

ORDINANCE NO: ~~1622~~ 2086 -2021

TOWING ORDINANCE OF
THE CITY OF PRICHARD, ALABAMA

WHEREAS, it is desirable to adopt a through and encompassing Ordinance regulating the operation of wreckers within the police jurisdiction of the City of Prichard, and,

WHEREAS, it is desirable to repeal or amend all Ordinance previously adopted relating to the operation of wreckers within the police jurisdiction of the City of Prichard, it is, therefore,

ORDAINED by the City Council of the City of Prichard, Alabama as follows:

Section 1. For the purposes of this Ordinance, the following terms, phrases and words shall be defined as follows:

- (A) City – The City of Prichard, Alabama and its police jurisdiction;
- (B) Person – Any individual, firm, partnership, association, corporation, company, or organization of any kind;
- (C) City Street – Any street, highway, road, including the right-of-way of any street, highway, or road, alley, public place, park, or any private property upon which entry is permitted to the City by consent, law, or ordinance, within the corporate limits or the police jurisdiction of the City;
- (D) Owner – Any person holding legal title to a motor vehicle or who has the legal right to possession thereof;
- (E) Motor Vehicle – Shall mean every vehicle which is self-propelled, except for devices moved only by human power, or used exclusively upon stationary rails or tracks, or which is a trailer or semi-trailer;
- (F) Wrecker – Shall mean any motor vehicle used for the purpose of towing or removing motor vehicles from streets;
- (G) Wrecker Business – Shall mean the business of operating a wrecker for a profit;
- (H) Wrecker Company – Shall mean any person engaged in the wrecker business;
- (I) Wrecker Rotation List – The rotation list of wrecker companies prepared and used as provided in this ordinance;
- (J) Fire Extinguisher – Shall mean a portable fire extinguisher as defined by the National Board of Fire Underwriters, being at least a fifteen (15) pound carbon dioxide, or twenty (20) pound dry chemical extinguisher, with Underwriters Laboratory approval, in a quick release carrier, and inspected by the Prichard Fire Department within the previous twelve (12) months;

(K) Principal Place of Business – The place where a wrecker company conducts a wrecker business.

Section 2. 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 License Officer of the City, and without first obtaining a permit for each wrecker to be operated as hereinafter provided from the Chief of Police of the City.

Section 3. Application for permit issued hereunder shall be made upon blank forms prepared and made available by the City, and shall state:

- (A) The applicant's name, home address, and principal place of business.
- (B) A description of the wreckers owned or operated by the applicant.
- (C) The hours of operation of the wrecker business for each day of the week.
- (D) A description of the space that the applicant has available for the storage of towed motor vehicles.
- (E) Such other information as the City shall find reasonably necessary to effectuate the purpose of this Ordinance.

Section 4. No permit shall be issued for any wrecker business until the following minimum requirements have been met.

(A) Wreckers: Each wrecker proposed to be used in the wrecker business shall have the following equipment or meet the following description:

- (1) Factory recommended three quarter (3/4) ton capacity dual wheels. Dummy dual wheels are prohibited.
- (2) A power operated winch, winch line and boom with a factory rated lifting capacity, or a tested capacity of not less than four thousand (4000) pounds single line capacity. Hand operated winches are prohibited.
- (3) A rubber cradle or cradles attached to the wrecker in order to prevent any vehicle being hauled or towed from being further damaged by coasting, rocking, swinging, or slamming into the wrecker of any part thereof.
- (4) There shall be placed on each wrecker as standard equipment, tow bars, safety chains, a fire extinguisher, wrecking bars, brooms and an axe. There shall be further proof furnished that the wrecker company has one dolly available for its wreckers when and if necessary, and that the name and number of the wrecking company be permanently affixed to said dolly.
- (5) A flashing yellow light affixed to the top of the cabin of the wrecker.
- (6) The name, address and telephone number of the wrecker company be permanently affixed and accommodate a minimum of ten (10) motor vehicles and enclosed by a six-foot (6') chain link fence and gate. However, an applicant may not be required to erect a fence if satisfactory evidence is submitted that the space is secure and that to require the erection of the fence would produce an undue

hardship. Provided, however, that the cost of erecting a fence shall not in and of itself be considered an undue hardship.

