

ORDINANCE NO. 6639-09

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 26, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE I, IN GENERAL, SECTION 26-16, AUTHORITY OF POLICE TO MOVE VEHICLE INVOLVED IN ACCIDENT; REMOVAL AND DISPOSITION OF UNATTENDED, ILLEGALLY PARKED OR IMMOBILE VEHICLES; SECTION 26-17.1, TOW TRUCK SERVICE OPERATIONS-DEFINITIONS; AND BY ADDING THERETO NEW SECTIONS, NAMELY: SECTION 26-17.1.1, LICENSES REQUIRED; SECTION 26-17.1.2, LICENSE TO BE DISPLAYED; SECTION 26-17.1.3, STANDARDS OF PRACTICE AND SECTION 26-17.1.4, REQUIREMENTS FOR DRIVERS; BY AMENDING ARTICLE VII., ABANDONED VEHICLES, SECTION 26-196, DEFINITIONS; SECTION 26-198, NOTICE OF REMOVAL, AND BY REPEALING SECTION 26-200, VEHICLES ABANDONED IN GARAGES.

BE IT ORDAINED by the Council of the City of Newport News, Virginia:

1. That Chapter 26, Motor Vehicles and Traffic, of the Code of the City of Newport News, Virginia, Article I, In General, Section 26-16, Authority of police to move vehicle involved in accident; removal and disposition of unattended, illegally parked or immobile vehicles, Section 26-17.1, Tow truck service operations-Definitions, be, and the same hereby is, amended and reordained, and by adding thereto new sections, namely: Section 26-17.1.1, Licenses required; Section 26-17.1.2, License to be displayed; Section 26-17.1.3, Standards of practice and Section 26-17.1.4, Requirements for drivers; and that Article VII., Abandoned Vehicles, Section 26-196, Definitions, and Section 26-198, Notice of removal, be, and the same hereby is, amended and reordained as follows:

CHAPTER 26

MOTOR VEHICLES AND TRAFFIC

ARTICLE I. IN GENERAL

Sec. 26-16. Authority of police to move vehicle involved in accident that is left unattended, illegally parked or immobile; authority of authorized conservators to remove vehicles from public lots.

(a) Whenever a motor vehicle, trailer or semi-trailer, involved in an accident is found upon the highways or streets within the city and is so located as to impede the orderly flow of traffic, the police may, remove such motor vehicle, trailer or semi-trailer from the highway or street to some point in the vicinity of such accident where such motor vehicle, trailer or semi-trailer will

not impede the flow of traffic.

(b) The police may remove for safe keeping any motor vehicle, trailer, semi-trailer, or parts thereof to a storage area if:

- (1) It is left unattended on a public highway or street or other public property and constitutes a safety hazard;
- (2) It is illegally parked;
- (3) It is immobilized on a public roadway by weather conditions or other emergency situations;
- (4) It is left unattended for more than ten (10) days either on public property or on private property without the permission of the property owner, lessee or occupant.

(c) Removal of motor vehicles that are illegally parked or left unattended for more than ten (10) days on a public parking lot may be carried out by a conservator of the peace who is authorized by the City of Newport News to initiate such removal.

Sec. 26-17.1. Tow truck service operations--Definitions.

Unless a different meaning is required by the context, the following terms as used in sections 26-17 through 26-17.8 shall have the meaning hereinafter respectively ascribed to them:

Authorizing a tow means the authorizing of a tow by an owner.

Board means Board of Towing and Recovery Operators.

Day or storage day means a period of twenty-four (24) consecutive hours.

Dolly or tow dolly means an axle-like device used to support the front or rear wheels of a passenger vehicle, pick-up or panel truck, for towing purposes. Such device when used on the public streets, shall be equipped with a safety chain or safety straps to restrain the device and vehicle being towed, should the connection fail.

Gojack means a combination jack/dolly which enables a tow operator to lift and move a locked, blocked or disabled vehicle several feet into hook up alignment with a tow truck.

Operator means any person operating a towing firm or tow truck or providing towing and recovery services.

Owner means an owner or lessee, or agent thereof, of private property conducting a business thereon and offering parking to patrons and who uses a towing firm to enforce parking restrictions.

Person means a natural person, firm, partnership, association or corporation and its legal successors.

Tow means the actual hooking up and attachment of the vehicle to be towed to the towing vehicle and subsequent relocation of vehicle being towed.

Towing and recovery services means 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.

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 ten thousand (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".

Towing firm or 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.

