



Code

County of Fairfax, Virginia

Chapter 82

Effective: January 24, 2012

AN ORDINANCE TO AMEND AND REENACT ARTICLE 5 OF CHAPTER 82 REGARDING: (i) THE REMOVAL, IMMOBILIZATION, AND DISPOSITION OF VEHICLES UNLAWFULLY PARKED ON PRIVATE OR COUNTY PROPERTY; (ii) THE DUTIES OF THE TRESPASS TOWING ADVISORY BOARD; AND (iii) THE DUTIES OF THE FAIRFAX COUNTY DEPARTMENT OF CABLE AND CONSUMER SERVICES RELATED TO TRESPASS TOWING.

1. Be it ordained by the Board of Supervisors of Fairfax County that Article 5, Chapter 82 of the Code of the County of Fairfax is hereby amended and reacted as follows:

1 **Section 82-5-32. – Removal, immobilization, and disposition of Vehicles unlawfully**
2 **parked on private or County property.**

3
4 **(A) Definitions.**

5
6 The following words and phrases shall have the meanings respectively
7 ascribed to them in this Section:

8
9 “Advisory Board” or “TTAB” means the Fairfax County Trespass
10 Towing Advisory Board;

11
12 “Board” means the Fairfax County Board of Supervisors;

13
14 “BTRO” means the Virginia Board of Towing and Recovery
15 Operators.

16
17 “County” means the County of Fairfax, Virginia.

18
19 “Department” or “DCCS” means the Fairfax County Department of
20 Cable and Consumer Services.

21
22 “Director” means the Director of the Fairfax County Department of
23 Cable and Consumer Services.

24
25 "Driver" means a person who drives or is in actual physical control of
26 a Tow Truck. A Driver shall have obtained an authorization
27 document issued by the BTRO in order to operate a Tow Truck while
28 providing Towing services.

29
30 “Drop Fee” means a fee that is charged a Vehicle Owner for
31 disconnecting a Tow Truck from a Vehicle prior to leaving private
32 property.

33
34 "Equipment" means any Tow Truck, Vehicle or related machinery or
35 tools used to provide Towing.

36
37 “Immobilize” means a procedure or piece of Equipment, such as a
38 boot, used to prevent a Vehicle from moving. Immobilization does
39 not include attachment to a tow truck.

40
41 "Law-Enforcement Officer" means any officer authorized by law to
42 direct or regulate traffic or to make arrests for violations of the Code
43 of Virginia or local ordinances.

44
45 "Operator" or "Towing and Recovery Operator" means any person,
46 including a business, corporation, or sole proprietor, offering services

47 involving the use of a Tow Truck and services incidental to the use of
48 a Tow Truck.

49
50 "Personal Property" means any property in a Vehicle which is not
51 attached to or considered to be necessary for the proper operation of
52 the Vehicle.

53
54 "Private Property Tow" or "Trespass Tow" means requests for
55 Towing services made by the owner, manager, or lessee of private
56 property, or the authorized agent thereof, or under contract between
57 such person and a Towing and Recovery Operator that specifies
58 what Tows are to be made from the property when a Vehicle is on
59 the property in violation of law or rules promulgated by the owner,
60 manager, or lessee of the private property.

61
62 "Property Owner" means the owner, operator, authorized agent, or
63 lessee of any land, space, or area used for parking, including any
64 county, city, or Town, or authorized agent of the person having
65 control of such premises.

66
67 "Storage Site" means a location where Vehicles are taken until the
68 owner reclaims the Vehicle or it is sold. The location must meet all
69 requirements specified in this Section.

70
71 "Tow" or "Towed" means when the Tow Truck has engaged a Vehicle
72 by a physical or mechanical means that causes the Towed Vehicle to
73 be removed from private property.

74
75 "Tow Truck" or "Truck" means a motor Vehicle for hire (i) designed to
76 lift, pull, or carry another Vehicle by means of a hoist or other
77 mechanical apparatus and (ii) having a manufacturer's gross Vehicle
78 weight rating of at least 10,000 pounds. "Tow truck" also includes
79 Vehicles designed with a ramp on wheels and a hydraulic lift with a
80 capacity to haul or Tow another Vehicle, commonly referred to as
81 "rollbackers."

82
83 "Vehicle" means every device in, on or by which any person or
84 property is or may be transported or drawn on a highway, except
85 devices moved by human power or used exclusively on stationary
86 rails or tracks.

87
88 "Vehicle Owner" means the owner, operator, authorized agent, or
89 lessee of a Vehicle.

