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June 16, 2006

Arlington County Board
2100 Clarendon Boulevard, Suite 300
Arlington, Virginia 22201

Dear County Board Members:

Re: Proposed amendment to the Arlington County Code by adding a new chapter
(Chapter 14.3) entitle Towing and Storage of Motor Vehicles

**RECOMMENDATION: Adopt the attached Revised Chapter 14.3,
Towing and Storage of Motor Vehicles**

The Advisory Board on Trespass Vehicle Towing met on June 12, 2006, to review the provisions recommended for a new ordinance and to provide input and recommendations for the County Board's consideration.

The first order-of-business for this newly-appointed board was to elect a Chairman. Captain David Dailey nominated Captain Kamran Afzal. The nomination was seconded by Fred Scheler. There being no other nominations, Captain Afzal was unanimously elected.

DISCUSSION:

The Advisory Board, led by Chairman Afzal, reviewed and discussed the proposed ordinance and made the following suggested changes:

14.3-1: The tow operators objected to the use of the negative term "predatory towing" [line 4] and requested substitution of "non-consensual towing." All members agreed.

14.3-4: No changes. [It was noted that the state licensing requirements do not become effective until 2008.]

14.3-5:

Section A.1(a): The tow operators suggested changing the size of the sign from 100 square inches to 12 X 18 which is larger and the size typically used now. All members agreed.

Section A.1(e): Ms. Iacomini suggested removal of the final phrase “unless towing may occur at all times” because she thought it important to state the actual times on the signs even if 24 hours a day, 7 days a week. All members agreed.

Section A.3: This section requiring a “second party” signature generated a considerable amount of discussion. The tow operators strongly opposed the inclusion of this requirement stating that it was an undue and unnecessary burden to place on the property owners/managers, would severely impact the owners/managers rights to control their property, and would all but eliminate the ability of the tow operators to perform their contracted services.

The Police considered this an onerous burden on the owners/managers and raised the issue of the personal safety of the owners/managers if required to be present at these frequently confrontational incidents. The Police representatives felt that the provisions requiring signage and photographic or video evidence as proof of violation would provide adequate consumer protection from “predatory tows.”

Ms. Iacomini strongly favored inclusion of this provision stating the need for the owners/managers to be full participants in the contractual relationship between the owners/managers and the tow operator. She also suggested that the burden on the owners/managers was not as onerous as depicted by the tow operators and the Police. All properties contracting for the towing of trespassing vehicles are not equal. In many instances (such as the lot of a restaurant), the need for the service is greatest while the business is open and an owner/manager would readily be available. Many residential buildings have a desk clerk on duty 24 hours a day who would readily be available to authorize the tow.

The vote to eliminate Section A.3 was 6-1 with Ms. Iacomini voting No.

Section A.4: None of the members objected to the requirement to take pictures. However, the tow operators requested the use of “digital” photographs and Ms. Iacomini favored Polaroids. The tow operators suggested the expense of Polaroids could become prohibitive if needed for every trespass tow. Ms. Iacomini objected to the use of digital photos because they can be altered. The tow operators also noted that digital cameras are expensive to give to each driver. No real consensus was reached but the 7-0 vote was to include the words “digital and/or Polaroid.”

Section A.5: Ms. Iacomini related an incident in the Fairlington neighborhood where a resident attempted to call the phone number listed on the truck and it was not a working number. The tow operators noted that the use of magnetic signs also was not a good idea. The Board voted 7-0 to insert the words “current, local” before telephone number and “permanently affixed” before in a conspicuous location.

14.3-6: Section A: This section generated a considerable amount of discussion. Captain Dailey raised a question about the safety of the tow truck driver if required to stay on-site while calling in all of the information required. The tow operators said their usual practice is to remove the car from the lot and stop a short distance away to call in the information. Captain Afzal

suggested that the driver could remain at a distance from the vehicle and call in all of the information prior to hook-up. The Board voted 7-0 to add the suggested language in the attached as a compromise position: the driver would immediately call in the license plate number, make and model of the vehicle. Then, within fifteen minutes, the remaining information would be provided to the County Police.

14.3-7:

Section A(c): Inserted “a VISA or MasterCard” to make this section conform with 14.3-10(d).

Section A(f): This section was changed to read “the non-emergency telephone number of the Police Department where the storage facility is located” to avoid a situation where the Arlington Police Department telephone number is posted at a storage facility located outside of Arlington. The Board voted 7-0 to clarify Section 7.A(f).

