

ORDINANCE NO. 13-53

AN ORDINANCE AMENDING SECTION 114-134 OF  
ARTICLE IV (WRECKERS) OF CHAPTER 114  
(VEHICLES FOR HIRE) OF THE CODE OF  
ORDINANCES OF THE CITY OF PORT ARTHUR

WHEREAS, the City Council deems that it would be in the best interest of the City of Port Arthur to amend Chapter 114 of the Code of Ordinances, particularly Section 114-134 pertaining to wrecker service within the jurisdictional limits of the City of Port Arthur; and

WHEREAS, the amendments are intended to reflect changes in state regulation, update fee schedules, protect consumers from unscrupulous and excessive fees, open the non-consent non-preference rotation system to any wrecker businesses in Port Arthur which meet qualifications for permit issuance, and to bestow upon the Chief of Police or his designee new tools to enforce the ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ARTHUR:

Section 1. That the facts and opinions in the preamble are true and correct.

Section 2. That Section 114-134 of the Code of Ordinances be amended as denoted in the attached Exhibit "A."

**Section 3.**

That this being an Ordinance requiring publication shall become effective ten (10) days after publication.

**Section 4.**

That a copy of the caption of this Ordinance be spread upon the minutes of the City Council.

**READ, ADOPTED, AND APPROVED,** this 14<sup>th</sup> day of November, 2013, A.D., at a Regular Meeting of the City Council of the City of Port Arthur, Texas by the following vote: AYES:

Mayor: Prince;

Councilmembers: Scott, Segler, Albright, Freeman  
and Thomas.

NOES: None.;

**ATTEST:**

Jo Bellare  
CITY SECRETARY

Telvin Prince  
Mayor

**APPROVED AS TO FORM:**

[Signature]  
CITY ATTORNEY  
*on behalf of*

**APPROVED FOR ADMINISTRATION:**

[Signature]  
CITY MANAGER

## **EXHIBIT “A”**

PART II - CODE OF ORDINANCES  
Chapter 114 - VEHICLES FOR HIRE

ARTICLE IV. - WRECKERS

**ARTICLE IV. - WRECKERS** <sup>[113]</sup>

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Sec. 114-140. - Suspension and appeals.

Sec. 114-141. - Penalty for violation of article.

**Sec. 114-121. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Administrator* means the designee of the chief of police who shall supervise the operations of the nonconsent/nonpreference rotation system.

*Business permit* means a written authorization to engage in the operation of a wrecker business and to operate one or more wreckers, signed by the director or his designee.

*Business permit holder* means the person to whom a wrecker service business permit is issued.

*Director* means the chief of police who shall be appointed by the city manager to administer and enforce the terms of this article.

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*Driver* means the individual person who drives a wrecker or who assists in the operation of a wrecker, whether or not such individual may also be an owner.

*Drop Fee* is the fee charged for a nonpreference tow which is terminated by the owner or operator while the vehicle is still at the location from which it is being removed.

*Person* means an individual, a corporation, a partnership, joint venture or association.

*Texas Department of Licensing and Regulation (TDLR)* references the regulatory body authorized by the State of Texas to regulate towing companies pursuant to the Texas Towing and Booting Act at Chapter 2308 of the Texas Occupations Code and vehicle storage facilities pursuant to the Vehicle Storage Facilities Act at Chapter 2303 of the Texas Occupations Code.

*Transfer permit* means a written authorization to engage in the operation of a wrecker business as an accessory use only under the zoning ordinance to transfer vehicles to or from the permit holder's principal business premises for a fee.

*Vehicle* means every device in, upon or by which any person or property is or may be transported or drawn upon a public street or highway including, but not limited to, motor vehicles, but not including devices moved only by human power, or used exclusively on stationary rails or tracks.

*Vehicle permit* means a written authorization for the operation of a specifically identified vehicle under a business or transfer permit signed by the director or his designee.

*Standard Wrecker* means any truck or other motor vehicle which is equipped with cables, winches, hoist or other devices capable of safely lifting and towing or otherwise transporting another vehicle weighing 10,000lbs. or less from one place to another.

*Heavy-Duty Wrecker* means any truck or other motor vehicle which is equipped with cables, winches, hoist or other devices capable of safely lifting and towing or otherwise transporting another vehicle weighing over 10,000lbs. from one place to another.

