

AN ORDINANCE TO AMEND CHAPTER 63
OF THE MOBILE, ALABAMA CODE OF ORDINANCES
TO ESTABLISH REQUIREMENTS FOR WRECKER SERVICES AND PARTICIPATION
ON THE WRECKER ROTATION LIST

Sponsored by: Councilor Rich

WHEREAS the City of Mobile, by and through its City Council, has heretofore adopted the “Wrecker Service” ordinance currently published in Chapter 63 of the City Code; and,

WHEREAS the City of Mobile now intends to delete the existing Chapter 63 and restate Chapter 63 in its entirety in order to clarify certain rules and regulations concerning wrecker operations, including requirements for participation on and procedures pertaining to the City-maintained wrecker rotation list; and,

WHEREAS these amendments are necessary to insure the City’s public safety needs are met efficiently and that its citizens access to and cost to retrieve towed vehicles is reasonable and fair when using private, for-profit wrecker companies to respond to traffic hazards; and,

WHEREAS amendments are also being made to increase the rates paid to wrecker companies for services performed in response to a Wrecker Rotation List dispatch and to clarify the penalties and procedures for violations of certain wrecker rotation list procedures.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA that Chapter 63 of the Mobile, Alabama, Code of Ordinances (1991) is hereby deleted and restated in its entirety as follows:

Chapter 63 – Wrecker Services and Wrecker Rotation List

Article I. General

Sec. 63-1. Findings.

- 1) The presence of wreckage, disabled and abandoned vehicles, illegally parked vehicles, vehicles involved in crimes, and other vehicles on the public rights of way pose hazards to the traveling public and threaten public safety.
- 2) Regulations governing the removal and storage of these vehicles by properly equipped and licensed wrecker companies is necessary to protect public safety.

Sec. 63-2. Scope and purpose.

This chapter establishes and provides for:

- 1) General rules and regulations related to the operation of wreckers, wrecker business and wrecker companies;

- 2) Rules and regulations related to nonconsensual tows and the operation of wreckers, wrecker business and wrecker companies participating on one or more of the city's wrecker rotation lists;
- 3) Reasonable towing rates for wreckers who are eligible to participate in one or more of the city's wrecker rotation lists;
- 4) Fair and honest practices in the nonconsensual towing business to protect consumers and the public at large; and
- 5) Such other regulations that promote the public health, safety and welfare.

Sec. 63-3. Jurisdiction.

This chapter shall apply to all towing companies operating within the corporate limits and the police jurisdiction of the city.

Sec. 63-4. Administration and Enforcement.

The Chief of Police of the Mobile Police Department, or his or her designee, shall be responsible for the administration and enforcement of this chapter.

Sec. 63-5. Definitions.

In addition to the definitions and rules of construction set forth in §1-2 of the City Code, the following words and their derivations shall have the meaning set forth in this section.

- 1) *Awareness level hazardous materials training* refers to those individuals who are likely to witness or discover a hazardous substance release and who have been trained to initiate an emergency response sequence by notifying the proper authorities of the release. At this minimum level of training, the individual would be expected to take no further action beyond notifying the authorities of the release.
- 2) *Closest wrecker* shall mean the wrecker company on the appropriate wrecker list whose place of business (as defined below) is closest in actual driving distance to the vehicle being towed as determined by the Computer Aided Dispatch (CAD) system.
- 3) *Contract wrecker* shall mean that wrecker company which has contracted with the city to provide wrecker services requested by the city, for public safety reasons, as opposed to wrecker services requested by a private individual.
- 4) *Department* shall mean the Mobile Police Department.
- 5) *Disabled motor vehicle* is any vehicle which has lost its ability of self-propulsion or its ability to be transported or drawn on a public street by normal methods other than by a wrecker.
- 6) *Fire department emergency incident commander* is the high ranking fire department official who is in charge of hazardous material incidents and other emergency situations

which may arise while executing the mission of the fire department, duties include but are not limited to the following: management decisions related to personnel, equipment, procedures, etc. at the scene of any emergency incident.

