

ARTICLE III. WRECKERS

DIVISION 1. GENERALLY

Sec. 118-81. 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:

Accident means any occurrence which renders a vehicle wrecked or disabled.

Disabled vehicle means a vehicle which has been rendered unsafe to be driven as the result of some occurrence other than a wreck including, but not limited to, mechanical failure or breakdowns, fire, vandalism or a vehicle which is in a safe driving condition, but the owner is not present, able or permitted to drive as to reasonably necessitate that the vehicle be removed by a wrecker.

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

Permit means authorization granted by the city under the provisions of this article to engage in towing from the wrecker rotation lists in the city.

Permit holder means any person possessing a current, valid permit to engage in towing from the wrecker rotation lists in the city.

Person means any company, partnership, corporation or individual.

Storage yard means the site to which a permit holder shall tow and store vehicles picked up under the provisions of this article. The site shall be enclosed by a privacy fence at least six feet in height and gates that are chained and locked to ensure 24-hour security. The site shall be located within the city limits or its two-mile extraterritorial jurisdiction.

Vehicle means every device in or by which any person or property is or may be transported or drawn upon a street, roadway or thoroughfare, except devices used exclusively upon stationary rails or tracks. The term shall also include trailers and semitrailers.

Wrecked vehicle means a vehicle that has been damaged as a result of overturning or colliding with another vehicle or object so as to reasonably necessitate that the vehicle be removed by a wrecker.

Wrecker means a motor vehicle designed to be used primarily for moving or towing disabled or wrecked vehicles.

Wrecker business means the business of towing or removing vehicles on public streets, regardless of whether the purpose of the towing is to remove, repair, wreck, store, trade or purchase such vehicle, when the towing is done to remove a wrecked or disabled vehicle from the scene of a collision at the instance or request of the owner thereof, or the police department or fire department, or to remove a vehicle from an unlawfully parked position at the instance or request of the police department or fire department.

Wrecker company means any person engaged in the wrecker business.

Wrecker office means a building located in the city limits or in the city's two-mile ETJ housing all permit holders, records, phones and personnel with normal business hours—Monday through Friday, 8:00 a.m. through

12:00 p.m. and 1:00 p.m. through 5:00 p.m.; Saturday from 8:00 a.m. through 12:00 p.m. and any hours on Sundays and legal holidays with the same being posted in the building.

Wrecker rotation list means the light-duty and heavy-duty rotation lists of companies prepared and used as provided by the police and fire departments.

Wrecker service means the business of towing or removing disabled or wrecked vehicles from streets at the request of the police department or the vehicle owner.

(Code 1976, § 35-1; Ord. No. 2624, § 1, 12-11-2000; Ord. No. 4330, § 2.1., 3-14-2016)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 118-82. Purpose of article.

The operation of emergency wreckers and emergency service in the city requires regulation in order to avoid competitive speeding by wreckers to the scene of accidents or collisions, and is necessary in order to avoid traffic hazards and to minimize the danger of injury to persons and damage to property.

(Code 1976, § 35-2)

Sec. 118-83. Article provisions cumulative.

The provisions of this article shall be cumulative of all laws of the state and the United States governing the subject matter of this article.

(Code 1976, § 35-3)

Sec. 118-84. Penalty for violation of article.

- (a) Any owner, agent, driver or operator of a wrecker found guilty of violating this article or any of its provisions on complaint filed in the municipal court shall, upon a finding of guilty, be fined not less than \$1.00 nor more than \$500.00, and each day of the violation shall constitute a separate offense.
- (b) In addition to the penal remedy for the preceding paragraph, the city shall be entitled to injunctive or other civil remedy in any court of competent jurisdiction in accordance with the laws of the state.

(Code 1976, § 35-4; Ord. No. 2624, § 1, 12-11-2000)

Sec. 118-85. Establishing a limit on the number of wrecker companies.

- (a) The number of wrecker companies on the light-duty rotation list shall be based on the annual population census at one wrecker company per each full 10,000 residents in population; provided, however, that the current list of 11 wrecker companies on the light-duty rotation list may be maintained until attrition has reduced the number to the maximum established in the preceding sentence.
- (a.1) The number of wrecker companies on the heavy-duty rotation list shall be based on the annual population census at one wrecker company per each full 35,000 residents in population. No person shall be allowed to have more than one listing on the heavy-duty rotation list, whether in the person's own name, or any other assumed/business name.
- (b) The city planning department is hereby charged with the responsibility of the determining the yearly population of the city. Such report shall be generated within the first six months of each calendar year. Such

population report shall thereafter be approved by the city council at a regular meeting. Staff shall not increase the number of wrecker companies until such population report has received the approval of the city council.

