

BILL NO. 4707

ORDINANCE NO. 4707

AN ORDINANCE OF THE CITY OF WEST PLAINS, MISSOURI TO AMEND CHAPTER 12, BUSINESSES, OF THE CODE OF ORDINANCES FOR THE CITY OF WEST PLAINS, MISSOURI, BY REPLACING ARTICLE VI PERTAINING TO MOTOR VEHICLE TOWING AND WRECKER SERVICE BUSINESSES USED BY THE CITY OF WEST PLAINS, INCLUDING SERVICES USED BY THE WEST PLAINS POLICE DEPARTMENT.

WHEREAS, it has been determined by the City Council of West Plains, Missouri, that the safety and welfare of the residents and visitors in the City of West Plains will be promoted by implementing certain regulations and requirements for motor vehicle towing and wrecker service businesses used by the City of West Plains, and

WHEREAS, it is necessary to enact an ordinance implementing certain regulations and requirements for motor vehicle towing and wrecker service businesses used by the City of West Plains in order to promote the safety and general welfare of the residents of the City of West Plains.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST PLAINS, MISSOURI, THAT ARTICLE VI TO CHAPTER 12 BE REPLACED AS FOLLOWS:

CHAPTER 12 - BUSINESSES

**ARTICLE VI - MOTOR VEHICLE TOWING AND WRECKER SERVICE BUSINESSES
(REFERRED TO AS "TOW TRUCK COMPANY") USED BY THE CITY OF WEST PLAINS**

Sec. 12-165. Towing regulations for any tow truck company called or used by the City of West Plain for towing or wrecker services:

(a) *Receipts.* A tow truck company shall provide a receipt to each motor vehicle owner or driver to whom services are provided showing the name, address, and phone number of the tow truck company, the date and total cost of services as established by the West Plains Police Department for towing companies on the West Plains Police Department rotation list, including the cost for towing and storing a motor vehicle. If at all possible, such receipt shall be provided at the time the service is provided. In the event the owner or driver is not present or the receipt could not be provided at the time the service is provided, such receipt shall be mailed to the vehicle owner within seventy-two (72) hours of the service.

(b) *Issuance of identification card.* A tow truck company shall issue an identification card to each operator employed by the tow truck company. The identification card shall contain a photograph of the tow truck operator and shall state the name of the tow truck operator, along with the name, address, and phone number of the tow truck company.

(c) *Display of identification card.* A tow truck company shall require each tow truck operator employed by the tow truck company to conspicuously display an identification card on the clothing of the operator's upper body at all times while acting in the scope of such employment as a tow truck operator. A tow truck operator shall allow any police officer or motor vehicle owner to whom services are provided to examine the tow truck operator's identification card upon request.

Sec. 12-166. Towing rotation list and system.

(a) *Request for tow truck company by owner; recommendation of tow company by police officer is prohibited.* Any police officer investigating an accident or disabled vehicle or otherwise in a position to recommend a tow truck company shall refrain from making any such recommendation. The prescribed procedure shall be to ask the owner or person in charge of the motor vehicle to designate which tow truck service should be called for service. The request of the owner or person in charge of the motor vehicle shall be followed if such request is within reason and the tow truck company requested is capable and willing to respond.

(b) *Use of the towing rotation list.* Whenever a tow truck company requested pursuant to subsection (a) of this section is unwilling or unable to respond to the tow request, or the owner or person in charge of the motor vehicle does not have a preference as to which tow truck company shall respond to tow the vehicle, then the police officer shall summon a qualified tow truck company from the towing rotation list in accordance with this section. The towing rotation list shall be on an incident-based rotation and once called the tow truck company will be moved to the bottom of the list regardless of whether it is able to respond to a particular call.

(c) *Response to scene by tow truck company.* Any tow truck company summoned by a police officer shall arrive at the scene within twenty (20) minutes after receipt of a call during daytime hours. Daytime calls will be between the hours of 7:00am to 6:00pm. The police officer at the scene shall then direct the tow truck company to the motor vehicle, which is to be moved, and the tow truck company shall transport the motor vehicle to a place designated by the party responsible for the motor vehicle or to a place where such company stores its towed vehicles. Only the tow truck company called shall make the tow. If the requested tow truck company cannot or does not respond to the call for service, the owner or person in charge of the motor vehicle shall be asked to select another tow truck company. If the owner or person in charge of the motor vehicle declines or fails to make a selection under this section, the police officer shall summon a qualified tow truck company in accordance with this section.