Section 5. The Chief of Police of the City shall issue a permit decal for each wrecker proposed to be operated by the applicant upon finding that all of the provisions of this Ordinance, and other Ordinance of the City have been complied with, and upon being satisfied by the License Officer of the City that the wrecker company has procured all necessary City licenses, and has deposited with the City License Officer all insurance policies required by the provisions of this Ordinance. The permit decal issued by the Chief Police shall be affixed to each wrecker and shall not be transferable.

Section 6. Each wrecker company qualified to operate in the City of Prichard shall obtain a certificate of safety inspection from the Prichard Police Department within the first ten (10) days of January and within the first ten (10) days of July of each calendar year after the initial registration of said wrecker. Such inspection shall determine the condition and operability of the wrecker's tires, brakes, steering mechanism, wheel alignment, frame, springs, cables, winches, rear view mirrors, turn indicators, lights (including flashing yellow light on top), and windshield wiper. Such inspection shall further indicate that such wrecker is properly equipped with all of the facilities required by this Ordinance. Such certificate shall be kept in the wrecker at all times.

Section 7. It shall be unlawful for any wrecker company to authorize or allow the operation of, or for any person to operate, a wrecker upon the city streets without having affixed securely thereto a permit decal issued by the Chief of Police for said wrecker and having located in the wrecker a certificate of safety inspection from the Prichard Police Department for the current calendar year.

Upon conviction, a violation of this portion of the Ordinance shall be punished by a fine of \$500.00.

Section 8. No person, agent or employee, of a wrecker company shall drive a wrecker to or near the scene of an accident or collision on the streets of the City and park the same unless such wrecker has been called to the scene of the accident or collision by the Police Department of the City, nor shall any representative, agent or employee of a wrecker company solicit business for a wrecker company at the scene of an accident or collision.

Upon conviction, a violation of this portion of the Ordinance shall be punished by a fine of \$500.00.

Section 9. General violations. Any person, wrecker company, agent or employee of a wrecker company, or wrecker operator, found guilty of violating this section shall be subject to being punished as prescribed in chapter 1, article II, City Code of the City of Mobile, Alabama (1991), with a fine not to exceed five hundred dollars (\$500.00) plus court costs, or by community service for a period not exceeding six (6) months, or by both fine and community service at the discretion of the municipal judge. (Ord. No. 63-058-2016, § 1, 11-8-16) Upon conviction, a violation of this portion of the Ordinance shall be punished by a fine of \$500.00.

Kickbacks for business. It shall be unlawful and an offense against the city for any person to offer or pay any reward or remuneration to any city employee, officer, or agent, police officer or any employee of the city, for the purpose of obtaining the solicitation of business for any wrecker company.

Rotation List Violations. Violation of any rule, regulation, or provision of this article as it relates to wrecker services for rotation list dispatches may be cause for suspension or removal of the wrecker company from the rotation list. The department shall notify the wrecker company in writing of a violation and the applicable penalty.

(A) Upon receipt of notification, the wrecker company may, within fifteen (15) days thereof, deliver a written request to the City Clerk and the department's representative for a hearing to be held before the city council. The receipt of a written request by the Department for a hearing within the prescribed time shall stay the penalty pending final disposition unless it is determined by the chief of the department that it would endanger public safety to allow said wrecker company to continue on the rotation log.

(B) A hearing shall be held within twenty-one (21) days after the filing of a written request for a hearing before the city council. The city clerk shall notify the wrecker company and the department of the time, date, and place of the hearing. At such public hearing, the wrecker company shall be provided an opportunity to be heard. The city council may hear from department and any other city representatives who may have relevant information.

(D) The city council shall render a decision by resolution within ten (10) days from the date of such hearing. Such resolution shall set forth the decision of the city council and the reasons for the same.

