeeping of the towed vehicle to an amount no greater than that charged for one day of storage and safekeeping. If the vehicle is removed and stored, the vehicle owner may be charged and the vehicle may be held for a reasonable fee for the removal and storage.

K. An operator shall comply with all local ordinances and with all contracts, if any, which he has entered into, including any agreements related to private property/trespass towing pursuant to Va. Code §46.2-1231. At the request of both the locality and a towing and recovery operator the Board may assist in conflict resolution between an operator and a locality regarding compliance with local ordinances or contracts.

L. For vehicles towed or removed from private property without the consent of the owner, unless different limits are established by ordinance of the local governing body, an operator shall not charge a hookup and initial towing fee in excess of the amount set out in section 46.2-1233.1 of the Code of Virginia. For towing such a vehicle between seven

o'clock p.m. and eight o'clock a.m. or on any Saturday, Sunday, or holiday, an additional fee of no more than the amount set out in section 46.2-1233.1 of the Code may be charged, per instance; however, in no event shall more than two such fees be charged for towing any such vehicle. No charge shall be made for storage and safekeeping for such vehicle if it is stored for a period of twenty-four hours or less. Except for such stated fees, no other fees or charges shall be imposed during the first twenty-four-hour period.

M. As provided in Va. Code §46.2-2828, no operator shall impersonate a licensed operator of a like or different name.

N. As provided in Va. Code §46.2-2828, no operator shall publish or cause to be published in any manner an advertisement that is false, deceptive, or misleading, or violates regulations of the Board governing advertising by towing and recovery operators.

O. No operator shall provide any towing and recovery services for vehicles of a gross vehicle weight over 26,000 pounds unless licensed as a Class A Operator.

P. In addition to the foregoing, the standards of practice for operators require that no operator shall:

1. Engage in fraud or deceit in the offering or delivering of towing and recovery services.

2. Conduct his business or offering services in such a manner as to endanger the health and welfare of the public.

3. Use or allow the use of alcohol or drugs to the extent such use renders the operator or his drivers unsafe to provide towing and recovery services.

4. Neglect to maintain on record at the licensed operator's principal office a list of all drivers in the employ of the operator.

5. Obtain any fee by fraud or misrepresentation.

6. Advertise in a way that directly or indirectly deceives, misleads, or defrauds the public.

7. Advertise or offer services under a name other than one's own name or trade name (as specified on the truck) as set forth on the operator's license.

8. Fail to accept for payment cash, insurance company check, certified check, money order, at least one of two commonly used, nationally recognized credit cards, or additional methods of payment approved by the Board.

9. Fail to display at the licensed operator's principal office in a conspicuous place a listing of all towing, recovery, and processing fees for vehicles of 26,000 pounds gross vehicle weight or less.

10. Fail to have readily available, at the customer's request, the maximum fees normally charged by the licensed operator for basic services for towing and initial hookup of vehicles of 26,000 pounds gross vehicle weight or less.

11. Fail to provide at the consumer's request the phone number for which consumer complaints may be filed with the Board.

12. Knowingly charge excessive fees for towing, storage, or administrative services or charge fees for services not rendered.

13. Fail to maintain all towing records, which shall include itemized fees, for a period of one year from the date of service.

14. Willfully invoice for payment any services not stipulated or otherwise incorporated in a contract for services rendered between the licensed operator and any locality or political subdivision of the Commonwealth that has established a local Towing Advisory Board pursuant to § 46.2-1233.2 of the Code of Virginia.

15. Employ any driver required to register as a sex offender as provided in § 9.1-901 of the Code of Virginia.

16. Remove or tow a trespassing vehicle, as provided in § 46.2-1231 in the Code of Virginia, or a vehicle towed or removed at any request of a law-enforcement officer to any location outside the Commonwealth.

17. Refuse at any operator's place of business where payment is accepted, to make change, up to $100, for the owner of the vehicle towed without the owner's consent if the owner pays in cash for charges for towing and storage of the vehicle.

18. Violate, assist, induce, or cooperates with others in violating any provisions of law related to the offering or delivery of towing and recovery services, including the provisions of Chapter 28 of Title 46.2 of the Code of Virginia and the provisions of these regulations.

19. Fail to provide the owner of a stolen vehicle written notice of his right under law to be reimbursed for towing and storage of his vehicle out of the state treasury from the appropriation for criminal charges as required in § 46.2-1209 of the

Code of Virginia.

20. Fail to satisfy the procedural steps, including the timely mailing of all notices, required by Sections 43-32 and 43-34 of the Code of Virginia, in order to perfect and enforce the liens provided therein for towing and recovery and vehicle storage.

