	Winchester City Sheriff's Office Manual of General Orders Operations 312	Effective Date: May 1, 2014 Accreditation Standards: OPR .07.12
		Original Policy: May 1, 2014 Last Review Date: May 1, 2020 Next Review Date: May 1, 2023
		By Authority of: <hr/> Les R Taylor, Sheriff
Subject: Impounded and Towed Vehicle		

I. PURPOSE

The purpose of this policy is to establish procedures for the towing and impoundment of vehicles by the Winchester City Sheriff's Office.

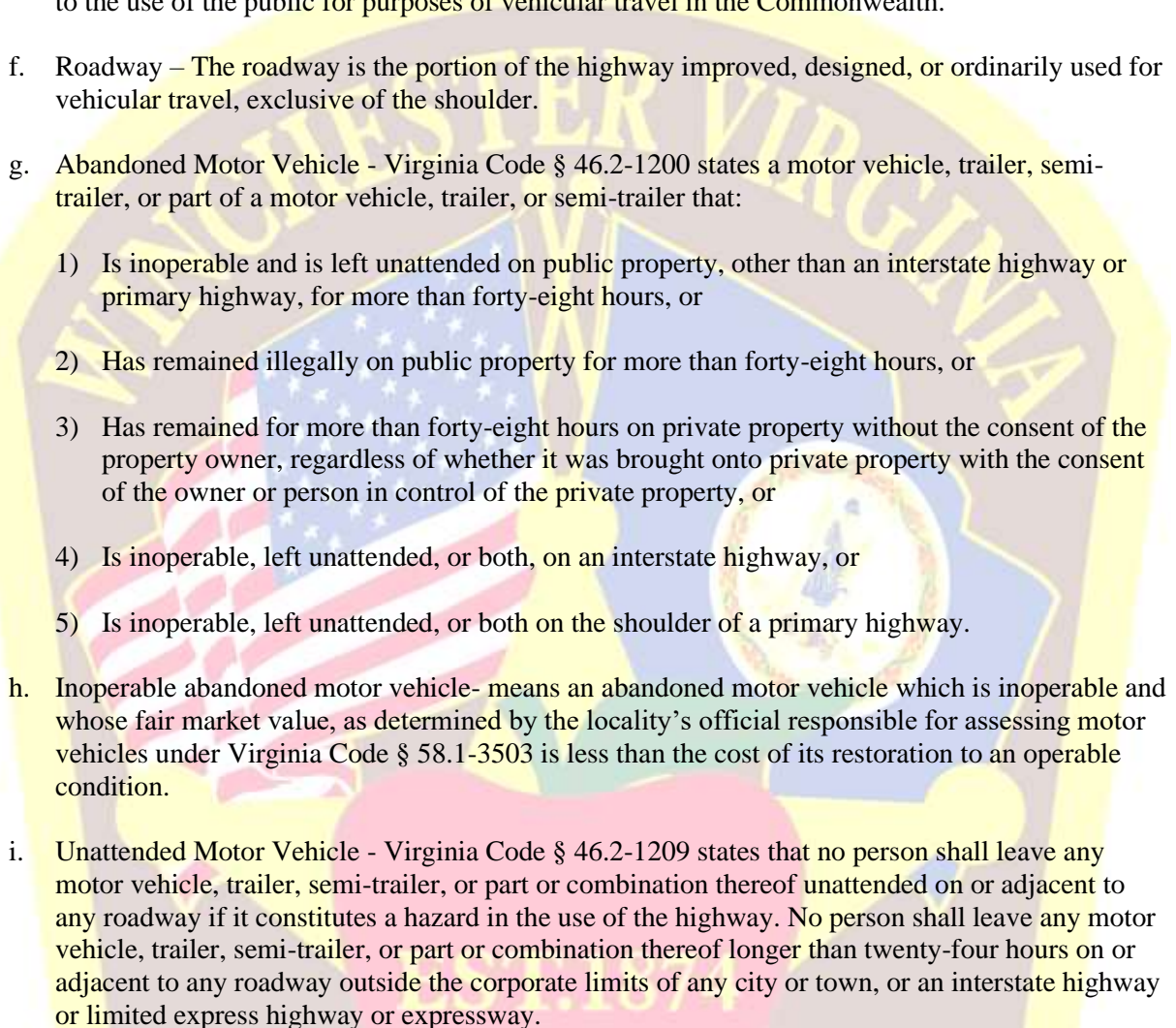
II. POLICY

This policy sets forth the procedures to be followed, and the records that will be kept, for the towing of abandoned vehicles, vehicles creating a traffic hazard, impounded vehicles, and vehicles involved in traffic accidents.

III. PROCEDURES

A. General Definitions

1. For procedural purposes, the following definitions are applicable.
 - a. Owner - For the purpose of this policy, the owner is the person listed on the vehicle's registration, or the driver shall be presumed to be the authorized agent of the owner, if the driver is deemed to be in the legal possession of the vehicle.
 - b. Towed Vehicle - Any vehicle that a deputy has towed because it was involved in an accident (Driver/Owner unavailable), because it is abandoned/unattended, because the driver was arrested and requested the tow, or because it is creating a traffic hazard. A Winchester City Sheriff's Office TOWED/IMPOUNED form will be used to record this information, or the vehicle can be listed on the DUI Offense form, if it is towed in conjunction with a DUI arrest. This vehicle is towed to a private towing storage area and it may be released to the owner when the tow truck storage facility has been compensated for their service.
 - c. Thirty-Day Impoundment/Three-Day Impoundment of a vehicle- A vehicle that is being held in Sheriff's Office custody by virtue of Virginia Code § 46.2-301.1. A NOTICE OF IMPOUNDMENT/ IMMOBILIZATION form is required for this impoundment. A court order, obtaining a valid operator's license or the expiration of the impoundment term is required to release the vehicle