(d) *Compilation of the towing rotation list.* The chief of police shall compile the towing rotation list of qualified tow truck companies referred to in subsection (b) of this section. To be placed on the towing rotation list, the tow truck company must have a valid tow truck permit and license and must be in compliance with all requirements of this code. The chief of police shall place all qualified tow truck companies on the towing rotation list.

The list shall be created each calendar year. Requests for additions to the towing list must be submitted to the Chief of Police no later than sixty (60) days prior to the end of the calendar year. For purposes of this subsection, "qualified tow truck companies" shall mean those companies which have met the requirement set forth in subsection (e) of this section and have not been removed from the towing rotation list under this section. If at any time subsequent to the placing of a tow truck company on the towing rotation list such company or its employee(s) fails to meet any of the requirements set forth in Chapter 12, Article VI, of the West Plains City Code or violates any other law, ordinance, or regulation, the chief of police shall give written notice to the tow truck company of the nature of the default. Failure to remedy the default or request a hearing within ten (10) days shall result in the removal of the tow truck company from the towing rotation list.

(e) *Requirements for placement on the towing rotation list.* Requirements for tow truck companies for placement on the towing rotation list as authorized by subsection (d) of this section are as follows:

(1) Each tow truck company shall:

- a. Occupy a separate business address, and possess a separate license for the towing and storage of vehicles, from any other tow truck company;
- b. Maintain at least one (1) tow truck for call out which is:
 1. Capable of moving a vehicle of two and one-half (2½) tons with dual wheels;
 2. Equipped with one (1) set of towing dollies or is a flatbed tow truck;
or
 3. Equipped with one (1) wheel lift or is a flatbed tow truck.
- c. Maintain a vehicle storage facility within fifteen (15) minutes of the city limits (drive time);
- d. Maintain all current applicable business licenses;
- e. Provide only two (2) telephone number to call when the dispatch of a tow truck is requested;
- f. Indicate whether it operates tow trucks of a greater capacity than that required by subsection (b) of this section;
- g. Carry insurance on the tow truck in at least the following minimum policies and amounts:

1. Liability insurance consisting of a business auto policy in the amount of \$1,000,000 per occurrence and \$3,000,000 aggregate;
 2. On-hook endorsement of \$100,000.
 3. Garage keepers legal liability coverage of \$100,000 minimum for towing companies storing vehicles on its premises;
 4. Workers compensation insurance in accordance with Missouri statutes;
 5. Employers liability insurance as follows:
 - Bodily injury by accident - \$500,000 each accident;
 - Bodily injury by disease - \$500,000 each employee; and
 - Bodily injury by disease - \$500,000 policy limit.
 6. A certificate of insurance in the name of the tow truck company provided to the City of West Plains with a commitment to maintain coverages as stated and be required to notify the city of a carrier change or cancellation within two (2) business days.
- h. Provide sufficient space to store ten (10) wrecked motor vehicles, and such space shall be:
1. Located within the fifteen (15) minute drive from the city limits;
 2. Completely enclosed and shall afford protection equal to or greater than protection afforded by a five (5) foot high chain link fence; and
 3. Such space shall be in compliance with all applicable zoning codes.
- i. Allow the owner of the wrecked motor vehicle or other owner's agent to inspect such vehicle on at least three (3) different occasions and to remove the vehicle upon payment of the charges permitted within this ordinance without additional cost during regular working hours, which hours shall be defined as a minimum of 8:00 a.m. to 5:00 p.m. Monday through Friday;
- j. Pay all applicable occupational license taxes;
- k. Have permanent signs affixed on both sides of the body of its tow truck, and such signs shall contain the name of the tow truck company and the company's telephone number, in a conspicuous place, not less than two (2) inches in height; and

l. Be responsible for removal of all vehicle parts, glass and other debris from the roadway which is attributable directly or indirectly to the cause of the tow and shall do so after receiving authorization by the police officer at the scene. The tow truck company operator shall not be required to clean up liquids or large spills of solid materials which require lengthy cleanup operations or specialized equipment for removal, nor shall such operator be required to clean up debris or spills classified as hazardous materials by the United States Department of Transportation. No additional charge for this service shall be allowed.

m. Complete paperwork pursuant to RSMo. Chapter 304 in a timely and legible manner.

n. Absent extraordinary circumstances, agree to charge for towing services in accordance with a price list approved and established by the West Plains Police Department after requesting proposals from all interested towing companies. Each tow truck company shall keep copies of the approved list of charges that identifies all costs which the tow truck company or operator may charge or bill for services provided when responding to a call on the towing rotation list absent extraordinary circumstances. If the owner or driver of the motor vehicle is at the scene and before a vehicle is towed, the operator of the tow truck must make a good faith effort to provide such owner or driver with a copy of the approved towing services list, an estimate of the towing costs that may be charged or billed and a schedule identifying the costs for storage of the disabled motor vehicle.