14.3-8:

Section (d): This section was eliminated after raised by John O’Neill as something not done in his usual practice and served no real purpose since the time between the tow and arrival at the storage facility is negligible. Mr. Leach and Mr. Scheler agreed and the remaining Board members had no objection to removing this provision. The Board voted 7-0 to remove Section (d).

14.3-9:

Section B(a): Based on the assumption that the “second party” signature requirement would be eliminated from the final ordinance, the tow operators were comfortable with recommending a rate that was less than the maximum allowed if all possible additional charges were added. Mr. Leach proposed a flat rate of \$125.00 for the towing of a motor vehicle – no extra charge for evenings, weekends or holidays; and no storage fee for the first twenty-four hours whether or not the vehicle was picked up after the initial twenty-four-hour period. Mr. O’Neill noted that the majority of his tows occurred at night and he would favor an added fee during those hours. Mr. Leach said he thought the multi-tiered fee structure was one of the things that made the consumer angry when they came to retrieve their vehicle. A flat rate makes it easier to understand. The final vote on the base rate of \$125.00 was 7-0.

Section B(b): As part of the discussion of (a) above, it was decided that no storage fee for the first twenty-four hours would be charged regardless of when the car was picked up. [Board voted 7-0 in favor.] There was a suggestion by Mr. Scheler that the storage fee should be based on calendar day rather than twenty-four hours. Ms. Iacomini objected to calendar day as putting the consumer at a disadvantage. The Board voted 7-0 to stay with twenty-four hours (State Code uses twenty-four hours). The next discussion item was the amount to be charged for storage on each day after the first twenty-four hours.

Mr. O’Neill suggested \$50.00. Ms. Iacomini asked what was currently charged. Mr. O’Neill said his company charges \$35.00 and Mr. Scheler said his company charges \$45.00. Ms.

Iacomini suggested \$40.00 per day. Initially, the three Police representatives did not have an opinion on an appropriate rate for storage. The vote on \$50/per day storage was 6-1 with Ms. Iacomini voting No.

The Board spent a considerable amount of time discussing the fee structure. The tow operators based their arguments mainly on the fact that the rates have not been reviewed/changed in many years and that the cost of property, equipment, fuel, insurance and taxes has continued to increase over the same period of time. Advanced Towing retained Accounting Solutions Network, a CPA firm in Arlington, to determine a fair market value for impound towing in Arlington. [A copy of the analysis is attached.]

Section B(c): This section was eliminated based on the vote in (a), above.

Section E: The tow operators proposed the elimination of a “drop fee.” There was no objection on the part of the tow operators to dropping the vehicle if the owner arrived prior to the vehicle being removed from the lot, but the tow operators did not want a fee charged to do so. The Board voted 7-0 to eliminate the fee.

14.3-10:

Section (c): There was some discussion of taking out travelers’ checks and money orders. Mr. Scheler said the consumer can stop payment on the travelers’ check and that it requires cash to get a money order so the consumer may as well pay in cash. There was not agreement among the Board members on this question. Mr. O’Neill and Mr. Leach said they seldom, if ever, get either travelers’ checks or money orders. The Board voted 7-0 to make no changes to Section (c).

Section (d): After discussion, “VISA or MasterCard” was inserted because they are widely accepted and easier for businesses to work with than some of the other card companies. The last section was removed because it was deemed to be unnecessary. The Board voted 7-0 to make these changes.

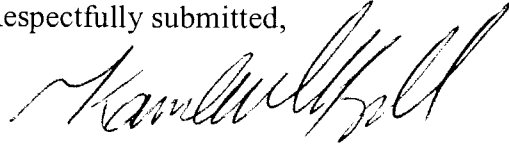
14.3-11:

Section (b): Deleted to conform with 14.3-8.

This concluded our section-by-section review of the proposed ordinance.

Mr. Scheler suggested that a provision be added to the ordinance to require tow companies operating in Arlington County to post a \$20,000 bond. Mr. Leach suggested that an arbitration panel be appointed to handle complaints. Since these items were considered outside the scope of our charge, they were not discussed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kamran Afzal', written in a cursive style.

Kamran Afzal, Chair
Advisory Board on Trespass Vehicle Towing

Enclosures:

Ordinance showing changes suggested by Advisory Board
Minutes of the June 12, 2006 Meeting
Accounting Solutions Network Market Rate Analysis

Advisory Board on Trespass Vehicle Towing

Established 4/9/94. Re-established 5/23/06. To consist of 7 members.
3 from towing industry, 3 from Police Department and 1 public at-large.

