

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 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.

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CHAPTER 14.3

TOWING AND STORAGE OF 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 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 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 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 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 vehicle from privately-owned property within the County where it is parked. The preparation of a vehicle for removal by a tow truck or the attachment of a vehicle to a tow truck, or both, does not, for purposes of this chapter, constitute a “tow” or “towing.”

“Towing fee” means the compensation payable for the towing of a 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 vehicles from public streets and other locations, pursuant to a contract with the County.

“Tow truck” means a 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 “rollback.”

“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 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 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 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 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 12 X 18 inches;

(b) 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;

(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;

(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;

(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 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 vehicles and for the storage of such towed vehicles are as follows:

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

- (b) for the storage of a towed 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.

C. Except for fees authorized by this chapter, no other fees or charges shall be imposed.

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 or representative or agent of the owner of the trespassing vehicle is present, and ready, willing, and able to remove the trespassing vehicle from the premises at any time before it is removed from the premises by a towing and recovery operator, the vehicle shall be released to the owner or representative or agent of the owner for purposes of immediate removal from the property, but the owner or representative or agent of the owner shall be liable for a reasonable “in lieu of towing” fee, not to exceed \$25, provided that the towing and recovery operator provides a written receipt to the owner or representative or agent of the owner identifying the accepted forms of payment specified in Section 14.3-10.

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 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 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.