

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. FAIR HOUSING.
3. CABLE TELEVISION.
4. WRECKER SERVICE POLICY.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.¹

SECTION

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9-101. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

(1) "Peddler" means any person, firm or corporation, either a resident or a nonresident of the town, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the

¹Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501.

term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the town or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

(a) Has a current exemption certificate from the Internal Revenue Service issued under Section 501(c)(3) of the Internal Revenue Service Code of 1954, as amended.

(b) Is a member of United Way, Community Chest or similar "umbrella" organizations for charitable or religious organizations.

(c) Has been in continued existence as a charitable or religious organization in Smith County for a period of two (2) years prior to the date of its application for registration under this chapter.

(4) "Solicitor for subscriptions" means any person who solicits subscriptions from the public, either on the streets of the town, or from door to door, business to business, place to place, or from street to street, and who offers for sale subscriptions to magazines or other materials protected by provisions of the Constitution of the United States.

(5) "Transient vendor¹" means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously

¹State law references

Tennessee Code Annotated, § 62-30-101 et seq. contains permit requirements for "transitory vendors."

The definition of "transient vendors" is taken from Tennessee Code Annotated, § 62-30-101(3). Note also that Tennessee Code Annotated, § 67-4-709(a) prescribes that transient vendors shall pay a tax of \$50.00 for each 14 day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in Tennessee Code Annotated, § 67-4-709(b).

owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the town and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.

9-102. Exemptions. The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold.

9-103. Permit required. (1) No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the town unless the same has obtained a permit from the town in accordance with the provisions of this chapter.

(2) Permits for charitable solicitations within the Town of Carthage's corporate limits shall be issued on a first to apply basis, to be conducted on the particular day of the month by the requesting charitable organization. All charitable solicitation permits issued shall allow no more than four (4) solicitors of the permittee at each intersection at any time and all solicitations shall take place at the approved intersection(s) as applied for and approved. Any violation of this ordinance will be subjected to a fine of not less than fifty dollars (\$50.00) per incident.

The roadblock shall be conducted according to the terms and conditions as set forth in the application of permit for fundraising roadblocks. Failure to do so may, in the Town of Carthage's sole discretion, result in the revocations of roadblock privileges for the requesting organization/applicant. (as amended by Ord. #340, Dec. 2004)

9-104. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the town recorder by each applicant for a permit as a peddler, transient vendor, solicitor, or street barker and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

(a) The complete name and permanent address of the business or organization the applicant represents.

(b) A brief description of the type of business and the goods to be sold.

(c) The dates for which the applicant intends to do business or make solicitations.

(d) The names and permanent addresses of each person who will make sales or solicitations within the town.

(e) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitations, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person.

(f) Tennessee State sales tax number, if applicable.

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with his application a nonrefundable fee of twenty dollars (\$20.00). There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.

(3) Permit issued. Upon the completion of the application form and the payment of the permit fee, where required, the recorder shall issue a permit and provide a copy of the same to the applicant.

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the town recorder, the town recorder shall submit to the chief of police a copy of the application form and the permit.

9-105. Restrictions on peddlers, street barkers and solicitors. No peddler, street barker, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:

(1) Be permitted to set up and operate a booth or stand on any street or sidewalk, or in any other public area within the town.

(2) Stand or sit in or near the entrance to any dwelling or place of business, or in any other place which may disrupt or impede pedestrian or vehicular traffic.

(3) Offer to sell goods or services or solicit in vehicular traffic lanes, or operate a "road block" of any kind.

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the town.

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located.

9-106. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

9-107. Display of permit. Each peddler, street barker, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand.

9-108. Suspension or revocation of permit. (1) Suspension by the recorder. The permit issued to any person or organization under this chapter may be suspended by the town recorder for any of the following causes:

(a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or

(b) Any violation of this chapter.

(2) Suspension or revocation by the board of mayor and aldermen. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the town recorder in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

9-109. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the town. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days.

9-110. Violation and penalty. In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable by a penalty of up to one hundred dollars (\$100) for each offense. Each day a violation occurs shall constitute a separate offense.

CHAPTER 2

FAIR HOUSING¹

SECTION

- 9-201. Definitions.
- 9-202. Prohibited acts.
- 9-203. Exemptions.
- 9-204. Discrimination by real estate agents prohibited.
- 9-205. Duties of human relations subcommittee.
- 9-206. Complaint process.
- 9-207. Penalty.
- 9-208. Additional remedies.

