

**ACTION ITEM  
BOARD OF SUPERVISORS**

**DATE** July 1, 2008

**TO** Board of Supervisors

**FROM:** Charles E. Jett *CEJ*  
Sheriff

**ISSUE:** Authorize Public Hearing to Amend Stafford County Code, Chapter 15,  
Entitled "Towing of Trespassing Motor Vehicles from Private Property"

**STAFF RECOMMENDATION** Approval

**BUDGET IMPACT** N/A

**ATTACHMENTS** (3)

[1] Background Report [3] Reso/Ord/Proc # R08-334

[2] Proposed Ordinance O08-63 [ ] Reso/Ord/Proc #

[ ] [ ] Reso/Ord/Proc #

**REVIEW** [X] County Administrator's Office *[Signature]*  
[X] Legal *Joseph L. Howard, Jr.*  
[ ] \_\_\_\_\_

- [X] Consent Agenda [ ] Other Business [ ] Public Hearing
- [ ] Discussion Item [ ] Presentation [ ] Unfinished Business
- [ ] New Business

**BACKGROUND REPORT**

Section 46-2-1232 of the Virginia Code (1950), as amended, authorizes the County to regulate the removal of trespassing vehicles from property by or at the direction of the owner, operator, lessee, or authorized agent in charge of the property. Many localities regulate this type of towing to ensure uniformity in towing charges.

Proposed Resolution R08-334 authorizes the County Administrator to advertise a public hearing for September 2008, for proposed Ordinance O08-63.

PROPOSED

BOARD OF SUPERVISORS  
COUNTY OF STAFFORD  
STAFFORD, VIRGINIA

ORDINANCE

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 2008

MEMBERS

VOTE

George H Schwartz, Chairman  
M S "Joe" Brito, Vice Chairman  
Harry E Crisp II  
Mark Dudenhefer  
Paul V Milde III  
Cord A Sterling  
Robert "Bob" Woodson

On motion of , seconded by , which carried by a vote of , the following was adopted

**AN ORDINANCE TO AMEND AND REORDAIN STAFFORD COUNTY  
CODE, CHAPTER 15, ARTICLE VII, ENTITLED "TOWING OF  
TRESPASSING MOTOR VEHICLES FROM PRIVATE PROPERTY"**

WHEREAS, Section 46 2-1232 of the Virginia Code (1950), as amended, authorizes the County to regulate the removal of trespassing vehicles from property by or at the direction of the owner, operator, lessee, or authorized agent in charge of the property, and

WHEREAS, many localities regulate this type of towing to ensure uniformity in towing charges, and

WHEREAS, the Board desires to amend the Stafford County Code to regulate the towing of trespassing motor vehicles from private property,

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the \_\_\_\_ day of \_\_\_\_\_, 2008, that the Stafford County Code Chapter 15, Article VII, be and it is hereby is amended and reordained as follows, all other portions remain unchanged

**ARTICLE VII. TOWING OF TRESPASSING MOTOR VEHICLES FROM  
PRIVATE PROPERTY**

**Sec 15-165 Purpose**

Pursuant to the authority provided in section 46 2-1232 of the Code of Virginia (1950), as amended, the board of supervisors hereby enacts this article to regulate the removal of trespassing vehicles from property by or at the direction of the owner, operator, lessee, or authorized agent in charge of the property

**Sec 15-166 Definitions**

Unless a different meaning is required by the context, the following terms, as used in this article, shall have the meanings hereinafter ascribed to them

County means the County of Stafford

Motor vehicle or vehicle means any motor vehicle, as defined in the Code of Virginia, § 46 2-100, which does not exceed 11,000 pounds

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

Tower means a person or firm engaged in the business of or offering of a vehicle towing service, whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle adapted to or designed for that purpose

Towing board means the Stafford County Advisory Board on Towing, which consists of nine (9) members four (4) law-enforcement officers, including a voting representative from the state police, four (4) towing and recovery operators, and one (1) citizen

Tow truck means any motor vehicle used to tow another motor vehicle

Tow truck operator or operator means any licensed driver, over the age of eighteen, who is employed and authorized by a tow truck service to remove by towing any trespassing vehicle from private property or to immobilize any such vehicle

Tow truck service means any person engaged in the business of removing or towing motor vehicles from private property without the consent the owner, representative, agent, or custodian of the vehicle

**Sec 15-167 Exemptions**

(a) This article shall not apply to police, sheriff, rescue, or public health vehicles or where a vehicle, because of a wreck or other emergency, is parked or left temporarily on the property of another

