

**AS AMENDED ON FEBRUARY 6, 2012
ORDINANCE NO. 2188**

AN ORDINANCE OF THE CITY OF SALISBURY TO REPEAL CHAPTER 5.64 AS AMENDED BY ORDINANCE NO. 2185 – TOWING COMPANIES OF THE SALISBURY MUNICIPAL CODE IN ITS ENTIRETY AND TO REENACT CHAPTER 5.64 – TOWING COMPANIES TO CLARIFY AMBIGUITY REGARDING LICENSING REQUIREMENTS; TOWING AND STORAGE LOT OPERATION REQUIREMENTS; AUTHORIZING FEES FOR TOWING AND STORAGE; AND PENALTIES FOR VIOLATION OF CHAPTER 5.64.

WHEREAS, Chapter 5.64 – TOWING COMPANIES sets the licensing requirements and standards for towing and storage of towed vehicles in the City of Salisbury; and

WHEREAS, the Mayor and City Council have determined that revisions to Chapter 5.64 – TOWING COMPANIES are necessary to protect the safety and welfare of the citizens of Salisbury.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, that Chapter 5.64 – TOWING COMPANIES be deleted in its entirety and reenacted as follows:

Chapter 5.64

TOWING COMPANIES

Sections:

5.64.010 Definitions.

5.64.020 Police Directed Tow License Required to tow at City request.

5.64.030 Application for license -- Fees.

5.64.040 Investigation and approval/disapproval of owner/applicant, and towing company requirements.

5.64.050 Signed agreement required to make repairs on disabled vehicles.

5.64.060 Unlawful to offer gratuities or bribes.

5.64.070 Owner/applicant and towing company not to be financially interested in any other holder of a Police Directed Tow License.

5.64.080 Investigation of employees of owner/applicants for Police Directed Tow Licenses.

5.64.090 Certificate of insurance to be filed by holders of Police Directed Tow Licenses.

5.64.100 Procedure for dispatching Police Directed Towing Companies.

5.64.110 Release from Storage.

5.64.120 Fees for towing and storage required by the police.

5.64.130 Release of removed vehicles at the order of the Police Department.

5.64.140 Signs required on vehicles.

5.64.150 Unlawful to provide bail if holding a Police Directed Tow License.

5.64.160 Violations--Penalties.

5.64.170 Appeal.

5.64.180 Severability.

5.64.190 Saving Clause .

5.64.010 Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

"Accident vehicle" means a motor vehicle which has been damaged or rendered inoperative as the result of a collision or accident.

"Disabled vehicle" means a motor vehicle which has been rendered inoperative as a result of wear and tear or mechanical failure.

"Emergency relocation tow" means the emergency relocation of a motor vehicle requested by a department or agency of the City, a public utility, or a similar entity.

"Financially interested" means a person having a financial interest in a towing company, or any other transactions or events in which financial interests of the towing company are involved. He may not be serving as an officer, employee or member of the Board of Directors of a business or other entity or be in a position of control over the entity. Each towing company must have a unique business name which is licensed, and have a tax identification number, bank account(s), and insurance policy that is separate from any other towing company on the police directed tow list.

"Illegally parked vehicle" means any vehicle which is left standing or parked in any area in which parking is prohibited and in which such vehicle is a menace, nuisance or obstacle to the free and effective movement of any traffic or to the operation of emergency vehicles, emergency work or emergency workers, except that any vehicle which is so left standing or parked shall be removed at any time without regard to the forty-eight-hour period mentioned in the preamble of this chapter.*

"Impound vehicle" means a vehicle seized and ordered held by the police department for reasons including, but not limited to, evidentiary purposes, violations of the law, or safe keeping.

"Owner/Applicant" shall mean the towing company applying for a license to tow vehicles in the City of Salisbury and shall include individual owner(s) of the towing company that is applying for a license.

"Police Directed Tow License" means a license to engage in towing, at the request or direction of the City of Salisbury or the Salisbury Police Department, of disabled, illegally parked and scofflaw vehicles within the corporate limits of the City of Salisbury, issued pursuant to this Chapter before or after January 23, 2012.

"Regular business day" means that period between the hours of 9:00 a.m. and 6:00 p.m., Monday through Friday. The last transaction is to be initiated prior to 5:30 p.m.

"Scofflaw vehicle" means a motor vehicle for which three or more citations for municipal parking violations have been issued and remain unsatisfied, where at least thirty (30) days have elapsed since the issuance of the third unsatisfied citation.