91 **(B) Exclusions.**

92
93 ~~(a) It shall be lawful for any owner, operator, lessee, or authorized agent of the~~
94 ~~one having control of the premises of any parking area or space therein or part~~
95 ~~thereof, or of any other lot or building, including the County, to have any motor~~
96 ~~Vehicle occupying such lot, area, space or building or part thereof without the~~
97 ~~permission of such owner, operator, or authorized agent of the one having control~~
98 ~~of such premises removed by Towing or otherwise to a storage site which meets~~
99 ~~the requirements of this Section until called for by the owner or his agent; provided,~~
100 ~~that the following conditions are met:~~

101
102 ~~(b1) This section shall not apply to: police, fire or public health vehicles or~~
103 ~~when a vehicle shall, because of a wreck or other emergency, be parked or~~
104 ~~left temporarily upon the property of another.~~

105
106 (a) Federal, state, or local public service Vehicles.

107
108 (b) Vehicle repossession activities.

109
110 (c) Vehicles Towed, moved, or stored at the request of a Law-
111 Enforcement officer.

112
113 ~~(e2) The provisions of this Section shall not be construed to prohibit~~
114 ~~Vehicles from being Towed when such Towing is otherwise permitted by~~
115 ~~law.~~

116
117 ~~(1) A property owner shall erect and maintain a permanent sign, readable~~
118 ~~during daytime and nighttime hours, conspicuously posted at all entrances~~
119 ~~or otherwise so located as to be visible to any person parking a Vehicle on~~
120 ~~the property, notifying the public of parking restrictions and that Towing is~~
121 ~~enforced. The signs must have wording that indicates "private property,"~~
122 ~~"reserved parking," or otherwise reasonably informs the public of parking~~
123 ~~restrictions and that Towing of Vehicles may occur. The words "If Towed,~~
124 ~~call 691-2131" must be affixed to the front of each sign; provided, however,~~
125 ~~that the requirement for signs shall not apply on any property used at the~~
126 ~~time of removal for one single-family residence or one two-family residence.~~

127
128 **(C) Signs.**

129
130 (1) Permanent signs, clearly visible during daytime and nighttime hours,
131 shall be posted at all entrances to the parking area that conspicuously
132 disclose that such Vehicle will be Towed or Immobilized.

133
134 (2) Such signs, at a minimum, shall: (all measurements are approximate)

135
136 (a) Be made of metal.

138 (b) Be 18 inches high and 12 inches wide.

139
140 (c) Contain reflective red letters and red reflective graphics on a
141 reflective white background with a 3/8 inch reflective red trim strip 3/8
142 inch in from the entire outer edge of the sign.

143
144 (d) Contain the international Towing symbol that is at least 5 inches
145 high by 11 inches wide as found in the Federal Highway
146 Administration, "Manual on Uniform Traffic Control Devices".

147
148 (e) Use Series B or Clearview lettering found in the Federal Highway
149 Administration, "Manual on Uniform Traffic Control Devices".

150
151 (f) Contain "Towing Enforced" in a font size of 2 inch letters.

152
153 (g) Contain "If Towed Call 703-691-2131" in a font size of 1 inch
154 letters, which is the Fairfax County Department of Public Safety
155 Communications' (DPSC) telephone number. However, if the Tow
156 originated in the Town of Vienna, the sign shall contain, "If Towed
157 Call 703-255-6366" and if the Tow originated in the Town of Herndon,
158 the sign shall contain, "If Towed Call 703-435-6846".

159
160 (h) Paragraphs (2)(a) through (2)(e) will be effective January 1,
161 2015.

162
163 (3) Signs posted in a government road right-of-way must meet Virginia
164 Department of Transportation standards and all applicable Virginia laws to
165 include the bottom of the sign mounted at least 7 feet above the ground.
166 Signs posted on private property are not required to meet this height
167 requirement as long as they are clearly visible.

168
169 (4) Sign contents may also include additional information such as, but not
170 limited to, the name of the property or name and telephone number of the
171 designated Operator in a font size of 19/32 inch letters.

172
173 (5) In addition to the mandatory entrance signs, other area signs may be
174 used to specify any other requirements for parking.

175
176 (6) The requirement for signs shall not apply to single-family residence or
177 two-family residence properties.

178
179 (7) No signage of the type required in this section shall be required to effect
180 the Towing of a Vehicle unlawfully parked in a spot reserved for persons
181 with disabilities or in a "Fire Lane" that is approved and marked in
182 accordance with County and state requirements.
183

184 **(D) Property Owner.**

185
186 (1) A Property Owner may have a Vehicle Towed to a Storage Site or
187 Immobilized without the permission of the Vehicle Owner if the Vehicle is
188 occupying property without permission of the Property Owner, and if
189 conditions set forth in this section are met.

190
191 (a) The Property Owner must give written approval for the Tow or
192 Immobilization of a Vehicle parked in violation of the Property
193 Owner's parking policy.

194
195 (b) Copies of such written approvals shall be retained for three years
196 after the date of the last Tow or Immobilization approved by the
197 agreement.