- 7) *Fire extinguisher* shall mean a portable device used for extinguishing fires as defined by the National Board of Fire Underwriters, dry chemical extinguisher with a 20-B.C. rating and underwriters' laboratory approval in a quick release carrier which is capable of extinguishing fires.
- 8) *Hazardous material* shall mean a substance or material, including a hazardous substance, which has been determined by the secretary of transportation, or other state or federal agency, to be capable of posing an unreasonable risk to health, safety and property when transported to commerce, and which has been so designated, including any residue, vapors and fumes from such substance.
- 9) *Hazardous materials wreckers* shall be classified as those wreckers which have had an advanced level of hazardous materials training which exceeds the "Awareness level" of training and which have been certified by DOT/Interstate Commerce as a hazardous materials handler along with possessing at all relevant times the special insurance rider required by federal law in order to handle hazardous materials.
- 10) *Impoundment* shall mean the removal from the streets, sidewalks, alleys or other public places in the city or its police jurisdiction, any vehicle left thereon in violation of any municipal traffic or parking law or ordinance pursuant to Section 61-101 through 61-107 of the City Code.
- 11) *Large wreckers* shall be classified as any of the following types of wreckers: Tandem dual wheel or tandem rear end wreckers, or twin booms with factory rated or tested lifting capacity of twelve and five-tenths (12.5) tons or over per drum and per winch and per winch line, with dual drum capacity, hydraulic or power take-off driven, and shall be equipped with dual rear twin-screw axles, and shall be equipped with quick air couplings for towing vehicles with air brakes, and shall be utilized to tow any vehicle having a gross vehicle weight exceeding ten thousand (10,000) pounds, or any vehicle having dual rear axles or any tractor-trailer combination. The wrecker company shall provide documentation of lifting capacity from the factory or qualified testing facility.
- 12) *Motor vehicle* shall mean every vehicle which is self-propelled.
- 13) *Nonconsensual tow* shall mean any act of towing a vehicle without the prior consent or authorization of the owner or operator of the motor vehicle being towed.
- 14) *Owner* is any person who holds a legal title to a motor vehicle or who has the legal right of possession thereof.
- 15) *Person* is any individual, firm, partnership or association, corporation, company or organization, or any legal entity of any kind.
- 16) *Place of business* shall mean the place where the wrecker company conducts business and is licensed pursuant to the City's business licensing requirements found within City Code Sec. 34-41-64. In addition to an approved business license, the wrecker company seeking to be included on the wrecker rotation list in accordance with this Chapter shall:
 - a) Maintain business hours from 8-5 at this location;

- b) Answer phone calls and dispatch wreckers from this location; and,
 - c) Store vehicles associated with its wrecker business at this location.
- 17) *Righting* or *uprighting* shall mean restoring a vehicle, trailer or other equipment to a normal or upright position.
- 18) *Rotator* means a wrecker/recovery vehicle consisting of a rotating superstructure (center post or turntable), adjusting boom, operating machinery, and one or more operator's stations mounted on a frame attached to a truck chassis. Such vehicle has the ability to lift, lower and swing loads at various radii.
- 19) *Scene* shall mean the site of an accident, traffic emergency, hazard or such other obstruction caused by a disabled or abandoned motor vehicle.
- 20) *Skilled laborers* are those individuals who possess specialized skills gained either by experience, education, or training, over and above the minimum skills necessary to perform the services or duties of this chapter.
- 21) *Street* is a thoroughfare including public streets, lanes, alleys, etc. within the city and its police jurisdiction which is reserved for vehicle traffic.
- 22) *Traffic hazard* is any disabled vehicle, attended or unattended, which obstructs the normal movement of traffic on any public street or otherwise threatens public safety.
- 23) *Trespass tow* means the towing or removal of a motor vehicle from a private parking lot without the consent of the motor vehicle's owner or operator as allowed by §61-268 of the Mobile City Code.
- 24) *Unskilled laborers* are individuals who possess little or no special training or experience in the field for which he or she is being paid to perform work related services pursuant to the terms of this chapter.
- 25) *Vehicle* shall mean every device in or by which any person or property is or may be transported or drawn upon a public street, except devices moved only by human power, or used exclusively upon stationary rails or tracks, and shall include trailers and semitrailers.
- 26) *Vehicular accident* is any incident involving contact between a vehicle and any other object or vehicle which results in disabling damage to any vehicle requiring the services of a wrecker.
- 27) *Winching* shall mean 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.
- 28) *Wrecker* shall mean any motor vehicle used for the purpose of towing or removing motor vehicles from one location to another location, for any purpose, including large wreckers and rotator wreckers.
- 29) *Wrecker business* shall mean the act of towing or removing motor vehicles from one location to another location, for any reason, where either the beginning or ending location is within the city or its police jurisdiction. This definition shall not include situations

whereby a business owns or leases wreckers for the sole purpose of towing other vehicles owned or leased by the business.

