

## EXHIBIT A - ARTICLE VII. - TOWING AND WRECKER SERVICES

### Sec. 26-171. - Purpose.

The purpose of this article is to establish policies, procedures, and regulations over towing and wrecker service operations within the corporate limits of the Town of Bluffton to ensure (i) the safe and efficient removal, storage and safekeeping of any and all vehicles being towed by and placed into the custody of any towing and wrecker services company, (ii) the equitable distribution of calls to towing and wrecking services companies to accommodate requests from the Town of Bluffton Police Department; and, (iii) that wrecker and towing services are conducted in such a manner that is fair and equitable and which mutually protects the interests of the residents of and visitors to the Town of Bluffton.

### Sec. 26-172. - Definitions.

The following words or phrases, as used in this article, shall have the following respective meanings as set out in this section, unless a different meaning clearly appears from the context:

*After normal business hours* means between the hours of 6:01 p.m. and 7:59 a.m. Monday through Friday, weekends, and State and National holidays.

*Building* means sole business consisting of brick and mortar at listed business license address with occupiable heated space containing working bathroom facilities. (If a new structure is built or bathroom is added to an existing structure, the bathrooms must be compliant with the Americans with Disabilities Act of 1990 as amended ("ADA"). For existing structures with an existing bathroom, the Town will not require a remodel of the bathroom to become ADA approved unless otherwise required by the Town building code.

*Lot* means the storage parking area in which a towing and wrecker services company keeps and protects the towed vehicle.

*Motor vehicle* means any motorized device in, upon, or by which any person or property is, or may be transported or drawn upon any public highway, public right-of-way or public or private property. Motor vehicle shall not include any device propelled solely by human power.

*Operator/attendant* means the person driving the wrecker or motor carrier, or any person assisting with the operation of the wrecker, motor carrier, or storage lot.

*Owner* means any person owning or having any financial interest in a tow and wrecker services company licensed by the Town of Bluffton.

*Town limits* means current municipal boundary.

*Towing and wrecker services company* means a company owned and licensed for the purpose of towing vehicles. May also be referred to as *tow company* or *tow service* in this ordinance.

*Wrecker* means any vehicle built and equipped for the purpose of towing, lifting, pulling or otherwise transferring motor vehicles from place to place including, but not limited to, those vehicles that are commonly referred to as "roll-back" or "flatbed" type tow trucks. For the purposes of this ordinance, tow truck and wrecker shall be used interchangeably.

### Sec. 26-173. - Wrecker and towing services by rotation.

The Town of Bluffton Police Department shall maintain a rotation list of towing and wrecker services companies who have met the requirements of this article and are qualified to respond to calls from Town of Bluffton Police Department officers.

A. *Request for Qualifications.* No towing and wrecker services company may be placed on the rotation list unless the company first submits a written Request for Qualifications following the Town's Procurement policies which shall include, but not be limited to the following criteria:

- (1) The name and complete street address, City, State, zip code, and telephone number of the applicant's primary place of business, and the complete street address, City, State zip code of the storage lot.
- (2) A Form W-9, Request for Taxpayer Identification Number and Certification to include the name as shown on the income tax return and the business name if different from the name on the tax return.
- (3) A list with a complete description of the equipment to be operated.
- (4) A statement that applicant is familiar with the rules contained in this article and will comply with them.
- (5) A statement acknowledging the books and records concerning the towing and storage operations of any towing carrier shall be made available upon request during normal business hours to authorized personnel of the Bluffton Police Department.
- (6) Certificates of insurance, from an insurer authorized to do business in the State of South Carolina, establishing the following:
  - a. Commercial General Liability insurance in an amount not less than \$500,000 each occurrence and \$1,000,000 general aggregate;
  - b. Automobile liability insurance in an amount not less than \$1,000,000 combined single limit;
  - c. Garage-keepers insurance including on-hook coverage in an amount not less than \$100,000;
  - d. insurance covering vehicles, cargo and other property in or on the vehicle being towed during transit in an amount not less than \$50,000 per vehicle;

A copy of the certificate(s) of insurance shall be included with the Request for Qualifications. Renewal certificates shall be provided to the department prior to the expiration of any insurance. Companies must notify the Bluffton Police Department of any cancellations of insurance policies.

