



# KYLE POLICE DEPARTMENT

111 North Front Street  
Kyle, Texas 78640  
512.268.0859

January 6, 2014

## Draft Copy of the Rotation Wrecker Ordinance

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### 11-275. Purpose

- (a) The purpose of this article is to provide the city with requirements set forth for voluntary participation or privately owned commercial towing and wrecker services with the city. This article shall apply to all commercial towing and wrecker services whose principal place of business is located within the corporate limits of the city and to all commercial towing and wrecker services, both within and without the city, who participate in nonconsent tows in the city.
- (b) For the purpose of this article, nonconsent tow is the removal of any motor vehicle from a public or private place without the effective consent of the vehicle's owner.  
(Ord. No. 900220-2, § 02-20-1990)

### 11-276 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ACCIDENT.** An occurrence in the operation of a motor vehicle that results in injury to any person or damage to property.

**CHIEF OF POLICE.** Wherever the term CHIEF OF POLICE appears in this chapter, the same shall mean the chief police official of the city or such other Police Department official as he or she shall designate.

**DISABLED.** Any vehicle which had been rendered unsafe to be driven upon the streets as the result of some occurrence other than a wreck, reasonably requiring that such vehicle be removed by a wrecker.

**HEAVY DUTY WRECKER.** A wrecker not less than two tons in size.

**HOLD.** A request made to the wrecker company by a police officer on behalf of the Kyle Pleasant Police Department to maintain custody of a vehicle until approval to release the vehicle to the proper owner is given by the Police Department.

**MOTOR VEHICLE.** Any vehicle which is self-propelled.

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**OWNER'S REQUEST.** Operator or owner of a wrecked or disabled vehicle may select a wrecker company to remove his or her vehicle and authorizes the Police Department to call that wrecker company on behalf of the individual.

**POLICE DEPARTMENT.** The Kyle Police Department.

**POLICE PULL.** When the Police Department has called a wrecker company from the rotation list to remove a wrecked or disabled vehicle or to remove a vehicle in a safe driving condition when the driver is absent, in custody or otherwise incapable of making authorization.

**PRIVATE PROPERTY COMMONLY USED BY THE PUBLIC.** Supermarkets or shopping center parking lots, parking areas provided by business establishments for the convenience of their customers, clients or patrons and parking areas owned and operated for the convenience of, and commonly used by the public.

**PUBLIC PROPERTY.** Any property owned by a governmental entity.

**RESTRICTED USE WRECKER.** A wrecker which otherwise complies with the terms and conditions of this chapter, including a current inspection certificate and all required equipment and insurance as set out in §§ 11-284 and 11-285, but which is operated by a company other than a wrecker company and is used exclusively for the purpose of hauling or towing vehicles owned or operated by the same company owning the wrecker.

**ROLLBACK UNIT.** A specific type of wrecker consisting of a drive-on-hydraulic-tilting, flat-surface bed truck equipped with a forward-mounted winch manufactured with the intent of being able to remove heavily damaged vehicles from the road surface by having the bed unit tilt to the surface and winching the vehicle up onto the flat surface bed. Any rollback unit used under this chapter shall meet all State of Texas tow truck requirements for its intended purpose. A rollback unit meeting all applicable requirements of this chapter and of state law shall be considered a qualified wrecker for the purpose of this chapter, subject to other limitations as set out herein; provided, however, that a rollback unit shall not qualify as a heavy-duty wrecker under this chapter.

**ROTATION.** When the operator of a wrecked or disabled vehicle fails to designate a specific wrecker operator to remove the vehicle and he or she has authorized the Police Department to call a wrecker or heavy duty wrecker from the appropriate rotation list, a police initiated pull will utilize the same rotation list. A separate rotation list will exist for both wreckers and heavy duty wreckers. The Chief of Police will establish the fair and equal rotation lists.

**STREET.** Any street, alley, avenue, lane, public place or highway within the corporate limits of the city.

**TOW TRUCK.** A vehicle equipped with a lifting device which is designed, made or adapted to tow or carry other vehicles but which does not meet the minimum requirements for a wrecker. Vehicles which are commonly referred to as "two-car haulers" or "three-car haulers" are included in this definition of TOW TRUCK.