Tow yard or tow lot means a location where operable or inoperative vehicles are towed or stored.

Trespassing vehicle means a vehicle occupying a lot, area or space without permission of the owner of the lot, area or space.

Sec. 26-17.1.1. Licenses required.

It shall be unlawful for any person to engage in business in the City of Newport News as a towing and recovery operator without first obtaining a license from the Board of Towing and Recovery Operators as a Class A or Class B operator, as provided in Title 46.2 of the Code of Virginia. Violation of this section shall constitute a Class 1 misdemeanor.

Sec. 26-17.1.2. License to be displayed.

Every person engaged in towing and recovery services shall display his license in a conspicuous place in the principal office in which he operates.

Sec. 26-17.1.3. Standards of practice.

(a) All tow firms, including their offices and storage facilities, shall comply with all required state or local building or zoning codes.

(b) A tow firm with its principal place of business in the City of Newport News must maintain a valid business license.

(c) Any operator permanently ceasing to provide towing and recovery services shall notify the Board of Towing and Recovery Operators (hereinafter "the Board") and the Commissioner of the Revenue in writing and return the Board-issued operator's license for voluntary cancellation and termination within 30 days.

(d) A licensed tow operator must maintain the following proof of insurance: (i) a minimum of \$750,000 for automobile liability; (ii) a minimum of \$750,000 for commercial general liability; (iii) a minimum of \$50,000 for garagekeepers liability; and (iv) worker's compensation as required by state and federal law.

(e) Operators shall ensure that only equipment designed and rated for the type of vehicle being transported is used. Tow operators shall additionally ensure that at no time shall one of their tow trucks exceed the manufacturer's gross vehicle weight rating for a Class B operator's tow truck and Class A tow operator's truck, as the same are defined by the Code of Virginia

(f) All tow trucks shall meet all federal Department of Transportation and applicable Virginia regulations.

(g) Any and all advertisements, promotions, and offers for towing and recovery services shall include the tow 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, training and all actions of their employees and drivers pertaining to their compliance with laws and regulations governing towing and recovery services.

(i) Whenever a trespassing vehicle is removed or towed without the owner's consent pursuant to § 46.2-1231 of the Code of Virginia, then in accordance with that section, notice of the removal or towing shall forthwith be given by the driver of the tow truck to the local law-enforcement agency of the jurisdiction from which the vehicle was towed. Should the driver fail to report such action, the amount that may be charged for the storage and safekeeping of the towed

vehicle shall be limited to an amount no greater than that charged for one day of storage and safekeeping. If the vehicle is removed and stored, and the aforesaid notice is properly given, the vehicle owner may be charged and the vehicle may be held for a reasonable fee for the removal and storage.

(j) No operator shall impersonate a licensed operator of a like or different name.

(k) No operator shall publish or cause to be published in any manner an advertisement that is false, deceptive or misleading.

(l) 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.

(m) The tow firm or tow operator's licensed trade name shall be clearly indicated on all of the tow operator's tow trucks.

(n) Tow operators shall accept at least one of two nationally recognized credit cards. However, any credit card offered in payment, even if of a type normally accepted, may be considered unacceptable by the operator if the credit card company denies charges being applied to said card or if the actual card is not presented to the operator for inspection. Operators may insist that payment by credit card be made at their principal place of business or any location at which payment for their fees for services is normally accepted.

(o) 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 offer 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 impaired or unsafe to provide towing and recovery services.
- (4) Neglect to maintain on record at the licensed tow operator's principal office a list of all drivers in the employ of the operator. Operators shall be required to notify the Board within 30 days of the occurrence of all changes of drivers.
- (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 set forth on the operator's license.
- (8) 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.
- (9) 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.
- (10) Fail to provide at the consumer's request the phone number for which consumer complaints may be filed with the Board.
- (11) Knowingly charge fees in excess of those permitted by this chapter for towing, storage, or administrative services or charge fees for services not rendered.
- (12) Fail to maintain all towing records, which shall include itemized fees, for a period of one year from the date of service.
- (13) Employ any driver required to register as a sex offender as provided in § 9.1-901 of the Code of Virginia.
- (14) Remove or tow a trespassing vehicle, as provided in § 46.2-1231 of the Code of Virginia, or a vehicle towed or removed at any request of a law-enforcement officer to any location outside the Commonwealth.
- (15) Refuse at the operator's place of business 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.
- (16) Violate, assist, induce, or cooperate 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 (§ 46.2-2800 et seq.) of Title 46.2 of the Code of Virginia and the provisions of these regulations.
- (17) Fail to provide the owner of a stolen vehicle written notice of his right under the 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.