- 30) *Wrecker company* shall mean any individual, corporation or entity engaged in the wrecker business.
- 31) *Wrecker operator* is any person who drives or otherwise uses a wrecker for wrecker business as defined herein.
- 32) *Wrecker rotation list* means a sequential list, as maintained by the department, of those wrecker companies qualified and authorized pursuant to the provisions of this chapter 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 list may also be used, at the city's discretion, for wrecker services in regard to impoundments or when other public safety needs that warrant the use of a wrecker.
- 33) *Abandoned vehicle* is defined as any vehicle left on the wrecker company's premise for more than 30 days.

Article II: General Towing Operations

Sec. 63-6. General Wrecker Operations.

No wrecker company shall engage in the wrecker business or operate wreckers on the city streets within the city without first obtaining a business license pursuant to Section 34-47 of the City of Mobile Code of Ordinances.

Sec. 63-7. Insurance Requirements.

Every person engaged in the wrecker business, and every wrecker company or wrecker operator must provide proof of the following insurance coverage upon the issuance or renewal of their City of Mobile business license:

- 1) **General Liability.** Commercial General Liability Insurance, including coverage for bodily injury, property damage, personal injury, death, and products/completed operations, in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate.
- 2) **Automobile Liability.** Comprehensive Automobile Liability insurance with coverage of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury and property damage, covering owned, non-owned and hired automobiles used in conjunction with its operations under the Agreement.
- 3) **Workers' Compensation.** Workers' Compensation coverage as prescribed by the laws of the State of Alabama.

- 4) Evidence of Insurance, Maintenance of Insurance Policies and Other Requirements. All Certificates of Insurance evidencing the aforementioned types and limits of insurance to be in effect shall be properly executed by an authorized representative of the insurer authorized to do business in the State of Alabama. The policy holder shall not cancel the aforesaid insurance coverage without thirty (30) days' prior written notice to the City of Mobile, and if the policy holder receives either notice of non-payment of premium or cancellation of the policy by the insurance company, the policy holder shall immediately give written notice of same to the City of Mobile.

Sec. 63-8. Towing of Vehicles from city streets.

No person, wrecker company, agent or employee of a wrecker company, or wrecker operator, shall tow or caused to be towed a vehicle parked or left on a city street without either:

- 1) The prior consent or authorization of the owner, an agent of the owner, or operator of the vehicle to be towed;
- 2) There having been first issued a ticket or citation for violation of any traffic law, parking law, or ordinance by a city police officer and authorization from a city police officer for the vehicle to be towed to the city impound lot; or
- 3) By order of a city police officer or fire department incident commander when authorized under chapter 61 of the City Code or when necessary for the public health, safety, welfare, or order.
- 4) Vehicles towed from city streets by authorization from a city police officer after issuance of a ticket or citation, or by order of a city police officer or fire department emergency incident commander when necessary for public health, safety, welfare, or order, shall be towed to the city impound lot.

Sec. 63-9. Wreckers declared not to be emergency vehicles.

It is hereby declared and determined that wreckers and large wreckers are not emergency vehicles within the provisions of the traffic code of the city. Wreckers and large wreckers shall comply with all laws and ordinances relating to motor vehicles.

Sec. 63-10. Authority at scene.

The authority at the scene shall be the police officer or the fire department emergency incident commander. The authority shall have the ultimate authority to direct all activities concerning the removal of vehicles and any clean-up activities, including requesting additional assistance, or canceling unneeded wreckers, vehicles, or other matter deemed necessary to protect public safety and welfare.

Sec. 63-11. Removal of vehicle from accident scene.

Any police officer at the scene of an accident may direct the wrecker to a designated location for any lawful purpose. When so directed by an officer, the city will be responsible for payment of the towing fee.

Sec. 63-12. Unauthorized presence of wrecker at accident scene.