(E) The department will reinstate to the rotation list a suspended wrecker company upon written application after the period of suspension has elapsed and after the department has determined that such wrecker company is in compliance with all regulations of this article.

(F) If any violations of the regulations or provisions of this article are deemed by the city representative to be of such a nature as to endanger public safety, the department shall immediately suspend from the rotation list the wrecker company committing such violation, then provide notice pursuant to the provisions of subsection (a) above.

(G) No applications for reinstatement to the rotation list resulting from violation of these regulations will be considered by a transferee of the suspended wrecker company's business interest unless such transfer was the result of a bona fide sale of a majority of the assets of the business for a reasonable consideration. All documents demonstrating the same must be provided to the Department.

Penalties. The following penalties shall be assessed for violations:

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| (A) First Violation: | 30-days suspension |
| (B) Second Violation within 12-months: | 6-months suspension |
| (C) Third Violation within 12-months of 1 st : | 12-months suspension |
| (D) Fourth Violation within 12-months of 2 nd : | Permanent Removal |

Enhanced penalties. Penalties for violations involving failure to arrive on the scene of a dispatched rotation list dispatch, charging in excess of the rates established herein or any infraction which jeopardizes the safety of the public, depending upon the severity thereof, may be accelerated up to and including permanent removal without following the above progressive penalty steps. There shall be no written warnings for any of such violations.

Section 10. Upon receipt of proof satisfactory to the Chief of Police, that any wrecker has violated any of the provisions of this Ordinance, or any other Ordinance of the City of Prichard or law of the State of Alabama, the Chief of Police may, in his discretion, remove such wrecker company's name from the master rotation list for such length of time as shall, in the discretion of the Chief of Police, be sufficient in order to procure future compliance by said company; or in the discretion of the Chief of Police, until he received written assurance from such wrecker company that they will comply with the provisions of this Ordinance in the future. Three such suspensions or removal of a wrecker company's name from the wrecker rotation list shall be sufficient grounds for the revocation or suspension of all wrecker licenses and wrecker permits issued to such company by the City of Prichard.

Section 11. Wrecker companies authorized to operate on city streets pursuant to the provisions of this Ordinance shall have the right to tow motor vehicles from the city streets upon being called by the Police Department, as follows.

(A) **The Contract Wrecker Company:** The contract wrecker company shall be called in accordance with the terms of its contract with the City, and the ordinance adopted in connection with said contract, the terms of said Ordinance and contract being adopted herein and made a part hereof as if fully set out.

(B) **Owner Preference Wrecker Company:** In all cases where the contract wrecker is unable or not authorized to tow motor vehicle, and the owner of said motor vehicle expresses a preference as to a particular wrecker company, the Police Department shall call said owner preferred wrecker company.

The Chief of Police shall cause an owner preference selection form to be prepared. When a police officer determines that a wrecker is needed, he shall request the owner to designate in a blank space provided on said form the wrecker company he desires, and the place to which he desires the motor vehicle removed. The form shall contain a statement authorizing the Police Department to call said wrecker company, said statement to be signed by the owner. The form shall also contain a statement that the owner has no preferred wrecker company which shall be signed by the owner in that event. The owner preference selection forms shall be filed in the Police Department Records Division.

(C) **Rotation List Wrecker Companies:** There shall be maintained by the Police Department, a rotation list as provided herein. Rotation list wrecker companies shall be called in accordance therewith in the event that the contract wrecker is unable or unauthorized to tow the particular motor vehicle and the owner has no preference, is physically unable to sign the owner preference selection form, or refuses to sign the owner preference selection form.

A City Rotation Lists. The Prichard Police Department shall maintain three 3 Wrecker Rotation Lists for dispatch for nonconsensual tows:

- (1) The first list shall include all qualified wrecker companies operating large wreckers; as defined in this chapter.
- (2) The second list shall include all qualified wrecker companies operating certified hazardous materials wreckers; as defined in this chapter; and,

(3) The third list shall include all qualified wrecker companies operating wreckers other than large or hazardous materials wreckers. Inclusion in one list shall not mandate exclusion from either of the other two lists.

