



Public Safety Committee Memorandum

City of Arts & Innovation

TO: PUBLIC SAFETY COMMITTEE MEMBERS DATE: MAY 15, 2019

FROM: POLICE DEPARTMENT WARDS: ALL

SUBJECT: ORDINANCE AMENDING CHAPTER 5.15 OF THE RIVERSIDE MUNICIPAL CODE, REGULATION OF RIVERSIDE POLICE OFFICIAL POLICE TOW TRUCK SERVICE SECTIONS 5.15.020, 5.15.095, 5.15.110, 5.15.120, 5.15.140, 5.15.145 AND 5.15.150 AND BRIEFING ON ASSEMBLY BILL 2876 AMENDING VEHICLE CODE 22650.

ISSUES:

Approve the proposed changes to and recommend that City Council adopt an ordinance amending chapter 5.15 of the Riverside Municipal Code regarding the regulation of Riverside Police Official Police Tow Truck Service including sections 5.15.020, 5.15.095, 5.15.110, 5.15.120, 5.15.140, 5.15.145, and 5.15.150 and receive a report on changes in case law that affect the towing of vehicles off public property (Assembly Bill 2876 Amending Vehicle Code 22650).

RECOMMENDATIONS:

That the Public Safety Committee:

1. Approve the proposed changes to Chapter 5.15 of the Riverside Municipal Code regarding Regulation of Riverside Police Official Police Tow Service;
2. Recommend that City Council adopt an ordinance amending chapter 5.15 of the Riverside Municipal Code regarding the regulation of Riverside Police Official Police Tow Truck Service including sections 5.15.020, 5.15.095, 5.15.110, 5.15.120, 5.15.140, 5.15.145, and 5.15.150 as described herein; and
3. Receive a report on changes in case law that affect the towing of vehicles off public property (Assembly Bill 2876 Amending Vehicle Code 22650).

BACKGROUND:

The Police Department has a long history of working with tow contractors to remove vehicles that are evidence to a crime, have been abandoned, involved in a collision, or constitute an obstruction to traffic. There are currently 14 towing companies that have agreements with the City of Riverside to provide these services. In an effort to maximize the service to the community, combined with a fair process to uphold the regulations set forth in Chapter 5.15 of the Official Police Tow Truck

Service Ordinance, the Riverside Police Department has worked with the City Attorney's Office to modify the current ordinance.

On November 21, 2018, the Public Safety Committee received the proposed changes to Riverside Municipal Code (RMC) Chapter 5.15 and recommended that the City Council approve the changes. On December 18, 2018, the City Council approved the proposed changes and adopted an ordinance amending Chapter 5.15 of the RMC regarding Regulation of Riverside Police Official Police Tow Truck Service.

On February 5, 2019, after some concerns were heard by the tow companies, implementation of the adopted ordinance was put on hold for further review by the Public Safety Committee. Therefore, the Police Department conducted several additional meetings with the tow companies to resolve their concerns with the proposed ordinance changes. During these meetings, the Police Department took several of their concerns into account and made additional changes to RMC Chapter 5.15. RPD feels the changes are fair to both parties and still achieve the goal of increasing service to the community and Police Department.

DISCUSSION:

The Police Department made several attempts to obtain input from the contracted tow companies in order to make additional changes to RMC Chapter 5.15 and the anticipated Tow Truck Service Agreements. A timeline and briefing of that information will be provided in the Public Safety Committee (Committee) presentation.

The Police Department will present the statistical data which led to the proposed changes and will also brief the Committee on the study conducted of other local agencies and their Tow Service Agreements.

Additionally, the proposed changes to RMC Chapter 5.15, listed below, will be reviewed:

Section 5.15.020 Definitions

The definition of "Tow Board" is being added to the RMC. The Tow Board is being created to investigate violations of the Official Police Tow Truck Service (OPTTS) Agreement. The Tow Board will consist of uninvolved members of the Riverside Police Department Traffic Division that would review evidence of any alleged violation(s) of the Riverside Municipal Code or Official Police Tow Truck Service Agreement. An Official Police Tow Service Contractor will have the opportunity to appear before the board and present evidence on their behalf. A liaison from an Official Police Tow Service Contractor could present factual evidence to support the Tow Board's investigation to help reach a disciplinary decision, but the liaison would not be allowed to vote on the matter.

The definition of "Passing" will also be added to the RMC. "Passing" will be defined as refusing, for any reason, any tow assignment or call for service from the City or from the Riverside Police Department.

The definition of "Complaint" will be added to the RMC as well. "Complaint" will be defined as a documented allegation against an official police tow service company which will be investigated. The definition will also include examples of the types of complaints that would be investigated, including but not limited to: Violations of City Ordinances or of Municipal Codes; Deficient facility

security; Deficient facility storage conditions; and Failure to perform according to, or to comply with any Towing Agreement or Contract.

