

**REQUEST FOR CITY COUNCIL CONSIDERATION**

Meeting Date: May 20, 2024

Agenda Item: 6C	Prepared for: Mike Mahaney, City Manager
Agenda Section: Unfinished Business: Ordinance. Second Reading	Date: May 14, 2024
Subject: Amendment to Chapter 22, Vehicles for Hire, regarding wrecker services and nonconsensual towing	Division: Administration

**NOTE: Since first reading, language has been added to Section 22-35, (n)(1), wrecker and towing services by rotation, which provides that “Thereafter, the South Carolina Department of Public Safety’s yearly fee schedule outlining the maximum allowable fees for each class of wrecker may be adopted at City Council’s sole discretion, after January 1 of each year.”**

The North Myrtle Beach Chief of Police met with the local towing operators to discuss, primarily, an increase in the fees authorized in the City’s towing ordinance.

Attached for Council’s review is the towing ordinance with the proposed changes indicated in red and a clean copy of the proposed changes.

**Recommended Actions:**

Approve or deny the proposed ordinance on second reading

Reviewed by Department Head	Reviewed by City Manager	Reviewed by City Attorney
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Council Action:  
Motion By \_\_\_\_\_ 2<sup>nd</sup> By \_\_\_\_\_ To \_\_\_\_\_

## ORDINANCE

### AN ORDINANCE TO AMEND ARTICLE III WRECKER SERVICES AND NONCONSENSUAL TOWING, SECTIONS 22-33 TO 22-47 OF THE CODE OF ORDINANCES FOR THE CITY OF NORTH MYRTLE BEACH AS FOLLOWS:

**ARTICLE III. Wrecker services and nonconsensual towing**, be amended to read as follows (new matter underlined, deleted matter struck-through):

#### **Sec. 22-33. Definitions.**

The following words or phrases, as used in this ~~a~~Article III, 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 or persons that a property owner has given authority to authorize a wrecker service to tow a motor vehicle from their property as designated on a form provided by the ~~public safety~~Police ~~d~~Department naming said person. Such authorization as an agent of record must be submitted annually to the ~~public safety~~Police ~~d~~Department by the property owner on such form. Any designation of an agent of record, or change in the agent of record, becomes effective twenty-four (24) hours following receipt of such form by the ~~public safety~~Police ~~d~~Department. 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/her 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. For purposes of this article, the term motor vehicle shall not include any device propelled solely by human power or which is used exclusively upon stationary rails or tracks.

*Nonconsensual tow* means a tow authorized by a person of authority or directed by a person other than the vehicle owner, authorized operator or authorized agent of the owner.

*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 service licensed by the city.

*Vehicle owner* means the person or business to whom the vehicle is registered, or the person to whom the vehicle has been entrusted or allowed to operate by the title owner, or an authorized agent of the owner.

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

*Wrecker service* means the business, its officers, agents, employees and vehicle operators towing a vehicle located in the city limits or storing a vehicle in a lot within the city limits. No person employed by, appointed by or affiliated with a wrecker service may be an agent of record for a private property owner.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20; Ord. No. 21-02, § 2, 3-1-21)

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**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~~Police Department 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 ~~s~~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.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

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

- (a) Wrecker services shall be called from a rotation list maintained by the North Myrtle Beach ~~Department of Public Safety~~Police Department. No wrecker service may have its name placed on the rotation list unless the primary location of the wrecker service, including business operations and storage, is physically located within two (2) 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 from September 1 to October 15 each year. Providing the wrecker service meets the qualifications as provided in this article, the wrecker service shall be placed on the ensuing 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~~Chief of Police.
- (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 vehicle owner of a wrecked or disabled vehicle nor shall any public safety personnel ever recommend the services of a

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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 an equal opportunity to the towing business arising from the rotation list.
- (g) A separate rotation list shall be maintained for Class A Wreckers, Class B Wreckers, and Class C Heavy-duty Wreckers. Where the services of a heavy-duty wrecker are needed and where the vehicle owner or driver has no preference as to which wrecker service he/she desires, a heavy-duty wrecker shall be called from the heavy-duty rotation list. All policies, procedures, rules and regulations shall apply to the heavy-duty wrecker rotation list with the exception of the two-mile location requirement.
- (h) The wrecker service must have a wrecker of sufficient size and strength to handle the job. The North Myrtle Beach Police 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 ~~werewas~~ not involved in an accident should be pointed out to the officer so that he/she can indicate the 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 two hundred fifty thousand dollars (\$250,000.00) for bodily injury, five hundred thousand dollars (\$500,000.00) per accident, fifty thousand dollars (\$50,000.00) for property damage, and garage keepers liability insurance covering customers' vehicles in an amount of not less than fifty thousand dollars (\$50,000.00). A copy of the certificate of insurance shall be provided to the Police 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 Police Department of Public Safety and to release vehicles to the public on a twenty-four-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 7:00 a.m. to 6:00 p.m. seven (7) 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 thirty (30) minutes under normal traffic conditions. If a particular wrecker service is not available when called, the next wrecker service on the list shall be called to the scene.
- (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) The schedule of fees in Subsection 1 below establishes the maximum that can be charged for a tow, except when the owner/operator of a towed vehicle makes special arrangements with at wrecker service of his/her own choosing. Fees for towed vehicles and service call 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 (2) types of call will be (1) arrests and (2) wrecks. If fees are paid at a wrecker service office, said office shall accept payment of any fees in the form of cash (and provide correct change to the payee) and electronic funds (both debit cards and credit cards shall be accepted). A wrecker service shall accept cash at the scene of any tow and shall provide correct change to the payee. A wrecker service may also accept payment of any fees at the scene of any tow in the form of electronic funds and both debit and credit cards shall be accepted.

