

 ORIGINAL

ORDINANCE NO. 2013-04-08-2

AN ORDINANCE OF THE CITY OF RANGER, TEXAS, ESTABLISHING REGULATIONS FOR TOWING AND WRECKER SERVICES; ESTABLISHING WRECKER SERVICE ROTATION REGULATIONS; PROVIDING FOR THE REGULATION OF NON-CONSENT WRECKER SERVICES AND WRECKERS AT ACCIDENT AND ARREST SCENES; PROVIDING PENALTIES FOR VIOLATIONS; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, the City of Ranger, Texas ("City") is a home-rule municipality; and

WHEREAS, the City may adopt ordinances for the health, safety and welfare of the residents of the City and it is appropriate for the City to provide reasonable requirements for service providers that provide such services to the citizens; and

WHEREAS, in furtherance of its governmental function, is hereby authorized to regulate the towing of vehicles that are not towed with the consent of the owner of such vehicle and regulate the use of wrecker services by establishing a rotation schedule between all wrecker services and establishing regulation guidelines to set conditions and provisions governing the eligibility for wrecker services and vehicle storage facilities to be placed on a rotation list and to identify the conditions for continued participation on such list; and;

WHEREAS, the City recognizes that the City's Police Department, in the provision of emergency services and public safety, provides assistance to citizens in arranging for the prompt and safe removal of disabled or impounded vehicles from the roadway; and

WHEREAS, there may be circumstances where a vehicle must be towed without the prior consent or authorization of the vehicle's owner or operator and the City's Police Department must be able to use an approved company from the Wrecker Service Rotation List prepared in accordance with the guidelines established by the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RANGER, TEXAS, THAT:

SECTION 1. Findings of Fact. The findings and recitations set out in the preamble of this Ordinance are found to be true and correct, and that they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Towing and Wrecker Services and Rotation Regulations Ordinance. Ordinance No 2013-04-22-2, set out below, Towing and Wrecker Services and Rotation Regulations, is hereby adopted as follows:

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Towing and Wrecker Services and Rotation Regulations

Section 1.1. List Established and Definitions

- (a) The Ranger Police Department shall establish and maintain a wrecker rotation list for each wrecker service permitted to provide non-consent towing or collision response towing, in response to a request for services from a police officer pursuant to the procedures set forth below. Each entity shall have one (1) slot on the said rotation list. The rotation list shall consist solely of permit holders holding a valid, current permit at the time of the request for towing services. If the next event is to be on impoundment, then the entity without an impoundment facility, meeting the requirements of (c), will be skipped on the rotation list, but will receive the next wrecker call.
- (b) The following definitions shall apply in the interpretation and the enforcement of this Ordinance:

Abandoned Motor Vehicle shall have the same meaning as assigned that term by Texas Transportation Code, Section 683.002, as may be amended.

City. The City of Ranger, Texas.

Consent Tow shall be any tow of a motor vehicle initiated by the Owner of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

Junked Vehicle shall have the same meaning as assigned to that term by the Texas Transportation Code, Section 683.071, as may be amended.

Motor Vehicle. Every vehicle which is self-propelled.

Owner. Any person who holds the legal title of a motor vehicle or who has the legal right of possession thereof, or the legal rights of said vehicle.

Non-consent Tow shall be any tow of a motor vehicle that is not a consent tow.

Person. An individual person, firm, corporation, or association.

Street. Any public street, alley, public place, square, or highway within the corporate limits of the city.

Tow Truck. A motor vehicle used for the purpose of towing or removing disabled or wrecked vehicles and that has the equipment and is in accordance with Title 16, Chapter 86, Texas Administrative Code, as may be amended.

Towing Company. Any person engaged in the providing towing services to the general public and who does not hold a valid permit issued pursuant to this Ordinance.

Vehicle. Every device in or by which any person or property is or may be transported or drawn upon a public highway, except devices moved only by human power or used exclusively upon stationary rails or tracks, and shall include trailer and semitrailers.

Wrecker. Any motor vehicle used for the purpose of towing or removing disabled or wrecked vehicles from the streets upon request of the City.