Section 5.15.095 Franchise fee

This addition provides the Official Police Tow Service Contractor with the ability to charge RPD \$233 for all evidence tows. In addition, if an evidence vehicle is stored at their facility for more than 30 days, they would be able to bill the police department \$1 a day for this storage.

Section 5.15.110 Standard rules of operation

Section 5.15.110 B.4. of the RMC currently allows the Official Police Tow Service Contractor to release a vehicle to its legal owner with either verbal or written authorization from an authorized Police Department employee. To prevent miscommunication, the proposed change will remove the last sentence of the RMC Section, which allows verbal release of a vehicle, and will only allow written authorization for the release of a vehicle.

Section 5.15.110 J of the RMC currently requires that the Official Police Tow Service Contractor leave two (2) feet of separation between the stored vehicles at the tow yard. The proposed change will increase the required distance for police tows to three (3) feet of separation between the stored vehicles so the investigators have more room to collect and process evidence.

Section 5.15.120 Response time

Section 5.15.120 B of the RMC currently requires that the Official Police Tow Service Contractor has a 20-minute average response time in any 30-day period. The proposed change will require a response time not to exceed 30 minutes for each tow request and would increase Heavy Duty and Special Circumstances Tows to a 45-minute response time.

Section 5.15.140 Grounds for cancellation, revocation or suspension.

Language which states the Official Police Tow Service Contractor “shall be given five days’ notice to appear before the Traffic Bureau Commander to show cause why the contract should not be revoked....” will be removed from this section and will be handled through the revised process outlined in Section 5.15.145 as described below.

Section 5.15.145 Procedure for action against official police tow service.

This section is proposed to be completely revised to more clearly define how complaints and/or allegations of violations against tow companies will be handled. All complaints and allegations of violations will be heard through the Traffic Bureau Administrative Sergeant or designee. If the complaint or violation is founded, a hearing will be held through the Tow Board, defined in Section 5.15.020, hearing process. The new procedure provides a method of due process for the Official Police Tow Service Contractors and an opportunity for them to appeal an unfavorable decision. The proposed revision also provides the City of Riverside with the ability to impose disciplinary action up to and including suspension and/or termination of an agreement. Termination of the agreement could only be imposed by the Public Safety Committee.

Section 5.15.150 – Liquidated damages – now titled – Penalties for passing on a call for service.

The title of this section is proposed to be changed from “Liquidated damages” to “Penalties for passing on a call for service”. The Liquidated damages section assessed a fee of \$500 for each liquidated damage and every time the Official Police Tow Service Contractor failed to meet the response time in any 30 calendar day period. Additionally, a \$200 fee was assessed each and every time the Official Police Tow Service Contractor failed to meet the response time for a single request for services by the Police Department. The wording in this section and the process to handle these failures to meet response times is not clear and is difficult to track. The proposed change is for these violations to be handled through the Tow Board process.

The new process will provide the Police Department with the ability to impose penalties for passing on a call for tow service. Therefore, if the Official Police Tow Service Contractor refuses, for any reason, to respond to a tow assignment, they will be suspended from the tow rotation as follows:

OFFENSE		TIME FRAME	PENALTY
1 st	Two passes – 3 rd pass initiates investigation	90-day period	3-day suspension from the tow rotation
2 nd	Two passes – 3 rd pass initiates investigation	New 90-period	7-day suspension from the tow rotation
3 rd	Two passes – 3 rd pass initiates investigation	New 90-period and thereafter	30-day suspension from the tow rotation

If a tow company passes on a call within five (5) minutes of receiving the call, it would be deemed a pass as long as the pass was not done with the purpose of avoiding a potentially less profitable or difficult call. Each company would get two (2) passes in a 90-day period. On a third pass in a 90-day period, an investigation would be initiated via the Tow Board process.

Assembly Bill 2876

Assembly Bill 2876 amended Vehicle Code 22650, which became effective January 1, 2019. Existing law authorizes a police officer to order the removal and storage of a vehicle under various circumstances. The amended language clarifies that the removal of a vehicle as authorized by California statute is also required to be constitutionally reasonable based on the specific situation and that officer must identify a caretaking justification in their report when a warrantless removal is based on a community caretaking statute.

FISCAL IMPACT:

There is no fiscal impact associated with the actions recommended in this report.

Prepared by: Sergio Diaz, Chief of Police
 Certified as to availability of funds: Edward Enriquez, Chief Financial Officer/City Treasurer
 Approved by: Lea Deesing, Assistant City Manager
 Approved as to form: Gary G. Geuss, City Attorney

Attachments:

1. Current RMC, Chapter 5.15, Entitled, "Regulation of Riverside Police Official Police Tow Truck Service"
2. Ordinance, Chapter 5.15, Entitled, "Regulation of Riverside Police Official Police Tow Truck Service" Approved by City Council on December 18, 2018, but ordinance not adopted/enacted.
3. PowerPoint Presentation
4. Assembly Bill 2876