- (1) In accordance with Section 38-600 of the South Carolina Code of State Regulations, the Department of Public Safety publishes a yearly fee schedule outlining the maximum allowable fees for each class of wrecker on the SChP Wrecker Rotation List. The below referenced fee schedule is hereby adopted as the fee schedule for the City of North Myrtle Beach. The reasonableness of fees on the fee schedule is determined by the highway patrol on a comparative basis. Thereafter, the South Carolina Department of Public Safety's yearly fee schedule outlining the maximum allowable fees for each class of wrecker may be adopted at City Council's sole discretion, after January 1 of each year. If the towing service is in response to an arrest or other violation, the fee for the tow will not exceed two hundred dollars (\$200.00). If the vehicle is released after business hours (6:00 p.m. to 7:00 a.m.) the towing service may charge a release fee not to exceed thirty five dollars (\$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 the fee for the tow will not exceed two hundred dollars (\$200.00). If the vehicle is released after business hours (6:00 p.m. to 7:00 a.m.), the towing service may charge a release fee not to exceed thirty five dollars (\$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 one hundred dollars (\$100.00) per hour may be charged.

Maximum Allowable Fees for Rotation List Calls

Class A Wrecker

<u>Standard towing charge</u>	<u>\$257.00 flat fee</u>
<u>* Special operations</u>	<u>\$154.00 per hour</u>
<u>Storage</u>	<u>\$43.00 per day</u>

\* Special operations are billed at a per hour rate in ½ hour increments.

Class B Wrecker

<u>Standard towing charge</u>	<u>\$363.00 flat fee</u>
<u>* Special operations</u>	<u>\$246.00 per hour</u>
<u>Storage</u>	<u>\$53.00 per day</u>

\* Special operations are billed at a per hour rate in ½ hour increments.

Class C Wrecker

<u>* Standard towing charge</u>	<u>\$528.00 per hour</u>
<u>Special operations</u>	<u>**See Below</u>
<u>Storage</u>	<u>\$69.00 per day</u>

\* Standard towing is billed at a per hour rate in ½ hour increments.

\*\* Although no special operations fee is set for class C tows, a wrecker service may recover the actual cost of rented/subcontracted equipment or labor necessary to accomplish the job. Proof of these actual costs in the form of an itemized invoice or receipt from each third party providing such equipment or labor must accompany the tow bill.

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Class C Vehicles Only: Rates for all equipment usage should include the cost of an operation, operating expenses, and the cost to transport the equipment to and from the scene.

<u>Description of service, labor or equipment</u>	<u>Rate/fee</u>
<u>Additional wrecker</u>	<u>\$524.00 Per hour</u>
<u>Dump truck, dump trailer or drop dumpster</u>	<u>\$298.00 Per hour</u>
<u>Rotator/crane or equivalent</u>	<u>\$739.00 Per hour</u>
<u>Truck tractor with box trailer or equivalent</u>	<u>\$345.00 Per hour</u>
<u>Truck tractor with flat trailer or equivalent</u>	<u>\$345.00 Per hour</u>
<u>Truck tractor with Landoll/lowboy/tilt trailer or equivalent</u>	<u>\$397.00 Per hour</u>
<u>Skid steer or equivalent</u>	<u>\$283.00 Per hour</u>
<u>Forklift or equivalent</u>	<u>\$285.00 Per hour</u>
<u>Backhoe or equivalent</u>	<u>\$312.00 Per hour</u>
<u>Service truck (includes all tools and equipment on board)</u>	<u>\$213.00 Per hour</u>
<u>Tower light system</u>	<u>\$181.00 Per hour</u>
<u>Complete air bag unit</u>	<u>\$890.00 Per hour</u>
<u>Additional labor (general)</u>	<u>\$109.00 Per person/per hour</u>
<u>Additional labor (specialized)</u>	<u>\$148.00 Per person/per hour</u>

NOTE: This fee schedule lists the maximum fee that may be charged for each class of wrecker. A lesser fee may be charged at any time in the wrecker service's discretion.

- (o) Storage fees will not begin until twelve (12) hours after the motor vehicle has entered into the business's storage lot. Thereafter, storage fees shall accrue on a per day basis for any one (1) day or portion thereof. Daily storage fees may not exceed twenty-five dollars (\$25.00) per day beginning twelve (12) hours after the vehicle is towed. A wrecker service may charge for a vehicle title search with such amount not to exceed the maximum fee set by the Department of Motor Vehicles where such vehicle is titled. Other than the above described fees, no other fees (such as administrative fees, processing fees or fuel surcharges) may be assessed within thirty (30) days of such tow. Violation of the fee schedule will result in the removal of the wrecker service from the public safety Police Department's rotation list. City Council is hereby authorized to amend these fees from time to time at its discretion.
- (p) Wrecker operators/attendants 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/attendants shall be familiar with and shall comply with the laws regarding solicitation from the highway.
- (r) Periodic inspections of wreckers and facilities may be done by the Police Department to ensure compliance with city and state statutes concerning safety equipment, operating conditions, licenses and insurance.

