

ORDINANCE

AN ORDINANCE OF THE CITY OF NORTH MYRTLE BEACH PROVIDING THAT THE CODE OF ORDINANCES, CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA BE AMENDED BY REVISING CHAPTER 22 “VEHICLES FOR HIRE” TO ADD ARTICLE III, “TOWING AND WRECKER SERVICES”, SECTIONS 22-33 TO 22-41 AND ARTICLE IV, “NONCONSENSUAL TOWING”, SECTIONS 22-42 TO 22-45.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA, IN COUNCIL DULY ASSEMBLED, THAT:

ARTICLE III: TOWING AND WRECKER SERVICES*

Sec. 22-33. Definitions.

The following words or phrases, as used in this chapter, shall have the following respective meanings as set out in this section, unless a different meaning clearly appears from the context:

Agent of record means the person that a property owner has given authority to authorize a wrecker business to tow from their property by sending a letter of authorization to the public safety department naming said person. The *agent of record* may not be any employee or agent of any towing business.

Legal repossession means the act of a creditor or his duly authorized agent under contract to take possession of a vehicle under a security agreement by a lienholder.

Motor vehicle means any device in, upon, or by which any person or property is, or may be transported or drawn upon any public highway, public right of way or public or private property. Motor vehicle shall not include any device propelled solely by human power or which is used exclusively upon stationary rails or tracks.

Normal business hours means those hours during which towing is available on call.

Operator/attendant means the person driving the wrecker or any person assisting with the operation of the wrecker or storage lot.

Owner/Operator means any person owning or having any financial interest in a wrecker business licensed by the city.

Wrecker means any vehicle built and equipped for the purpose of towing, lifting, pulling or otherwise transferring motor vehicles from place to place.

Sec. 22-34. License--Required.

(a) *Business license.* Any person or entity desiring to operate a wrecker service within the city shall first obtain a city business license by filing an application, upon a form provided by the city, with the city business license inspector together with the appropriate license fee as set forth in this Code. The following information must be submitted to the Department of Public Safety prior to the issuance of a city business license:

(1) *Business identity:* Indicate whether a sole-proprietorship, partnership or corporation; list all individuals or entities having a financial interest in the company including names, addresses and telephone numbers. If the business was in operation prior to application, provide the number of years in operation and each individual's or entity's years of affiliation or ownership. Indicate whether engaged in the legal repossession business, and how many vehicles would qualify for the exemption from [section] 22-35.

(2) *Business location:* Provide the street location, mailing address and telephone number of the wrecker service's primary business location and the hours of operation.

(3) *Storage lot:* Provide the street location, address and telephone number of the wrecker service's storage lot and hours of operation. The capacity of storage shall be indicated together with the method employed to screen the stored motor vehicles from public view as well as security measures employed.

(4) *Records and other services:* List all procedures and attach copies of forms used to keep records and any auxiliary services which will ensure delivery of a high level of service to the public.

(5) *Vehicle identification:* Provide the year, make, model, vehicle identification number, gross vehicle weight class, type and South Carolina license plate number for each vehicle to be used in the applicant's business.

(6) *Liability insurance:* Provide proof of automobile liability in full compliance with South Carolina Financial Responsibility Laws as well as garage keepers insurance when applicable.

Sec. 22-35. Wrecker and towing services by rotation.

(a) The North Myrtle Beach Department of Public Safety shall maintain a towing and wrecker rotation list. No wrecker service may have its name placed on the rotation list unless the wrecker service primary location, including business operations and storage is physically located within two miles by current existing roads of the city limits of North Myrtle Beach. The business operations office and storage facility must be located at the same physical location. This address must be reflected on the current business license.

(b) Applications to be placed on the towing and wrecker rotation list shall be accepted between the period from September 1 to October 15 each year. Providing the wrecker service meets the qualifications as provided by this ordinance, the wrecker service shall be placed on the rotation list for the period of November 1 through October 31. No additions to the rotation list shall be made during that period unless approved by the director of Public Safety.

(c) No Public Safety employee shall hold any financial interest or any form of ownership interest in any wrecker service.

