

ORDINANCE NO. _____

An ordinance amending Chapter 15D, “Emergency Vehicles,” of the Dallas City Code by amending Sections 15D-15, 15D-16, 15D-17, 15D-21, 15D-22, 15D-50, 15D-52, 15D-53, 15D-55, and 15D-56; providing a definition of dispatcher; clarifying language concerning emergency wrecker services; providing a penalty not to exceed \$1,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 15D-15, “Definitions,” of Division 1, “General Provisions,” of Article II, “Emergency Wreckers,” of Chapter 15D, “Emergency Vehicles,” of the Dallas City Code is amended by adding a new Paragraph (9.1) to read as follows:

“ (9.1) DISPATCHER means the chief of police for the City of Dallas, and includes representatives, agents, and department employees designated by the chief, as well as third-parties authorized by the chief of police to dispatch wreckers.”

SECTION 2. That Section 15D-15, “Definitions,” of Division 1, “General Provisions,” of Article II, “Emergency Wreckers,” of Chapter 15D, “Emergency Vehicles,” of the Dallas City Code is amended to read as follows:

“(29) RAPID RESPONSE [~~ROTATION~~] LIST means a list, maintained by the chief of police as provided for in Section 15D-53 of this article, of licensed emergency wrecker companies participating in the rapid response program.

(30) Reserved~~[ROTATION means an occasion when the chief of police calls an emergency wrecker from either the wrecker rotation list or the rapid response rotation list to perform a vehicle tow].~~

(31) STREET means any public street, road, right-of-way, alley, avenue, lane, square, highway, freeway, expressway, high occupancy vehicle lane, or other public way within the corporate limits of the city. The term includes all paved and unpaved portions of the right-of-way.

(32) TILT BED/ROLL BACK CARRIER means a motor vehicle that is designed and equipped so as to be capable of lifting another vehicle upon itself for the purpose of transporting the vehicle when it cannot be safely transported by a conventional wrecker and that:

(A) has a manufacturer's gross vehicle weight rating of not less than 15,000 pounds;

(B) has a steel or aluminum carrier bed that is at least 17 feet long, with a load rating of not less than 8,000 pounds;

(C) has a power-operated winch and winch line, with a factory-rated lifting capacity of not less than 8,000 pounds, single line capacity;

(D) has a wheel lift tow bar with a factory-rated lifting capacity of not less than 3,000 pounds; and

(E) complies with all applicable state and federal vehicle weight laws.

(33) VEHICLE means a device in, upon, or by which a person or property may be transported on a public street. The term includes, but is not limited to, an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer, but does not include a device moved by human power or used exclusively upon a stationary rail or track.

(34) VEHICLE OWNER OR OPERATOR means a person, or the designated agent of a person, who:

(A) holds legal title to a vehicle, including any lienholder of record;

(B) has legal right of possession of a vehicle; or

(C) has legal control of a vehicle.

(35) VEHICLE STORAGE FACILITY has the meaning given that term in the Vehicle Storage Facility Act.

(36) VEHICLE STORAGE FACILITY ACT means Chapter 2303, Texas Occupations Code, as amended.

(37) WRECKED VEHICLE means a vehicle that has been damaged as the result of overturning or colliding with another vehicle or object so as to reasonably necessitate that the vehicle be removed by a wrecker.

(38) WRECKER means a vehicle designed for the towing or carrying of other vehicles.

(39) WRECKER DRIVER'S PERMIT means a permit issued under this article to an individual by the director authorizing that individual to operate a wrecker for an emergency wrecker service in the city.

(40) WRECKER ~~[ROTATION]~~ LIST means a list of licensed emergency wrecker companies maintained by the chief of police, as provided for in Section 15D-50 of this article.

(41) ~~Reserved~~~~[ZONE means a geographical area in which a licensee is licensed by the city to operate].~~

SECTION 3. That Paragraph (30) of Section 15D-15, "Definitions," of Division 1, "General Provisions," of Article II, "Emergency Wreckers," of Chapter 15D, "Emergency Vehicles," of the Dallas City Code is deleted:

"(30) ~~[ROTATION]~~ means an occasion when the chief of police dispatches ~~[calls]~~ an emergency wrecker from either the wrecker ~~[rotation]~~ list or the rapid response ~~[rotation]~~ list to perform a vehicle tow."