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- (s) 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 vehicle owner's or driver's preference of wrecker services and the wrecker service designated by the vehicle owner or driver shall be called. If the roadway is blocked and the wrecker of choice cannot meet a fifteen-minute response, then the rotation list will be utilized to summon the next wrecker to the scene.
  - (t) All towed vehicles will be towed to the impound lot located at the individual wrecker service 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 prior knowledge and consent of the vehicle owner or his/her agent.
  - (u) When a wrecker service or wrecker driver is unable to answer a call, the ~~Police d~~Department of public safety shall be promptly notified of that fact and the reason for the unavailability.
  - (v) 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.
  - (w) 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 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 the personal property section of the booking report.
  - (x) Any complaints from wrecker services regarding any incident involving the North Myrtle Beach ~~Police~~ Department of Public Safety or its operations of the wrecker lists must be received within fifteen (15) days of the alleged incident.
  - (y) The city reserves the right to conduct a background investigation including driver's licenses, of individual drivers and also of individual owners and/or operators of wrecker services.
  - (z) For vehicles towing trailers, motorcycles, boats, other vehicles, etc., each item shall be considered separate and apart and not as one (1) unit and towed separately; each item towed will be subject to a separate towing and storage fee as applicable.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20; Ord. No. 21-02, § 2, 3-1-21)

### **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 eClass 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
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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~~ Police 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 eight thousand (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 (1) 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 (2) inches high on both vehicle doors. 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. Temporary lettering, magnetic or otherwise, is strictly prohibited.
- (f) Each wrecker shall display a current South Carolina license plate.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

### **Sec. 22-37. Inspections.**

- (a) The city shall provide notice and schedule an annual appointment for inspection at the business site. The ~~public safety~~ Police 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 article. 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 re-inspected by the ~~public safety~~ Police 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~~ Police Department at least once each calendar year. The owner of each wrecker shall pay a fifty dollar (\$50.00) fee per wrecker annually. The ~~public safety~~ Police 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 an 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 seventy-two (72) hours, to remedy the condition, after which the agent shall reinspect 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 operate 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~~ Police Department. Once the wrecker passes re-inspection the ~~public safety~~ Police 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.

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(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

**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~~ vehicle's owner, the owner, or person in charge of the property where the vehicle is disabled, or by the ~~public safety~~ Police ~~Department~~.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

**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.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

**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 vehicle's owner or authorized by the ~~public safety~~ Police ~~Department~~ to do so.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

**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.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

**Sec. 22-42. Removal or suspension from rotation system.**

- (a) Complaints for damage or loss will be noted by the ~~Police~~ Police ~~Department of public safety~~ and a lack of action to settle any justifiable complaint or a number of complaints will be just cause for removal from the rotation list.
- (b) ~~Any wrecker service that fails to respond will forfeit its next call.~~ A wrecker service that has three (3) service failures within one (1) thirty-day period will be suspended from the list for a thirty-day period. Two (2) 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 are experiencing mechanical problems or for vacations, without penalty, if approval is granted by the ~~Police~~ Police ~~Department of public safety~~. Such removal shall be for a period of no longer than four (4) weeks.
- (c) Any complaint received by the city concerning violations of ~~a~~ Article III by the wrecker service including, but not limited to, excess charges, poor business practices, damage to vehicles, and so forth, will be investigated. Failure of the towing contractor to correct the problem(s) will be considered a material breach of this article

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and cause for the wrecker service's suspension, upon written notice to the wrecker service, from the rotation system for a period up to six (6) months. After any suspension from the rotation system, the towing contractor may apply for reinstatement under a probationary period of six months. Three (3) suspensions from the rotation list in a five (5) year period will result in permanent removal from the list.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

### **Sec. 22-43. Sale or transfer of wrecker service.**

Should the wrecker service sell, relinquish, convey, or transfer any interest in the company, corporation, firm, partnership, or association providing services to the city, the city will have two options:

- (1) To remove the wrecker service from the rotation system (except that a wrecker service shall not be removed from the rotation system due to a transfer as part of the probate of an estate);
- (2) To subject any new ownership, partnership, corporation, individuals, or any other entities obtaining partial or controlling interest in the wrecker service's company to the same scrutiny, evaluation, terms, conditions, covenants, rules, regulations, laws, understandings, and agreements, as provided herein.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

### **Sec. 22-44. Nonconsensual towing.**

- (a) In many instances when a vehicle is towed from private property without the vehicle 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 as 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) Vehicle owners or operators of towed vehicles believe their cars have been stolen and that the ~~public safety~~ Police dDepartment must respond, and to release their cars, usually late at night, owners must go to one (1) location to pay for the cost of towing and another location to actually take possession of their cars. 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 will 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.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