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**VEHICLE.** Any device in, upon or by which any person or property is, or may be, transported or drawn upon a street, except devices moved by human power or used exclusively upon stationary rails or tracks.

**WRECKER.** A motor vehicle used for the purpose of towing or removing disabled or wrecked vehicles which meets all the State of Texas tow truck requirements.

**WRECKED.** The status of any vehicle that has been damaged as the result of an accident so as to reasonably require that such vehicle be removed by a wrecker.

**WRECKER BUSINESS.** Any wrecker company that hauls, tows or in any way moves vehicles by the use of a wrecker or tow truck.

**WRECKER COMPANY.** Any individual, corporation, partnership or association engaged in the business of towing vehicles on public streets or highways for compensation or with the expectation of compensation for the towing, storage or repair of vehicles. The term WRECKER COMPANY includes the owner, operator, employee or agent or a towing company but does not include cities, counties or other political subdivisions of the state.

**WRECKER SELECTION.** The selection process provided for in §§ 11-286 and 11-288.  
**§ 11-277 VEHICLE DISABILITIES AND ACCIDENTS COVERED.**

The prohibitions and requirements of this chapter shall apply to all vehicle accidents and vehicle disabilities occurring on public property or private property commonly used by the public, regardless of whether or not the final resting place of a vehicle is upon the above described areas immediately after the accident or disability and to police pulls for the vehicles for violations of the laws of the State of Texas.

**§ 11-278 CERTAIN EMERGENCIES EXCEPTED.**

The prohibitions and requirements of this chapter shall not apply to any person who necessarily must act immediately to prevent death or bodily injury to any person involved in an accident.

**§ 11-279 PUSHING OR TOWING.**

A vehicle may be pushed or towed by another vehicle only when it does not reasonably require removal by a wrecker and only when it may be done in a safe manner. Tow trucks may not be used to remove a wrecked vehicle from the scene of an accident.

**§ 11-280 CITY EMPLOYEES SHALL NOT ATTEMPT TO INFLUENCE OWNERS OF VEHICLES.**

No employee of the city shall recommend to any person in any manner the name of any repair, wrecker or towing business, nor shall any city employee influence or attempt to influence in any manner the decision of any person in choosing or selecting a repair, wrecker service or towing business.

**§ 11-281 WRECKER PROHIBITED AT SCENE UNLESS CALLED; SOLICITATION PROHIBITED.**

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- (A) No person shall drive a wrecker to or near the site of an accident within the corporate limits of the city unless such person has been called to the site by the owner of the vehicle, his or her authorized representative or by the Police Department. Any wrecker company when called as provided herein shall notify the police dispatcher before proceeding to the disabled vehicle. No

person shall solicit in any manner, directly or indirectly, at or near the site of an accident involving motor vehicles in the city, any

- (B) business regarding wrecked or disabled vehicle, regardless of whether the solicitation is for the purpose of removing, repairing, wrecking, storing, trading or purchasing said vehicle. The presence of any person engaged in the wrecker business or other business for which solicitation is prohibited (such person not having been specifically summoned by the owner of a wrecked or disabled vehicle, or if not by the owner, the officer in charge of the accident investigation) either as owner, operator, employee or agent on any street at or near the site of an accident within one hour after the happening of such accident shall be prima facie evidence of a solicitation in violation of this section.

(B) Any person who violates, disobeys, omits, neglects or refuses to comply with or who resist the enforcement of any of the provisions of this section shall be fined not less than \$50.00 nor more than \$500.00.

## § 11-282 INSPECTION CERTIFICATES REQUIRED FOR WRECKERS AND HEAVY WRECKERS.

No person shall operate a wrecker or heavy duty wrecker to remove a vehicle within the city, unless a wrecker inspection certificate for such wrecker has been issued by the Chief of Police. Such certificate shall be affixed securely to the inside of the windshield of such wrecker and displayed at all times.

## § 11-283 PROCEDURE FOR ACQUIRING INSPECTION CERTIFICATES, WRECKER ROTATION LIST.

(A) Any wrecker company desiring to engage in the wrecker business in the city shall annually apply in writing to the Chief of Police on a form provided for that purpose by the Chief of Police for an inspection certificate for each wrecker proposed to be operated. The application shall contain the name, address and telephone number of the wrecker company, the number and types of wreckers to be operated, the true owner of the company concerned and a statement that the applicant does or does not desire to appear on the "wrecker rotation list."