(d) In no event shall any Public Safety personnel recommend any wrecker service to the owner of a wrecked or disabled vehicle nor shall any Public Safety personnel ever recommend the services of a particular wrecker service in the performance of his/her duties. Wrecker services shall not encourage Public Safety personnel to recommend their services.

(e) Wreckers shall respond only upon request of the proper police authority. Response under any other condition may result in removal from the wrecker list. No subcontracting of calls will be allowed.

(f) The wrecker rotation list shall be administered fairly and in a manner designed to ensure that all wrecker services on the list have any equal opportunity to the towing business arising from the rotation list.

(g) A separate rotation list shall be maintained for heavy-duty wreckers. Where the services of a heavy duty wrecker are needed and where the owner or driver has no preference as to which wrecker service he desires, a heavy duty wrecker shall be called from the heavy duty rotation list. All policies, procedures, rules and regulations shall apply to heavy-duty wrecker rotation list with the exception of the two (2) mile location requirement.

(h) The wrecker service must have a wrecker of sufficient size and strength to handle the job. The North Myrtle Beach Department of Public Safety shall have the right not to call a wrecker service, which in its opinion fails to meet the qualification. Under these conditions, the wrecker service not called shall remain on the top of the rotation list.

(i) Damages to a vehicle being towed that were not involved in an accident should be pointed out to the officer so that he/she can indicate same on his/her report before the vehicle is to be moved.

(j) A towing and wrecker service on the rotation list shall carry comprehensive liability insurance. The amount of insurance shall not be less than \$250,000 for bodily injury, \$500,000 per accident, and \$50,000 for property damage, and garage keepers liability insurance covering customers' vehicles in an amount of not less than \$50,000. A copy of the Certificate of Insurance shall be provided to the Department of Public Safety with the annual application. Renewal certificates shall be provided to the department prior to the expiration of any insurance.

(k) All wreckers shall be equipped with legally authorized lighting and other safety equipment to protect the motoring public. Such equipment shall be maintained in good working order.

(l) Wrecker services shall be available to respond to calls from the North Myrtle Beach Department of Public Safety and to release vehicles to the public on a twenty-four (24) hour basis. Wrecker services must have someone available at all times to release a vehicle to its driver or owner, even when the wrecker is temporarily off rotation. This shall apply when the wrecker service has City originated towed vehicles in its storage facility. Normal business hours will be 7am to 6pm seven days per week. Wrecker services will not be allowed to use answering services. Calls should be 'call forwarded' to a mobile cellular phone when not available by business phone. Once notified the wrecker service should be able to be on scene within fifteen (15) minutes under normal traffic conditions.

(m) Each wrecker company will provide an information sheet stating the name of the company, location, business hours, amount due, storage fees and dates, and any other additional fees.

(n) Fees for towed vehicles and service calls will be set by the Department. Fees charged will be determined by the type of call for which the towing service is required. The two types of calls will be (1) arrests and (2) wrecks.

1. If the towing service is in response to an arrest or other violation, the fee for the tow will not exceed \$120.00. If the vehicle is released after business hours (6pm to 7am) the towing service may charge a release fee not to exceed \$35.00 (no other fees are to be added for a tow pursuant to an arrest).
2. If the towing service is in response to a wreck during business hours (7am to 6pm), the fee for the tow will not exceed \$150.00. If the towing service responds after business hours (6pm to 7am), the fee for the tow will not exceed \$185.00. If the vehicle is released after business hours (6pm to 7am), the towing service may charge a release fee not to exceed \$35.00. If the recovery of the vehicle extends beyond one (1) hour from the time that the

tow truck begins recovery, an additional fee not to exceed \$100.00 per hour may be charged.

3. If the towing service is in response to both an arrest and wreck, the fee will be for that of a wreck.
4. No tow, per call fee is \$30.00.

(o) Daily storage fees may not exceed twenty (\$20.00) dollars per day beginning twenty-four (24) hours after the vehicle is towed. No other fees, other than the above described fees, are to be assessed. Violation of the fee schedule will result in the removal of the wrecker service from the public safety department's rotation list. The city manager is hereby authorized to amend these fees from time to time at his discretion.

