

ORDINANCE NO. 1941

AN ORDINANCE REGULATING NONCONSENSUAL
TOWING OF VEHICLES; AND ESTABLISHING A WRECKER
ROTATION IN THE CITY OF PRICHARD, ALABAMA

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF PRICHARD, ALABAMA, as follows:

Section 1. Findings. The City Council has found that some members of the public and their property have been placed at risk in circumstances where their motor vehicles have been towed without their consent and placed in storage because of a variety of factors including, but not limited to, unfair and predatory towing and pricing practices, inadequate notice of when vehicles are subject to towing, unreasonable prices for towing and storage, and lack of adequate recourse in the event of improper towing or storage, among others. Since these activities involve commercial enterprises utilizing city streets and rights of way for private profit and based upon the foregoing, the City Council has concluded that the regulations provided for by this ordinance are required to protect the public health, safety and welfare generally, and particularly the safety of those members of the public whose motor vehicles have been towed without their consent and stored, as well as the public interest in ensuring that the prices charged for non-consensual tows occurring in instances when motor vehicles are trespassing on private property are fair and reasonable. This Ordinance is enacted and adopted pursuant to Section 220 of the State of Alabama Constitution of 1901, Ala. Code § 11-49-1(1975) and the exemption provided to a political subdivision of the State as set forth in 49 USCA § 14501 (c) (2) (C) which grants to such governing authority the right to regulate the price of for hire motor vehicle transportation by a tow truck if such transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle.

Section 2. Definitions.

1. **Motor Vehicle.** Every vehicle which is self-propelled, every vehicle which is propelled by electric power, and every vehicle that is drawn by a self-propelled vehicle including every trailer and semitrailer.
2. **Owner/Operator.** For the purposes of this section, an owner/operator is defined as a person other than the lienholder, possessing or holding title to a vehicle. The term includes a person entitled to the use and possession of a vehicle which can be subject to the business or commercial interest of another, permission, rental, lease, or security interest in another person or entity.

3. Storage fee. The compensation payable for the storage of a towed motor vehicle that has been stored at or in a facility owned, operated, leased or used by a tow truck service or any other business entity which owns or operates a tow truck.
4. Towing fee. The compensation payable for the towing of a motor vehicle.
5. Tow, tows, or towing. The act of removing, by tow truck, a motor vehicle from privately- owned property within the City of Prichard where it is parked. The preparation of a motor vehicle for removal by a tow truck or the attachment of a motor vehicle to a tow truck, or both, does not, for purposes of this ordinance, constitute a "tow" or "towing."
6. Towing and recovery operator. A person, business or any other entity engaged in the business of (1) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (2) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping (3) vehicles that have come to rest in places where they cannot be operated. The term includes any employee, authorized agent or legal representative of such individual or entity. Any person who in any way advertises himself as a towing and recovery operator or in any way conveys the impression that he is engaged in services of providing towing and recovery of vehicles shall be deemed to be engaged in towing and recovery services. The term does not, for purposes of this ordinance, include an individual or entity that removes motor-vehicles from public streets and other locations, pursuant to a contract with the City.
7. Business or individuals not primarily engaged in the towing of vehicles. Any business, corporation, individual or any other person or entity who is not engaged in the primary business of towing vehicles but who either owns, rents or utilizes a tow truck, whether licensed by the City or not, for the purpose of removing or towing vehicles from private property, including their own and removing such vehicles to place or places owned, controlled, leased, rented by such individual, business or entity or by agreement with another.
8. Tow truck. A motor vehicle for hire (1) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (2) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks."

Section 3. Applicability. This Ordinance applies (1) to the towing, by a towing and recovery operator, of motor vehicles from privately-owned property within the City without the consent of the vehicle owner or driver, (2) to the fees that are charged for such towing of vehicles, and (3) to the fees that are charged for the storage and retrieval of such towed vehicles.

Unless otherwise provided in herein, this Ordinance does not apply to the towing of motor vehicles from public streets and other locations that is performed pursuant to a contract with the City, or to the storage of such vehicles.

Section 4. Compliance with State and Municipal Licensing Requirements.