9-201. Definitions. Whenever used in this chapter, the following words and terms shall have the following meanings unless the context necessarily requires otherwise.

(1) "Dwellings" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location of any such building.

(2) "Family" includes a single individual.

(3) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

(4) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant. (1983 Code, § 5-301)

9-202. Prohibited acts. Subject to the exceptions set out in § 9-203 it shall be unlawful for any person to do any of the following acts:

(1) To refuse to sell or rent after the making of a bona fide offer to do so or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, or national origin.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection therewith, because of race, color, religion, or national origin.

¹Municipal code references

Building, plumbing, wiring and housing regulations: title 12.
Zoning and land use: title 14.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling, that indicates any preference, limitation or discrimination, based on race, color, religion, or national origin.

(4) To represent to any person because of race, color, religion, or national origin, that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin. (1983 Code, § 5-302)

9-203. Exemptions. Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than commercial purposes to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. (1983 Code, § 5-303)

9-204. Discrimination by real estate organizations prohibited. It shall be unlawful to deny any person access or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation on account of race, color, religion, or national origin. (1983 Code, § 5-304)

9-205. Duties of human relations subcommittee. The human relations subcommittee of the mayor's citizens' advisory committee of Carthage is authorized and directed to undertake such educational and conciliatory activities as in its judgment will further the purposes of this chapter. It may call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions hereof and the committee's suggested means of implementing them. The subcommittee shall further endeavor, with the advice of the housing industry and other interested parties, to work out programs of voluntary compliance and may advise appropriate town officials on matters of enforcement. The subcommittee may issue reports on such conferences and consultations as it deems appropriate. (1983 Code, § 5-305)

9-206. Complaint process. Any person who claims to have been injured by an act made unlawful by this chapter, or who claims that he will be injured by such an act, may file a complaint with the chairman of the human relations subcommittee. A complaint shall be filed within one hundred eighty (180) days

after the alleged unlawful act occurred. Complaints shall be in writing and shall contain such information and be in such form as required by the human relations subcommittee. Upon receipt of a complaint the subcommittee shall promptly investigate it and shall complete its investigation within fifteen (15) days. If a majority of the human relations subcommittee finds reasonable cause to believe that a violation of this chapter has occurred, or if a person charged with violation of this chapter refuses to furnish information to said subcommittee, the subcommittee may request the town attorney to prosecute an action in the town court against the person charged in the complaint. Such request shall be in writing. Upon receiving such written request and with the assistance of the aggrieved person and said subcommittee, within fifteen (15) days after receiving such request, the town attorney shall be prepared to prosecute an action in the town court, provided a warrant is sworn out by the aggrieved person and served upon the person or persons charged with the offense. (1983 Code, § 5-306)

9-207. Penalty. Any person violating any provision of this chapter shall be guilty of an offense and upon conviction shall be punished under the general penalty provision of this code. (1983 Code, § 5-307)

9-208. Additional remedies. Nothing in this article requires any person claiming to have been injured by an act made unlawful by this chapter to exhaust the remedies provided herein; nor prevent any such person from seeking relief at any time under the federal civil rights acts or other applicable legal provision. (1983 Code, § 5-308)

CHAPTER 3

CABLE TELEVISION

SECTION

9-301. To be furnished under franchise.

9-301. To be furnished under franchise. Cable television service shall be furnished to the Town of Carthage and its inhabitants under franchise as the town council shall grant. The rights, powers, duties and obligations of the Town of Carthage and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.¹ (1983 Code, § 13-401, modified)

¹For complete details relating to the cable television franchise agreement see Ord. #276 dated April 3, 1997 in the office of the town recorder.

CHAPTER 4

WRECKER SERVICE POLICY

SECTION

9-401. Policy

9-402. Purpose.

9-403. Procedures.

