

**CITY OF DAPHNE
ORDINANCE NO. 2017-09**

**AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO.
2006-65 AND ORDINANCE NO. 2008-42 RELATED TO TOWING AND
RECOVERY ROTATION SERVICES FOR THE CITY OF DAPHNE**

WHEREAS, Ordinance No. 2006-65 established regulations governing towing and recovery rotation services for the City of Daphne (hereinafter referred to as “City of Daphne” or “City”); and

WHEREAS, Ordinance No. 2008-42 amended certain provisions of Ordinance No. 2006-65 providing for an increase in certain fees for towing and recovery rotation services for the City; and

WHEREAS, The City Council of the City of Daphne, Alabama, being aware of the increase in costs associated with towing, cleanup and recovery services provided by tow truck or wrecker services within the City and after due consideration, believes it to be in the best interest of public safety and for the benefit of its citizens to repeal Ordinance No. 2006-65 and Ordinance No. 2008-42 and replace same with the following regulations related to towing and recovery services performed at the City’s request..

NOW, THEREFORE, BE IT ORDAINED, BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA AS FOLLOWS:

SECTION 1. DEFINITIONS

For purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning herein ascribed. When not consistent with the context, words used in the present tense include the future; words used in the singular number include the plural; and words used in the male gender include the female and neuter. The word “shall” is always mandatory and not merely directory.

- (a). Person: any person, firm, partnership, association, corporation, company or organization of any kind
- (b). Vehicle: any device in, upon or by which any person or property is or may be transported upon a street
- (c). Street: any public or private road, street, avenue, highway, or alley
- (d). Wrecker Rotation Call: a call for a towing company that is on a list maintained by the Daphne Police Department that is permitted to provide a towing service when called by the Daphne Police
- (e). Tow Truck or Wrecker: any vehicle operated by a person engaged in the business of vehicle towing, whereby vehicles are towed or otherwise

removed from the place where they are disabled or parked by use of a tow truck so designed for that purpose.

- (f). Large Tow Truck : a class "C" or above tow truck as defined in this ordinance.

SECTION 2. PERMIT AND LICENSE REQUIRED

No tow truck service business shall offer such services within the City of Daphne or its Police Jurisdiction, without first obtaining both a permit from the Chief of Police, or his/her designee, and a license to operate the tow truck service business from the City as provided in this ordinance.

SECTION 3. APPLICATION FOR PERMITS

Applications for permits issued hereunder shall be made annually upon forms prepared and made available by the Chief of Police or his designee. All applicants shall include as much information as the applicant wishes to submit, but must provide the following to the Daphne Police Department:

- (a). Application for placement on rotation list. This application will include the information on the business, the business owner(s), and the vehicle storage area.
- (b). Agreement of compliance form. This form is an agreement by the applicant to meet all standards and follow all rules and regulations as set out in this ordinance.
- (c). Any other information as the Chief of Police or his designee shall find reasonably necessary to effectuate the purpose of this ordinance and to arrive at a fair determination of whether the terms of this ordinance have been complied with.

SECTION 4. STANDARDS FOR ISSUANCE OF PERMIT

The Chief of Police or his designee shall issue a permit hereunder once he finds:

- (a). Public convenience and necessity require the proposed tow truck service for which an application has been submitted;
- (b). Insurance policies as required by this ordinance have been procured;
- (c). Applicant and applicant's employees are fit and proper persons to conduct the proposed tow truck service;
- (d). Applicant's tow trucks appear to be in good mechanical condition and equipped in accordance with the requirements herein so that the usual work of a tow truck can be accomplished;
- (e). That the requirements of this ordinance and all other governing laws and ordinances have been met; and

- (f). That all other requirements for a tow truck and the tow truck service business promulgated from time to time by the State of Alabama have been met.

SECTION 5. PROMULGATION OF REGULATIONS

The Chief of Police or his designee may from time to time promulgate and enforce reasonable rules and regulations for tow trucks.