 - d. Impounded Vehicles-A vehicle may be impounded as evidence relating to a criminal act, or confiscated for being used to commit a criminal act. In these cases, the Commonwealth's Attorney, or the investigating deputy can authorize the release of the vehicle. A vehicle also may be impounded for a tax levy. The Capitan of Civil Process or his designee may authorize the release of the vehicle. Impounded vehicles will normally be stored at the Winchester City Sheriff's Office impound lot.

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- e. Highway – The highway is the entire width between boundary lines for every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth.
 - f. Roadway – The roadway is the portion of the highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder.
 - g. Abandoned Motor Vehicle - Virginia Code § 46.2-1200 states a motor vehicle, trailer, semi-trailer, or part of a motor vehicle, trailer, or semi-trailer that:
 - 1) Is inoperable and is left unattended on public property, other than an interstate highway or primary highway, for more than forty-eight hours, or
 - 2) Has remained illegally on public property for more than forty-eight hours, or
 - 3) Has remained for more than forty-eight hours on private property without the consent of the property owner, regardless of whether it was brought onto private property with the consent of the owner or person in control of the private property, or
 - 4) Is inoperable, left unattended, or both, on an interstate highway, or
 - 5) Is inoperable, left unattended, or both on the shoulder of a primary highway.
 - h. Inoperable abandoned motor vehicle- means an abandoned motor vehicle which is inoperable and whose fair market value, as determined by the locality's official responsible for assessing motor vehicles under Virginia Code § 58.1-3503 is less than the cost of its restoration to an operable condition.
 - i. Unattended Motor Vehicle - Virginia Code § 46.2-1209 states that no person shall leave any motor vehicle, trailer, semi-trailer, or part or combination thereof unattended on or adjacent to any roadway if it constitutes a hazard in the use of the highway. No person shall leave any motor vehicle, trailer, semi-trailer, or part or combination thereof longer than twenty-four hours on or adjacent to any roadway outside the corporate limits of any city or town, or an interstate highway or limited express highway or expressway.

