

CHAPTER 7: POLICE-INITIATED TOW SERVICE OPERATIONS

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Editor's note:

This chapter was rewritten in its entirety by Ord. No. 07-16, passed Feb. 8, 2007, with an effective date of 12:01 a.m. on March 1, 2007.

SEC. 11-7-1 DEFINITIONS.

For the purposes of this chapter, the following terms, phrases, words and their derivatives shall have the meaning given herein.

Canceled call. Shall occur when an owner of a vehicle requests the on-scene law enforcement officer to cancel a dispatched call either before the tow operator arrives or prior to initiation of tow services. When such a call occurs, the responding tow operator shall not have the canceled call counted as a rotation call and will be returned to the tow operator's position on the rotation list that the tow operator would have held before the canceled call.

City. The City of Greenville, North Carolina.

Day towing operations. Shall include any tow service during the local hours of 8:00 a.m. until 5:00 p.m. on Monday, Tuesday, Wednesday, Thursday and Fridays; except city holidays.

Dispatched call. A call made by the on-scene law enforcement officer at the request of the owner of the vehicle to Greenville Police Department Communications requesting a tow operator from the rotation list.

Extraordinary circumstances. As used in this chapter, the tow operator being required to wait more than one-half hour before initiating tow operations or when the tow operator must extract a vehicle from a ditch, right a flipped vehicle (resting on its roof), remove a tree resting on a vehicle, recovering a vehicle hit by a train or a jackknifed vehicle and trailer.

Hook-up. The application and first connection of a chain or a mechanical connection from the tow service truck to the towed motor vehicle.

Night, weekend and holiday towing operations. Include any tow service at all times other than day towing.

Person. An individual, firm, partnership, association, corporation, company or organization of any kind.

Police-initiated tow. A Greenville Police Officer or Greenville Police Department Dispatch request for tow service by a business or tow owner on the police rotation list.

Storage. When a vehicle has been towed under this chapter and is maintained in a means provided by this chapter. The reason for the tow initiated by the police shall be as a result of accident, violation of parking ordinances, disabled or any other police initiated.

Tow service. A person engaged in the business of a wrecker or towing service, granted a permit under this chapter, whereby motor vehicles are towed or otherwise removed at the direction of officers of the city Police Department by the use of a wrecker or motor vehicle designed for that purpose.

Tow service operator. The person operating a tow vehicle under this chapter.

Wrecked motor vehicle. A motor vehicle not capable of self-propulsion.

(Ord. No. 07-16, passed 2-8-2007)

SEC. 11-7-2 POLICE ROTATION LIST.

(A) The Chief of Police is hereby authorized to establish a rotation list of tow services desiring to provide towing services upon request of police officers. The tow services who desire to be placed upon a rotation list shall comply with the requirements of this chapter and with all other rules and regulations the Chief of Police may issue regarding towing services requested by personnel of the Police Department.

(B) The number of tow service operators on the police rotation list shall be limited to 20. In the event that a tow service operator is removed permanently from the police rotation list, whether voluntarily or involuntarily, the vacancy shall be filled by drawing made by the Chief of Police from those tow service operators who comply with the requirements of this chapter and desire to be on the police rotation list. The selection process shall continue until the vacancies are filled and the maximum number of 20 tow service operators is reached.

(C) Subject to the restrictions and qualifications set forth in these regulations or procedures adopted by the Chief of Police and consistent with this chapter, those tow operators that are on the rotation list on the effective date of this chapter but do not conform to the separate business requirements set forth in section 11-7-5(A)(8) shall be permitted to remain on the rotation list; but if any tow operator is suspended or removed from the list voluntarily or involuntarily, the tow operator as well as all new businesses that apply for inclusion of the rotation list must comply with the requirements of this section and the remainder of the provisions of this chapter. Further, no tow operator whether conforming or nonconforming may refer, forward, cover or intercept any rotational call as provided by this chapter.

(Ord. No. 07-16, passed 2-8-2007)

SEC. 11-7-3 SELECTION OF TOW SERVICES DURING POLICE INVESTIGATIONS.

In all police-initiated towing of a vehicle:

(A) The operator of the vehicle, if present and not incapacitated, shall have the right to select a tow service of his or her choice located within a reasonable distance from the site of the tow to perform the towing service. The reasonableness of the distance from the tow site shall be determined by the police personnel present at the scene.