SECTION 6. APPLICATION FOR BUSINESS LICENSE

Upon issuance of a permit by the Chief of Police or his/her designee and prior to doing or soliciting any business in the City, the owner of the tow truck service business must make application for a City of Daphne business license and pay the required license fee at the office of the City Clerk.

SECTION 7. PERMIT TERM

Unless sooner revoked, the aforementioned permit issued by the Chief of Police or his/her designee shall be valid for the remainder of the calendar year in which it was issued. Each permit must be reapplied for annually upon submitting an application on or after December 1st and no later than the first business day in January for each succeeding calendar year. It shall be unlawful to engage in business of a rotation wrecker within the City after the expiration date of the permit. Permits are non-transferable.

SECTION 8. INSURANCE REQUIREMENTS

- (a) All tow trucks operating within the city or its police jurisdiction shall maintain a valid bond or insurance policy issued by a surety or an insurance company authorized to do business in the State of Alabama with coverage at the following minimum levels and containing an endorsement providing for thirty (30) days' notice to the city, specifically to the officer designated by the police chief to monitor tow truck companies, prior to any material change therein or cancellation thereof:
- (1) Two hundred fifty thousand dollars (\$250,000.00) for bodily injury to any one person;
 - (2) Five hundred thousand dollars (\$500,000.00) for bodily injury in one accident;
 - (3) One hundred thousand dollars (\$100,000.00) for damage to property, other than the towed vehicle and its contents while being either towed or stored; and
 - (4) One hundred thousand dollars (\$100,000.00) in garage keepers' legal

liability, including but not limited to coverage for fire, explosion, theft, riot and/or civil commotion, vandalism and collision with a deductible not greater than five hundred dollars.

- (b) Each tow truck service business in the City that makes contact with any vehicle to be towed assumes liability for injury to persons, property damage, fire, theft, or other acts of negligence stemming from the towing process.

SECTION 9. TOW TRUCK INSPECTIONS

Each wrecker company doing business in the City shall have a current ALDOT Certificate of Inspection for each vehicle and an ALDOT number must be displayed on the vehicle. A copy of these inspections will be maintained by the wrecker company and will be made immediately available to the Police Department upon request.

SECTION 10. GENERAL REQUIREMENTS

- (a) Each wrecker company shall maintain twenty-four (24) hour wrecker service, seven (7) days a week, with a wrecker operator and wrecker on call at all times. Police dispatchers will telephone only one number as provided by the wrecker company. Wrecker companies may have this number forwarded to another number but no beepers or answering machines may be used.
- (b) Each wrecker company shall have adequate storage space to provide safe keeping for a minimum of (15) wrecked, disabled or impounded vehicles. This space shall be enclosed by a (6) foot chain link fence or wall with a gate under lock and key. All wrecker companies shall employ reasonable safeguards and procedures so that all personal belongings and contents in the vehicles are intact and returned to the vehicle's owner or agent upon release of the vehicles. This storage area shall be within the City of Daphne city limits.
- (c) Each tow truck service business shall maintain a current list of drivers and furnish a copy of said list to the Daphne Police Department immediately upon request. This list shall contain current information on the owner(s) and drivers. This current information shall include the home address, home phone number(s), date of birth, driver's license numbers, dates of hire, and any other personal information that may be requested by the Daphne Police Department.
- (d) Each tow truck service business shall maintain a current list of tow trucks in their fleet and shall furnish a copy of said list to the Daphne Police Department immediately upon request. This list shall include the make, model, year, VIN, tag number, vehicle size, number of axles, and lift capacity.
- (e) The rotation call list is to include one listing per wrecker company, regardless of the number of company locations within the City, regardless of the number of trucks, and regardless of whether one owner or group of owners owns more than one wrecker company within the City.

- (f) No two or more tow truck service businesses may share the same physical location, address, parcel of real estate, or telephone number.
- (g) No employee of a tow truck service business may inquire to the police dispatcher as to rotation status or express grievances relating to other tow truck service businesses. Such matters shall instead be directed to the Chief of Police or his designee.