NAME	REPRESENTS	ADDRESS	PHONE	APPOINTED	REAPPOINTED	TERM ENDS
Afzal, Kamran	ACPD	1425 North Courthouse Road Arlington, VA 22201	703-228-4278 (O) (H) kafzal@arlingtonva.us	5/23/2006		
Cassedy, Darrin	ACPD	1425 North Courthouse Road Arlington, VA 22201	703-228-4254 (O) (H) dcasse@arlingtonva.us	5/23/2006		
Dailey, David	ACPD	1425 North Courthouse Road Arlington, VA 22201	703-554-6229 (O) (H) <u>ddailey@arlingtonva.us</u>	5/23/2006		
Gray, Mary Alice	STAFF COORDINATOR	2100 Clarendon Boulevard, Suite 302 Arlington, VA 22201	703-228-3248 (O) (H) mgray@arlingtonva.us			
Iacomini, Nancy	Resident	4318 North 18th Street Arlington, VA 22207	202-224-0959 (O) 703-525-0788 (H) Nancy_Iacomini@dem-sec.senate.gov	5/23/2006		
Leach, Al	Al's Towing	8109 Ransell Road Falls Church, VA 22043	703-790-1156 (O) 703-906-6585 (H) al@alstowingandstorage.com	5/23/2006		
O'Neill, John	Advanced Towing	6231 North 29th Street Arlington, VA 22207	703-241-2211 (O) 571-437-9415 (H) joneilladvanced@aol.com	5/23/2006		
Scheler, Fred	Henry's Wrecker	2735 Hartland Road Suite 202 Falls Church, VA 22043	301-324-1954 (O) 301-908-9600 (H) fred_s@henryswrecker.com	5/23/2006		

DRAFT
May 20, 2006

ENACTMENT OF AN ORDINANCE TO AMEND AND REENACT THE
ARLINGTON COUNTY CODE BY ADDING THERETO A NEW CHAPTER 14.3
ENTITLED TOWING AND STORAGE OF MOTOR VEHICLES

I. BE IT ORDAINED, that the County Board of Arlington County does hereby amend and reenact the Arlington County Code by adding thereto a new Chapter 14.3 to read as follows:

CHAPTER 14.3

TOWING AND STORAGE OF MOTOR VEHICLES

Section 14.3-1. Findings.

The County Board has found that some members of the public and their property have been placed at risk in circumstances where their motor vehicles have been towed without their consent and placed in storage because of a variety of factors including, but not limited to, unfair and non-consensual towing and pricing practices, inadequate notice of when vehicles are subject to towing, unreasonable prices for towing and storage, and lack of adequate recourse in the event of improper towing or storage, among others. Based upon the foregoing, the County Board has concluded that the regulations provided for by this chapter are required to protect the public health, safety and welfare generally, and particularly the safety of those members of the public whose motor vehicles have been towed without their consent and stored, as well as the public interest in ensuring that the prices charged for non-consensual tows occurring in instances when motor vehicles are trespassing on private property are fair and reasonable.

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Section 14.3-2. Definitions.

Except as hereinafter set forth, the words used in this chapter shall have the same meaning as set forth in Title 46.2-100 of the Code of Virginia, as such may be amended from time to time.

"Storage fee" means the compensation payable for the storage of a towed motor vehicle that has been stored at or in a facility owned, operated, leased or used by a tow truck service.

"Tow," "tows," or "towing" means the act of removing, by tow truck, a motor vehicle from privately-owned property within the County where it is parked. The preparation of a motor vehicle for removal by a tow truck or the attachment of a motor vehicle to a tow truck, or both, does not, for purposes of this chapter, constitute a "tow"

or "towing."

"Towing fee" means the compensation payable for the towing of a motor vehicle.

"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated. The term includes any employee, authorized agent or legal representative of such individual or entity. Any person who in any way advertises himself as a towing and recovery operator or in any way conveys the impression that he is engaged in services of providing towing and recovery of vehicles shall be deemed to be engaged in towing and recovery services. The term does not, for purposes of this chapter, include an individual or entity that removes motor vehicles from public streets and other locations, pursuant to a contract with the County.

"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 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."

Section 14.3-3. Applicability.