- (18) Fail to satisfy the procedural steps, including the timely mailing of all notices, required by §§ 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.

Sec. 26-17.1.4. Requirements for drivers.

A tow truck driver shall:

- (a) Possess a valid and appropriate driver's license, and a tow truck driver's authorization document issued by the Board.
- (b) Maintain in his possession and have readily available for inspection when providing towing and recovery services his Board issued tow truck driver's authorization document.
- (c) Notify the Board within five 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.
- (d) Provide towing and recovery services in a safe manner.
- (e) Review and read all state 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.
- (f) Surrender his tow truck driver's authorization document(s) should the Board rescind, cancel, suspend, revoke or deny such tow truck driver's authorization document(s) 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.

ARTICLE VII. ABANDONED VEHICLES

Sec. 26-196. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Abandoned motor vehicle. Any motor vehicle, trailer, or semitrailer that:

- (1) Is left unattended on public property for more than forty-eight hours in violation of a state law or local ordinance, or
- (2) Has remained for more than forty-eight hours on private property without the consent of the property's owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property, or
- (3) Is left unattended on the shoulder of a primary highway, or
- (4) Has remained unclaimed in a garage for more than 10 days or for more than 10 days beyond the period the motor vehicle was to remain on the premises pursuant to a contract, or
- (5) Has remained unclaimed in a self-service storage unit under the provisions of Chapter 23 (§ 55-416 et seq.) of Title 55.

Demolisher. Any person whose business is to convert a motor vehicle into processed scrap or scrap metal or otherwise to wreck or dismantle such vehicle.

Garage. Any commercial parking place, motor vehicle storage facility, or establishment for the servicing, repair, maintenance, or sale of motor vehicles whether or not the vehicle had been brought to that location with the consent of the owner or person in control of the premises.

Garage keeper. The operator of a garage.

Motor vehicle. Any automobile, van, truck, trailer or semi-trailer.

Traffic hazard. Any motor vehicle found on the public streets or grounds of the city, unattended by the owner or operator and constituting a hazard to traffic, or which is parked so as to be in violation of the law.

Unclaimed motor vehicle. Any vehicle which is abandoned and for which no owner can be located after having followed the procedure outlined in this article.

Vehicle removal certificate. A transferable document issued by the Department of Motor Vehicles for any abandoned motor vehicle that authorizes the removal and destruction of the vehicle.

Sec. 26-198. Search for owner.

(a) Any person in possession of an abandoned motor vehicle shall initiate with the Department of Motor Vehicles of the Commonwealth of Virginia, in a manner prescribed by the Commissioner of the Department of Motor Vehicles, a search for the owner and/or lienholder of record of the vehicle, requesting the name and address of the owner of record of the motor vehicle and all persons having security interests in the motor vehicle on record in the office of the Department of Motor Vehicles, describing, if ascertainable, the motor vehicle by year, make, model and vehicle identification number.

(b) If the Department of Motor Vehicles confirms owner or lienholder information, the Department of Motor Vehicles will notify the owner, at the last known address of record, and lienholder, at the last known address of record, of the notice of interest in their vehicle, by certified mail, return receipt requested, and advise them to reclaim and remove the vehicle within 15 days, or if the vehicle is a manufactured home or mobile home, 120 days, from the date of notice. Such notice shall be sufficient regardless of whether or not it was ever received. Following the notice required, if the motor vehicle remains unclaimed, the owner and all persons having security interests in the motor vehicle shall have waived all right, title, and interest in the motor vehicle.

Whenever a vehicle is shown by the records of the Department of Motor Vehicles to be owned by a person who has indicated that he is on active military duty or service, any person having an interest in such vehicle shall comply with the provisions of the federal Servicemembers Civil Relief act (50 U.S.C. app. 501 et seq.).

(c) If the records of the Department of Motor Vehicles contain no address for the owner or no address of any person shown to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, the person in possession of the abandoned motor vehicle shall obtain from the Department of Motor Vehicles a vehicle removal certificate.

2. That Chapter 26, Motor Vehicles and Traffic, of the Code of the City of Newport News, Virginia, Article VII., Abandoned Vehicles, Section 26-200, Vehicles abandoned in garages, be, and the same hereby is, repealed.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON OCTOBER 27, 2009

Mabel Washington Jenkins, CMC
City Clerk

Joe S. Frank
Mayor

A true copy, teste:

City Clerk