"Towing" means the moving or removing, or the preparation thereof, of a disabled vehicle, illegally parked or scofflaw vehicle by another vehicle, for which a service charge is made.

"Towing company" means a natural person, partnership, corporation, fiduciary, association or other entity owning, operating or conducting the business of disentangling, removing or towing illegally parked or scofflaw vehicles and vehicles damaged by collision or other accident pursuant to a request of the City of Salisbury or the City Police Department.

"Towing vehicle" means a vehicle that tows, carries or removes a disabled vehicle, illegally parked vehicle or scofflaw vehicle for a fee.
(Ord. 1840 § 1, 2002; prior code § 141-1)

* Editor's Note: Said preamble made reference to "those vehicles parked over forty-eight (48) hours or which are illegally parked."

5.64.020 Police Directed Tow License Required to tow at City request.

It is unlawful for any towing company to engage in the towing of disabled vehicles from the scene of a motor vehicle accident, abandoned vehicles or any illegally parked vehicle within the city at the request of the City of Salisbury or the City Police Department without first having obtained a license from the Director of Internal Services.

5.64.030 Application for license--Fees.

Annual applications for a police directed tow license shall be made on forms to be furnished by the Director of Internal Services, which application shall include a list of towing vehicles. Exhibits to the application shall include a copy of the title and insurance declaration page for each vehicle together with an affidavit of ownership of the towing company. The owner/applicant shall pay a filing fee when the application is made, which fee shall be retained by the city to cover the initial examination and inspection costs, and, if the application is approved, shall pay the further sum set by ordinance covering the license for the then current calendar year and, thereafter, shall pay each year a sum set by ordinance for a renewal of the license. Said license shall not be transferable or refundable. A separate license fee shall be required for each towing company to obtain a police directed tow license.

(Ord. 1992 (part), 2006: prior code § 141-3)

5.64.040 Investigation and approval/disapproval of owner/applicant and towing company requirements.

The Director of Internal Services, after the receipt of an application for a Police Directed Tow License or renewal license, shall forward the same to the Chief of Police or his designee for the investigation and inspection for compliance with the following requirements. These requirements shall apply to all owner/applicants, towing companies, and employees and agents of towing companies when operating pursuant to a police directed tow license:

A. Each owner/applicant and towing company must have a minimum of three (3) years towing experience unless they had a towing license issued by the City of Salisbury on or before December 31, 2010.

B. A towing company shall operate its business within the City in compliance with every applicable provision of State law. A tow truck operator may not operate a tow truck within the City unless the tow truck is registered in accordance with Section 13-920 of the Transportation Article of the Annotated Code of Maryland.

C. The owner/applicant, towing company and its employees and agents must have, located on the towing vehicle, a set of dollies or other means to remove a vehicle with one or more missing or damaged wheels.

D. The owner/applicant, towing company and its employees and agents must have operational fire extinguishers, flares and reflectors located on the towing vehicle.

E. The owner/applicant, towing company and its employees and agents must have hand tools sufficient to clean scenes of minor debris, including but not limited to broom(s), shovel(s), absorbent material, and debris disposal container(s) located on the towing vehicle.

F. The towing vehicles of the owner/applicant and the towing company, when inspected and operated, must be in good mechanical condition, equipped with necessary towing gear and safety apparatuses and be registered as Class E (truck) vehicles – Tow Trucks with the department of motor vehicles.

G. The owner/applicant and towing company must maintain adequate off-street storage facilities in conformance with Title 17 (Zoning). The storage facilities must have adequate fencing to ensure that persons cannot climb over or under the fence, and said fence must be secured with a lockable gate. Further, said storage facilities must be protected at night by security lights.

H. The owner/applicant shall submit to a criminal background investigation which shall include the completion of an affidavit portion and a fingerprinting component. All costs associated with this investigation shall be paid by the owner/applicant.