Wrecker Business. The business of towing or removing disabled or wrecked vehicles off the streets of the City upon request of the City.

Wrecker Company. Any person engaged in the wrecker business.

Wrecker Rotation List. The rotation list of companies prepared and used as provided in this Ordinance.

Section 1.2. Application for Participation on the Ranger Police Department Wrecker Rotation List:

A person or other legal entity desiring to participate on the Ranger Police Department Wrecker Rotation List within the City shall make written application to the Chief of Police. Such application shall be made upon a form provided by the Chief of Police and must be signed by the applicant or the Wrecker Company's legal representative. Said application shall be accompanied by all required documentation as specified herein. The application for participation is attached hereto and for all purposes is a part of these mandatory guidelines for participation on the Wrecker Rotation List.

- (a) All Wrecker Companies and Businesses must comply with the Texas Department of Licensing and Regulations ("TDLR") requirements as outlined in the Texas Occupations Code, Chapter 2308, and the Texas Administrative Code, Chapter 86.
- (b) All Vehicle Storage Facilities must comply with the TDLR requirements as outlined in the Texas Occupations Code, Chapter 2303 and the Texas Administrative Code, Chapter 85.
- (c) By completing and signing the application and submitted the required documents, the applicant agrees to participate in the Wrecker Rotation List established by these guidelines and acknowledges that the Wrecker Company or Business will adhere to and uphold the terms and conditions set forth herein.
- (d) The ownership of each Wrecker Company or Wrecker Business shall be subject to verification for the purpose of determining the legitimacy of the Company or Business. Only bona fide legitimate Wrecker Companies or Wrecker Businesses will be approved for the Wrecker Rotation List.
- (e) Every year a new Wrecker Rotation List will be opened for ALL participants to apply and submit documents and information for enrollment, unless a sooner period is deemed necessary by the Chief of Police, at his sole discretion. The new Wrecker Rotation List will replace any and all existing or previous rotation lists. The

enrollment period for the Wrecker Rotation List will be from 04/02/2013 to 05/02/2013 the initial year. Thereafter, the enrollment period will be 01/02/ to 02/02 annually and the Wrecker Rotation List will be valid from 03/01 until 02/28 (or 29) each year. All current participants and those requesting to participate on any future City Wrecker Rotation List will have to submit a new application, documents and information as determined by the Chief of Police. All documents are due by the submittal deadline for possible participation on the Wrecker Rotation List for the annual term. Applications, documents and information NOT received in the office of the Ranger Police Department by the end of the enrollment period will be void and not considered. The newly created Wrecker rotation List shall consist of not more than five (5) Wrecker Businesses/Companies.

- (f) The Chief of Police or designee will maintain the Wrecker Rotation List consisting of eligible Wrecker Companies having requested, in writing and by application, inclusion on the List and as approved by the Chief of Police. The List will be maintained in alphabetical order. When a Tow Truck is needed, a Tow Truck will be summoned from the first Wrecker Company on the List. Thereafter, a Tow Truck from the next Wrecker Company on the List will be summoned in like fashion, advancing through the List.

Section 1.3. Guidelines.

All Wrecker Companies and Wrecker Businesses, including any Vehicle Storage Facilities (VSF), that participate in the Wrecker Rotation List for the City will be required to comply with the following:

- (a) The Wrecker Company must have its primary office and VSF located within the City limits of the City and/or has been participating on the City's Wrecker Rotation List for the previous five (5) years.
- (b) A Wrecker Company's position and placement on the Wrecker Rotation List is not transferrable.
- (c) Two or more Wrecker Companies sharing common ownership may not appear more than once on the Wrecker Rotation List. For this purpose, two or more Wrecker Companies are considered under common ownership if: 1) one Wrecker Company is a wholly owned subsidiary of the other; or 2) the Wrecker Companies share a common place of business within the City and/or have any common owners.
- (d) Each Wrecker Company must own and/or operate a licensed VSF to be placed on the Wrecker Rotation List and may not "share" a storage lot with another Wrecker Company resulting in more than one Wrecker Company storing vehicles in a common location.
- (e) Any vehicle being towed as a result of the Wrecker Rotation List will be towed to a City approved VSF and may not be moved from that VSF unless being transferred only to a repair facility in accordance with Title 16, Chapters 85 and 86, Texas Administrative Code, with the consent of the Owner of the Vehicle as defined in Section 86.10(22), Title 16, Texas Administrative Code.
- (f) A Wrecker Company must provide 24 hour service, 7 days a week.
- (g) A Wrecker Company shall provide the City with a phone number that will be