(B) Every application, when filed, shall be sworn to by the applicant and filed with the Kyle Police Department.

## § 11-284 QUALIFICATIONS, EQUIPMENT, INSURANCE.

(A) The Chief of Police shall issue an inspection certificate for each qualified wrecker which shall be valid until December 31 of the year in which same was issued. No inspection

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certificate authorizing the operation of a wrecker shall be operated in the city unless the following minimum requirements are met: each wrecker shall be not less than one ton in size or equivalent and shall have a gross vehicle weight of not less than 10,000 pounds.

(B) Each wrecker shall be equipped with a lifting device, wench line and boom with a rated lifting capacity of not less than 8,000 pounds, single-line capacity.

(C) Each wrecker shall carry as standard equipment towing mechanisms, safety chains, a properly functioning fire extinguisher and emergency lighting as approved by the Police

Department. Standard equipment for wreckers shall also include a broom, square point shovel and a receptacle for holding debris.

(D) Wreckers which are qualified for the rotation list shall be equipped with flashing or rotating beacons capable of warning motorists that shall be used in accordance with the Tex. Transportation Code and, if approved, police radio communications of a type approved the Chief of Police.

(E) Each wrecker shall have inscribed on each side thereof, in letters not less than three inches in height, the name, city and telephone number of the wrecker company.

(F) Each owner of a wrecker must furnish evidence of the minimum insurance coverage at the time of the application as defined and required for a tow truck by the Tex.

Administrative Code, Title 43, Chapter B.

(G) Each policy mentioned in division (F) of this section must contain an endorsement providing for ten days notice to the city in the event of any material change or cancellation of each policy and shall name the city as an additional insured while the wrecker company is performing a wrecker job for the city.

## **§ 11-285 REQUIREMENTS FOR WRECKER ROTATION LIST.**

In order to qualify for the wrecker rotation list, the following requirements must be met:

(A) All delinquent taxes due to the city by a wrecker company must be paid in full to maintain its status on the wrecker rotation list;

(B) The applicant shall have a minimum of two wreckers available for service at all times, one of which may be a rollback unit as defined herein;

(C) If the applicant chooses to become part of the heavy duty wrecker rotation list, the wrecker company must have a minimum of one heavy duty wrecker available for service at all times;

(D) The applicant shall file a sworn statement that he or she has no financial interest in any other wrecker service which is on the city's wrecker rotation list.

## **§ 11-286 GROUNDS FOR SUSPENSION OR REMOVAL.**

(A) After an administrative hearing, the Chief of Police may suspend or remove any wrecker company from the rotation list on any of the following grounds:

(1) If the place on the wrecker rotation list was procured by fraudulent conduct, concealment of or false statement of a material fact concerning the applicant at the time of his or her making application;

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(2) If the wrecker company violates the provisions of this chapter or any other city ordinance or any state law regulating vehicular traffic;

(3) If the wrecker company fails to comply with the provisions of a storage area for wrecked or disabled vehicles;

(4) If the wrecker company fails to protect the vehicle in its care as a result of a wrecker pull and fails to prevent parts, accessories and personal belongings from being removed from the vehicle, except as may be necessary to protect such items from theft;

(5) If the wrecker company fails to deliver a vehicle directly to the location within the limits of the city as designated by the owner of the vehicle or the Police Department, provided such vehicle can be legally delivered to such location. However, this provision shall not apply when it is necessary to remove a vehicle to its ultimate destination by two

separate tows because of emergency or breakdown of a wrecker, and no charge is levied which is greater than the amount provided in §11-279 for a single tow from one point on a street to another location within the limits of the city. This does not prohibit the wrecker business and the owner of the vehicle from entering into an agreement to deliver the vehicle to any other location, provided that the Police Department has not required otherwise;

(6) If a wrecker company is repeatedly tardy in arriving after being called to the scene of an accident by the Police Department for a rotation pull or police pull.

(7) If a wrecker company or a wrecker company employee intentionally provides confidential arrest information learned by the wrecker company or its employee, as a result of a police action, from the scene of a rotation pull or police pull and provides this information to any other person, party or business in the city that may find it advantageous to acquire such information.