198
199 (2) In lieu of having such Vehicle Towed or Immobilized, the Property
200 Owner on which the Vehicle is located may request a Law Enforcement
201 Officer issue, on the premises, a citation to the Vehicle Owner.

202
203 **(E) Operator.**

204
205 ~~(2) A tow truck operator who tows a trespassing vehicle, parked in violation~~
206 ~~of the posted parking restrictions, from private or County property shall~~
207 ~~immediately notify the Fairfax County Public Safety Communications Center~~
208 ~~(PSSC); provided, however, whenever a Vehicle is towed from locations~~
209 ~~within the Town of Herndon or the Town of Vienna, the tow truck operator~~
210 ~~shall notify the law enforcement agency in that jurisdiction.~~

211
212 ~~It shall be unlawful to fail to report such tow as required by this Section, and violation of~~
213 ~~the reporting requirement of this Section shall constitute a traffic infraction punishable by~~
214 ~~a fine of not more than \$100.00. Such failure to report shall limit the amount which may~~
215 ~~be charged for the storage and safekeeping of the towed Vehicle to an amount no greater~~
216 ~~than that charged for one day of storage and safekeeping. The tow truck operator shall~~
217 ~~inform the law enforcement agency personnel of: (i) the name of the tow truck operator~~
218 ~~and the tow company removing the Vehicle; (ii) the make, model, color, year, vehicle~~
219 ~~identification number and the license plate of the Towed Vehicle; (iii) the address the~~
220 ~~vehicle was towed from; (iv) the time that the vehicle was towed; and (v) the storage site~~
221 ~~where the vehicle is located.~~

222
223 ~~(3) The property owner, operator or lessee has directly or through an~~
224 ~~agent, expressly authorized the towing of the particular vehicle, or has by a~~
225 ~~written agreement or contract, delegated to a tow company and such~~
226 ~~company's tow truck operators, the authority to make the decision to~~
227 ~~remove a trespassing vehicle without express authorization. For each~~
228 ~~vehicle towed, a tow company shall maintain, for a period of six months, a~~
229 ~~record of the authorization to tow, including: (i) the information required to~~
230 ~~be provided to the PSSC or other state or local law enforcement agency~~

pursuant to subsection (a)(2) of this Section; (ii) the reason for the tow; (iii) the name, address, telephone number and authority of the person authorizing the tow, and that individual's signature, if expressly authorized; or (iv) reference to the written agreement delegating authority to the tow company and its tow truck operators to tow vehicles from the premises.

(4) Notwithstanding the foregoing provisions of this Section, if the owner or operator of the trespassing Vehicle is present and removes the trespassing vehicle from the premises before it is connected to the towing vehicle, the owner or operator shall not be charged any fee; if the towing vehicle has been connected to the trespassing vehicle, the trespassing vehicle shall not be towed, but the owner or operator of the trespassing vehicle shall be liable for a reasonable fee, not to exceed \$25.00, in lieu of towing, provided that the owner or operator of the trespassing vehicle forthwith removes the trespassing vehicle from the premises.

(5) In lieu of having a trespassing vehicle removed by towing or otherwise, the owner, operator, lessee, or other authorized agent of the premises on which the trespassing vehicle is parked may cause the vehicle to be immobilized by a boot or other device that prevents a Vehicle from being moved by preventing a wheel from turning, provided that the boot or other device does not damage the Vehicle or wheel. The charge for removal of such device shall not exceed \$25.00.

(6) In lieu of having such Vehicle removed by towing or otherwise, or causing the vehicle to be immobilized, the owner, operator, lessee or other authorized agent of the premises on which the trespassing vehicle is parked may request that a duly authorized local government official or law enforcement officer issue, on the premises, a notice of the violation of a parking ordinance to the registered owner of the Vehicle.

(b) This Section shall not apply to police, fire or public health vehicles or when a vehicle shall, because of a wreck or other emergency, be parked or left temporarily upon the property of another.

(c) The provisions of this Section shall not be construed to prohibit vehicles from being towed when otherwise permitted by law.

(d) A Tow truck operator shall not tow a motor vehicle from private property unless the property owner has, directly or through an agent, expressly authorized the towing of the particular vehicle. However, a tow company or tow operator, to whom the authority to make the decision to remove a trespassing vehicle has been delegated by the property owner or the owner's agent, may remove the trespassing vehicle at any time. Such operator must comply with all the requirements of this Article. A tow company or tow truck operator to whom the authority to make a decision to remove a trespassing vehicle has been delegated, shall not tow or remove a vehicle from private property unless the vehicle is parked

278 in violation of restrictions posted on the sign required by subsection (a) of this
279 Section.

280
281 Operators must comply with all requirements of this Section.

282
283 (1) Registration.

284
285 (a) All Operators engaged in immobilizing or Towing Vehicles
286 without the consent of Vehicle Owner shall register with the
287 Department of Cable and Consumer Services prior to the initiation of
288 any such operations and during January of each subsequent year.