(p) Wrecker operators must conduct themselves in a proper manner at all accident scenes and in a proper manner when dealing with the public.

(q) Wrecker services and operators shall be familiar with and shall comply with the laws regarding solicitation from the highway.

(r) Failure of a wrecker service to comply with any of the above regulations or otherwise conducting towing and storage services in a manner which generate complaints of unethical conduct or unfair business practices may result in the removal from the department wrecker list by the Director of Public Safety.

(s) Periodic inspections of wreckers and facilities may be done by the department to insure compliance with city and state statues concerning safety equipment, operating conditions, licenses and insurance.

(t) Unless the owner or driver of a vehicle is incapacitated or unavailable, the owner or driver of a wrecked or disabled vehicle shall have the right to the wrecker service of his/her choice. Before calling any wrecker service to tow a wrecked or disabled vehicle, the investigating officer on the scene shall, if practical, determine the owner's or driver's preference of wrecker services and the wrecker service designated by the owner or driver shall be called. If the roadway is blocked and the wrecker of choice cannot meet a fifteen (15) minute response then the rotation list will be utilized to summon the next wrecker to the scene.

(u) All towed vehicles will be towed to the impound lot located at the individual wrecker companies with the exception of: Seized Vehicles, Abandoned Vehicles, or Vehicles needed for investigative processing. The wrecker service shall maintain a safe storage area for all vehicles towed. This may be a locked building or a secured fenced-in area where the stored vehicles and other property shall not be accessible to the public. The storage facility shall be large enough to accommodate twelve (12) vehicles at any given time. No vehicle shall be towed to another storage area by a wrecker service without the knowledge and consent of the vehicle owner or his agent.

(v) When a wrecker service or wrecker driver is unable to answer a call, the department shall be promptly notified to that fact and the reason for the unavailability.

(w) Each wrecker service on the rotation list must place a sign on the door of each of its wreckers indicating the company name, address, and telephone number. This sign shall be painted on the door of the wrecker or otherwise permanently affixed to the door. The letters of the sign must be no less than two (2) inches high. If the wrecker is registered in a name other than that of the wrecker service, the owner's name must also appear on the door in letters no less than one (1) inch high. All lettering on wreckers shall be plainly visible and shall be of a color, which contrasts to that of the wrecker.

(x) Each wrecker service shall be responsible for securing personal property in a vehicle at an accident scene as best it can and the wrecker service shall be responsible for reasonably attempting to preserve personal property in a vehicle which is about to be towed from an accident scene. In no event, however, shall a wrecker service be responsible for personal items, which do not come into the possession of the wrecker service. All vehicles towed to city lots or due to an arrest or seizure will be inventoried by the officer before being towed. An inventory sheet will be completed, signed by the officer, driver and a witness if available. All valuable items will be removed from the vehicles, placed in the defendant's personal property and inventoried on their personal property section of the booking report.

(y) Any complaints from wrecker services regarding any incident involving the North Myrtle Beach Department of Public Safety or its operation of the wrecker lists must be received within fifteen (15) days of the alleged incident.

(z) Wrecker services that have two (2) violations of subsections "u" through "y" above within a period of six (6) months will be removed from the rotation list for a period of ninety (90) days.

(aa.) Wrecker services shall be called from the rotation list in the order in which they appear on the list. If a particular wrecker service is not available when called, the next wrecker service on the list shall be called to the scene. Additionally, any wrecker service that fails to respond will forfeit its next call. A wrecker service that has three (3) service failures within one thirty day period will be suspended from the list for a thirty (30) day period. Two suspensions within a twelve-month period will be cause for a twelve-month suspension. Wrecker services can remove themselves from the rotation list if they experiencing mechanical problems or for vacations without penalty if approval is granted by the department. Such removal shall be for a period of no longer than four weeks.

(bb.) The city reserves the right to conduct a background investigation, including driver's license, of individual driver's license, of individual owners and/or operators of wrecker services.

Sec. 22-36. Special requirements.