(B) If the operator of the vehicle to be towed is not present, or is incapacitated, or has no preference as to any specific tow service, the police personnel ordering the tow shall request that the towing service be provided by the tow service then first on the appropriate rotation list maintained by the police communications center.

(C) When emergency circumstances prevail, the police officer may request towing services from the tow service nearest to the scene of the accident or emergency. A police officer may also request towing services from any company operating large cranes or other heavy equipment if necessary to remove traffic obstacles involving large trucks or heavy equipment. (Ord. No. 07-16, passed 2-8-2007)

SEC. 11-7-4 PERMIT REQUIRED.

No tow service shall engage in the business of towing vehicles at the request of city police personnel without first obtaining a police rotation list permit from the Chief of Police. Once issued, a permit under this chapter is valid for one year and capable of being renewed.

(Ord. No. 07-16, passed 2-8-2007)

SEC. 11-7-5 APPLICATION FOR POLICE ROTATION LIST PERMIT.

(A) Application for a police rotation list permit issued hereunder shall be notarized and shall be made upon blank forms prepared and made available by the Police Department and shall contain:

- (1) The name, home address, and proposed business address of each owner, investor, part owner, or partner, limited partner, or joint venturer, silent or active;
- (2) The business address, business telephone number, telephone number for night calls, location and telephone number for storage area;
- (3) A description of the size and capacity of all tow trucks used by the tow truck operator and shall contain a certification that at all times the equipment will be in good condition and capable of towing any automobile or truck from the streets and other public or private places in the city when called on to do so;
- (4) A description of the storage area for towed vehicles at, or in the immediate vicinity of the applicant's garage, and shall contain a certification that the applicant shall have and shall maintain storage space and facilities to protect from the elements such vehicles as would be damaged by exposure and a sufficient amount of additional storage space to store other vehicles, all within an enclosure having a wall or a solid fence of sufficient height or design to conceal the towed vehicles from view from any street or public way, and illuminated at night;
- (5) The applicant shall provide a copy of the garage liability policy or certificate of garage liability insurance covering the operation of the licensee's business equipment, or other vehicles for any bodily injury or property damage. This policy shall be in the minimum of \$100,000 for any one person injured or killed and a minimum of \$300,000 for more than one person killed or injured in any accident and an additional \$50,000 for property damage;
- (6) The applicant shall provide a copy of the garage keeper's legal liability policy or certificate of garage keeper's legal liability insurance for each storage premises covering fire, theft, windstorm, vandalism and explosion in the amount of \$100,000 (\$20,000 per claim per vehicle);
- (7) A copy of the registration card issued by the Department of Motor Vehicles for each tow truck used by the tow truck operator, indicating that each tow truck is registered as a wrecker as defined in G.S. Chapter 20;
- (8) The applicant shall certify that the applicant, any partner, and any interest holder is a separate business from any other tow service operator, has its own business and privilege license, will not cover or forward calls of another tow service operator or business and does not share, use, combine, merge or mix the following and will not do so as long as on the police rotational list:
 - (a) Building and office facilities and office equipment;

- (b) Wreckers, dollies or other tow equipment;
- (c) Tow personnel and office staff or personnel;
- (d) Vehicle storage facilities or lot;
- (e) Liability or owner insurance policies; and
- (f) All assets, accountings, invoices, income and expenses are not a part of any other business, partnership, joint venture, or other business arrangement.

(9) The application shall be signed by each owner, part owner or partner, silent or active.

(B) Subject to the restrictions and qualifications set forth in these regulations or procedures adopted by the Chief of Police, nonconforming tow service operators that do not meet the requirements of this chapter but were on the wrecker rotation list on the effective date of these regulations may continue to participate on the wrecker rotational list for a period of 60 days from the effective date of these regulations. At the end of the 60 days, the nonconforming tow service operators shall be inspected for compliance with the requirements of these regulations and procedures. Those tow service operators who remain noncompliant shall be removed from the wrecker rotational list.

(Ord. No. 07-16, passed 2-8-2007)

SEC. 11-7-6 INSURANCE REQUIREMENTS.