289
290 (b) To obtain a registration certificate, the following information and
291 documents must be provided to the Department:

292
293 (i) Name, address and telephone number of the business
294 engaged in immobilizing or Towing;

295
296 (ii) Name and telephone number of the business owner or
297 chief executive officer (CEO);

298
299 (iii) Copy of the business' Fairfax County Business,
300 Professional and Occupational License (BPOL);

301
302 (iv) Address, telephone number, and Vehicle storage capacity
303 of each Storage Site to which Vehicles will be Towed;

304
305 (v) Copy of each office and Storage Site Non-Residential Use
306 Permit (non-RUP); and,

307
308 (vi) Number of Tow Trucks to be operated in Fairfax County.

309
310 (c) Any change to information provided at registration shall be
311 provided to the Department within 30 calendar days of the change.

312
313 (2) Operational Requirements.

314
315 (a) The Operator will be open for business 24 hours a day and seven
316 days per week unless the Operator has no cars Immobilized or in his
317 possession.

318
319 (b) All Tow Truck safety devices must be operational, used, and
320 comply with local, state, and federal laws and regulations.

321
322 (c) An Operator shall not Tow a Vehicle from private property or
323 Immobilize a Vehicle on private property unless the Vehicle is parked
324 in violation as specified by the Property Owner.

325
326 (d) All Tow Trucks shall have the following identifying markings of a
327 contrasting color to the truck body on both sides of each Tow Truck:
328

329 (i) The Operator's business name as registered with the
330 Department in a font not less than three inches in height.
331

332 (ii) The Operator's telephone number in a font not less than
333 three inches in height.
334

335 (iii) Truck number in a font not less than four inches in height.
336

337 (e) Each tow vehicle, while trespass towing, shall have in the vehicle
338 a copy of the current Fairfax County Trespass Towing registration
339 certificate.
340

341 (f) Each Immobilization device will have a label, clearly visible while
342 the device is in position Immobilizing a Vehicle, that lists the
343 Operator's name and telephone number, Immobilization fee, and the
344 Department's name and telephone number.
345

346 (g) The Fairfax County Department of Public Safety Communications
347 (DPSC) will be notified no later than 30 minutes after initiating the
348 Immobilization or Towing of a Vehicle. However, whenever a Vehicle
349 is Towed or Immobilized from sites within the Town of Herndon or the
350 Town of Vienna, the Operator, shall notify the law enforcement
351 agency in those jurisdictions as applicable.
352

353 (h) Such notification shall include the:
354

355 (i) Operator name and Driver employee number who Towed
356 or Immobilized the Vehicle;
357

358 (ii) Make, model, color, year, vehicle identification number of
359 the Towed or Immobilized Vehicle;
360

361 (iii) License plate type (such as passenger car, truck, dealer,
362 taxi, disabled), number, state, and year of license of the
363 Towed or Immobilized Vehicle;
364

365 (iv) Address where the Vehicle was Towed or Immobilized
366 from;
367

368 (v) Reason for the Tow or Immobilization;
369

370 (vi) Time such Tow or Immobilization was initiated; and
371

(vii) Storage Site address where the Vehicle is located and the Operator's telephone number.

(i) It shall be unlawful to fail to report a Tow or Immobilization as required by this section. Violation of the reporting requirements of this section shall constitute an invalid Tow resulting in no charge to the owner for the release of the Vehicle.

(j) An Operator must Tow each Vehicle directly to a Storage Site located within the boundaries of Fairfax County. The vehicle must remain in that lot for 30 calendar days if the owner fails to claim the vehicle.

(k) Photographic evidence clearly substantiating the Vehicle's condition, location, and reason for the Vehicle's Tow or Immobilization must be made prior to connecting the Tow Truck to the Vehicle.

(l) Once an Operator connects to a vehicle violating parking rules and Tows a Vehicle from private property, the Vehicle must be taken directly to a Tow Storage Site registered with the Department. Changing the Towing Vehicle shall not be permitted unless the original Towing Vehicle becomes non-operational.

(m) While being Towed, Vehicles shall be properly secured in accordance with all laws, regulations, and Tow Truck Vehicle manufacturer recommendations.

(n) Nothing in this section shall release the Tower from liability for failure to use reasonable care to prevent the load from shifting or falling.

(o) Records.

An Operator shall maintain written and electronic records for each Towed or Immobilized Vehicle for a period of three years after such Tow or Immobilization. Records to be retained shall include;

(i) A record of the Property Owner's approval;

(ii) The information required to be provided to the DPSC and other local law enforcement agencies pursuant to this Section;

(iii) A legible copy of the receipt provided to Vehicle Owner; and

(iv) Photographs and any other documentation supporting the tow.