*Wrecker business* means the business of towing vehicles not belonging to the towing wrecker company on a public street within the incorporated limits of the city for compensation, or with the expectation of compensation including, but not limited to, compensation for towing, storage and repair.

(Code 1961, § 23-46)

**Cross reference**— Definitions generally, § 1-2.

**Sec. 114-122. - Exceptions.**

The provisions of this article are not and shall not be held applicable to:

- (1) A wrecker operated from a place of business outside the city when towing a wrecked or disabled vehicle from a point outside the city to a destination within the city.
- (2) A wrecker operated from a place of business outside the city when making a consent tow if the tow is not from the scene of a traffic accident and the tow truck (wrecker) is registered under the provisions of the Texas Department of Licensing and Regulation.

(Code 1961, § 23-47)

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**Sec. 114-123. - Business, transfer and/or wrecker vehicle permits required.**

- (a) No person shall engage in the wrecker business in this city without having first obtained the appropriate business, transfer or vehicle permits from the director; provided, however, that as required by section 2308.201 of the Texas Occupations Code, a person performing consent tows only with a tow truck registered under the provisions of such act is exempt from this permit requirement if his place of business is located outside the city limits, and the tow is not from the scene of a traffic accident.
- (b) Applications for appropriate permits shall be made to the director on forms provided by the city.
- (c) All permits issued shall be personal to the owner therefor and may not be sold, leased or otherwise transferred to any other party. If a business or transfer permit holder sells, leases or conveys ownership or control of his wrecker business, the new owner shall not operate such wrecker business without obtaining all necessary permits.
- (d) All permits issued to new applicants shall be subject to a six-month probationary period. During this period, the police chief (director) or his designee will closely supervise their response time, the times they fail to take a call, their bills for compliance with the approved price list and their compliance with this article. The police chief or his designee will also contact some of the owners of the vehicles being towed to see if the owners are being informed of the referral fees. Once a company passes probation, they shall receive a permit for an additional 18 months. All renewal permits shall be issued for two years. Renewal permits shall not require a public hearing or council approval. If a company has been suspended within the last year, such company will be required to serve a six-month probationary period if such company seeks a renewal permit.

(Code 1961, § 23-48)

**Sec. 114-124. - Application for and issuance of business or transfer permits.**

- (a) An applicant for a wrecker business or transfer permit shall submit, on a form provided by the director, an application containing the information requested thereon. Such application shall contain and be accompanied by, but not limited to, the following information:
  - (1) The name, the trade name, all TDLR issued license numbers, address and telephone number of the wrecker company.
  - (2) The number of wreckers proposed to be operated.
  - (3) The owner of the wrecker company, if the wrecker company is other than a corporation; and if a corporation, the name of the president of the corporation, their addresses and their telephone numbers.
  - (4) Certificates of insurance meeting the requirements of section 114-128
  - (5) The site of any business operation and/or storage area within the corporate limits of the city, is in conformance with the city zoning ordinance, including its provisions for lawful nonconforming uses.
  - (6) The applicant for a business permit who seeks to be placed on the nonconsent/nonpreference rotation list owns or leases, or will own or lease, at the time the permit is issued, an auto storage area which meets the requirements of section 114-127 regarding auto storage area.
  - (7) A certification from the city tax assessor-collector and director of finance that the applicant does not owe any delinquent taxes, paving assessments, or any other moneys to the city (see section 2-262 of this Code).

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- (8) A certificate of occupancy issued by the city, if the wrecker company is located within the corporate limits of the city.
- (b) When an applicant has filed a written application for a permit, the city council shall hold a public hearing on the application. At this public hearing, the burden will be on the applicant to prove that:
  - (1) He has available equipment to tow vehicles in the city;
  - (2) He has drivers in the area;
  - (3) He has experience towing vehicles;
  - (4) He has experience or the ability to meet the expected response time at any time of the day or night and in any type of inclement weather; and
  - (5) The owner and investors of the business as well as the drivers are reliable and can be entrusted with promptly towing vehicles, without damage thereto, securing the vehicle contents, making and filing accurate records thereof, able to follow the towing regulations, and billing properly.
- (c) If there is no change in business location or ownership, a renewal permit may be renewed for an additional 24 months if the permittee has submitted a renewal application and has complied with this article, promptly answered calls, taken vehicles to storage yards and garages in the city, and charged prices not in excess of those listed in this article.
  - (1) Each renewal application shall be accompanied by a check or money order in the amount of \$50.00, payable to the city.