- A. All towing and recovery operators and all tow trucks engaged in business in the City shall comply with State and the City of Prichard licensing requirements imposed by State and the City of Prichard, and shall provide evidence of such upon request by any representative of the City authorized to enforce the provisions of this Ordinance.
- B. The City representative responsible for the enforcement of the provisions of this Ordinance shall be the Prichard Police Department.

Section 5. Removal of Trespassing Motor Vehicles.

- A. The owner, operator, or lessee, or authorized agent thereof, of any property, may have any vehicle occupying the property without the permission of its owner, operator, lessee, or authorized agent thereof, removed by towing to a storage facility until reclaimed by the owner or his agent provided the provisions of this ordinance are complied with, as well as the following:
 - (1) Signs shall be posted at all motor vehicle entrances to the property clearly, conspicuously, and legibly disclosing that vehicles parked without permission will be towed. Such signs shall be posted so that the locations on the property subject to towing shall be clearly identified. The signs shall meet the following requirements and include the following information:
 - a. The notice shall be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within five feet from the public right-of-way line. If there are no curbs or access barriers, the signs must be posted not less than one sign each 25 feet of lot frontage.
 - b. The notice shall clearly indicate, in not less than two inch high light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. The words "tow away zone" shall be included on the sign in not less than four inch high letters.
 - c. The notice shall also provide the name and current telephone number of the person or firm towing or removing the vehicles, if

the property owner, lessor, or person in control of the property has a written contract with a wrecker service.

- d. The sign structure containing the required notices shall be permanently installed with the bottom of the sign not less than four feet above ground level, and be continuously maintained on the property for not less than 24 hours prior to the towing or removal of any vehicles.
- (2) The foregoing requirement for signs shall not apply on any parcel of property used at the time of removal for one single-family residence or one two-family residence; and provided further, however, that parking spaces parallel to or at an angle to a public street and entered directly from a public street shall be deemed to be providing signs properly when the signs are placed along the sidewalk (or in a similar location when there is no sidewalk) adjacent to the space or row of spaces and there is at least one of the signs required by this ordinance within forty feet of each such space.
 - (3) The towing and recovery operator performing the tow shall comply with the following:
 - (a) Authorization of the owner, operator, or lessee of the property from which the vehicle is towed, or the authorized agent thereof. For the purposes of this subsection, "authorized agent" shall not include a representative of the towing and recovery operator.
 - (b) The tow operator shall receive a signed authorization from the property owner or their agent prior to the towing of the vehicle and the property owner or their agent must also be present when the vehicle is towed.
 - (c) Prior to performing the tow, the tow operator shall contact the Prichard Police Department and inform the Department of the removal of the vehicle providing the Department with the make, model, year, and license number of the vehicle, location from where the vehicle is towed and the location of where the vehicle is to be towed.
 - (d) The towing and recovery operator, and the owner, operator, or lessee of the property, shall maintain for public inspection at its business offices, and at the property, respectively, copies of all documents which authorized the operator to tow any motor vehicle from the property.

- (4) The towing and recovery operator performing the tow shall obtain and retain the following, and shall provide a copy of each to the owner, operator, or lessee of the property:
 - (a) Photographs or videos of the vehicle in the location from which the vehicle is being towed;
 - (b) Photographs or videos of the condition of the vehicle prior to the tow; and
 - (c) To the extent available, other documentary evidence substantiating the reason for the removal.
- (5) The tow truck used to perform the tow shall include the name, street address, and telephone number of the towing and recovery operator in a conspicuous location on the exterior of the truck.

B. This section shall not apply to public safety and public health vehicles or where a vehicle, because of a wreck or other emergency, is parked or left temporarily on the property of another.

Section 6. Notice to Prichard Police Department.

