

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE
MAKING A TECHNICAL CORRECTION TO SECTION 24-223 OF THE CODE OF
THE CITY OF FAYETTEVILLE**

BE IT ORDAINED, by the City Council of the City of Fayetteville, North Carolina, that:

Section 1. Section 24-223, duties and requirements of licensees under this article, is amended by deleting the same in its entirety and substituting the following therefor:

Sec. 24-223. Duties and Requirements of Licensees under This Article.

- a. The licensee shall provide a wrecker vehicle of sufficient size and weight as defined in section 24-221. The operator of such wrecker shall follow the manufacturer's operation manual in the operation of such wrecker. The wrecker operator shall not attempt to tow any vehicle that would reduce the weight of the front axles of the wrecker by 50 percent or more.
- b. All wreckers shall be equipped with warning lights required under state law. Wreckers and rollbacks shall operate all warning devices while stopped in or near a street, highway, public vehicular area, or any other area where vehicles may travel. Wreckers and rollbacks are not required to operate warning lights while in tow unless the vehicle is oversized or a condition exists that requires towing the vehicle substantially below the speed limit. A wrecker or rollback with a vehicle in tow must have auxiliary tow lights attached to the towed vehicle in a manner that allows following traffic to observe whether the towing unit is turning or braking. If a rollback is transporting a vehicle on the bed and the turn and brake lights are visible to the rear, no auxiliary tow lights are necessary. Wreckers and rollbacks shall be marked in accordance with N.C. Gen. Stat. § 20-101, as it may be modified from time to time.
- c. The licensee shall provide continuous 24-hour-a-day service each day of the year, and there shall be an attendant on duty at the storage lot, during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday except for emergencies and state and federal holidays. This attendant shall be clothed with the authority to release any vehicle upon the legal conditions of release being fulfilled. The attendant shall also be authorized to provide assistance to the driver and any relevant information regarding the towing of their vehicle, including, but not limited to, billing inquiries and property damage. The licensee shall also post instructions in an area that is visible to the public regarding how to retrieve the driver's vehicle when attendants are not present.
- d. The licensee shall not release any vehicle directly impounded by the city without authorization by the police department.
- e. Licensees shall perform towing service for the city on a rotation basis.
- f. No licensee or agent of the licensee shall intercept police calls by any means for the purpose of soliciting business.

- g. No licensee or agent of the licensee shall engage in unfair and deceptive trade practices in the course and operation of its business in violation of N.C. Gen. Stat. § 75-1 et seq.
- h. Only drivers holding valid North Carolina driver's licenses may respond to city rotation calls. The licensee shall provide North Carolina licensed wrecker drivers for the purpose of responding to city rotation calls. Except as excluded by G.S. 20-8(3), drivers must adhere to the North Carolina Driver's License Act, N.C. Gen. Stat. § 20-5, et seq., drivers who have been convicted of any felony, misdemeanor related to North Carolina's Controlled Substances and Vapors Act, as it may be modified from time to time, any offense involving impaired driving, driving with a suspended license (within the last five years), or who are habitual offenders of traffic laws, will not be authorized to respond to city rotation calls. Any person who owns or acts as an agent of or driver for an wrecker company, who is charged with any felony, misdemeanor related to North Carolina's Controlled Substances and Vapors Act, as it may be modified from time to time, any offense involving impaired driving, driving with a suspended license, or who are habitual offenders of traffic laws may, in the discretion of the Chief of Police be suspended from the rotation list until disposition of any pending charge.
- i. Drivers employed by licensees are required to attend and successfully complete eight hours of hands-on training and pass a written test pertaining to the towing and recovery of vehicles. This training shall be conducted by a recognized training facility or by a trained and certified licensee. Any certificate received as a result of this training must be current, valid, and unexpired. Any such certificate must be renewed prior to expiration.
- j. The licensee shall provide:
 - 1. An outdoor space measuring 8,600 square feet for properly accommodating and protecting motor vehicles to be towed or otherwise removed from the place where they are disabled. Such storage space for vehicles shall be enclosed by a minimum six-foot chain link fence or a fence of similar strength and shall have all entrances and exits secure from public access and be compliant with all applicable articles of the Fayetteville City Code.
 - 2. An office space located on the storage lot within the city limits of Fayetteville that is a permanent structure with a separate physical address from any other inspected towing company as defined by the United States Postal Service and complies with all applicable city codes and ordinances. The office space will have proper signage identifying the business and telephone number for after hours inquiries in accordance with applicable city codes and ordinances.
 - 3. A storage vault or storage room on the storage lot or premises which is adequate to secure and protect personal property which may be left in vehicles towed to a private wrecker.
 - 4. The wrecker business and storage lot shall be located within the corporate limits of the City Fayetteville, and shall be located at the same address.
 - 5. Licensees are prohibited from sharing any office space, employees or equipment that is subject to inspection with other licensees. Licensees shall maintain a separate physical address, as defined by the United States Postal Service, for each business and each business must comply with the applicable City Code for this type of business. However, licensees may request assistance from another licensee to assist in a particular tow or

vehicle recovery, provided that the assisting licensee supervises and operates its own equipment at the scene of that tow or vehicle recovery.

- k. Licensees shall be held responsible for the actions of their employees. Failure to correct or prevent conduct that is in violation of this article that the licensee had knowledge of, or should have had knowledge of by the exercise of due diligence, will result in action being taken against the licensee, up to, and including, removal from the city rotation list.
- l. Upon request or demand, and proof of ownership or right of possession, a licensee shall return personal property stored in a vehicle, provided that all authorized charges for towing of the vehicle have been paid. A licensee may not require payment of any storage fees as a prerequisite to release personal property. Any items attached to the vehicle such that a tool of any type is required for removal is not considered personal property under this provision.
- m. Licensees must release vehicles from storage after regular business hours upon request of the Fayetteville Police Department or the owner of the vehicle. Licensees may charge a release fee in accordance with the fee schedule approved by city council referred to in section 24-237 for such service as it may be modified from time to time. The licensee may also require payment of the release fee at the time of the release.
- n. Licensees must tow vehicles to their designated storage facility or to another location designated by the vehicle owner or the Fayetteville Police Department. Charges for tows to a police facility, where the vehicle is not relocated to the licensee's storage facility within fourteen (14) days, shall be paid by the city.

Section 2. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of Ordinances, City of Fayetteville, North Carolina, and the sections of this ordinance may be renumbered to accomplish such intention.

ADOPTED this the ____ day of February, 2018.

CITY OF FAYETTEVILLE

MITCH COLVIN, Mayor

ATTEST:

PAMELA J. MEGILL, City Clerk