(a) Except for a vehicle while engaged in a legal repossession, every wrecker or roll back shall carry a broom, shovel and container for debris. Each shall also carry a fire extinguisher rated for Class A, B and C fires. It shall be the responsibility of the wrecker service to perform a general cleanup of the accident area before leaving the scene of an accident. This responsibility requires the wrecker service to remove all debris such as broken glass, liquids and materials from an accident area by sweeping up such debris and removing this material from the scene in a garbage can type container on each wrecker. In addition to the items required above, each wrecker shall also carry commercial material and all other equipment to fulfill this responsibility. The wrecker service operator may not leave the accident scene until the cleanup has been approved by the Public Safety Department.

(b) Every wrecker shall carry as standard equipment: tow sling or wheel lift, tow bar, safety chain and rope, wrecker bar and other equipment necessary for the safe and efficient operation of the wrecker.

(c) Every roll back shall have a winch capacity of 8,000 pounds and other equipment necessary for the safe and efficient operation of the roll back.

(d) Except for a vehicle while engaged in a legal repossession, at least one amber colored emergency light shall be mounted on the top of the wrecker cab or boom brace. Light bars with multiple lights are permissible. All emergency light lenses shall be amber. The use of sirens by wreckers is prohibited.

(e) Except for a vehicle while engaged in a legal repossession, each wrecker shall display the owner or company name and business telephone number in letters not less than two inches high on both vehicle doors. Temporary lettering, magnetic or otherwise, is strictly prohibited.

(f) Each wrecker shall display a current South Carolina license plate.

Sec. 22-37. Inspections.

(a) The city shall provide notice and schedule an annual appointment for inspection at the business site. The Public Safety Department shall have the right at any time, upon presentation of proper identification, to enter into or upon any wrecker operating in the city for the purpose of inspecting the wrecker and its equipment to ensure public safety and adherence to the provisions of this chapter. Any wrecker or equipment, which is found to be unsafe or in poor mechanical or physical condition shall be immediately taken out of service until repaired or inspected by the public safety department.

(b) Every wrecker operating and doing business within the City of North Myrtle Beach shall be inspected by an agent prescribed by the public safety department at least once each calendar year. The owner of each wrecker shall pay a \$50.00 fee per wrecker annually. The public safety department shall issue each wrecker that has passed inspection an annual decal authorizing the wrecker to operate within the City of North Myrtle Beach.

(1) *Unsafe vehicles.* If any wrecker is found to be in unsafe condition, the wrecker decal shall be immediately removed from the vehicle and the owner shall be notified of the nature of the defect and that the wrecker shall not be operated until such condition has been remedied.

(2) *Unfit wreckers.* If the wrecker is found to be unfit or missing equipment, but otherwise in safe condition, the agent shall give the wrecker owner and driver a reasonable time, not to exceed 72 hours, to remedy the condition, after which the agent shall re-inspect the wrecker. If the vehicle does not pass the re-inspection, the decal shall be removed and the wrecker shall not be used until all unsatisfactory conditions have been corrected.

(c) If any decal is removed because the wrecker is deemed to be unsafe or unfit it shall be unlawful to operated the wrecker within the City of North Myrtle Beach until such time as the deficiencies are repaired and the wrecker passes re-inspection by the public safety department. Once the wrecker passes re-inspection the Public Safety Department shall issue the wrecker a new decal authorizing the wrecker to operate within the City of North Myrtle Beach. The wrecker shall not be charged any fee for the new decal and inspection.

Sec. 22-38. Chasing wrecks prohibited.

It shall be unlawful for the owner, operator/attendant or agent of any wrecker service to go to the scene or location of a disabled or damaged motor vehicle or the location of any accident unless summoned by the motor vehicle's owner, the owner or person in charge of the property where the vehicle is disabled, or by the public safety department.

Sec. 22-39. Solicitation of wrecker or towing services.

It shall be unlawful for any owner or operator/attendant of any wrecker service to drive or park along any streets or highways soliciting wrecker or towing services. It shall be unlawful for any city employee to solicit business for any wrecker service. It shall likewise be unlawful for any owner, operator/attendant or agent of a wrecker service to entice or engage a city employee to solicit business for the wrecker service.

