

TOWN OF SAN ANSELMO

ORDINANCE NO. 961

**AN ORDINANCE OF THE TOWN OF SAN ANSELMO
AMENDING CHAPTER 5, TITLE 3, ARTICLE 19
OF THE SAN ANSELMO MUNICIPAL CODE**

The San Anselmo Town Council repeals existing Article 19 Tow Car Business and Operators, and

The San Anselmo Town Council adopts a new Article 19 Police Rotation Towing Services as follows:

Chapter 5

Article 19

POLICE ROTATION TOWING SERVICES

Sections:

3-5.1901	Purpose
3-5.1902	Definitions
3-5.1903	Application for Placement on Department Rotation Tow List
3-5.1904	Referral to the Chief of Police
3-5.1905	Appeal
3-5.1906	Operator Acceptance of Terms and Provisions of this Article
3-5.1907	Information on File
3-5.1908	Suspension and Removal from the Police Rotation Tow List
3-5.1909	Fee Schedule
3-5.1910	Operator Performance Requirements
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3-5.1914	Validity

3-5.1901 Purpose. The Town Council finds that it is in the public interest that rotation towing services be established for the purpose of providing the Police Department with an expeditious means of moving damaged and disabled vehicles, illegally parked vehicles, and vehicles that must be moved for safekeeping and evidentiary purposes.

3-5.1902 Definitions.

A. "Town" means the Town of San Anselmo

- B. "Council" means the Town of San Anselmo Council
- C. "Administrator" means the Town Administrator of the Town of San Anselmo
- D. "Chief" means the Chief of Police of the Town of San Anselmo
- E. "Department" means the Town of San Anselmo Police Department
- F. "List" means the Town of San Anselmo Police Department rotation tow list
- G. "Rotation" means tow service operators' names will appear on the list in the chronological sequence in which their names are placed on the list by the Department; based on the sequential listing, operators will be contacted to provide tow services, and as each operator is contacted, the next following name on the list will be moved forward as the first name on the list; the name selected will be moved to the end of the list regardless of whether the operator did or did not respond to the Department call for service.
- H. "Operator" means any person, firm, or corporation placed on the Police Department rotation tow list for the purpose of towing vehicles in the Town of San Anselmo.
- I. "Tow" or "Towing" is the act or business of moving damaged or disabled vehicles, illegally parked vehicles, and vehicles that must be moved for safe keeping or evidentiary purposes, when such moving or removal is directed or requested by the Department.

3-5.1903 Application for Placement on Department Rotation Tow List. An application for placement on the Department's police rotation tow list shall be submitted in writing, executed under penalty of perjury, and filed with the Chief. The application shall contain the following:

- A. The full name and identification of the applicant.
- B. The name under which the business will be operated.
- C. A complete description of the vehicles to be operated by the applicant. The information shall include the manufacturer, year, license number, engine horsepower, description of hoist equipment and towing weight capacity.
- D. Color scheme and characteristic insignia to be used to designate the vehicles of the proposed operator.

- E. Current certificates from a state approved testing station certifying all safety equipment on all towing vehicles. Certification from the California Highway Patrol will satisfy this requirement.
- F. The location of all proposed vehicle storage facilities.
- G. Evidence in writing to show the proposed operator's ability to comply with all requirements of this rotation tow article.

3-5.1904 Referral to the Chief of Police. Upon receiving the application for placement on the police rotation tow list, the Chief shall conduct an investigation to determine the applicant's qualifications to comply with the provisions of the article. Within thirty (30) days after the filing of the application, the Chief shall either place the proposed operator on the list, or shall not do so. Failure to be placed on the list shall be based on the Chief's determination that the applicant fails to meet the requirements of this article. In determining whether the applicant meets the article's requirements, the Chief may take into consideration any of the following factors:

- A. The business experience of the applicant.
- B. Whether other operators currently on the list, are rendering sufficient and adequate service to the Town.
- C. Whether the applicant has demonstrated a sound and competent pattern of service within the community. This shall be measured by an evaluation of actual performance of service, including formal or informal complaints from the public or the Town.

3-5.1905 Appeal. Any applicant who fails to be placed on the police rotation tow list after review by the Chief, shall have the right to appeal to the Town Administrator. Such appeal shall be made by filing with the Administrator a Notice of Appeal no later than ten (10) days after receipt of a notice from the Chief that the applicant will not be placed on the list. The appeal shall be heard by the Administrator within thirty (30) calendar days after the appeal is filed. The Administrator may overrule or affirm the decision made by the Chief. If the Administrator overrules the Chief, the applicant shall be placed on the police rotation tow list. The Administrator shall notify the applicant in writing of the decision within ten (10) days after the decision is made. Such notification shall be deemed served and effective for all purposes on the date it is deposited in the United States mail, postage prepaid and addressed to the applicant at his/her business address as provided on the application for placement on the list.