I. The Chief of Police or his designee shall promptly approve or disapprove all applications in writing, and shall report his findings to the Director of Internal Services and the owner/applicant, pending the results of the criminal background check which includes an affidavit and fingerprinting. A felony conviction or a plea of nolo contendere involving a Part I crime within three (3) years of the date of the application will automatically disqualify the applicant. If the Chief of Police approves the application, the Director of Internal Services shall, after payment of all fees, issue the license. The Director of Internal Services shall notify the Police Department when a license is issued. A copy of all City issued licenses shall be displayed in each vehicle. The Chief of Police or his designee shall have the authority to reject the application when he finds that the owner/applicant is not qualified to perform the towing and storage services. In such case, he shall give suitable notification to the owner/applicant of his reason for rejecting the application, and the owner/applicant shall have a right to appeal the decision to the City Administrator or his designee, pursuant to Section 5.64.170. (Ord. 1992 (part), 2006: prior code § 141-5)

J. Should an otherwise approved owner/applicant or towing company be found guilty of or enter a plea of nolo contendere to a felony involving a Part I crime, said person shall immediately notify the Police Department within seventy-two hours of having been convicted. The Police Department shall remove said towing company from the list of approved towing companies, and the police directed tow license issued pursuant to this Chapter shall be revoked.

5.64.050 Signed agreement required to make repairs on disabled vehicles.

A. It shall be unlawful for any towing company or its agents or employees at the scene of an accident or breakdown to require the execution of an agreement to have repair work performed as a condition to providing towing service.

B. It is unlawful for any towing company, its agents or employees to make repairs for a consideration on any disabled vehicle removed by a towing vehicle without first entering into a signed agreement with the owner of the disabled vehicle or his authorized representative, which agreement shall include an estimate of repairs.

C. One copy of any agreement entered into pursuant to this section shall be given to the owner of this disabled vehicle or his authorized representative.

D. One copy of any agreement entered into pursuant to this section shall be retained for a period of two years by the towing company who owns or leases the towing vehicle to be used in towing or removing a disabled vehicle.
(Prior code § 141-11)

5.64.060 Unlawful to offer gratuities or bribes.

It is unlawful for any towing company to offer any gratuity, bribe or inducement of any kind to any officer or employee of the city or any governmental officer or employee whose salary is paid out of the city treasury in order to obtain towing business or recommendations for the towing or storage of or the estimating of repairs or repairing of disabled vehicles.
(Prior code § 141-13)

5.64.070 Owner/applicant and towing company not to be financially interested in any other holder of a Police Directed Tow License.

Every owner/applicant filing an application for a Police Directed Tow License shall make an affidavit that the owner/applicant is not directly or indirectly financially interested in any other licensed Police Directed Towing company. All owner/applicants and all towing companies operating pursuant to a police directed tow license may hold just one police directed tow license.
(Prior code § 141-4)

5.64.080 Investigation of employees of owner/applicants for Police Directed Tow Licenses.

- A. Prior to the approval of the towing company application all employees of the owner/applicant shall submit to a criminal background investigation acceptable to the Police Department, including the completion of an affidavit and fingerprinting. Any costs associated with such investigation shall be assumed by the owner/applicant. A felony conviction or a plea of nolo contendere involving a Part I crime within three (3) years of the date of the application will automatically disqualify the employee from responding to any police directed tow, or releasing any police directed tow vehicle to the owner of said vehicle.
- B. Prior to being allowed to respond to a police directed tow or to release a vehicle to its owner, any new employee shall submit to the background investigation process, fingerprinting and any costs associated with such investigation shall be assumed by the owner/applicant or towing company.
- C. Should an otherwise approved employee be found guilty of or enter a plea of nolo contendere to a felony involving a Part I crime, said employee shall immediately notify his employer who shall notify the Police Department within seventy-two hours of having been notified. The Police Department shall remove said employee from the list of approved towing company employees.

- D. Should the Chief of Police or his designee reject an employee for inclusion on the towing company's list of approved employees, the owner /applicant, the towing company and the employee shall have a right of appeal. This appeal shall be brought before the City Administrator or his designee pursuant to section 5.64.170.

5.64.090 Certificate of insurance to be filed by holders of Police Directed Tow Licenses.

Every towing company that is licensed to conduct police directed tows, under the provisions of this chapter, regardless of whether such license was issued before or after January 23, 2012, shall file with the Director of Internal Services a certificate of insurance evidencing commercial liability insurance coverage for auto liability with a minimum of one million dollars (\$1,000,000.00), with a maximum of one thousand dollar (\$1,000) deductible, and coverage for cargo, unhook, and garage keeper's liability, with a minimum of fifty thousand dollars (\$50,000.00). Each licensee shall also list the City of Salisbury as an additional insured. If any insurance policy lapses without replacement by another insurance policy, said lapse shall be grounds for revocation of the license. (Ord. 1992 (part), 2006: prior code § 141-6)

