

TOWN COUNCIL



STAFF REPORT Bluffton Police Department

MEETING DATE:	April 12, 2016
ISSUE:	Procedure for updating the current removal of abandoned or illegally stopped vehicles. Town of Bluffton Code of Ordinances ARTICLE III, Discussion of an Amendment to the Town of Bluffton Code of Ordinances, Chapter 26, Traffic and Motor Vehicles to add a New Article VII, Towing and Wrecker Services, for the Purpose of Regulating the Safe and Efficient Removal, Storage, and Safekeeping of Certain Towed Vehicles. <i>PARKING, STANDING AND STOPPING</i>
STAFF LEAD:	Major Joseph Manning, Bluffton Police Deputy Chief

RECOMMENDATION: Information is presented to provide an overview of proposed amendments to inform Town Council regarding the process and Town of Bluffton Town Code regarding options for changing the present Town ordinance involving the towing of vehicles for various reasons.

BACKGROUND: Through different discussions between Town Council members and Town employees, it has been suggested the current towing procedures for vehicles within town limits should be addressed and changed if decided upon.

Currently the Town ordinance *2008-23, & 18.310 Article III – Parking, Standing, and Stopping* states the procedures for the removal of vehicles by the Bluffton Police Department. In addition, the Bluffton Police Department has *Standard Operating Police #501 Traffic Services and Towing*, which provides the objective and policy about towing vehicles. In researching the ordinance and policy, it would be more consistent with merging the two and provide more specifics on reasons for towing, what two companies are legally allowed to participate in an on-call rotation, and the responsibilities/expectations of each tow company.

PROCESS FOR AMENDING ORDINANCE: By a vote of the majority of Town Council, an amendment of a current ordinance may be ordered. The timetable for the ordinance to be amended is as follows.

- May 10, 2016 Town Council Meeting – First reading of amended ordinance.
- June 14, 2016 Town Council Meeting – Public Hearing
- July 12, 2016 Town Council Meeting – Second and Final reading of amended ordinance.
- Schedule of fees will be accepted/denied during the FY 2017 Town Budget Consolidated Budget. Town Budget vote.

DISCUSSION ITEMS:

- What rules and regulations should be placed on a tow company that wants to be added to the rotation?
 - Consideration of requirement: Must have business office and lot inside Town limits.
- Consideration to accept Beaufort County/Town of Hilton Head Island fee schedule for consistency.
 - Town of Bluffton fee schedule has not been updated since 2011.

ATTACHMENTS:

1. Proposed Town of Bluffton Towing and Wrecker Services Ordinance.
2. Current Town of Bluffton Parking, Standing, and Stopping Ordinance.
3. Town of Bluffton Police Department Traffic Services and Towing Standard Operating Procedure.

TOWING AND WRECKER SERVICES

Purpose:

To establish policy, procedure, and regulations for members of the Bluffton Police Department and wrecker/towing companies to ensure the safe and efficient removal, storage and safekeeping of any and all vehicles being towed by and placed into the custody of such wrecker/towing service company.

Reasons for Towing:

There are several justifications for removing/towing a vehicle. Those justifications are as follows:

- a. Law enforcement officer request due to vehicle collision, vehicle breakdown, after an arrest or any other law enforcement action
- b. private property owner requests unlawfully parked vehicle be removed
- c. lien holder requests repossession
- d. owner or lessee of vehicle request removal

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 5:00 p.m. and 8:00 a.m., weekends, and state and national holidays, or those days and hours other than during which towing is made available by the wrecker business, whichever period is shorter. For purposes of releasing a vehicle from a storage lot, normal business hours shall be Monday through Sunday from 8:00 a.m. until 6:00 p.m., except for Christmas Day and Thanksgiving Day holidays.

Carrier shall mean a motor vehicle, other than a wrecker, which is equipped to enable the transporting of another vehicle from one (1) location to another.