Sec. 22-40. Unauthorized removal of vehicle.

It shall be unlawful for any wrecker service to remove any motor vehicle that is parked on any road, highway or other public property unless summoned by the motor vehicle's owner or authorized by the Public Safety Department to do so.

Sec. 22-41. Use of emergency lights.

Wrecker services shall not operate any emergency lights except at the scene of an accident while hooking up to the vehicle to be towed or while actually towing a vehicle. Emergency lights shall not be operated while on route to any accident scene or other service call.

ARTICLE IV: NONCONSENSUAL TOWING*

Sec. 22-42. Generally

(a) In many instances when a vehicle is towed from private property without the owner's knowledge or consent, the vehicle owners are at the complete mercy of the tow truck operators and as such, are subjected to instances of price gouging and other overly stringent requirements for the return of their vehicles.

(b) Many citizens and visitors alike are frequently confused over which lots are private or public there is often inadequate signage, indicating the times when a car may be towed or of the price of a nonconsensual tow thereby inadequately apprising the public of the maximum risks of imprudent parking.

(c) Owners or operators of towed vehicles believe their cars have been stolen and that the Public Safety Department must respond, and to release their cars, usually late at night, owners must go to one location to pay for the cost of towing and another location to actually take possession of their cars. Car owners or operators can only retrieve their cars after paying cash. This scenario coupled with storage sites that are located on the outskirts of the city and in desolate locations tend to place the reluctant patrons in a dangerous situation.

(d) The city intends to exercise its public safety powers to ensure that the public security, general welfare, health and order of the city are adequately protected from price gouging and unscrupulous towing owner/operators.

Sec. 22-43. Towing from private property.

(a) It shall be unlawful to remove any motor vehicle from private property without authorization from the owner of the motor vehicle or of the city, except for the following circumstances:

(1) The property owner has posted the property with metal signs clearly stating that parking is prohibited or restricted. Each sign face shall be at least four (4) square feet and no more than four and one-half (4 ½) square feet; and

(2) The posted signs were in place and clearly visible and legible to any driver approaching the private property where parking is prohibited or restricted at the time the vehicle was parked; and

(3) The posted signs contain a clear warning that violators' vehicles will be towed, at the vehicle owner's expense, and the telephone number to call to obtain release of the towed vehicle.

(b) The owner of the vehicle towed from private property shall be responsible for paying all applicable towing and storage charges provided that the private property owner has complied with all of the requirements contained in subsection (a) above and (c) below. If a vehicle is towed as a result of a property owner's request and the property owner has not complied with the requirements of subsection (a) above or (c) below, or if the vehicle is shown to have been legally parked, the property owner shall be guilty of a misdemeanor and may, in the discretion of the municipal judge as provided in S.C. Code 1976, § 14-25-75, be subject to reimburse the owner of the vehicle for all towing and storage charges which the owner of the vehicle paid.

(c) Before towing a vehicle from private property without authorization from the vehicle owner, the wrecker service operator shall first obtain from the property owner or their agent of record a written authorization on a form approved by the city which shall set forth the name and original signature of the property owner/agent; the address from which the motor vehicle is being towed; the reason for the removal; and the year, make, model, vehicle identification number, state and license plate number of the motor vehicle being towed. Any wrecker service removing a motor vehicle from private property without the consent of the owner of the vehicle shall, within 30 minutes of the removal, electronically communicate via email or facsimile or present in person the report of the tow to the Public Safety Department and provide a copy of the written authorization form as well as the location where the motor vehicle may be claimed by its owner. The wrecker service may only tow to a storage area or garage approved by the city located within two miles by current existing roads of the city limits of North Myrtle Beach. The

business operations office and storage facility must be located at the same physical location. A property owner may authorize persons as their agent of record by sending a letter to the Public Safety Department giving authority to said persons and detailing the person's name, address, phone number and other information that may be required by the Public Safety Department. The giving of any person authority as an agent of record does not relieve any property owner of their responsibility under this article or any other law. It shall be unlawful for any towing business/towing operator to financially reward any property owner or agent of record and also for any property owner or agent of record to accept any financial reward from any towing business/towing operator.