### **Sec. 22-45. Towing from private property.**

- (a) At the request of any private property owner, the ~~Police d~~Department ~~of public safety~~ may authorize the removal of a motor vehicle from private property. Without authorization from the vehicle owner or the Police dDepartment of public safety, it shall be unlawful to remove any motor vehicle from private property, except for the following circumstances:
  - (1) The private 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 (4½) 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 violator's vehicles will be towed, at the vehicle owner's expense, and the telephone number to call to obtain release of the towed vehicle; and
  - (4) The private property owner or agent of record must personally appear at the location of the nonconsensual tow prior to requesting the authorization number from the ~~public safety~~Police ~~d~~Department and to complete the authorization form described below.
- (b) Before towing a vehicle from private property without authorization from the vehicle owner, the private property owner or agent of record shall first call the ~~public safety~~Police ~~d~~Department for a police officer or other official within the ~~d~~Department to appear at the location of the nonconsensual tow. Upon arrival, the police officer or other official within the ~~Police d~~Department ~~of public safety~~ shall provide an authorization number and a form provided by the city, to be signed by the private property owner or agent of record and the wrecker service. Such form shall include the name and original wet ink signature of the private property owner or agent of record, which wet ink signature must be affixed to the form in the presence of the police officer or other official from the ~~Police d~~Department ~~of public safety~~, and the wrecker service; the authorization number provided by the ~~Police public safety d~~Department; the date and time of towing, 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 and the location where the motor vehicle may be claimed by its owner. The police officer or other member of the ~~public safety~~Police ~~d~~Department shall retain the original signed form and provide a copy to the private property owner or agent of record and the wrecker service. The wrecker service shall not block the exit of a vehicle from a parking lot. ~~The wrecker service may couple to the vehicle to be towed prior to law enforcement arrival. However, the vehicle and its location must be photographed prior to coupling, or begin the act of coupling the vehicle, prior to the arrival of a police officer or other official from the department of public safety and completion of the required form, including the signature of the private property owner or agent of record and the wrecker service.~~ The wrecker service shall only tow to a storage area or garage approved by the city located within two (2) 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.
- (c) 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 subsections (a) and (b) above. If fees are paid at a wrecker service office, said office shall accept payment of any fees in the form of cash (and provide correct change to the payee) or electronic funds (both debit cards and credit cards shall be accepted). A wrecker service shall accept cash at the scene of any tow and shall provide correct change to the payee.
- (d) Any time a vehicle is towed without the authorization of the vehicle owner, the following fees shall be the maximum charged by any wrecker operator or company and no other fees or charges of any kind (such as administrative fees, processing fees or fuel surcharges) shall accrue within thirty (30) days from the date of such tow and be required to be paid by the vehicle owner in order to recover the vehicle:

*Class A ~~w~~Wrecker/~~e~~Car ~~e~~Carrier:*

Towing (any motor vehicle or trailer ten thousand (10,000) pounds GVW or less, per tow, flat fee to include dollies and Go-Jacks ~~\$150.00~~175.00.

Towing (any vehicle and trailer over ten thousand (10,000) pounds GVW, per tow ~~\$225.00~~250.00.

Storage (after first twenty-four (24) hours), per twenty-four (24) hours: ~~\$20.00~~30.00.

No tow, per call: ~~\$30.00~~40.00.

Vehicle release (between 6:00 p.m. and 7:00 a.m. only), per release: ~~\$35.00~~40.00.

Vehicle title search: Not to exceed the maximum fee set by the ~~d~~Department of ~~m~~Motor ~~v~~Vehicles where such vehicle is titled.

~~Class-D wrecker:~~

~~Towing, per tow:\$135.00.~~

~~Storage (after first twelve (12) hours), per twenty-four (24) hours:\$30.00.~~

~~No tow, per call:\$30.00.~~

~~Vehicle release (between 6:00 p.m. and 7:00 a.m. only), per release:\$35.00.~~

~~Vehicle title search: Not to exceed the maximum fee set by the department of motor vehicles where such vehicle is titled.~~

City ~~c~~Council shall be authorized to amend these fees from time to time at its 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, provided the private property owner or agent of record has signed and dated the written authorization form for such nonconsensual tow. 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, provided the private property owner or agent of record has signed and dated the written authorization form for such nonconsensual tow. If the owner refuses to or is unable to pay the towing fee, the vehicle may be towed.

- (e) If a vehicle is towed as a result of a private property owner's request and the private property owner has not complied with the requirements of subsections (a) and (b) above, or if the vehicle is shown to have been legally parked, the private 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.
- (f) If a vehicle is towed as a result of a private property owner's request and the wrecker service has not complied with the requirements of subsections (a) and (b) above, or if the vehicle is shown to have been legally parked, the wrecker service 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.
- (g) 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 (such as administrative fees, processing fees or fuel surcharges) shall accrue within thirty (30) days of such tow other than those established in subsection (d) above.
- (h) The city shall prepare and provide a sign which shall outline the charges and fees allowed by this article. 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 such sign or alter or obscure the sign in any way.
- (i) It shall be unlawful for any wrecker service, the owner/operator or operator/attendant to omit, fail or neglect any duty or obligation imposed by this ~~a~~Article. The ~~public safety director~~Chief of Police shall inform the city business license inspector of any violations under this ~~a~~Article so the business license inspector may revoke or suspend, pursuant to ~~s~~Section 7-16, any business license issued for towing service if he or she 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 or her license was issued or has failed to comply with the provisions of this ~~a~~Article III; or the licensee has obtained his or her license through any fraud or misrepresentation, a false or misleading statement, or evasion or suppression of a material fact in his or her 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.

