

ARTICLE XXIII. - MOTOR VEHICLE RECOVERY AND TOWING^[22]

Footnotes:

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Cross reference— Traffic and vehicles, ch. 94.

Sec. 22-831. - Purpose and findings.

The common council finds that there arises, from time to time, a reasonable police need to recover and tow motor vehicles. Such needs include, but are not limited to:

- (1) An unattended-to car illegally parked or otherwise illegally obstructing traffic;
- (2) An unattended-to car at the scene of an accident when the driver is physically or mentally incapable of deciding upon steps to be taken to deal with his property, as in the case of an intoxicated, mentally incapacitated or seriously injured driver;
- (3) A car that has been stolen or used in the commission of a crime when its retention as evidence is necessary;
- (4) An abandoned car or nuisance vehicle;
- (5) A car so mechanically defective as to be a menace to others using the public highway;
- (6) A car impoundable pursuant to ordinance or statute which provides therefor, as in the case of forfeiture.

The public convenience and necessity requires that the city obtain recovery and towing services for such vehicles from companies which have equipment and facilities which are sufficient to ensure the public convenience and safety. Such requirements dictate the necessity of licensing such companies to perform certain services at the request of the city.

(Code 1973, § 22.05.010; Ord. No. 3-90, pt. 1(§ 22.05.010), 5-15-90)

Sec. 22-832. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Assignment means a call from the city to a licensee requesting the performance of recovery and/or towing services.

Class A wrecker means a wrecker unit with an accepted commercially manufactured wrecker apparatus, single- ~~or twin~~-boom, equipped with a ~~mechanical or~~ hydraulic power supply and dual rear wheel units and has a minimum gross vehicle weight (GVW) of ~~120,000~~ **129,000** pounds, having a minimum unit rating of four-ton capacity as rated by the manufacturer. The wrecker apparatus shall be attached to the motor vehicle truck chassis in conformance with wrecker apparatus recommendations for truck chassis gross vehicle weight not less than ~~120,000~~ **129,000** pounds GVW. The wrecker unit shall be considered as a whole for compliance with this definition and no exception shall be allowed.

Class B wrecker means a wrecker unit, single ~~- or twin~~-boom, with an accepted commercially manufactured wrecker apparatus having a minimum unit rating of a 16-ton capacity as rated by the manufacturer, has a GVW of ~~2033,000~~ **2033,000** pounds, has ~~either~~ air brakes ~~or auxiliary air supply~~ which is ready

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and available for use in the recovery or towing of motor vehicles which have an air brake system, and is equipped with a ~~mechanical or~~ hydraulic power supply, and dual rear wheel units, ~~and underreach~~. The wrecker apparatus shall be attached to the motor vehicle truck chassis in conformance with wrecker apparatus recommendations of truck chassis gross vehicle weight not less than ~~2033~~,000 pounds GVW. The wrecker unit shall be considered as a whole for compliance with this definition and no exception shall be allowed, except as otherwise provided herein.

Commercial manufacturer specifications means the apparatus or equipment ratings established for the apparatus or equipment in question by the commercial manufacturer as accepted by the Racine police department for conformance with this article. Commercial manufacturer rating for chassis GVW shall be determined by the commercial manufacturer. Commercial wrecker manufacturer recommendations shall be considered for wrecker unit compliance as a whole.

Flatbed truck means a hydraulic fill rollback bed truck, commercially manufactured and rated by the manufacturer to have a minimum winch capacity of not less than four tons by direct pull with accepted manufacturer rating. The rollback flatbed shall be attached to a truck chassis in conformance with the manufacturer's recommendations with a chassis manufacturer rating of not less than ~~4019~~,000 pounds GVW and a minimum bed length of 19 feet. The unit shall be capable of and rated for a bed payload minimum of ~~710~~,000 pounds as commercially manufactured and rated. The flatbed unit shall be considered as a whole for compliance with this definition and no exception shall be allowed except as otherwise provided herein.

Licensee means a towing company which has been issued a license to perform recovery and towing services pursuant to this article.

No-tow means the response of a licensee to a specified place pursuant to the city's request where the owner has removed the vehicle in question before the tow truck reaches the scene or when, before the vehicle is connected to the tow truck and is in motion, the owner arrives and takes possession of his vehicle.

Storage facility means a fenced-in, lighted, locked yard or secure indoor storage with a minimum capacity of 50 vehicles, with at least that capacity exclusively available as a place to temporarily keep vehicles towed hereunder. The facility shall conform to all building and zoning requirements and shall be owned or exclusively leased by the licensee for such purposes.

Towing company means any person, firm, partnership, corporation, or association engaged in the business of the recovery and towing of motor vehicles on a full-time basis.