This chapter applies (i) to the towing, by a towing and recovery operator, of motor vehicles from privately-owned property within the County without the consent of the vehicle owner or driver, (ii) to the fees that are charged for such towing of vehicles, and (iii) to the fees that are charged for the storage and retrieval of such towed vehicles. This chapter does not apply to the towing of motor vehicles from public streets and other locations that is performed pursuant to a contract with the County, or to the storage of such vehicles.

Section 14.3-4. Compliance with State Licensing Requirements.

All towing and recovery operators and all tow trucks engaged in business in the County shall comply with state licensing requirements imposed by state law, and shall provide evidence of such upon request by any representative of the County authorized to enforce the provisions of this chapter.

Section 14.3-5. Removal of Trespassing Motor Vehicles.

A. The owner, operator, or lessee, or authorized agent thereof, of any property, may have any vehicle occupying the property without the permission of its owner, operator, lessee, or authorized agent thereof, removed by towing to a storage facility until reclaimed by the owner or his agent provided the provisions of this chapter are complied with, as well as the following:

- (1) Signs shall be posted at all motor vehicle entrances to the property clearly,

conspicuously, and legibly disclosing that vehicles parked without permission will be towed. Such signs shall be posted so that the locations on the property subject to towing shall be clearly identified. The signs shall meet the following requirements and include the following information:

- (a) each sign shall be not less than 12 X 18 inches;
- (b) the lettering on each sign shall be not less than three inches in height;
- (c) each sign shall contain a pictorial symbol of a tow truck;
- (d) each sign shall contain a statement to the effect that trespassing vehicles are subject to towing and storage at the expense of the vehicle owner;
- (e) each sign shall state the hours and days of the week when trespassing vehicles are subject to towing;
- (f) each sign shall provide the telephone number of the responsible towing and recovery operator to contact for information related to the location of vehicles towed from the property, which telephone number shall be answered by a person twenty-four hours each day; and
- (g) each sign shall provide the non-emergency telephone number of the County Police.

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(2) The foregoing requirement for signs shall not apply on any parcel of property used at the time of removal for one single-family residence or one two-family residence; and provided further, however, that parking spaces parallel to or at an angle to a public street and entered directly from a public street shall be deemed to be providing signs properly when the signs are placed along the sidewalk (or in a similar location when there is no sidewalk) adjacent to the space or row of spaces and there is at least one of the signs required by this chapter within forty feet of each such space.

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(3) The towing and recovery operator performing the tow shall obtain and retain the following:

- (a) digital and/or Polaroid photographs or videos of the vehicle in the location from which the vehicle is being towed;
- (b) digital and/or Polaroid photographs or videos of the condition of the vehicle prior to the tow; and
- (c) to the extent available, other documentary evidence substantiating the reason for the removal.

Deleted: (3) The towing and recovery operator performing the tow shall obtain, at the time the vehicle is towed, the written authorization of the owner, operator, or lessee of the property from which the vehicle is towed, or the authorized agent thereof. Such written authorization shall be in addition to any written contract between the towing and recovery operator and the owner, operator, or lessee of the property, or the authorized agent thereof. For the purposes of this subsection, "authorized agent" shall not include any person who either is related by blood or marriage to the towing and recovery operator or has a financial interest in the towing and recovery operator's business.

(4) The tow truck used to perform the tow shall include the name, street address, and current, local telephone number of the towing and recovery operator permanently

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affixed in a conspicuous location on the exterior of the truck.

B. This section shall not apply to public safety and public health vehicles or where a vehicle, because of a wreck or other emergency, is parked or left temporarily on the property of another.

Section 14.3- 6. Notice.

A. Immediately prior to a trespassing vehicle being removed or towed as permitted by this chapter, notice of this action and the license plate number, make and model of the vehicle shall be given by the towing and recovery operator to the County Police. Within fifteen (15) minutes of the trespassing vehicle being removed or towed, the following additional information shall be provided to the County Police:

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(a) the name of the towing and recovery operator removing vehicle;

(b) a complete description of the vehicle towed including make, model, VIN number and license plate;

(c) the location of trespassing vehicle and the date and time of the tow;

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(d) the location of the storage facility to which the vehicle was towed; and

____(e) the name and address of the individual who authorized the tow.

B. Failure to report such tow as required by this section shall constitute a traffic infraction punishable by a fine of not more than \$100. Such failure to report shall limit the amount which may be charged for the storage and safekeeping of the towed vehicle to an amount no greater than that charged for one day of storage and safekeeping.