No wrecker shall proceed to the scene of a vehicular accident or disabled vehicle on the streets of the city without first being requested to do so by the police department, or the owner or person in charge of the vehicle. No person shall solicit wrecker business in any manner for a wrecker company at the scene of a vehicular accident or disabled vehicle, on the streets of the city. The unauthorized presence of any wrecker parked on any public street or highway in the city at or near the scene of any accident, collision, or disabled vehicle shall be prima facie evidence of a solicitation in violation of this section.

Sec. 63-13. Trespass Tow.

Any wrecker company performing a trespass tow authorized by City Code § 61-268 *of the Mobile City Code of Ordinances* (parking vehicle on private property after warning) shall notify the police communications center within 30 minutes of conducting the tow and provide the following information: the vehicle identification number, the make, model, year, color and tag number of the vehicle, the name of the person requesting the tow, the property location from which the vehicle was removed and the location to which the vehicle is moved.

Sec. 63-14. Repossession. Any wrecker company performing a tow on behalf of a repossession agency shall, prior to repossession, notify the police communications center and give the vehicle identification number along with the make, model, year, color and tag number of the vehicle, the name of the person requesting the tow, the property location from which the vehicle was removed and the location to which the vehicle is moved.

Article III: Requirements to Participate on City's Wrecker Rotation List; Wrecker Permit

Sec. 63-15. City Rotation Lists.

The City shall maintain three (3) Wrecker Rotation Lists for dispatch:

- 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.

Sec. 63-16. Wrecker Permit.

No wrecker company shall participate in the Wrecker Rotation list without undergoing a vehicle inspection, submitting an application for a Wrecker Permit for each wrecker to be operated, and providing proof of insurance with applicable policy limits in accordance with section 63-7 of this chapter. The requirement for a permit hereinabove described is a requirement separate and apart from, and in addition to, any county or municipal requirements for a business license. The required wrecker permit is a regulatory permit and not a revenue license.

Sec. 63-17. Facilities.

Each operator shall maintain sufficient space to accommodate the storage of all vehicles resulting from wrecker rotation lists tows.

- 1) Storage for these vehicles will be at the operator's place of business.
- 2) The storage lots shall be well lighted and enclosed by a locked gate. Each wrecker company must place on the exterior of its business location a clearly visible sign indicating the company name, telephone number and business hours.
- 3) At least one person must be available from 8 am to 5 pm Monday through Friday (excluding state or federal holidays) to conduct business with customers or department members.
- 4) Vehicle owners may reclaim belongings from a car stored at a wrecker operator's storage facility during business hours without being required to pay any outstanding fees or charges that have accrued pursuant to section 63-39 of this Chapter.

Sec. 63-18. Rotation list participation.

All wreckers on the rotation list must have a current Wrecker Permit. Participation in the wrecker rotation list shall be exclusively assigned to the wrecker company holding the wrecker permit 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 company sublet, assign or permit

the participation by another in any manner of company's equipment, wreckers or name on the rotation list. Participation on the wrecker rotation list shall not constitute a property interest, but rather is a mere license.

Sec. 63-19. Application for Wrecker Permits.

Applications for wrecker permits shall be submitted to the department on such forms as may, from time to time, be developed for that purpose, and made publicly available.

Sec. 63-20. Standards for Issuance of Permit.

Each wrecker company seeking a Wrecker Permit shall comply with the following:

- 1) An annual inspection by the department to ensure compliance with the following minimum standards:
 - a. Factory recommended, three-quarter-ton capacity dual wheels. Dummy dual wheels are prohibited.
 - b. A power winch, winch line and boom with a factory rated lifting capacity or a tested capacity of not less than eight thousand (8,000) pounds' single line capacity. The wrecker company shall provide documentation of lifting capacity from the factory or qualified testing facility.
 - c. 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.
 - d. Tow bars, safety chains, a fire extinguisher mounted in an accessible location, wrecking bars, minimum of three (3) flares, brooms, shovel and an axe. There shall be further proof furnished that the wrecker company has one (1) dolly available for its wreckers when and if necessary, and that the name or number of the wrecking company be permanently affixed to the dolly.
 - e. A flashing yellow or amber light shall be affixed above the top of the cabin of the wrecker; however, sirens are prohibited.
 - f. A minimum of one hundred (100) feet of three-eighths-inch cable.
 - g. The name, address and telephone number of the wrecker company permanently affixed and displayed in letters clearly visible from one hundred (100) feet on both sides. The letters for the name shall be at least four (4) inches high and letters for the address and telephone numbers shall be at least two (2) inches high.
 - h. Nothing on vehicles, buildings, equipment, clothing or correspondence implying any official relationship between the wrecker company and any law enforcement agency.
 - i. Clearance and marker lights and all other equipment as required by law.
 - j. Dual rear adjustable floodlights with a minimum of twenty thousand (20,000) candlepower each.
 - k. A minimum of a 10lb bag of oil dry.