Light-medium duty wrecker shall mean a wrecker that is not less than one (1) ton in size with dual rear wheels and booster brakes and equipped with the necessary equipment to achieve a factory rated lifting capacity of not less than eight thousand (8,000) pounds.

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.

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.

Sec. 12-5-112 - Special requirements:

- a. Each operator shall display the owner or company name and business telephone number in at minimum two-inch high letters on both vehicle doors. Temporary lettering, magnetic or otherwise, is strictly prohibited.
- b. Each wrecker/tow company shall ensuring stored vehicles and their contents are kept safe from pilferage and theft. These requirements are in addition to any other applicable zoning requirements. Bluffton Police Department will be responsible for inspecting all premises.
- c. At any time a vehicle is in the custody of the wrecker/tow company, the wrecker/tow company will allow the owner of personal property located within, but not attached to, the vehicle to remove such personal property from the vehicle without charge and without regard to any towing or storage charge owed on the vehicle. If the wrecker/tow company has removed personal property from the vehicle, it will return it to the vehicle owner when requested without charge and without regard to any towing or storage charge owed on the vehicle. Should the wrecker/carrier operator or storage lot attendant have reasonable belief that such requested property constitutes contraband or other item(s) possession of which is unlawful, notification will be given to the appropriate law enforcement agency prior to release of the property.

General business practices:

- a. No wrecker/carrier shall be driven or operated in a manner as to interfere with the duties of public safety personnel who are engaged at a scene in an official capacity.
- b. Direction of Bluffton Police Department officers shall be obeyed at all times and any licensed wrecker/carrier will promptly furnish service when requested to do so by the Bluffton Police Department in order to clear traffic and promote public safety.
- c. Every wrecker/carrier shall possess a broom, shovel and container for debris, a fire extinguisher rated for class A, B and C fires, and oil-dry type product. Every

wrecker/carrier shall clean up and remove all debris from a vehicle being towed from a site.

- d. The wrecker/towing company will report all drivers' names to the Bluffton Police Department which will operate a wrecker/carrier for the purpose of criminal background check. The background check entails each driver's criminal history, driving history, whether they hold a correct driver's license dependent on the type of vehicle, and possess a current and up-to-date business license. (need to be more specific what happens if a driver has a criminal history and what would qualify him to be a driver and what wouldn't)
- e. All vehicles used by the wrecker/towing companies will be provided to the Bluffton Police Department.
- f. Services will not tow for other services as a substitute. Services not able to make their call will be placed at the bottom of the rotation list.
- g. The Bluffton Police Department will be responsible for the inspection of lots, rotation call records and vehicles annually. The inspections will be completed no less than once a year or during a formal complaint.
- h. Final authority on approving what wrecker/towing company is used by the Bluffton Police Department is decided by the Chief of Police, the Chief of Police's designee and/or the Town of Bluffton City Manager or the Town Manager's designee.

Release to the owner:

- a. No impounded vehicle shall be released without satisfactory proof of ownership or lessee's contract. The owner or lessee of a towed or immobilized vehicle may secure its release by paying the fine the tow company charges.
- b. Towing and storage charges shall be the sole responsibility of the owner or lessee of the towed vehicle.

Maximum towing and storage charges:

- a. The below schedule of fees shall be adhered to in establishing the maximum fee that can be charged for a nonconsensual tow and storage of towed vehicles, except as otherwise provided by an authorized governmental agency having competent jurisdiction. These fee limitations shall not apply when the owner/operator of a

towed vehicle makes special arrangements with a wrecker service of his/her own choosing. These fees may be exclusive or cumulative in nature dependent upon the circumstances involved in the call for service. Payment of towing or storage fees shall be permitted to be made by cash or credit card.

