

ORDINANCE NO. 2565

**AN ORDINANCE RELATING TO EMERGENCY WRECKER SERVICES WITHIN THE CITY OF DERBY, KANSAS AMENDING AND REPEALING SECTIONS 10.28.080, 10.28.090, 10.28.100, 10.28.110, 10.28.120 OF THE DERBY MUNICIPAL CODE AND PROVIDING SUBSTITUTE PROVISIONS THEREFOR AND FURTHER ENACTING NEW SECTION 10.28.130 OF THE DERBY MUNICIPAL CODE.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DERBY, KANSAS:**

**Section 1.** Section 10.28.080 of the Derby Municipal Code is hereby amended to read as follows:

**“10.28.080 – Emergency wrecker service fee and charge schedule.**

Emergency wrecker companies granted emergency wrecker rotation list privileges shall charge the following fees for services rendered under this chapter:

A. Towage. Towage fees are established for towing a vehicle from one location within the city limits to another location within the Wichita metropolitan area, as designated by the owner of the vehicle or by an employee of an authorized public agency.

1. Where a wrecker that is less than two and one-half tons is requested, there shall be a maximum charge of one hundred thirteen dollars per wrecker.
2. Where a two and one-half-ton wrecker or larger is requested, the maximum charge shall be two hundred seventy dollars per wrecker.
3. The maximum charge for towing combination vehicles under 26,000 GVW shall be two hundred seventy dollars per hour.
4. Heavy duty towing: When a two-ton or greater tractor is necessary for towing, the towage fee shall be three hundred dollars per hour.
5. Heavy Duty Towing/Tractor and Trailer. When a tractor and trailer are necessary for towing, the towage fee shall be two hundred fifty dollars. An additional fee of three hundred dollars per hour may be charged if a car hauler is used.
6. Heavy duty towing Landoll Specialized Trailer, when requested by a law enforcement officer.

- a. When a Landoll Specialized Trailer under twenty-eight thousand pounds is necessary for towing, two hundred seventy dollars per hour.
- b. When a Landoll Specialized Trailer over twenty-eight thousand pounds is necessary for towing, two hundred seventy dollars per hour.
- c. For large motor coaches and tour buses, two hundred seventy-five dollars per hour.”

**Section 2.** Section 10.28.090 of the Derby Municipal Code is hereby amended to read as follows:

**“10.28.090 - Mileage.**

Mileage may be charged from the point of hookup to the location to which a vehicle is towed within the Wichita metropolitan area. Towing shall be by way of the most direct route between the point of the tow's origin and its destination.

- A. For a wrecker of less than two and one-half tons, five dollars per mile.
- B. Where a wrecker of two and one-half tons or more is used, five dollars and fifty cents per mile.
- C. For heavy duty towing, as described in Section 10.28.080 of this chapter, eight dollars per mile.”

**Section 3.** Section 10.28.100 of the Derby Municipal Code is hereby amended to read as follows:

**“10.28.100 – Additional Charges.**

A. Additional charges for winching, dollies, wheel lift or rollbacks or other services not normally incidental to towing wrecked or disabled vehicles shall be allowed only when the additional charge is reasonably necessary:

- 1. To retrieve a wrecked vehicle which is off the road or overturned;
- 2. To protect the wrecked or disabled vehicle from reasonably foreseeable additional damage should the device not be used; and
- 3. When provided at the request or with the permission of the vehicle owner or operator.

B. Waiting time, when required by a law enforcement officer in charge at the scene of an accident, shall be twenty dollars per quarter hour or any part thereof, after the wrecker has been at the scene for thirty minutes;

C. The maximum charge for up righting any overturned vehicle other than a motorcycle or bicycle, shall be fifty-five dollars;

D. Dolly services, in addition to the tow service charge, required for towing wrecked motor vehicles shall not exceed fifty dollars. A dolly charge may be imposed only if a dolly is necessary and actually used to tow the vehicle;

E. Winching Charges.

1. A winching charge of twenty-five dollars for each quarter hour or any part thereof may be charged, with a minimum charge of eighty dollars, when a wrecker of less than two and one-half tons is used;

2. A winching charge of one hundred seventy-five dollars per hour, with a one hour minimum, may be charged when a two-ton or greater tractor is necessary for towing and is requested by a law enforcement officer;

3. An additional fee of three hundred dollars may be charged for winching of a vehicle when a tractor and trailer is necessary for towing and is requested by a law enforcement officer.