SECTION 4. That Section 15D-16, "Driving Wrecker To A Police Scene Prohibited; Exception," of Division 1, "General Provisions," of Article II, "Emergency Wreckers," of Chapter 15D, "Emergency Vehicles," of the Dallas City Code is amended to read as follows:

"SEC. 15D-16. DRIVING WRECKER TO A POLICE SCENE PROHIBITED; EXCEPTION.

A person commits an offense if he drives a wrecker, whether licensed or unlicensed, to a police scene unless the person has been dispatched ~~[called]~~ to the scene by the chief of police."

SECTION 5. That Subsection (b) of Section 15D-17, "Soliciting Wrecker Business At A Police Scene Prohibited; Presence At Scene As Evidence Of Violation," of Division 1, "General Provisions," of Article II, "Emergency Wreckers," of Chapter 15D, "Emergency Vehicles," of the Dallas City Code is amended to read as follows:

“(b) Proof of the presence of a person engaged in the wrecker business or the presence of a wrecker or vehicle owned or operated by a person engaged in the wrecker business, either as owner, operator, employee, or agent, on a street in the city at or near a police scene within one hour after the happening of an incident that resulted in the need for emergency wrecker service is prima facie evidence of a solicitation in violation of this section, unless the particular wrecker company has been dispatched [~~called~~] to the police scene by the chief of police.”

SECTION 6. That Subsection (a) of Section 15D-21, “License Application; Change Of Zone,” of Division 2, “Emergency Wrecker Service License,” of Article II, “Emergency Wreckers,” of Chapter 15D, “Emergency Vehicles,” of the Dallas City Code is amended to read as follows:

“(a) A person desiring to engage in emergency wrecker service in the city shall file with the director an ~~un~~ [~~written~~] application upon a form provided for that purpose, accompanied by a nonrefundable application processing fee of \$250. The application must be signed by an individual who will own, control, or operate the proposed emergency wrecker service. The application must be verified and include the following information:

(1) The trade name under which the applicant does business and the street address and telephone number of the emergency wrecker service's business location.

(2) The number and types of wreckers to be operated, including the year, make, model, vehicle identification number, and state license plate number of, and the type of winch or lifting device to be operated on, each wrecker.

(3) The name, address, and telephone number of the applicant.

(4) An agreement that the applicant will participate in the wrecker [~~rotation~~] list.

(5) A list, to be kept current, of the owners (including each owner's percentage of ownership) and management personnel of the emergency wrecker service, and of all employees who will participate in emergency wrecker service, including names, state driver's license numbers, wrecker driver's permit numbers, and whether the person holds an incident management towing operator's license.

(6) A statement attesting that all property, both real and personal, used in connection with the emergency wrecker service has been rendered for ad valorem taxation in the city and that the applicant is current on payment of those taxes.

(7) Documentary evidence from an insurance company indicating a willingness to provide liability insurance as required by this article.

(8) Proof of an ability to provide emergency wrecker service with at least four wreckers, including a minimum of one conventional light duty wrecker and one tilt bed/roll back carrier (the other two wreckers may be either conventional light duty or tilt bed/roll back), that meet the requirements of this article and any rules and regulations promulgated by the director or the chief of police pursuant to this article.

(9) Detailed financial reports for the previous three years that include income statements and balance sheets covering all wrecker activities or, if the applicant does not prepare an annual financial report, copies of the applicant's federal income tax statements for the previous three calendar years relating to the business.

(10) Proof of a valid certificate of occupancy issued by the city in the name of the company and for the location of the emergency wrecker service business.”