(Code 1961, § 23-49; Ord. No. 00-40, § 2, 7-11-2000)

**Sec. 114-125. - Vehicle permits.**

- (a) For each vehicle to be operated as a wrecker, the applicant shall notify the director as to the make, model and vehicle identification number, and the license number.
- (b) Each additional wrecker to be used under a business or transfer permit shall require a separate application, together with an application fee as set forth in section 114-126
- (c) Each wrecker shall be required to have the following:
  - (1) A minimum 15 pounds supply of material designed to absorb oil spills.
  - (2) A minimum of six standard parking flares.
  - (3) A customer receipt book.
  - (4) A minimum 5lb. dry fire extinguisher certified
  - (5) A street broom and shovel
  - (6) A receptacle capable of containing debris; minimum 5gal. Capacity.
  - (7) Display a current "City of Port Arthur Wrecker Permit" sticker on the front windshield.
- (d) When the director has determined that each of the requirements of subsection (c) of this section have been met; that the applicant has complied with the Texas Department of Licensing and Regulation rules and all other applicable state law and/or regulations; and that all state requirements for lighting and safety have been satisfied, he shall issue a vehicle permit upon payment of fees as set forth in section 114-126

(Code 1961, § 23-50)

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**Sec. 114-126. - Permit fees.**

- (a) Every application for a business permit or transfer permit shall be accompanied by a check or money order in the amount of \$150.00, payable to the city, which shall include the fee for one wrecker vehicle permit.
- (b) Every application for an additional wrecker vehicle permit to operate under any business or transfer permit shall be accompanied by a check or money order in the amount of \$50.00, payable to the city.
- (c) No portion of any fee paid under this article shall be refundable.
- (d) For each individual wrecker vehicle permit fee, the applicant will receive one Wrecker Permit sticker for that vehicle upon successfully completing the vehicle inspection. An inspection fee of \$35.00 will be required upon inspection.
- (e) All permitted tow truck vehicles shall be inspected annually by the *Administrator*. Upon successful completion of the inspection, the Administrator shall issue an inspection sticker which will remain valid for one year. This inspection does not negate any inspections as outlined in Sec. 114-136.

(Code 1961, § 23-51)

**Sec. 114-127. - Storage area.**

- (a) For each business permit on the nonpreference rotation list, a storage area meeting the following criteria shall be required:
  - (1) Must be located in the city;
  - (2) Seven thousand square feet of area minimum, securely fenced and/or enclosed in a building;
  - (3) All sites for outdoor storage or disabled motor vehicles and associated auto parts shall provide a screening fence for any area within 100 feet of any public street right-of-way or any lot containing a residential use or zoned residential. Such screening fence shall be not less than six feet in height and constructed of wood, metal, concrete or other substantial material and shall be so constructed that any open space between solid material shall be a maximum of one-half inch in width, and the solid material between open spaces shall be at least four inches in width;
  - (4) Maintained exclusively for storage of vehicles towed by wreckers operating under such permit; and
  - (5) The storage area must comply with the applicable state law or regulation.
- (b) Any storage area maintained or used by permit holders not on the nonpreference rotation list shall be in a building or securely fenced and meet the requirements of subsection (a)(3) of this section.
- (c) The wrecker permit owner shall have a local phone number to be contacted, promptly meet the owner of the vehicles towed at the storage yard, will allow the owner to inspect the vehicle, will go over any bills or damages incurred and will process payment at the storage yard or at an office located in the city.
- (d) All signage must be in compliance with State law.

(Code 1961, § 23-52; Ord. No. 00-40, § 3, 7-11-2000)



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**Sec. 114-128. - Financial responsibility.**

No business, transfer or vehicle permit shall be issued until the applicant has submitted a written certificate of liability insurance on each wrecker and storage facility in the types and amounts not less than the types and amounts required by the Texas Department of Licensing and Regulation and all other applicable state requirements. Such certificate of insurance shall provide for ten days' written notice to the director of cancellation of such insurance. Failure to maintain such policy of insurance in full force and effect shall require suspension or revocation of any permit.