5.64.100 Procedure for dispatching Police Directed Towing Companies.

A. The Director of Internal Services shall furnish the Police Department with a current list of all towing companies with a police directed tow license. Whenever the service of a towing vehicle shall be required and a request is made to the police department for such service, the Police Department shall dispatch, to the place where the service is required, a vehicle operated by that towing company whose license was first obtained and then request subsequent towing vehicles as needed on a chronological and rotating basis. If a towing vehicle is not available, the next company listed chronologically, in the order in which it obtained its license shall be called. If a towing vehicle does not arrive at the scene of the collision, parking violation or accident within thirty (30) minutes after the request is made, the officer at the scene shall notify the Police Department of such fact. It shall contact the next towing company, etc., as if the first towing company had not been contacted. Consideration will be given, however, to abnormal traffic patterns that result from adverse weather conditions, emergencies or other causes. Upon arriving at the scene of an accident, the towing company shall immediately remove the disabled vehicle to his storage lot or other location and notify, in writing, the police officer and vehicle owner, if available, of the location and telephone number of the storage lot as well as applicable towing and storage fees. If indoor storage is required, then the above rules shall apply to licensed towing companies with indoor storage. In the event a disabled vehicle cannot promptly and efficiently be removed from the scene of an accident, the towing company may have the police department call the next-listed licensee to assist in such removal.

B. Any licensed towing company who shall decline three (3) tow requests within a three (3) month time period shall be removed from the police directed towing list for six (6) months.

C. The vehicle shall be towed by the safest and shortest practical route possible from the point of origin to the vehicle's destination.

D. If a department or agency of the city, a public utility or similar entity requests the relocation of a vehicle from a work zone to a nearby street parking area, the police department shall follow the procedure set forth in Paragraph A above. The fee for an emergency vehicle relocation

shall be established by ordinance and shall be at the expense of the requesting city department or agency, public utility or similar entity.

E. No towing company shall, in any way, solicit towing business, nor shall any such towing company attempt to take any vehicle in tow unless he or it shall have been summoned by the owner/operator of the vehicle requiring the tow or the City Police Department.
(Ord. 1992 (part), 2006: Ord. 1988, 2006: Ord. 1840 § 3, 2002)

F. No towing company that is summoned by the owner/operator of the vehicle requiring the tow shall attempt to take a vehicle in tow unless the towing company possesses a current City of Salisbury Police Directed Tow License, and can respond within thirty (30) minutes.

G. If a vehicle to be towed is gone upon the arrival of a towing company called from the police directed tow list, the towing company shall remain at the top of the list to receive the next police directed tow call.

5.64.110 Release from Storage.

A holder of a police directed tow license shall be required to release disabled vehicles during the regular business day. Each licensed towing company must accept cash, certified checks, money orders, debit and at least two (2) major credit cards (Mastercard, Visa, American Express, or Discover) for payment. If a towing company fails to accept the listed forms of payment, a \$500.00 fine will be issued for the first offense and a fine not to exceed \$1,000.00, will be issued for the second and subsequent offenses. A licensed towing company must provide storage lot staff on site to allow vehicle owners timely access to their vehicles during the regular business day. If a vehicle owner is unable to obtain timely release of a vehicle from storage within two (2) hours of the initial request during the regular business day, and the police department is notified by the vehicle owner, and the violation is verified by the police department, then storage fees shall cease on the date of notification by the vehicle owner.

5.64.120 Fees for towing and storage for police directed tows.

Fees for towing and storage for police directed tows shall be established from time to time by ordinance.

A. Every police directed towing company engaged in towing vehicles shall, at the time of its application for a license, pursuant to Section 15.64.030, file with the Director of Internal Services, a statement that it will charge the standard towing and storage fees adopted by ordinance.

B. A police directed towing company shall not charge fees for towing, storage, or release of vehicles of less than 10,000 GVW, other than those adopted by ordinance.

C. A police directed towing company shall post a list of current City Council approved towing and storage fees in a conspicuous place at its storage facility using a sign substantially similar to that approved by the Chief of Police.

D. A list of current towing and storage fees shall be given to the vehicle owner/operator, if available, at the scene of the tow by the tow truck operator. Should the vehicle owner/operator not

be available at the scene, a list of current towing and storage fees shall be given to the officer in charge of the scene.

E. Vehicle owners may not abandon vehicles at a City licensed facility. Leaving a vehicle at a tow facility for more than two (2) weeks shall constitute abandonment. Abandoning a vehicle may result in forfeiture of the vehicle, criminal and/or civil prosecution including a municipal fine of up to \$1,000, plus court and recovery costs. In cases of police impounded vehicles, the two (2) week time period begins on the day following the release of the vehicle by the police department.