SECTION 7. That Subsection (a) of Section 15D-22, “License Qualifications,” of Division 2, “Emergency Wrecker Service License,” of Article II, “Emergency Wreckers,” of Chapter 15D, “Emergency Vehicles,” of the Dallas City Code is amended to read as follows:

“ (a) To qualify for an emergency wrecker service license, an applicant must:

- (1) be at least 19 years of age;
- (2) be currently authorized to work full-time in the United States;
- (3) be able to provide all associated drivers with a GPS-enabled device;
- (4) be able to communicate in the English Language; and
- (5[4]) not have been convicted of a crime:

(A) involving:

- (i) criminal homicide as described in Chapter 19 of the Texas Penal Code;
- (ii) kidnapping as described in Chapter 20 of the Texas Penal Code;
- (iii) a sexual offense as described in Chapter 21 of the Texas Penal Code;
- (iv) an assaultive offense as described in Chapter 22 of the Texas Penal Code;

- (v) robbery as described in Chapter 29 of the Texas Penal Code;
- (vi) burglary as described in Chapter 30 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;
- (vii) theft as described in Chapter 31 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;
- (viii) fraud as described in Chapter 32 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;
- (ix) tampering with a governmental record as described in Chapter 37 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;
- (x) public indecency (prostitution or obscenity) as described in Chapter 43 of the Texas Penal Code;
- (xi) the transfer, carrying, or possession of a weapon in violation of Chapter 46 of the Texas Penal Code, or of any comparable state or federal law, but only if the violation is punishable as a felony under the applicable law;
- (xii) a violation of the Texas Dangerous Drug Act (Chapter 483, Texas Health and Safety Code), or of any comparable state or federal law, but only if the violation is punishable as a felony under the applicable law;
- (xiii) a violation of the Texas Controlled Substances Act (Chapter 481, Texas Health and Safety Code), or of any comparable state or federal law, but only if the violation is punishable as a felony under the applicable law; or
- (xiv) criminal attempt to commit any of the offenses listed in Subdivision (4)(A)(i) through (xiii) of this subsection; and

(B) for which:

- (i) less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the applicant was convicted of a misdemeanor offense;
- (ii) less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the applicant was convicted of a felony offense; or

(iii) less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if, within any 24-month period, the applicant has two or more convictions of any misdemeanor offense or combination of misdemeanor offenses;

(6[5]) not be addicted to the use of alcohol or narcotics;

(7[6]) be subject to no outstanding warrants of arrest;

(8[7]) not employ any person who is not qualified under this subsection;

(9[8]) be able to provide emergency wrecker service with at least four wreckers, including a minimum of one conventional light duty wrecker and one tilt bed/roll back carrier (the other two wreckers may be either conventional light duty or tilt bed/roll back), that meet the requirements of this article and any rules and regulations promulgated by the director or the chief of police under this article;

(10[9]) have at least three years experience in wrecker operations and provide detailed financial reports for the previous three years that include income statements and balance sheets covering all wrecker activities or, if the applicant does not prepare an annual financial report, copies of the applicant's federal income tax statements for the previous three calendar years relating to the business; and

(11[10]) have an established drug testing policy as required under Chapter 2308 of the Texas Occupations Code, as amended."

SECTION 8. That Section 15D-50, "Emergency Wrecker Service Zones; Wrecker [rotation] List Procedure," of Division 5, "Service Rules and Regulations," of Article II, "Emergency Wreckers," of Chapter 15D, "Emergency Vehicles," of the Dallas City Code is amended to read as follows:

"SEC. 15D-50. EMERGENCY WRECKER SERVICE ZONES; WRECKER [ROTATION] LIST PROCEDURE.

(a) The chief of police shall partition the city into zones for emergency wrecker service and shall place the names of all emergency wrecker companies licensed under this article on a wrecker [rotation] list. Notice of the boundary limits of each zone will be provided to each licensee on the [rotation] list. Each licensee may apply for and be assigned to only one zone.

(b) When an emergency wrecker is needed at a police scene, the police officer or other authorized city official at the scene will communicate that need immediately to the police department. On receiving the first request for emergency wrecker service, the dispatcher will dispatch [each] the first available emergency wrecker company on the [rotation] list assigned to the

zone in which the police scene is located and order removal of the wrecked, disabled, or illegally parked vehicle to a place designated by the chief of police. On each succeeding request for emergency wrecker service, the dispatcher will dispatch [~~call~~] the next available emergency wrecker company on the [~~rotation~~] list that is assigned to the zone involved, or dispatch [~~call~~] the nearest available emergency wrecker in an adjacent zone if none are available in the zone involved. Proper notation of each dispatch [~~call~~] for emergency wrecker service must be made on the master [~~rotation~~] list.