- 2) In addition to the above requirements of subsections (1)i-vii, large wreckers shall be required to be equipped with the following additional items in order to be issued a permit as set forth herein:
 - a. Air control valve for the purpose of providing braking capability for the vehicle or trailer being towed or removed.
 - b. Two (2) metal chock blocks to prevent rolling or slippage of the wrecker. These chock blocks should have the capability of being tied to the wrecker and of a width equal to that of the dual wheels of the wrecker.
 - c. A minimum of two hundred (200) feet of cable on each drum at least five-eighths inch in diameter.
 - d. Air brakes so constructed as to lock the rear wheels automatically upon failure and to supply air to disabled vehicles.
 - e. One (1) pair of bolt cutters with a minimum one-half-inch opening; two (2) fire extinguishers mounted in an accessible location; external air hookups and hoses; at least six (6) safety cones or triangle reflectors; and fifty (50) pounds of sand or suitable equivalent.

- 3) Wrecker companies who wish to remove cars and light trucks may have a "flatbed," "roll-back," or "slide-back" carrier with specifications and equipment as follows. These are wreckers which are used to pick up burned vehicles, sports vehicles (to prevent damage to plastic front ends), small trailers and boats and to transport cargo from an accident scene:
 - a. A minimum of a one-ton truck with a sixteen-foot bed, dual wheels and one (1) power winch with an eight thousand-pound capacity.
 - b. A minimum of fifty (50) feet of three-eighths-inch cable.
 - c. A brake lock device.
 - d. A minimum of two (2) safety tiedown chains ten (10) feet in length.
 - e. One (1) fire extinguisher.

Sec. 63-21. Assumption of Liability.

Each wrecker company who moves or otherwise makes contact with any vehicle to be towed following a dispatch from the Wrecker Rotation List, assumes liability for injury to persons, property damage, fire, theft or any other acts of negligence stemming from the towing process.

Sec. 63-22. Certification of Availability.

By applying for the Wrecker Permit, the wrecker company is certifying its ability to be fully capable of providing twenty-four-hour, seven-day-a-week wrecker service and access to its storage facility during regular business hours.

Sec. 63-23. When Issued.

The department shall issue a Wrecker Permit for each wrecker proposed to be operated by the applicant upon finding that all of the provisions of this chapter and other ordinances of the City have been complied with, and upon being satisfied by the revenue officer of the city that the wrecker company has procured all necessary city, state and federal licenses. The Wrecker Permit shall be affixed to each wrecker in the lower passenger side corner of the windshield and shall not be transferable.

Sec. 63-24. Permit not a franchise.

No permit issued pursuant to the provisions of this chapter 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.

Sec. 63-25. Companies removed from police jurisdiction due to a change in jurisdiction limits.

A qualified wrecker company that has been on one or more wrecker rotation list for at least five (5) consecutive years, and which is removed from the city's police jurisdiction due to a change in the city's jurisdictional limits, may remain qualified to apply for a Wrecker Permit and inclusion on the Wrecker Rotation Lists so long as the company complies with the following:

- 1) The company continues to maintain its principal and primary place of business at the same location and street address as it did before the change in the city's jurisdictional limits;
- 2) The company continues to comply with all of the requirements and regulations of this chapter, and the rules and directives of the city and the police department;
- 3) The company agrees in writing, in a form approved by the department, to comply with all of the requirements and regulations of this chapter, and the rules and directives of the city and the police department; and
- 4) The company must possess a city business license authorizing the conduct of a wrecker business from the city to operate a wrecker in addition to any other business license which the company may possess.

Sec. 63-26. Monthly Report.

At least once per month the department will publish a monthly report of the department's rotation call-out list on its web page.

Sec. 63-27. Right to inspect.

The department's representative has the right to inspect any wrecker or equipment of a wrecker company on the city's rotation list at any time to ascertain if it is being maintained and all required equipment is on the wrecker and in proper operating order.