24 VAC 27-30-70. Operating without a license, penalties.

A. Should the Board, after investigation, determine an operator is engaged in or offering towing and recovery services without a license, then, as authorized by §46.2-2808 of the Code of Virginia, the Board may bring an action in the name of the Commonwealth to enjoin any such violation of law, as well as any violations of these regulations, or Chapter 28 of Title 46.2 of the Code of Virginia.

B. Those found to be engaged in or offering towing and recovery services without a license may be subject to a Board imposed civil penalty of up to $1,000 for each violation pursuant to Va. Code §§46.2-2811 and 46.2-2824.

C. Additionally, the Board may seek criminal prosecution for such a violation pursuant to Section 46.2-2812 of the Code.

24 VAC 27-30-75. Expedited process to consider consumer complaints.

A. The Board's Executive Director or designated staff shall have the authority to initiate an expedited process to mediate and resolve complaints filed against those licensed or otherwise regulated by the Board according to guidelines developed by the Board.

B. Anonymous complaints received by the Board will be handled in accordance with Board policy and guidance documents.

24 VAC 27-30-80. Prerequisites for Application for Tow Truck Driver's Authorization Document.

1. The Board will accept applications for tow truck driver authorization documents at its office in Richmond or via its website. To be included with the application will be the Board application fee plus the prevailing fee required by state and federal police authorities for reviewing the fingerprints submitted by the applicant and processing the criminal history background checks required by the statutes and these regulations.

After the application and fees are received, the applicant will be issued the Board Originating Number to provide to the entity taking the fingerprints at the time the

fingerprints and criminal history background check data are taken before being forwarded to State Police to be processed. The Board will accept electronically processed fingerprints such as those available from LiveScan, or other electronic systems that take the fingerprints and forward them electronically for almost immediate processing by State and federal officials, sometimes within 24 hours, in addition to ink fingerprint cards submitted to the State Police, noting that ink cards have processing times from 30 to 60 days and higher rates of rejection requiring retesting than electronic systems .

When the results of the criminal history background check are received by Board, they will be evaluated and the application will either continue to be processed, or, if the results are such that the applicant appears to be ineligible to obtain a driver authorization document under the statutes or these regulations, the applicant will receive a denial notice from Board.

A denied applicant may appeal such denial by requesting review by the Board in accordance with informal proceeding provisions of §2.2-4019 of the Virginia Administrative Process Act, Va. Code §2.2-4000, et seq., within 30 days of the denial notice.

2. Results of the criminal history background check shall be sent directly to the Board office and maintained confidentially unless its contents are used to reject or place conditions upon a driver's authorization document. <u>An applicant will not be refused a tow truck driver's authorization document by the Board solely because of a prior criminal conviction against such applicant unless the criminal conviction directly relates to the provision of towing and recovery services or the safety of the safety of the users of such services offered by a licensee or holder of a tow truck driver's authorization document. However, the Board will refuse to issue a tow truck driver's authorization document if, based upon all the information available, including the record of prior convictions of the applicant, it finds that the applicant is unfit or unsuited to engage in providing towing and recovery services as a tow truck driver.</u>

   a. <u>The Board will consider the following criteria in determining whether a criminal conviction directly relates to the provision of towing and recovery services or the safety of the users of towing and recovery services by a tow truck driver:</u>

      i. <u>The nature and seriousness of the crime;</u>

      ii. <u>The relationship of the crime to the purpose for requiring a license or tow truck driver's authorization document to provide towing and recovery services, which includes protecting the safety of users of such services;</u>

      iii. <u>The extent to which providing towing and recovery services might offer an opportunity to engage in further criminal activity of the same type as</u>

that in which the convicted person had been involved;

iv. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of providing towing and recovery services;

v. The extent and nature of the person's past criminal activity;

vi. The age of the person at the time of the commission of the crime;

vii. The amount of time that has elapsed since the person's last involvement in the commission of the crime;

viii. The conduct and work activity of the person prior to and following the criminal activity; and

ix. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release or at any time following the conviction.

b. The following criminal convictions will not be considered a bar to authorization by the Board, meaning that the inclusion of these items on a criminal history record shall not be sufficient as the sole grounds for denial of a tow truck driver's authorization document.

i. Felony convictions more than ten years old with no subsequent reportable convictions, unless the conviction resulted in incarceration where the release date is less than three years from the date of the application. This does not include convictions involving murder, manslaughter, sexual assault, rape, robbery, or indecent liberties.

ii. Misdemeanor convictions more than three years old from the date of application.

