

ORDINANCE NO. 80-730

AN ORDINANCE TO AMEND CHAPTER 37 OF THE CODE OF ORDINANCES OF THE CITY OF WARREN RELATING TO TRAFFIC AND MOTOR VEHICLES

THE CITY OF WARREN ORDAINS:

SECTION 1. That Chapter 37, Article I, entitled Michigan Vehicle Code and Uniform Traffic Code, Section 37-8 of the Code of Ordinances of the City of Warren, Michigan, is hereby amended to read as follows:

Sec. 37-8. Vehicle removed by police.

The police department or a governmental agency designated by the police department may provide for the removal of a vehicle from public or private property to a place of safekeeping at the expense of the last titled owner of the vehicle in any of the following circumstances in addition to all circumstances specified in the Motor Vehicle Code (specifically, M.C.L. 257.252-et seq. as amended.

- (1) If the vehicle is not removed by the owner or occupant of a premises within forty- eight (48) hours after the police department or designated building official attaches a written notice pursuant to M.C.L. 257.252a.
- (2) If the vehicle has an improper plate attached to the car pursuant to M.C.L. 257.256 or if the vehicle has a false, stolen, or counterfeit plate attached pursuant to M.C.L. 257.257.
- (3) If the vehicle is operated by an unqualified driver.

SECTION 2. That Chapter 37, Article III, entitled Wreckers, Sections 37-551 through 37-590 the Code of Ordinances of the City of Warren, Michigan, is hereby amended to read as follows:

ARTICLE III. WRECKERS

DIVISION 1. GENERALLY

Sec. 37-551. Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them.

(1) *Abandoned vehicle* means any or all of the following:

a. A vehicle that has remained on private property without the consent of the owner.

b. A vehicle that has remained on public property for a period of not less than 48 hours, or on a state trunk line highway as described in MCL 247.651 as follows:

(i) If a valid registration plate is affixed to the vehicle, for a period of not less than 18 hours.

(ii) If a valid registration plate is not affixed to the vehicle.

2) *Dry Run* means that upon arrival no service for wrecker is required.

3) *Emergency towing* means the towing, carrying, pushing, or otherwise transporting for a fee any motor vehicle, disabled in any manner, from any road, street or freeway in the city or from the scene of any accident.

4) *Standard tow*, for rate purposes only, means the removal of any wrecked, disabled, impounded or abandoned vehicle from the traveled portion or berm of a highway by a service truck or a single crane tow truck. A standard tow shall include the removal of all debris, clean up, sweeping and administering oil dry if needed from the street.

5) *Active Police Tow List*, means a list maintained by the police department containing the names of those wreckers authorized by city council and licensed by the city to respond to requests for the towing of vehicles made by the police department.

6) *Wrecker vehicle* means a truck with a hoist, towing apparatus, or self-loading flatbed, or any combination of these items, permanently affixed to the truck, used to transport not more than 2 vehicles, except for a motor vehicle equipped with a fifth wheel or a motor vehicle that tows the second vehicle on a trailer.

7) *Wrecker* or wrecker owner means a person or entity engaged in the business of, or offering services of, a wrecker vehicle or towing service, whereby motor vehicles, including disabled vehicles, abandoned vehicles, or impounded vehicles are or may be towed or otherwise removed from one (1) place to another by the use of a motor vehicle adapted to and designated for that purpose.

Sec. 37-552. Duties of licensee.

All wrecker licenses under this article shall be issued subject to the following conditions:

- (1) *Markings.* Wreckers vehicles shall bear the name and address of the owner in letters painted on the vehicle not less than three (3) inches in height on each side of the vehicle and not lower than the bottom edge of the door. A licensed wrecker plate shall at all times be prominently displayed on the rear of each wrecker vehicle. Wrecker vehicles shall not display the words "police towing" or other similar language which indicates the vehicle is owned or operated by the police department.

- (2) *Equipment.* Wrecker owners shall keep and maintain towing equipment which is adequate to perform such towing service in a reasonably workmanlike manner. All vehicles shall be equipped with warning lights required under state law.