- A. Immediately subsequent to a trespassing vehicle being removed or towed as permitted by this ordinance, notice of this action shall be given by the towing and recovery operator to the Prichard Police Department desk officer. Such notice shall include the following information:
 - (a) the name of the towing and recovery operator removing vehicle;
 - (b) a description of the vehicle towed including make, model, VIN number and license plate; and,
 - (c) the location of trespassing vehicle and the date and time of the tow;
 - (d) the location of the storage facility to which the vehicle was towed; and
 - (e) the name and address of the individual and or entity who authorized the tow.
- B. Failure to report such tow as required by this section shall constitute a traffic infraction punishable by a fine of not more than \$100.00. Such failure to report shall limit the amount which may be charged for the storage and safekeeping of

the towed vehicle to an amount no greater than that charged for one day of storage and safekeeping.

Section 7. Storage Facilities.

- A. All towing and recovery operators engaged in towing vehicles without the consent of their owners shall conspicuously display at their main place of business and at any other storage facilities where towed vehicles may be reclaimed, in locations readily visible to those reclaiming vehicles, signs that clearly and legibly provide the following information:
- (a) a comprehensive list of all their fees for towing, recovery, and storage services. Charges in excess of those posted shall not be collectable from any motor vehicle owner whose vehicle is towed or stored without his consent;
 - (b) the maximum fees permitted to be charged by this Ordinance;
 - (c) that payment may be made by cash, traveler's check, money order, insurance company check, or debit, credit or charge card;
 - (d) that a receipt shall be provided;
 - (e) that the vehicle owner shall have the opportunity to inspect the vehicle for damage prior to payment and a tow company or tow truck operator shall not require a vehicle owner to sign any waiver of the owner's right to receive compensation for damages to the owner's vehicle as a condition of the vehicle's release;
 - (f) the non-emergency telephone number of the Police; and
 - (h) the business telephone number of the City official responsible for handling consumer complaints.
- B. The fees authorized by this Ordinance shall be the maximum allowed and an additional fee for use of a debit, credit or charge card, or other form of payment, shall not be permitted.
- C. Towing and recovery operators shall make change, up to \$100.00, for those who pay in cash for towing and storage charges applicable to vehicles towed under the provisions of this ordinance.
- D. Storage facilities to which vehicles towed under the provisions of this ordinance are

towed shall provide for the release of any vehicle towed to said facility twenty-four hours a day.

- E. Storage facilities to which vehicles towed under the provisions of this ordinance are towed shall be located within the City and Police Jurisdiction or Mobile County.
- F. In the event that a vehicle is towed from the City and stored in or released from a location in another locality, the provisions of this ordinance shall apply.

Section 8. Receipt Required.

At the time a vehicle owner or agent reclaims a towed vehicle, the towing and recovery operator shall provide a written receipt that contains the following information:

- (a) the name and address of the towing and recovery operator;
- (b) the address from which the vehicle was towed;
- (c) the date and time that the vehicle was tow;
- (d) the date and time that the vehicle entered the facility at which it was placed for storage;
- (e) an itemized list of all the fees that are being charged; and
- (f) a signature of an authorized representative of the towing and recovery operator.

In addition, the towing and recovery operator shall provide to the vehicle owner or agent a Consumer Information Sheet supplied by the City which sheet will include, among other things, information about how to file a complaint with the City of Prichard and the fee limits established by this Ordinance.

Section 9. Fees.

- A. Charges imposed for the towing, storage, and safekeeping of any vehicle removed, towed, or stored **without the consent of its owner** shall not be in excess of the maximum charges provided for in this section.
- B. The maximum fees that may be charged for the towing of motor vehicles and for the storage of such towed vehicles are as follows:
 - (a) For the towing of a motor vehicle, the maximum fee shall be

\$75.00 for standard sized motor vehicles and Sports Utility Vehicles; and \$135.00 for vehicles larger than Sports Utility Vehicles.

- (b) For the storage of a towed motor vehicle, the maximum fee for each twenty- four hour period of storage, or portion thereof, shall be \$10.00; provided, that no storage fee may be charged for the first twenty four hours of storage, or any portion thereof, following the arrival of a towed vehicle at a storage facility. An after hours vehicle release fee of \$5.00 may be charged.
- C. Except for fees authorized by this Ordinance, no other fees or charges shall be imposed during the first twenty-four-hour period.
- D. No towing and recovery operator having custody of a vehicle towed without the consent of its owner may impose storage charges for that vehicle for any period during which the vehicle could not be reclaimed because the storage facility was closed.
- E. If the owner of a motor vehicle or agent is present and capable of removing the vehicle before it is removed by a towing and recovery operator, the vehicle shall not be towed and no fee shall be charged.