(c) The chief of police may direct that an emergency wrecker be dispatched [~~called~~] out of its zone or out of [~~rotation~~] when determined to be in the best interest of the public health, safety, and welfare.”

SECTION 9. That Subsection (a) of Section 15D-52, “Requirements and Operating Procedures For Emergency Wrecker Service,” of Division 5, “Service Rules and Regulations,” of Article II, “Emergency Wreckers,” of Chapter 15D, “Emergency Vehicles,” of the Dallas City Code is amended to read as follows:

“SEC. 15D-52. REQUIREMENTS AND OPERATING PROCEDURES.

(a) A licensee shall comply with the following requirements and procedures:

(1) Maintain a 24 hour emergency wrecker service and operate a two way communication system on a 24 hour basis. The licensee shall keep the business location required under Section 15D-20(c) open and staffed from 9:00 a.m. to 5:00 p.m. weekdays, except for:

(A) holidays recognized by the city; and

(B) other times for which the licensee has:

(i) obtained prior written approval from the chief of police; and

(ii) provided the director with a copy of that approval.

(2) Arrive at the police scene, if it is not a rapid response location, within 30 minutes after having been notified to do so by the chief of police.

(3) Deliver, in every instance, the wrecked, disabled, or illegally parked vehicle directly to a location designated by the chief of police without stopping at any other location or for any reason other than mechanical breakdown or problems with the vehicle hookup to the wrecker. In the event of a mechanical breakdown or problem with the vehicle hookup to the wrecker, the wrecker driver or the licensee shall immediately notify the chief of police.

(4) Report to the director all changes in emergency wreckers and equipment used in the licensee's emergency wrecker service and render all additional vehicles for inspection by the director. A wrecker without a valid emergency wrecker inspection sticker is not allowed to participate in the wrecker ~~[rotation]~~ list or the rapid response ~~[rotation]~~ list.

(5) Employ at least four emergency wrecker drivers who hold valid wrecker driver's permits issued under this article and valid incident management towing operator's licenses.

(6) Upon arrival at the scene of an accident and in a manner that minimizes the duration of interference with normal traffic flow, promptly clear the wreckage and debris from the travelled portion of the roadway or confine it to the smallest possible portion of the travelled roadway while removal is taking place and, before leaving the accident site, completely remove from the site all resulting wreckage or debris, including all broken glass, but excluding truck or vehicle cargoes.

(7) Request the police officer or other authorized city official at a police scene to request ~~[call for]~~ the dispatch of another emergency wrecker if additional wreckers are needed to clear a police scene."

SECTION 10. That Section 15D-53, "Rapid Response Program," of Division 5, "Service Rules and Regulations," of Article II, "Emergency Wreckers," of Chapter 15D, "Emergency Vehicles," of the Dallas City Code is amended to read as follows:

"SEC. 15D-53. RAPID RESPONSE PROGRAM.

(a) The chief of police shall create a rapid response ~~[rotation]~~ list to assign licensed emergency wrecker companies to city-owned vehicles and rapid response locations ~~[in a particular zone for each day of the week. The chief of police may modify the rotation list on a monthly basis to prevent one emergency wrecker company from always working the same day of the week in rotation]~~.

(b) Participation by a licensed emergency wrecker company in the rapid response program is voluntary. An emergency wrecker company may request to be placed on the rapid response ~~[rotation]~~ list only when applying for license issuance or renewal or at other times designated by the chief of police. An emergency wrecker company may request to have its name removed from the rapid response ~~[rotation]~~ list at any time

(c) Each participating emergency wrecker company shall provide at least one conventional light duty wrecker and one tilt bed/roll back carrier to be available ~~[for a designated day assigned by the chief of police]~~ to remove vehicles as directed by the chief of police. ~~[The emergency wrecker company shall be available to provide emergency wrecker service under the rapid response program for the full 24 hours of its assigned day.]~~

(d) ~~Reserved~~~~[On each subsequent day, an adequate number of emergency wrecker companies next appearing on the rapid response [rotation] list will be assigned to remove vehicles as directed by the chief of police].~~

(e) ~~[The chief of police shall designate back up emergency wrecker companies in the event that a primary emergency wrecker company is unable to respond on an assigned day.]~~ If a primary emergency wrecker company is unable to respond, it shall immediately notify the chief of police, and the chief of police will dispatch a back-up emergency wrecker company to the police scene at the rapid response location.