Section 14.3-7. Storage Facilities.

A. All towing and recovery operators engaged in towing vehicles without the consent of their owners shall conspicuously display at their main place of business and at any other storage facilities where towed vehicles may be reclaimed, in locations readily visible to those reclaiming vehicles, signs that clearly and legibly provide the following information:

(a) a comprehensive list of all their fees for towing, recovery, and storage services. Charges in excess of those posted shall not be collectable from any motor vehicle owner whose vehicle is towed or stored without his consent;

(b) the maximum fees permitted to be charged by this chapter;

(c) that payment may be made by cash, traveler's check, money order, insurance company check, or a VISA or Mastercard debit, credit or charge card;

(d) that a receipt shall be provided;

(e) that the vehicle owner shall have the opportunity to inspect the vehicle for damage prior to payment and a tow company or tow truck operator shall not require a vehicle owner to sign any waiver of the owner's right to receive compensation for damages to the owner's vehicle as a condition of the vehicle's release.

(f) the non-emergency telephone number of the Police Department where the storage facility is located; and

(g) the business telephone number of the County official responsible for handling consumer complaints.

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B. The fees authorized by this chapter shall be the maximum allowed and an additional fee for use of a debit, credit or charge card, or other form of payment, shall not be permitted.

C. Towing and recovery operators shall make change, up to \$100, for those who pay in cash for towing and storage charges applicable to vehicles towed under the provisions of this chapter.

D. Storage facilities to which vehicles towed under the provisions of this chapter are towed shall be open twenty-four hours a day.

E. Storage facilities to which vehicles towed under the provisions of this chapter are towed shall be located within the County or at a location in the Commonwealth of Virginia that is within three miles of the boundary line of the County.

F. In the event that a vehicle is towed from the County and stored in or released from a location in another locality, the provisions of this chapter shall apply.

Section 14.3- 8. Receipt Required.

At the time a vehicle owner or agent reclaims a towed vehicle, the towing and recovery operator shall provide a written receipt that contains the following information:

(a) the name and address of the towing and recovery operator;

(b) the address from which the vehicle was towed;

(c) the date and time that the vehicle was towed;

(d) an itemized list of all the fees that are being charged; and

(e) a signature of an authorized representative of the towing and recovery operator.

Deleted: (d) the date and time that the vehicle entered the facility at which it was placed for storage;

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Section 14.3-9. Fees.

A. Charges imposed for the towing, storage, and safekeeping of any vehicle removed, towed, or stored without the consent of its owner shall not be in excess of the maximum charges provided for in this section.

B. The maximum fees that may be charged for the towing of motor vehicles and for the storage of such towed vehicles are as follows:

(a) for the towing of a motor vehicle, the maximum fee shall be \$125;

(b) for the storage of a towed motor vehicle, the maximum fee for each twenty-four hour period of storage, or portion thereof, shall be \$50; provided, that no storage fee may be charged for the first twenty four hours of storage, or any portion thereof, following the arrival of a towed vehicle at a storage facility.

C. Except for fees authorized by this chapter, no other fees or charges shall be imposed during the first twenty-four-hour period.

D. No towing and recovery operator having custody of a vehicle towed without the consent of its owner may impose storage charges for that vehicle for any period during which the vehicle could not be reclaimed because the storage facility was closed.

E. If the owner of a motor vehicle or agent is present and capable of removing the vehicle before it is removed by a towing and recovery operator, the vehicle shall not be towed and no fee shall be charged.

Section 14.3-10. Manner of Payment.

Towing and recovery operators shall accept payment for towing fees, storage fees, retrieval fees and the "in lieu of towing" fee provided for in this chapter in each of the following ways:

(a) cash in United States currency;

(b) insurance company check

(c) travelers' checks or money orders payable in United States currency; and

(d) any VISA or Mastercard debit, credit or charge card that the towing and recovery operator is authorized by the issuing credit or charge card company to accept.

Section 14.3-11. Records.

A. Every towing and recovery operator shall maintain a record of the following information for each motor vehicle that it has towed from a location within the County:

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Deleted: (c) for towing a motor vehicle to a storage facility (i) between the hours of 7:00 p.m. and 8:00 a.m. on any day, or (ii) at any time on a Saturday, Sunday or holiday, the maximum fee in all circumstances shall be a single additional fee of [an amount set by the County Board upon adoption of this Code amendment in an amount between \$10 and \$25] .

