

SPECIAL MEETING OF FLORENCE CITY COUNCIL

WEDNESDAY, SEPTEMBER 26, 2012 – 4:00 P.M.

SURFACE WATER TREATMENT FACILITY

2598 FLORENCE HARLLEE BLVD.

FLORENCE, SOUTH CAROLINA

AGENDA

I. CALL TO ORDER

II. INVOCATION

Pledge of Allegiance

III. WORKSESSION

a. City of Florence Neighborhood Action Plan – Summary Presentation

IV. INTRODUCTION OF ORDINANCE

*a. Bill No. 2012-32 – First Reading
An Ordinance to amend Section 20-103 of the City Code which regulates the towing of vehicles from commercial private property within the municipal limits of the City of Florence.*

V. INTRODUCTION OF RESOLUTION

*a. Resolution No. 2012-27
A Resolution to amend Resolution 2012-13 to correct a clerical error therein and to update the Wrecker Policy of the City of Florence to bring current the original policy adopted in 1986 and to incorporate all changes since the original Resolution.*

VI. REPORT TO COUNCIL

a. A report from the Budget Committee regarding three funding requests received during the September 10, 2012 City Council meeting.

- 1. Florence Men's Choral Society**
- 2. Weed and Seed Program**
- 3. Pee Dee Area Stand Down Event**

VII. ADJOURN

ORDINANCE NO. 2012- _____

AN ORDINANCE TO AMEND SECTION 20-103 OF THE CITY CODE WHICH REGULATES THE TOWING OF VEHICLES FROM COMMERCIAL PRIVATE PROPERTY WITHIN THE MUNICIPAL LIMITS OF THE CITY OF FLORENCE.

WHEREAS, Ordinance No. 12- 020 was enacted by Council on Second reading on September 10, 2012 to accomplish the goal of regulating the towing of vehicles from private commercial property located in the city; and

WHEREAS, after coordination with the county, it appears that the ordinance passed should be amended to clarify clerical errors, said changes being highlighted in yellow below.

NOW, THEREFORE, BE IT ORDAINED, BY MAYOR AND CITY COUNCIL OF THE CITY OF FLORENCE IN MEETING DULY ASSEMBLED AND PURSUANT TO THE AUTHORITY THEREOF, THAT:

1. Section 20-103 of the Municipal Code for the City of Florence, South Carolina is hereby amended to read in its entirety as follows:

Sec. 20-103. Towing from Commercial Private Property.

- (a) It shall be unlawful to remove any motor vehicle from commercial private property¹ without authorization from the owner of the motor vehicle, except for the following circumstances:
 - (1) The property owner has appropriate signage which clearly states parking is prohibited/**restricted**. Signs shall be at least (3) square feet; and
 - (2) The posted signs contain a legible warning that violators' vehicles **may** be towed at the owner's expense and said sign shall also include a telephone number to call for the release information regarding the towed vehicle.
 - (3) The posted signs were in place, clearly visible and legible to a driver approaching the private property where parking is prohibited/restricted at the time the vehicle was parked; and

¹ "Commercial private property", for the purposes of this ordinance, shall mean property used in conjunction with a business of any type, including, but not limited to, the rental of residential living units of any kind.

- (b) The owner of the vehicle towed from private property shall be responsible for paying all applicable towing and storage charges provided that the private property owner has complied with all requirements contained in subsection (a) above and (d) below.
- (c) If a vehicle is towed as a result of the property owner's request and the property owner has not complied with the requirements of subsection (a) above or (d) below, or if the vehicle is shown to have been legally parked at the time it was towed, the property owner shall be guilty of an offense punishable by a maximum fine of \$200.00 or sentenced to thirty (30) days imprisonment, and, in addition, shall, in the discretion of the municipal judge pursuant of §14-25-75 of the South Carolina Code of Laws, be responsible for reimbursement of towing and storage charges paid by the vehicle owner.
- (d) Before towing a vehicle from private property without authorization from the vehicle owner, the wrecker service operator shall first obtain from the property owner or their agent of record written authorization for the towing which shall set forth the name and original signature of the property owner or agent: the address from which the motor vehicle is to towed; the reason for the removal; and the year, make, model, vehicle identification number, and license plate state and number of motor vehicle being towed. Any wrecker service removing a motor vehicle from private property without the consent of the owner of the vehicle shall, within 30 minutes of the removal, deliver the report of the tow to the Florence Police Department (FPD). This delivery of the report shall either be done via e-mail to fpdcommunications@cityofflorence.com, by facsimile to (843)676-8851, or by delivering it by hand to the FPD Telecommunications Desk at 180 N. Irby Street, City/County Complex. The report to the FPD must include a copy of the written authorization referenced in (d) above as well as the location where the motor vehicle may be claimed by its owner. The wrecker service may only tow to a storage area or garage located within the City of Florence or no more than five (5) road miles (**shortest** distance) as measured from the existing municipal limit boundary of the City of Florence. The business operations office and storage facility for the wrecker service must be located at the same physical location.
- (e) A private property owner may authorize persons as their agent of record to request towing of vehicles from their property pursuant to this article by sending a letter to the Florence Police Department giving authority to said person(s) and detailing the person's name, address and any contact information determined necessary by the Police Department.