- b. The schedule of fees shall be reviewed by the Bluffton Police Department and the Town of Bluffton annually. Adjustment of fees may be accomplished in the discretion of the Bluffton Police Department and the Town of Bluffton in the event of any significant change in economic conditions affecting the towing industry, e.g., cost of fuel.
- c. Storage fees will not begin until twenty-four (24) hours after the motor vehicle has entered into the business's storage lot. Thereafter, storage fees shall accrue on a per day basis for any one (1) day or portion thereof.
- d. Each vehicle owner will be given an itemized invoice or receipt for the bill they have paid which details all charges that have been applied to the bill.

Bluffton Police Department Schedule of Fees

Pickup Town of Bluffton	\$75.00
Pickup disabled vehicles	\$125.00
Pickup Police Request (8:00am -10:00pm)	\$100.00
Police impound request	\$125.00
Pickup Police Request (10:01pm-7:59am)	\$200.00
Storage (per day), after first 24 hours	\$25.00

Beaufort County & Town of Hilton Head Wrecker/Towing Schedule of Fees

Carrier	\$200.00
Light-medium wrecker	\$200.00
No-tow (arrival only)	\$75.00
No-tow (attached)	\$100.00
Tow exceeding one hour, per hour	\$125.00
Storage (per day), after first 24 hours	\$40.00

Beaufort City

The City of Beaufort does not currently have a fee schedule in regard to the cost of towing vehicles. The City ordinance indicates, "Reasonable fees".

Penalties:

- a. Unless otherwise provided herein, violation of any of the provisions of this article is cause for removal for the Bluffton Police Rotation List and/or suspension.
- b. In addition to any of the penalties provided for in subsection (a) above, violation of any of the provisions of this article may result in revocation of the entity's business license to perform towing services within the Town of Bluffton
- c. Extraordinary Incidents – Fees shall be reasonable and customary as agreed upon by the service provider and the Town of Bluffton. Incidents may include but not limited to oversized vehicles, multi-vehicle incidents, hazardous materials and water recovery incidents.

Appeals:

- a. Incidents involving wrecker/towing services which involves removal or suspension from the rotation list can be appealed through the Office of the Bluffton Chief of Police to the Office of the Town of Bluffton City Manager.
- b. Appeals must be made in writing and received no later than 10 working days for receipt of the Notice of Action. The Bluffton Police department will have to respond no later than 10 working days of receipt of the appeal.

Location of Wrecker/Tow Companies currently in rotation:

Company	Address	Inside Town	Outside Town
American Towing & Recovery	198 Simmonsville Road	X	
B&B Towing Services	40 Persimmons Street		X
Carolina Towing	47 Goethe Road		X
Kipps Towing & Recovery	23 Lost Hollow Lane		X
Morris Garage & Towing	1173 May River Road	X	
National Towing	58 Schinger Ave, Ridgeland		X
Palmetto Towing & Recovery	38 Sugar Maple Street		X
Tommy's Tire & Towing	1167 May River Road	X	

Number of Tows Monthly:

March 2015	148
April 2015	126
May 2015	172
June 2015	111
July 2015	141
August 2015	136
September 2015	131
October 2015	113
November 2015	152
December 2015	148
January 2016	121
February 2016	148
March 1 – March 24, 2016	79

TOTAL = 1,726

Sec. 26-78. - Authority to establish regulations.

The Town Council shall have the authority to establish no parking zones, restricted parking zones, parallel parking zones, loading zones, handicapped parking zones, parking meter zones, and other reasonable parking regulations.

(Ord. No. 2008-23, § 18.301, 11-20-2008)

Sec. 26-87. - Disabled vehicles.

The operator of any vehicle which becomes disabled on any street within the Town shall:

- (1) Move the disabled vehicle to the extreme right side of the road;
- (2) Notify the Police Department immediately that the vehicle is disabled;
- (3) Make arrangements and have the vehicle removed from the Town street as quickly as possible.
- (4) Turn on warning flashers or place warning reflectors to advise other moving vehicles of the disabled vehicle.

(Ord. No. 2008-23, § 18.310, 11-20-2008)

Sec. 26-90. - Removal of abandoned or illegally stopped vehicles.