Section 10. Manner of Payment. Towing and recovery operators shall accept payment for towing fees, storage fees, retrieval fees and the "in lieu of towing" fee provided for in this ordinance in each of the following ways:

- (a) Cash in United States currency;
- (b) insurance company check;
- (c) travelers' checks or money orders payable in United States Currency; and
- (d) any debit, credit or charge card that the towing and recovery operator is authorized by the issuing credit or charge card company to accept, and that is accepted by the towing and recovery operator in the ordinary course of business.

Section 11. Records.

- A. Every towing and recovery operator shall maintain a record of the following information for each motor vehicle that it has towed from a location within the City:
 - (a) the date and time that the vehicle was towed;

- (b) the date and time that the vehicle entered the facility at which it was placed for storage;
 - (c) the make, model, year, VIN number, and license plate number of the vehicle;
 - (d) the address of the property from which the vehicle was removed;
 - (e) the name and address of the person and or entity who authorized the tow;
 - (f) the video or photographs taken at the time of the tow;
 - (g) the towing and storage fees actually charged;
 - (h) the date and time the vehicle was reclaimed, and by whom; and
 - (i) a copy of the receipt provided to the vehicle owner or agent.
- B. Such record shall be maintained for a period of at least two years from the date of each tow, and shall be made available, during normal business hours, for inspection and copying by any representative of the City authorized to enforce the provisions of this ordinance. In addition, the portion of such log or record pertaining to a particular motor vehicle shall be made available, during normal business hours, for inspection and copying by the owner of the vehicle or the owner's authorized representative.

Section 12. TOWING; WRECKER ROTATION.

1. The purpose of this Section is to establish acceptable standards and criteria for the provision of nonconsensual wrecker services to the city in the city's capacity as a market participant by operators participating on the city's rotation log; provided, however, nothing herein shall obligate the city to the use of operators on the rotation log as the sole or exclusive means of providing wrecker services to the city and the city reserves the right to contract independently of the provisions of this article for wrecker services for any particular aspect of municipal operation it deems appropriate.

Wrecker services pursuant to the provisions of this article shall be administered by the department through the department's representative, who shall have authority to promulgate rules and regulations in furtherance and implementation of this article so long as they do not conflict with any provision hereof.

As regards wrecker services to the public, the terms hereof are not intended to and do not relate to the price, route or provision of consensual towing services as preempted by the Interstate Commerce Commission Termination Act (ICCTA)

1975, 49 USC §14501(c)(1). "Consensual towing or wrecker services" are defined as those situations where the vehicle owner expressly requests towing or wrecker services by a specific towing company and enters into a private contract with the towing or wrecker company for services.

2. **Definitions.** For the purpose of this Section 12 of this ordinance, the following terms shall have the meanings ascribed to them unless the context clearly indicates otherwise:
- (i) **Applicant** means the operator of a wrecker service that desires to participate in the rotation log by making application for the same.
 - (ii) **Call or dispatch** means a request for wrecker services by an operator on the rotation log of the department resulting in an operator being required to perform wrecker services pursuant to the provisions hereof.
 - (iii) **City** means the City of Prichard or any department thereof.
 - (iv) **Department** means the Prichard Police Department, its chief or representative.
 - (v) **Operator** means any person, firm or corporation owning or operating a duly licensed wrecker service that is currently listed as an authorized participant on the rotation log, including employees and drivers.
 - (vi) **Police officer** means any city police officer or any law enforcement officer with jurisdiction in the City of Prichard and its police jurisdiction.
 - (vii) **Rotation log** means a sequential list, as maintained by the department, of those operators of wrecker services duly qualified and authorized pursuant to the provisions of this article to receive and respond to calls from the department, when the vehicle owner/operator has not or cannot express a preference or consent for such services from a specific operator or towing company. The rotation log may also be used, at the city's discretion, for wrecker services in regard to city vehicles, although the city reserves the right to request such services from any operator it deems appropriate.
 - (viii) **Services or wrecker services means:**
 - (1) The towing, lifting, righting, winching, removal or storage of a wrecked, damaged or disabled vehicle which is otherwise incapable of self-propulsion away from the scene of an accident or other traffic event; and
 - (2) The towing, lifting, righting, winching, removal or storage of a vehicle any time a police officer deems it necessary to protect the public safety and/or personal property by means of a vehicle capable of doing so and meeting the requirements of this article.