The Chief of Police shall cause an alphabetical master wrecker rotation list to be prepared. On receiving the first communication for a rotation list wrecker company, the communications officer shall call the first wrecker company, the communications officer shall call the first wrecker company on the list. In each succeeding communication, the next rotation list wrecker company shall be called. A proper notation of each call shall be made on the master list.

In order to be on the rotation list, a wrecker company must have its principal place of business within the police jurisdiction of the City, have applied to be on the rotation list, maintain twenty-four (24) hour, seven (7) day per week, wrecker service, and have fully complied with each and every requirement of this Ordinance. The contract wrecker shall not participate on the rotation list and shall not be a rotation wrecker.

Each wrecker company shall maintain accurate records reflecting all wrecker services performed pursuant to his/her participation on the rotation roster. The records shall meet the following requirements:

(A) 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;
- (8) The final disposition of the vehicle; and,
- (9) Any related police accident, incident, arrest, event or miscellaneous
identification numbers.

(B) Regardless of the 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.

- (C) 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.
- (D) The operator shall maintain the records for the current calendar year and the preceding calendar year.
- (E) Every wrecker company shall submit, once each month, to the department, a list of all vehicles which have been unclaimed for a period of thirty (30) or more days.
- (F) 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.

Section 12. A motor vehicle towed by the contract wrecker shall be taken to the principal place of business of the contract wrecker.

A motor vehicle towed by an owner preference wrecker company shall be taken to the destination designated by the owner on the selection form, or to the principal place of business of the wrecker company in the event there is no designation, or as is agreed upon by the owner and the wrecker company.

A motor vehicle towed by a rotation list wrecker company shall be taken to the destination designated by the owner on the selection form, or to the principal place of business of the wrecker company in the event there is no designation, or as is agreed upon by the owner and the wrecker company.

In the event that a motor vehicle is towed to a location not designed on the selection form, or to the principal place of business of the wrecker company, the wrecker company shall have the duty to notify the Police Department as to the location to which the motor vehicle is towed, and that it is towed to that location with the permission of the owner.

Section 13. Whenever a motor vehicle has been towed by a wrecker company obtained from the wrecker rotation list, the owner/operator of the vehicle being towed shall be responsible for the payment of fees associated with the towing and recovery, and storage, if applicable.

The maximum charges or fees for emergency towing by a vehicle owner or operator using the wrecker rotation list, and for towing performed without the knowledge and consent of the owner or operator of a vehicle, shall be as follows:

- (A) Towing of wrecked or disabled vehicle: Two-axle vehicle weighing 10,000 lbs. or less-\$150.00.
- (B) Towing of wrecked or disabled vehicle: Two-axle vehicle weighing 10,001 lbs. through 26,000 lbs.-\$200.00.
- (C) 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.

(D) Towing of wrecked or disabled vehicle with a trailer or other vehicle attached in tandem: \$75.00 per trailer or vehicle attached in tandem.

(E) 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: \$150.00 per trailer or vehicle attached in tandem.

(F) Righting: Two-axle vehicle weighing 10,000 lbs. or less-\$150.00 for the first hour and prorated in ten-minute increments thereafter based on \$150.00 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 \$150.00 for the first hour prorated in ten minute increments thereafter based on \$150.00 per hour.

(G) 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.

(H) 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.

(I) Winching: Two-axle vehicle weighing 10,000 lbs. or less- \$150.00 for the first hour and prorated in ten-minute increments thereafter based on \$150.00 per hour. If a second wrecker is required to attach to the vehicle simultaneously with the first wrecker in order to winch 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.

(J) 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 winch 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.

(K) 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 winch 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 a 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.)

(L) Righting or lifting vehicle by airbag, per pound lifted: \$0.035.

(M) 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).

(N) Passenger vehicle storage rates:

(1) First day: \$25.00; starts to accrue after the first 24 hours.