9-401. Policy. Officers of the Carthage Police Department must know when the towing of certain vehicles is authorized. Whenever possible, owners or operators of vehicles for which towing is required will be encouraged to specify a towing service of their own choice. When required, the officer will summons needed tow trucks on a rotation basis, unless a specific request for a particular tow service has been made by the owner or operator of the vehicle to be towed. (Ord. #234, June 1989)

9-402. Purpose. The purpose of this policy is to establish the necessary guidelines governing the towing of vehicles. (Ord. #234, June 1989)

9-403. Procedures. (1) Towing situations. These are the occasions when an officer assists the owner/operator of a vehicle in obtaining towing services. Examples of this would be to remove a damaged vehicle from the scene of a traffic accident or in providing assistance to the operator of an otherwise disabled vehicle. Frequently, a minor violation of the law will be involved in the situation. However, the department's goal of providing assistance to the stranded motorists takes precedence over the enforcement of an unintended violation of the law.

(2) Towing procedures. (a) Officers shall request the motorist to name the towing company to be called. Officers shall honor and communicate this request, and shall not summon a wrecker until the motorist has voiced his preference.

(b) When the motorist is unable or unwilling to state a preference, the officer will advise the dispatcher to send a "no request" wrecker from the rotation list.

(c) In extreme emergency situations, officers may summon the nearest wrecker company to the scene.

(d) An officer should remain with motorist until the wrecker arrives.

(e) Officers should wait no more than twenty (20) minutes for a requested wrecker to arrive. After that time, the officer may summon a wrecker from the rotation list. Officers shall make their dispatcher or shift supervisor aware of the delayed response from the first summoned wrecker company and dispatcher shall document same.

(f) If the disabled vehicle can be either pushed by hand or moved by another wrecker to the shoulder of the road while waiting for the requested wrecker to arrive, this should be done to re-open the roadways.

(g) Officers shall not prepare a tow slip for any vehicle which is towed by way of motorists request.

(h) Absent lawful justification to the contrary, officers shall not search any vehicle which is towed by way of motorists request.

(3) Unpound situations. There are occasions when an officer may lawfully seize a vehicle as a result of the violation of a statute, ordinance or traffic regulation where this is provided. Examples of impound situations may be on the arrest of a D.W.I. driver, or the recovery of a stolen vehicle. When impounding vehicles, officers shall comply with all areas of this general order in respect to tow slips, requests for wrecker services, etc.

(4) Impoundment procedures. (a) If the situation allows, officers shall first attempt to dispose of vehicles through the Alternative to Impoundment. When these have failed, officers may proceed with impoundment.

(b) Officers must have proper knowledge that the seizure of the vehicle is lawful. If the officer has any questions on this, he should communicate his concerns to the shift supervisor.

(c) Officers shall complete a tow slip on every impounded vehicle.

(d) Officers shall summon the on-call wrecker from the rotation list.

(e) Officers shall notify the wrecker driver at the time of the call of any unusual circumstances may impact the wrecker driver's decision on which equipment to utilize, such as an unusually large vehicle or the presence of hazardous materials.

(f) Impounded vehicles shall be stored at the wrecker company's lot. Exception to this would be that vehicles subject to forfeiture to the department shall be stored at the county jail.

(g) Officers shall notify the wrecker driver on when to secure a vehicle for evidence processing.

(6) Alternatives to impoundment. If the vehicle is not to be retained by the department for evidentiary or forfeiture purposes, officers shall first attempt to dispose of the vehicle prior to impoundment as follows:

(a) Release to owner. If the owner can be located and is able (sober and licensed) to operate the vehicle, officers should give the owner a reasonable opportunity to move the vehicle in order to avoid impoundment. Examples of this would be vehicles parked in fire lanes.

(b) Alternate driver. If the owner is present but not able (sick, intoxicated, etc.) to operate the vehicle, officers shall request the motorist to designate a person to drive the vehicle from the scene. Officers shall make a reasonable effort to communicate the motorists wishes to the

designated driver, and shall afford that person a reasonable opportunity to arrive at the scene.

(c) Park the vehicle. If the vehicle is in a place where it can remain lawfully parked, officers may leave the vehicle where it is, at the motorist's request. Officers shall not allow the operator to drive the vehicle to a parking place after having placed under arrest, nor shall any officer drive a citizen's vehicle for this purpose. Officers shall lock all doors and otherwise secure any vehicles so parked.

(d) Release to wrecker company. The motorist may request that the vehicle be towed away by the wrecker company of his own choice. Officers shall comply with these requests when presented by the motorists.

(7) Tow slips. (a) Every officer who impounds a vehicle must complete a tow slip for that vehicle. This should be done immediately before the vehicle is towed. Officers shall not complete a tow slip for vehicles which are towed as a service to the motorist, and the vehicle not impounded.