Whenever any police officer finds a vehicle standing on a street in violation of any of the provisions of this Code or any other ordinance or traffic regulation, such officer is authorized to remove such vehicle or require the driver or other person in charge of the vehicle to move it to a position off the paved or main traveled part of such street. Whenever any police officer finds a vehicle apparently abandoned on a public street or finds a vehicle unattended on any public street where such vehicle constitutes an obstruction to traffic, such officer is authorized to provide for the removal of such vehicle to the nearest garage or other place of safety, and the owner of such vehicle shall pay all charges incidental to the removal and storage of such vehicle prior to the surrender of the vehicle to the owner.

(Ord. No. 2008-23, § 18.313, 11-20-2008)

Sec. 26-91. - Parking tickets authorized; enforcement.

- (a) The Chief of Police, in addition to any Town police officer, shall administer and enforce the provisions of this article and he shall have such powers and perform such duties as may be provided for him in this article or as provided in any other Town or State ordinances/statutes.
- (b) The Chief of Police may post signs and devices relating to the limitations upon parking at particular places. Penalties shall be imposed by placing a ticket upon an offending vehicle.
- (c) The ticket amount shall be the only penalty imposed if such amount is paid within the time prescribed on the ticket.
- (d) Failure to pay such amount within the prescribed time, however, shall subject the owner thereof to be summoned to Municipal Court and penalized within its discretion.
- (e) The Chief of Police shall have authority to suspend enforcement of portions of this article for violations within 1,000 feet of any church or place of worship during times of worship services or other activities such as weddings, funerals and festivals.

(Ord. No. 2008-23, § 18.314, 11-20-2008)

Sec. 26-92. - Owner and/or driver responsible for violation.

No person shall allow, permit, or suffer any vehicle registered in his name to stand or park in any street in the Town in violation of any of the provisions of this Code or other ordinances or regulations of the municipality regulating the standing or parking of vehicles. No driver of a vehicle shall stand or park said vehicle in the Town in violation of any of the provisions of this Code or other ordinances or regulations of the municipality regulating the standing or parking of vehicles.

(Ord. No. 2008-23, § 18.315, 11-20-2008)

Sec. 26-93. - Vehicles and property may be removed.

- (a) Any motor vehicle or trailer improperly parked or left standing upon the streets or public ways or any other public property of the Town in a manner as to constitute a hazard to pedestrian or motor vehicle traffic, may be removed or caused to be removed by any police officer.
- (b) Any motor vehicle, or other personal property parked or left standing upon the street or public ways of the Town in excess of 48 hours may be removed or caused to be removed by any police officer.
- (c) When an emergency arises necessitating the removal of any vehicle upon a public street, the police officer is authorized to have the vehicle removed after a reasonable attempt to locate the owner or driver.

(Ord. No. 2008-23, § 18.316, 11-20-2008)

BLUFFTON POLICE DEPARTMENT STANDARD OPERATING PROCEDURE

SOP #051 Traffic Services and Towing

REVISION NO: 2

EFFECTIVE DATE: 09/15/15

REPLACES: SOP #051 - Traffic Services and Towing dated 05/18/11

- I. GENERAL SERVICES
- II. TOWING ON PUBLIC OR PRIVATE PROPERTY

OBJECTIVE: To establish guidelines by which the Bluffton Police Department (BPD), in alliance with the South Carolina Department of Transportation and the Beaufort County Traffic Engineering Section, provides a safe and efficient traffic flow through the Town of Bluffton. Additionally, set forth are methods to provide emergency and general assistance to stranded motorists within the Town's jurisdiction.

POLICY: It is the policy of the BPD to provide assistance to stranded motorists and to cooperate and coordinate with other law enforcement agencies, local or regional traffic engineering authorities, and highway departments in the task of maintaining a safe and effective traffic flow throughout the Town.

SCOPE: All members and employees in this Department shall be governed by the procedures set forth below.