- answered 24-hours a day, 7 days a week.
- (h) A Wrecker Company must present proof of either Worker's Comp or Occupational Insurance for its wrecker drivers.
 - (i) If all Wrecker Companies are busy and unable to respond, an alternative Wrecker Company may be used as long as an application is on file with the Ranger Police Department and all other rules are followed by such alternative Wrecker Company.
 - (j) Each Wrecker Company and driver must hold an Incident Management type license, as outlined in the Texas Occupations Code and/or Texas Administrative Code, issued by the TDLR in order to conduct Non-Consent Tows. The Wrecker Company's TDLR's license number must be displayed on each Tow Truck operated by the Wrecker Company and each driver must carry their TDLR license while operating the Tow Truck.
 - (k) Under no circumstances will a driver for a Wrecker Company report to any call under the influence of drugs or alcohol or with an odor of alcoholic beverage on his/her breathe.
 - (l) Each Tow Truck shall be equipped and maintained to handle any call and be able to remove debris from the highway as required by Texas law.
 - (m) A Wrecker Company shall provide the Chief of Police with evidence of compliance with state laws regulating Tow Trucks, drivers, VSF and insurance coverage. Each Wrecker Company and driver will comply at all times with all state laws and regulations.
 - (n) Any violation of the Texas Occupations Code, Chapters 2303-2308, as may be amended, is subject to criminal penalties as outlined in each Chapter.
 - (o) Failure to comply with the requirements of this Ordinance, or any state law may result in cancellation of a call, temporary suspension from the Wrecker Rotation List or disqualification in participation with the Wrecker Rotation List.
 - (p) In the case of a request for services being cancelled by the Ranger Police Department, the Wrecker Company will be placed back in front of the Wrecker Rotation List.
 - (q) Due to unforeseen circumstances and conditions beyond the control of the Ranger Police Department as to why a request for service would be cancelled by the Ranger PD, the Ranger PD will not be liable for any compensation to the Wrecker Company for such cancellation.

Section 1.4. Duties and Responsibilities.

- (a) Each Wrecker Company included on the Wrecker Rotation List will have a duty to respond when summoned from the List and to perform the Rotation Tow. A Wrecker Company so summoned that fails to respond to the scene within thirty (30) minutes from the call placed to the Wrecker Company by the City Police Department or Dispatch or at the discretion of the Ranger Police Officer, will be passed over and the next rotation Wrecker Company on the List will be summoned. It is a violation of the Wrecker Rotation List for another Wrecker Company to attempt to substitute and to perform the duties of the originally summoned Wrecker Company.
- (b) The City reserves the right to strike a Wrecker Company from the Wrecker Rotation

List for a term to be determined by the Police Chief if a pattern of not responding when summoned develops or if the Wrecker Company fails to respond to the scene within thirty (30) minutes from the First Call Placed to the Wrecker Company.