(b) Officers shall enter all of the required information concerning the vehicle on the tow slip, giving particular attention to entering the correct, complete license number and VIN number.

(c) Officers shall make a complete inventory of all property in the vehicle and shall schedule this property on the tow slip. Officers may open locked compartments (with a key) and may open closed containers to inventory their contents, but shall not force open any locked containers by breaking the lock.

(d) Officers shall require the wrecker driver to sign the tow slip to acknowledge receipt of and responsibility for the vehicle and its contents, and shall provide the wrecker driver with a copy of the tow slip.

(e) Before going off duty, officers shall check both the license number and VIN for stolen through NCIC, and shall indicate the results of this inquiry on the tow slip.

(f) Before going off duty, officers shall turn in the completed tow slip to the shift supervisor or dispatcher.

(g) The shift supervisor or dispatcher shall inspect the tow slip and file in the police department.

(8) "Holds" and removal of "holds." (a) Every officer who initiates a "Hold" on a vehicle shall immediately notify the wrecker company where the vehicle is stored of that fact.

(b) The officer shall mark "HOLD" in broad letters on the tow slip, along with his initials, the date, and the basis for this action.

(c) A "HOLD" may be removed from a vehicle by either the officer who initiated the action or by a superior officer. The officer who terminates a "HOLD" on a vehicle shall immediately notify the wrecker company of this action. He shall also indicate this action on the tow slip, along with his initials, the date and the basis for this action.

(9) Release of impounded vehicles. (a) Impounded vehicles shall be released only by the chief of police or a supervisor.

(b) Impounded vehicles may be released only to the owner of the vehicle or his agent.

(c) The person wishing to claim the vehicle must produce proof of ownership for the vehicle. Either the title or registration papers for the vehicle will serve this purpose.

(d) The officer who releases a vehicle to the agent of the owner will be responsible for verifying that this agent has the proper authorization from the owner to receive the vehicle.

(e) The individual seeking the release of the vehicle must sign the tow slip before the vehicle can be released to him. The officer will then provide this person with a copy of the tow slip and instructions on how they may then obtain the vehicle.

(f) If the tow slip shows that a "HOLD" has been placed on the vehicle at any time during impoundment, the releasing officer should communicate with the officer who initiated the "HOLD" to ensure that it has been removed.

(g) The releasing officer shall ensure that the vehicle has been checked for stolen through NCIC by both license number and VIN before he releases the vehicle.

(10) Wrecker rotation list. (a) The chief of police shall maintain a list of approved wrecker service providers.

(b) Persons who wish to have their service included in the rotation list may obtain an application form from the chief of police.

(c) No company and/or owner shall be permitted to occupy more than one (1) space in the rotation list.

(d) Applicants shall submit the completed application form and other required documentation directly to the chief of police.

(e) A summary of the department's minimum requirements for any company to be admitted to the rotation list shall be as follows:

(i) Maintain a tow in lot for storage of vehicles for the Town of Carthage within 1 mile of the North, South, East and West corporate limits of Carthage, all vehicles shall be towed to this lot and stored there until released.

(ii) Possess a Town of Carthage business license for the business and continue to compute the business license and/or Carthage city sales taxes based on the charges as if all fees and income for the tow and storage charges were earned in the city limits of Carthage, Tennessee, regardless of where the actual storage cost and fees are incurred.

(iii) Premises. The wrecker company must maintain a secure premises for the safe storage of vehicles. Two types of storage areas shall be provided. First, the company must have a building where vehicles that are to be processed for evidentiary

purposes may be secured away from public access and out of the weather. Second, a lot or yard shall be maintained for the secure storage of vehicles which are to be retained but not processed for evidence. This lot shall have a secure fence or other enclosure designed to defeat attempts to remove vehicles by unauthorized persons. All such secured storage areas as described herein shall be located within 1 mile of the North, South, East and West corporate limits of Carthage.

(iv) Possess garage keepers liability insurance with minimum coverage levels of \$100,000.

(v) Minimum size of lot to hold ten (10) cars with a minimum 6' fence required.

(vi) Secured building with capacity to hold one vehicle for evidentiary purposes.

(vii) Agree to abide by all requirements set forth for wrecker services as outlined herein.