If the proposed operator disagrees with the decision of the Administrator, the applicant has further right of appeal to the Council. A written appeal to the Council shall be filed with the City Clerk within ten (10) calendar days of receipt of notification of non-placement on the list. The Council will conduct a de novo review and render a decision. The decision of the Council will be final.

3-5.1906 Operator Acceptance of Terms and Provisions of this Article. An operator placed on the police rotation tow list shall be subject to all the terms and provisions of this municipal article.

3-5.1907 Information on File. The Department shall maintain information regarding an operator placed on the police rotation tow list as follows:

- A. The name of the business and business owner.
- B. A brief description of each vehicle which the operator is allowed to operate, including vehicle year, make, model, and license number.
- C. Such conditions or additional matters as the Council may deem necessary or proper.

The operator shall be responsible for providing any updated information to the Department in a timely manner.

3-5.1908 Suspension and Removal from the Police Rotation Tow List. The Chief may immediately suspend or remove from the list any operator on the following grounds:

- A. Upon finding that an operator falsified any portion of the application or has failed to include required or important information on the application, or has failed to provide the Department with pertinent changed information.
- B. Upon failure of the operator to comply with any of the terms and provisions of this article.
- C. Upon the operator, demonstrating misconduct or a pattern of behavior, by or through agents or otherwise, that is inconsistent with the goals of providing quality service to the community and is not in the best interest of the Town or its inhabitants.
- D. An order of suspension shall be for a period not to exceed thirty (30) calendar days.
- E. If the operator does not agree with a suspension or removal from the list, the operator may file an appeal with the Administrator and the Council as outlined in Section. 3-5.1905 of this article.
- F. Upon appeal, the Administrator or Council may:
 - (1) Confirm a suspension or removal.
 - (2) Vacate or modify a suspension.

- (3) Vacate a removal and impose a suspension or reinstate the operator to the list.

3-5.1909 Fee Schedule.

- A. The Council shall determine the fees that may be charged by operators on the list. The Department shall make fee recommendations to the Council based on the prevailing rate for like tow services in the area and the rates allowed by local law enforcement agencies in the San Anselmo area.
- B. The fee schedule shall be reviewed and established during the month of June of each year for the next fiscal year.

3-5.1910 Operator Performance Requirements.

- A. The operator shall maintain a Town business license.
- B. The operator shall file with the Department, prior to being placed on the list, the following certificates of insurance and the insurance shall be in force while the operator remains on the list:
 - (1) Public Liability insurance with minimal limits of \$1,000,000. The Town shall be named as co-insured.
 - (2) Liability insurance with minimal limits of \$1,000,000 that covers loss by fire, theft, negligence, and malicious mischief within the tow operator's garage and/or storage area.
 - (3) The operator's insurance company shall provide thirty (30) days' prior notice to the Town in the event of cancellation or modification.
- C. The operator shall provide for all classes of police initiated tow service, up to vehicles with a capacity rating of up to one (1) ton. Operators who are placed on the rotation tow list that have vehicles capable of towing vehicles in excess of one (1) ton capacity shall be required to provide such tow services and will be called upon by the Town on an as-needed basis. These services shall be provided twenty-four (24) hours a day, seven (7) days per week. This will include all State and Federal holidays.
- D. The operator shall provide for the removal of vehicles from pre-designated tow-a-way zones in an expeditious manner.
- E. The operator shall provide a response time which is immediate, but no longer than thirty (30) from the time a tow request is initiated by the

Department to the operator. This response requirement will take into account adverse traffic conditions at the time of the tow request. If a tow operator cannot respond within thirty (30) minutes, the operator shall immediately notify the Department and arrangements will be made to wait or call another tow operator. This response time shall apply twenty-four (24) hours per day, seven (7) days per week.

- F. The operator shall clean and remove debris generated by a vehicle collision (gas, oil, battery acid, transmission fluid, glass, plastic, vehicle parts, etc.). The operator shall not be responsible for the spilled cargo of a commercial vehicle involved in a collision. All cleaning and removal shall be completed in compliance with Federal and State laws regulating same. A fee surcharge will be allowed by the Council to cover the cost of removal of hazardous materials by the operator.
- G. The operator shall be responsible for any damage incurred by persons, property, or vehicles that is caused by collision debris left at an accident scene by the operator.
- H. The operator shall provide for the storage of all towed, stored, and/or impounded vehicles. The storage area shall include an area that can store four (4) standard size four (4) door sedans in a secure building that will prevent unauthorized access to a towed vehicle. The storage area shall be close enough to the Town to allow for a release to an owner/agent within a reasonable time from that of the release request. The Department may require the operator to tow a vehicle to a designated Town facility. After the Department has satisfied its need to have that vehicle stored at the Town facility, the operator may be required to tow the vehicle from the Town facility to the operator's storage facility, charging no more than fifty percent (50%) of the standard towing rate as set out in the fee schedule.
- I. Except as provided in sub-section H above, the operator shall tow all vehicles directly to the operator's storage area and keep them in such area until released by an approved method. This may be modified by the Department in extraordinary circumstances.
- J. The operator shall store impounded vehicles in a secure manner with windows closed and doors locked, where possible.
- K. The operator shall remove all vehicle accessories which are easily removed and which tend to attract pilferage, such as tape decks, expensive hub caps, etc. These items shall be cataloged and secured within the operator's building by the operator.
- L. The operator shall maintain a log book at the place of business into which shall be recorded the following information:

- (1) Description, including make, model, vehicle identification number and license number of the towed vehicle.
- (2) Date and time of tow.
- (3) Location from which the vehicle was towed.
- (4) A list of accessories removed for security.
- (5) The name of the person to whom the vehicle was released or the name of the purchaser if the vehicle was sold for lien.
- (6) Date and time of release.
- (7) Total fees charged.