Upon approval of a police rotation list permit, no tow service shall be added to the police rotation list until the permit holder has deposited with the Chief of Police or designee proof of the following liability coverage:

(A) *Garage liability policy.* A garage liability policy covering the operation of the licensee's business equipment, or other vehicles for any bodily injury or property damage. This policy shall be in the minimum of \$100,000 for any one person injured or killed and a minimum of \$300,000 for more than one person killed or injured in any accident and an additional \$50,000 for property damage.

(B) *Garage keeper's policy.* A garage keeper's legal liability policy for each storage premises covering fire, theft, windstorm, vandalism and explosion in the amount of \$100,000 (\$20,000 per claim per vehicle).

(C) *Notice of change.* Each policy required under this section must contain an endorsement by carriers providing ten days' notice to both the city and the insured in the event of any change in coverage under the policy.

(Ord. No. 07-16, passed 2-8-2007)

SEC. 11-7-7 INVESTIGATION BY CHIEF OF POLICE.

Within five business days after receipt of each application, the Chief of Police or designee shall cause an investigation to be made of the applicant and of the applicant's proposed operation. This investigation shall be made for the purpose of verifying the information in the application and to assure compliance with the provisions of this chapter.

(Ord. No. 07-16, passed 2-8-2007)

SEC. 11-7-8 STANDARDS FOR ISSUANCE OF PRIVILEGE PERMIT.

The Chief of Police or designee shall add a tow service to the police rotation list when it is determined:

- (A) That public convenience and necessity require the applicant tow service be added to the police rotation list;
- (B) The tow service business location and its storage facility are located within the city limits;

(C) Insurance policies as required by the chapter have been procured;

(D) All applicants, operators, owners, investors, partners, limited partners and joint venturers have never been convicted, pleaded no contest or received a prayer for judgment for any felony, assault, theft, or any other crime involving the taking, use, tampering with, or conversion of a motor vehicle;

(E) The tow service will use only tow trucks equipped with revolving or flashing amber or yellow light(s) which shall be operating during any tow;

(F) The tow service will provide 24 hours per day, seven days per week, on-call service;

(G) The tow service will arrive at the location of the vehicle to be towed within 30 minutes after receiving a request for day towing services and within a reasonable time after receiving a request for night, weekend and holiday towing from the Police Department;

(H) The tow service will provide and use a storage area for towed vehicles that is enclosed by a chain link fence or equivalently secure fence or enclosure which shall be illuminated at night and shall have sufficient storage space and facilities to protect from the elements such vehicles as would be damaged by exposure and a sufficient amount of additional storage space to store other vehicles, all within an enclosure having a wall or a solid fence of sufficient height or design to conceal the towed vehicles from view from any street or public way, and illuminated at night;

(I) The tow service will maintain towing equipment which is adequate to perform the towing service in a reasonably workmanlike manner and is properly equipped to tow vehicles in such a manner as to minimize any damage to towed vehicles. All towing equipment shall contain the name and phone number of the tow operator placed on the sides of the tow vehicle in letters no less than three inches in height. At all times and not just for inspection purposes, tow services shall have and maintain in good working order the equipment, tools and supplies required and set out in section 11-7-10.

(J) The requirements of this chapter and all other governing laws and ordinances have been met.
(Ord. No. 07-16, passed 2-8-2007)

SEC. 11-7-9 DUTIES OF POLICE ROTATION LIST TOW SERVICES.

Tow services shall be added to the police rotation list subject to the following conditions:

(A) *Compliance with rate schedule.* In addition to an administrative tow fee payable to the City of Greenville and contained in the city’s *Manual of Fees*, tow services shall charge for their services only those fees or costs as are established herein:

(1) The maximum rate for the towing and storage for a vehicle is as follows:

(a) Collision tows:

1. For day, night, weekend and holiday towing a vehicle with a gross weight up to and including 9,000 pounds, the maximum charge is \$125.
2. Rates for vehicles in excess of 9,001 pounds shall be at the tow service established rates which have been filed with the Chief of Police or designee.

(b) Non-collision tows:

1. For day, night, weekend and holiday towing a vehicle with a gross weight up to and including 9,000 pounds, the maximum charge is \$75.
2. Rates for vehicles in excess of 9,001 pounds shall be at the tow service established rates which have been filed with the Chief of Police or designee.