(Code 1961, § 23-53)

**Sec. 114-129. - Business or transfer permit holder's responsibility.**

- (a) Every business or transfer permit holder shall be responsible for the actions of any driver or other employee operating under his permit.
- (b) Every business permit holder shall be responsible for the appearance and operation of their storage facility.
- (c) Every business or transfer permit holder shall provide to the director his current residential and business telephone number at which he or his authorized agent may be contacted.
- (d) Every business permit holder shall operate his storage area so that vehicles may be received or released at any time, 24 hours a day including weekends and holidays.
- (e) No business permit holder or his agent shall, for any reason, fail or refuse to release to a vehicle owner or authorized agent the contents of any vehicle in any owner's storage area, unless such contents have been impounded by the police as evidence in any police investigation.
- (f) Every business or transfer permit holder shall operate from and maintain wreckers at the place of business specified by permit.

(Code 1961, § 23-54)

**Sec. 114-130. - Wrecker driver's responsibility.**

- (a) Every wrecker driver shall obey all lawful orders given by any police officer, and shall not in any manner interfere with any police officer in the performance of their duty.
- (b) Wrecker drivers shall not remove any wrecked or disabled or illegally parked vehicle from any public street without authorization from a police officer; provided, however, that the driver of a stalled or disabled vehicle not involved in an accident may authorize a wrecker driver to remove his vehicle when no police officer is present.
- (c) Upon authorization to remove any vehicle from any street or private property, every wrecker driver shall transport such vehicle to his storage area, or to such other destination as ordered by the police officer or vehicle driver, immediately and by the most direct route.
- (d) Any wrecker driver towing a vehicle from the scene of a vehicle accident shall be responsible to remove from the scene of the accident any broken glass or other debris resulting from the accident. If more than one wrecker is summoned, each driver shall be responsible for the cleanup and removal.
- (e) The driver of any wrecker who performs any towing or other service, and is paid a fee directly for such service, shall issue to the vehicle driver or his agent a signed receipt itemizing the services rendered and the fee collected for such services.

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- (f) No person shall solicit in any manner, directly or indirectly, on the streets of the city, the business of towing, removing, repairing, wrecking, storing, trading or purchasing any vehicle which is wrecked or disabled on a public street.
- (g) No person shall drive, stop or park a wrecker nearer than 200 feet of the scene or situs of an accident or collision on the streets of the city until directed to do so by the officer investigating the accident, and the persons driving or occupying the wrecker shall remain with the wrecker at all times unless otherwise directed by the officer in charge of such investigation. The prohibition of this section shall be inapplicable, provided that it is necessary to prevent death or bodily injury to any person involved in an accident or collision. It shall not be necessary for a complaint charging a violation of this section to negate any exception contained in this section concerning any prohibited act, but any such exception made in this section may be urged as a defense by any person charged by such complaint.
- (h) No wrecker driver, whether responding to or returning from the scene of an accident, shall be authorized to exceed any posted speed limit.
- (i) No tow truck company shall fail to answer three calls for service within one month, and, if it fails to answer three calls for service within one month, the company shall automatically be suspended from the rotation list for 60 days. However, a company cannot miss more than 24 calls per year. A tow truck company need not answer a call for service if it called the police dispatcher in advance and asked to be taken off the rotation list during a period of time when their vehicles are being repaired, are on another job or for other reasons. This temporary recusal from the list can only occur three times per year.

(Code 1961, § 23-55)

**Sec. 114-131. - Referral fees.**

All wrecker drivers shall disclose in writing to the driver and/or owner (if available) of the disabled vehicle, the nature of and amount of referral fees to be received by the tow truck company from repair companies and from storage lots and their ownership interest therein.

(Code 1961, § 23-55A)

**Sec. 114-132. - Areas vehicles are towed to.**

The police officer at the scene of an accident shall comply with the parameters of V.T.C.A., Transportation Code § 545.305, and shall direct the wrecker drivers to tow disabled vehicles involved in nonconsent tows to storage yards and/or to garages within the city, unless the owner of the vehicle has a special preference for a repair company or storage lot that is not within the city.

(Code 1961, § 23-55B)

**Sec. 114-133. - Nonpreference rotation system.**

- (a) The nonconsent/nonpreference rotation system has been established as a means of securing immediate wrecker service in cases of emergency relating to accidents on the public streets, abandoned vehicles on the public streets, and other circumstances of public necessity arising out of law enforcement. The nonconsent/nonpreference rotation system, therefore, is subject to the governance of the police department in accordance with the provisions of this article.
- (b) The administrator shall maintain a list of participating wrecker businesses who hold a business permit who will be placed in alphabetical order by company name. If owners/operators of disabled

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vehicles have need of wrecker service, but have no preference of wrecker companies, the police department will call participating companies on a rotating basis until contact is made with a company that can perform the desired service.