(B) The Chief of Police shall give ten-days' notice of the time and place for the administrative hearing concerning suspension, cancellation or removal as provided above and is empowered to administer oaths to witnesses and to conduct hearings as otherwise provided by law.

(C) Findings of the Chief of Police and his or her written order of suspension or removal from the rotation list shall terminate all authority and permission theretofore granted. The period of suspension or removal from the rotation list shall not exceed one year, unless the violation occurs under division (A)(7) above, in which case removal from the rotation list will be permanent. If ownership of the permanently removed wrecker company changes, the new owners may apply to join the rotation list. The Chief of Police will present the application to the City Council, who has the final authority to affirm, reject or modify the application.

(D) Any order of the Chief of Police in this section may be appealed to the City Council within ten days from the date of suspension or removal. The City Council shall have authority to reverse, affirm, vacate or modify the order of the Chief of Police; provided, that in the event of affirmance of the order, the suspension shall commence upon the date of action by the City Council.

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## **§ 11-286 PROCEDURE USED IN WRECKER SELECTION.**

(A) When a police officer investigating an accident determines that any vehicle which has been involved in an accident should be removed by a wrecker, the officer shall first determine whether or not the owner has already made arrangements with an authorized wrecker service or, if appropriate, a restricted use wrecker, for the removal of the vehicle.

(B) If not, the officer shall request the owner to either designate an authorized company or allow a wrecker to be called from the wrecker rotation list as follows:

(1) If the owner or operator selects a wrecker company, the investigating officer shall notify the police dispatcher to call the wrecker company. If the requested wrecker company is unable to promptly respond, then a rotation wrecker will be called.

(2) If the owner does not designate a wrecker company to be called, the investigating officer shall notify the dispatcher to call the wrecker company next in line on the wrecker rotation list and furnish its name to the investigating officer. A wrecker company called

from the wrecker rotation list may hereafter be referred to as "rotation pull." In such event, the investigating officer shall notify the police dispatcher who shall call the wrecker company next up from the wrecker rotation list and dispatch it to the scene. The vehicle or vehicles to be removed shall be taken to the place designated by the owner or by the investigating officer or to the wrecker company's own place of storage if no designation is made. If the responding wrecker company is unable to immediately provide a wrecker for each wrecked vehicle at the scene, then the wrecker service next on the rotation list shall be called to remove excess vehicles.

(C) On each succeeding accident or call, or on each equal rotation of the list, the next wrecker company on the rotation list will be called to respond. The Chief of Police will establish a fair and consistent rotation procedure to ensure equal service for each wrecker business on the rotation.

(D) To effect the wrecker rotation and heavy duty wrecker list procedure, the Police Department shall keep a master list of all wrecker companies which meet all the requirements of this chapter and are qualified to be on the wrecker rotation and the heavy duty wrecker rotation lists.

## **§ 11-287 STORAGE; WRECKER COMPANY RESPONSIBILITY.**

It shall be the responsibility of each wrecker company to provide a storage area for wrecked or disabled vehicles which are moved or towed as the result of a police or rotation pull. The storage area may be inspected by the Chief of Police to determine whether it complies with the provisions of this section. A wrecker company or storage facility shall meet all requirements set forth in the Texas Administrative Code, Chapter 18, Chapters A through G which establish the minimum standards for motor carrier laws and storage facilities in order to qualify for participation on the rotation list. The storage area must also be located within the incorporated city limits of Kyle.

## **§ 11-288 FEES FOR SERVICE, TOWING AND STORAGE.**

(A) Towing. It is not the policy of the city to regulate the fees for towing or services provided by an wrecker business/company on the rotation list. Provided, however, no wrecker business/company on the rotation list shall charge a higher fee or rate for calls

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originating by virtue of the rotation list than for calls for similar services from other sources.

(B) Rate sheet required. Each wrecker business/company shall provide to the Chief of Police a rate sheet listing its published rates for towing and storage for each class, annually, or sooner if there is a rate change. This list shall also include all charges for ancillary services such as the use of dollies, dropping, hooking linkage, clearing debris off the roadway and similar charges. No charge shall be greater than those listed on the rate sheet.