B. Towing Situations

1. Accident - Any vehicle involved in an accident shall be removed from the roadway to the shoulder of the road, or elsewhere as soon as possible, after necessary accident investigation information has been obtained.

Vehicles may be pushed to the shoulder of the highway or other legal parking spot, which does not obstruct or impede vehicle travel on the roadway. If the vehicle is removed to the shoulder of the highway, the owner shall be advised that this is a temporary solution; the vehicle may not be left on the shoulder for an extended period of time.

Any vehicle that is completely disabled and unable to be moved from the roadway shall be towed at the owner's expense (Virginia Code § 46.2-1212.1)

2. Emergency Situation - Virginia Code § 46.2-890 states that no vehicle shall be stopped at or in the vicinity of a fire, vehicle or airplane accident, or other area of emergency, in such a manner as to create a traffic hazard, or interfere with law enforcement officers, fire and rescue workers, or others whose duty is to deal with such emergencies. Any vehicle found unlawfully parked in the vicinity may be removed by the order of the law enforcement officer. Vehicles that are used by radio, TV, and press are exempt unless they actually obstruct the public safety operations. An on-scene supervisor shall contact the offending agency and ask that the vehicle be moved before it is towed.
3. Traffic Hazard – Virginia Code § 46.2-888 states that no person shall stop a vehicle in such manner as to impede or render dangerous the use of the highway by others, except in the case of an emergency, an accident, or a mechanical breakdown. The vehicle shall be moved from the roadway as soon as possible and removed from the shoulder without unnecessary delay.
4. Parking in Certain Locations – Virginia Code § 46.2-1239 states that no person shall park a vehicle or permit it to stand, whether attended or unattended, on a highway in front of private driveway, within fifteen feet of a fire hydrant or entrance to a fire station, within fifteen feet of a plainly designated building housing rescue squad equipment or ambulances, or within twenty feet from the intersection of curb lines or, if none then within fifteen feet of the intersection of property lines at any highway intersection.
5. Removal from Private Parking Lots - Virginia Code § 46.2-1231 allows the owner, operator, or lessee of any parking lot, parking area, or parking space in a parking lot or area or any part of a parking lot or area, or any other lot or building, to tow a vehicle which is occupying lot, area, space, building, without the owner's permission, if the parking lot is posted with signs at all entrances stating clearly all vehicle parked here without the owner's permission will be towed. The tow truck operator is required to forthwith notify the State Police or local law enforcement agency.
6. Abandoned Vehicles– Refer to section (g) above for the definition of abandoned vehicles and to determine if the vehicle should be towed.
7. Unattended Vehicles– Refer to section (h) above for the definition of unattended vehicles and to determine if the vehicle should be towed.
8. Arrest – Virginia Code § 19.2-80.1 allows the operator to designate another person who is present at the scene to drive the vehicle away from the scene and allows the deputy to tow the vehicle to the nearest appropriate place for safekeeping. The deputy should consider the following whenever the decision is made to tow the vehicle for safekeeping:
 - a. The degree of risk of theft, vandalism, or other damage if the vehicle is left unattended;
 - b. The time of day and the length of the time the vehicle will be left unattended;
 - c. The owner/driver's request to leave or remove the vehicle;
 - d. Any other circumstances that would make the deputy believe it would be unsafe to leave the vehicle unattended.
9. Road Construction/Repair Vehicles – These vehicles shall be exempt from this policy whenever they are actually engaged in highway construction or maintenance.
10. Deputies may enforce the Virginia code relating to parking violations at their discretion.