- (j) For vehicles towing trailers, motorcycles, boats, other vehicles, etc., each item shall be considered separate and apart and not as one (1) unit and towed separately; each item towed will be subject to a separate towing and storage fee as applicable.
- (k) The giving of any person authority as an agent of record does not relieve any private property owner of their responsibility under this ~~a~~Article or any other law. It shall be unlawful for any wrecker service to financially reward any private property owner or agent of record and also for any private property owner or agent of record to accept any financial reward, incentive, gift or kickback from any towing business/towing operator.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

**Sec. 22-46. Return of personal property not attached to vehicle.**

- (a) As to towing directed by law enforcement, 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 (1) 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 nonconsensual towing and towing directed by law enforcement, 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 car seats, 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/she will return it to the vehicle owner when requested, without charge and without regard to any towing or storage charge owed on the vehicle.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20; Ord. No. 21-02, § 2, 3-1-21)

**Sec. 22-47. Penalty.**

Any wrecker service, owner/operator, operator/attendant, private property owner, agent of record or any other person who violates any provision of article III shall be deemed guilty of an offense and shall be subject to punishment under Chapter 1, Section 1-6 upon conviction.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL FOR THE CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA:**

Section 1. The amendment to the ordinance is hereby approved.

Section 2. This ordinance becomes effective on the date of passage and supersedes any inconsistent ordinance(s).

DONE, RATIFIED AND PASSED, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

ATTEST:

\_\_\_\_\_  
Mayor Marilyn Hatley

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

FIRST READING: 5.6.2024

SECOND READING: 5.20.2024

REVIEWED:

\_\_\_\_\_  
City Manager

ORDINANCE: 24-20

## ORDINANCE

### AN ORDINANCE TO AMEND ARTICLE III WRECKER SERVICES AND NONCONSENSUAL TOWING, SECTIONS 22-33 TO 22-47 OF THE CODE OF ORDINANCES FOR THE CITY OF NORTH MYRTLE BEACH AS FOLLOWS:

**ARTICLE III. Wrecker services and nonconsensual towing**, be amended to read as follows (new matter underlined, deleted matter struck-through):

#### **Sec. 22-33. Definitions.**

The following words or phrases, as used in this Article III, 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 or persons that a property owner has given authority to authorize a wrecker service to tow a motor vehicle from their property as designated on a form provided by the Police Department naming said person. Such authorization as an agent of record must be submitted annually to the Police Department by the property owner on such form. Any designation of an agent of record, or change in the agent of record, becomes effective twenty-four (24) hours following receipt of such form by the Police Department. 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/her 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. For purposes of this article, the term motor vehicle shall not include any device propelled solely by human power or which is used exclusively upon stationary rails or tracks.

*Nonconsensual tow* means a tow authorized by a person of authority or directed by a person other than the vehicle owner, authorized operator or authorized agent of the owner.

*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 service licensed by the city.

*Vehicle owner* means the person or business to whom the vehicle is registered, or the person to whom the vehicle has been entrusted or allowed to operate by the title owner, or an authorized agent of the owner.

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

*Wrecker service* means the business, its officers, agents, employees and vehicle operators towing a vehicle located in the city limits or storing a vehicle in a lot within the city limits. No person employed by, appointed by or affiliated with a wrecker service may be an agent of record for a private property owner.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20; Ord. No. 21-02, § 2, 3-1-21)

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**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 Police Department 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.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

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

- (a) Wrecker services shall be called from a rotation list maintained by the North Myrtle Beach Police Department. No wrecker service may have its name placed on the rotation list unless the primary location of the wrecker service, including business operations and storage, is physically located within two (2) 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 from September 1 to October 15 each year. Providing the wrecker service meets the qualifications as provided in this article, the wrecker service shall be placed on the ensuing 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 Chief of Police.
- (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 vehicle 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.