- (7) A current Town of Bluffton business license or a written affirmation that one will be acquired before being added to the rotation.
- (8) List of all vehicle operators and their driver's licenses demonstrating the appropriate level of driver's license for the vehicle that is being operated.
- (9) A sworn statement that no Town of Bluffton Police Department employee or any individual holding any financial interest or any form of ownership interest with an already qualified company holds any financial interest or any form of ownership interest in the applicant.

Note that the Town of Bluffton Police Department reserves the right to conduct a background investigation, including driver's license, of individual driver's license, of individual owners and/or operators of wrecker services.

B. *Minimum qualifications for Police Department rotation list.* No towing and wrecking service company shall be qualified to be on the Town of Bluffton Police Department's rotation list unless it meets the following minimum standards:

- (1) The towing and wrecking service company's primary place of business, including but not limited to business operations and the storage lot, must be located on the same property

within the corporate limits of the Town of Bluffton. This physical address must be the same as the address on the company's business license.

- (2) Each tow company must have an adequate storage lot located at the same physical location as the business operations office. A storage lot shall be deemed adequate for the purposes of this article so long as the lot is in compliance to zoning requirements or other requirements imposed by local, State or Federal law regulating the same. In no event, other than emergency situations, are towed vehicles to be kept and stored in a location not in full compliance with this paragraph, including but not limited to a temporary location or staging area, but rather shall be towed directly to a storage lot in full compliance with this article.
  - (3) Principal places of business and storage lots must have signage for identifying the place of business or storage that is visible from the street. Principal places of business and storage lots must have signage with the procedure and phone number to retrieve the vehicle from the storage lot.
  - 4) Only one tow company per storage lot and building may be qualified to be placed on the rotation list.
- C. *Ownership prohibition.* No Town of Bluffton Police Department employee may hold any financial interest or any form of ownership interest in a tow company or an applicant. No individual holding any financial interest or any form of ownership interest with an already qualified tow company may hold any additional financial interest or any form of ownership interest in another tow company or applicant.
- D. *Disabled vehicle owner's right to choose tow service.* Unless the owner or driver of a vehicle is incapacitated or unavailable, the owner or driver of a wrecked or disabled vehicle shall have the right to use the tow service of his/her choice. Before calling any tow service to tow a wrecked or disabled vehicle, the investigating officer on the scene shall, if practical, determine the owner's or driver's preference of tow services and the tow service designated by the owner or driver shall be called. If the roadway is blocked and the wrecker of choice cannot meet a 20-minute response, then the rotation list will be utilized to summon the next wrecker to the scene. In no event shall any Bluffton Police Department employee or personnel recommend any tow service to the owner of a wrecked or disabled vehicle nor shall any Bluffton Police Department employee or personnel ever recommend the services of a particular tow service in the performance of his/her duties. Tow services shall not encourage Bluffton Police Department employee or personnel to recommend their services.
- E. *Tow service operations.*
- (1) Wreckers shall respond only upon request of the proper police authority. Response under any other condition may result in removal from the Bluffton Police Department rotation list. No subcontracting of calls will be allowed.
  - (2) The wrecker rotation list shall be administered fairly and in a manner designed to ensure that all tow companies on the list have any equal opportunity to the towing business arising from the rotation list.
  - (3) The tow service must have a wrecker of sufficient size and strength to handle the job in accordance with Department of Transportation standards referenced in Section 26-176 below. The Town of Bluffton Police Department shall have the right to not call or use the services of a tow service that fails to meet these qualifications. Under these conditions, the tow service not called shall remain on the top of the rotation list.
  - (4) Damages to a vehicle being towed that were not involved in an accident should be pointed out to the officer so that he/she can indicate same on his/her report before the vehicle is to be moved.
  - (5) Tow services shall be available to respond to calls from the Bluffton Police Department on a 24-hour basis, and available to release vehicles with proof of ownership or with an

authorized power of attorney from the owner during normal business hours. If the tow service is off rotation but has possession of a vehicle, they must be available to release it. This shall apply when the tow service has Town-originated towed vehicles in its storage facility. If an owner or authorized designee requests to pick up after normal business hours, tow services may charge a gate fee in accordance with the fee schedule herein.