Wheel lift means an accepted commercially manufactured apparatus designed for the towing and recovery of motor vehicles by the towed unit's wheels/suspension. The wheel lift apparatus shall have a minimum manufacturer lift rating of ~~34~~,000 pounds while fully extended. The wheel lift apparatus shall be attached in conformance with manufacturer's recommendations for chassis mounting on a truck chassis having a manufacturer's rating of at least ~~4012~~,000 pounds GVW. The wheel lift shall be considered as an integral part of the wrecker apparatus considered as a whole for compliance with this definition and no exception shall be allowed.

(Code 1973, § 22.05.020; Ord. No. 3-90, pt. 2(§ 22.05.020), 5-15-90; Ord. No. 15-09, pt. 1, 7-7-09)

Cross reference— Definitions generally, § 1-2.

Sec. 22-833. - License—Required; term; fee.

- (a) No towing company shall recover or tow vehicles pursuant to a reasonable police need within the city for or at the request of the city without first having obtained a license under this article. The acceptance of a license shall constitute a declaration and agreement by the licensee to perform licensed activities subject to the terms and conditions of this article. The acceptance of a license

constitutes a commitment of the licensee to perform recovery towing services hereunder on each and every occasion requested and shall not be construed as a means to or authorizing of the business or practice of a licensee referring assignments to another licensee or towing company, except as herein provided.

- (b) All licenses issued under this article shall expire on June 30 of each year. The license fee shall be as established by the common council, paid at the time of application. The license fee shall not be prorated.

(Code 1973, § 22.05.030; Ord. No. 3-90, pt. 3(§ 22.05.030), 5-15-90; Ord. No. 44-04, pt. 13, 12-7-04)

Sec. 22-834. - Same—Application; investigation; inspections.

- (a) Application for a license shall be made to the city clerk upon forms provided by the city clerk's office. Upon receipt of an application, the city clerk shall refer the application to the chief of police for investigation and inspection. If the investigation and inspection under subsection (b) below, show that the applicant meets all conditions of licensing, the chief of police shall approve the application and forward it to the public safety and licensing committee for its consideration. If the police investigation and such inspection show that the applicant has not met the conditions of licensing, the applicant shall be so informed by the chief of police. If the applicant fails to meet the requirements of this chapter within 60 days after notice of failure to comply, the chief of police shall forward the application to the public safety and licensing committee with a recommendation of denial. The committee shall recommend to the common council the granting or denial of license based on the inspection findings.
- (b) Upon receipt of an application for a license hereunder, the chief of police shall direct that an investigation be performed to determine whether the applicant's documentation, vehicles, equipment, facilities and personnel comply with this article.

(c) Upon receipt of a new license application, the city clerk shall notify all current towing license holders of the date and time that the new application is to be first considered by the City Council. Said notice shall be made by regular mail.

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(Code 1973, §§ 22.05.040, 22.05.045; Ord. No. 3-90, pts. 4, 5(§§ 22.05.040, 22.05.045), 5-15-90; Ord. No. 8-04, pt. 6, 4-7-04; Ord. No. 38-04, pt. 1, 11-3-04; Ord. No. 33-06, pt. 1, 9-5-06)

Sec. 22-835. - Same—Conditions.

As a condition to the granting of a license under this article, the applicant shall show evidence of the following and shall comply with the following conditions:

- (1) Ownership or exclusive lease of the following vehicles, which shall be registered, licensed, insured, and maintained in a safe and serviceable condition at all times that the license hereunder is in effect, except during reasonable and expeditious repairs, not to exceed 30 days:
 - a. ~~One~~Two flatbed trucks and two class A wreckers, equipped with wheel lifts.
 - b. ~~One~~One class B wrecker, single ~~-or twin-~~boom, which has either air brakes or an auxiliary air supply which is ready and available for use in the recovery or towing of motor vehicles which have an air brake system, and which is equipped with a ~~mechanical or~~ hydraulic power supply, ~~and~~ dual rear wheel units, ~~and underreach~~.
- (2) Exclusive use by ownership or written lease of a place of business with a storage facility at a single location within the city or within a north-south boundary consisting of 7 Mile Road and Highway KR, and an east-west boundary consisting of Lake Michigan and Highway H in which the licensee is the sole licensee under this article operating the premises. The place of business

shall contain the licensee's telephone, FM two-way radio, and other equipment and personnel reasonably necessary for the licensee to perform its obligations under this article.