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- (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 an equal opportunity to the towing business arising from the rotation list.
  - (g) A separate rotation list shall be maintained for Class A Wreckers, Class B Wreckers, and Class C Heavy-duty Wreckers. Where the services of a heavy-duty wrecker are needed and where the vehicle owner or driver has no preference as to which wrecker service he/she desires, a heavy-duty wrecker shall be called from the heavy-duty rotation list. All policies, procedures, rules and regulations shall apply to the heavy-duty wrecker rotation list with the exception of the two-mile location requirement.
  - (h) The wrecker service must have a wrecker of sufficient size and strength to handle the job. The North Myrtle Beach Police Department 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) Damage to a vehicle being towed that was not involved in an accident should be pointed out to the officer so that he/she can indicate the 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 two hundred fifty thousand dollars (\$250,000.00) for bodily injury, five hundred thousand dollars (\$500,000.00) per accident, fifty thousand dollars (\$50,000.00) for property damage, and garage keepers liability insurance covering customers' vehicles in an amount of not less than fifty thousand dollars (\$50,000.00). A copy of the certificate of insurance shall be provided to the Police Department 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 Police Department and to release vehicles to the public on a twenty-four-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 7:00 a.m. to 6:00 p.m. seven (7) 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 thirty (30) minutes under normal traffic conditions. If a particular wrecker service is not available when called, the next wrecker service on the list shall be called to the scene.
  - (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) The schedule of fees in Subsection 1 below establishes the maximum that can be charged for a tow, except when the owner/operator of a towed vehicle makes special arrangements with a wrecker service of his/her own choosing. If fees are paid at a wrecker service office, said office shall accept payment of any fees in the form of cash (and provide correct change to the payee) and electronic funds (both debit cards and credit cards shall be accepted). A wrecker service shall accept cash at the scene of any tow and shall provide correct change to the payee. A wrecker service may also accept payment of any fees at the scene of any tow in the form of electronic funds and both debit and credit cards shall be accepted.
    - (1) In accordance with Section 38-600 of the South Carolina Code of State Regulations, the Department of Public Safety publishes a yearly fee schedule outlining the maximum allowable fees for each class of wrecker on the SChP Wrecker Rotation List. The below referenced fee schedule is hereby adopted as the fee schedule for the City of North Myrtle Beach. The reasonableness of fees on the fee schedule is determined by the highway patrol on a comparative basis. Thereafter, the South Carolina Department
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of Public Safety's yearly fee schedule outlining the maximum allowable fees for each class of wrecker may be adopted at City Council's sole discretion, after January 1 of each year.

Maximum Allowable Fees for Rotation List Calls

Class A Wrecker

Standard towing charge	\$257.00 flat fee
* Special operations	\$154.00 per hour
Storage	\$43.00 per day

\* Special operations are billed at a per hour rate in ½ hour increments.

Class B Wrecker

Standard towing charge	\$363.00 flat fee
* Special operations	\$246.00 per hour
Storage	\$53.00 per day

\* Special operations are billed at a per hour rate in ½ hour increments.

Class C Wrecker

* Standard towing charge	\$528.00 per hour
Special operations	**See Below
Storage	\$69.00 per day

\* Standard towing is billed at a per hour rate in ½ hour increments.

\*\* Although no special operations fee is set for class C tows, a wrecker service may recover the actual cost of rented/subcontracted equipment or labor necessary to accomplish the job. Proof of these actual costs in the form of an itemized invoice or receipt from each third party providing such equipment or labor must accompany the tow bill.

Class C Vehicles Only: Rates for all equipment usage should include the cost of an operation, operating expenses, and the cost to transport the equipment to and from the scene.

Description of service, labor or equipment	Rate/fee
Additional wrecker	\$524.00 Per hour
Dump truck, dump trailer or drop dumpster	\$298.00 Per hour
Rotator/crane or equivalent	\$739.00 Per hour
Truck tractor with box trailer or equivalent	\$345.00 Per hour
Truck tractor with flat trailer or equivalent	\$345.00 Per hour
Truck tractor with Landoll/lowboy/tilt trailer or equivalent	\$397.00 Per hour

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Skid steer or equivalent	\$283.00 Per hour
Forklift or equivalent	\$285.00 Per hour
Backhoe or equivalent	\$312.00 Per hour
Service truck (includes all tools and equipment on board)	\$213.00 Per hour
Tower light system	\$181.00 Per hour
Complete air bag unit	\$890.00 Per hour
Additional labor (general)	\$109.00 Per person/per hour
Additional labor (specialized)	\$148.00 Per person/per hour

NOTE: This fee schedule lists the maximum fee that may be charged for each class of wrecker. A lesser fee may be charged at any time in the wrecker service's discretion.

- (o) Storage fees will not begin until twelve (12) hours after the motor vehicle has entered into the business's storage lot. Thereafter, storage fees shall accrue on a per day basis for any one (1) day or portion thereof. A wrecker service may charge for a vehicle title search with such amount not to exceed the maximum fee set by the Department of Motor Vehicles where such vehicle is titled. Other than the above described fees, no other fees (such as administrative fees, processing fees or fuel surcharges) may be assessed within thirty (30) days of such tow. Violation of the fee schedule will result in the removal of the wrecker service from the Police Department's rotation list. City Council is hereby authorized to amend these fees from time to time at its discretion.
- (p) Wrecker operators/attendants 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/attendants shall be familiar with and shall comply with the laws regarding solicitation from the highway.
- (r) Periodic inspections of wreckers and facilities may be done by the Police Department to ensure compliance with city and state statutes concerning safety equipment, operating conditions, licenses and insurance.
- (s) 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 vehicle owner's or driver's preference of wrecker services and the wrecker service designated by the vehicle owner or driver shall be called. If the roadway is blocked and the wrecker of choice cannot meet a fifteen-minute response, then the rotation list will be utilized to summon the next wrecker to the scene.
- (t) All towed vehicles will be towed to the impound lot located at the individual wrecker service 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 prior knowledge and consent of the vehicle owner or his/her agent.

