

ORDINANCE NO. 1622

WHEREAS, it is desirable to adopt a thorough 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 Ordinances 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 purposes 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 or 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 or 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

displayed on both doors.

(B) Insurance Policies: The deposit of the following insurance policies with the City License Officer of the City shall be required:

- (1) A general garage keeper's liability policy covering damage to property in the minimum amount of Fifty Thousand Dollars (\$50,000.00), subject to no more than a Fifty Dollar (\$50.00) deductible clause.
- (2) A general garage keeper's liability policy covering bodily injury or death in the amount of One Hundred Thousand Dollars (\$100,000.00) for any one person killed or injured and Two Hundred Thousand Dollars (\$200,000.00) for more than one person killed or injured in any one incident.
- (3) A general liability policy covering the operation of the applicant's business equipment or wreckers in the amount of One Hundred Thousand Dollars (\$100,000.00) for any one person killed or injured and Two Hundred Thousand Dollars (\$200,000.00) for more than one person killed or injured in any one incident, and Twenty-five Thousand Dollars (\$25,000.00) for all property damage arising out of any one incident.
- (4) Each policy required hereunder shall contain an endorsement providing for thirty (30) days notice to the License Officer of the City, prior to any material change therein or cancellation thereof.

(C) Principal Place of Business: The principal place of business shall meet the following requirements:

- (1) There shall be sufficient space available to

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.

- (2) Wreckers used in the wrecker business shall be at or shall leave from the principal place of business on wrecker calls, during the hours of operation of the wrecker business.
- (3) The principal place of business shall be manned by a wrecker company employee at all times that the wrecker company is operating for the purpose of receiving calls. Answer machines shall be prohibited.

SECTION 5. The Chief of Police of the City shall issue a permit for each wrecker proposed to be operated by the applicant upon finding that all of the provisions of this Ordinance, and other Ordinances 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 issued by the Chief of 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 City of Prichard Municipal Garage within the first ten days of January and within the first ten 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 wipers. 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 issued by the Chief of Police for said wrecker and having located in the wrecker a certificate of safety inspection from the City Municipal Garage for the current calendar year.

Upon conviction, a violation of this portion of the Ordinance shall be punished by a fine of not more than \$500.00, and/or as otherwise provided herein.

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 not more than \$500.00, and/or as otherwise provided herein.

SECTION 9. No person shall in any manner solicit wrecker business on city streets. The presence of any wrecker parked at or near a motor vehicle in need of wrecker

service shall be prima facie evidence of a solicitation in violation of this section.

Upon conviction, a violation of this portion of the Ordinance shall be punished by a fine of not more than \$500.00, and/or as otherwise provided herein.

SECTION 10. Upon receipt of proof satisfactory to the Chief of Police, that any wrecker company 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 is fully set out.

(B) Owner Preference Wrecker Company: In all cases where the contract wrecker is unable or not authorized to

tow a 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 Police Department records.

(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.

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 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.

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 designated 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. Rotation list wrecker companies shall not charge more than the following rates:

(A) \$45.00 for each automobile or truck of one and one-half (1½) ton or less towed to a destination within the police jurisdiction of the City.

(B) \$135.00 per hour for each truck over one and one-half (1½) ton towed to a destination within the police jurisdiction of the City.

(C) In addition to the tow charge, each wrecker shall be permitted to charge not more than \$15.00 for each tire required to be changed at the scene of the wreck; \$20.00 for pulling the drive shaft of any vehicle should the same be required, and \$35.00 for the use of any dolly on any wrecker vehicle.

(D) When any motor vehicle is in a ditch or a creek, a charge of not more than \$35.00 per hour for each wrecker needed and used, and not more than \$15.00 per man for each man needed and used (other than the driver of each wrecker) may be charged for removing said motor vehicle from said ditch or creek. In the event that the motor vehicle is towed after removal from the ditch or creek, then the charge for removal from the ditch or creek may be in addition to the charges allowed for towing.

(E) Whenever the owner of a motor vehicle designates a location within the police jurisdiction of the City, the wrecker company shall not charge any additional rate for towing to that location. In the event that the owner does not designate a location, the wrecker company may charge an additional one-half (1/2) of the appropriate rate for later towing the motor vehicle from its principal place of business to a destination designated by the owner within the police jurisdiction of the City.

(F) Each wrecker company shall be entitled to charge \$3.00 per day storage for each motor vehicle kept in storage by said wrecker company after the expiration of twenty-four (24) hours from the time said motor vehicle is first placed in storage with said wrecker company.

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 Ordinances 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 closest available wrecker. This call shall be counted as 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 provided 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 an 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 Ordinances or parts of Ordinances in conflict with the provisions hereof are hereby repealed.

SECTION 21. This Ordinance shall be in full force and effect from and after the 19 day of March, 1985.

ADOPTED this the 19th day of March, 1985.

APPROVED:

MAYOR

ATTEST:

W. C. Greene
City Clerk