- (6) Tow operators must conduct themselves in a proper manner at all accident scenes and in a proper manner when dealing with the public.
  - (7) Tow services and operators shall be familiar with and shall comply with South Carolina statutes and code, including but not limited to SC Code § 29-15-10 on notice to vehicle owners and lienholders, and SC Code Title 56 – Motor Vehicles.
  - (8) All towed vehicles will be towed to the impound lot located at the individual tow companies with the exception of seized vehicles or vehicles needed for investigative processing. The tow service shall maintain a safe storage area for all vehicles towed. No vehicle shall be towed to a storage area other than the one identified in the Request for Qualifications by a tow service without the knowledge and consent of the Bluffton Police Department, vehicle owner or his agent.
  - (9) When a tow service or tow driver is unable to answer a call, the Bluffton Police Department shall be promptly notified to that fact and the reason for the unavailability.
  - (10) Each tow service on the rotation list must place a sign on driver and passenger side doors of each of its wreckers indicating the company name and telephone number. This sign shall be painted or otherwise permanently affixed to the door. The letters of the sign must be no less than two (2) inches high. If the wrecker is registered in a name other than that of the tow service, the owner's name must also appear on the door in letters no less than one (1) inch high. All lettering on wreckers shall be plainly visible and shall be of a color which contrasts to that of the wrecker.
  - (11) Each tow service shall be responsible for securing personal property in a vehicle at an accident scene and the wrecker service shall be responsible for reasonably attempting to preserve personal property in a vehicle which is about to be towed from an accident scene. In no event, however, shall a tow service be responsible for personal items which do not come into the possession of the tow service. All vehicles towed due to an arrest or seizure will be inventoried by the officer before being towed. An inventory sheet will be completed, signed by the officer, driver and a witness if available. All valuable items will be removed from the vehicles, placed in the defendant's personal property and inventoried on their personal property section of the booking report.
  - (12) Tow services shall be called from the rotation list in the order in which they appear on the list. If a particular tow service is not available when called, the next tow service on the list shall be called to the scene. Additionally, any tow service that fails to respond will forfeit its next call. A tow service that has three (3) service failures within one 30-day period will be notified by the Bluffton Police Department in writing that they are suspended from the list for a 30-day period. Two (2) suspensions within a 12-month period will be cause for a 12-month suspension. Tow services can remove themselves from the rotation list if they are experiencing mechanical problems or for vacations without penalty if approval is granted by the department. Such removal shall be for a period of no longer than four (4) weeks.
- F. **Complaints.** Failure of a tow service to comply with any of the regulations of this article or otherwise conducting towing and storage services in a manner which generate complaints of unfair charges, unethical business practices, unsafe towing practices, overall customer dissatisfaction, conduct, traffic violations may result in the removal from the Bluffton rotation list by the Chief of Police as set forth herein.
- (1) Complaints arising from tow services stemming from an incident where Bluffton Police Department responded, or arising from Bluffton Police Department's operation of the wrecker lists must be received within fifteen (15) calendar days of the alleged incident.

- (2) Within ten (10) calendar days of receipt of a complaint, the Chief of Police of the Town of Bluffton Police Department, or his designee, shall determine whether an investigation into the company and/or the incident is warranted. If the Chief deems an investigation is warranted, written notice of the filed complaint and the resulting investigation by the Town of Bluffton Police Department shall be provided to the company. During the pendency of the investigation, the Chief of Police, in his/her sole discretion, may remove or suspend the company from the rotation list immediately or pending the outcome of the investigation.
- (3) In the event a company is suspended or removed from the rotation list pending an investigation by the Town of Bluffton Police Department, the company can appeal the suspension or removal by filing a written appeal with the Office of the Chief of Police, or his designee, within ten (10) calendar days of receipt of written notice of the suspension or removal.
  - (a) During the appeal process the Bluffton Police Department may accept documentary proof submitted by the towing and wrecker services company or employee, and hear any testimony of witnesses.
  - (b) During the appeal process, the rules of evidence may apply to such hearings.
- (4) The Chief of Police shall render a written decision within ten (10) calendar days once the investigation is closed.
- (5) The towing and wrecker services company can appeal the final decision of the Chief of Police to the Town Manager's Office.
- (6) Tow services that have two (2) violations of this article, including but not limited to receiving a written complaint, within a period of six (6) months may be removed from the rotation list for a period of ninety 90 days.