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- (u) When a wrecker service or wrecker driver is unable to answer a call, the Police Department shall be promptly notified of that fact and the reason for the unavailability.
  - (v) 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.
  - (w) 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 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 the personal property section of the booking report.
  - (x) Any complaints from wrecker services regarding any incident involving the North Myrtle Beach Police Department or its operations of the wrecker lists must be received within fifteen (15) days of the alleged incident.
  - (y) The city reserves the right to conduct a background investigation including driver's licenses, of individual drivers and also of individual owners and/or operators of wrecker services.
  - (z) For vehicles towing trailers, motorcycles, boats, other vehicles, etc., each item shall be considered separate and apart and not as one (1) unit and towed separately; each item towed will be subject to a separate towing and storage fee as applicable.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20; Ord. No. 21-02, § 2, 3-1-21)

### **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 Police 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.
  - © Every roll back shall have a winch capacity of eight thousand (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 (1) 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 (2) inches high on both vehicle doors. If the wrecker is registered in a name other than that of the wrecker service, the owner's name must also
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appear on the door in letters no less than one (1) inch high. Temporary lettering, magnetic or otherwise, is strictly prohibited.

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

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

### **Sec. 22-37. Inspections.**

- (a) The city shall provide notice and schedule an annual appointment for inspection at the business site. The Police 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 article. 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 re-inspected by the Police Department.
- (b) Every wrecker operating and doing business within the City of North Myrtle Beach shall be inspected by an agent prescribed by the Police Department at least once each calendar year. The owner of each wrecker shall pay a fifty dollar (\$50.00) fee per wrecker annually. The Police 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 an 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 seventy-two (72) hours, to remedy the condition, after which the agent shall reinspect 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 operate 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 Police Department. Once the wrecker passes re-inspection the Police 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.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

### **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 Police Department.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

### **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.

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(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

**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 vehicle's owner or authorized by the Police Department to do so.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

**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.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

**Sec. 22-42. Removal or suspension from rotation system.**

- (a) Complaints for damage or loss will be noted by the Police Department and a lack of action to settle any justifiable complaint or a number of complaints will be just cause for removal from the rotation list.
- (b) A wrecker service that has three (3) service failures within one (1) thirty-day period will be suspended from the list for a thirty-day period. Two (2) 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 are experiencing mechanical problems or for vacations, without penalty, if approval is granted by the Police Department. Such removal shall be for a period of no longer than four (4) weeks.
- (c) Any complaint received by the city concerning violations of Article III by the wrecker service including, but not limited to, excess charges, poor business practices, damage to vehicles, and so forth, will be investigated. Failure of the towing contractor to correct the problem(s) will be considered a material breach of this article and cause for the wrecker service's suspension, upon written notice to the wrecker service, from the rotation system for a period up to six (6) months. After any suspension from the rotation system, the towing contractor may apply for reinstatement under a probationary period of six months. Three (3) suspensions from the rotation list in a five (5) year period will result in permanent removal from the list.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

**Sec. 22-43. Sale or transfer of wrecker service.**

Should the wrecker service sell, relinquish, convey, or transfer any interest in the company, corporation, firm, partnership, or association providing services to the city, the city will have two options:

- (1) To remove the wrecker service from the rotation system (except that a wrecker service shall not be removed from the rotation system due to a transfer as part of the probate of an estate);
- (2) To subject any new ownership, partnership, corporation, individuals, or any other entities obtaining partial or controlling interest in the wrecker service's company to the same scrutiny, evaluation, terms, conditions, covenants, rules, regulations, laws, understandings, and agreements, as provided herein.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

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### **Sec. 22-44. Nonconsensual towing.**

- (a) In many instances when a vehicle is towed from private property without the vehicle 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 as 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) Vehicle owners or operators of towed vehicles believe their cars have been stolen and that the Police Department must respond, and to release their cars, usually late at night, owners must go to one (1) location to pay for the cost of towing and another location to actually take possession of their cars. 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 will 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.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

### **Sec. 22-45. Towing from private property.**

- (a) At the request of any private property owner, the Police Department may authorize the removal of a motor vehicle from private property. Without authorization from the vehicle owner or the Police Department of public safety, it shall be unlawful to remove any motor vehicle from private property, except for the following circumstances:
  - (1) The private 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 (4½) 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 violator's vehicles will be towed, at the vehicle owner's expense, and the telephone number to call to obtain release of the towed vehicle; and
  - (4) The private property owner or agent of record must personally appear at the location of the nonconsensual tow prior to requesting the authorization number from the Police Department and to complete the authorization form described below.
- (b) Before towing a vehicle from private property without authorization from the vehicle owner, the private property owner or agent of record shall first call the Police Department for a police officer or other official within the Department to appear at the location of the nonconsensual tow. Upon arrival, the police officer or other official within the Police Department shall provide an authorization number and a form provided by the city, to be signed by the private property owner or agent of record and the wrecker service. Such form shall include the name and original wet ink signature of the private property owner or agent of record, which wet ink signature must be affixed to the form in the presence of the police officer or other official from the Police Department, and the wrecker service; the authorization number provided by the Police Department; the date and time of towing, 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 and the location where the motor vehicle may be claimed by its owner. The police officer or other member of the Police Department shall retain the original signed form and provide a copy to the private property owner or agent of record and the wrecker service. The wrecker service shall not

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block the exit of a vehicle from a parking lot. The wrecker service may couple to the vehicle to be towed prior to law enforcement arrival. However, the vehicle and its location must be photographed prior to coupling. The wrecker service shall only tow to a storage area or garage approved by the city located within two (2) 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.