- (2) The maximum rate for storage until the owner, operator or other person authorized to take possession of the towed vehicle is as follows:
 - (a) Less than 24 hours: no charge; and
 - (b) More than 24 hours: \$25 per day or any portion of a day thereafter specifically excluding the first 24 hours.
- (3) The maximum rates established in subsection (A) of this section shall be a flat fee which shall be inclusive of all towing charges. A towing charge includes any fees for:
 - (a) Special equipment such as but not limited to a double hook-up, vehicle entry when locked, dropping transmission linkage, axle or drive shaft removal, skates, trailer or flatbed, lift, slimjims, go jacks, removing bumpers, airing up brakes, and mileage;
 - (b) Time spent on the scene of the tow, including clean up and sweeping if an accident is involved;
 - (c) Gate fees, and fees for returning to the location where the vehicle is stored in order to release; and
 - (d) No fee, other than the above enumerated fees for towing and storage or other fees authorized by this chapter shall be assessed as a condition for release of a vehicle to the vehicle owner or authorized driver.
- (4) Dollies. A maximum fee of \$30 may be charged.
- (5) Wait time. If the tow operator is required to wait before the operator can initiate tow operations in excess of one-half hour, a wait fee may be charged at the rate of \$65 per one-half hour after the first one-half hour, which may not be charged, on scene before tow operations are initiated. Wait time does not include travel to and from the location of the tow. No wait fee may be charged unless on-scene law enforcement verify the wait by initials and badge number.
- (6) An additional \$25 will be charged for release of a vehicle by a tow operator to the owner, operator or other authorized person after 5:00 p.m. and before 8:00 a.m. as defined by day towing operations in this chapter. Collecting and removal of personal property of the owner, operator or authorized person other than during day towing operations as defined in this chapter will incur a charge of \$25, if the collection and removal occurs at a separate time than release of the vehicle.
- (7) When a tow shall involve extraordinary circumstances as defined in section 11-7-1 above, the tow operator shall be entitled to charge, in addition to the tow charge, the rate of \$65 per one-half hour after the first one-half hour for services identified in section 11-7-1. The charges must be specifically identified on the tow ticket, itemized statement or invoice and must have the initials and badge number of the on-scene law enforcement officer by this charge in addition to any other initials and badge number required by this chapter.
- (8) No fees or charges may be charged or collected by the tow operator permitting the owner, operator or other authorized person from collecting and removing personal property from the towed vehicle during day towing operations hours as used in this chapter.
- (9) When a canceled call as defined in section 11-7-1 above occurs, the tow operator shall be entitled to charge and collect from the owner of the vehicle that was the subject of a dispatched call one-half of the flat tow fee for the type of tow involved.
- (10) The maximum fees set forth in this section shall be effective from the date of this chapter or until the fees have been changed by action of the City Council. No adjustment to the fee amounts shall be effective until such time as a schedule of the adjusted fee amount shall be available for inspection at the office of the City Clerk and incorporated into the *Manual of Fees*.

(B) *Interception of police calls.* No tow service shall arrive at the scene of a police investigation as a result of monitored or intercepted police calls by radio, or other device, for the purposes of soliciting towing or repair services.

(C) *Required records.* Any tow service operating under this chapter must have the following records of any motor vehicle towed: the make and model of the motor vehicle; the license number of the motor vehicle; and the date of the towing service. These records shall be maintained for a period of two years from the date of towing by the tow service and shall be made available for inspection and review at any time by the Chief of Police or designee.

(D) *Storage of towed vehicles.* All vehicles towed as a result of a police initiated request shall be stored as follows:

- (1) The tow service will provide and use a storage area for towed vehicles that is enclosed by a chain link fence or equivalently secure fence or enclosure which shall be illuminated at night and shall have sufficient storage space and facilities to protect from the elements such vehicles as would be damaged by exposure and a sufficient amount of additional storage space to store other vehicles, all within an enclosure having a wall or a solid fence of sufficient height or design to conceal the towed vehicles from view from any street or public way, and illuminated at night.
- (2) Any tow operator who stores towed vehicles at either the normal place of business or at an off-site storage facility shall provide for the following in addition to all other requirements of this chapter:
 - (a) The stored vehicle must be capable of being released from the storage facility 24 hours per day, seven days per week.
 - (b) Payment for the towing, storage and administrative fees must be capable of being made at the off-site storage facility so as to avoid the vehicle owner having to respond to two separate locations to secure the release of his or her vehicle.
 - (c) If the vehicle owner responds to the tow operator's normal place of business to secure release of his or her vehicle, the tow operator shall provide transportation of the vehicle owner to the off-site storage facility in a timely manner.
- (3) Any violation of this chapter committed by the personnel of the storage facility at the normal place of business or at the off-site storage facility shall be attributed to the tow operator for purposes of suspension or revocation from the tow operators rotation list.
- (4) No off-site storage facility shall be utilized under this section until proof has been deposited with the Chief of Police or designee that the facility is insured in accordance with the requirements as set forth in section 11-7-6.

(E) *Availability.* The tow service shall post a phone number at the place of business setting forth the manner in which to redeem any towed vehicle. The phone numbers shall be printed not less than three inches high and posted in a place clearly visible outside the business. The sign shall explain in what manner a stored vehicle can be redeemed. The tow service shall have an employee available by telephone to redeem stored vehicles at all times when the tow service is not open for business. Each tow service may list the telephone number of the police dispatcher.

(F) *Damage.* The person operating any such tow service shall make every reasonable effort to minimize damage to towed and stored motor vehicles. Where applicable, such reasonable effort shall include but is not limited to the use of a dolly or carriage for towing, the disconnection of the drive shaft, release of brakes, towing at a reasonable speed, and the securing of the motor vehicle from damage by the elements.

(G) *Securing stored vehicles.* No towed vehicle may be dismantled, have parts removed, or tires deflated, except as necessary for towing the motor vehicle or securing it from damage by the elements.

(H) *Itemized statement.* The tow service bill for towing and storage of any motor vehicle shall be itemized to reflect services performed, labor or other materials required, and any storage or other charges as follows:

- (1) Bills/receipts numbered consecutively;
- (2) The name, address, and phone number of the wrecker/tow service;
- (3) The itemized services performed. This itemization should include a total for all charges;
- (4) The administrative tow fee and any applicable state taxes. These should be itemized as well;
- (5) The date, time and location of the tow; and
- (6) The on-scene officer must sign and record the officer's badge number on the towing ticket of the tow operator which clearly states the services provided and the charge for the service provided by the tow operator. No additional charges or fees may be made by the tow operator once signed by the officer, except that fees for storage and after hours release where applicable and appropriate may be charged.

(I) *Release authorization receipt.* No towed vehicle may be released by the tow service until the owner or operator presents the tow service with a release authorization receipt from the Police Department.

(J) *Posting bond or paying fees.* Any person who has had his or her car towed may take possession of it by posting a bond or paying the fees due. The fees will include an administrative fee for towing which will be paid to the Greenville Police Department. The amount of this administrative fee shall be set out in the *Manual of Fees* for the City of Greenville.

(K) *Cleanup.* In the event of a motor vehicle accident, the tow service operator shall remove the wreck debris from the road and/or right-of-way and properly dispose of it.

(L) *Administrative tow fee.* An administrative tow fee in the amount of \$30 payable to the City of Greenville will be charged on all collision and non-collision tows.

(M) *Payment of fees and invoices; late fees.* The tow service owner or operator is responsible for the collection of all fees and costs including the administrative fee. The tow service owner or operator shall remit to the City of Greenville the administrative fee and a copy of the itemized statement. Failure to remit may subject the tow service operator or owner to suspension or revocation of tow service permit. Administrative fees not remitted to the city within 30 days of collection by the tow service owner or operator shall be subject to the assessment of interest at the legal rate and payment of a penalty to the city in the amount of \$10 per fee to be remitted for each ten working days after the collection and when remittance was due by the tow service owner or operator.

(Ord. No. 07-16, passed 2-8-2007)

SEC. 11-7-10 ANNUAL INSPECTION.