- (ix) **Wrecker:** In addition to the conventional and accepted meaning, such term includes a vehicle meeting the minimum criteria and standards set forth in this article and utilized to provide wrecker services.

3. **Applications and conditions for participation.**

- (a) Written request for participation on the rotation log. Each applicant desiring to be placed on the rotation log shall file a written application with the department's designated representative.
- (b) Copy of rules and regulations. The department's representative will furnish each such applicant with a copy of the rules and regulations pertaining to the operation of wreckers on the rotation log.
- (c) Investigation of applicant. The department's representative will conduct an investigation of the applicant and applicant's wrecker business and determine if the applicant meets all requirements for participation on the rotation log. Applicant must furnish any additional information requested by the department's representative during the investigation.
- (d) Inspection of wreckers and equipment. The applicant shall present and make available for inspection by the department's representative, all wreckers and equipment that are to be used by the applicant for the provision of wrecker services.
- (e) Certificate of insurance. The applicant shall furnish the department representative with a certificate of insurance that indicates the policy numbers, policy period and the amount of coverage as required by this article.
- (f) Authorization, placement on list. When the department's representative is satisfied that the applicant is qualified, he/she will place the applicant on the rotation log and so notify applicant.
- (g) Decal required. A department decal will be placed on operator's wrecker in the lower right corner of the passenger window to indicate current inspection and eligibility to be on the rotation log.
- (h) Wrecker companies with same owner or majority stockholder considered one company. Two (2) or more wrecker companies with the same owner/operator as the majority stockholder or partner shall be considered one operator and shall be placed only once on the rotation log.

4. **Operation.** The following conditions shall govern the conduct of operators on the rotation log:

- (a) **Police department dispatch necessary, exception.** Except for private request for consensual wrecker services by the vehicle owner, no operator shall proceed to the scene without being dispatched to do so by the police department.
 - (1) No operator shall solicit business at the scene of an accident.
 - (2) All operators and drivers shall at all times conduct themselves and wrecker services in a reasonable and safe manner.
- (b) **Obedience to traffic laws.** Each wrecker driver shall obey all state and municipal traffic laws when responding to a dispatch for wrecker service.
- (c) **Rotation log participation.** Participation in the rotation log system shall be considered personal to the operator thereof and shall constitute authorization only to that definite legal entity operating a bona fide wrecker service and shall not be subject to transfer, nor shall the operator sublet, assign or permit the participation by another in any manner of operator's equipment, wreckers or name on the rotation log. Participation on the rotation log shall not constitute a property interest, but rather is a mere license.
- (d) **Submission of daytime and nighttime telephone numbers.** Each operator shall furnish the police department communications center with one telephone number to be used for dispatches during the day and one telephone number to be used for dispatches during the night. Any changes in the aforementioned telephone numbers shall be immediately transmitted to the police department communications center. No pagers or answering machines are permitted as call out numbers.
- (e) **Twenty-four-hour service.** Each wrecker operator shall maintain and be fully capable of providing twenty-four-hour, seven-day-a-week wrecker service.
- (f) **Availability.** A wrecker operator shall not accept a dispatch for wrecker services from the rotation log unless the operator has a wrecker and the

necessary equipment immediately available to perform the requested service.