(3) Storage Site Requirements.

(ea) Every site to which ~~t~~Trespassing ~~v~~Vehicles are ~~t~~Towed, stored, and available for return to the Vehicle Owner shall comply with the following requirements:

(4i) ~~An Tow truck o~~Operator must ~~t~~Tow each ~~V~~Vehicle to a properly zoned sStorage sSite located within the boundaries of Fairfax County.

(2ii) A ~~s~~Storage sSite shall be lighted during the hours of darkness to afford ~~distinct~~ clear visibility to all portions of the facility Storage Site.

(3iii) A Towed ~~v~~Vehicle shall not be stored more than a reasonable walking distance from the area where ~~t~~Towing and storage fee payments are received.

(4iv) The ~~Town o~~Operator shall exercise reasonable care to keep the ~~t~~Towed ~~v~~Vehicle and its contents safe and secure at all times, which shall include appropriate permanent fencing.

~~(5) Personal property in the Vehicle must be released in accordance with State law.~~

(6v) No ~~tow truck o~~Operator may take a ~~v~~Vehicle to a ~~sStorage lot~~ sStorage sSite which does not meet these standards and all other applicable ordinances and regulations:

(AA) ~~Whenever a storage site is closed, a~~ A clearly visible conspicuous sign must be posted at the entrance of the ~~sStorage sSite which that~~ sStorage sSite which provides instructions and a local telephone number for obtaining release of a ~~v~~Vehicle ~~when the site is not open; and~~

(BB) The ~~local~~ telephone for the posted number posted in the notice required by the preceding subsection shall be answered 24 hours a day.

~~(C) The Towed Vehicle shall be available for release within two hours from the time the owner calls for the Vehicle.~~

464 (C) A clearly visible sign with a list of all of the
465 Operator's fees for trespass Immobilization, Towing and
466 storage services, and the Operator's contact
467 information.

468
469 (D) A clearly visible sign available from the Department
470 of Cable and Consumer Services, listing the
471 Department's Web site, office address, and telephone
472 number.

473
474 (4) Personal Property.

475
476 (a) Nothing shall be removed from the Vehicle without the express
477 consent of the Vehicle Owner

478
479 (b) Personal Property must be released immediately upon the
480 Vehicle Owner's request without charge, and it shall be the duty of
481 the Operator to return it to the Vehicle Owner if the Vehicle Owner
482 claims the items prior to auction. Any lien created under this section
483 shall not extend to any Personal Property.

484
485 (5) Vehicle Release.

486
487 (a) If the Vehicle Owner of the Vehicle is present and removes the
488 Vehicle from the property or corrects the violation before the Vehicle
489 is connected to the Towing Vehicle, no fee will be charged the
490 Vehicle Owner;

491
492 (b) If the Vehicle has been connected to the Towing Vehicle and has
493 not yet left private property, the Vehicle shall not be Towed upon
494 request of the Vehicle Owner. The Vehicle Owner shall be liable for
495 a Drop Fee, as set forth in this Section, in lieu of Towing, provided
496 that the Vehicle Owner removes the Vehicle from the property or
497 corrects the violation.

498
499 (c) A Vehicle moved to a Storage Site shall be immediately available
500 for release at the request of the Vehicle Owner.

501
502 (d) The Operator shall accept the following forms of payment for any
503 trespass Towing services:

504
505 (i) Cash;

506
507 (ii) Two major national credit cards;

508
509 (iii) MasterCard or Visa debit cards; and
510

(iv) Personal checks shall be accepted when credit/debit card machines are not available or are inoperable.

(e) In all cases when a Vehicle is Immobilized, Towed, or fees charged, the Operator will provide the Vehicle Owner with a receipt that bears the:

(i) Complete name, address, and telephone number of the Operator that Towed the Vehicle;

(ii) Time the Vehicle was Towed;

(iii) Address from which the Vehicle was Towed;

(iv) Authority for the Tow (Entity or person authorizing the tow);

(v) Reason for the Tow;

(vi) Driver employee number;

(vii) Time the Vehicle was released;

(viii) An itemized list of all fees assessed in the Immobilization, Towing, storage, and/or release of the Vehicle;

(ix) The printed name of the person to whom the Vehicle was released; and

(x) The Department contact information.

(f) If any requirements of this Section are not met, for such Immobilization or Tow, no fee shall be charged.

~~(f) All towing companies engaged in the business of towing vehicles from private property without the consent of the vehicle owner shall register with the Department of Cable Communications and Consumer Protection. Such registration shall contain the following information:~~

~~(1) Name, business address and telephone number of the towing company; and~~

~~(2) Address of each storage site to which trespassing vehicles are towed.~~

~~(g) Every tow company which engages in the towing of trespassing vehicles shall prominently display at its main place of business a comprehensive list of all its fees for Towing, recovery and storage services and the company's normal business~~

hours. A Tow operator shall not collect from the owner of a Towed Vehicle charges in excess of those posted.