- (c) The administrator shall establish the following lists of participating business permit holders for nonconsent/nonpreference pickups or tows. The first list shall contain the business name, address, and telephone number of 15 Wrecker Business Permit holders on nonconsent/nonpreference rotation. The designation of a company on the nonconsent/nonpreference rotation list shall not be sold nor assigned to another company either directly or indirectly without the consent of the city council, and as noted under section 114-123 of the Code of Ordinances. If the new company has substantially the same number of drivers and trucks, and the storage yard is the same, then a public hearing is not necessary for the council to approve the assignment. There shall also be a list that shall contain only the business name, address, and telephone number for participating business permit holders on nonpreference rotating heavy-duty wreckers. If it does not appear that the wreckers on the lists delineated above will arrive at a scene in a reasonable time as to remove traffic hazards, the chief of police or his designee has the authorization to immediately call other wrecker companies.
- (d) Police officers are empowered, in exigent circumstances, to select available wreckers, without regard to the rotation lists maintained at the police department. If a wrecker is utilized in the manner described above, that particular service will be charged to the wrecker company's next rotation turn.
- (e) The police department shall maintain only one phone number whereby participating wrecker companies will be summoned. Change of phone number may only be accomplished by submission of written notice to the administrator.
- (f) The police officer at the scene, before summoning any wreckers, shall ask the drivers of the vehicles to be towed if they have any preference of wrecker service. However, no police officer shall in any manner of voice or action suggest any particular wrecker service, or in any manner attempt to influence a vehicle driver's selection of wrecker service.
- (g) When a driver or owner of a vehicle to be towed away indicates or requests a particular wrecker service company, the officer on the scene shall notify the telecommunications operator to summon that company by request. Any requested wrecker or wrecker company must be one that has obtained all necessary permits, or is exempt (see section 114-123(a)); provided, however, that if the tow is from the scene of a traffic accident, a wrecker service permitted under this article shall be utilized. When a wrecker service is called by request, if it is on the nonconsent/nonpreference rotation list, that business permit holder's name shall not be changed from its position on the rotation list.
- (h) If the driver or owner of a vehicle to be towed expresses no preference as to wrecker service, or for any reason cannot be questioned as to preference, the officer on the scene shall notify the telecommunications operator to summon the wrecker service whose name appears at the top of the next-up rotation list. Such notification shall include whether a standard wrecker or heavy-duty wrecker is required. Upon accepting a summons from the telecommunications operator, a business permit holder shall be allowed a maximum of 25 minutes to appear on the scene. If they do not appear on the scene within such a time limit, their call may be cancelled, their name placed on the bottom of the list, and the next business permit holder's name on the list will be called.
- (i) The administrator shall prepare and keep current two separate logs to record wrecker pickups. as follows:
  - (1) One the log shall contain a continuing record of all vehicles picked up by any standard wrecker by reason of nonconsent/nonpreference.
  - (2) One log shall contain a continuing record of all heavy equipment picked up by any heavy-duty wrecker by reason of nonconsent/nonpreference.

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- (j) Wrecker companies participating in the nonconsent/nonpreference rotation system are also required to comply with the following:
- (1) The participating business permit holder is responsible for the actions of wrecker drivers, employees or anyone acting in behalf of the company.
  - (2) Wrecker businesses, companies, drivers, employees or anyone acting in their behalf must fully comply with all state laws and local ordinances.
  - (3) No more than one wrecker company may operate its principal business office from one business address or location; provided, however, that this shall not be construed to prohibit separate wrecker companies from maintaining separate adjacent storage facilities at the same business address or location. Each such separate storage area must fully comply with all provisions of this article, including section 114-127.
  - (4) A wrecker company called to perform service shall be required to perform such service in its own wrecker company vehicle.
  - (5) A wrecker business cannot refuse to respond to a call from the police department and perform the requested service unless its wreckers are unavailable due to another bona fide engagement for its service, or the business has otherwise complied with section 114-130(i).
  - (6) Wrecker companies are required to be on-call for summons by the police department 24 hours a day, including weekends and holidays.
  - (7) The wrecker company, from a nonconsent tow, shall not tow the vehicle to a repair company that the wrecker company has a direct or indirect interest in, without notifying the chief of police or his designee by written letter or by fax within 24 hours. Said wrecker company shall also provide a list of repair companies in Port Arthur to the owner of the vehicle so that the owner has knowledge of his available options as to other repair companies. A violation of said subsection shall be punishable by a minimum fine of \$500.00 per incident.