- (3) *Rate schedule.* No person performing towing or storage service on behalf of or at the direction of a Warren Police Officer on such wrecked, impounded, disabled or abandoned vehicles shall charge fees in excess of the following standard rates:
 - a. Towing rates:
 - i. Standard tow (including dolly or flatbed).....\$145.00
 - ii. Vehicle in excess of 10,000 pounds175.00
 - iii. Vehicle in excess of 60,000 pounds325.00
 - iv. Tractor/trailer, empty325.00
 - v. Tractor/trailer, loaded375.00
 - vi. Hourly labor rate45.00
 - vii. Mileage charge - As determined by council resolution.
 - viii Administrative fee 50.00
 - ix. Removal of all debris, clean up, sweeping, and administering oil dry shall not exceed that which may be allowed by the carrier insurance policy or the actual retail cost whichever may be less.

 - b. Daily storage rates:
 - i. Motorcycles and cars 20.00
 - ii. Tractor/trailer30.00
 - iii. Boats/motor homes 22 feet or less30.00
 - iv. Boats/motor homes over 22 feet45.00
 - v. Storage of vehicle over 10,000 pounds 30.00
 - vii. Mopeds10.00

- c. An additional fifteen (15) percent may be charged for services rendered on any Sunday or legal holiday.
 - d. Vehicles placed on hold:

Rates for vehicles placed on hold by the police or vehicles seized for drug or alcohol forfeiture are capped at \$600.00.
 - e. Crime Victim Rights Act

Rates for vehicles towed from victims of crimes defined pursuant to the Crime Victim's Rights Act, Act 87 of 1985, MCL 780. 751 et seq. as amended shall include:
 - i. Towing fee shall be \$50.00 and may be waived/paid by the city, if approved by council.
In the event the towing fee exceeds the standard fees normally assessed for a routine tow, the police commissioner is authorized to grant additional fees upon submission of proof by the wrecker owner and determination by the police commissioner that a deviation from the \$50.00 fee is warranted.
 - ii. No fee shall be generated for storage of the vehicle during the period where there is a police hold in effect.
 - iii. If the owner or secured party fails to pick up the vehicle within 72 hours after removal from the police hold, the storage rates listed in subsection (b) may start accruing after the 72 hour period has elapsed. This subsection supercedes any other fees set forth in this section.
- (4) *Liability.* The wrecker owner shall assume all responsibility for all liability and shall indemnify and hold the city harmless from such liability for damages (or any loss to vehicles or contents while being towed or stored due to theft, vandalism or other damage), and for all personal injuries occurring to any of the wrecker owner's employees or other persons.
- (5) *Records.* The police department shall maintain an approved records and claim check system to assure release of vehicles to the rightful owner or authorized person.
- (6) *Storage of towed vehicles.* All vehicles towed at the request of the

police department must be dropped and stored at a secured storage lot zoned in accordance with the provisions of section 17.02 of the zoning ordinance and which storage lot has been granted site plan approval pursuant to section 22.16 of the zoning ordinance.

Sec. 37-553. Release of abandoned or abandoned scrap vehicles; right to a hearing; accrued towing and storage fees; and public sale.

A person picking up an abandoned vehicle under this section must show valid driver's license and vehicle title/registration.

The rights and duties relating to abandoned or abandoned scrap vehicles are set forth in Public Act 300 of 1949, MCL 257.252 et seq and as amended (see also MCL 257.252a and 257.252b)

Sec. 37-554. Removal of vehicle from public or private property to place of safekeeping.