- (f) It shall be unlawful for any towing business/towing operator to financially reward any property owner or agent of record and also for any property owner or agent of record to accept any financial reward from any towing business/towing operator.
- (g) When a vehicle is towed without owner authorization or a person lawfully in possession of the vehicle (hereinafter, the vehicle owner), the following fees shall be the maximum allowable charges by any wrecker operator or company and no other fees or charges of any kind shall be required by the vehicle owner in order to recover the vehicle:
 - (1) Towing by a Class A Wrecker/Car Carrier:
 - Towing - (per tow) \$135.00 flat fee to include dollies and Go-Jacks.
 - No Tow - shall be 50% of the towing fee.²
 - After Hours Vehicle Release - \$35.00 per release.³
 - (2) Towing by a Class D Wrecker:
 - Towing – (per tow) \$150.00 flat fee to include dollies and Go-Jacks.
 - No Tow – shall be 50% of the towing fee.⁴
 - After Hours Vehicle Release - \$35.00 per release.⁵

² If the owner of such vehicle appears before his vehicle is towed away and makes claim to his vehicle after the wrecker has been ordered to remove such vehicle but before the vehicle has been connected to the tow truck upon settlement with the wrecker service for a “no tow fee” equal to 50% of the towing fee. If the vehicle owner refuses or is unable to pay the no tow fee, the tow truck operator may tow the vehicle. If the vehicle is connected to the tow truck when the vehicle owner returns to reclaim the vehicle, the tow truck operator shall disconnect the vehicle and return it to the vehicle owner upon payment of no more than the maximum towing charge listed above. If the owner refuses or is unable to pay the towing fee, the vehicle may be towed.

³ Normal business hours for wrecker and storage businesses governed by this Policy shall be Monday through Friday from 7:00 a.m. until 6:00 p.m. A wrecker service operator is not required to return a vehicle to an owner after the company’s normal business hours pursuant to Section 56-5-2525 of the South Carolina Code of Laws, as amended. Should the operator elect to provide for after hour request to pick up vehicles, the operator may charge no more than the amount specified in this section.

⁴ See Footnote 2 above.

⁵ See Footnote 3 above.

- (3) When a vehicle is towed by a wrecker service under this Policy, no storage charge shall be assessed for the first 24 hours after the towing. After the first 24 hours, the maximum storage charges on stored and impounded vehicles weighing under 10,000 pounds shall be \$20.00 dollars per day for storage of vehicles and or trailers. After the first 24 hours, the maximum storage charges on stored and impounded vehicles weighing 10,000 pounds or more shall be \$30.00 dollars per day for storage of vehicles and or trailers.
- (4) All towing and storage charges will be itemized on an invoice or receipt when the charges are paid. No charges other than the towing or storage charges allowed in paragraphs (g)(1)-(3) above may be made on any vehicle towed by a wrecker service selected under this Ordinance without the prior written approval of the owner or his agent.
- (h) A wrecker service operator is not required to return the vehicle to the person after the company's normal business hours, per state law [S.C. Code, §56-5-2525]. Should the operator elect to provide for after hour requests, no additional fee or charge is allowed other than those established in subsection (g) above.
- (i) The wrecker service shall post a copy of the ordinance at business locations outlining the service provider's obligations and duties. Any wrecker service located within the city limits or holding a city business license shall be required to post the city prepared ordinance in a conspicuous location. It shall be unlawful to intentionally or negligently fail to post or alter or obscure the ordinance in any way.
- (j) The Chief of Police is the principle person responsible for the administration of this ordinance. It is also the responsibility of the Chief of Police to inform the business license department of any suspected unfair business practices as it relates to this ordinance.
- (k) As to private towing and law enforcement towing, the tow truck operator will permit the vehicle owner to remove at all times health and human care related devices such as, but not limited to, car seats, strollers, walkers, crutches and the like, medications, prescriptions, personal handbags, and personal and identity papers from the vehicle without charge and without regard to any towing or storage charge owed on the vehicle. If the tow truck operator has removed this personal property from the vehicle, he will return it to the vehicle owner when requested without charge and without regard to any towing or storage charge owed on the vehicle.
- (l) Any towing owner/operator who violates any provision of this Section of this chapter shall be deemed guilty of an offense and shall be subject to punishment under Florence Code Sec. 20-102.