Deleted: ; provided, that in such an event, the owner of the vehicle or agent shall be liable for a reasonable fee, not to exceed \$25, in lieu of towing, payable to the towing and recovery operator

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(a) the date and time that the vehicle was towed;

(b) the make, model, year, VIN number, and license plate number of the vehicle;

Deleted: (b) the date and time that the vehicle entered the facility at which it was placed for storage;

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(c) the address of the property from which the vehicle was removed;

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(d) the name and address of the person who authorized the tow;

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(e) the video or photographs taken at the time of the tow;

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(f) the towing and storage fees actually charged;

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(g) the date and time the vehicle was reclaimed, and by whom; and

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(h) a copy of the receipt provided to the vehicle owner or agent.

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B. Such record shall be maintained for a period of at least one year from the date of each tow, and shall be made available, during normal business hours, for inspection and copying by any representative of the County authorized to enforce the provisions of this chapter. In addition, the portion of such log or record pertaining to a particular motor vehicle shall be made available, during normal business hours, for inspection and copying by the owner of the vehicle or the owner's authorized representative.

Section 14.3-12. Violations.

Except as otherwise specifically provided, any violation of this chapter is unlawful and punishable by a fine not to exceed one thousand dollars (\$1,000.00).

II. This Ordinance shall become effective upon adoption.

ADVISORY BOARD ON TRESPASS VEHICLE TOWING

MINUTES OF JUNE 12, 2006 MEETING

The Advisory Board on Trespass Vehicle Towing meeting was held at 2100 Clarendon Boulevard, Room 4040.

All Advisory Board members and the staff coordinator were present (roster attached*). Several guests (other tow operators, developers and property managers) also were in attendance.

The meeting was called to order at approximately 7:10 pm by staff coordinator, Mary-Alice Gray. After introductions, the staff coordinator thanked the members for agreeing to serve. Guests were advised that this was a public meeting but not a public hearing and only Advisory Board members were allowed to participate in the discussion. Guests also were reminded that they would have an opportunity to speak at the County Board Meeting.

After a brief review of the Charge & Scope, the first order of business was the election of a Chairman. Captain Dailey nominated Captain Afzal, seconded by Fred Scheler. There being no other nominations, Captain Afzal was unanimously elected Chairman of the Advisory Board on Trespass Vehicle Towing.

The Board, led by Chairman Afzal, then reviewed and discussed the proposed ordinance section-by-section (a copy of the ordinance showing the changes is attached):

14.3-1:

The tow operators objected to the use of the negative term “predatory towing” [line 4] and requested substitution of “non-consensual towing.” All members agreed.

14.3-2: No changes.

14.3-3: No changes.

14.3-4: No changes. It was noted that the state licensing requirements do not become effective until 2008.

14.3-5:

Section A.1(a): The tow operators suggested changing the size of the sign from 100 square inches to 12 X 18 which is larger and the size typically used now. All members agreed.

Section A.1(e): Ms. Iacomini suggested removal of the final phrase “unless towing may occur at all times” because she thought it important to state the actual times on the signs even if 24 hours a day, 7 days a week. All members agreed.

Section A.2: No Changes

Section A.3: This section requiring a “second party” signature generated a considerable amount of discussion. The tow operators strongly opposed the inclusion of this requirement stating that it was an undue and unnecessary burden to place on the property owners/managers, would severely impact the owners/managers rights to control their property, and would all but eliminate the ability of the tow operators to perform their contracted services.

The Police considered this an onerous burden on the owners/managers and raised the issue of the personal safety of the owners/managers if required to be present at these frequently confrontational incidents. The Police representatives felt that the provisions requiring signage and photographic or video evidence as proof of violation would provide adequate consumer protection from “predatory tows.”

Ms. Iacomini strongly favored inclusion of this provision stating the need for the owners/managers to be full participants in the contractual relationship between the owners/managers and the tow operator. She also suggested that the burden on the owners/managers was not as onerous as depicted by the tow operators and the Police. All properties contracting for the towing of trespassing vehicles are not equal. In many instances (such as the lot of a restaurant), the need for the service is greatest while the business is open and an owner/manager would readily be available. Many residential buildings have a desk clerk on duty 24 hours a day who would readily be available to authorize the tow.

At the conclusion of the discussion, a vote was taken. The three tow company representatives and the three Police Department representatives voted in favor of eliminating the “second party” signature requirement. The citizen representative voted against eliminating the “second party” signature requirement.