- (g) Response with own wreckers. The wrecker operator shall respond to a dispatch with its own wreckers and shall not send another wrecker service in response to a rotation log dispatch. If it appears to the operator, the city or department representative on the scene, that the operator is not capable to perform the required services or needs assistance, the operator may request that another operator be dispatched. Under such circumstances, the operator may designate the operator to provide assistance, if not the next operator on the log will be dispatched.
- (h) Response while impaired prohibited. No driver of a wrecker shall respond to a dispatch when he or she is under the influence of alcoholic beverages, controlled substances or is otherwise impaired.
- (i) Restriction for conviction of crimes. No operator or wrecker driver shall be on the rotation log who has been convicted of any crime within the past five (5) years that is related to their capability to provide wrecker services to the public in a safe and responsible manner.
- (j) Proficiency. All operators and wrecker drivers on the rotation list shall be proficient and competent in the operation of such wrecker.
- (k) Driver's licenses required. No person shall be an operator or be allowed to operate any wrecker unless such person has a valid Alabama driver's license and a commercial driver's license, if required by law, issued by State of Alabama Department of Public Safety.
- (l) Reflective wear required. All wrecker drivers shall wear reflective vests, coats or shirts while on the scene of any dispatch.
- (m) Attendance of hazardous material training sessions required. All wrecker operators and all drivers shall attend hazardous material training sessions as required by the department's representative.
- (n) Removal of glass, debris, etc. Operators shall remove glass and debris from the scene of a call and apply oil-dry if necessary.
- (o) Notice of acquisition of wrecker. Each operator on the rotation log shall give notice to the department's representative of any wrecker acquired subsequent to placement on the rotation log. The department's

representative will inspect the wrecker to determine if it meets all the criteria that are required by this article.

5. **Standards and requirements.**

- (a) Number, capacity and wrecker standards. Each operator shall maintain a minimum of three (3) operational wreckers ready for immediate response to a dispatch, which shall be well-maintained and in good condition at all times and not more than twenty (20) years of age. All wreckers shall be based at operator's facility within the corporate limits or police jurisdiction of the city.

In addition to all conventional attributes, a wrecker shall be of the following type, kind, number and capacity:

- (1) One wrecker, mounted on a one-ton chassis or better, with a twin-line hydraulic lift and a set of dollies.
 - (2) One twin-line wrecker, mounted on a chassis with tandem dual rear wheels with air brakes, which shall have a boom with a minimum 25-ton lifting capacity.
 - (3) One "roll back" wrecker on a one-ton chassis or better with dual rear wheels.
- (b) Equipment requirements. Each wrecker shall have on it, at all times, the following equipment:
- (1) One "sling" and "stay-bar" or other type of device capable of protecting the disabled vehicle while being towed.
 - (2) Tow bars.
 - (3) Two (2) or more safety chains.
 - (4) Two (2) or more fully charged chemical, B.C. rating, fire extinguishers having a minimum of ten (10) pounds capacity each.
 - (5) One pry bar or wrecker bar capable of prying open doors.
 - (6) One push-type broom.

- (7) One ax.
- (8) One flat shovel.
- (9) Wheel lift is required except for wreckers with a twenty-ton lifting capacity or more.
- (10) A minimum of one snatch block for a rollback wrecker.
- (11) A minimum of two (2) snatch blocks for a wrecker boom with eight-ton capacity.
- (12) A minimum of four (4) snatch blocks for a wrecker boom with 25-ton capacity
- (13) Warning devices, applicable to trucks, as required by Alabama Code §§ 32-5-220 and 32-5-221 (1975), and use of the same as required by law.
- (14) At least one light bar with rotating beacon or strobe light on each end visible from three hundred sixty (360) degrees. In addition, each wrecker shall have an emergency flasher system capable of emitting two (2) amber lights to the front and two (2) red lights to the rear of the vehicle and which shall flash simultaneously. All lighting systems must be visible for a minimum distance of five hundred (500) feet.
- (15) Two-way communication equipment, other than a citizen band radio, between the wrecker and the wrecker's dispatch.
- (16) A minimum of forty (40) pounds of "oil dry."
- (17) An audible warning device to indicate when wrecker has engaged a reverse gear or is in the process of backing operations.
- (c) Name, address and telephone number. The name, address and telephone number of the operator shall be permanently affixed and prominently displayed on both doors of each wrecker.
- (d) Current inspection. No operator will be permitted on the rotation log without a current inspection by the city police department.