(m) The provisions of this Ordinance shall not apply to towing directed by law enforcement from public right-of-ways, pursuant to motor vehicle accidents, criminal investigations, or as authorized by S. C. Code Section 56-5-5810. It shall also not apply to lawful repossession of vehicles by third parties pursuant to applicable provisions of the S. C. Code of Laws.

2. This Ordinance shall become effective immediately upon its approval and adoption by the City Council of the City of Florence.

ADOPTED THIS _____ DAY OF _____, 2012.

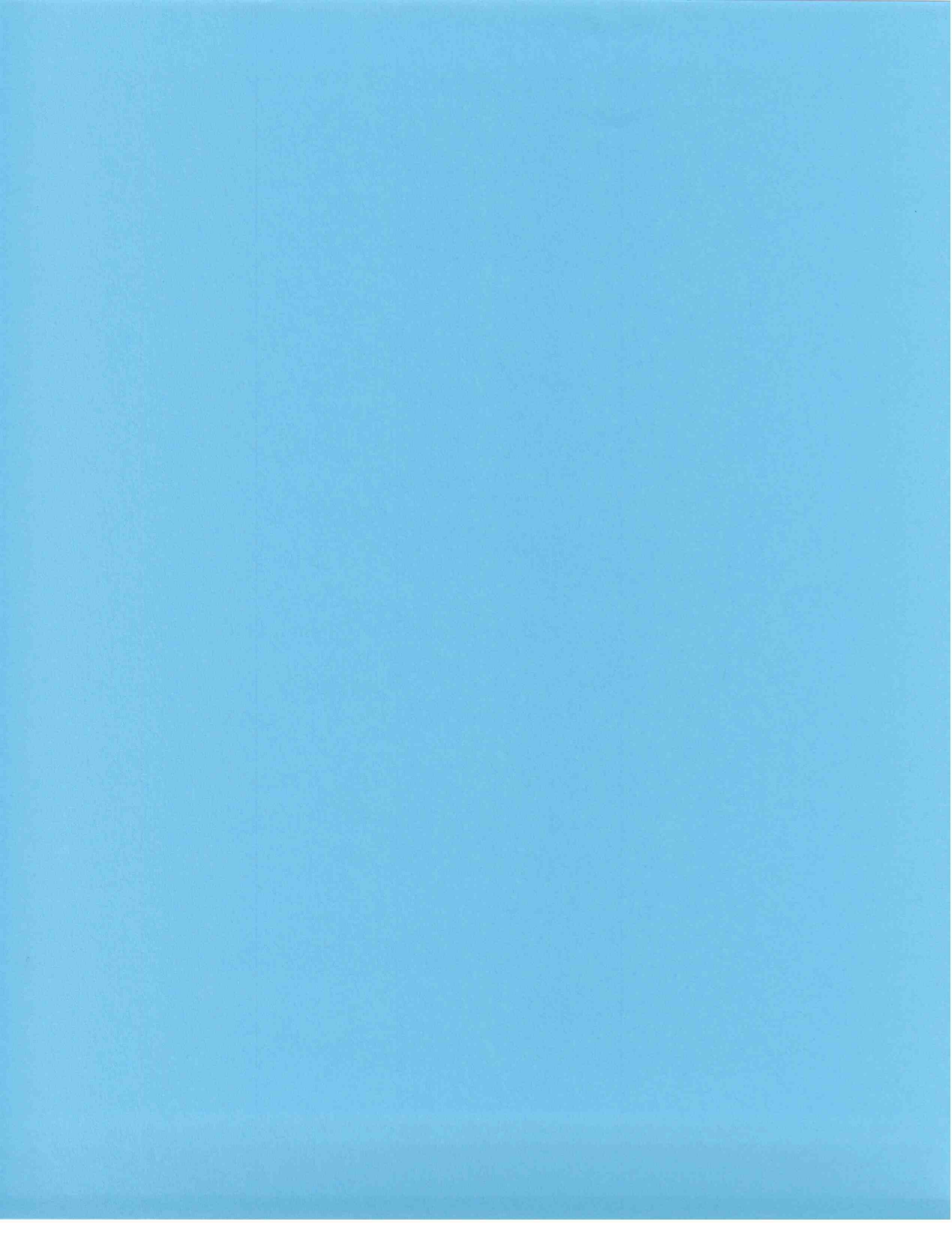
Approved as to form:

James W. Peterson, Jr.
City Attorney

Stephen J. Wukela
Mayor

Attest:

Dianne M. Rowan
Municipal Clerk



RESOLUTION 2012-

A RESOLUTION TO AMEND RESOLUTION 2012-13 TO CORRECT A CLERICAL ERROR THEREIN AND TO UPDATE THE WRECKER POLICY OF THE CITY OF FLORENCE TO BRING CURRENT THE ORIGINAL POLICY ADOPTED IN 1986 AND TO INCORPORATE ALL CHANGES SINCE THE ORIGINAL RESOLUTION.

WHEREAS, on December 15, 1986, the City Council of the City of Florence adopted a wrecker policy and incorporated by reference Chapter 20 Article III of the code of ordinances of the City of Florence;

WHEREAS, through the years the City Council passed Resolutions 1992-13, 2004-02, and 2009-11 amending and updating certain sections of the City's wrecker policy;

WHEREAS, on September 10, 2012 City Council passed Resolution No. 2012-13 to accomplish this goal, but said Resolution contained a clerical error in Section 6 of the Policy adopted which City Council now desires to correct;

WHEREAS, the City of Florence desires to further amend and correct the clerical error in the wrecker policy and to consolidate all previous changes into one complete document;

NOW, THEREFORE, be it resolved by the City Council of Florence, duly assembled, that the Wrecker Policy of the City of Florence be amended to read in its entirety as set out on Exhibit A attached hereto, the correction in said policy being highlighted in yellow.

AND IT IS SO RESOLVED THIS _____ DAY OF _____, 2012

Approved as to form:

James W. Peterson, Jr., City Attorney

Stephen J. Wukela, Mayor

Attest:

Dianne M. Rowan, Municipal Clerk

Exhibit A

WRECKER POLICY

Section 1. **Emergency wrecker services.**

The Police Dispatcher shall call any wrecker service having a business license issued by the City requested by the owner of a vehicle damaged or disabled in a street or public place. If no wrecker service is designated by the vehicle owner, the Police Dispatcher shall call the wrecker service as provided in Section 2 and 3 below.

Section 2. **Rotation for police-requested towing.**

The Chief of Police shall have prepared an alphabetical list of all firms meeting the requirements of this chapter for police-requested towing which shall be used by the Dispatcher for rotation of calls in order. Additions to the list shall be inserted alphabetically. Calls for heavy duty wreckers shall be rotated among those firms having heavy duty equipment without regard to the normal rotation for regular calls. Copies of the Dispatcher's list for the previous month will, for a nominal cost, be made available to the public upon written request within ten (10) days.

Section 3. **Eligibility for police-requested towing.**

Any firm having a valid business license to operate in the City shall become eligible to participate in the assignment of service calls by the Police Department if it conforms to the rules and requirements established herein. The application of a firm to participate in emergency police towing operations shall be made to the Chief of Police and shall contain the following information:

(a) Name of Firm. Indicate whether owned by individual, corporation, or partnership, list names and addresses of all parties having a financial interest in said towing firm and state number of years business has been established.

(b) Attendants and Drivers. List names and addresses of all attendants and drivers who will conduct the police towing service.