- (3) An executed agreement holding the city harmless from all losses, claims or damages to vehicles and vehicle contents resulting from the licensee's negligence, including but not limited to the recovery, towing and storage of vehicles.
- (4) Certificates of insurance providing a minimum of ten days' written notice to the city before any such policy is amended or cancelled, including the temporary or permanent removal of any covered vehicle from such policy. The certificate shall show statutory worker's compensation for employees, insurance on the vehicles required for issuance of the license written in comprehensive form, providing at least minimum limits of general liability and motor vehicle liability insurance for bodily injury and property damage, as required by the state for obtaining carrier authority. Such certificate shall show protection of the city and the licensee against all claims arising from injuries to persons or damage to property of others arising out of any act or omission of the licensee or its agents relative to performance of work for which the license is granted.
- (5) An inspection certificate for each tow vehicle used in licensee's business from a qualified motor vehicle repair business which is legally engaged in such business in the state, certifying that the vehicle has been inspected on the date indicated and that it complies with all applicable requirements of Wis. Stats. ch. 347 and chapter MVD 5, Wisconsin Administrative Code. The repair business representative responsible for conducting inspections under this subsection may be required by the chief of police to successfully complete a written examination to demonstrate his/her applicable knowledge of the authorities indicated.
- (6) A current licensed carrier authority from the state, a copy of which shall be carried in each required vehicle at all times.
- (7) Tow trucks and equipment used in the towing operation shall be maintained in a safe condition which is adequate to perform towing services in a safe, reasonable and workmanlike manner.
- (8) Equipment to be present on each tow truck required under this article shall include dollies on class A wreckers, and all wreckers shall have brooms, shovels, Oil-Dri (or equivalent product), one four-foot pry bar, fire extinguishers, J-hooks, T-hooks, snatch blocks with a minimum rating equal to the optional equipment made available by the manufacturer of the wrecker unit, two skotch blocks, one lightbar for the towed vehicle, and at least 100 feet of cable on each winch, 50 feet for each flatbed, with a capacity of at least the tonnage rating required for the wrecker in question.
- (9) The storage facility shall be open to the public for the recovery of vehicles and personal property from 8:00 a.m. to 5:00 p.m., Mondays through Fridays, except legal holidays, and during such times the licensee shall have at least one employee on duty at the facility who has the authority to release such vehicles and property. The licensee shall, between the hours of 8:00 a.m. and 12:00 noon Saturdays, excepting legal holidays, have at least one employee available to the public by answering service who will release vehicles and/or personal property. There shall be no fee charged for the Saturday service during the indicated hours.
- (10) The licensee, prior to towing a vehicle from the scene of an accident, shall remove from the street all broken glass and other matter that may be in the street as a result of the accident.
- (11) The vehicles required under this article shall be equipped with two-way FM radios with a range of at least 15 miles and the licensee shall maintain a compatible base radio at its place of business so that dispatches can be made via radio during regular business hours.
- (12) The licensee shall not use any vehicle required under this article as a vehicle required to be available for service outside the county under license or contract.
- (13) The licensee shall provide to the city the appropriate commercial/regular driver's license number for each employee who operates a wrecker for the licensee.

(14) The licensee shall have a sufficient number of employees to operate all equipment required under this article at any time.

(Code 1973, § 22.05.050; Ord. No. 3-90, pts. 6—10 (§§ 22.05.050(a), 22.05.050(e), (f), 22.05.050(h), (i)), 5-15-90; Ord. No. 15-09, pt. 2, 7-7-09; Ord. No. 11-15, pt. 1, 11-3-15)

Sec. 22-836. - Procedure.

- (a) Requests for towing service made by the city shall be on a rotation basis from a list containing the names of all towing companies licensed under this article. Assignments shall be deemed waived by nonresponse or nonacceptance, and the name of such carrier shall be placed at the end of the list. In the event of nonacceptance or nonresponse, the towing company shall provide the chief of police with the factual basis for such nonaction. The police department shall maintain records of nonacceptance or nonresponse, including the factual basis therefor, and shall, every calendar quarter, forward such information to the traffic engineer and to each licensee with respect to its information.
- (b) If the owner of a vehicle to be towed makes a specific request for a named towing service, the police officer at the scene shall so inform the dispatcher and the owner's request shall be complied with, if reasonably possible. If the persons involved in an accident are incapacitated or otherwise unavailable or unknown, the police officer at the scene shall assume the authority and call the police department for towing service. If the licensee which responds to the scene requires assistance to complete the towing or recovery operation, the request for assistance shall be made through the police department. If such assistance is deemed necessary, the rotation list shall be used for selection of the assisting licensee.
- (c) Upon notification by the police department, the licensee shall immediately send a tow truck to the designated scene, and the licensee shall remove disabled vehicles, abandoned vehicles, stolen vehicles, vehicles held for evidence, or prisoners' vehicles to the police impound lot. All wrecked vehicles will be towed to the licensee's storage facility.
- (d) Prompt and efficient service shall be provided by each licensee. Unless emergency conditions dictate otherwise, "prompt service" means arrival of the wrecker within 30 minutes following the request therefor, except as provided in section 22-837. Failure to provide prompt and efficient service shall be cause for review and suspension or revocation of the license.
- (e) Upon proof of ownership of a towed vehicle, a licensee shall provide to the owner any personal property contained in the vehicle, with the exception of components of the vehicle, such as license plates, tires, wheels, batteries, and ~~radios, stereo, audio, and entertainment equipment~~, pending payment of the towing and storage charges. Upon written or e-mailed request by the licensee, the police department shall provide the licensee with the name and address of the last known registered owner of a vehicle towed under this article and the name of any lienholder which the police department has knowledge of. No provision of this article is intended to modify the requirements of Wis. Stats. §§ 349.13(5), 779.415 or 779.48(2).