(Code 1976, § 35-5; Ord. No. 2867, 9-8-2003; Ord. No. 4330, §§ 2.2., 2.3., 3-14-2016)

Secs. 118-86—118-110. Reserved.

DIVISION 2. PERMITS

Sec. 118-111. Required; application; information.

No person may engage in wrecker service in the city without first obtaining a permit to do so from the city secretary. Every person desiring to provide such wrecker service within the city may apply for a permit to operate as an authorized wrecker service company from the city secretary for each wrecker proposed to be operated. For each wrecker for which a permit is sought, the applicant must submit the following:

- (1) The name, address, telephone number and state driver's license number of the owner of the wrecker;
- (2) The name, address, telephone number and state driver's license number of the operator and/or wrecker company;
- (3) The trade name under which the wrecker service will operate;
- (4) The name and type of wrecker to be operated;
- (5) An agreement that the applicant will participate in the wrecker rotation list;
- (6) A certificate showing the vehicle is adequately covered by a public liability and property damage insurance; as prescribed in section 118-112(2);
- (7) A statement that the wrecker service will provide wrecker service on a 24-hour basis, seven days a week;
- (8) The type of wrecker service to be provided, i.e., light-duty or heavy-duty;
- (9) Wrecker company owner/operators will submit a notarized certificate provided by the city secretary. This form will list and certify that the wrecker company owners and that each driver:
 - a. Has not been convicted, at any time of a felony offense;
 - b. Is not on probation for any criminal offense above the grade of a class C misdemeanor;
 - c. Has not been convicted of a class A misdemeanor offense within the last 12 months;
 - d. Has not been convicted of a class B misdemeanor offense within the last six months;
 - e. Has not been convicted of the offense of driving while intoxicated or driving under the influence of drugs within the last 24 months;
 - f. That updated notarized forms, listing personnel changes will be submitted to the city secretary within three days, providing personnel additions and deletions by the wrecker company owners; and
 - g. That no permit authorizing the operation of a wrecker business and no permit authorizing the operation of a wrecker on the streets of the city shall be issued or reissued, if wrecker company owners and/or wrecker drivers are in violation of the provisions of this section. In addition, valid

wrecker permits will be immediately revoked, if wrecker company owners and/or wrecker drivers are found to be in violation of the provisions of this section, and/or the wrecker company owner fails to notify the city secretary of violations of the provisions of this section.

(10) All wrecker permits shall be displayed visibly on each wrecker operated in the city.

The city secretary/or city manager may also require any additional information of an applicant deemed necessary.

(Code 1976, § 35-11)

Sec. 118-112. Requirement for issuance.

After the city manager, chief of police and city secretary have reviewed and approved the application, a permit shall be issued for authorization to engage in the wrecker business to all applicants complying with the provisions of this article, and shall issue a permit for all wreckers of such applicants so complying. No permit authorizing the operation of a wrecker business and no permit authorizing the operation of a wrecker on the streets of the city shall be issued unless the following requirements are met:

- (1) *Wrecker specifications.* Every wrecker proposed to be used by the applicant shall comply with the following minimum requirements:
 - a. Each light-duty shall not be less than three-quarter-ton in size and equipped with booster brakes.
 - b. Each heavy-duty wrecker shall not be less than 2½ tons in size and equipped with booster brakes.
 - c. Each light-duty wrecker shall be equipped with a power operated winch, winch line and boom, with a factory-rated lifting capacity of not less than 5,000 pounds, single-line capacity.
 - d. Each heavy-duty wrecker shall be equipped with a power operated winch, winch line and boom, with a factory-rated lifting capacity of not less than 32,000 pounds, single-line capacity.
 - e. Each wrecker shall carry as standard equipment: a tow bar, towing dollies, safety chains, jack stands, a fire extinguisher, wrecking bar, broom, shovel and flares.
 - f. Each wrecker shall be equipped with two-way radio equipment which is capable of providing two-way voice communication with either the applicant's base station or the police station.
 - g. Each wrecker and all of its equipment shall be in a safe and good working condition.
- (2) *Insurance.* The applicant shall procure and keep in full force and effect a policy of public liability and property damage insurance issued by a casualty insurance company authorized to do business in the state and in the standard form approved by the board of insurance commissioners of the state, with the insured provision of such policy including the city as an insured, and the coverage provision insuring the public from any loss or damage that may arise to any person or property by reason of the amount of recovery on each wrecker shall be in limits of not less than the following sums:

For damages arising out of bodily injury to or death of one person in any one accident \$50,000.00

For damages arising out of bodily injury to or death of two or more persons in any one accident 100,000.00

For injury to or destruction of property in any one accident 25,000.00
- (3) *Permanent location of wrecker service office, storage yard and wreckers.* The applicant shall present evidence that such wrecker company shall have a permanently located wrecker office, storage yard, and wreckers within the city limits or its two-mile extraterritorial jurisdiction, so that the wrecker can speedily and efficiently respond when called by the police or fire departments for service.

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- (4) *Taxes.* No delinquent taxes shall be due the city upon any wrecker, wrecker office or storage yard for which such permit or license is sought, and the owner thereof shall not have failed to render the same for ad valorem taxation.
 - (5) *Inspection of wrecker.* Each permit for a wrecker vehicle shall state that such wrecker has been inspected and approved under the direction of the department of public safety, and a current inspection sticker shall be affixed to the inside of the windshield of the appropriate wrecker vehicle.

(Code 1976, § 35-12)

Sec. 118-113. Operation of wrecker without permit prohibited; permit nontransferable; expiration.

- (a) No person shall operate a wrecker on the public streets of the city unless a permit to engage in the wrecker business has been issued to the owner of such wrecker.
- (b) No permit shall be transferable, and every permit shall expire at midnight on December 31 of the calendar year in which it was issued.

(Code 1976, § 35-13)

Sec. 118-114. Permit fee.

The annual fee for a wrecker company to provide wrecker service for the city shall be \$15.00 for each wrecker which is to be used. Such fee shall defray the cost of inspection and shall be payable at the time of application. No refund of this fee will be made under any circumstance.

(Code 1976, § 35-14)

Sec. 118-115. Revocation of permit; hearing.

If the chief of police believes or has reason to believe that an authorized wrecker company has violated any of the terms or provisions of this article, he shall have the right and duty to file a complaint with the municipal court in accordance with section 118-84 and/or to recommend to the city council that the license or permit of such wrecker company be revoked or suspended. In the event of such recommendation, the wrecker company shall have the right to a hearing before the board after five days' written notice of such hearing setting forth the time and place. After such hearing of the evidence and testimony presented by either or both sides, the city council can revoke or suspend the permit of the offender if it finds such action to be necessary, and its decision in this matter shall be final.

(Code 1976, § 35-15)

Secs. 118-116—118-150. Reserved.

ARTICLE IV. OPERATION OF WRECKER SERVICE

Sec. 118-151. Identification of wrecker service company.

Every wrecker shall be painted on the door thereof the name of the owner or the trade name under which the owner operates, together with the owner's telephone numbers; limiting of three telephone numbers with the first being a Mission number, and wrecker identification number (i.e. Wrecker #1, #2, etc.). The letters mentioned in this section shall be not less than four inches in width and the numbers not less than 2½ inches in height.

(Code 1976, § 35-20; Ord. No. 2624, § 1, 12-11-2000)

Sec. 118-152. Safety precautions.

Each wrecker company permittee shall follow standard safety precautions and operation procedures generally recognized in the wrecker business to and from and at the scene of an accident or collision and shall comply with all traffic code ordinances of the city and state traffic laws. Each wrecker company at the scene of an accident or collision shall promptly remove all debris from accidents and collisions occurring on the public right-of-way.

(Code 1976, § 35-21)

Sec. 118-153. Wreckers to be summoned by police or fire department.

No person shall drive a wrecker to or near the scene or site of an accident or collision on the streets of the city unless such person has been called to the scene by the police department or fire department of the city; provided, however, that when it is necessary to prevent death or bodily injury to any person involved in an accident or collision, the prohibition of the section shall be inapplicable. The owner or operator of a wrecker shall not use or act upon any information received on the shortwave frequency of the police or fire department of the city for his own benefit or the benefit of any other person in connection with the operation of a wrecker business unless the owner or operator was called or summoned by the city police or fire department. If any wrecker appears at the scene of an accident or collision, the owner or operator of which was not specifically called by the city police or fire department, it shall be conclusively presumed that such owner or operator unlawfully intercepted and acted upon the information transmitted by the police or fire department on its radio frequency.

(Code 1976, § 35-22)

Cross reference(s)—Police, ch. 78.