(c) Equipment. Describe available equipment to be used in police towing services, particularly in terms of comparative qualities or capacities as related to minimum eligibility requirements.

(d) Communications. Describe the method of operation of the communications system between place of business and operating tow trucks, as well as the means utilized for insuring prompt dispatch of trucks upon receipt of call from the Police Department. All such

companies shall maintain a twenty-four hour communication capacity to enable contact if necessary at any time.

(e) Primary Business Location. List location of primary business operation, including dimensions and type of facilities available.

(f) Storage Lot. List location of storage lot(s), dimensions thereof, relationship to primary business operation, type of protection afforded, and screening and maintenance provided at said lot(s) and provide proof that the lot, if located in the City Limits, complies with applicable zoning regulations.

(g) Provide proof of insurance coverage as specified in Section 5.

Section 4. Minimum standards for equipment.

(a) Every emergency wrecker proposed to be used by an applicant shall be subject to inspection in a manner determined by the Chief of Police and every such wrecker, other than an emergency heavy duty wrecker, shall comply with the following minimum requirements.

- (1) Each wrecker shall be equipped with a power operated winch, winch line and boom, with a factory rated lifting capacity of not less than 8,000 pounds single line capacity.
- (2) Each wrecker shall carry as standard equipment: tow sling, tow bar, towing dollies, safety chains, a fire extinguisher, wrecker bar, broom, shovel, and approved warning devices. Such devices shall include amber flashing warning lights or any additional devices that may be required by state law or state regulations.
- (3) Each wrecker and all of its equipment shall be in a safe and good working condition.
- (4) Each wrecker must have the name, address, and phone number of the wrecker company displayed on both sides of the vehicle.

(b) Every emergency heavy duty wrecker of not less than two and one-half (2 ½) tons in size, shall meet the requirements in subsection (a) of this section, and in addition thereto, shall be equipped with a power operated winch, winch line and boom, with a factory rating lifting capacity of not less than 32,000 pounds, single or double line capacity, and a tow sling.

Section 5. Insurance.

(a) An applicant shall procure and keep in full force and effect a policy of public liability and property damage insurance issued by a casualty insurance company authorized to do business in the state and in the standard form approved by the Insurance Commissioner of the state, with the insured provision of such policy including the City as an insured, and the coverage

provision insuring the public from any loss or damage that may arise to any person or property by reason of the operation of an emergency wrecker of such applicant and providing that the amount of recovery on each emergency wrecker shall be in limits of not less than the following sums:

- (1) For damages resulting in bodily injury or death of one (1) person in any one (1) accident, \$250,000.00.
- (2) For any damages arising out of any one occurrence, \$500,000.00.
- (3) For injury to or destruction of property in any one (1) accident, \$25,000.00.

(b) An applicant shall procure liability insurance in the amount of \$100,000 to cover damages arising out of bodily injury or death to persons and in the amount of \$25,000 for damages for injury to or destruction of property caused by vehicles in tow, under possession of, or in control of a wrecker operated and maintained by the applicant.

(c) Every policy mentioned in (a) above shall contain an endorsement providing for 30 days notice to the City in the event of any material change or cancellation of the policy.

(d) The applicant shall also provide proof of the above referenced insurance annually through a certificate of insurance filed with the Police Department.

Section 6. Storage lot requirements.

(a) Lot. The wrecker service shall maintain a safe storage area for all vehicles towed which shall be approved by the Florence Police Department. This may be a locked building or a secured fenced-in area where the stored vehicles and other property shall not be accessible to the public. The owner of any approved storage facility and the wrecker license holder whose wrecker tows a vehicle to an approved storage facility and the wrecker license holder whose wrecker tows a vehicle to an approved storage facility shall be jointly and severally responsible for any damages or losses inflicted to vehicles which have been left at any such approved storage facility; provided however, that the foregoing liability and responsibility shall extend only to damage or losses caused by negligence of said storage facility, said wrecker service license holder, either of their agents, or by improper maintenance of such storage facility. Before any storage facility shall be approved by the Florence Police Department, an affidavit acknowledging the liability and responsibility shall be executed by the person applying to have the storage facility approved by the Florence Police Department. These approved facilities shall be located within the City Limits or within **three (3) miles** adjacent to the City Limits. Those storage facilities located in the City Limits shall have proof of compliance with city zoning regulations. The City of Florence shall assume no liability for storage of the vehicle.