- (a) The rights and duties relating to removal of vehicle from public or private property to a place of safekeeping are set forth in Public Act 300 of 1949, MCL 257.252 et seq and as amended. (see also MCL 257.252d)
- (b) The owner of a vehicle towed and stored at the request of the police department may claim the vehicle from storage as follows:
 - (1) Provided there is no hold on the vehicle, the owner may obtain release of the vehicle from storage upon presentation of proof of ownership and payment of the towing and storage fees to the agency storing the vehicle.
 - (2) Vehicles held due to a Motor Vehicle Code violation shall be released only upon the payment of towing and storage fees and the repair of all violations so that the vehicle meets minimum safety requirements.
 - (3) No fees shall be assessed for owners of vehicles or their designee recovering personal property during business hours.
- (c) No person shall refuse to promptly release from storage any vehicle to the owner or his designated representative if he has followed the requirements for release set forth in this section. In addition, all persons picking up a vehicle must show a valid driver's license.

Sec. 37-555. Emergency towing; written permission required.

No person shall perform any emergency towing without first having

obtained written permission, on forms approved by the police department, from the driver or owner of the vehicle or until the police officer of the city investigating the wrecked or disabled vehicle shall have completed his or her investigation and has given written permission for the emergency towing service. A copy of the completed permission form shall be given to the authorized person. Any person performing emergency towing shall maintain a record of completed permission forms of all emergency towing for a period of six (6) months. Completed forms must show total fees charged for services rendered. In addition, forms should list to whom vehicle was released with driver's license numbers and other appropriate identification.

Sec. 37-556. Solicitation of business.

No wrecker vehicle may respond to the scene of an accident or emergency for the purpose of towing vehicles unless specifically called there by the police or person involved in the accident or emergency. This section is intended to prohibit wrecker owners from soliciting business at the scenes of accidents and emergencies and shall not be construed to prohibit any wrecker owner from contracting with any person, firm or corporation, provided the wrecker owner, his agents and employees do not solicit towing contracts at the scenes of accidents or emergencies.

Secs. 37-557—37-570. Reserved.

DIVISION 2. - LICENSE

Sec. 37-571. License required.

No wrecker vehicle or wrecker owner shall operate any or cause to be operated any towing services in the City without first procuring a license issued by the city clerk as required in this Article and Chapter 18 of the Code of Ordinances.

Sec. 37-572. Application.

Any person desiring to perform towing work in the city shall submit an application for a wrecker vehicle/tow service license to the city clerk, which shall include:

- (1) The name of the owner, home and business address, home and business phone, and name under which the business will operate;
- (2) If applicable, the location, size and security features of the storage lot on which towed vehicles will be stored in accordance with the requirements set forth in section 37-552(6);

- (3) The location, description and hourly availability of the wrecker vehicle owned or operated by the applicant;
- (4) The location to which the public must come to claim stored vehicles;
- (5) A complete listing of the insurance policies, carriers and agents the owner would place into effect upon licensing approval.
- (6) A complete list of all employees who will act as drivers of any wrecker vehicles owned or operated by the applicant, with verification of each driver holding the required, proper Commercial Driver's License.
- (7) A statement that, pursuant to Public Act No. 391 of 1919 (MCL 256.541 et seq.), the wrecker owner will accept responsibility for any and all personal property left in towed or stored vehicle, along with a description of the place he or she would use to adequately protect the property left in towed or stored vehicles.
- (8) The requirements set forth in Section 18-5 of Chapter 18 of the Code of Ordinances.

Sec. 37-573. Investigation.

- (a) Upon the filing of an application for a license under this division, the city clerk shall refer the same to the police commissioner who shall conduct an investigation to determine the truth and accuracy of the information contained in the application.
- (b) Upon completion of the investigation, and review by the building department, the police commissioner shall forward a copy of the application for a wrecker vehicle service license to the city clerk, along with a recommendation for approval or disapproval of a license and the reasons, if any, for disapproval.
- (c) Upon receiving the application, the city clerk, on behalf of the city, shall determine whether or not the applicant has complied with the necessary standards and criteria. If he or she finds the applicant qualified, then the city clerk shall issue to the applicant a wrecker vehicle service license and forward this information to the city council if the applicant desires to be considered for the Active Police Tow List.
- (d) If applicant desires to be considered for police towing, then applicant shall submit to city council their complete file for review by city council's Towing Committee and request for appointment to the

police towing master list.