Sec. 118-154. Soliciting wrecker business at scene of accident.

No person may solicit in any manner, directly or indirectly, on the streets of the city, the business of towing a vehicle which is wrecked or disabled on any street, regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading or purchasing the vehicle. Proof of presence of a wrecker or motor vehicle owned or operated by a person engaged in the wrecker business, either as owner, operator, employee or agent, on a street in the city at or near the scene or site of an accident which has not been called to the scene by the police department within 30 minutes after the occurrence of an accident, is prima facie evidence of solicitation in violation of this section.

(Code 1976, § 35-23)

Sec. 118-155. Soliciting by advertising at scene of accident.

No person may solicit any business at or near the scene of an accident which deals directly or indirectly with the towing, removing, repairing, wrecking, storing, trading, or purchase of a wrecked or disabled motor vehicle, trailer or semitrailer on the streets or sidewalks of the city, nor may a person solicit the business of towing, buying or offering to buy a wrecked or disabled motor vehicle, vehicle trailer or semitrailer on the streets, sidewalks or any public place in the city, by distributing an advertisement, advertising a repair shop, garage, or place of business where the wrecked or disabled motor vehicle, vehicle trailer or semitrailer may be repaired, stored, wrecked, traded or purchased. Proof of the unauthorized presence of a person engaged in the business of towing, repairing, wrecking, storing or offering to purchase or trade for a wrecked or disabled motor vehicle, vehicle trailer, or semitrailer at or near the scene of an accident is prima facie evidence of solicitation in violation of this section.

(Code 1976, § 35-24)

Sec. 118-156. Interception of police or fire department radio messages.

No owner of a wrecker company not licensed by the city shall intercept any message emanating through the medium of the city police or fire department radio frequency or divulge or publish the existence, contents, substance, purpose, effect or meaning of such intercepted communication; and no person not being entitled thereto shall receive or assist in receiving any such message and use the same, or any information contained therein, for his own benefit or for the benefit of another person.

(Code 1976, § 35-25)

Cross reference(s)—Police, ch. 78.

Sec. 118-157. Wrecker selection by owner of vehicle.

When a police officer is investigating an accident determines that any vehicle which has been involved in a collision or accident upon a public street is unable to proceed safely under its own power, or when the owner thereof is physically unable to drive such vehicle, the officer shall request the owner to name the wrecker company the owner desires to remove the vehicle. When the owner has named the wrecker company desired the police officer shall communicate that fact immediately to police department headquarters, and it shall be the duty of the officer receiving such information at headquarters to call the designated company or authorized agent of the company to send a wrecker to the scene of the accident or collision.

(Code 1976, § 35-26)

Sec. 118-158. Response to calls.

It shall be the duty of every wrecker operator to answer any call made by the police department or fire department on a 24-hour basis, seven days a week. Every call for wrecker service shall be responded to within 15 minutes on a consistent basis. However, exceptions may be made to this if unforeseen or extenuating circumstances are involved. The chief of police shall determine whether those circumstances were in fact just reason for not providing adequate response time.

(Code 1976, § 35-27)

Sec. 118-159. Wrecker rotation list.

- (a) The city secretary shall provide the police department two lists of eligible wreckers to be used in providing wrecker service for the city. One list shall be made for light-duty wrecker service and the second list shall be for heavy-duty wrecker service.
- (b) A wrecker being called from the wrecker rotation list is referred to as a rotation pull. When a wrecker is needed, the investigating officer will communicate the need for a wrecker to the police dispatcher on duty. On receiving this communication, the dispatcher shall call the first wrecker company on the rotation list to remove the vehicle to a place designated by the officer. On each succeeding communications, the next wrecker company on the list is assigned. If an answer cannot be reached by the dispatcher, he shall call the next succeeding wrecker company on the list. The dispatcher shall keep proper rotation of each call on the master rotation list.
- (c) Rotation on the list shall be alphabetical continuous rotation, with each wrecker company holding a permit called in sequence from the top of the alphabetical rotation list. When called, the wrecker company on top of the list shall then be placed on the bottom of the list, and the rotation shall be continuous. Each wrecker company shall be issued a maximum of three permits. As each new wrecker company becomes qualified, it shall be placed at the end of the list.
- (d) A heavy-duty wrecker shall be called from the wrecker rotation list under any of the following circumstances:
 - (1) A tandem-axle drive tractor is involved;
 - (2) A safety officer or other appropriate official of a damaged or disabled vehicle's company requests a heavy-duty wrecker unless honoring the request would result in unreasonable delay in clearing the street; and
 - (3) The investigating police officer determines that a heavy-duty wrecker is required.