iii. Convictions of grand larceny, breaking and entering, and/or burglary, more than five years old with no subsequent convictions, provided they did not result in incarceration where the release date is less than three years from the application date.

iv. DUI convictions where the applicant has completed VASAP or another similar program accepted by the court after the latest conviction. However, no tow truck driver's authorization document shall be issued, and none shall continue to be valid, during any time period for which the person's

driver's license is suspended or revoked or the person has been authorized only a restricted license during a period of suspension or revocation resulting from a conviction or convictions for DUI or any DUI related offense, except that if the driver demonstrates that he is not required to possess a commercial driver's license in order to drive a tow truck, then an authorization document can be issued for the period during which he has a restricted license if it authorizes the driver to drive only tow trucks for which a CDL is not required.

3. The applicant must possess a valid driver's license at the time of the application. The driver shall be required to possess a commercial driver's license if applicable to the Class of Operator the driver is to be employed by or the type of tow truck to be driven.

4. Applicants shall be required to sign a statement verifying they are not currently on any state or federal list as a sex offender and are not required to register as a sex offender under any state, federal or local law, or the law of any foreign country.

5. A tow truck driver's authorization documents shall be valid for one year and shall be subject to annual renewal on June 30th of each year. Driver authorization documents issued on or after April 1 of any year, with the payment of a full year's fee, will be valid until June 30th of the following year.

24 VAC 27-30-85 Exemptions from tow truck driver authorizations

A tow truck driver's authorization document shall be required for operation of a tow truck in Virginia only if such operation is for hire and involves a pick up of the towed vehicle in Virginia. Driving a tow truck into or through Virginia while towing a vehicle picked up outside of Virginia shall not require a driver's authorization document

24 VAC 27-30-90. Requirements for Drivers.

Unless otherwise provided herein, all tow truck drivers shall:

A. Possess a valid and appropriate driver's license and tow truck driver authorization document while operating a tow truck for hire in Virginia, where the pick up of the towed vehicle took place in Virginia.

B. At time of application for a tow truck driver authorization document, provide evidence that he is employed or about to be employed by a licensed operator, and the name and address of that operator.

~~C. Promptly advise the Board of any change of the driver's employer, which must be a licensed operator.~~

C. Maintain in their possession and have readily available for inspection, when providing towing and recovery services, their Board issued tow truck driver's authorization document. The driver's authorization document shall include the name of the driver and the driver's appropriate driver's license number of the state in which they hold a valid driver's license and the name and Board issued license number of the driver's employer.

D. Notify the Board within 5 business days upon the driver being convicted of any criminal offense, including any offense for which the driver is required to register as a sex offender under any state, federal or local law, or the law of any foreign country.

E. Provide towing and recovery services in a safe manner.

F. Review and read all regulations and laws related to standards of practice, unprofessional conduct and safety prior to operating a tow truck or providing towing and recovery services. The driver shall sign a statement to be retained by the operator who employs the driver verifying the driver's compliance with this subsection

G. Notify the Board within 15 days of any change in licensed operator who employs the driver. The driver's authorized documentation shall, within 30 days of any change in employer, reflect the current operator or operators who employ the driver.

H. Surrender their tow truck driver's authorization document should the Board rescind, cancel, suspend, revoke or deny such tow truck driver's authorization document upon a determination by the board that the driver has violated laws or regulations governing towing and recovery services or otherwise has become unqualified to hold a tow truck authorization document.

24 VAC 27-30-95. Renewal of licensure; reinstatement; renewal of fees.

A. All those licensed by the Board as a towing and recovery operator shall, on or before June 30th of every year, submit a completed renewal application and pay the prescribed annual licensure fee.

B. It shall be the duty and responsibility of each licensee to assure that the Board has the licensee's current mailing address. All changes of mailing addresses or change of name shall be furnished to the Board within 30 days after the change occurs. All notices

required by law or by these rules and regulations are to be deemed validly tendered when mailed to the address given by the licensee to the Board, and the licensee shall not be relieved of the obligation to comply with any notice so mailed if there has been a failure to notify the Board of changes.

C. The license of every operator who does not submit the completed form(s) and fee(s) by June 30th of each year may be allowed to apply for renewal for up to one year after that date by paying the prescribed renewal fee and late fee. However, if the renewal has not been submitted to the Board within 62 days after the June 30th due date, then on and after August 31st of that year the operator's license is lapsed. Engaging in towing and recovery services with a lapsed license constitutes operating without a license and may subject the licensee to disciplinary action and civil penalties imposed by the Board.

D. An operator whose license has been lapsed for more than one year and who wishes to resume providing services as a towing and recovery operator shall apply for a new operator's license.

