

**CITY OF BAYOU LA BATRE
ORDINANCE NO.: 2002-465**

**AN ORDINANCE PROVIDING RESTRICTIONS FOR WRECKERS WITHIN THE
CITY OF BAYOU LA BATRE, ALABAMA**

WHEREAS, the City Council of the City of Bayou La Batre desires to protect, preserve and promote the health, safety and welfare of the citizens of Bayou La Batre through ensuring safe and efficient towing services;

WHEREAS, the City Council wishes to establish regulations and restrictions for towing service providers operating within the City of Bayou La Batre and the police jurisdiction:

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BAYOU LA BATRE, ALABAMA AS FOLLOWS:

SECTION I. BUSINESS LICENSE

Every wrecker or towing company conducting business within the city limits of the City of Bayou La Batre, Alabama and its police jurisdiction shall purchase a business license therefrom and shall be subject to the terms and conditions of this ordinance.

SECTION II. WRECKER RESTRICTIONS

A. Every wrecker used within the city limits of the City of Bayou La Batre, Alabama, or its police jurisdiction shall meet the following minimum standards:

- (1) Factory recommended, three-quarter-ton capacity dual wheels. Dummy dual wheels are prohibited.
- (2) 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.
- (3) 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.

(4) Tow bars, safety chains, 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.

(5) A flashing yellow or amber light only shall be affixed above the top of the cabin of the wrecker; however, sirens, blue lights or other emergency vehicle lights are prohibited.

(6) A minimum of one hundred (100) feet of three-eighths-inch cable.

(7) 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 in height and letters for the address and telephone numbers shall be at least two (2) inches in height.

(8) There shall be no decals, logos, signs or other material on any vehicle, building, equipment, clothing or correspondence implying any official relationship between the wrecker company and any law enforcement or public safety agency.

(9) Clearance and marker lights and all other equipment as required by law.

(10) Dual rear adjustable floodlights with a minimum of twenty thousand (20,000) candlepower each.

(11) In addition to the above requirements of subsections (1) through (7), large wreckers shall be required to be equipped with the following additional items in order to be issued a permit from the city inspection department as set forth herein:

a. Capacity 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.

b. Air control valve for the purpose of providing braking capability for the vehicle or trailer being towed or removed.

c. Two (2) metal chock blocks to prevent rolling or slippage of the wrecker.

Such 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.

d. A minimum of two hundred (200) feet of cable on each drum at least five-eighths inch in diameter.

e. Air brakes so constructed as to lock the rear wheels automatically upon failure and to supply air to disabled vehicles.

f. 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.

(12) Wrecker operators or 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 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 tie down chains at least ten (10) feet in length.

e. One (1) fire extinguisher.

f. The requirements of subsections (5), (7), (8), (9), (11), and any other section of this chapter which would apply to wreckers or wrecker companies in a general fashion.

SECTION III. INSURANCE

A. All wreckers operating with the city shall maintain a valid bond or insurance policy issued by a surety or an insurance company authorized to do business in the State of Alabama with coverage at the following minimum levels and containing an endorsement providing for thirty (30) days notice to the city, specifically the city inspection department assigned to monitor wrecker companies, prior to any material change therein or cancellation thereof:

- (1) Two hundred fifty thousand dollars (\$250,000.00) for bodily injury to any one person.
- (2) Five hundred thousand dollars (\$500,000.00) for bodily injury in any one accident.
- (3) One hundred thousand dollars (\$100,000.00) for damage to property, other than the towed vehicle and its contents while being either towed or stored.
- (4) One hundred thousand dollars (\$100,000.00) in garage keeper's legal liability, including but not limited to coverage for fire, explosion, theft, riot and civil commotion, vandalism, and collision with a deductible not greater than two hundred fifty dollars (\$250.00).

B. Each wrecker operator doing business in the city who moves or otherwise makes contact with any vehicle to be towed, assumes liability for injury to persons, property damage, fire, theft or any other acts of negligence stemming from the towing process.

C. Each wrecker operator doing business in the city shall be inspected by the city inspection department at least once a year, but more often if complaints arise, to ensure:

- (1) The wrecker company is properly licensed by the city,
- (2) The wrecker company is properly insured in accordance with the provisions of this ordinance evidenced by a copy of certificate of insurance,
- (3) All personnel who may respond on behalf of the wrecker operator to any wrecker call in the city have received at least an awareness level of hazardous material training evidenced by a certificate of completion.

SECTION IV. AUTHORITY AT SCENE OF ACCIDENT

Either the police officer or the fire department emergency incident commander in charge of the scene shall have the ultimate authority to direct all activities concerning the removal of vehicles and any clean up activities including requesting any additional assistance that is needed, or canceling any unneeded wreckers, vehicles, or other unneeded assistance in the interest of public safety and welfare. No wrecker company shall be allowed to clean up, load, unload or otherwise handle the cargo or contents of any wrecked or disabled vehicle beyond that which is necessary in order to properly tow the vehicle and clean the street or highway of debris as necessary without the expressed consent of the police officer in charge of the scene, the fire department emergency incident commander, the owner of the vehicle and/or the owner of the vehicle's contents and/or his agent.

SECTION V. SOLICITATION

No person shall intercept any message emanating through the medium of mobile radio or shall divulge or publish the existence, contents, substance, purpose, effect or meaning of such intercepted communication, and use of the same or any information therein contained for the purpose of soliciting or aiding another in the solicitation of wrecker business.