(Code 1976, § 35-28; Ord. No. 4330 , § 2.4., 3-14-2016)

Sec. 118-160. Storage yard.

- (a) Unless otherwise directed by the individual in control of the towed vehicle the wrecker shall deliver the towed vehicle to the wrecker company storage yard. Fees for storage of vehicles removed or towed shall be as set by the city council. Before any owner can reclaim any towed vehicle from the storage yard, he must pay all of the applicable storage and towing fees. In the event the vehicle is never claimed it shall be disposed of as prescribed by the Texas Abandoned Motor Vehicle Act V.T.C.A., Transportation Code § 63.001 et seq.
- (b) The storage yard does not have to be at the same location as the wrecker company's office, but shall be located within the city limits or its two-mile extraterritorial jurisdiction.

(Code 1976, § 35-29; Ord. No. 4330 , § 2.5., 3-14-2016)

Sec. 118-161. Police officer not to influence selection of wrecker service; may direct that vehicle be taken to the city pound.

No police officer investigating or present at the scene or site of any wreck, accident or collision on a public street shall, directly or indirectly, either by word, gesture, sign or otherwise recommend to any person the name of any particular person engaged in the wrecker business or repair business; provided, however, that any police officer, may direct that any vehicle, whether towed by a wrecker selected by the owner of the vehicle or from the

wrecker rotation list, shall be taken by the driver of the wrecker towing the vehicle directly to the city pound or other location designated by the officer and there held by the city for any lawful purpose.

(Code 1976, § 35-30)

Cross reference(s)—Police, ch. 78.

Secs. 118-162—118-190. Reserved.

ARTICLE V. RATES AND FEES¹

Sec. 118-191. Maximum rates for wrecker service.

The maximum rates or fees authorized to be charged for wrecker service are as follows:

- (1) Towing a wrecked, disabled vehicle or illegally parked vehicle, 24 hours a day\$100.00.
- (2) If a vehicle is so disabled as to require the use of special equipment, a \$50.00 charge will be assessed. A flatbed tow truck will not be considered special equipment unless special circumstances arise and are authorized by the Mission Police Department.
- (3) Answering a valid call and going to scene of an accident or collision, but service is refused, the wrecker dispatched will be placed back on rotation.
- (4) Rural service. A rate of \$15.00 will be assessed when a wrecker service company is required to leave the city limits. In addition, a wrecker company will assess a charge of \$2.00 per mile upon returning with a towed vehicle.
- (5) Notification to registered owner via certified letter\$50.00
- (6) Any person arrested on an alcohol-related incident, i.e.; (driving while intoxicated, public intoxication and related Texas Alcohol Beverage Commission violations) will not be able to recover the towed vehicle until six hours after the initial arrest.
- (7) Heavy-duty private property tows. All heavy-duty private property tow fees shall be in accordance with the Texas Administrative Code Title 16 Part 4 Chapter 86.
- (8) Heavy-duty wrecker fees. All heavy-duty wrecker fees shall be as follows:

Heavy-duty wrecker fees (vehicles in excess of 33,000 lbs.)\$600.00

Combination/tractor (loaded)\$1,000.00

Combination (loaded)\$1,350.00

Work time\$400.00 hr./truck

Winching\$200.00 hr./truck

Hookup\$150.00

Labor\$100.00 hr./personnel

Waiting time\$125.00 hr.

¹Cross reference(s)—Finance, § 2-231 et seq.

Mileage\$6.00 mile (round trip)

Air supply\$100.00

Drive shaft removal\$50.00

Axel removal\$100.00

Brake chamber release\$25.00/chamber

Snatch block\$50.00/block

Heavy-duty rollback\$200.00

(Code 1976, § 35-31; Ord. No. 2624, § 1, 12-11-2000; Ord. No. 3777, § 1, 5-29-2012; Ord. No. 4330 , §§ 3.1., 3.2., 3-14-2016)

Sec. 118-192. Fees for impoundment or storage of vehicles to be in addition to other penalties for violation of traffic code.

The owner of any vehicle impounded under the provisions of the traffic code of the city shall pay, in addition to any other penalty which may be charged against him for any violation of the traffic code, the cost of impounding, moving and storing his vehicle, which cost shall not exceed the maximum rate allowable under this article for the type of service provided.

(Code 1976, § 35-32)