This section shall not apply to Vehicles Towed, stored, or both Towed and stored at the request of a law enforcement officer.

(6) Compliance.

(a) The Operator will provide to the Vehicle Owner upon request, a copy of the authority for the Tow; including without limitation, photographs and other documentation supporting the tow.

(b) Right of Entry. Whenever it is necessary for the purposes of this Section, the duly authorized agent of the Director may enter any trespass Towing business, business establishment, or Storage Site property to obtain information, conduct surveys, audits, compliance reviews, or investigations.

(F) Rates and Charges.

(1) Change to Rates and Charges.

(a) Changes in rates and charges for trespass Towing services rendered by Operators shall be approved by the Board.

(b) The Board may consider changes in rates or charges upon recommendation of the Director or the Advisory Board.

(c) The Director shall conduct a review of rates every two years.

(d) Any review of rate changes as well as any recommended change to any rule, regulation, or practice thereto shall come before the Advisory Board pursuant to a public hearing, which shall be scheduled as soon as analysis, investigation, and administration permit. All recommendations of the Advisory Board and the Director shall be conveyed to the Board for its consideration and determination.

(e) When ever the Director or Advisory Board determines a rate change is warranted, all registered Operators shall provide notice to the public of proposed changes in rates and charges thereto, by means of a sign posted in a clearly visible place at each of their fixed places of business in Fairfax County. Such notice shall be on a document no smaller than 8.5 by 11.0 inches, printed in no smaller than 12-point type, and shall contain substantially the following information:

605 Notice of Proposed Rate Change
606 (Insert the Name of the trespass Tower)

607
608 A proposed change in trespass Towing rates is under
609 consideration by the Fairfax County government. The
610 proposed rates are: (Insert description of the proposed
611 changes).

612
613 The proposed trespass Towing rate change will be considered
614 by the Trespass Towing Advisory Board at a public hearing.
615 The date, time and location of the public hearing may be
616 obtained by calling the Department of Cable and Consumer
617 Services. Any interested person may appear before the
618 Advisory Board to be heard on this proposed change.
619 Persons who wish to be placed on the speakers' list or who
620 wish further information should call the Department of Cable
621 and Consumer Services at 703-324-5966.

622
623 (f) Notices with respect to a proposed rate change shall be posted
624 within ten days of the staff report for such change and shall remain
625 posted until the change in rates is denied or becomes effective.

626
627 ~~(1) The maximum fees allowed to be charged are:~~

628
629 ~~(A) Initial hookup and Tow fee not to exceed \$50.00.~~

630
631 ~~(B) Vehicle storage at a rate not to exceed \$25.00 for up to the first~~
632 ~~24-hour period and shall not exceed \$25.00 for each subsequent 24-~~
633 ~~hour period or any portion thereof for the safekeeping of Vehicles or~~
634 ~~trailers.~~

635
636 ~~(C) Release fees may be charged for Vehicles claimed by the owner~~
637 ~~after normal business hours. No release fee may be more than~~
638 ~~\$15.00. No other fees for release or administration may be charged.~~

639
640 ~~(2) Towers may not charge additional fees for the use of a cable, flatbed,~~
641 ~~or dolly. Fees for extensive and unusual recovery and Towing operations,~~
642 ~~including but not limited to the use of specialty equipment, may be charged~~
643 ~~at a reasonable rate.~~

644
645 ~~(3) In all cases where a fee is paid, the Tow truck company must provide~~
646 ~~the Vehicle owner with a receipt that bears the complete name and address~~
647 ~~and telephone number of the Tow truck company. Such receipt shall itemize~~
648 ~~all fees assessed in the Towing, storage, and release of said Vehicle. Such~~
649 ~~receipt shall include a printed notice stating that Towers shall agree to~~
650 ~~mediate all complaints submitted to the Department of Cable~~
651 ~~Communications and Consumer Protection for resolution.~~

~~(h) 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 owner retrieving the Towed Vehicle.~~

~~(i) A Tow company shall prominently display at the storage site, in a conspicuous place in that portion of the premises normally issued for receipt of payment, a sign which is readily noticeable and readable. The sign shall be furnished by the Department of Cable Communications and Consumer Protection, listing the Department's telephone number and informing consumers that they may contact the Department for assistance.~~

~~(j) A Tow company or Tow truck operator shall neither offer nor give any rebate, payment, or other compensation to a property owner or other person contracting for, authorizing or requesting the Towing or removal of a Vehicle.~~

(2) Rates and Charges.

(a) It shall be unlawful for an Operator to charge any fees exceeding the fees set forth in this Section.

(i) Immobilization. An Operator may charge a Vehicle Owner a maximum fee of \$75.00 for the release of a Vehicle when it is Immobilized. No other fee of any type may be charged.