G. ~~Personnel and operators. All operators of any wrecker or other vehicle owned by a company shall possess and maintain valid South Carolina driver's licenses with proper classification. The company shall provide copies of such driver's licenses to the Bluffton Police Department upon request. In the event of any personnel changes or arrests, the company shall notify the Bluffton Police Department in writing within five (5) business days thereof. Further, the company must conduct adequate background checks on all personnel and operators as criminal history of owner, operator or other personnel may disqualify a towing and wrecker services company from inclusion on the Bluffton Police Department rotation list.~~

#### Sec. 26-174. - Holding and releasing of vehicles.

Each towing and wrecker services company must comply with the following rules when holding a vehicle in its storage lot and/or releasing a towed vehicle to the owner or owner's designee:

- A. Vehicles towed by a towing and wrecker services company shall be released upon owner's request after financial arrangements for paying the wrecker and storage bill have been made.
- B. Towing companies must accept forms of payment other than cash at the point of transaction.
- C. The Bluffton Police Department shall not be responsible for any fee/charge associated with the removal, recovery, towing, and storage of a vehicle except in cases where the vehicle is seized.
- D. While a vehicle is in storage at a lot, no repair work shall be done on any vehicle towed without the owner's permission.
- E. Unless impounded by the Bluffton Police Department, tow service companies shall permit retrieval of personal property located within the vehicle at no charge with reasonable notice.

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Sec. 26-175. - Inspections.

Periodic inspections of wreckers and facilities may be done by the Bluffton Police Department to ensure compliance with all applicable ordinances, laws and regulations concerning safety equipment, operating conditions, licenses and insurance. The Bluffton Police Department shall have the right at any time, upon presentation of proper identification, to enter into or upon any wrecker operating in the Town and upon the rotation list for the purpose of inspecting the wrecker and its equipment to ensure public safety and adherence to the provisions of this chapter. Any wrecker or equipment which is found to be unsafe or in poor mechanical or physical condition shall be immediately taken out of service until repaired. If the wrecker is found to be unfit or missing equipment, but otherwise in safe condition, the Bluffton Police Department shall provide written notice to the wrecker owner of a reasonable time to cure the defect, not to exceed five (5) days, after which the Bluffton Police Department shall re-inspect the wrecker. If the vehicle does not pass the re-inspection, the wrecker shall not be used until all unsatisfactory conditions have been corrected.

Sec. 26-176. - Wrecker classification and requirements.

The following is required by all towing and wrecker services companies placed on the Bluffton Police Department rotation list in reference to each wrecker's appearance and operator's actions while responding to tow request.

- A. All wreckers shall be equipped with legally authorized lighting and other safety equipment to protect the motoring public. Such equipment shall be maintained in good working order. Except for a vehicle while engaged in a legal repossession, at least one (1) amber colored emergency light shall be mounted on the top of the wrecker cab or boom brace, which light shall be visible three hundred and sixty (360) degrees. Light bars with multiple lights are permissible. All emergency light lenses shall be amber. The use of sirens by wreckers is prohibited. All emergency flashers and directional signals showing to the front shall be amber in color. Flashing lights shall be visible for at least three hundred (300) feet. All lettering on wreckers shall be plainly visible and shall be in a color which contrasts to that of the wrecker. All wreckers shall comply with all State and local vehicle safety laws.
- B. *Class A: light duty wrecker:* Class A wreckers, for towing vehicles weighing seven thousand (7,000) pounds or less, (passenger cars, pickup trucks, motorcycles, small trailers, and similar vehicles) shall meet the following minimum requirements:
  - (1) *Conventional wrecker:* (1) Minimum gross vehicle weight rating (GVWR) of not less than ten thousand (10,000) pounds. (2) Individual boom capacity of not less than eight thousand (8,000) pounds as rated by the manufacturer. (3) Individual PTO or hydraulic power winch capacity of not less than eight thousand (8,000) pounds as rated by the manufacturer with at least one hundred (100) feet of three-eighths (3/8) inch cable drum. (4) A manufactured wheel-lift with a retracting lifting capacity of not less than three thousand five hundred (3,500) pounds as rated by the manufacturer, with safety chains. (5) Come-a-longs, chains, or other similar devices shall not be used as substitutes for winch and cable. (6) Dual rear wheels. (7) Additional safety equipment as specified by the regulations.
  - (2) *Rollback wrecker:* (1) Minimum gross vehicle weight rating (GVWR) of not less than eleven thousand (11,000) pounds. (2) Must have at least an eight thousand (8,000) pound winch as rated by the manufacturer with at least fifty (50) feet of three-eighths (3/8) inch cable or larger. (3) Come-a-longs, chains, or other similar devices shall not be used as substitutes for winch and cable. (4) Additional safety equipment as specified by the regulations.
- C. *Class B: medium duty wrecker:* Class B wreckers, for towing vehicles weighing between seven thousand and one (7,001) and seventeen thousand (17,000) pounds or multiple vehicles

weighing seven thousand (7,000) pounds respectively (medium-sized trucks, road tractors/trailers and similar vehicles), shall meet the following requirements:

- (1) The tow truck chassis shall have a minimum gross vehicle weight rating (GVWR) of not less than twenty-two thousand (22,000) pounds.
- (2) Must have at least a 12-ton boom assembly as rated by the manufacturer.
- (3) Two winches, each of ten thousand (10,000) pound capacity or more as rated by the manufacturer.
- (4) A manufactured wheel-lift with a retracting lifting capacity of not less than six thousand five hundred (6,500) pounds as rated by the manufacturer, with safety chains.
- (5) Come-a-longs, chains, or other similar devices shall not be used as substitutes for winch and cable.
- (6) Additional safety equipment as specified by the regulations.

D. *Class C: heavy duty wrecker:* Class C wreckers, for towing vehicles in excess of seventeen thousand (17,000) pounds (large trucks, road tractor/trailers and similar vehicles), shall meet the following minimum requirements:

- (1) Truck chassis having a minimum gross vehicle weight rating (GVWR) of not less than forty-six thousand (46,000) pounds.
- (2) Tandem axles or cab to axle length of not less than one hundred and two (102) inches.
- (3) A single or double boom with a capacity of not less than fifty thousand (50,000) pounds as rated by the manufacturer.
- (4) A single winch with a capacity of fifty thousand (50,000) pounds as rated by the manufacturer or an individual power winch capacity of not less than twenty-five thousand (25,000) pounds as rated by the manufacturer and a total rating with both winches of fifty thousand (50,000) pounds.
- (5) A manufactured wheel-lift with a retracting lifting capacity of not less than twelve thousand (12,000) pounds as rated by the manufacturer, with safety chains.
- (6) One hundred fifty (150) feet of five-eighths (5/8) inch cable or larger, plus fifty (50) feet of five-eighths (5/8) inch drop cable.
- (7) Airbrakes constructed so as to lock wheels automatically upon failure.
- (8) Light and air brake hookups.
- (9) Come-a-longs, chains, or other similar devices shall not be used as substitutes for winch and cable.
- (10) Additional safety equipment as specified by the regulations.

Sec. 26-177. - Schedule of fees for rotation list services.

A. Fees for towed vehicles and service calls will be set by the Town of Bluffton Police Department. Fees charged will be determined by the type of call for which the towing service is required.

Description	Fee
Request for tow of Town of Bluffton vehicles	\$ 75.00

Law enforcement requested tow	\$ 200.00
Law enforcement requested tow with collision	\$ 300.00
Tow exceeding one hour	\$ <del>200</del> 125 per additional hour
Storage (per day), after first 24 hours*	\$ 40.00
Gate fee for customer-requested pick up after normal business hours	\$ <del>75</del> 50.00
Administrative fee for title notification	\$ 300.00

\*subject to SC Code § 29-15-10(B), wherein storage costs only accrue for a maximum of seven (7) business days before notice of the location of the vehicle is provided, and may begin to accrue again after such notice is sent.

B. Accrual time is calculated from the time the tow company arrives on scene in response to the Bluffton Police Department's request.

C. Tow companies shall conduct general cleanup of an accident scene to include glass sweeping, pickup of general debris, and basic liquid absorption with clay substrate. If the tow company must engage in additional efforts such as haz mat cleanup requiring chemical means, efforts expended after one hour may be charged at the additional hourly rate above.

D. Administrative fees for title notification may only be charged after five days from the tow.

Sec. 26-178. - Grace period.

There shall be a 90 day grace period between the adoption of the updated ordinance and the time for all tow companies to submit an updated qualification package. Any tow company who does not submit a qualification package within that grace period shall be removed from the rotation until such time as a qualification package has been submitted and approved. Any tow company not currently on the rotation may submit a qualification package for the Town's review at any time.