(d) At any time a vehicle is towed without the authorization of the vehicle owner or person lawfully in possession of the vehicle (hereinafter, the vehicle owner), the following fees which shall be the maximum to be charged by any wrecker operator or company and no other fees or charges of any kind shall be required to be paid by the vehicle owner of the vehicle in order to recover the vehicle:

Class A Wrecker/Car Carrier:

Towing (any motor vehicle or trailer 10,000 pounds GVW or less), per tow: \$135.00 flat fee to include dollies and Go-Jacks.

Towing (any vehicle and trailer over 10,000 pounds GVW, per tow: \$210.00.

Storage (after first 24 hours), per 24 hours: \$20.00.

No tow, per call: \$30.00.

Vehicle release (between 6pm. and 7am only), per release: \$35.00.

Class D Wrecker:

Towing, per tow: \$135.00.

Storage (after first 12 hours), per 24 hours: \$30.00.

No tow, per call: \$30.00.

Vehicle release (between 6pm and 7am only), per release: \$35.00.

The city manager shall be authorized to amend these fees from time to time at his discretion.

If a vehicle owner returns to reclaim his or her vehicle while the tow truck is on the scene but before the vehicle is physically connected to the tow truck, the tow truck operator may charge no more than the no tow fee to release the vehicle. If the vehicle owner

refuses or is unable to pay the no tow fee, the tow truck operator may tow the vehicle. If the vehicle is connected to the tow truck when the vehicle owner returns to reclaim the vehicle, the tow truck operator shall disconnect the vehicle and return it to the vehicle owner upon payment of no more than the maximum towing charge listed above. If the owner refuses to or is unable to pay the towing fee, the vehicle may be towed.

(e) A wrecker service operator is not required to return the vehicle to the person after the company's normal business hours, per state law [S.C. Code, §] 56-5-2525. Should the operator elect to provide for after hour requests, no additional fee or charge may be required other than those established in [subsection] (d), above.

(f) The city shall prepare and provide a sign which shall outline public expectations and service provider's obligations and duties. Any wrecker service located within the city limits or holding a city business license shall be required to post in a conspicuous location the sign as prepared by the city. It shall be unlawful to intentionally or negligently fail to post sign, or alter or obscure the sign in any way.

(g) It shall be unlawful for any operator or attendant to omit, fail or neglect any duty or obligation imposed by this chapter. The Public Safety Director shall inform the city business license inspector as to any violations under this chapter so the business license inspector may revoke or suspend any business license issued for towing service if he determines that the public interest so requires and when it is found, after investigation, that the license has been mistakenly or improperly issued or issued in violation of a city ordinance; or the licensee has breached any condition upon which his license was issued or has failed to comply with the provisions of this article; or the licensee has obtained his license through any fraud or misrepresentation, a false or misleading statement, or evasion or suppression of a material fact in his application; or the licensee has been convicted of an offense under a law or ordinance regulating businesses; or the licensee has engaged in an unlawful activity or nuisance related to the business, including violations of applicable zoning laws.

Sec. 22-44. Return of personal property not attached to vehicle.

(a) As to law enforcement towing, after the vehicle is in the possession of the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop, the owner of the vehicle as demonstrated by providing a certificate of registration, or other acceptable proof has one opportunity to remove from the vehicle any personal property not attached to the vehicle. The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must release any personal property that does not belong to the owner of the vehicle to the owner of the personal property.

(b) As to private towing and to law enforcement towing, and notwithstanding the above, the tow truck operator will permit the vehicle owner to remove at all times health and human care related devices such as carseats, strollers, walkers, crutches and the like, medications, prescriptions, personal handbags and personal and identity papers from the

vehicle without charge and without regard to any towing or storage charge owed on the vehicle. If the tow truck operator has removed this personal property from the vehicle, he will return it to the vehicle owner when requested without charge and without regard to any towing or storage charge owed on the vehicle.

Sec. 22-45. Penalty.

Any towing owner/operator or any other person who violates any provision of Article IV of this chapter shall be deemed guilty of an offense and shall be subject to punishment under section 1-6 upon conviction.