

AS AMENDED ON JUNE 27, 2022

ORDINANCE NO. 2729

**AN ORDINANCE OF THE CITY OF SALISBURY AMENDING CHAPTER 5.64 OF THE SALISBURY CITY CODE, ENTITLED “TOWING COMPANIES”, TO UPDATE PROCEDURES FOR DISPATCHING POLICE DIRECTED TOWING, OPERATIONS OF A POLICE DIRECTED TOW ON SCENE, AND PENALTIES FOR VIOLATIONS OF THE CODE.**

**WHEREAS**, the ongoing application, administration and enforcement of the City of Salisbury Municipal Code (the “**Salisbury City Code**”) demonstrates a need for its periodic review, evaluation and amendment, in order to comply with present community standards and values, and promote the public safety, health and welfare of the citizens of the City of Salisbury (the “**City**”);

**WHEREAS**, the Mayor and Council of the City of Salisbury (the “**Mayor and Council**”) are authorized by MD Code, Local Government, § 5-202 to adopt such ordinances, not contrary to the Constitution of Maryland, public general law or public local law, as the Mayor and Council deem necessary to assure the good government of the municipality, to preserve peace and order, to secure persons and property from damage and destruction, and to protect the health, comfort and convenience of the citizens of the City;

**WHEREAS**, the Mayor and Council may amend Title 5 of the Salisbury City Code pursuant to the authority granted in § SC 2-15 of the Salisbury City Charter;

**WHEREAS**, the Mayor and Council find that the health, safety and general welfare of the citizens of the City will be furthered by amending Chapter 5.64 of the Salisbury City Code to update procedures for dispatching police directed towing, operations of a police directed tow on scene, and penalties for violations; and

**WHEREAS**, the Mayor and Council have determined that the amendments to Chapter 5.64 of the Salisbury City Code set forth below shall be adopted as set forth herein.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY COUNCIL OF THE CITY OF SALISBURY, MARYLAND**, that Chapter 5.64 of the Salisbury City Code is hereby amended by adding the bolded and underlined language and deleting the strikethrough language as follows:

**Section 1.** Chapter 5.64 of the Salisbury City Code of the Salisbury City Code, entitled “Towing Companies” is amended as follows:

**Chapter 5.64 TOWING COMPANIES**

**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 1 crime~~ **an aggravated assault, forcible rape, murder, robbery, arson, burglary, larceny or motor vehicle theft** within three 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 any crime listed in 5.64.080A, a ~~Part I crime~~ said employee shall immediately notify his employer who shall notify the police department within seventy-two (72) 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.

(Ord. No. 2188, 2-13-2012)

#### **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 Finance 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 dollars (\$1,000.00) deductible, and coverage for cargo, ~~on~~ ~~un~~hook, and garage keeper's liability, with a minimum of fifty thousand dollars (\$50,000.00). Each licensee shall also list the city 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. No. 2188, 2-13-2012; Ord. No. 2444, 10-9-2017)

#### **5.64.100 Procedure for dispatching police directed towing companies.**

A. The Director of Finance 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 tow requests within a three month time period shall be removed from the police directed towing list for six months.~~ **Any licensed towing company that declines or misses three tow requests within a calendar year shall have their police directed towing license suspended for one month. Following a one-month suspension, any licensed towing company that declines or misses a total of six or more tow requests within a calendar year shall have their police directed towing license suspended for three months. The following situations shall be considered a declination:**

**1. Failure to respond to the tow scene within the 30 minute on-scene timeframe.**

**2. Failure to respond when requested, regardless of reason.**

**3. Failure to answer or respond to a call for service.**

**4. Explicit refusal to respond.**

**Should a tow company need to temporarily come out of the tow rotation for a period of more than five (5) days due to mechanical or equipment problems, sick or injured employees or a similar issue, the tow company shall notify the Police Department in writing of the reason for the unavailability and the anticipated duration. The Police Department shall then remove the company from the rotation until the Department receives written communication from the company requesting to be placed back into rotation. The tow company shall be placed back into the tow list rotation at the bottom of the existing list.**

**Any licensed towing company who would like to be temporarily removed from the towing list, may request that the Finance Department temporarily suspend their police directed tow license. Following the suspension, the tow company shall be placed back into the tow list rotation at the bottom of the existing list. All requests for a temporary suspension shall be made in writing to the Finance Department and the Police Department. Making such a request will remove a company from the list of companies with a police directed tow license until such a time that the company requests its license be reinstated. Companies may request to have their license suspended for no less than thirty (30) days and no more than one hundred and eighty (180) days. Any requests for a temporary suspension must include the requested police directed tow license suspension and reinstatement dates.**

C. The vehicle shall be towed by the safest and shortest practical route possible from the point of origin to the vehicle's destination. **For all standard or basic tows, the vehicle shall be towed to a storage lot or facility that is located no more than ten miles from 125 North Division Street in Salisbury.**

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 **at a scene involving either a traffic accident or a police directed tow**, 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.