SECTION 11. TOW TRUCKS AND DRIVERS

- (a) No driver who has been convicted of any felony or any crime involving force, violence or moral turpitude shall operate a vehicle on the rotation list.
- (b) All tow truck drivers shall be properly trained and have a valid driver's license for the type of tow truck they are operating. Additionally, all tow truck drivers must be properly trained to use any other equipment necessary to performing a tow truck service.
- (c) Tow truck service businesses shall arrive to the location of the tow within fifteen (15) minutes from the time the call is dispatched by the Daphne Police Department, if within the Daphne city limits.
- (d) A tow truck driver responding on behalf of a tow truck service business must have a certificate from a recognized Hazardous Materials Class indicating an awareness level of hazardous materials training. This certificate of training shall be maintained by the wrecker company and a copy thereof shall be furnished to the Daphne Police Department immediately upon request. When responding to a tow truck service call, all State and Federal E.P.A. Guidelines shall be followed.
- (e) Each tow truck service business shall equip and maintain all tow trucks covered under this ordinance in accordance with the provisions set forth in the Alabama Department of Transportation Handbook and consistent with industry standards.
- (f) No wrecker shall proceed to the scene of an incident without being requested to do so by the police department or the owner or person in charge of the vehicle. No wrecker shall solicit business at the scene of an incident.
- (g) Once a tow truck has arrived at the scene, the driver shall, without undue delay, move vehicles to a location where they do not impede or obstruct traffic and remove any debris originating from the vehicles in accordance with section 13A-7-29 (4) Code of Alabama.
- (h) No wrecker will be marked (color, decal, etc.) as to resemble a Daphne Police vehicle or any other law enforcement vehicle.

- (i). Tow trucks shall not display the words "Official Police Tow" or words to that effect, without prior written approval from the Daphne Police Department.
- (j). The tow truck service shall respond to a wrecker rotation call without any undue delay. Undue delays shall include but not be limited to: delays caused by lack of knowledge or training of the tow truck driver to effectively operate the tow truck or its equipment, faulty equipment and/or the lack of necessary equipment or supplies to remove a vehicle.
- (k). The tow truck service business shall maintain a minimum of one driver on-duty at all times.
- (l). In the event that any wrecker is canceled prior to or after arrival at the scene of any incident after being dispatched as a result of being listed on the rotation list, the wrecker company shall not be entitled to charge for the canceled call; however, the company shall be placed back on top of the rotation list. Cancellation may occur up to the time the wrecker actually begins towing the vehicle.
- (m). Each tow truck shall be equipped with a flashing, revolving or strobe caution light, the color of amber or yellow, and mounted for 360° visibility and properly installed. Said caution light shall be operated at the scene of a wreck/collision, but shall not be operated while proceeding to the scene of a wreck/collision or while in transport, unless such use is authorized by the police department in a particular case because of an emergency situation.
- (n). The name of the tow truck service business shall be kept prominently displayed on each tow truck.
- (o). A rollback and/or a flatbed tow truck may be used for rotation wrecker calls unless the police department of the City of Daphne instructs that a conventional wrecker is needed or requested by the owner of the vehicle or the owner's representative. Therefore, having a rollback and/or a flatbed tow truck is not required to remain on the rotation list; however, having at least one conventional wrecker in proper working order is required to remain on the rotation list.
- (p). In the event a tow truck service business is unavailable to respond to a wrecker rotation call, the tow truck service business shall call the Daphne Police Department and advise of such. Being unable to respond to a wrecker rotation call will result in a loss of turn on the wrecker rotation list. Abusive use of unavailable wrecker rotation calls or refusals to respond will not be tolerated and may result in removal from the wrecker rotation list.

