

PROPOSED ORDINANCE NO. 2023-085

AN ORDINANCE REGULATING WRECKER SERVICES AND TOWING OPERATIONS

BE IT ORDAINED by the City Council of the City of Madison, Alabama, as follows a new Article X of the Code of Ordinances of the City of Madison is hereby established and adopted and added into Chapter 22 of the City Code, which is entitled Regulation of Wrecker Services and Towing Operations, as follows:

Section 22-253. Intent.

It is the intent of the city council to establish standards and regulations for any and all persons and/or entities engaged in the towing of vehicles so that such towing operations are conducted in such a manner as to promote the public health, welfare, and safety of the individual and collective quality of life for Madison residents.

Section 22-254. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means the operator of a wrecker service who, after being advised of the requirements and regulations for participation therein, makes known his/her desire to voluntarily participate in the city's rotation roster by making application for the same.

Chief or police chief shall refer to the chief of the city police department or his/her designee.

City means the City of Madison.

Department means the city police department.

Disabled vehicle means any vehicle which has lost its ability of self-propulsion or its ability to be transported or drawn on a public street by normal methods other than by a wrecker.

Fire extinguisher shall mean a portable device used for extinguishing fires as defined by the National Board of Fire Underwriters, dry chemical extinguisher with either a 5- or 10-B.C. rating and underwriters laboratory approval in a quick release carrier which is capable of extinguishing fires.

Large wreckers shall be classified as any of the following types of wreckers: Tandem dual wheel or tandem rear end wreckers, or twin booms with factory rated or tested lifting capacity of 12.5 tons or over per drum and per winch and per winch line, with dual drum capacity, hydraulic or power take-off driven, and shall be equipped with dual rear twin-screw axles, and shall be equipped with quick air couplings for towing vehicles with air brakes, and shall be utilized to tow any vehicle having a gross vehicle weight exceeding 10,000 pounds, or any vehicle having dual rear axles or any tractor-trailer combination. The wrecker company shall provide documentation of lifting capacity from the factory or qualified testing facility.

Motor vehicle shall mean every vehicle which is self-propelled.

Owner means any person who holds a legal title to a motor vehicle or who has the legal right of possession thereof.

Person means any individual, partnership or association, syndicate, company, firm, trust, corporation, department, bureau, agency, business, bank, or any entity recognized by law.

Place of business shall mean the place where the wrecker company conducts business and is licensed pursuant to municipal law.

Police officer means any duly sworn law enforcement officer employed by the city.

Rotation roster means the rotation list of wrecker companies available for request by private individuals as prepared and used as provided in the execution of this chapter.

Street means a thoroughfare including public streets, lanes, alleys, etc., within the city and its police jurisdiction which is reserved for vehicle traffic.

Tow shall mean to remove motor vehicles from one location to another location, for any purpose

Vehicle shall mean every device in or by which any person or property is or may be transported or drawn upon a public street, except devices moved only by human power, or used exclusively upon stationary rails or tracks, and shall include trailers and semi-trailers.

Wrecker shall mean any motor vehicle used for the purpose of towing or removing motor vehicles from one location to another location, for any purpose.

Wrecker business shall mean the act of towing or removing motor vehicles from one location to another location, for any reason, where either the beginning or ending location is within the city. This definition shall not include situations whereby a business owns or leases wreckers for the sole purpose of towing other vehicles owned or leased by the business.

Wrecker company shall mean any person engaged in the wrecker business.

Wrecker operator means any person who drives or otherwise uses a wrecker for wrecker business as defined herein.

Section 22-255. Wreckers declared not to be emergency vehicles

It is hereby declared and determined that wreckers and large wreckers are not emergency vehicles and shall comply with all laws and ordinances relating to motor vehicles.

Section 22-256. Business license and vehicle inspection permits required

No person shall engage in the wrecker business or operate wreckers on the streets within the city without first obtaining a license to do business from the City, and without first obtaining a vehicle inspection permit for each wrecker to be operated, in accordance with this chapter to be issued by the police department on an annual basis.

Section 22-257. Liability

Each wrecker operator doing business in the city who moves or otherwise makes contact with any vehicle to be towed assumes liability for injury to persons, property damage, fire, theft, or any other acts of negligence stemming from the towing process.