- I. GENERAL SERVICES:

- A. Stranded Motorists : [S.61.4.1,a] [S.61.4.1,c]

- 1. If, while on routine patrol, an on-duty officer encounters a stranded motorist, the officer will stop, check on the welfare of the occupants, and evaluate the problem. However, if the officer is enroute to a call of higher priority, the officer will notify the Communications Center and another unit will respond, if available.
 - 2. The officer may assist by providing information, placing phone calls, requesting wreckers or taxis, and other services. The officer may set up, traffic cones, or move the vehicle to protect the vehicle and persons. The officer may request the motorist to activate flashers and open the hood. If the time of day, location of breakdown, and age of the occupants require that the officer stay with the stranded person, the length of stay should not exceed a reasonable period of time. If the officer leaves the motorist prior to the requested services arriving, the officer will provide the motorist with the number to Beaufort County Dispatch if the services fail to arrive in a timely manner.

1. Officers will advise their starting and ending times over the radio when transporting stranded motorists.
2. Pushing Disabled Vehicles Off Roadways: [S.61.4.2]
 - a. Vehicles shall be pushed off the roadway only when they create a hazardous situation as determined by the responding officer(s). Police vehicles will not be used to push vehicles out of the roadway.
3. Information and Direction: [S.61.4.1,a]
 - a. Officers will provide directions and information to motorists in a clear, concise and courteous manner. If the motorist is requesting directions or information and the officer is occupied with other police duties or it is unsafe to provide directions at that particular moment, the officer will advise the motorist to pull off the roadway and state that assistance will be provided as soon as possible.
 - b. If an officer does not have or know the answer regarding information or directions, the motorist should be advised to contact others who might know the proper answer.
4. Repair of Disabled Vehicles: [S.61.4.1,b]
 - a. It is not the responsibility of police officers to personally obtain fuel, change tires, make any type of repair or attach battery cables. Officers will not use a police vehicle to "jump" a disabled vehicle.
 - b. Officers will assist in any of the items mentioned above by requesting Communications Center personnel to either call an emergency road service repair club, a wrecker of choice by the disabled vehicle's driver, or a Town authorized wrecker service.
5. Emergency Assistance to Motorists:

It is BPD policy to obtain timely medical assistance, fire fighters, and medical transport services to persons and property in need. Officers will attempt to prevent further incidents by channeling others from the scene and restoring order to the highway. Emergency situations can include vehicle fires, objects in the road, power outages of traffic signals and large spills or standing water. Officers will provide emergency assistance that includes contacting Communications for notification of other support services, providing alternate routes, securing scenes and rerouting traffic. [S.61.4.1,d]
6. Traffic Safety Educational Materials:

The BPD will order, update, and maintain a supply of traffic safety educational materials. These materials shall be maintained in the BPD lobby to be utilized by the public. [S.61.4.4]
7. Hazardous Roadway and Roadside Conditions: [S.61.4.2]

- a. During adverse weather conditions or when made aware of hazardous roadway or roadside conditions, police personnel will be sent to the location and/or the proper agency(s) will be notified.
- b. Procedure:
 1. Officers will immediately report all unsafe conditions and the locations to the Communications Center. When reporting above, advise whether an officer is needed for traffic control. Do not leave until the situation is under control.
 2. When unsafe conditions are reported, the Communications Center will be responsible for notifying any County or State agency. The officer should verify with the Communications Center that contact was made and an estimated time of arrival if immediate response is necessary. Unsafe conditions include, but are not limited to the following:
 1. Debris or Defects in Roadway (e.g., potholes, stones, trees): If no immediate danger exists, Bluffton Public Works Department will be notified during normal working hours. When an immediate danger is present, police personnel will be sent to the location and a police supervisor will be notified who will make the determination with reference to a Public Works call-out. The officer(s) on the scene will either stand by until Public Works personnel arrive, or place cones and/or barricades, and clear the scene.
 2. Signs: Signs that are down or obstructed will be reported to the Communications Center who will contact South Carolina Department of Transportation (SCDOT) for repair or replacement. Officers will assess the situation as to whether or not an officer needs to remain on scene until SCDOT responds.
 3. Traffic Signals: Malfunctioning traffic control signals will be reported to the Communications Center. When a malfunctioning traffic light creates a hazardous situation, a police officer(s) will direct traffic until the signal is repaired. Communications Center personnel will call the South Carolina Department of Transportation emergency repair number.
 4. Power, Telephone, and Cable Lines: When a live power line is down, Bluffton Fire and the electric companies will be notified. A police officer(s) will be dispatched to the location and stand by until one of the electric companies arrives. When telephone lines are down, Hargray will be notified. When cable television wires are down, the appropriate cable company will be notified.