SECTION 12. STANDARD TOW TRUCK EQUIPMENT

Each tow truck service business shall maintain and keep in good working order the following standard equipment on each tow truck:

- (a). Power Winch – winch line and/or boom with lifting capacity of not less than four (4) tons
- (b). Wheel-lift – lift designed to transport vehicles by their tires without further damaging the towed vehicle
- (c). Proper tie-down straps for wheel-lift
- (d). Safety chains
- (e). Safety vest
- (f). Safety gloves
- (g). Fire extinguisher (properly charged)
- (h). Pry bar capable of prying open doors
- (i). Push broom
- (j). Ax
- (k). Shovel
- (l). One set of road flares/triangles
- (m). Four-way hazard emergency flashing lights
- (n). Tow lights
- (o). 360° visibility revolving or strobe light colored amber or yellow
- (p). Work lights designed to provide lighting on dark incident scenes
- (q). One set of dollies (with tow truck service business's name permanently affixed to dollies)

SECTION 13. ROLLBACK/FLATBED TOW TRUCK EQUIPMENT

Each rollback/flatbed tow truck shall maintain the standard tow truck equipment as well as the following additional equipment which shall be in good working order:

- (a). Minimum 19 ft bed
- (b). Dual rear wheels
- (c). Minimum 50 ft of 3/8 inch cable (6x19 OEM)
- (d). Brake lock device
- (e). Minimum of (4) tie downs

SECTION 14. LARGE TOW TRUCK EQUIPMENT

Each large tow truck shall maintain the standard tow truck equipment as well as the following additional equipment which shall be in good working order:

- (a). Air control valve operable
- (b). Two chock blocks or equivalent
- (c). 200 ft (minimum 5/8 inch cable or OEM)
- (d). Automotive lock air brakes (parking brakes)
- (e). Bolt cutters (minimum 1/2 inch opening)
- (f). Two fire extinguishers (10 lbs minimum) - properly charged
- (g). External air hookups and hoses
- (h). Six safety cones
- (i). Six safety triangles or road flares
- (j). 50 lbs of sand or equivalent

SECTION 15. TOW TRUCK CLASSIFICATIONS

There shall be four (4) classes of tow trucks covered under this Policy.

Class A – Light Duty:

A) Tow trucks with a manufacturer's gross vehicle weight rating (GVWR) of 10,000 to 19,500 pounds with wheel-lift capabilities and may have a car carrier. Class A equipment must include a four (4) ton recovery equipment rating and 100 feet of 3/8" 6x19 cable or OEM specifications.

B) A towing company that has a car carrier may be exempted from the wheel-lift capability requirements; however, the car carrier must be an additional unit.

Class B – Medium Duty:

A) Tow trucks with a manufacturer's gross vehicle weight rating (GVWR) of 19,501 to 33,000 pounds. The truck shall be capable of providing air to the towed vehicle. Class B equipment must include a 19,501 to 33,000 GVRW chassis and 150 feet of 7/16" 6x19 cable or OEM specifications.

B) These tow trucks may also have a car carrier; however, the car carrier must be an additional unit. A Class B (car carrier) must be equipped with a 19,501 + GVWR chassis and 50 feet of 3/8" 6x19 cable or OEM specifications.

Class C – Heavy Duty:

A) Three-axle tow trucks with a manufacturer's gross vehicle weight rating (GVWR) of at least 33,000 pounds. The truck shall be capable of providing air to the towed vehicle. Class C equipment must include a 33,000 to 50,000 GVWR chassis, 25 ton recovery equipment rating, and 200 feet of 5/8" cable or OEM specifications.

Class D – Super Heavy Duty:

A) Three-axle tow trucks with a manufacturer's gross vehicle weight rating (GVWR) of at least 50,000 pounds. The truck shall be capable of providing air to the towed vehicle. Class D equipment must include a 50,000 + GVWR chassis, 25 ton recovery equipment rating, and 250 feet of 3/4" cable or OEM specifications.

SECTION 16. MAXIMUM ALLOWABLE TOWING/STORAGE FEES

No tow truck service business on the Daphne Police Department's wrecker rotation call list may charge a fee in excess of amounts set forth herein for tow truck services performed in response to wrecker rotation calls made by a police dispatcher. In addition to the fee caps set forth and provided herein, no other fees may be charged by the tow truck service business that are not expressly set forth by this ordinance.