- (c) 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 subsections (a) and (b) above. If fees are paid at a wrecker service office, said office shall accept payment of any fees in the form of cash (and provide correct change to the payee) or electronic funds (both debit cards and credit cards shall be accepted). A wrecker service shall accept cash at the scene of any tow and shall provide correct change to the payee.
- (d) Any time a vehicle is towed without the authorization of the vehicle owner, the following fees shall be the maximum charged by any wrecker operator or company and no other fees or charges of any kind (such as administrative fees, processing fees or fuel surcharges) shall accrue within thirty (30) days from the date of such tow and be required to be paid by the vehicle owner in order to recover the vehicle:

*Class A Wrecker/Car Carrier:*

Towing (any motor vehicle or trailer ten thousand (10,000) pounds GVW or less, per tow, flat fee to include dollies and Go-Jacks \$175.00.

Towing (any vehicle and trailer over ten thousand (10,000) pounds GVW, per tow \$250.00.

Storage (after first twenty-four (24) hours), per twenty-four (24) hours: \$30.00.

No tow, per call: \$40.00.

Vehicle release (between 6:00 p.m. and 7:00 a.m. only), per release: \$40.00.

Vehicle title search: Not to exceed the maximum fee set by the Department of Motor Vehicles where such vehicle is titled.

City Council shall be authorized to amend these fees from time to time at its 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, provided the private property owner or agent of record has signed and dated the written authorization form for such nonconsensual tow. 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, provided the private property owner or agent of record has signed and dated the written authorization form for such nonconsensual tow. If the owner refuses to or is unable to pay the towing fee, the vehicle may be towed.

- (e) If a vehicle is towed as a result of a private property owner's request and the private property owner has not complied with the requirements of subsections (a) and (b) above, or if the vehicle is shown to have been legally parked, the private 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.
- (f) If a vehicle is towed as a result of a private property owner's request and the wrecker service has not complied with the requirements of subsections (a) and (b) above, or if the vehicle is shown to have been legally parked, the wrecker service 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.

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- (g) 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 (such as administrative fees, processing fees or fuel surcharges) shall accrue within thirty (30) days of such tow other than those established in subsection (d) above.
  - (h) The city shall prepare and provide a sign which shall outline the charges and fees allowed by this article. 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 such sign or alter or obscure the sign in any way.
  - (i) It shall be unlawful for any wrecker service, the owner/operator or operator/attendant to omit, fail or neglect any duty or obligation imposed by this Article. The Chief of Police shall inform the city business license inspector of any violations under this Article so the business license inspector may revoke or suspend, pursuant to Section 7-16, any business license issued for towing service if he or she 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 or her license was issued or has failed to comply with the provisions of this Article III; or the licensee has obtained his or her license through any fraud or misrepresentation, a false or misleading statement, or evasion or suppression of a material fact in his or her 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.
  - (j) For vehicles towing trailers, motorcycles, boats, other vehicles, etc., each item shall be considered separate and apart and not as one (1) unit and towed separately; each item towed will be subject to a separate towing and storage fee as applicable.
  - (k) The giving of any person authority as an agent of record does not relieve any private property owner of their responsibility under this Article or any other law. It shall be unlawful for any wrecker service to financially reward any private property owner or agent of record and also for any private property owner or agent of record to accept any financial reward, incentive, gift or kickback from any towing business/towing operator.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

#### **Sec. 22-46. Return of personal property not attached to vehicle.**

- (a) As to towing directed by law enforcement, 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 (1) 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 nonconsensual towing and towing directed by law enforcement, 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 car seats, 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/she will return it to the vehicle owner when requested, without charge and without regard to any towing or storage charge owed on the vehicle.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20; Ord. No. 21-02, § 2, 3-1-21)

**Sec. 22-47. Penalty.**

Any wrecker service, owner/operator, operator/attendant, private property owner, agent of record or any other person who violates any provision of article III shall be deemed guilty of an offense and shall be subject to punishment under Chapter 1, Section 1-6 upon conviction.

(Ord. No. 20-23, § II, 9-21-20, eff. 11-1-20)

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL FOR THE CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA:**

Section 1. The amendment to the ordinance is hereby approved.

Section 2. This ordinance becomes effective on the date of passage and supersedes any inconsistent ordinance(s).

DONE, RATIFIED AND PASSED, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

ATTEST:

\_\_\_\_\_  
Mayor Marilyn Hatley

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

FIRST READING: \_\_\_\_\_ 5.6.2024 \_\_\_\_\_

SECOND READING: \_\_\_\_\_ 5.20.2024 \_\_\_\_\_

REVIEWED:

\_\_\_\_\_  
City Manager

ORDINANCE: \_\_\_\_\_ 24-20 \_\_\_\_\_