24 VAC 27-30-100. Requirements for continuing education, to become effective July 1, 2011.

A. Exclusive of additional hours which may required of those recognized by the Board to provide Public Safety Towing and Recovery Services, each application for operator's license renewal shall be conditioned upon submission of evidence to the Board of 8 hours of continuing education taken by the principal owner or Responsible Individual or other person responsible for the day to day operations of the applicant for renewal during the previous license period, and an additional 4 hours of continuing education taken by each of the tow truck drivers employed by the applicant during the previous licensing period and employed by the operator at the time the operator submits his license renewal application.

1. The required hours of continuing education shall be directly related to the safe and proper rendering and business practices of towing and recovery services, proper inspection and maintenance of equipment, and laws and regulations governing towing and recovery operators.

2. Courses that are offered directly by or of which a majority of their content promote the sale of specific equipment or products or on augmenting income are excluded and will not receive credit by the Board.

B. Each licensee shall attest to fulfillment of continuing education requirements on the required annual renewal application form completed by the applicant for renewal and submitted to the Board. All continuing education shall be completed prior to application for renewal being submitted of each year unless an extension or waiver has been granted

by the Board's Continuing Education Committee.

C. Requests to the Board for consideration of waiver, reduction in the number of hours or extension for time to complete continuing education shall be in writing and must be received by the Board no later than April 1 of the year for which such request is being made. Such requests are only to be considered when based on documented illness or undue hardship.

D. All continuing education courses shall be offered by an approved sponsor, a list of whom will be posted on the Board's website. Courses which are not offered by an approved sponsor shall not be accepted for continuing education credit, but the sponsor of such a course may apply for approval by submitting an application therefore to the Board's Executive Director.

E. At least one-half of the required number of continuing education credit hours completed annually must be through face to face instruction which requires the presenter and audience see and hear each other during the presentation.

F. Courses presented via the internet or by correspondence must be (1) sponsored by a Board approved sponsor and (2) require a post-test with credit only to be granted for the licensee receiving a passing grade as indicated on the certificate of completion of the course.

G. Licensees shall maintain documentation for a period of at least three years of the continuing education completed as required for renewal of their license.

H. At the discretion of the Board, a random audit of licensees may be conducted by the Board which will require that the licensee, within 21 days of the request, provide evidence substantiating completion of the required continuing education courses.

I. Documentation of hours shall clearly indicate the (1) name of the sponsor of the continuing education, (2) name or title of the presentation or instruction, (3) name of instructor(s), (4) location instruction presented, (5) time period of instruction, (6) number of applicable continuing education hours received, (7) name of the person taking the course and that person's relationship to the licensee, as well as the name of the licensee, and (8) either a signature, type of stamp or some other means to verify attendance. Documents failing to have the required information shall not be acceptable to the Board. Correspondence or internet courses shall be credited according to the date on which the post test was graded as indicated on the applicable continuing education certificate.

J. One hour of continuing education credit shall require the licensee's presence and participation for at least 50 minutes.

K. A licensee shall be exempt from the continuing education competency requirements for the first renewal following the date of initial licensure by examination in Virginia.

ATTACHMENT C

Overview of Advisory Board on Trespass Vehicle Towing and County Manager Recommendations

Code Section	Advisory Board Recommendations	County Manager Recommendations	Explanatory Notes
14.3-2 Add:	"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway and having a registered gross vehicle weight of less than 10,000 pounds.	"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway.	Enabling legislation does not limit the weight of the vehicle.
14.3-5.A.(1)(a) Change to:	each sign shall be not less than 12 X 18 inches.	Same as Advisory Board	
14.3-5.A.(1)(b) Change to:	the lettering for the words "towing at owner's expense" shall be three inches in height; "24 hrs/7 days" shall be in one inch lettering just above the tow truck symbol;	the lettering on each sign shall be as follows: "towing at owner's expense" not less than three inches in height; "24 hrs/7 days" not less than one inch in height and placed just above the tow truck symbol; the tow truck symbol not less than two inches in height. Other lettering may vary in size but in no case be less than one-half inch in height.	It is necessary to specify the size of all of the lettering on the sign.
14.3-5.A.(1)(e) Change to:	each sign shall state the hours and days of the week when trespassing vehicles are subject to towing;	Same as Advisory Board	
14.3-5.A.(1) Add new section:	(h) there will be a grace period of one year from the date of adoption to bring all signs into compliance.	Same as Advisory Board	
14.3-5.A.(4)(a) Change to:	digital and/or Polaroid photographs or videos of the vehicle in the location from which the vehicle is being towed;	Same as Advisory Board	
14.3-5.A.(4)(b) Change to:	digital and/or Polaroid photographs or videos of the condition of the vehicle prior to the tow; and	Same as Advisory Board	