(f) The applicant must cause his insurance agent(s) to verify proof of coverage before the application will be acted on.

(g) The chief of police shall determine whether the applicant has demonstrated satisfactory compliance with the minimum requirements as outlined above, and shall act on the application accordingly.

(h) All applicants who demonstrate successful compliance with these minimum standards shall receive equal opportunity for inclusion in the rotation list.

(i) The chief of police shall issue a final decision on the application via verbal communication.

(j) Renewal of the service privilege shall be on an annual basis, and shall be granted immediately upon receipt of proof of continued insurance.

(k) Service providers shall remain on the rotation list so long as they continue to comply with the minimum standards (defined earlier) and are not found in violation of any of the department's requirements on operating procedures or equipment.

(11) Department use of the rotation list. (a) The chief of police shall schedule every approved service provider to equal placement on the rotation list.

(b) Officers shall request the dispatcher to summon a service provider from the rotation list as needed unless conditions at the scene dictate otherwise. Such conditions may include the presence of an unusually large vehicle to be towed or an extreme emergency of threat to human life or safety. In such instances, officer discretion will be allowed in calling a specific provider only so long as the officer can adequately justify his actions to by-pass the rotation list.

(c) Officers shall request the dispatcher to notify the wrecker driver of any unusual conditions at the scene that may impact the driver's choice of equipment to utilize.

(d) When the dispatcher is unable to make contact with the next provider on the rotation list, or when the provider advises that he is not able to respond, the dispatcher will summon the provider who is next on the rotation list.

(e) The officer at the scene shall immediately notify the shift supervisor of any slow response or other violation of any department regulation concerning wrecker service. The officer shall also submit a written communication about the situation to the chief of police before going off duty.

(12) Wrecker company operating procedures. (a) Wrecker companies shall make their services available 24 hours a day, seven days a week.

(b) Wrecker vehicles shall arrive at the scene of the call no longer than twenty (20) minutes after receiving notification from the dispatcher.

(c) If a wrecker company is not able to respond when called, the operator must immediately advise the dispatcher of that fact. In these cases, the department will give the call to the company next in line on the rotation list.

(d) Wrecker companies must have trained operators who employ proper towing methods.

(e) Wrecker operators must accept responsibility for the vehicle and its contents by signing the tow slip.

(f) Wrecker companies must honor "Holds" placed on vehicles by the department.

(g) Wrecker companies shall be available to release vehicles seven days a week.

(h) Wrecker companies shall release impounded vehicles only when the person claiming the vehicle has the proper release documents issued by the department.

(i) Wrecker companies shall notify the department of every impounded vehicle which has been held in storage over 30 days, as well as comply with all state requirements.

(j) Wrecker companies shall agree to submit to inspections by the department of their premises, vehicles and equipment for compliance with these regulations. Said inspection may be conducted without prior notice at any time when the company is open for business.

(k) Wrecker companies shall post their current tow rates and storage rates in a conspicuous place at their premises. These rates will be listed with the chief of police. Any changes of rates will be forwarded to the chief of police ten (10) days prior to the proposed change.

(l) The chief of police will remove from the rotation list any wrecker service whose tow rates are excessive when compared against other wrecker companies providing the same service.

(m) Wrecker companies shall tow vehicles to the county jail when so requested.

(n) Wrecker drivers may activate the amber lights when proceeding to scene of call, and must activate the amber lights at the scene and when towing from the scene.

(o) Calls received by wreckers shall be cleared through the department before the wrecker proceeds to the scene even if the owner calls the wrecker direct. No wrecker shall remove a wrecked vehicle without it being investigated by a law enforcement agency.

(p) Wrecker companies shall be responsible for removing glass and other debris from the highway accident scene.¹

(q) Wrecker company owners, operators and representatives shall not solicit for business at the scene of any call.

(r) Wreckers are prohibited from chasing or running wrecks without a bona fide call from the department dispatcher or the owner of the vehicle.

(s) Wrecker service operators shall not perform repair work on a vehicle (tow-in or impounded) without the owner's specific request.

(13) Wrecker company equipment and facilities. (a) Premises. The wrecker company must maintain a secure premises for the safe storage of vehicles. Two types of storage areas shall be provided. First, the company must have a building where vehicles that are to be processed for evidentiary purposes may be secured away from public access and out of the weather, this building must be located inside the Carthage town limits. Second, a lot or yard shall be maintained for the secure storage of vehicles which are to be retained but not processed for evidence. This lot shall have a secure fence or other enclosure designed to defeat attempts to remove vehicles by unauthorized persons.