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 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.

(Ord. No. 2188, 2-13-2012; Ord. No. 2444, 10-9-2017 )

#### **5.64.105 - Operations on scene of a Police Directed Tow.**

**A. The licensed towing company shall be required in accordance with the law to clean the roadway of debris of a crash scene.**

**B. Licensed towing company operators and owners shall comply with the established police directed tow operator code of conduct. Failure to do so may result in penalties in accordance with section 5.64.160 .**

**5.64.110 Release from storage.**

A. A **licensed towing company** ~~holder of a police directed tow license~~ shall be required to release **all police directed tows** ~~disabled vehicles~~ during the regular business day. Each licensed towing company must accept cash, certified checks, money orders, debit and at least two major credit cards (Mastercard, Visa, American Express, or Discover) for payment. If a towing company fails to accept the listed forms of payment, a five hundred dollar (\$500.00) fine will be issued for the first offense and a fine not to exceed one thousand dollars (\$1,000.00), will be issued for the second and subsequent offenses.

**B.** A licensed towing company **shall** ~~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 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.

**C.** **Whenever a vehicle is released from the storage lot of a licensed towing company on weekends, evenings (6:00 pm to 9:00 am), or state and federal holidays, a release fee shall be charged to the vehicle owner. This charge shall be established from time to time by ordinance. If a licensed tow company refuses to release a vehicle during evenings, weekends or state and federal holidays, then no storage fees shall be permitted for each day the release is refused.**

**D.** **Inside storage of a vehicle shall only be at the request of the vehicle owner, operator or law enforcement, or if essential or necessary to preserve the condition of the vehicle. If indoor storage is the licensed towing company's only method of storage available, then the inside storage shall be charged at the outside storage rate. If, at the request of the vehicle owner, operator or law enforcement and in order to preserve the condition of the vehicle where inside storage is not available, an application of self-adhesive film (for example: Crash Wrap) may be used on the area of the vehicle which is open to the elements.**

(Ord. No. 2188, 2-13-2012)

**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 Finance, 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 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 one thousand dollars (\$1,000.00), plus court and recovery costs. In cases of police impounded vehicles, the two-week time period begins on the day following the release of the vehicle by the police department.

**F. All approved tow companies engaging in police directed towing shall maintain adequate records to allow expeditious periodic review of their compliance with this chapter. Such records must include, but are not limited to, sequentially numbered invoices, a copy of which shall be provided to each customer and a copy of which must be retained for a period of at least two (2) years by the tow company. In addition, the City Police Department may conduct periodic reviews of the financial records of any tow company holding a police directed tow license to ensure it is not directly or indirectly financially interested in any other licensed police directed towing company as required by 5.64.70.**

(Ord. No. 2188, 2-13-2012; Ord. No. 2444, 10-9-2017)

#### **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. Nonregistered motor vehicles.

B. Vehicles shall be stored for a minimum of two weeks unless released as set forth above. After two 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. **Example of items which are not considered personal property for the purposes of this section include but are not limited to: stereos, batteries, license plates, etc.**

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.

(Ord. No. 2188, 2-13-2012)

#### **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 fifty (50) feet during daylight hours;

B. Be permanently affixed on or applied to the towing vehicle. **Magnetically affixed or applied signs do not satisfy this requirement;**

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.

(Ord. No. 2188, 2-13-2012)

#### **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.

(Ord. No. 2188, 2-13-2012)

#### **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 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, **other than the provisions of chapter 5.64.100 (B) concerning tow declinations,** 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 (\$1,000.00) 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 ten years. **Any towing company, its employees, and agents who shall violate the provisions of chapter 5.64.100 (B) shall be subject to license suspension in accordance with the provisions enumerated in chapter 5.64.100.**

(Ord. No. 2188, 2-13-2012)

#### **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 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.

(Ord. No. 2188, 2-13-2012)

#### **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.

(Ord. No. 2188, 2-13-2012)

**BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND,** as follows:

**Section 2.** It is the intention of the Mayor and Council of the City of Salisbury that each provision of this Ordinance shall be deemed independent of all other provisions herein.