Article IV: City Rotation List; Procedures; Fees; Records

Sec. 63-28. Accident scenes; police emergencies.

Whenever a motor vehicle has been involved in an accident or collision within the limits of the City of Mobile or police jurisdiction and is unable to proceed safely, or the driver is physically unable to drive the motor vehicle, the police officer at the scene shall request of the driver that the driver designate a wrecker company to tow the motor vehicle. In the event that the driver is physically unable to designate a wrecker company, or expresses no preference for a wrecker company, the wrecker company next on the Wrecker Rotation List maintained by the department shall be dispatched to the scene to tow the motor vehicle. For any other requirements for a towing service by the department, including traffic hazards and any other impediments to the traffic function, this same procedure and rotation shall be followed.

Sec. 63-29. Impoundments; abandoned vehicles.

The department is hereby authorized to use wrecker companies on the Wrecker Rotation List to provide towing services for the circumstances contained within City Code Sec. 61-101(a)(1)–(5). The department shall proceed through the list according to the procedures subscribed herein.

Sec. 63-30. Closest Wrecker company.

Notwithstanding any other provision of this chapter, whenever any police officer of the City arrives at the scene of any accident or disabled vehicle and in the exercise of his discretion as a police officer determines that a traffic hazard, as defined in Article I, section 63-5(21) exists, or that an emergency exists requiring the immediate service of a wrecker in order to protect the life of any person, then upon approval by a supervisor, the police officer shall immediately notify dispatch of such emergency and the place of the emergency and the closest wrecker company with a place of business, as defined under Article I, section 63-5(2), shall be dispatched to the scene of the accident by the police dispatcher receiving such call.

Sec. 63-31. Department operations; procedure upon receiving request.

The department shall follow the following procedure in order to engage wrecker companies from the wrecker rotation list:

- 1) On receiving the first request for a wrecker off the rotation list, dispatch shall call the first wrecker company on the wrecker rotation lists.
- 2) In each succeeding communication of the inability or unwillingness of an owner to designate a wrecker company, the next company on the list shall be called and a proper notation of each such call shall be made upon the rotation list.
- 3) When it is determined that a large wrecker is needed, the dispatch shall call a large wrecker from the large wrecker rotation list, in the same manner as he would a regular wrecker off the regular rotation list. If it is not known initially that a large wrecker is needed, and a regular wrecker is dispatched from the rotation list and it is substantially determined that a large wrecker is needed, the large wrecker shall be dispatched, and the regular wrecker company that was previously dispatched shall be recalled and placed back on top of the regular rotation list.
- 4) When emergency conditions necessitate, the department reserves the right to request the services of the wrecker company who, in the police department's opinion, is best able to handle the situation and/or can reach the scene most expeditiously, regardless of the company's position on the rotation list. If a dispatch is made under these circumstances, the wrecker company making such a response will not forfeit their respective position on the rotation list.
- 5) The first wrecker dispatched to the scene of a vehicular accident shall have first choice of vehicles being towed, unless directed otherwise by the officer in charge at the scene.

Sec. 63-32. Rotation list; wrecker company and operator response.

The wrecker company shall adhere to the following rules when responding to call for wrecker service from the wrecker rotation list:

- 1) A wrecker company, or its designated operator, shall promptly respond to a dispatch and arrive with a wrecker on the scene within thirty (30) minutes under normal driving conditions. If an operator is not capable at the time of dispatch to respond, it shall immediately notify dispatch of this fact. The wrecker company will be passed over for that rotation and the dispatch will go to the next company on the rotation list.
- 2) A wrecker company shall not accept a dispatch for wrecker services from the rotation list unless the company has an operator, wrecker and the necessary equipment immediately available to perform the requested service.
- 3) When a wrecker company responds to a dispatch, but renders no wrecker services, the wrecker company will not lose its position on the rotation list if the operator provides

prompt notification of the same to the department's dispatch. The officer will notify dispatch of the cancellation.

- 4) If the operator does not arrive on the scene on time or if the public health, safety and welfare necessitate more expeditious action, the department reserves the right to request the services of the next wrecker company on the rotation list. Under these circumstances, the wrecker company who received the first call will forfeit its position on the rotation list for that turn. Any wrecker company that is late in responding to dispatches for wrecker service without justification may be subject to penalties as provided herein.

Sec. 63-33. Wrecker company listed only once.