5.64.130 Release of vehicles removed at the order of the Police Department.

A. Vehicles removed at the order of the Police Department may not be released until approved by the police department and until the payment of all fines and fees has been made. In the case of city parking regulations, this requirement applies uniformly to all:

1. Motor vehicles not registered in the state of Maryland;
2. Motor vehicles registered in the state of Maryland;
3. Motor vehicles registered in the state of Maryland to leasing companies and rental agencies;
4. Non-registered motor vehicles.

B. Vehicles shall be stored for a minimum of two (2) weeks unless released as set forth above. After two (2) weeks of storage, the vehicle may be removed from storage by the licensed towing company with written approval of the police department. No abandoned vehicle shall be scrapped except in accordance with Maryland State Law.

C. Personal property of owners/companies not attached to the vehicle shall be immediately returned to owners/companies upon owner's/company's request, unless the Police Department requires retention of the personal property not attached to the vehicle.
(Prior code § 141-8)

D. No vehicle shall be released to the owner or the owner's authorized agent until proof of ownership and a valid identification is provided to the towing company.

5.64.140 Signs required on vehicles.

On each side of every towing vehicle there shall be legibly inscribed the name, telephone number, and address of the owner and the Department of Transportation number of each towing vehicle. Letters and numerals required by this section shall

- A. Be visible from a distance of 50 feet during daylight hours;
- B. Be permanently affixed on or applied to the towing vehicle;
- C. Be in letters that contrast sharply in color with the background on which the letters are placed;

D. Comply with Maryland Vehicle Law 22-404.3.
(Prior code § 141-10)

5.64.150 Unlawful to provide bail if holding a Police Directed Tow License.

It is unlawful for any towing company holding a Police Directed Tow License to offer to secure or provide bail or to enter into any agreement, oral or written, to secure or provide bail or to arrange for the providing of bail for any person involved in a motor vehicle collision or accident in the city, with the exception that this section shall not apply to bona fide automobile clubs, associations or insurance companies.

(Prior code § 141-12)

5.64.160 Violations--Penalties.

Any towing company that violates any of the provisions of this Chapter shall be subject to license suspension for up to ninety (90) days, for a first offense, or revocation for up to one (1) year, for a second offense, by the Chief of Police. No new license shall be issued during a period of suspension or revocation. In addition, any towing company, its employees and agents who shall violate any of the provisions of this Chapter shall be guilty of a civil infraction and shall be subject to a fine not to exceed five hundred dollars (\$500.00) for a first violation or one thousand dollars (\$1,000) for subsequent violations. Any towing company, its employees and agents found guilty of perjury under Maryland Criminal Law Title 9 shall be subject to imprisonment not exceeding 10 years.

(Prior code § 141-14)

5.64.170 Appeal.

Any towing company whose license is suspended or revoked by the Chief of Police or an owner/applicant whose application is rejected, or a towing company and its employee who has been rejected may appeal that decision to the City Administrator in writing within ten (10) days of the date of the decision. Within twenty-one (21) days after receipt of the appeal, the City Administrator or his designee shall review the file, hear any testimony the City Administrator or his designee deems necessary, and render a written decision either affirming, reversing, or modifying the decision of the Chief of Police. Failure to file a timely appeal shall constitute an acceptance of the police chief's action.

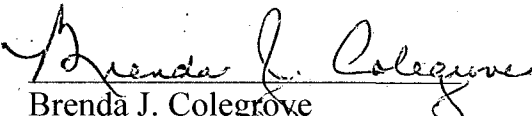
5.64.180 Severability.

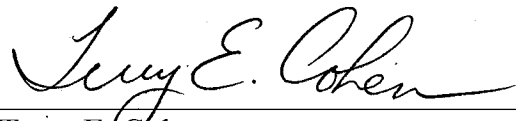
Severability is intended throughout and within the provisions of the Ordinance. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

AND BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, that this Ordinance shall take effect from and after the date of its final passage.


THE ABOVE ORDINANCE was introduced at a meeting of the Council on the 6th day of February, 2012, and thereafter, a statement of the substance of the ordinance having been published as required by law, in the meantime, was finally passed by the Council on the 13th day of February, 2012.

ATTEST:


Brenda J. Colegrove
City Clerk


Terry E. Cohen
President of the City Council
of the City of Salisbury

Approved by me this 15th
day of February, 2012


James Ireton, Jr.
Mayor of the City of Salisbury