Section 22-258. Vehicle Inspection

At any time, the city may inspect the operations of any licensed wrecker company and/or wrecker business to ensure that the business is operating in accordance with the requirements set forth by these Ordinances.

Section 22-259. Records.

- (a) Each operator shall maintain accurate records reflecting all wrecker services performed pursuant to his/her participation on the rotation roster. All information printed on the records shall be legible. Each record of wrecker service, and/or tow ticket, shall be

sequentially numbered, and include the pre-printed name, address and phone number of the wrecker company, as well as the following information:

- (1) The date and time the operator was contacted and requested to perform the service;
- (2) The name of the person requesting the service;
- (3) The location of the vehicle;
- (4) A description of the towed vehicle, including license tag and identification number;
- (5) The owner or operator of the vehicle, if known;
- (6) Itemized list of all service charges and fees;
- (7) The name of the wrecker operator; and
- (8) The final disposition of the vehicle;
- (9) Any related police accident, incident, arrest, event, or miscellaneous identification numbers.

Regardless of method of payment, each customer shall be given a written receipt containing the above required information, and a copy of same shall be maintained by the wrecker company for all wrecker services provided.

- (b) All records required herein must be available immediately upon request so long as the request is made between the hours of 8:00 a.m. until 5:00 p.m., Monday through Friday for inspection by the chief or other city representatives. Advanced notice of an inspection by the chief or other city representative shall not be required.
- (c) The operator shall maintain the aforementioned records for the current calendar year and the preceding calendar year.
- (d) A record of all abandoned motor vehicles is to be maintained by the wrecker operator and any abandoned motor vehicle sold or disposed of by the operator shall be so sold or disposed of in accordance with Code of Ala. 1975, §§ 32-13-1 et seq., as may be amended.
- (e) The operator shall notify the Police Department of each and every vehicle that the operator may remove within two (2) hours of removing said vehicle and all operators

shall describe the vehicle to the Police Department with such specificity as necessary for the Department to may maintain an accurate log of each and every car so removed by an operator within the City of Madison.

Section 22-260. Application and Conditions for Participation in City Wreck Rotation system

- (a) *Written request for participation in the rotation system.* Each applicant desiring to be placed on the rotation roster shall file a written application with the police chief on a form furnished by the Police Department. A new applicant may file a written application at any time. Once an applicant has been accepted and placed on the rotation roster, applications for renewal shall be submitted in January of each year thereafter and shall adhere to all of the same terms and conditions as apply to new applicants. An applicant may request to discontinue participation in the rotation roster at any time.
- (b) *Equipment certification.* Each applicant shall certify that each wrecker to be utilized in service of the rotation roster meets or exceeds the following requirements at the time application is made:
 - (1) For each regular haul wrecker, a conventional wrecker must be equipped with dollies rated for highway use and wheel lift or hydraulic operated tilting bed trucks, with one ton rated chassis or larger and equipped with a broom, which must have a minimum handle length of 30 inches, and shovel, two fully charged 10-B.C. rated fire extinguishers, and agents to remove oil spills from the roadway;
 - (2) The name of the company must be permanently affixed on each side of the wrecker in four inch high or larger letters and the address and telephone number in two inch high or larger letters;
 - (3) All safety equipment, horns, lights, flashers, amber lights, brakes, and other similar equipment must be operational.

- (c) *Copy of rules and regulations.* The chief will furnish each applicant with a copy of the rules and regulations pertaining to the operation of wreckers within the rotation system.
- (d) *Inspection of wreckers and equipment.* Prior to being placed on the rotation roster, the applicant shall present and make available for inspection by the chief all wreckers and equipment that are to be used by the applicant for the provision of wrecker services.
- (e) *Business license required.* Prior to being placed on the rotation roster, the applicant must furnish the chief with a copy of a current, valid business license issued by the city in the applicant's name, and prominently display said license in the applicant's principal place of business. To remain on the rotation roster, the wrecker company's city business license must remain current and valid.
- (f) *Certificate of insurance.* Each wrecker company participating on the rotation roster, from the time he/she moves or otherwise makes contact with any vehicle to be towed, assumes liability for injury to persons, damage to property, fires, or theft resulting from the operator's negligent acts or omissions. Therefore, prior to being placed on the rotation roster, the applicant shall furnish the chief with a certificate of insurance that indicates compliance with the following insurance guidelines:
- (1) Submit a certificate of insurance naming the city as an additional insured and stating the city will be provided with 30 days' notice of any material change, cancellation or non-renewal. The certificate of insurance should also state that the coverages below are in force:

Minimum coverage and limits acceptable:

a. <i>Automobile dealers</i>	<i>Limits</i>
Garage liability	\$100,000.00/300,000.00/100,000.00 split limits, or

Covering any auto (21)	500,000.00 combined single limit	
Owned autos (22)		
Auto medical payments	1,000.00 per accident	
Uninsured motorists	20,000.00/40,000.00 split limits or 40,000.00 combined single limit	
Garage keepers legal liability	Maximum deductible	
Specified perils	1,000.00	40,000.00
Collision	1,000.00	40,000.00
<i>b. Non dealers (repair operations or storage lots)</i>		
Garage liability	\$100,000.00/300,000.00/100,000.00 split limits, or	
Covering: Owned autos (22) or specifically described auto (27)*	500,000.00 combined single limit	
Auto medical payments	1,000.00 per accident	
Uninsured motorists	20,000.00/40,000.00 split limits or 40,000.00 combined single limit	
Garage keepers legal liability	Maximum deductible	
Specified perils	1,000.00	40,000.00
Collision	1,000.00	40,000.00

<i>c. Non dealers (no repair operations and no storage lots-wrecker service only)</i>		
Automobile or garage liability	\$100,000.00/300,000.00/100,000.00 limits, or	
Auto coverage: Any auto (1)(2), or limit specifically described autos (7)*	500,000.00 combined single owned autos	
Garage coverage: Owned autos (22) or specifically described autos (27)*		
Auto medical payments	1,000.00 per accident	
Uninsured motorists	20,000.00/40,000.00 split limits or 40,000.00 combined single limit	
Garage keepers legal liability	Maximum deductible	
Specified perils	1,000.00	40,000.00
Collision	1,000.00	40,000.00

(g) *Valid License Plate.* Wreckers are required to maintain a current, valid license plate on each wrecker used in responding to rotation roster calls.

(h) *Authorization, placement on roster.* When the chief is satisfied that the applicant is qualified, he/she will place the applicant on the rotation roster and so notify the applicant.

Section 22-261. Rates and charges

(a) The maximum fees for wrecker services, including any credit card processing fees or overhead fees, charged by any wrecker service company on the rotation roster in regard to services provided as a result of rotation system dispatch shall not exceed, but may be less than, the following amounts per wrecker, unless otherwise indicated:

- (1) Towing of wrecked or disabled vehicle: Two-axle vehicle weighing 10,000 lbs. or less - \$175.00.
 - (2) Towing of wrecked or disabled vehicle: Two-axle vehicle weighing 10,001 lbs. through 26,000 lbs.—\$200.00.
 - (3) Towing of wrecked or disabled vehicle: Two-axle vehicle weighing 26,001 lbs. or more, or any vehicle with more than two axles—\$350.00.
 - (4) Towing of wrecked or disabled vehicle with a trailer or other vehicle attached in tandem: \$75.00 per trailer or vehicle attached in tandem.
 - (5) Towing of wrecked or disabled vehicle with a trailer or other vehicle attached in tandem, when the tandem trailer or other vehicle exceeds 40 feet in length: \$75.00 per trailer or vehicle attached in tandem.
- (Note: Towing services provided hereunder include cleaning of debris from roadway, pickup and towing of vehicle to any destination within the city limits).
- (6) Oil dry: if less than one bag is needed for clean-up, this will be included in the tow. If one or more bags of clean up material is used, \$30.00 per bag.
 - (7) Righting: Two-axle vehicle weighing 10,000 lbs. or less—\$75.00 for the first hour and prorated in ten-minute increments thereafter based on \$75.00 per hour. (For example, if righting a vehicle takes one hour and 38 minutes, the total charge would be $\$75.00 + 50.00 = \125.00) If a second wrecker is required to attach to the vehicle simultaneously with the first wrecker in order to right the vehicle, the second wrecker may also charge \$75.00 for the first hour and prorated in ten-minute increments thereafter based on \$75.00 per hour.
 - (8) Righting: Two-axle vehicle weighing 10,001 lbs. through 26,000 lbs.—\$200.00 for the first hour and prorated in ten-minute increments thereafter based on \$200.00 per hour. If a second wrecker is required to attach to the vehicle simultaneously with the first wrecker in order to right the vehicle, the second wrecker may also charge \$200.00 for the first hour and prorated in ten-minute increments thereafter based on \$200.00 per hour.