(b) Vehicles. At least one amber-colored rotor-beam light shall be mounted on top of the wrecker. No other color will be approved by the department. All emergency flashers and directional lights showing to the front must be amber color. Wreckers are prohibited from having sirens. The appearance of wreckers shall be reasonably good. They should be painted, and should display the firm's name, address and telephone number painted on or permanently affixed on both doors. Such lettering should be at least three (3) inches high. All wreckers must have the following specifications at a minimum:

(i) The tow truck chassis shall have a minimum manufacturer's capacity of one (1) ton.

(ii) Individual boom capacity of not less than four (4) tons.

(iii) Individual power winch pulling capacity of not less than four (4) tons.

(iv) One hundred (100) feet or more of 3/8 inch cable on each drum.

(v) Dual cable lift capability.

(vi) Belt-type cradle tow plate or tow sling to pick up vehicles; cradle of tow plate to be equipped with safety chains; or,

(vii) Wheel-lift tow plate equipped with safety chains; and

(viii) Dollies.

¹State law reference

Tennessee Code Annotated, § 55-8-170.

(c) Equipment. Every approved wrecker shall have the following equipment on board at all times, at a minimum:

- (i) Heavy-duty push broom.
- (ii) Flood lights on hoist to illumine scene at night.
- (iii) Shovel.
- (iv) Axe, or similar wood cutting tool.
- (v) Pinchbar, prybar or crowbar.
- (vi) Bolt cutters with insulated handles; and
- (vii) Minimum of one 20-pound Class ABC Underwriters Laboratory approved fire extinguisher.

(14) Removal from the rotation list. (a) The department will receive and investigate all complaints of service and/or charges against wrecker companies on the rotation list.

(b) The chief of police shall assign a sworn officer to investigate the complaint.

(c) The investigating officer will conduct his inquiries in a thorough, prompt and impartial manner.

(d) The investigating officer will forward copies of the complaint, investigative reports and other findings to the chief of police.

(e) The chief of police shall render a decision on the complaint within five (5) working days after the investigative reports have been forwarded to him.

(f) The chief of police shall issue his findings in the matter, and this shall be reduced to writing. Copies of this decision shall be furnished to both the complainant and the operator of the wrecker company.

(g) The penalty for a confirmed violation of any of the regulations concerning wrecker services may be:

- (i) Letter of warning;
- (ii) Suspension of towing privileges up to six (6) months;
- (iii) Removal from the rotation list.

(h) Wrecker company owners/operators may appeal the penalty prescribed by the chief of police directly to the town council.

(15) Frequently received calls. (a) Private property with public access such as the parking areas around malls and shopping centers. As provided by Tennessee legislation, officers have the authority to enforce all state and municipal traffic regulations on these areas. Officers should attempt to remove vehicles via the alternatives to impoundment procedures prior to impoundment from these properties.

(b) Private property without public access such as private residence properties. Officers do not have the authority to remove vehicles from these properties. That authority rests with the owner of the property. Upon receiving such requests, officers should courteously advise the complainant of the limitations on officers in these matters, and suggest the various means available to the complainant to resolve the situation. This order is not intended to interfere with officers' obligation

to seize any vehicles which are subject to forfeiture, or are required for other evidentiary purposes.

(c) Fire lanes. Officers shall attempt to remove vehicles from fire lanes via the alternatives to impoundment prior to calling for a wrecker to remove the vehicle.

(d) Recovered stolen vehicles should be stored inside a secure building at the wrecker company lot. If the vehicle owner should indicate a desire to take immediate possession of the vehicle, officers should work to explain the department's need to process the vehicle for evidence. When the owner indicates a reluctance to prosecute, officers may then implement the prescribed procedure for the release of impounded vehicles.

(e) Abandoned vehicles. Officers shall not impound abandoned vehicles, absent other lawful basis for the action, and shall report all abandoned vehicles to the chief of police.

(f) Vehicles subject to forfeiture. If the vehicle is to be processed for evidence, this should be completed as soon as is practical. (Ord. #234, June 1989, as amended by Ord. #313, May 2002)