- (1) The city council may, with a recommendation of the Towing Committee appoint from this master list to the Active Police Tow List.
- (2) All appointments/reappointments to the active police towing list shall be for a period of one (1) year and subject to annual renewal by city council. Appointments/Reappointments shall take place at the second council meeting in March unless postponed by city council. Applications shall be filed with the council office no later than the first business day in February.
- (3) Under no circumstances shall this license be transferrable without city council approval.

Sec. 37-574. Fee

A license fee under this division shall be in the amount set forth in section 18-18.

Sec. 37-575. Insurance required.

No wrecker license shall be issued until the applicant has deposited with the city clerk the following insurance policies:

- (1) *Garage keeper's policy.* A garage keeper's legal liability policy covering fire, theft, windstorm, vandalism and explosion in the amount of ten thousand dollars (\$10,000.00) with each vehicle suffering damage being deemed a separate claim.
- (2) *Garage liability policy.* A garage keeper's legal liability policy covering the operation of the owner's business, equipment or other vehicles for any bodily injury or property damage.
- (3) *Notice of change or cancellation.* Each policy required under this section must contain an endorsement by the carrier providing ninety (90) days notice to both the city clerk and the insured if there is any material change or cancellation.

Sec. 37-576. Expiration

The license year shall terminate on the thirty-first day of March at midnight, next after the issuance of the license. The expiration date of each license shall be indicated on the face of the license.

DIVISION 3. - POLICE DEPARTMENT TOWING LIST

Sec. 37-577. Authorization.

The police department shall maintain a list (Active Police Tow List) of active wrecker vehicles that are authorized by the city council to perform police authorized towing.

Sec. 37-578. Requirements.

The wrecker or wrecker owner shall make application to the city council for inclusion on the police department towing list. The number of wreckers or wrecker owners on the Active Police Tow List shall be recommended annually by the police commissioner based on the needs of the department; recommended by the Towing Committee and approved by city council. No wrecker shall be included on the Active Police Tow List unless it complies with each of the following requirements:

- (1) The wrecker or wrecker owner shall be licensed by the city to perform towing service in accordance with the provisions of Chapter 18 of the Code of Ordinances and this Article.
- (2) The wrecker or wrecker owner shall present information to the police department regarding the location, size and security features of the storage lot on which towed vehicles will be stored.
- (3) The wrecker or wrecker owner presents proof to the police department that all vehicles towed at the request of the police department shall be dropped and stored at a secured storage lot zoned in accordance with the provisions of section 17.02 of the zoning ordinance and which lot has been granted site plan approval pursuant to section 22.16 of the zoning ordinance.
- (4) *Response Time.* The response time for wreckers should be speedy and shall not exceed 30 minutes under normal conditions. If the response time is greater than 30 minutes, the police department may disregard the call for service and contact the next wrecker in the rotation. In addition, the wrecker that was terminated on the call will still be charged for the tow on the rotation list.

Sec. 37-579. Removal from Active Police Tow List.

The police commissioner shall recommend to city council with the recommendation of the Towing Committee the removal of any wrecker assigned to the Active Police Tow List for any of the following reasons:

- (1) The number of wreckers or wrecker owners on the list exceeds the

needs of the police department.

- (2) The police department is not satisfied with the services of the wrecker or wrecker owner and/or their employees, or with the cooperation that the department has received from the wrecker or wrecker owner.
- (3) Any of the grounds listed in Section 37-578, Section 37-582(1) and Chapter 18 of the Code of Ordinances.
- (4) Any other justifiable cause related to the best interests of the public health, safety and welfare.

SECTION 3. That Chapter 37, Article III, entitled Wreckers, Sections 37-580 through 37-590 the Code of Ordinances of the City of Warren, Michigan, which are currently reserved, are hereby amended by adding Section 37-580 and 37-581 which shall read as follows:

Sec. 37-580. Suspension from the Active Police Tow List.