Code Section	Advisory Board Recommendations	County Manager Recommendations	Explanatory Notes
14.3-5.A.(5) Change to:	The tow truck used to perform the tow shall include the name, street address, and current, local telephone number of the towing and recovery operator permanently affixed in a conspicuous location on the exterior of the truck.	Same as Advisory Board	
14.3-6.A.	Change to: Prior to a trespassing vehicle being removed or towed as permitted by this chapter, notice of this action shall be given by the towing and recovery operator to the County Police. (a) immediate notice shall include the following information: (i) the name of the towing and recovery operator removing the vehicle; (ii) the license plate number, make and model of the vehicle; (b) within fifteen minutes of removing the vehicle the following information will be provided: (i) VIN number and license plate; (ii) the location of trespassing vehicle and the date and time of the tow; (iii) the location of the storage facility to which the vehicle was towed; and (iv) the name and address of the individual and/or entity who authorized the tow.	No proposed changes	The notification calls are placed to the Emergency Communications Center. Due to work load, level of staffing, and higher priority emergency calls, we do not recommend changing the current procedure from a one-step call-in process to a two-step notification process. A two-step notification process could delay forwarding information to the police; and, in the event the two pieces of information were not joined, could result in incomplete or inaccurate information being forwarded to the police. The current system (one telephone call with all information prior to tow) is working.

Code Section	Advisory Board Recommendations	County Manager Recommendations	Explanatory Notes
14.3-7.A.(f) Change to:	the non-emergency telephone number of the Police Department where the storage facility is located; and	Same as Advisory Board	
14.3-9.B.(a)	Change to: for the towing of a motor vehicle, the maximum fee shall be $125;	No proposed changes	The current fee of $100 is reasonable and falls in the range when compared with the fees charged by other jurisdictions (see Board Report, p.2).
14.3-9.B.(b) Change to:	for the storage of a towed motor vehicle, the maximum fee for each twenty-four hour period of storage, or portion thereof, shall be $50; provided that no storage fee may be charged for the first twenty four hours of storage, or any portion thereof, following the arrival of a towed vehicle at a storage facility.	Same as Advisory Board	This is a proposed increase of $10 per day (after the first 24 hours) for storage. The current storage fee is $40 per day.
14.3-9.C. Change to:	This item was not before the Advisory Board.	Except for fees authorized by this chapter, no other fees shall be imposed.	This is to clarify the original intent that no additional fees would be allowed. The current language may be interpreted to mean that other fees may be charged after the first 24 hours.
14.3-9.E. Change to:	If the owner or representative or agent of the owner of the trespassing vehicle is present and removes the trespassing vehicle from the premises before it is removed by a towing and recovery operator, the vehicle shall not be towed but the owner or representative or agent of the owner of the trespassing vehicle shall be liable for a reasonable fee, not to exceed $25.	Same as Advisory Board	State Code allows a $25.00 drop fee and all other jurisdictions used for comparison purposes allow a drop fee. When the Advisory Board reviewed Chapter 14.3 last year, the drop fee was removed at the request of the tow operators. There is currently no drop fee. During this year's review of the Code, the tow operators requested that it be reinstated.
14.3-9. Add new	F. If a vehicle is not redeemed by the owner or agent within	No proposed changes	Of the jurisdictions used for comparison purposes,

Code Section	Advisory Board Recommendations	County Manager Recommendations	Explanatory Notes
section	seventy-two (72) hours after it is towed, the towing and recovery operator shall be entitled to recover an additional fee, not to exceed seventy-five dollars ($75), as payment for the cost of any search conducted to determine the registered owner and lien holder, if any, of the vehicle.		Virginia Beach is the only one that includes an administrative fee and theirs is $50.00. Some tow operators in Arlington currently charge administrative fees ranging up to $185. The fee to file a Mechanic's Lien with the court is $31; the cost to send a letter by certified mail is $4.28; and the DMV fee for replacement title is $5. With the addition of clerical costs, a $50.00 fee is reasonable and within the range of the cost of doing business. State Code requires written notice to be sent by certified mail within seven days of taking possession of the vehicle. In order to send the notice within seven days, the tow operator typically begins the owner identification process on the third day. The Police Tow contract allows a maximum of $50.00 administrative fee and the current contract holders charge $37.00 and $30.90. The majority of towed vehicles are claimed within the first 24 hours.