Section 7. Wrecker and storage charges.

- (a) When a vehicle is towed by a wrecker service selected under Section 2 and 3 of

this Policy, the following fees shall be the maximum allowable charges by any wrecker operator or company and no other fees or charges of any kind shall be required by the vehicle owner in order to recover the vehicle.

(1) Towing by a Class A Wrecker/Car Carrier:

Towing - (per tow) \$135.00 flat fee to include dollies and Go-Jacks.

No Tow - shall be 50% of the towing fee.¹

After Hours Vehicle Release - \$35.00 per release.²

(2) Class D Wrecker:

Towing – (per tow) \$150.00 flat fee to include dollies and Go-Jacks.

No Tow – shall be 50% of the towing fee.³

After Hours Vehicle Release - \$35.00 per release.⁴

In addition to the charges specified above, an additional charge of \$100.00 dollars each may be made if the vehicle is flipped over and must be righted and/or if the vehicle is on a bank or sloping terrain.

(b) When a vehicle is towed by a wrecker service selected under Section 2 and 3 of this Policy, no storage charge shall be assessed for the first 24 hours after the towing. After the first 24 hours, the maximum storage charges on stored and impounded vehicles weighing under 10,000 pounds shall be \$20.00 dollars per day for storage of vehicles and or trailers. After the first 24 hours, the maximum storage charges on stored and impounded vehicles weighing 10,000 pounds or more shall be \$30.00 dollars per day for storage of vehicles and or trailers.

(c) All towing and storage charges will be itemized on an invoice or receipt when the

¹ If the owner of such vehicle appears before his vehicle is towed away and makes claim to his vehicle after the wrecker has been ordered to remove such vehicle, the vehicle shall be released to the owner upon settlement with the wrecker service for 50% of the towing fee, provided the owner shall satisfy all charges against the vehicle at police headquarters.

² Normal business hours for wrecker and storage businesses governed by this Policy shall be Monday through Friday from 7:00 a.m. until 6:00 p.m. A wrecker service operator is not required to return a vehicle to an owner after the company's normal business hours pursuant to Section 56-5-2525 of the South Carolina Code of Laws, as amended. Should the operator elect to provide for after hour request to pick up vehicles, the operator may charge no more than the amount specified in Section 7 (a) and (b) above.

³ See Footnote 1 above.

⁴ See Footnote 2 above.

charges are paid. No charges other than the towing or storage charges allowed in Section 7 (a) and (b) above may be made on any vehicle towed by a wrecker service selected under Section 2 and 3 of this Policy without the prior written approval of the owner or his agent.

Section 8. Penalties.

The business license of the owner or operator of any wrecker service who shall violate any of the applicable provisions of this chapter shall be subject to immediate suspension upon written notification by the Chief of Police for a period of up to fifteen (15) days, or permanent suspension by City Council after public hearing, in addition to prosecution for each violation of this chapter as a separate offense. Any deviation from the policies herein established or failure to provide reasonable, quick and efficient service may result in removal of a wrecker service from this rotation list by the Chief of Police. A wrecker service shall be automatically removed from this rotation list upon failure to respond to two consecutive calls, unless the Chief of Police shall determine after investigation that unusual circumstances were responsible for the company's failure to perform the requested towing service.

Section 9. Liability.

The City of Florence, its agents and employees, shall not be liable for any personal injury or property damage caused by negligence or failure of the wrecker or towing service to exercise reasonable prudent care in responding to a call or in towing a vehicle for storage or in any damage that may occur while the vehicle is in storage.

Section 10. Incorporation of applicable ordinances.

All of the provisions of Article III, Chapter 20 of the Code of Ordinances for the City of Florence regulating wrecker service companies are fully incorporated by reference as is repeated below.

Section 11. Personal property in towed vehicle.

The tow truck operator must permit the vehicle owner to remove at all times health and human care related devices such as, but not limited to, car seats, strollers, walkers, crutches and the like, medications, prescriptions, personal handbags, and personal and identity papers from the vehicle without charge and without regard to any towing or storage charge owed on the vehicle. If the tow truck operator has removed this personal property from the vehicle, he must return it to the vehicle owner when requested without charge and without regard to any towing or storage charge owed on the vehicle.