- (e) License required. All operators shall be duly licensed by the city revenue department pursuant and comply with all applicable state, federal and local laws.

6. **Facilities.**

- (a) Each operator shall have space available for the storage of vehicles resulting from rotation log dispatches, either on the site of the operator's business or within two (2) road miles thereof; provided, however, such requirement shall not apply to operators on the rotation log as of the effective date of this article if they are otherwise in compliance with the provisions herein. Such storage area must be well lighted and with a minimum area of ten thousand (10,000) square feet, enclosed by a six-foot chainlink fence or more, with three (3) strands of barbed wire at the top of the fence and a locked gate. This storage area must be suitable for properly accommodating and protecting all motor vehicles and their contents against damage or theft. This minimum space must be used by the operator to store vehicles that are towed as a result of a rotation log dispatch.
- (b) The wrecker company's principle and primary physical and business location shall be within the corporate limits of the City of Prichard or its police jurisdiction; provided, however, if such location is within the police jurisdiction of the city, the operator shall pay an annual fee to the city equal to its annual city business license, such that operator's total annual fee and business license combined is equal to the business license it would otherwise pay if the operator's principle and primary business were located within the city limits.
- (c) All operators of wrecker services on the rotation log shall reasonably permit, during normal business hours, without charge, the owner or owner's designated representative of any vehicle stored upon or within the operator's facilities, to inspect the same, remove items of personal belongings and the vehicle tag therefrom. In addition, the operator shall also reasonably permit and allow, during normal business hours, without charge, insurance agents, adjusters, and/or law enforcement officers to enter, inspect and photograph any such vehicles.

7. **Records.**

- (a) Each operator shall maintain accurate records reflecting all wrecker services performed pursuant to this article. Each record of wrecker service shall include 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 driver of the vehicle, if known.
 - (6) The service charge and fees.
- (b) All records required herein must be available during normal business hours for inspection by the city representatives.
- (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 company and any abandoned motor vehicle sold or disposed of by operator shall be in accordance with Alabama Code §§ 32-13-1 through 32-13-8 (1975).

8. **Insurance.**

- (a) Every operator assumes full responsibility and liability for any injury to persons, damage to property, fire or theft resulting from the operator's negligent acts or omissions.
- (b) Each operator shall maintain a liability insurance policy or policies issued by an insurance company currently authorized to issue policies of insurance covering risks in the state. The aforementioned insurance policy shall protect the public against loss of life, bodily injury to the person and damage to the property and shall name the city and its officers, agents and employees, as additional insureds. The coverage shall be for the following amounts:
- (1) Not less than one hundred thousand dollars (\$100,000.00) for bodily injury to any one person.
 - (2) Not less than three hundred thousand dollars (\$300,000.00) for bodily injury in any one accident.

- (3) Not less than one hundred thousand dollars (\$100,000.00) for damage to property.
- (4) Not less than twenty thousand dollars (\$20,000.00) in garagekeeper's legal liability, which must include fire, explosion, theft, riot and civil commotion, vandalism, collision with a deductible no greater than five hundred dollars (\$500.00).
- (c) Each policy required herein shall contain an endorsement providing for thirty (30) days' written notice to the Mayor of the City of Prichard prior to any material change therein or cancellation thereof.
- (d) A copy of the certificate of insurance is to be filed with the Mayor and City Clerk of the city.

9. **Rotation Log.**

- (a) An operator shall promptly respond to a dispatch and arrive with a wrecker on the scene within twenty-five (25) minutes under normal driving conditions. If an operator is not capable at the time of dispatch to respond, it shall immediately notify the department's communication center of this fact. The operator will be passed over for that rotation and the dispatch will go to the next operator on the rotation log.
- (b) When an operator responds to a dispatch, but renders no wrecker services, the operator will not lose its position on the rotation log if the operator provides prompt notification of the same to the department's communications center.
- (c) An operator that has received a dispatch must arrive on the scene with a wrecker within twenty-five (25) minutes of the dispatch, under normal driving conditions; provided, however, if the operator notifies the city's communications center of a delay and of a reasonable time of arrival on the scene, the operator may take up to fifteen (15) additional minutes to arrive. If the operator does not arrive on the scene on time or if the public health, safety and welfare necessitate more expeditious action, the police department reserves the right to request the services of the next operator on the rotation log. Under these circumstances, the operator who received the first call will forfeit its position on the rotation log for that turn. Any operator that is late in responding to dispatches for wrecker service without justification may be subject to penalties as provided herein.