F. A lot fee of thirty dollars per vehicle may be charged by the wrecker company for costs associated with releasing of a vehicle;

G. A thirty-dollar one-time fee may be charged for tarping a vehicle with broken windows or a vehicle otherwise open to the weather.

H. A twenty-five-dollar one-time fee for floor dry chemicals used.

I. A ten-dollar one-time fee for disposal of chemicals, trash, etc.

J. Unless requested by the vehicle owner, no other charges shall be imposed for towing, storage or other services rendered pursuant to this chapter without the written authorization of the chief of police.

K. Emergency wrecker companies shall provide each owner or other authorized person a bill separately itemizing the fee or charge for each service provided.”

**Section 4.** Section 10.28.110 of the Derby Municipal Code is hereby amended to read as follows:

**“10.28.110 – Storage – Storage charges.**

A. Subject to the availability of space, vehicles which are towed by the emergency tow company and which are operable shall be stored at the emergency wrecker company's primary facility for a

minimum of twenty-four hours. Inoperable vehicles may, at the discretion of the emergency wrecker company, be taken directly to a secondary lot.

B. Vehicles which may be further damaged by exposure to inclement weather shall be covered with a waterproof protective covering to prevent or minimize damage from inclement weather.

C. An emergency wrecker company may charge the following for each twenty-four-hour period or portion thereof for storage of an impounded vehicle at the emergency wrecker company's facility; provided, that no storage charge shall be imposed for the first twenty-four hours after impound.

1. Fifty dollars for tractor, bus, RV, or trailer

2. Thirty-five dollars for all others.

D. A maximum of thirty days storage may be charged for any vehicle.”

**Section 5.** Section 10.28.120 of the Derby Municipal Code is hereby amended to read as follows:

**“10.28.120 – Fees charged to the City of Derby.**

For vehicles towed to a lot owned by the City of Derby as directed by a law enforcement officer, no charge shall exceed a total of one hundred seventy-five dollars for any tow where a wrecker that is less than two and one-half tons is requested, and two hundred twenty-five dollars for any other tow; including all charges and fees.”

**Section 6.** Section 10.28.130 of the Derby Municipal Code is hereby enacted to read as follows:

**“10.28.130 - Exceptions.**

The provisions of this chapter shall not apply to any person when acting immediately to prevent death or bodily injury to a person involved in an accident or damage to property, nor shall this chapter be construed to apply to an employee or agent of an authorized public agency when calling for emergency wrecker service for vehicles owned, leased or otherwise under the control of such public agency.”

**Section 7. Repeal**

The existing provisions of sections 10.28.080, 10.28.090, 10.28.100, 10.28.110, and 10.28.120 of the Derby Municipal Code are hereby repealed.

**Section 8.** All other provisions of the Municipal Code of the City of Derby, Kansas shall remain in full force and effect except as specifically amended herein. All other ordinances or parts of other ordinances in conflict herewith are repealed. However, any section of an existing ordinance not in conflict herewith is not repealed and remains in full force and effect.

**Section 9.** Severability

Should any section, clause, sentence, or phrase of this ordinance be found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any remaining provisions herein.

**Section 10.** Effective Date

This Ordinance shall take effect and be in force from and after its passage and publication of the ordinance or a summary thereof once in the City's official newspaper as provided by state law.

**PASSED by the City Council** this 13th day of August, 2024 and **SIGNED** by the Mayor.

/s/Mark A. Staats

Mark A. Staats, Mayor

Seal

Attest:

/s/Lynn Ciarleglio

Lynn Ciarleglio, City Clerk

Approved as to form:

/s/Jacqueline Kelly

Jacqueline Kelly, City Attorney