- (1) *Duration.* The police commissioner may recommend to the Towing Committee and to city council, suspension of any wrecker or wrecker owner assigned to the Active Police Tow List for any of the grounds set forth in this Article and Section 18 of the Code of Ordinances.
 - (a) First time violation, suspension up to 21 days;
 - (b) Second violation within a two year period from the first suspension, suspension up to 90 days;
 - (c) Third violation within a two year period from the first suspension, suspension up to one year.

Sec. 37-581. Notification and hearing for Removal or Suspension from the Active Police Tow List.

The procedure for notification and hearing for removal or suspension from the Active Police Tow List shall be described in Section 37-582.

SECTION 4. That Chapter 37, Article III, entitled Wreckers, Sections 37-580 through 37-590 the Code of Ordinances of the City of Warren, Michigan,

which are currently reserved, are hereby amended by adding Division 4, entitled DENIAL, REVOCATION, OR SUSPENSION—IN GENERAL, Section and 37-582 and 37-583 which shall read as follows:

DIVISION 4. DENIAL, REVOCATION, OR SUSPENSION—IN GENERAL

Sec. 37-582. Denial, suspension or revocation.

- (1) *Standards for denial, suspension, revocation.* The city clerk may deny, suspend, or revoke any license under this article ~~division~~, when the clerk finds:
 - (a) That the license was secured by fraud or by the concealment of a material fact by the wrecker vehicle owner and such fact, if known, would have caused the refusal to issue a license;
 - (b) That the wrecker vehicle owner has violated any of the requirements or regulations established under this article;
 - (c) That the licensee paid, in the form of a gratuity, to any third person not involved in an accident for information as to the location of an accident;
 - (d) Any causes set forth in Chapter 18 of the Code of Ordinances.
- (2) *Notification and Appeal.* Notification of denial, revocation or suspension shall be in writing and delivered by first class mail to the address listed on the license application. The licensee shall be notified of:
 - (a) The nature of the violation;
 - (b) The proposed action and the reasons for the proposed action;
 - (c) That the licensee has a right to a hearing before city council with the recommendation of the towing committee regarding the proposed action, provided a written request is filed with the city clerk within ten (10) calendar days following the delivery or mailing of the notice of the notice of denial, revocation or suspension.

(3) *Hearing and Decision for Revocation, Suspension or Termination*

The hearing before city council with the recommendation of the towing committee shall be limited to determining by a preponderance of the evidence whether or not the city clerk's determination as set forth in the Notice of Revocation, Suspension or Termination was in accordance with grounds set forth in this Article and Chapter 18.

- (a) Procedure. Any hearing before city council shall comply with the following procedures:
- i. The administrative hearing shall be subject to the Open Meetings Act, MCL 15.261 et seq.
 - ii. The licensee may present evidence and testimony, may cross-examine witnesses, and may be represented by an attorney.
 - iii. City council may reverse or affirm the determination to: issue or to deny the issuance of a license; revoke a license; or to suspend a license.
 - iv. City council may grant or reinstate the license.
 - v. City council shall submit to the licensee a written statement of its findings, determination, and specific grounds for affirming or reversing the termination.
- (b) No person, wrecker or wrecker owner shall operate any business during any time when the wrecker/tow service license has been denied, suspended, or revoked or cancelled.

Section 37-583. Conflict and Severability.

- (1) *Conflict.* In case of a conflict between the provisions of this Article and Chapter 18, which cannot be resolved by construing them to be complementary or supplementary to each other, the provisions of this Article shall control.
- (2) *Severability.* The provisions of this Chapter are hereby declared to be independent and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of this Chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining provisions and the application of all provisions to any person or circumstances other than

those to which it is held invalid, shall not be affected thereby. It is hereby declared that such provisions would have been passed independently of such provision so known to be invalid. Should any procedural aspect of this chapter be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this chapter.

Secs. 37-584—37-590. - Reserved.

SECTION 5. This Ordinance shall take effect on June 29, 2015.

I HEREBY CERTIFY that the foregoing Ordinance No. 80-730 was adopted by the Council of the City of Warren at its meeting held on June 9, 2015.

PAUL WOJNO
City Clerk

Published: June 24, 2015

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