- (A). The tow truck service business may not charge more than one hundred and five (\$105.00) dollars for each vehicle towed as the result of an arrest or an abandoned, dismantled or inoperative vehicle from one point in the Daphne city limits and police jurisdiction to another point therein, for any vehicle with a gross vehicle weight rating (GVWR) of 10,000 pounds or less.
- (1). If any vehicle requires a dolly, tire change, or removal of a dislodged drive shaft there may be an additional charge up to thirty five (\$35.00) dollars.
- (2). No additional added towing charges will be allowed for moving the towed vehicle to any destination required by owner within the Daphne city limits and police jurisdiction.
- (B). The tow truck service business may not charge more than one hundred and twenty-five (\$125.00) dollars for each vehicle towed as the result of an accident from one point in the Daphne city limits and police jurisdiction to another point therein, for any vehicle with a gross vehicle weight rating (GVWR) of 10,000 pounds or less. In addition to the up to one hundred and twenty-five (\$125.00) dollar charge for towing each vehicle, any service call which requires more than one (1) hour on scene shall be permitted an additional charge up to one hundred and twenty-five dollars (\$125.00) per hour , calculated in fifteen minute increments.
- (C). The tow truck service business may not charge more than three hundred and ten dollars (\$310.00) for each vehicle towed from one point in the City or police jurisdiction to another point therein, for any vehicle with a gross vehicle weight rating (GVWR) of 10,001 pounds or more. In addition to the charge up to three hundred and ten dollars (\$310.00) for towing each vehicle, any service call which requires more than one (1) hour on scene shall be permitted an additional charge up to three hundred and ten dollars (\$310.00) per hour, calculated in fifteen minute increments.
- (1). No additional added towing charges will be allowed for moving the towed vehicle to any destination required by owner within the Daphne city limits and police jurisdiction.
- (D). A tow truck service business may charge a maximum of an additional one hundred fifty dollars (\$150.00) for the actual use of any additional equipment not required by this chapter, when such use is requested by or consented to by the police officer in charge of the scene or the hazardous materials incident supervisor, for any vehicle with a gross vehicle weight rating (GVWR) of 10,000 pounds or less. The need or request for the use of a "flatbed," "roll-back," or "slide-back" wrecker shall not be considered additional equipment under this section.

- (E). A tow truck service business may charge additional fees pursuant to the Fee Schedule incorporated herein as Appendix A for the actual use of any additional equipment not required by this Ordinance, when such use is requested by or consented to by the police officer in charge of the scene or the hazardous materials incident supervisor, for any vehicle with a gross vehicle weight rating (GVWR) of 10,000 pounds or more. A tow truck service driver on the City's rotation list shall keep a copy of Appendix A with him or her at all times and present Appendix A upon request to any person to whom towing services were provided, their agent, or any City police officer or hazardous materials incident supervisor in charge of the scene or incident.
- (F). Storage Fees may be charged as follows:
1. Up to twenty-five dollars (\$25.00) per day for each vehicle with up to one ton gross weight.
 2. Up to thirty dollars (\$30.00) per day for each vehicle over one ton in gross weight but less than forty (40) feet in length.
 3. Up to forty dollars (\$40.00) per day for each vehicle in excess of forty (40) feet in length or for each vehicle that requires inside storage.

SECTION 17. RECORDS

Each tow truck operator shall document and maintain a record of all services performed in response to a wrecker rotation call. Said records shall include, but are not limited to, the following information:

- (a). Date and time service was requested
 - (b). Name of the person requesting service
 - (c). Location of vehicle
 - (d). Description, license and V.I.N. of towed vehicle
 - (e). Vehicle owner or driver's name, if known
 - (f). Service charges and fees
1. All records required herein must be immediately available for inspection by officers or agents of the Daphne Police Department. Such inspections shall be conducted at a reasonable date and hour at the towing service business.
 2. The tow truck service business shall maintain the required records for the current calendar year, and the calendar year immediately prior to the current calendar year.
 3. A record of all abandoned motor vehicles shall be maintained by the tow truck company and the sale or disposal of any abandoned vehicle be in accordance with Chapter 13, Title 32, Code of Alabama.