(ii) Drop Fee. An Operator may charge a Vehicle Owner a maximum fee of \$50.00 for the release of a Vehicle prior to Towing the Vehicle from private property. No other fee of any type may be charged.

(iii) Hookup and initial Towing fee shall not exceed:

A. \$125.00 for Vehicles with a gross vehicle weight rating (GVWR) of 7,500 pounds or less.

B. \$250.00 for Vehicles with a GVWR of 7,501 pounds through 10,000 pounds.

C. \$500.00 for Vehicles with a GVWR greater than 10,000 pounds.

D. For towing a vehicle between seven o'clock p.m. and eight o'clock a.m. or on any Saturday, Sunday, or holiday, a maximum additional fee of \$25 per instance may be charged; however, in no event shall more than two such fees be charged for towing any such vehicle.

699 E. No other fees or charges shall be imposed during
700 the first 24 hour period.

701
702 (iv) Storage fee for the safekeeping of Vehicles:

703
704 A. No charge shall be made for storage and
705 safekeeping of a Vehicle for the first 24 hours the
706 Vehicle is on the Storage Site.

707
708 B. After the Vehicle is on the Storage Site for more
709 than 24 hours, a Vehicle storage fee may be charged
710 for each subsequent 24-hour period, or any portion
711 thereof, at a rate not to exceed:

712
713 1. \$50.00 for any Vehicle 22 feet long or less.

714
715 2. \$5.00 per foot for any Vehicle over 22 feet in
716 length.

717
718 (v) If a fee for notification of lien holder, owner, agent or other
719 interested party is charged, it shall not exceed \$75.00. This
720 fee may only apply after the Vehicle is on the Storage Site
721 over three full business days. If an administrative fee is
722 charged, a copy of the Virginia Department of Motor Vehicles
723 report will be attached to the receipt given to the Vehicle
724 Owner.

725
726 (vi) No administrative fees will be charged, or any other
727 charges unless expressly set forth herein.

728
729 (b) Upon Vehicle release, the Operator will give the Vehicle Owner a
730 receipt itemizing all charges.

731
732 (c) An Operator shall not require a Vehicle Owner to sign any waiver
733 of the Vehicle Owner's right to receive compensation for damages to
734 the owner's Vehicle as a condition of the owner retrieving the Towed
735 Vehicle.

736
737 **(G) Penalties and Remedies for Violations.**

738
739 It shall be unlawful for any person to violate any of the provisions of this Section, or
740 any regulation adopted pursuant to this Section. Unless otherwise stated, these
741 violations shall constitute traffic infractions punishable by a fine of not more than
742 that provided for a Class 4 misdemeanor.
743

744 **(H) Code or Regulatory Conflict.**

745
746 In the event of a conflict between an action of the BTRO and the County, the
747 County ordinance shall be controlling, provided such provisions are no less
748 stringent than requirements imposed by action of the BTRO.

749 ~~(k) Except as otherwise provided by this Section, any violation of Fairfax County~~
750 ~~Code § 82-5-32 shall be punishable as a Class 3 misdemeanor. (3-13-63; 1961~~
751 ~~Code, § 16-135; 34-78-82; 19-79-82; 30-89-82; 1-94-82, § 1; 19-06-82)~~

752
753 **Section 82-5-32.1. – Trespass Towing Advisory Board.**

754
755 **(A) Definitions.**

756
757 “Citizen Member” means a Member who has no direct or indirect interest,
758 other than as a consumer, in or relating to the Towing and recovery
759 industry.

760
761 “Law-Enforcement Member” means a member who is a Fairfax County
762 police officer and appointed by the Fairfax County Chief of Police to the
763 Advisory Board.

764
765 “Member” means a Fairfax County resident appointed or confirmed by the
766 Board of Supervisors to the Trespass Towing Advisory Board.

767
768 “Towing Member” means an individual who, prior to appointment, and
769 throughout the appointment term, shall be an Operator of a Towing
770 business in Fairfax County.

771
772 **(aB) ~~Created; m~~Members; ~~S~~staff; ~~and M~~meetings**

773
774 ~~(1) There is hereby created shall be~~ a Trespass Towing Advisory Board
775 ~~("Advisory Board").~~ The Advisory Board shall be composed of five
776 ~~members, two of whom shall represent Towing Operators (hereinafter~~
777 ~~called "Towing members"), two of whom shall represent local law-~~
778 ~~enforcement agencies, and one of whom shall represent the community at~~
779 ~~large (hereinafter called "citizen").~~ All members shall be residents of Fairfax
780 County, Virginia. Members of the Advisory Board shall be appointed or
781 confirmed by the Board of Supervisors for terms of three years each. The
782 terms shall be staggered with no more than two terms and no less than one
783 term to commence in any one year. Vacancies shall be filled by the Board
784 of Supervisors as they arise. A Chairperson shall be elected by the
785 Trespass Towing Advisory Board from among the members of the Advisory
786 Board. The Advisory Board may adopt bylaws and rules and regulations
787 governing the conduct of its responsibilities and duties hereinunder.
788