- (c) If the Police Department/Dispatch call the phone number designated by the Wrecker Company for requesting services and there is no answer, the Police Department/Dispatch shall leave a message and the Wrecker Company shall have five (5) minutes to return the call. If the Wrecker Company fails to return the call within that time, the Wrecker Company shall be passed over and the next Wrecker Company on the List shall be called. If the Wrecker Company does call back within the five (5) minutes, the thirty (30) minutes to respond shall begin from the time the FIRST UNANSWERED CALL WAS PLACED.
- (d) All vehicles towed as a result of a rotation call will be towed to the City's approved VSF for that Wrecker Company on file with the Police Department unless the Owner designates a location to the Wrecker Company. Upon the Owner's request of a particular tow location, the driver will agree to take the Vehicle to that location with the exception of those Vehicles which are part of an ongoing law enforcement investigation.
- (e) It shall be the responsibility of the Wrecker Company responding to a call to ensure that the appropriate police agency has been notified prior to removing any damaged vehicle from an apparent crash scene.
- (f) Before any towed Vehicle is transferred/transported from one location to another, the Wrecker Company must give the Owner or Owner's representative notice of the fee to be charged for such transfer. Any removal/transfer of a Vehicle from a VSF must be done in compliance with Title 16, Texas Administrative Code.
- (g) All Wrecker Company trucks are required to have the following safety devices and tools on each truck: 5 lb fire extinguisher; size appropriate shovel, broom, size appropriate bucket, and appropriate amount of sand. By participating on the List, all Wrecker Companies authorize any member of the Ranger Police Department to inspect the Tow Truck used for the required safety devices and tools.
- (h) Before a Vehicle is released to a Wrecker Company, the driver must display his/her TDLR license to the police officer. The driver will notify the police officer of the location where the towed Vehicle will be stored.
- (i) The Wrecker Company will assume full responsibility for all property by signing the Ranger PD Property Inventory form when taking possession of the vehicles and property. Wrecker Companies and VSF will be responsible for the protection, accountability and release of the property. All VSF will be available 24 hours a day to release Ranger PD stored vehicles.
- (j) Each Wrecker Company/Business will agree to the guidelines in this Ordinance by initialing and signing the Wrecker Rotation Agreement (Exhibit A)
- (k) Each Wrecker Company will notify the Ranger Police Department/Dispatch if they will not be responding to a scene or will be out of service for any extended length of time.

Section 1.5. Compliance

- (a) The approval, suspension, or denial of an application (Exhibit B) of a Wrecker

Company shall be the responsibility of the Chief of Police. The Chief of Police shall keep the City Council advised of such actions and be prepared to explain the action should the need arise.

- (b) The Chief of Police reserves the right to remove any Wrecker Company from the Wrecker Rotation List or any driver from participating in the Wrecker Rotation program for any cause or reason at any time.
- (c) Any Wrecker Company voluntarily requesting to participate on the Wrecker Rotation List hereby authorizes the Chief of Police or his designee to review all tow slips and receipts pertaining to the tows initiated by the use of the Wrecker Rotation List. Upon notice, the Wrecker Company will provide the tow slips and receipts for inspection to the Ranger Police Department within ten (10) days.

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SECTION 3. Penalty. Any person, firm or corporation violating any provision of this Ordinance shall be fined not less than One Dollar (\$1.00) nor more than Five Hundred Dollars (\$500.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

SECTION 4. Severability. Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

SECTION 5. Repeal of Conflicting Ordinances. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 6. Savings Clause. All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any ordinances affecting noise or the regulation of noise as a nuisance within the City which have accrued at the time of the effective date of this Ordinance. Any such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

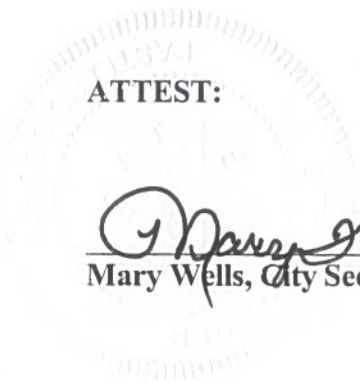
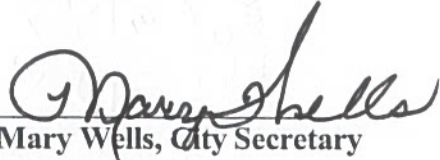
SECTION 7. Effective Date. That this Ordinance shall take effect immediately from and after its passage and publication in the manner required by the Tex. Loc. Gov't. Code.

SECTION 8. Open Meetings. It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code.*

PASSED AND APPROVED on First Reading on this 25th day of March, 2013.

PASSED AND FINALLY APPROVED on this 8th day of April, 2013.

ATTEST:



Mary Wells, City Secretary

The City of Ranger, Texas


Raymond Hart, Mayor