4. When a hold is placed on a vehicle for evidentiary purposes, the tow truck service business shall maintain a record of the name of police officer requesting the hold along with the date such hold was placed on the subject vehicle and the reasons articulated by the police officer for placing the hold.

SECTION 18. SELECTION OF WRECKER

The owner of the vehicle or the owner's representative shall select, when practical, the wrecker to be used. The selected wrecker company shall be notified by the said owner or the owner's representative.

Insofar as it is feasible to do so, and unless otherwise instructed by the owner or the owner's representative, the tow truck service business will be notified by the Daphne Police Department and selected using the wrecker rotation call system. The police officer shall inform the owner or the owner's representative of the cost and charges and other pertinent information concerning the wrecker rotation services.

SECTION 19. COMPLAINTS

Complaints against towing companies will be documented by the Daphne Police Department. Complaints will be investigated by the Daphne Police Department in a timely manner. After the investigation, the towing company and complainant will then be notified of the disposition of the complaint. Any complaints and/or grievances from the wrecker companies will be put in writing from the company to the Chief of Police or his designee. The Chief of Police or his designee shall provide the wrecker company with a written response within five (5) business days.

SECTION 20. REVOCATION AND SUSPENSION

The wrecker business license or any wrecker permit issued under this ordinance shall be subject to suspension or revocation by the Chief of Police or his designee if he/she finds:

- (a). False information was provided or information withheld by the wrecker company, or an employee of the wrecker company, at the time the application for permit was received, if such false or withheld information would have constituted just cause for refusal to issue such license or permit.
- (b). False information was provided or information was withheld at any time by the wrecker company, or an employee of the wrecker company, when information was requested by the Chief of Police or his designee regarding the rotation wrecker service.
- (c). The wrecker company, or an employee of the wrecker company, conducted business in a fraudulent, unethical or questionable manner that would reflect unfavorably on the Daphne Police Department.
- (d). The wrecker company's wrecker business license has expired.

- (e). The wrecker company has any violations concerning insurance.
- (f). Any tow truck driver is operating a wrecker with a suspended, revoked or cancelled driver's license.
- (g). The wrecker company has missed two consecutive call outs without acceptable justification. It is the wrecker companies' responsibility to notify the Daphne Police Department if they are unable to answer call outs. The notification shall contain the reason and the length of time they will be out of service.
- (h). The wrecker company, or an employee of the wrecker company, violated any provisions of this ordinance.

The length of suspension or revocation of the permit will be at the discretion of the Chief of Police or his designee, based in part on the severity of the violation(s) and/or the frequency of the violation(s). The wrecker company will have the right to appeal said revocation or suspension by filing with the City Clerk a written notice of appeal within seven (7) calendar days from the date of permit suspension or revocation. The Mayor and City Council shall hold a public hearing on the appeal to determine whether to affirm said permit suspension or revocation.

SECTION 21. PENALTIES

Any person violating any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined an amount not exceeding five hundred dollars (\$500.00) or be imprisoned in the city jail for a period not to exceed one hundred and eighty (180) days or be both so fined and imprisoned.

SECTION 22: SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 23: REPEALER

Ordinances 2006-65 and 2008-42 are repealed in their entirety. All other City Ordinances or parts thereof in conflict with the provisions of this Ordinance, in so far as they conflict, are hereby repealed to the extent of conflict.

SECTION 24: EFFECTIVE DATE

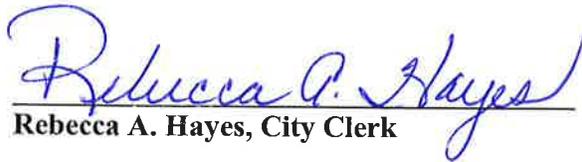
That this Ordinance shall be effective upon its due adoption by the City Council and publication as required by law.

ADOPTED AND APPROVED on this the 20th day of February, 2017.



Dane Haygood,
Mayor

ATTEST:



Rebecca A. Hayes, City Clerk