- (9) Righting: Two-axle vehicle weighing 26,001 lbs. or more, or any vehicle with more than two axles—\$350.00 for the first hour and prorated in ten-minute increments thereafter based on \$350.00 per hour. If a second wrecker is required to attach to the vehicle simultaneously with the first wrecker in order to right the vehicle, the second wrecker may also charge \$350.00 for the first hour and prorated in ten-minute increments thereafter based on \$350.00 per hour.
- (10) Winching: Two-axle vehicle weighing 10,000 lbs. or less—\$75.00 for the first hour and prorated in ten-minute increments thereafter based on \$75.00 per hour. If a second wrecker is required to attach to the vehicle simultaneously with the first wrecker in order to wench the vehicle, the second wrecker may also charge \$75.00 for the first hour and prorated in ten-minute increments thereafter based on \$75.00 per hour.
- (11) Winching: Two-axle vehicle weighing 10,001 lbs. through 26,000 lbs. —\$200.00 for the first hour and prorated in ten-minute increments thereafter based on \$200.00 per hour. If a second wrecker is required to attach to the vehicle simultaneously with the first wrecker in order to wench the vehicle, the second wrecker may also charge \$200.00 for the first hour and prorated in ten-minute increments thereafter based on \$200.00 per hour.
- (12) Winching: Two-axle vehicle weighing 26,001 lbs. or more, or any vehicle with more than two axles—\$350.00 for the first hour and prorated in ten-minute increments thereafter based on \$350.00 per hour. If a second wrecker is required to attach to the vehicle simultaneously with the first wrecker in order to wench the vehicle, the second wrecker may also charge \$350.00 for the first hour and prorated in ten-minute increments thereafter based on \$350.00 per hour.

(Note: For the purposes of this section, winching shall be defined as the removal of a vehicle, trailer, or other piece of equipment from a location inaccessible to a wrecker to a location where the object of removal may be safely secured and towed by the wrecker. Winching shall not include any incidental or routine winching necessary to load any

vehicle onto the wrecker. Second wrecker fees may only be charged when it is necessary that both wreckers are hooked to the vehicle, and pulled in tandem, to right or winch the vehicle safely).

- (13) Righting or lifting vehicle by airbag, per pound lifted: \$0.035.
- (14) Forklift, backhoe, track hoe, and any other necessary recovery equipment services shall be at commercial rental rates plus ten percent per hour (not including operator).
- (15) No keys to vehicle: Included in towing services.
- (16) Passenger vehicle storage rates:
 - a. First day: \$30.00 (The first day ends at midnight on the day that the vehicle was towed)
 - b. Each day thereafter: \$30.00 (Beginning at midnight on the day after the vehicle was towed.)
- (17) Large haul storage rates: \$75.00 per day, per piece.
- (18) After-hours vehicle release, i.e, times other than Monday through Friday, 8:00 a.m. to 5:00 p.m.: \$35.00.
- (19) Tows to locations outside the city limits only:
 - a. Regular haul: The per mile rate shall be equal to the national average diesel gas per gallon price as reported on the date this ordinance is adopted; thereafter, the per mile rate shall be equal to the national average diesel gas price as reported on January 1 each year and shall remain in full force and effect until July 1 of each year at which time the national average gas price reported on July 1 shall be in effect until the following January 1. The average price per gallon as reported by the United States Energy Information Administration (See <http://www.eia.gov/oog/info/gdu/gasdiesel.asp>, as may be renamed or readdressed) shall govern.