(2) Each day thereafter: \$25.00.

(3) Large haul storage rates: \$75.00 per day, per piece.

(4) After-hours vehicle release, i.e., times other than Monday through Friday, 8:00 a.m. to 5:00 p.m.: \$35.00.

(5) Tows to locations outside the city limits only: Up to \$5.00/mile to destinations from jurisdiction line.

The maximum fees for wrecker services, listed above, include:

(A) any credit card processing fees or overhead fees (max 5%);

(B) cleaning of debris from roadway, pickup and towing of vehicle to any destination within the city limits;

(C) Oil Dry; and,

(D) No keys to vehicle: Included in towing services.

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 list.

Section 14. It is hereby declared and determined that wreckers are not emergency vehicles within the provisions of the Traffic Code of the City, and such wreckers shall comply with all laws and Ordinance relating to motor vehicles.

Section 15. In addition to the other provisions of this Ordinance, any license or permit issued pursuant hereto is subject to suspension or revocation for violation of the provisions of this Ordinance under procedures providing for the suspension or revocation of other City business licenses.

Section 16. Notwithstanding any other provision of this Ordinance, a police officer, when in the exercise of his discretion, determines that an emergency exists endangering life, health, or property, requiring an immediate towing of a motor vehicle, may direct the police communications officer to call the next turn of said wrecker company on the wrecker rotation list.

Section 17. No permit issued pursuant to the provisions of this Ordinance shall be construed to be a franchise grant, nor shall it be construed to be the consent of the City to the operation of a private enterprise upon the City's streets.

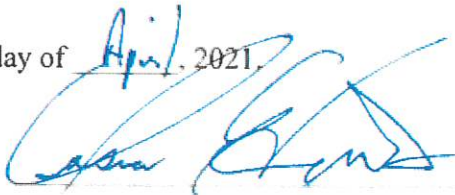
Section 18. It shall be unlawful and an offense against the City of Prichard for any person to offer, or pay, any reward or remuneration, to any police officer or any employee of the City of Prichard, for the purpose of obtaining the solicitation of business for any wrecker company. In addition to any other penalties provided herein for violation of any provision of this Ordinance, a conviction for violation of this section, or a finding by the City Council, after hearing as provide in Section 13 hereof that a wrecker company has violated this section, shall result in a permanent revocation of the license of such wrecker company and any and all permits issued to wreckers owned and operated by such wrecker company.

Section 19. The holding by a court of competent jurisdiction that any section or sub-section or clause or phrase of this Ordinance is unconstitutional or invalid for any reason shall not affect any other section or sub-section or clause or phrase of this Ordinance not in and of itself unconstitutional and invalid.

Section 20. All Ordinance or parts of Ordinance in conflict with the provisions hereof are hereby repealed.

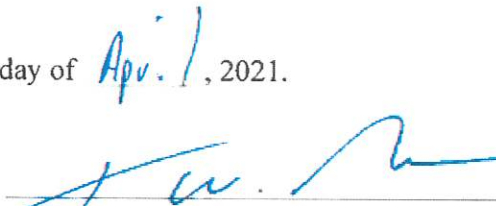
Section 21. This Ordinance shall be in full force and effect from and after the 8th day of April, 2021.

ADOPTED this the 8th day of April, 2021.



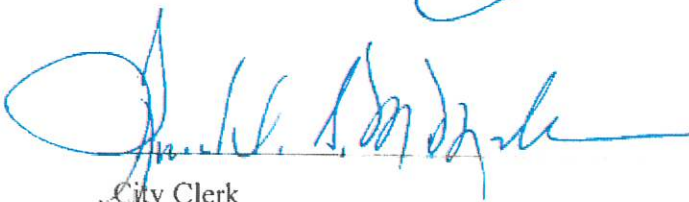
OSSIA EDWARDS, Council President

APPROVED this the 8th day of April, 2021.



JIMMIE GARDNER, Mayor

ATTEST:



, City Clerk