(Code 1961, § 23-56; Ord. No. 00-60, § 2, 10-3-2000; Ord. No. 05-30, § 2, 4-12-2005)

**Sec. 114-134. - Maximum fees established for nonpreference rotation system wrecker service.**

- (a) Fees charged by wrecker companies for nonconsent/nonpreference rotation tows, pickups or related wrecker services shall not exceed the following:
- (1) To remove any vehicle 10,000 pounds or less, from any public or private property to any storage area or destination within the city, by a standard wrecker, a basic fee may be charged not to exceed the following:  
Day or night .....\$175.00
  - (2) The fees charged for any tow of a vehicle over 10,000lbs. shall be governed by rules promulgated by the Texas Department of Licensing and Regulation.
  - (3) To remove any vehicle from a canal, river, lake or waterway and transport to any storage area or destination within the city by a wrecker, an additional fee of \$50.00 may be charged as well as for the actual cost of diver services.
  - (4) When any standard or heavy-duty wrecker is called for wrecker service and is unable to perform the required service and has need of an additional wrecker to perform such service, upon prior approval by the police officer on the scene, the wrecker company initially summoned shall be allowed to select and employ an additional wrecker to assist in performing the required service.

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The additional wrecker, so employed shall be one that is permitted under this article to engage in the wrecker business in the city, if possible. The basic fee for the additional wrecker shall be the same as the first.

- (5) When a wrecker is called for wrecker service, and is for any reason beyond the wrecker driver's control, delayed from performing the required pickup for any period of time in excess of 30 minutes, such driver may charge an hourly fee. If the accident involves an extraordinary amount of debris, cargo, or other such extensive clean-up, an hourly fee may be charged once the vehicle is hooked up. Such fee shall be in addition to the basic fees set forth in this section and shall not exceed a rate of \$37.50 per one-half hour. The Officer in charge at the scene will have the discretion whether additional clean up fees are warranted.
- (6) A fee for storage of a vehicle shall not exceed the following:  
\$20.00 per day beginning two hours after pick-up.
- (7) Drop Fee of \$60.00 may be charged in lieu of towing if the vehicle is fully prepared for transport and the only thing remaining is for the tow operator to drive away. The Company shall also go back as next up on the rotation list.
- (8) Towing surcharges, fuel adjustment fees or other miscellaneous fees are prohibited.
- (9) The wrecker company can also recover other unanticipated actual costs, expenses or services that are incurred as approved in advance by the police chief or his designee
- (b) All bills for wrecker service shall be itemized as to the services rendered and charges made. A copy of all bills shall be mailed to the police department monthly. Electronic copies may be requested by and submitted to the Director or his designee.
- (c) Each business permit owner shall keep full and complete books of account in accordance with sound business practices.

(Code 1961, § 23-57; Ord. No. 05-16, § 2, 3-15-2005)

**Sec. 114-135. - Additional police department use of nonpreference rotation system.**

The director shall establish police department policy and procedure pertinent to removal from site of arrest, those vehicles from which a police officer has arrested the operator or person in control of the vehicle. Such policy and procedure shall include, but is not limited to, use of the nonconsent/nonpreference rotation system.

(Code 1961, § 23-58)

**Sec. 114-136. - Inspections authorized.**

Any permit holder or applicant, by virtue of making application therefor, agrees to permit during normal business hours the inspection of premises, wreckers, wrecker equipment, storage facilities, records of vehicles towed and records of fees and charges. This authority is held by the director, other law enforcement officials, or any other city official authorized to enforce any ordinance or law pertaining to the premises or operations thereon.

(Code 1961, § 23-59)

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**Sec. 114-137. - Enforcement.**

The director (Police Chief) shall enforce the terms and provisions of this article. Notwithstanding any other provision in this article, the director can immediately reinstate or place a wrecker company on the rotation list on a written finding that it is in the best interest and urgent needs of the city and the public to have the company on the list and that the company has and/or will substantially comply with this article.