- b. Large haul: The per mile rate shall be double the national average diesel gas per gallon price as reported on the date this ordinance is adopted; thereafter, the per mile rate shall be equal to the national average diesel gas price as reported on January 1 each year and shall remain in full force and effect until July 1 of each year at which time the national average gas price reported on July 1 shall be in effect until the following January 1. The average price per gallon as reported by the United States Energy Information Administration (See <http://www.eia.gov/oog/info/gdu/gasdiesel.asp>, as may be renamed or readdressed) shall govern.
- (20) Gate fee, including any fee to bring a vehicle from the storage lot to a vehicle owner, or allowing a vehicle owner to retrieve personal belongings or other items from a vehicle: 1st visit No charge, second and subsequent visits, \$35.00 per visit.
- (21) No fees incurred by the wrecker company to report or enter vehicle information on the ALDOR Unclaimed/Abandoned vehicle portal may be charged if the vehicle is redeemed or returned to the owner or his designee within two calendar days. After two calendar days, no more than \$75.00 may be charged for fees associated with reporting or entering vehicle information on the ALDOR Unclaimed/Abandoned vehicle portal.
- (22) The rates and charges as established herein do not relate to or regulate consensual wrecker services in which the vehicle's owner or operator expressly requests towing or wrecker services from a specific wrecker operator and chooses not to utilize the rotation roster system.

Section 22-262. Suspension from Rotation Roster

- (a) If a wrecker company fails to abide by the terms of this Chapter, it shall be subject to suspension from the City Wreck Rotation Roster until it becomes in compliance with the full requirements of this Chapter.
- (b) Any and all operators under contract with the City of Madison for the performance of wrecker and/or towing services that fail to comply with the full requirements of this Chapter may be found to be in breach of said contract and such breach may be grounds for the City to terminate any such contract.
- (c) Any complaints made against a Wrecker business, Wrecker company, and/or wrecker operator shall be made to the police chief or his/her subordinates. There shall be a complaint form that includes at a minimum: (1) The name of the wrecker/wrecker business/wrecker company and/or wrecker operator; (2) the date of the interaction with said wrecker, and (3) the surrounding facts that form the basis of said complaint.
- (d) All operators on a rotation roster and/or under contract with the city for wrecker services shall direct any owners of vehicles with complaints regarding the operator to the police department to log any such complaint with the operator.
- (e) The police chief and/or his/her subordinates are tasked with reviewing said complaints and determining whether any sanction should occur against said Wrecker business, Wrecker company or Wrecker Operator.
- (f) If a Wrecker Business, Company, or Operator has received numerous verified complaints against it for poor service or other improper business techniques, it is within the discretion of the police chief to determine whether a Wrecker business or Wrecker company should be suspended from the City Wreck Rotation Roster.
- (g) If the police chief determines that a suspension is in order for failure to abide by the terms of this Chapter, the following terms of suspension shall govern said suspensions:
 - a. First suspension: 30 days.
 - b. Second suspension: 60 days
 - c. Third suspension: 90 days

(h) If any further violations occur after three previous suspensions, the City shall have the right to permanently reject the Wrecker Company or Wrecker Business from the City Wreck Rotation Roster and/or pull the business license of said Wrecker Company or Wrecker Business.

Section 22-263. If any provision of this Ordinance, or the application thereof to any person, thing or circumstances, is held invalid by a court of competent jurisdiction, such invalidity shall not affect the provisions or application of this ordinance that can be given effect without the invalid provisions or application, and to this end, the provisions of the code and such amendments and statutes are declared to be severable.

Section 22-264. No other provisions of the City Code are amended by this Ordinance, unless specifically stated and referenced herein.

Section 22-265. That this ordinance shall become effective upon its adoption and proper publication as required by law.

READ, PASSED AND ADOPTED this 10th day of April 2023.

ATTEST:

Ranae Bartlett, Council President
City of Madison, Alabama

Lisa D. Thomas, City Clerk-Treasurer
City of Madison, Alabama

APPROVED this _____ day of April 2023.

Paul Finley, Mayor
City of Madison, Alabama