Section A.4: None of the members objected to the requirement to take pictures. However, the tow operators requested the use of “digital” photographs and Ms. Iacomini favored Polaroids. The tow operators suggested the expense of Polaroids could become prohibitive if needed for every trespass tow. Ms. Iacomini objected to the use of digital photos because they can be altered. The tow operators also noted that digital cameras are expensive to give to each driver. No real consensus was reached but the vote was to include the words “digital and/or Polaroid.”

Section A.5: Ms. Iacomini related an incident in the Fairlington neighborhood where a resident attempted to call the phone number listed on the truck and it was not a working number. The tow operators noted that the use of magnetic signs also was not a good idea.

The Board voted to insert the words “current, local” before telephone number and “permanently affixed” before in a conspicuous location.

Section B: No changes.

14.3-6:

Section A: This section generated a considerable amount of discussion. Captain Dailey raised a question about the safety of the tow truck driver if required to stay on-site while calling in all of the information required. The tow operators said their usual practice is to remove the car from the lot and stop a short distance away to call in the information. Captain Afzal suggested that the driver could remain at a distance from the vehicle and call in all of the information prior to hook-up. The suggested language in the attached was a compromise position: the driver would immediately call in the license plate number, make and model of the vehicle. Then, within fifteen minutes, the remaining information would be provided to the County Police.

Section B: No changes.

14.3-7:

Section A(c): Inserted “a VISA or MasterCard” to make this section conform with 14.3-10(d).

Section A(f): This section was changed to read “the non-emergency telephone number of the Police Department where the storage facility is located” to avoid a situation where the Arlington Police Department telephone number is posted at a storage facility located outside of Arlington.

Sections B, C, D, E, F: No changes.

14.3-8:

Section (d): This section was eliminated after raised by John O’Neill as something not done in his usual practice and served no real purpose since the time between the tow and arrival at the storage facility is negligible. Mr. Leach and Mr. Scheler agreed and the remaining Board members had no objection to removing this provision.

14.3-9:

Section A: No Changes.

Section B(a): Based on the assumption that the “second party” signature requirement would be eliminated from the final ordinance, the tow operators were comfortable with recommending a flat rate. Mr. Leach proposed a flat rate of \$125.00 for the towing of a motor vehicle – no extra charge for evenings, weekends or holidays; and no storage fee for

the first twenty-four hours whether or not the vehicle was picked up after the initial twenty-four-hour period. Mr. O'Neill noted that the majority of his tows occurred at night and he would favor an added fee during those hours. Mr. Leach said he thought the multi-tiered fee structure was one of the things that made the consumer angry when they came to retrieve their vehicle. For example, for a tow occurring on a Sunday: \$85.00 for tow; \$10.00 for "Sunday surcharge;" plus storage charges if the car is not retrieved until two days later. A flat rate makes it easier for the consumer to understand. The final vote on the base rate of \$125.00 was 7-0.

Section B(b): As part of the discussion of (a) above, it was decided that no storage fee for the first twenty-four hours would be charged regardless of when the car was picked up. There was a suggestion by Mr. Scheler that the storage fee should be based on calendar day rather than twenty-four hours. Ms. Iacomini objected to calendar day as putting the consumer at a disadvantage. It was decided to stay with twenty-four hours (State Code uses twenty-four hours). The next discussion item was the amount to be charged for storage on each day after the first twenty-four hours.

Mr. O'Neill suggested \$50.00. Ms. Iacomini asked what was currently charged. Mr. O'Neill said his company charges \$35.00 and Mr. Scheler said his company charges \$45.00. Ms. Iacomini suggested \$40.00 per day. Initially, the three Police representatives did not have an opinion on an appropriate rate for storage. However, when a final vote was taken, the three Police representatives and the three tow operators voted in favor of \$50.00 per day. Ms. Iacomini voted against \$50.00 per day.

The Board spent a considerable amount of time discussing the fee structure. The tow operators based their arguments mainly on the fact that the rates have not been reviewed/changed in many years and that the cost of property, equipment, fuel, insurance and taxes has continued to increase over the same period of time. Advanced Towing retained Accounting Solutions Network, a CPA firm in Arlington, to determine a fair market value for impound towing in Arlington and provided a copy of the report. [A copy of the report is attached.]

Section B(c): This section was eliminated based on the vote in (a), above.

Section C: No changes.

Section D: No changes.