(Code 1961, § 23-60)

**Sec. 114-138. - Administrative disposition of violations.**

- (a) In lieu of or in addition to any criminal prosecution or civil remedy for the violation of and provisions of this article, the director and the administrator shall have, as to the holders of any permit, or as to any applicant therefor, the duty and authority to enforce the provisions of this article by administrative action in accordance with the principles and procedures set forth in this section.
- (b) The director may promulgate procedures to carry out and enforce the provisions of this article, as may, from time to time, be deemed necessary to adequately protect the public's welfare and safety in the provision of wrecker service.
- (c) For purposes of invoking any administrative remedy against a permit holder, the acts or omissions of any agent or employee of such permit holder shall be considered to be the acts or omissions of such permit holder.
- (d) Grounds for suspension or revocation of a permit include, without limitation, any conduct in the wrecker business which endangers the life or safety of any person; one or more violations of the applicable state law or local ordinances; failure to maintain in effect any insurance required by this Code; or fraud or theft in the conduct of the wrecker business.

(Code 1961, § 23-61)

**Sec. 114-139. - Revocation of permit and appeals.**

- (a) An administrative remedy which the director may employ to enforce the provisions of this article is revocation of any permit. This power includes the authority to remove or to cause to be removed any evidence of a permit from any wrecker.
- (b) Revocation of any wrecker business permit, vehicle permit or transfer permit may be accomplished by the director after a hearing. Written notice of the hearing, the administrative action which may be taken, and the grounds therefor shall be given to the permit holder by certified or registered mail at least ten days prior to the hearing. Mailing of such notice to the last known business address of such permit holder shall constitute sufficient notice. An official record of such hearing shall be made. Within ten days of the hearing, the director shall make a written decision or ruling, setting forth the reasons or grounds for such administrative action. Such decision or ruling shall be mailed by certified or registered mail to the permit holders affected by the decision. The effective date of any revocation shall be stated in the decision or ruling.
- (c) When applicable, both criminal prosecution and revocation will be pursued; provided, however, that unsuccessful or no criminal prosecution shall not preclude revocation. Conversely, unsuccessful or no revocation shall not preclude criminal prosecution.
- (d) Appeals from a ruling by the director shall be made in writing to the city manager within 20 days of such decision or ruling. The city manager shall review the record made by the director. He may, in his discretion, hold a hearing upon proper notice to the appealing party. The city manager shall make

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a written decision or ruling upholding, modifying or reversing the decision of the director. The decision of the city manager is final.

(Code 1961, § 23-62)

**Sec. 114-140. - Suspension and appeals.**

- (a) An administrative remedy which the administrator may employ to enforce the provisions of this article is suspension of any participating wrecker business from the nonpreference rotation system.
- (b) Violation of any of the terms of this article or applicable state law shall result in a 60-day suspension from the nonpreference rotation system.
- (c) When applicable, both criminal prosecution and suspension will be pursued; provided, however, that unsuccessful or no criminal prosecution shall not preclude suspension. Conversely, unsuccessful or no suspension shall not preclude criminal prosecution.
- (d) Suspension of any wrecker business from the nonpreference rotation system may be accomplished by the administrator after a hearing. Written notice of the hearing, the administrative action which may be taken and the grounds therefor shall be given to the permit holder by certified or registered mail at least five days prior to the hearing. Mailing of such notice to the last known address of such permit holder shall constitute sufficient notice. An official record of such hearing shall be made. Within ten days of the hearing, the administrator shall make a written decision or ruling, setting forth the reasons or grounds for such administrative action. Such decision or ruling shall be mailed by certified or registered mail to the permit holders affected by the decision. The effective date of any suspension shall be stated in the decision or ruling.
- (e) Appeals from a ruling by the administrator shall be made in writing to the director within ten days of such decision or ruling. The director shall review the record made by the administrator. He may, in his discretion, hold a hearing upon proper notice to the appealing party. The director shall make a written decision or ruling upholding or reversing the decision of the administrator. The decision of the director is final.

(Code 1961, § 23-63)

**Sec. 114-141. - Penalty for violation of article.**

It shall be unlawful for any person to violate the terms or provisions of this article. Any person who violates any of the provisions or terms contained in this article shall be punished by a fine not to exceed \$500.00, and each day such violation is permitted or continued to exist constitutes a separate offense.

(Code 1961, § 23-64)

**Sec. 114-142. - Reserved**

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FOOTNOTE(S):

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