(b) The lawful repossession of vehicles shall be exempt from the provisions of this article

**Sec 15-168 Towing of motor vehicles from private property**

(a) It shall be unlawful for any person to remove, immobilize, or tow a motor vehicle or trailer from private property or to direct another person to remove, immobilize, or tow a motor vehicle or trailer from private property without first obtaining the permission of the owner of the motor vehicle or trailer, the owner, lessee, custodian, or other person lawfully in charge of the private property, or a law enforcement officer

(b) No owner, lessee, custodian, or other person lawfully in charge of any private parking lot or parking area or space therein, or of any other private lot or building shall have any motor vehicle occupying such lot, area, space, or building without the permission of such property owner, lessee, custodian, or other person lawfully in charge of the premises removed by a tow truck service except in accordance with the provisions of this article.

(c) 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.

(1) digital print and/or Polaroid photographs of the vehicle in the location from which the vehicle is being towed, and

(2) digital print and/or Polaroid photographs of the condition of the vehicle prior to the tow, and

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

**Sec 15-169 Charges for towing and storage of vehicles**

(a) No tow truck service or operator shall charge a recovery fee or initial towing fee of more than \$65 00 for towing any motor vehicle from a private parking lot or parking area or space therein, or from any other private lot or building. However, a towing firm or operator may charge as much as \$115 00 for towing any road tractor, tractor-truck, tractor-truck and trailer, semi-trailer or any truck or motor vehicle with gross weight in excess of 11,000 pounds. There shall be no additional charges for mileage.

(b) No towing firm or operator shall assess any storage charge for the initial 24 hours of storage. A storage charge of no more than \$20 00 per 24-hour period thereafter may be assessed. However, a towing firm or operator may charge as much as \$25 00 per 24-hour period, after the initial 24 hours of storage, for towing any road tractor, tractor-truck, tractor-truck and trailer, semi-trailer or any truck or motor vehicle with gross weight in excess of 11,000 pounds. Delays caused by storage yard personnel shall not be included when computing storage charges.

(c) Notwithstanding any other provision of this article to the contrary, if the owner, representative, agent, or custodian of the trespassing vehicle is present and seeks to remove it before it is actually towed from the premises, the trespassing vehicle shall not be towed, but the owner, representative, agent, or custodian of the vehicle shall be liable to the tow truck operator for a reasonable fee, not to exceed \$25 00, in lieu of towing.

(d) An after-hours release fee not to exceed \$25 00 may be assessed for the release of any vehicle stored, if the owner, representative, agent, or custodian of the vehicle requests the release between the hours of 7 00 p m and 8 00 a m on weekdays, or any time on Saturdays, Sundays, or holidays.

(e) At the time the vehicle owner, representative, agent, or custodian reclaims a towed vehicle, the towing operator shall provide a written receipt that contains the following information.

(1) the name and address of the towing and recovery operator,

(2) the addresses from which the vehicle was towed,

(3) the date and time that the vehicle was towed,

- (4) the date and time that the vehicle entered the facility at which it was placed for storage,
- (5) an itemized list of all the fees that are being charged, and
- (6) a signature of an authorized representative of the towing and recovery operator

State law references Similar provisions, Code of Virginia § 46 2-1233

**Sec 15-170 Signs required on property**

(a) It shall be unlawful for any owner, lessee, custodian, or other person lawfully in charge of the premises on which trespassing vehicles are located to have such vehicles removed from the premises unless there are posted at all entrances and exits from the parking lot or area clearly legible and identical signs, visible and unobstructed day and night upon entering the parking area, that

- (1) Are 18 inches wide and 24 inches tall,
- (2) Contain a pictorial symbol of a tow truck,
- (3) State, in lettering at least one inch in height "PRIVATE PARKING" or "CUSTOMER PARKING ONLY" "[NAME OF BUSINESS OR OWNER]" "TOWING ENFORCED"

If applicable, the sign shall state "TOWING ENFORCED 24 HOURS"

- (4) Contain the name of the tow truck service and its telephone number, where the owner of the vehicle may call for information concerning its retrieval, and
  - (5) Are printed with red and white lettering on a reflective background,
- (b) The provisions of this section shall not apply to any parcel of property used primarily as a single-family or duplex dwelling

**Sec 15-171 Sheriff to be notified of removal of vehicle**

(a) Prior to the actual removal of any vehicle from a private parking lot or parking area pursuant to this article, the tow truck operator shall notify the sheriff's office. The tow truck operator shall provide the sheriff's dispatcher with the following information