Section E: The tow operators proposed the elimination of a "drop fee." There was no objection on the part of the tow operators to dropping the vehicle if the owner arrived prior to the vehicle being removed from the lot, but the tow operators did not want a fee charged to do so. The Board voted 7-0 to eliminate the fee.

14.3-10:

Section (c): There was some discussion of taking out travelers' checks and money orders. Mr. Scheler said the consumer can stop payment on the travelers' check and that it requires cash to get a money order so the consumer may as well pay in cash. There was not agreement among the Board members on this question. Mr. O'Neill and Mr. Leach said they seldom, if ever, get either travelers' checks or money orders. The Board voted 7-0 to make no changes to Section (c).

Section (d): After discussion, "VISA or MasterCard" was inserted because they are widely accepted and easier for businesses to work with than some of the other card companies. The last section was removed because it was deemed to be unnecessary.

14.3-11:

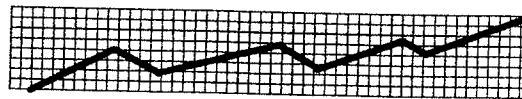
Section (b): Deleted to conform with 14.3-8.

This concluded our section-by-section review of the proposed ordinance.

Mr. Scheler suggested that a provision be added to the ordinance to require tow companies operating in Arlington County to post a \$20,000 bond. Mr. Leach suggested that an arbitration panel be appointed to handle complaints. Since these items were considered outside the scope of our charge, they were not discussed.

The meeting was adjourned at 9:20 pm.

***There is one Roster Correction: Sergeant Cassidy's telephone number should be 703-228-4247.**



Accounting Solutions Network, PLC
THE SMALL BUSINESS SPECIALISTS
3140 N. Washington Blvd Suite 204
Arlington, VA 22201

Accounting Solutions Network, PLC, a CPA Firm in Arlington, Virginia, has been retained by Advanced Towing Services to perform an independent analysis of towing companies in the Arlington, Virginia, area to determine a fair market value for impound towing in Northern Virginia. The current prices for impound towing are based on prices in 1986 and have not been adjusted since.

Each towing company faces similar costs in lot rental, property tax, insurance, fuel costs, security and administrative costs. Accounting Solutions Network, PLC, surveyed 8 of the largest towing companies in the Arlington area and based the determination of a current fair market value for impound towing based on the average monthly expenses of these companies divided by the average number of impound tows per month less the average of abandoned and free tows performed. This number was determined to be: \$139.

To allow for a 20% profit on all tows, the price for an impound tow should be: \$166.

This break-even price is close to a Consumer Price Index inflation adjusted rate of \$120 calculated using the January 1994 CPI of 142.6 and the January 2004 CPI of 185.2. The CPI values were obtained from the U.S. Department of Labor Bureau of Labor Statistics and compiled by InflationData.com.

The Consumer Price Index has inflated 26.7% from 1994 to 2004; however the price of towing equipment, more specifically tow trucks, has increased by 87% in just the last 4 years -- from \$26,400 in 1998 to \$49,472 in 2004.

Diesel Fuel Prices have risen from \$0.999/gallon in January 1994 to \$1.913/gallon in September 2004, a 91% increase in according to the Department of Energy.

Arlington County Property Assessments have risen from \$19.987B in 1999 to \$23.509B in 2001 for Arlington County -- a 17.6% increase in 2 years. Fairfax County has risen from \$80.684B in 1999 to \$99.973B in 2001 -- a 23.6% increase for 2 years. There is no current data available for more recent assessments on Arlington and Fairfax counties, which conduct annual property assessments.

Fleet premiums rose from \$3666 per vehicle in 2002-3 to \$5041 in 2003-4. This is a 37.5% increase in one year due to fewer companies willing to insure tow fleets according to Coverage, Incorporated.

In 2002, Community Towing Service, Inc. won the contract bidding for towing in Arlington County. In October of that same year, Community Towing Service, Inc. performed an audit and determined that the company had lost approximately \$145,000 from the county contract. As a result of this loss, Community Towing Service, Inc. declined to renew the contract with Arlington County.

For a municipality to avoid: overcharging violations by tow companies, the use of unqualified operators, payment of low wages and seeking to create or abuse loopholes to reduce the losses associated with accepting a government contract for impound towing using rates set in 1994, a new rate based on fair market prices must be set. This rate should be reviewed frequently and adjusted to follow the rate of inflation to minimize the impact on companies who are awarded an impound towing contract. In summary, the current rate should be set between \$150 to \$160.