Each wrecker company shall be listed on the rotation list only once.

- 1) This listing will use the name the wrecker company submitted during the application process and under which he/she is qualified under this chapter. It is prohibited for a wrecker company conducting business at one location to receive multiple listings by utilizing a different or fictitious name for wreckers operating from the same location or by utilizing wreckers with the same name out of different locations within the city.
- 2) When two or more businesses or companies are owned by the same individual, partnership, or parent corporation, each business or company may have a separate listing only when each business maintains completely separate offices, required documentation, logs, and wreckers labeled with the appropriate business name in accordance with Section 63-33(3) at the approved locations.
- 3) A wrecker business will be regarded as having separate locations only when each business or company continuously and regularly occupies separate, different, permanent, nonresidential, non-overlapping structures: each with its own phone number and service; each with its own dispatch number and dispatch operator; each keeping its own towing and recovery books, logs, tax records, and other required records; each prominently displaying its city and state licenses; and each business open to customers with an employee present and available to assist customers continuously between the hours of 8:00 a.m. until 5:00 p.m., Monday through Friday (excluding state or federal holidays).

Sec. 63-34. Response with own wreckers.

The wrecker company shall respond to a dispatch with its own wreckers and shall not send another wrecker company in response to a rotation list dispatch. If it appears to the officer on the scene, that the wrecker operator is not capable to perform the required services or needs assistance, the officer may request that another wrecker company be dispatched.

Sec. 63-35. 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.

Sec. 63-36. Restriction for conviction of crimes.

No wrecker operator shall be on the rotation list 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.

Sec. 63-37. Reflective wear required.

All wrecker operators shall wear reflective vests, coats or shirts while on the scene of any dispatch.

Sec. 63-38. Removal of glass, debris, etc.

Wrecker operator shall remove all non-hazardous glass and debris from the scene of a call and apply oil-dry if necessary.

Sec. 63-39. Fees, Rates and charges.

- 1) 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. A vehicle owner may have their agent or designee recover the vehicle from a Wrecker company's place of business, upon payment of the authorized allowable charges and fees, at no additional expense.
- 2) 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—\$75.00 for the first hour and prorated in ten minute increments thereafter based on \$75.00 per hour. (For example, if righting a vehicle takes one hour and 38 minutes, the total charge would be $\$75.00 + 50.00 = \125.00) If a second wrecker is required to attach to the vehicle simultaneously with the first wrecker in order to right the vehicle, the second

wrecker may also charge \$75.00 for the first hour and prorated in ten minute increments thereafter based on \$75.00 per hour.

- 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—\$75.00 for the first hour and prorated in ten minute increments thereafter based on \$75.00 per hour. If a second wrecker is required to attach to the vehicle simultaneously with the first wrecker in order to 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. 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. No additional amount may be charged for incidental or routine winching necessary to attach or load any vehicle onto a wrecker.
- 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. 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. No additional amount may be charged for incidental or routine winching necessary to attach or load any vehicle onto a wrecker.
- 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. 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. No additional amount may be charged for incidental or routine winching necessary to attach or load any vehicle onto a wrecker.

- 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 and other vehicle storage rates:
 - i. First day: \$25.00; starts to accrue after the first 24 hours.
 - ii. Each day thereafter: \$25.00.
 - iii. Large haul storage rates: \$75.00 per day, per piece.
 - iv. After-hours vehicle release, i.e., times other than non-holiday Mondays through Fridays, 8:00 a.m. to 5:00 p.m.: \$35.00.
 - v. Tows to locations outside the city limits only: Up to \$5.00 / mile to destinations from jurisdiction line.
 - vi. Notwithstanding the foregoing, daily storage rates may not be charged for any days the place of business of a wrecker company on the wrecker rotation list is not open for at least four (4) consecutive daytime hours so that owners of vehicles, or their agents, may recover their vehicles.
 - o. Oil dry: \$5.00 per 10lb bag used.
 - p. Plastic collision/crash wrap: \$30.00 per vehicle wrapped.
 - q. Credit/debit card surcharge or convenience fee: Not to exceed three (3) percent per transaction.
- 3) The maximum fees for wrecker services, listed above, include:
- a. Cleaning of debris from roadway, pickup and towing of vehicle to any destination within the city limits; and,
 - b. No keys to vehicle: Included in towing services.
- 4) 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. The rates and charges as established herein shall be reviewed by the department each year during the month of January. Recommendations for any rate changes shall thereafter be forwarded to the City Council, who shall make adjustments to the rates as deemed appropriate by ordinance amendment.