(A) It shall be the duty of the Chief of Police or designee to inspect on an annual basis all of the tow services on the police rotation list. The inspection shall include the operation's records, wrecker vehicles, storage facilities, insurance policies, and any other areas the Chief of Police or his or her agent may deem appropriate to the operation of the service on the police rotation list. There will be an administrative fee of \$35 for this inspection to be paid on an annual basis. The Chief of Police or agent shall issue an inspection certification upon successful completion of the annual inspection. Any tow service operator that fails to cooperate with the Chief of Police or his or her agent during the inspection, that fails to provide or produce the items and documents for inspection or that fails the requirements of this chapter shall be suspended from the police rotation list until the tow service owner complies and satisfies the requirements of this subsection (A).

(B) Each wrecker, carrier or rollback at all times and not just during the annual inspection shall maintain in good working order all equipment and accessories as prescribed by state law and any additional equipment and accessories as identified by the Chief of Police or designee and maintained for review by tow service operators on the rotation list.

(C) Each wrecker, carrier or rollback must be equipped with the following at all times and not just during the annual inspection and must be maintained in good working order:

- (1) Ax;
- (2) Large broom;
- (3) Fire extinguisher. Five-pound multi-purpose dry chemical;
- (4) Shovel;
- (5) Flambeaus, four each. Flares, eight or traffic cones, 28 inches in height;
- (6) Two snatch blocks;
- (7) Two scotch blocks;
- (8) Dollies (except rollback wreckers);
- (9) A five-gallon waterproof, covered and full container of "Speedi-dry" or similar type of absorbent material;
- (10) Cable: one spool having at least 100 feet and measuring three-eighths inch in diameter;
- (11) Bolt cutters; and
- (12) Safety vest.

(D) The equipment identified in subsections (B) and (C) must be in good working order and available on each wrecker, carrier or rollback on any call. Additionally, the matters identified in subsections (B) and (C) will be inspected during the annual inspection, and failure to have or have in good working order will subject the tow operator or business to a failure to pass the annual inspection.

(Ord. No. 07-16, passed 2-8-2007)

SEC. 11-7-11 EXCLUSIONS.

This chapter shall not apply to wrecker services which are not listed on the police rotation list.

(Ord. No. 07-16, passed 2-8-2007)

SEC. 11-7-12 SUSPENSION OR REVOCATION OF PERMIT.

(A) *Grounds for suspension.* The following shall be grounds for suspension or revocation of a police rotation list permit issued under this article:

- (1) The permit was secured by fraud or by the concealment of a material fact by the permit holder and that fact, if known, would have caused a refusal to issue a permit;
- (2) The permit holder has violated any of the requirements of the regulations established by the wrecker inspector under this article;
- (3) Past services rendered by any permit holder are shown to be detrimental to the public health, safety and welfare, including overcharging of wrecker fees or false charging of items done by the wrecker business;
- (4) The permit holder paid in the form of a gratuity any third person for information as to the location of the accident;
- (5) The permit holder has violated the fee schedule by overcharge or false charges;

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- (6) Failure to operate the wreckers specified in such a manner as to serve the public adequately and efficiently;
- (7) Failure to maintain wrecker and vehicle in good condition;
- (8) Failure to pay the city privilege license fee imposed upon wreckers;
- (9) Failure to report accidents while towing city rotation call vehicles or to furnish other records and reports as may be required by this chapter and/or the wrecker inspector;
- (10) The permit holder illegally solicited tow or repair services at a police investigation;
- (11) The permit holder paid any third person for information as to the location of any vehicle in compensation for calling the permit holder to tow the vehicle;
- (12) The permit holder has violated any of the requirements of this chapter or any of the rules and regulations as established by the Revenue Collector or the City Council;
- (13) The permit holder refused an annual inspection by the Police Department;
- (14) The permit holder failed to meet all requirements in the annual inspection by the Police Department; and/or
- (15) The permit holder fails to respond to three consecutive rotation calls.

(B) *Response to calls.* Wreckers on the rotation list are expected to respond to calls. If the permit holder does not answer the call or respond within the times specified in the chapter, the next business or operator on the list will be called. The Police Department shall send notice in writing to the permit holder after the second call with no response to either the call or call for service. If the towing business or operator does not respond to three consecutive rotation calls without prior notification to the police, the Chief of Police is authorized to suspend or recommend revocation of the holder's permit.