(f) An emergency wrecker company responding to a dispatch under the rapid response program shall arrive at the dispatched location within 15 minutes after notification to do so by the chief of police.

(g) ~~A~~~~[On its assigned day, a]~~n emergency wrecker company may stage its wreckers in strategic locations ~~[within its approved zone]~~ (but not on a freeway, highway, or expressway) to facilitate timely response to a police scene in a rapid response location. An emergency wrecker company may not respond to a police scene without first being dispatched by the chief of police.

(h) An emergency wrecker company dispatched to a rapid response location may conduct a “double tow” by loading two vehicles onto a single tilt bed/rollback carrier, but only when both vehicles are towed from a single police scene to the same location approved by the chief of police. If the emergency wrecker company receives a subsequent request ~~[call]~~ for service at a different location, it must send another wrecker to the other location.

(i) All towed vehicles must be disposed of in accordance with Section 15D-54.”

SECTION 11. That Section 15D-55, “Notification Of Police Department; Impounded Vehicle Receipts,” of Division 5, “Service Rules and Regulations,” of Article II, “Emergency Wreckers,” of Chapter 15D, “Emergency Vehicles,” of the Dallas City Code is amended to read as follows:

“SEC. 15D-55. NOTIFICATION OF POLICE DEPARTMENT; IMPOUNDED VEHICLE RECEIPTS.

(a) A licensee or wrecker driver commits an offense if he fails to notify and provide all of the following information to the police department or an approved vehicle storage facility within two hours after removing a vehicle from a police scene with an emergency wrecker:

(1) The location from which the vehicle was removed and the date and time of removal.

(2) The reason for removal of the vehicle.

(3) A physical description of the removed vehicle, including the year, make, model, color, state license plate number, and vehicle identification number of the vehicle.

(4) The trade name of the emergency wrecker service.

(5) The name, address, and telephone number of the vehicle storage facility or other location to which the vehicle was taken.

(6) The fee paid to the licensee or wrecker driver for removal of the vehicle and a copy of the receipt given to the owner or operator of the towed vehicle, which receipt must be signed by, and list the telephone number of, the vehicle's owner or operator.

(7) The dispatch number assigned by the chief of police to authorize the removal of the vehicle.

(b) A licensee or wrecker driver shall obtain from the chief of police impounded vehicle receipt forms on which to record the information required in Subsection (a) and any other information determined necessary by the director or the chief of police. A licensee or wrecker driver shall complete a separate impounded vehicle receipt for each vehicle removed by the licensee or wrecker driver under this article. The licensee or wrecker driver shall return copies of all completed impounded vehicle receipts to the police department in a manner and on a schedule required by the chief of police. This subsection does not apply if a licensee or wrecker driver has provided the required information to the police department or an approved vehicle storage facility through an electronic database.

SECTION 12. That Section 15D-56, "City-Owned Wreckers," of Division 5, "Service Rules and Regulations," of Article II, "Emergency Wreckers," of Chapter 15D, "Emergency Vehicles," of the Dallas City Code is amended to read as follows:

"SEC. 15D-56. CITY-OWNED WRECKERS.

Nothing in this article prevents the chief of police from dispatching [~~calling~~] a city-owned wrecker to a police scene to render emergency wrecker service in lieu of dispatching [~~calling~~] an emergency wrecker from the wrecker [~~rotation~~] list or the rapid response [~~rotation~~] list."

SECTION 13. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$1,000.

SECTION 14. That Chapter 15D of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 15. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or

part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 16. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 17. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, City Attorney

By _____
Assistant City Attorney

Passed _____