This log shall be available for inspection by the Department at any time.

- M. The operator shall release stored or impounded vehicles only to the owner or the owner's lawful agent. The operator shall not release an impounded vehicle unless the owner/agent has first obtained a valid authorization release from the Department which must be presented to the operator prior to release. The operator shall have personnel available on site to release vehicles between 9:00 A.M. and 5:00 P.M., Monday through Friday, holidays excepted. Provisions shall be made for the release of vehicles at all other times, seven (7) days per week. These provisions shall insure that a release is made within a reasonable time from the time of the request by an owner/agent. Additional fees, as set in the fee schedule, may be charged for this extra-hour release service. However, additional release charges may not be charged for releases issued between 5:00 P.M. and 8:00 P.M., Monday through Friday, holidays excepted.
- N. The operator shall provide at least one (1) tow truck that should be made available on a twenty-four (24) hour basis for towing vehicles. These trucks shall be capable of towing standard passenger vehicles, motorcycles, trucks and vans up to, and including one (1) ton capacity. Every tow truck used for towing vehicles described in this section shall be equipped with towing dollies.
- O. Any operator that provides a tow vehicle capable of towing vehicles over one (1) ton capacity shall be equipped with an air brake line device, commonly referred to as a "glad-hand" or its equivalent.
- P. The operator shall maintain all towing vehicles and equipment in good working order and shall be subject to safety and operation inspection by any member of the Department. Maintenance of records of the towing

equipment and vehicles shall also be subject to inspection upon reasonable demand by an appropriate member of the Department.

- Q. The operator shall insure that all tow trucks and equipment are in compliance with all applicable sections of the California Vehicle Code.
- R. The operator shall equip every approved tow truck with a two-way radio which will allow communication between the operator's base station and the tow truck.
- S. The operator shall provide all necessary California Department of Motor Vehicles paperwork for the clearance of towed vehicles, with the exception of titles to low valued abandoned vehicles, which will be provided by the Department using registration form 62 entitled, "Public Agency Authorization to Dispose a Vehicle to a Scrap Processor or Dismantler;" said form shall allow for the expeditious disposal of junk vehicles.
- T. The operator shall furnish an itemized statement for all towing and storage charges. Charges for services requested by the Department may be levied only in amounts established in the Council approved fee schedule, except as provided in Section 3-5.1910, paragraphs (F), (H), and (M).
- U. The Department shall be given access to all operator records concerning fees levied for services pursuant to the article.

3-5.1911 Exceptions. Nothing in this article shall restrict or prohibit the owner or operator of a vehicle from calling and selecting a towing vehicle of his/her own choice. Such "self-initiated" tows shall not be subject to the provisions of this article, including the fee schedule.

3-5.1912. Non Responsibility of the Town. Nothing in this article will in any way authorize an operator to act as an agent or employee of the Town. Nothing herein contained will, or is intended to imply that the cost of towing service or storage is to be charged or assumed by the Town. The operator shall receive reimbursement for his/her service separate and apart from the Town and its officers unless specifically approved in advance by the Chief.

3-5.1913. Hold Harmless. The operator by accepting placement on the list and operating under this article's requirements, agrees to indemnify and hold the Town harmless from any of the acts or omissions of the operator, or the operator's agents, that are performed pursuant to the requirements of this article.

3-5.1914. Validity. If any section, subsection, sentence, clause or phrase of this article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this article. The Council hereby declares that it would have adopted the

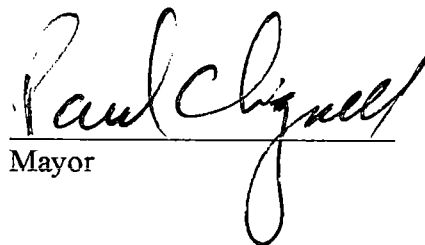
article and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

The foregoing article was introduced at a regular meeting of the San Anselmo Town Council on October 11, 1994 and thereafter adopted on October 25, 1994.

AYES: Breen, Chignell, Kroot, Yarish, Zaharoff

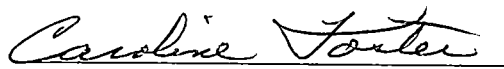
NOES: (None)

ABSENT: (None)



Mayor

ATTEST:



Town Clerk