(f) *Heavy wrecker towing.* The chief of police shall maintain a tow list for heavy wreckers. To be eligible for the heavy wrecker towing list, the company shall meet all the requirements of this section and have at least one (1) heavy wrecker available within the city limits during their assigned rotation week. The chief of police will not maintain a list of costs associated with heavy wrecker tows.

Sec. 12-167. Hearing and complaint procedure.

(a) *Complaint procedure.* All complaints shall be sent to the chief of police or his or her designee for investigation. Whenever the chief of police has grounds to suspend or remove a qualified tow truck company from the towing rotation list, the chief of police shall give written notice of such reasons to suspend or remove the tow truck company. Where the notice indicates that the tow truck company no longer meets the minimum requirements of this section, the chief of police shall allow ten (10) business days from the date of mailing such notice for compliance. If, at the end of ten (10) business days, compliance has not been made or a hearing requested in the matter, the removal shall take effect. If a hearing is requested, such hearing shall be held within ten (10) business days after the request and the suspension or removal from the towing rotation list is stayed pending outcome of the hearing, except where insurance requirements have not been met.

(b) *Hearing procedure.* A hearing requested pursuant to this section shall be noticed and held pursuant to the procedures established by the chief of police, or the chief's designee, for due process hearings. All such proceedings shall be held in accordance with RSMo. Chapter 536. The decision of the chief of police, or the chief's designee's, in the matter heard shall be reduced to writing and a copy mailed to the tow truck company involved.

(c) *Causes for removal from towing rotation list and term of removal.* Causes for removal from the towing rotation list are as follows:

(1) Failure to meet the minimum requirements set forth in this ordinance; removal shall be effective for so long as the minimum requirements are unmet;

(2) Charging fees in excess of that authorized in this ordinance or charging for services not reasonably required under the circumstances of a particular tow; removal shall be for one (1) year for the first incident and may be permanent for any subsequent incident;

(3) Good cause, which shall include but not be limited to the following:

a. Conduct during a towing operation which is careless, negligent or reckless and without due concern for the safety or property of others;

b. Conduct during a towing operation which is careless, negligent or reckless and results in damage to or destruction of property of others;

c. Responding to a call pursuant to this ordinance while under the influence of an intoxicating beverage or drug;

d. Use of improper or defective equipment during the performance of towing operations which endangers or may endanger the safety or property of others;

e. Failure to obtain current licenses as required under applicable law or regulation;

f. Failure to remove debris from an accident scene, including the sweeping of glass and vehicle parts as required in section 12-166(e)l above; and

g. Failure to follow any law or regulation.

h. Responding to a scene without being dispatched as provided herein.

(4) Removal may be for a period of up to one (1) year, depending upon the circumstances of each incident.

(d) *Renewed inclusion on towing rotation list after removal.* No tow truck company which has been removed from the towing rotation list for reasons set forth in subsection (c) above shall be eligible for inclusion on such list under any other firm name or by any affiliation with a company which is properly listed. Principals of any tow truck company which have been removed from the towing rotation list for the reasons set forth in subsection (c) above may not thereafter be placed back on the next-up towing rotation list during the term of such tow truck company's removal by any subterfuge whatsoever, nor shall any tow truck company with a financial interest be eligible for inclusion on the next-up towing rotation list during the term of the tow truck company's removal.

Sec. 12-168. Solicitation of business; sale or repair of towed vehicles.


No tow truck company shall solicit in any manner, directly or indirectly, any business involving any motor vehicle which is disabled on a public street. This prohibition applies regardless of whether the solicitation is for the purpose of soliciting the business for towing, removing, repairing, wrecking, storing, trading, selling or purchasing such vehicle. No tow truck company shall offer for sale or repair any wrecked or disabled vehicle which is towed pursuant to this ordinance without permission from the owner of the motor vehicle, except to sell the vehicle in accordance with the laws of the State of Missouri for the tow and storage costs.

This ordinance shall be in full force and effect from and after the date of its passage.

PASSED this 21 day of March, 2022.

ATTEST:


Allison Skinner, City Clerk


Michael Topliff, Mayor