**Section 3.** It is further the intention of the Mayor and Council of the City of Salisbury that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged invalid, unconstitutional or otherwise unenforceable under applicable Maryland or federal law, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and all other provisions of this Ordinance shall remain and shall be deemed valid and enforceable.


**Section 4.** The recitals set forth hereinabove are incorporated into this section of the Ordinance as if such recitals were specifically set forth at length in this Section 4.

**Section 5.** This Ordinance shall take effect from and after the date of its final passage.

**THIS ORDINANCE** was introduced and read at a Meeting of the Mayor and Council of the City of Salisbury held on the 23<sup>rd</sup> day of May, 2022 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 of the City of Salisbury on the 21<sup>st</sup> day of June, 2022

**ATTEST:**

  
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**Kimberly R. Nichols, City Clerk**

  
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**Muir Boda, City Council Vice President**

Approved by me, this 29th day of June, 2022.

  
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**Jacob R. Day, Mayor**

**To:** All Council Members  
**From:** Nathaniel Sansom, Special Assistant to the Mayor  
**Subject:** Revisions to 5.64 – Police Directed Towing  
**Date:** June 27, 2022

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Council Members,

### **Overview of Current Situation**

The Administration, in consultation with SPD, has proposed revisions to Chapter 5.64 of the City Code pertaining to police directed tows. Upon receiving feedback from companies that perform police directed tows, the Police Department would like to change the structure of penalties for declined calls for police directed tows.

Currently, any licensed towing company that declines three police directed tow requests within a three-month period is removed from the police directed tow list for six months; our proposed revisions would provide an escalating penalty structure. Tow companies also expressed concerns regarding compensation for additional labor and single-use materials used while performing a police directed tow. There is no mechanism through which companies can receive compensation for tows that require the use of materials to clean up debris; similarly, there is not a mechanism through which they can bill for additional labor for tows that take an extended period of time to complete.

### **Request**

The Administration requests your consideration of this ordinance which would accomplish the following:

- Revise the structure for the suspension of towing companies who decline police directed tow calls for service. Under the new penalty structure, companies who decline or miss three tows within a calendar year will have their police directed tow license for one month. Following a one-month suspension, any company that declines or misses a total of six or more police directed tow requests within a calendar year will have their police directed tow license suspended for three months. (5.64.100 B)
- Allow tow companies request to be temporarily removed from the police directed tow list to avoid being penalized during a time in which they may be unable to perform police directed tows. (5.64.100 B)
- Require that the vehicle be towed to a storage lot/facility within 10 miles of 125 N. Division St. in Salisbury (for all standard or basic tows). (5.64.100 C)
- Create a non-reusable cleanup fee to offset the costs of single-use materials used to clean up the scene of an accident. (5.64.105 A)





- Create an additional labor fee to provide compensation for additional labor that is essential and or required for roadway cleanup (5.64.105 B)
- Require that tow companies abide by the police directed tow operator code of conduct (5.64.105 C)
- Clearly articulate when a release fee shall be charged for after-hours, weekend, or holiday vehicle releases. (5.64.110 C)
- Clarify when inside storage fees may be charged and create a self-adhesive film wrap fee. (5.64.110 D)
- Establish various requirements relating to record retention, and establish the Police Department's right to conduct a periodic review of company records to ensure compliance with regulations barring companies from holding a financial interest in another company holding a police directed tow license (5.64.120 F)
- Enumerate certain items which are not considered to be personal property for the purposes of Section 5.64.130. (5.64.130 C)
- State that magnetic signs do not satisfy the requirements of Section 5.64.140. (5.64.140 B)
- Revise Section 5.64.160 (Violations and Penalties) to state that violations of Section 5.64.100 shall be subject to penalties in accordance with the provision enumerated in Section 5.64.100. (5.64.160)

### **Recommendation**

The Administration requests your consideration and adoption of this ordinance which was crafted to respond to various needs and concerns expressed by the Police Department and companies that perform police directed tows.