8. Locked Vehicles:

- a. BPD personnel shall not unlock or otherwise gain entry into vehicles upon requests of citizens who have accidentally locked their vehicle unless BPD Form #105 - Vehicle Damage Waiver has been completed. Alternatively, Communications Center or BPD personnel can refer members of the public requesting this service to appropriate sources, i.e., locksmith, wrecker service.
- b. If the reporter advises that there is a possible life-threatening situation, such as a child or animal inside the vehicle, BPD shall respond to determine whether the use of force to gain entry in the exigent circumstance is required. Assistance by the BFD and use of its equipment may be requested if the outside temperature is not endangering the child or animal.

9. TOWING VEHICLES ON PUBLIC OR PRIVATE PROPERTY:

- a. Removal and Towing of Vehicles on Public Property: [S.61.4.3,b]
 1. When a vehicle is parked or abandoned in or near the roadway, creating a hazard, an officer(s) will be sent to the location to determine whether the driver is ill, if the vehicle is stolen, if the vehicle should be towed, or if the vehicle should be pushed off the roadway. [S.61.4.3,a]
 2. Whenever a vehicle is removed or towed at the direction of an officer, all information is given to the Communications Center dispatcher over the radio or mobile data computer. The Communications Center personnel will enter the information on the tow log located in the Computer Aided Dispatch (CAD) system. All pertinent information about the vehicle, time, date, location of vehicle, towing vendor, reason for tow, and notification or attempted notification of the registered owner is available for the Communications Center to access. A vehicle impoundment record form will be completed (BPD Form # 049 - Tow / Impound Report) and an inventory of all property contained within and condition of the vehicle will be documented. [S.61.4.3,c]
 3. If the vehicle is abandoned and not creating a road hazard, an officer will be sent to the location to determine whether the vehicle is stolen, and if not, tag the vehicle with a 48 hour Bluffton Police Warning sticker on the rear vehicle window, left upper corner. The sticker needs to be completely filled out prior to placement. Any Bluffton officer seeing a vehicle with a sticker during their patrol shift needs to check the vehicle to see if the 48 hour warning has expired, check to see if the vehicle has been reported stolen and if not, have the vehicle towed by the next wrecker on rotation. [S.61.4.3,a]
- b. Removal and Towing of Vehicles on Private Property: [S.61.4.3,b]

1. Citizens may request the services of a towing service for unauthorized vehicles parked on their private property. The officer shall respond to the location and perform a check on the vehicle to ensure it is not stolen. The officer will then issue an event number to the citizen. The property owner may call any tow company they desire to remove the vehicle from their property. If the property owner doesn't immediately request for the vehicle to be towed, the officer will provide the telephone number to the Communications Center so that the property owner can notify dispatch of the tow and proper information is recorded in CAD. **[S.61.4.3,c]**
2. The tow cost is the responsibility of the vehicle owner.
3. If the vehicle is towed by the property owner while the officer is present, the officer needs to obtain an event number and provide the vehicle information and the tow company name to the Communications Center through the radio or by the mobile data computer.
The Communications Center will retain all tow records.

Joey Reynolds, Chief of Police

September 15, 2015
Date