(C) *Revocation or suspension.* If the Chief of Police determines that any of the above violations have occurred, the Chief of Police shall have the authority to revoke or suspend a permit as follows:

- (1) For violation of subsection (A)(1) of this section, the Chief of Police shall recommend to the City Manager the license shall be revoked;
- (2) For a first-time violation of subsections (A)(2) through (14) of this section, suspension up to 30 days;
- (3) For a second violation of subsections (A)(2) through (14) of this section, within a period of two years from the date of the first suspension, suspension up to 90 days;
- (4) For a third violation of subsections (A)(2) through (14) of this section, within a period of two years from the date of the first violation, revocation may be recommended to the City Manager; and
- (5) For a violation of (A)(15) of this section, the permit holder will be removed from the rotation list for a period of 180 days for a first violation and may recommend to the City Manager that the permit be revoked for a second violation of subsection (A)(15) within a period of two years from the date of the first violation.

(D) *Final decision.* If the Chief of Police recommends a permit be revoked, the City Manager shall be the final decision authority as to whether the permit shall be revoked. If the facts presented to the City Manager by the tow service operator warrant mitigation of the recommended action, the City Manager may mitigate the revocation to a suspension of not more than 180 calendar days from the date of the City Manager's decision. A tow service operator may appeal to the City Manager any suspension imposed by the Chief of Police. If appealed, the City Manager is the final decision authority. As the final decision authority, the City Manager may sustain the suspension, mitigate it or overturn the decision by the Chief of Police after reviewing the matters presented by the Police Department and the tow service operator. Any appeal must be in writing, stating the reasons for the appeal, and must be submitted to the City Manager within five business days of the date of the decision to suspend issued by the Chief of Police.

(E) *New permit after revocation.* Any permit holder who has his or her permit revoked shall be eligible to apply for a new permit one year from the date of the revocation.

(F) *Appeals from suspension or revocation of a permit.* A permit holder removed or recommended for removal from the tow rotation list for violations of subsections (A)(1) through (15) of this section may appeal the removal action to the City Manager. If appealed, the City Manager is the final decision authority. As the final decision authority, the City Manager may sustain the suspension, mitigate it or overturn the decision by the Chief of Police after reviewing the matters presented by the Police Department and the tow service operator. Any appeal must be in writing, stating the reasons for the appeal, and must be submitted to the City Manager within five business days of the date of the decision to suspend or recommend removal is issued by the Chief of Police. Pending any appeal and the final decision, the permit holder will not be eligible to receive any calls for police initiated tows.

(Ord. No. 07-16, passed 2-8-2007)

SEC. 11-7-13 RENEWAL.

This police rotation list privilege shall be valid for one year from the date of acceptance. Each application for renewal shall contain adequate assurances that the applicant continues to comply with all standards, rules and regulations prescribed under this chapter. The renewals shall be on a form designated by the Revenue Collector and shall contain the names of any new owners, part owners or partners, and the names of any new employees.

(Ord. No. 07-16, passed 2-8-2007)

SEC. 11-7-14 POLICIES.

The Chief of Police shall reserve the right to formulate policies that will ensure accurate enforcement of this chapter.

(Ord. No. 07-16, passed 2-8-2007)

SEC. 11-7-15 POST-TOWING PROCEDURES.

(A) Whenever a vehicle with a valid registration plate or registration is towed, the law enforcement officer shall immediately notify the last known registered owner of the vehicle as provided in G.S. 29-219.11.

(B) Any person aggrieved by the towing may request a hearing before any magistrate in Pitt County to contest the towing; either party may appeal the decision of the magistrate to district court.

(C) Any unclaimed vehicle may be sold under the procedures provided in G.S. Chapter 44A, as provided by G.S. 160A-303.

(D) When a court finds no probable cause existed for a tow, the city will pay the tower.

(Ord. No. 07-16, passed 2-8-2007)

SEC. 11-7-16 INDEMNIFICATION AND HOLD HARMLESS.

Any permit holder shall indemnify, save and hold harmless the city, its officers, agents and employees, from any and all claims, actions, defenses, suits and proceedings arising out of any negligent act on the part of a licensee, employee or part-time employee of the licensee, which negligent act is the proximate cause of damage to any vehicle stored in a lot authorized under the terms of this article.

(Ord. No. 07-16, passed 2-8-2007)