C. Alternatives to Towing

1. Alternatives - Prior to towing a vehicle subject to this policy, the driver may be afforded a reasonable opportunity, predicated by the circumstances, to provide for the removal of the vehicle within a reasonable length of time. Various alternatives are available to the driver:

- a. Release - The vehicle may be released to a person, designated by the driver/owner, who possesses a valid driver's license who may, if mentally and physically capable, take possession of the vehicle and remove it from the scene.
- b. Parking - The vehicle may be legally parked and secured by the owner/driver. If the vehicle is left on the shoulder of the highway it must be removed as required by Virginia Code. Whenever towing is considered to be in the best interest of the citizen and the Sheriff's Office, reasonable effort shall be expended to facilitate release of such vehicle with minimal cost and personal discomfort to the rightful owner.

D. Liability

The deputy shall advise an arrestee that neither the Winchester City Sheriff's Office nor the individual deputy shall be held liable for any damage to, theft of, or theft from a vehicle, whenever the arrestee has elected not to move the vehicle from the scene of the arrest.

E. Owner/Driver Towing Requests

1. Unless the driver/owner requests a specific wrecker service to respond to the scene, any deputy requesting wrecker service to tow a vehicle shall request from the ECC the nearest available wrecker service. If that wrecker service is not available, then the next nearest service should be requested. This procedure will be repeated until a towing service is available to respond to the scene. The driver/owner's request will be honored, whenever practical (Service is going to be delayed for an extended period of time and the roadway is blocked).
2. Any wrecker services requested by a deputy shall be a properly registered/ licensed wrecker service. A Winchester City Sheriff's Office TOWED/IMPOUNDED form is not required anytime a vehicle's owner/driver requests his/her vehicle to be towed, unless the vehicle is being towed/impounded in conjunction with the owner/driver being arrested/summonsed (DUI arrests may list the vehicle/towing company on the DUI form).

F. Records/Notice

Any time a vehicle is towed or impounded by order of a member of the Winchester City Sheriff's Office the appropriate form will be completed and submitted to the Major.

1. Virginia Code § 46.2-301.1 states that the arresting officer, acting on behalf of the Commonwealth shall serve notice of impoundment upon the arrested person. The notice shall include information on the person's legal right to petition for review of the impoundment pursuant to subsection B. A copy of the notice of impoundment shall be delivered to the magistrate and thereafter promptly forwarded to the clerk of the general court of the jurisdiction where the arrest was made. Therefore, any deputy impounding a vehicle under this code shall complete the NOTICE OF IMPOUNDMENT/IMMOBILIZATION form. A copy of this form is to be given to the arrestee, the magistrate, placed in the vehicle, and given to records.

2. Virginia Code § 46.2-1202 states that the registered owner of any abandoned vehicle that is towed by the Winchester City Sheriff's Office shall be sent a certified notice within fifteen days of the towing of the vehicle advising the owner that the vehicle has been towed and the procedure to reclaim the vehicle. Whenever a deputy tows an abandoned vehicle they shall complete the Abandoned Vehicle form and submit it to records with the Winchester City Sheriff's Office TOWED/IMPOUNDED VEHICLE Form. Records will then send the completed Abandoned Vehicle form to the owner of record via certified mail.

G. Inventory

All vehicles towed or impounded by the Winchester City Sheriff's Office shall have the contents (particularly look for any items of valuable) of the vehicle inventoried by the towing/impounding deputy. The deputy shall note on the form the reason any vehicle cannot be inventoried (locked-no keys, etc.). Any valuables (money, jewelry, etc.) located in an arrestee's vehicle should be sent with the arrestee, if possible. Any valuables found at any time should be placed in the trunk (if possible), and brought to the attention of the wrecker driver and noted on the impound form.

H. Release of Impounded Vehicles

1. It will be the responsibility of the impounding Deputy or Investigator to track impounded vehicles through to disposition. Authorization for release of such vehicles shall come from the Case Deputy or Investigator after any necessary consultation with the Commonwealth's Attorney for criminal cases or the Treasurer for civil cases
2. The vehicle's owner must pay all towing charges before the vehicle is released and present a copy of the paid tow bill to the Sheriff's Office.