SECTION VI. SCENE OF ACCIDENT

No person, agent or employee of a wrecker company shall drive a wrecker or large wrecker to or near the scene of a vehicular accident or disabled vehicle on the streets of the city and park the same unless such wrecker has been authorized to proceed to the scene of the vehicular accident or disabled vehicle by the police department of the city, nor shall any representative, agent or employee of a wrecker company solicit business in any manner for a wrecker company at the scene of a vehicular accident, disabled vehicle, or on the streets of the city. The unauthorized presence of any wrecker or large wrecker parked on any public street or highway in the city or its police jurisdiction 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.

SECTION VII. POLICE DIRECTED DESTINATION

Any police officer at the scene of an accident, in the exercise of his discretion as a police officer, may direct that any vehicle be taken by the driver of the wrecker towing the vehicle directly to the location designated by the police officer and there held by the city for any lawful purpose, and the city will be responsible for payment.

SECTION VIII. ROTATION LIST

(a) The police department shall maintain two (2) rotation lists. The first list shall be for a listing of all qualified companies operating wreckers. A second list shall be for a listing of all qualified companies operating large wreckers.

(b) To qualify for listing on a rotation list with the city, a wrecker company must:

- (1) Meet all requirements of this ordinance.
- (2) Have applied to be on such rotation list. The application form to be supplied by the police department.
- (3) Maintain twenty-four-hour wrecker service seven (7) days per week, with a wrecker operator and wrecker on call at all times. Answering services shall not be permitted because time is of the essence in responding to wrecker calls.
- (4) Have adequate storage space enclosed by a six-foot chainlink fence or wall and guarded gate which provides for the storage and safe keeping of a minimum of twenty (20) wrecked or disabled vehicles.

SECTION IX. RESPONSE TIME

When contacted by the police operator for a rotation list call, the wrecker company shall arrive at the scene within thirty (30) minutes. If the call is received between the hours of 7:00 a.m. to 9:00 a.m., or 4:00 p.m. to 6:00 p.m., the allotted arrival time shall be forty-five (45) minutes. If the time to reach the scene exceeds the above limits, and the wrecker company does not notify the operator of a valid reason for a delay within said time, the wrecker company will be subject to cancellation of the call and/or suspension from the rotation lists.

SECTION IX. ROTATION

- a) Each properly licensed wrecker company, which meet all other requirements of this ordinance, shall be placed on each rotation list one (1) time per company per list.
- b) In the event that a wrecker company is unable to respond to a wrecker request, the company shall lose its turn on the applicable rotation list. If a company refuses a rotation or closest wrecker call without a valid reason for such refusal, the company shall be subject to suspension from any or all rotation lists. Wrecker companies shall be allowed to obtain assistance from other wrecker companies to aid in removal of vehicles from a rotation call scene, if after arrival on the scene, it is determined that such assistance is necessary. Once a wrecker company accepts a rotation list call from the communications operator, the company will be subject to suspension or removal from any or all rotation lists if the wrecker company fails to service the call and such failure was avoidable.

SECTION X. ROTATION PROCEDURE

On receiving the first request for a wrecker off the rotation list the police communications officer receiving same at police headquarters shall call the first wrecker company on the list to send a wrecker to tow the vehicle involved in a vehicular accident or disabled vehicle and remove the same, along with all debris, from the public streets of the city. 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. A separate list shall be maintained for those companies possessing large wreckers as defined in this ordinance, and the rotation list shall be operated in the same manner as the rotation lists for other wreckers. When it is determined that a large wrecker is needed, the police operator shall dispatch 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. 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.

SECTION XI. SUSPENSION

(a) Upon receipt of proof satisfactory to the chief of police, that any wrecker company has violated any of the provisions of this ordinance, or any other ordinance of the city or law of the state or the United States, the chief of police may, in his discretion, remove such wrecker company's name from any or all rotation lists for up to thirty (30) days or permanently in the discretion of the chief of police.

(b) In the event that a wrecker company becomes subject to suspension for any violation as set forth in this ordinance, the wrecker company shall have seven (7) from the time it is notified of the alleged violation to file its request for a hearing before the city council. A hearing must be held prior to any permanent suspension and must be set within fourteen (14) days from the date the city council receives a request for a hearing from the wrecker company.

SECTION XII. PENALTY

Any person found guilty of violating any provision of this Ordinance shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or by imprisonment for a period not exceeding six (6) months, or both, in the discretion of the Municipal Judge.

SECTION XIII. REPEALER

All City Ordinances or parts thereof in conflict with the provision of this Ordinance, in so far as they conflict, are hereby repealed.

SECTION XIV. SEVERABILITY

The provisions of this Ordinance are severable. If any provision, section, paragraph, sentence or part thereof shall be held unconstitutional or invalid, such decision shall not affect or impair the remainder of the Ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence and part thereof separately and independently of each other.

SECTION XV. EFFECTIVE DATE

This Ordinance shall become effective on the 1st day of July, 2002.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BAYOU
LA BATRE, ALABAMA this 14th day of May, 2002.**

CITY OF BAYOU LA BATRE



MAYOR STAN WRIGHT

ATTEST:



IMELDA B. McCLELLAN, CITY CLERK, CMC

STATE OF ALABAMA)
COUNTY OF MOBILE)

I, IMELDA B. McCLELLAN, City Clerk of the City of Bayou La Batre, Alabama, do hereby certify the foregoing to be a true and exact copy of an Ordinance approved and adopted by the City Council of the City of Bayou La Batre, Alabama, at its meeting held on the 14th day of May, 2002.



IMELDA B. McCLELLAN, CITY CLERK, CMC