

ORDINANCE NO. 24-4580A

BE IT ORDAINED by the City Council of the City of Decatur, Alabama as follows:

Section 1. That Section 24.5-2 of the CODE OF DECATUR, ALABAMA is hereby amended to add the definition of "Repossessor" which reads as follows:

"Repossessor shall mean any person whose purpose using a wrecker or other means is to repossess, take possession of, quarantine or disable any motor vehicle which includes an automobile, truck, or motorcycle, either for themselves or as agents for another person or entity and purporting to have the right to repossess, take possession of, quarantine or disable such vehicle pursuant to a financing agreement, security agreement or other legal right."

Section 2. That the Code of Decatur, Alabama is hereby amended to add a section to be numbered 24.5-28, which section reads as follows:

"Section 24.5-28 Notification of Repossession

**Notification Required.**

(a) Every Repossessor shall notify the Decatur Police Department front desk at least thirty (30) minutes prior to attempting to repossess a motor vehicle which includes an automobile, truck or motorcycle of their intent to repossess a specific motor vehicle providing the authorization for such attempt, a description of the motor vehicle proposed to be repossessed or towed, including, but not limited to, the year, make, model, style, vehicle identification number, tag number, and color (inside and outside). In addition the location where the repossession attempt is to occur, and the approximate time the proposed action attempt is to occur will be provided at the same time. No Repossessor shall take any action which deviates materially from the notice initially provided to the police department and shall not breach the peace in attempting or carrying out the repossession.

(b) The Repossessor shall notify the police department front desk within one hour of the repossession attempt being completed of whether the repossession action was successful or not.

(c) If the repossession action was successful the Repossessor shall also within one hour of the successful repossession provide the police department front desk with the following information:

(1) Name and address of the person in possession, or believed to be in possession, of the motor vehicle at the time that it was repossessed or towed;

(2) Location where the motor vehicle was found and the repossession or towing was carried out, including street name and block number if different than previously provided;

(3) Time that the repossession or towing was carried out;

(4) Name of Repossessor who carried out the repossession or towing;

(5) Name of person or entity on whose behalf the repossession or towing was carried out, if different from the Repossessor;

(6) Corrected description of the motor vehicle repossessed or towed, if any portion of the description previously provided changed or was found to be inaccurate; and

(7) Location of the storage of motor vehicle, following repossession or towing.

(d) **Compliance with State Law.** Every Repossessor must carry out the repossession process in compliance with State Law including but not limited to Section 7-9A-609 of the Code of Alabama 1975, as last amended. Pursuant to State Law unless proceeding under documented judicial process the Repossessor must cease and abandon any attempted repossession at once for whatever reason a breach of the peace occurs.

Every Repossessor shall consider that the risk of a breach of peace potentially increases during early morning hours and should act accordingly for the safety of all involved in any repossession attempt during the early morning hours, especially in residential districts. Certainly for purposes of this Section the determination of breach of peace is modified by future judicial interpretation.

**Breach of the Peace.** Whether a breach of the peace occurs is impacted and controlled by the facts and circumstances involved in the particular repossession attempt. Peacefully means proceeding “without risk of injury to the secured party, the debtor, or any innocent bystander.” “The potential for breaches of the public peace and tranquility as a result of unauthorized intrusions on property escalates in direct proportion to the presence of fences, gates, signs, and other indicia of nonassent to entry.” The Alabama Supreme Court has further interpreted “breach of peace” to mean “any situation tending to disturb the public order,” which it characterizes as a disturbance of the public tranquility, by any act or conduct inciting to violence or tending to provoke or excite others to break the peace, or, as is sometimes said, it includes any violation of any law enacted to preserve peace and good order.” “Actual confrontation or violence is not necessary to finding a breach of peace” but that determination is based on the overall actual facts and circumstances involved.”

(e) **Business License.** Every Repossessor shall have obtained the appropriate business license and credentials required by the City of Decatur prior to proceeding with any repossession attempt.

(f) **Repossession Attempts Limited.** Unless proceeding under documented judicial process, no Repossessor shall proceed with more than one repossession attempt of the same motor vehicle at the same location during any twenty-four (24) hour period of time.

(g) **Suspension or Revocation of License.** The continued or recurrent violation by a Repossessor of this Section, other city ordinances or State Laws is detrimental to the health, safety, comfort and convenience of the public. In addition to other remedies available to the city, the business license of a Repossessor after a public hearing is subject to suspension or revocation by the city council for continued or recurrent violation of this Section, other city ordinances or State Laws.

(h) **Penalties.** Any person violating any of the provisions of this Section, or failing to do any act required of such person by any provision of this Section, or doing any act declared by this Section to be unlawful, shall be guilty of a misdemeanor and upon conviction shall, unless a different or specific penalty be provided for the specific violation in question, be punished by a fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00), or the maximum provided by law. In addition thereto, any person so convicted may be imprisoned or sentenced to hard labor for the city for a period not exceeding six (6) months, at the discretion of the municipal judge trying the case. The municipal judge should consider any previous violations in determining any penalties adjudicated.”

Section 3. This Ordinance shall take effect June 1, 2024.

ADOPTED this 6<sup>th</sup> day of May, 2024.

APPROVED this 7<sup>th</sup> day of May, 2024.

/s/Tab Bowling, Mayor

ATTEST:

/s/Stephanie Simon, City Clerk