(2) ~~For purposes of membership on the Trespass Towing Advisory Board, a "Towing member" shall be defined as a person who, prior to the time of his or her appointment, and throughout his or her term, shall be an operator of a Towing business in Fairfax County; a local law enforcement representative shall be defined as a Fairfax County police or sheriff.~~

(3) ~~When a person occupying a "Towing," a "Law enforcement," or a "public" position on the Advisory Board ceases to meet the qualifications for that position as defined above, he or she shall be deemed to have automatically and immediately vacated such position on the Advisory Board.~~

(42) The Advisory Board shall meet at the call of the Chairperson, or two members of the Advisory Board after notice to all members, or upon request of the Board of Supervisors, or upon the request of the Director. The staff of the Advisory Board shall be from the Department of Cable Communications and Consumer Services Protection. The Director of the Department of Cable Communications and Consumer Services Protection, or his or her Director's designee, shall attend all meetings of the Advisory Board.

(3) A quorum will consist of a Towing Member, a Law-Enforcement Member and a Citizen Member.

(bB) ~~Section 82-5.1-2. Duties of the Trespass Towing Advisory Board~~

The Advisory Board shall advise the Board and provide recommendation(s) to proposed changes related to the trespass Towing code.

~~(1) The Advisory Board shall provide information to the public concerning the rights and responsibilities of towers and citizens.~~

~~(2) The Advisory Board shall forward to the Board of Supervisors, as appropriate, recommendations for changes in legislation at all levels of government.~~

~~(3) The Advisory Board, or its duly appointed representatives, shall represent the County interests concerning tower-citizen matters before judicial, legislative, administrative and other public or private bodies upon direction of the Board of Supervisors.~~

~~(4) The Advisory Board shall advise the Board of Supervisors about the nature, causes and possible solutions to tower-citizen problems.~~

~~(5) The Advisory Board may hold public hearings and report its findings to the Board of Supervisors on tower-citizen issues that affect the public interest.~~

(6) ~~The Advisory Board shall make towers and citizens aware of the conciliation and mediation services available through the Fairfax County Department of Cable Communications and Consumer Protection.~~

(7) ~~The Advisory Board may arbitrate tower-citizen complaints, upon agreement of the parties, pursuant to the Rules of Procedures adopted by the Advisory Board.~~

(8) ~~The Advisory Board shall report periodically to the Board of Supervisors on the activities of the Trespass Towing Advisory Board.~~

~~(c) Section 82-5.1-3. Powers of the Trespass Towing Advisory Board. In carrying out its duties as described in Section 82-5.1-2, the Advisory Board shall have the power to make findings of facts and to make and adopt such rules of procedure, which shall be published, as may be necessary or proper for carrying out its functions under the provisions of this Chapter. (19-06-82.)~~

Section 82-5-32.2. – Department of Cable Communications and Consumer Protection Services.

~~(a) Duties of the Regulation and Licensing Branch, Department of Cable Communications and Consumer Protection Services.~~

DCCS shall have the following duties:

(1A) ~~The Department shall r~~Receive, investigate, record, and attempt to resolve Towing complaints.

(2B) ~~The Department shall f~~Forward, when appropriate, complaints that cannot be successfully mediated to the BTRO. ~~Trespass Towing Advisory Board for arbitration, upon agreement of the parties, pursuant to the arbitration procedures officially adopted by the Advisory Board.~~

(3C) ~~The Department shall r~~Refer, when appropriate, suspected violations of law to the proper enforcing agency.

(4D) ~~The Department shall m~~Maintain records of Towing complaints and their disposition.

(5E) ~~The Department shall d~~Develop programs of Towing education and information and disseminate such information.

(6F) ~~The Department may p~~Provide advice and information on trespass Towing ~~tower and citizen relations matters~~ to judicial, legislative, administrative, and other public and private bodies.

882 ~~(7G) The Department shall analyze the nature of trespass Towing Tower and~~
883 ~~citizen relations problems in Fairfax County and recommend to the Board of~~
884 ~~Supervisors legislative and administrative changes.~~

885
886 (H) Receive and process annual Operator registrations.

887
888 (I) Conduct reviews, inspections, and investigations of Towing storage facilities
889 and operations.

890
891 ~~As to County parking regulations, see the Zoning Chapter of this Code. (19-06-82.)~~
892

2. THIS ORDINANCE SHALL BECOME EFFECTIVE UPON ADOPTION.

GIVEN under my hand this _____ day of January, 2012.

Catherine Chianese
Clerk to the Board of Supervisors