Sec. 63-40. Records. 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:

- 1) 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:
 - a. The date and time the operator was contacted and requested to perform the service;
 - b. The name of the person requesting the service;

- c. The location of the vehicle;
 - d. A description of the towed vehicle, including license tag and identification number;
 - e. The owner or operator of the vehicle, if known;
 - f. Itemized list of all service charges and fees;
 - g. The name of the wrecker operator;
 - h. The final disposition of the vehicle; and,
 - i. Any related police accident, incident, arrest, event or miscellaneous identification numbers.
- 2) 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.
 - 3) 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 (excluding state or federal holidays) 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.
 - 4) The operator shall maintain the aforementioned records for the current calendar year and the preceding calendar year.
 - 5) 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.
 - 6) 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.

Article V: Enforcement and Penalties

Sec. 63-41. General violations. Any person, wrecker company, agent or employee of a wrecker company, or wrecker operator, found guilty of violating this Chapter 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.

Sec. 63-42. 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.

Sec. 63-43. 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.

- 1) 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 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.
- 2) 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.
- 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.
- 4) 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.
- 5) 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 (1) above.
- 6) 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.

Sec. 63-44. Penalties. In addition to any other potential penalties for violating this Chapter, the following penalties shall be assessed for rotation list violations:

First violation:	Written warning
Second violation within 12 months:	Thirty-day suspension
Third violation within 12 months of 1st:	Six-month suspension

Fourth violation within 12 months of 2nd:	Permanent removal
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Sec. 63-45. 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. Upon receipt of a suspension under this section, a hearing before the City Council shall be held at the next immediately scheduled Council meeting.

Article VI. Hazardous Materials Requirements

Sec. 63-46. - Emergency Response Guidebook.

It shall be the duty of each wrecker company owner listed on the hazardous materials wreckers list to ensure that each wrecker responding pursuant to the terms of this chapter is properly certified by DOT and has the proper insurance riders for hazardous materials in accordance with federal guidelines along with a copy of the current edition of the U.S. Department of Transportation Emergency Response Guidebook contained within the cab of the wrecker. Also, the owner of the wrecker company shall have a duty to ensure that all personnel who may respond to an incident pursuant to the terms and provisions of this chapter shall receive hazardous materials training on an annual basis regarding the Department of Transportation's guidelines on the following topics:

- 1) Awareness/operational level training;
- 2) Incident command systems and procedures;
- 3) DOT's Emergency Response Guidebook (Current Edition).

Sec. 63-47. - Uprighting tanker vehicle.

The fire department emergency incident commander shall have the authority to require the contents of an overturned tank truck to be transferred to another tank before being uprighted. The decision should be made after consultation with the shipper and carrier about the commodity being shipped and the stability of the container.

Sec. 63-48. - Hazardous materials incident procedures.

- 1) The senior fire official on the scene shall be the fire department emergency incident commander at all hazardous materials spills or other emergency situations in the city.
- 2) Remediation of a hazardous materials incident may require several hours before the services of a wrecker company are needed at the scene, therefore no wrecker company shall arrive at the scene of a hazardous materials incident until, or remain at the scene of a hazardous materials incident unless requested to do so by the hazardous materials fire department emergency incident commander.
- 3) The vehicle owner, or the individual or entity who is responsible for the hazardous materials until the proper delivery of such, shall have the authority to either call or request the city to call a wrecker company of his or her choice which is on the city's hazardous materials wreckers list to tow the vehicle at the time the hazardous materials fire department emergency incident commander deems appropriate. Likewise, the owner of the vehicle and/or its contents shall have the right to request or choose the "clean-up contractor" or his or her choice in compliance with all state and federal regulations.

Article VII. Miscellaneous

Sec. 63-49. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have passed this ordinance and each article, section, subsection, subdivision, sentence, clause and phrase thereof, irrespective of the fact that any one or more article, section, subsection, subdivision, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of Alabama.

Section 63-50. General Repealer. Any ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 63-51. Effective Date and Jurisdiction. This ordinance shall be effective within the City of Mobile and its police jurisdiction immediately upon its enactment and publication as required by law.

ADOPTED: _____

City Clerk