- (d) When emergency conditions necessitate, the city reserves the right to request the services of the operator who, in the city's opinion, is best able to handle the situation and/or can reach the scene most expeditiously, regardless of the operator's position on the rotation log. If a dispatch is made under these circumstances, the operator making such a response will not forfeit their respective position on the rotation log.
- (e) Upon written request, the police department will furnish an operator with a monthly report of the department's rotation call-out log.
- (f) The department's representative has the right to inspect any wrecker or equipment of an operator on the city's rotation log at any time to ascertain if it is being maintained and all required equipment is on the wrecker and in proper operating order.
- (g) All operators on the rotation log shall have their wreckers and equipment inspected annually by the department's representative. A current inspection sticker will be issued by the department.

10. **Penalties.**

- (a) Violation of any rule, regulation or provision of this Section 12 as it relates to wrecker services for rotation log dispatches may be cause for suspension or removal of the operator from the rotation log. The department representative shall notify the operator in writing of a violation and the applicable penalty.
 - (1) Upon receipt of notification, the operator may, within fifteen (15) days thereof, deliver a written request to the department's representative for a hearing to be held before the city council. The receipt of a written request by the department's representative 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 operator to continue on the rotation log.
 - (2) A hearing shall be held within fourteen (14) days after the filing of a written request for a hearing before the city council. The department's representative shall notify the operator of the time, date and place of the hearing. At such public hearing, the operator shall be provided an opportunity to be heard. The city council may hear from city representatives and any others who may have relevant information.

(3) 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.

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

Reinstatement to the rotation log by any suspended operator shall be conditioned upon the payment of a reinstatement fee of one thousand dollars (\$1,000.00).

(c) 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 log the operator committing such violation, then provide notice pursuant to the provisions of subsection (a) above.

(d) No applications for reinstatement to the rotation log resulting from violation of these regulations will be considered by a transferee of the suspended operator'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's representative.

(e) Penalties. The following penalties shall be assessed for violations:

(i)	First Violation	Written Warning
(ii)	Second Violation (within 12 months of the first)	Written Warning
(iii)	Third Violation (within 12 months of the first)	Three (3) Day Suspension
(iv)	Fourth Violation (within 12 months of second)	Six (6) Month Suspension
(v)	Fifth Violation (within 12 months of third)	One (1) Year Suspension
(vi)	Sixth Violation (within 12 months of fourth)	Permanent Removal

- (f) **Enhanced penalties.** Penalties for violations involving failure to arrive on the scene of a dispatched rotation log call, 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 and the minimum penalty therefor shall commence with a thirty-day suspension unless accelerated.

Section 13. Conflict with State Law. In the event any provisions of this ordinance shall be in conflict with the codified laws of the State of Alabama, the codified laws of the State of Alabama shall be given precedent.

Section 14. Severability. It is hereby declared to be the intention of the City Council of the City of Prichard, Alabama, that the sections, paragraphs, sentences, clauses and phrases of this ordinance hereby adopted are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance hereby adopted shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance hereby adopted, since the same would have been enacted by the City Council without the incorporation of any such invalid or unconstitutional phrase, clause, sentence, paragraph or section.

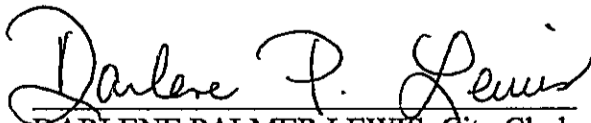
Section 15. Effective Date. This ordinance shall become effective immediately upon its adoption as required by law.

ADOPTED this the 17th day of MAY, 2007.

APPROVED:


RONALD K. DAVIS, Mayor

ATTEST:


DARLENE PALMER LEWIS, City Clerk