(C) Storage. Storage fees shall not exceed the limitations as set forth in the Tex. Administrative Code, Chapter 18, Chapter G. All storage charges shall cease at the time the owner or his or her representative requests the vehicle from the storage yard of the wrecker company, provided the request is made during regular business hours. No charge for storage shall be assessed if the vehicle is removed or requested from the wrecker company within two hours of the time it is placed into storage.

(D) Other charges. Any ancillary services are to be performed only if required and appropriate.

(E) Waiting time. A charge of not more than \$15.00 for each ½ hour of time spent shall be allowed for waiting to tow a vehicle.

## **§ 11-289 FEE REGULATION OR POLICE PULL NOT INVOLVING ACCIDENT.**

On a police pull for a vehicle that is in safe driving condition, and for any reason has no owner or licensed operator present to drive the vehicle from the site, the wrecker company called from the rotation list shall observe and maintain the same maximum fees provided for in this chapter. In the event a police pull is made for a tow-away zone or traffic law violator, the vehicle shall not be released to the owner or any other person until authorization is granted by the Police Department. If a police officer representing the Police Department requests a hold placed on the vehicle, then the wrecker company and/or storage facility operator may not release the vehicle to any other person until authorization is granted by the Police Department.

## **§ 11-290 RULES FOR EXTRAORDINARY CONDITIONS; LARGE VEHICLES.**

(A) If a large or heavy vehicle is wrecked or disabled and a wrecker of ordinary lifting capacity cannot move the vehicle, the following rules shall govern notwithstanding other provisions of this chapter:

(1) The investigating official from the city will attempt to summon the appropriate wrecker from the wrecker rotation or the heavy duty wrecker rotation. In the event that a wrecker is unable to complete the call due to the need for a heavy duty wrecker with extraordinary lifting capacity, the city official shall have a heavy duty wrecker summoned to the scene from the heavy duty wrecker rotation list;

(2) The charges rendered for services of wreckers of extraordinary lifting capacity shall not exceed the usual and customary charges for like services provided in the wrecker industry.

(B) If in the opinion of city fire or police officials, a wrecked or disabled vehicle or its cargo constitutes a hazard to the public, any wrecker company shall act at the direction of the said city official.



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## **§ 11-291 REMOVAL OF WRECKS AND DEBRIS.**

The operator of a wrecker shall remove from the street along with the disabled vehicle all broken or shattered glass and other debris and parts coming from the disabled vehicle; and failure to do so shall constitute a misdemeanor punishable as provided in the code and cancellation of the wrecker license.

## **§ 11-292 NONRESIDENT WRECKER COMPANIES.**

The foregoing provisions shall not be construed to prohibit the transportation by a nonresident wrecker company of a wrecked or disabled vehicle from some point in the city other than the site of an original accident to some point outside the city; nor shall it be construed to prohibit the transportation within the city by a nonresident wrecker company of a wrecked or disabled vehicle from a point outside the city limits to a destination inside or outside the city limits.

## **§ 11-293 COMPANIES TO KEEP RECORDS.**

(A) Every wrecker company qualified for and whose name appears at its request on the wrecker rotation list shall maintain at its garage or storage location within the city records as to all vehicles moved by it after being notified to do so by personnel of the Police Department in accordance with provisions of this chapter.

(B) The records shall contain the following information:

- (1) Make, model and serial number of the disabled vehicle moved by the company;
- (2) Location from which disabled vehicle removed and time of such removal;
- (3) Total amount charged for towing;
- (4) Storage rate per day;
- (5) Description of all personal property within the disabled vehicle at the time of its removal.

(C) The records described in division (B) of this section shall be preserved by the wrecker company for at least six months from and after the date such company came into possession of the disabled vehicle.

(D) The records required to be kept shall be made available to the members of the Police Department by the wrecker company at any reasonable time.

## **§ 11-294 ESTABLISHMENT OF ROTATION SCHEDULES.**

The Chief of Police will establish a fair and consistent rotation procedure to ensure equal service potential for each wrecker business on the rotation. Fair and consistent will be determined in increments of time rather than the number of calls for service. The Chief of Police will strive to offer equal opportunities for all wrecker businesses.