- (1) The name of the tow truck service and the tow truck operator,
- (2) The date and time that the vehicle was towed,
- (3) The address or location from which the vehicle is being towed,
- (4) The location of the garage or storage facility to which the vehicle is being towed, with a telephone number which the owner of the vehicle may call for information concerning its retrieval, and
- (5) The license number, the state of issuance, and, if known, the vehicle identification number of the vehicle being towed and the make, model and year of the vehicle

(b) It shall be unlawful for any tow truck operator to fail to report a tow as required by this section. A violation of this section shall constitute a traffic infraction punishable by a fine of not more than \$100 00. In addition, the failure to report such tow shall limit the amount that may be charged by the tow truck service for the storage and safekeeping of the towed vehicle to \$20 00.

State law references Similar provisions, Code of Virginia, § 46 2-1231

**Sec. 15-172 Vehicle Storage.**

(a) All towing companies engaged in the business of towing vehicles from private property without the consent of the vehicle owner, shall have an appropriately zoned, fenced-in secured lot for storage of vehicles towed pursuant to this article

(b) All motor vehicles towed pursuant to this article shall be removed or towed to a lawfully operated garage or storage facility located within the boundaries of the county and open for the retrieval of vehicles by their owners on a 24-hour-per-day basis

(c) All businesses engaged in towing vehicles without the consent of their owners within the county shall prominently display at their main place of business and at any garage or storage facility within the county from which towed vehicles are retrieved a comprehensive list of all their fees for towing, recovery, and storage services, or the basis of such charges. Charges in excess of those posted shall not be collectable from any vehicle owner, representative, agent, or custodian whose vehicle is towed, recovered, or stored without his consent

State law references: Similar provisions, Code of Virginia, §§ 46 2-1231, 46 2-1233 and 46 2-1233 1

**Sec 15-173 Prohibited Acts.**

It shall be unlawful for any tow truck company or operator to

(a) Tow or otherwise move a vehicle from any private property within the county to a place out of the county

(b) Block the movement of any vehicle, other than when on the property of the tow truck company, to prevent the movement thereof by its owner, representative, agent, or custodian who has appeared and indicated a desire to move the vehicle and desires to move the vehicle

(c) Tow any vehicle under this article unless such vehicle has been in violation for at least 30 minutes

(d) Assess any charge or fee in excess of, or in addition to, those authorized by this article

(e) Tow or otherwise remove any vehicle under this section using any tow vehicle not specifically manufactured for the purpose of towing vehicles in a legally prescribed manner

(f) Prohibit the owner, representative, agent, or custodian of any vehicle from inspecting said vehicle prior to the actual payment of any assessed fees

**Sec 15-174. 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 in this chapter in each of the following ways

(1) cash in United States currency,

(2) insurance company check,

(3) travelers' checks or money orders payable in United States currency,  
and

(4) any debit, credit or charge card that the towing 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

**Sec. 15-175 Tow firm operator's log**

Towing firm operators shall keep a log of all vehicles towed pursuant to this article that includes all information set forth in section 15-171 of this article, the amount charged for each tow made pursuant to this article, the photographs taken at the time of the tow, and a copy of the receipt provided to the vehicle owner, representative, agent, or custodian. Such log shall be available for inspection by the sheriff's department.

**Sec 15-176 Penalties**

Except as otherwise specifically provided, any violation of this article shall be punishable by a fine not to exceed \$1,000 00.

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PROPOSED

BOARD OF SUPERVISORS  
COUNTY OF STAFFORD  
STAFFORD, VIRGINIA

RESOLUTION

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 1<sup>st</sup> day of July, 2008

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MEMBERS

George H Schwartz, Chairman  
M S "Joe" Brito, Vice Chairman  
Harry E Crisp II  
Mark Dudenhefer  
Paul V Milde III  
Cord A Sterling  
Robert "Bob" Woodson

VOTE

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On motion of , seconded by , which carried by a vote of , the following was adopted

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO ADVERTISE A PUBLIC HEARING TO AMEND AND REORDAIN STAFFORD COUNTY CODE CHAPTER 15, ARTICLE VII, ENTITLED "TOWING OF TRESPASSING MOTOR VEHICLES FROM PRIVATE PROPERTY"

WHEREAS, the Board desires to consider amending the Stafford County Code to regulate the towing of trespassing motor vehicles from private property, and

WHEREAS, the Board desires to consider public comments concerning the proposed changes,

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 1<sup>st</sup> day of July, 2008, that the County Administrator be and he hereby is authorized to advertise a public hearing to allow for presentation and public comment for the purpose of amending the Stafford County Code

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