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(Code 1973, § 22.05.060; Ord. No. 3-90, pts. 11, 12 (§ 22.05.060(a), (e)), 5-15-90; Ord. No. 15-09, pt. 3, 7-7-09)

Sec. 22-837. - Availability for services.

The licensee shall furnish services on a 24-hour-a-day basis each and every day of the year. To ensure availability for services, the licensee shall have a single designated phone number through which the police department can request service at any time. During regular business hours, the licensee shall answer the designated phone number at its place of business required by section 22-835. The licensee

may use an answering service for calls during other than regular business hours, but shall not use an answering machine.

(Code 1973, § 22.05.070; Ord. No. 15-09, pt. 4, 7-7-09)

Sec. 22-838. - Towing rates; payment.

- (a) The licensees agree to tow vehicles as provided under this article at rates not exceeding those as indicated below. All billings made for towing of vehicles as "tows for city - to city lot(s)" and "vehicles owned by the city" shall be made to the police department. Any billings for "general public" tows shall be made directly to the vehicle owner.
- (b) Licensees may, from time to time, request the public safety committee to review the towing rates set forth in the schedule agreed to by the parties, the original of which is retained by the police department and dated July 16, 2009, and make recommendations to the common council as to adjustments in the rates according to generally acceptable towing industry standards.

(c) Any special equipment or materials must be approved by the officer in charge on the scene.

SCHEDULE OF TOWING RATES

The schedule of maximum standard towing rates for towing vehicles at the request of the city under this article is as follows:

	Regular price	Sundays and holidays
<i>GENERAL PUBLIC (taken to tow company yard or released to owner)</i>		
<i>Class A towing</i>		
Standard tow, 7:01 a.m. to 7:00 p.m. (DAYS) Wheel lift or flat bed	\$100 110.00	\$140 125.00
Standard tow, 7:01 p.m. to 7:00 a.m. (NIGHTS) Wheel lift or flat bed	140 125.00	120 135.00
Additional fees: (per unit)		
Motorcycles:	Add 25.00	
Mileage for out of town trips:	3.50 per mile	
Administrative Notice Fees Fee for certified letter,	20 25.00	

paperwork, after 2 business days if vehicle is not claimed:		
Snow shoveling (Prorated) \$10.00 minimum	60.00/hr <u>25.00</u>	65.00/hr
Winching (First 15 minutes minimum charge)	25.00 min	30.00 min
<u>Winch (Accident)</u>	<u>75.00</u>	
<u>Winch-out or Off-roadway winch-out (Non-accident; no towing fee applies)</u>	<u>75.00 show up fee plus up to 75.00 winching fee</u>	
(Prorated after first 15 minutes)	60.00/hr	65.00/hr
Standby time (Prorated)	60.00/hr	65.00/hr
*Cleanup (Prorated after first 15 minutes)	60.00/hr	65.00/hr
* Any special equipment or materials for cleanup must be approved by the officer in charge on the scene.		
<u>Crash wrap</u>	<u>20.00 per window</u>	
<u>Oil-dri (or equivalent): application and cleanup</u>	<u>55.00</u>	
<u>Oil-dri (or equivalent) and/or parts: cleanup only</u>	<u>30.00</u>	
Tire or wheel change	20.00 <u>50% of tow rate plus \$20.00</u>	
No-tow show-up and service call fee	50% of tow rate	
<i>Class B towing and/or recovery</i>		
Per unit, \$100.00 minimum	165.00/hr	

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No-Tow Fee	50% of minimum rate	
<i>Storage</i>		
Cars, pickups, motorcycles (outside storage), per day	25 <u>40</u> .00	
Cars, pickups, motorcycles (inside storage by owner request or as otherwise reasonably required) per day	30 <u>45</u> .00	
Trucks, tractors, house trailers, truck trailers, buses, etc., per linear foot per day	1.25	
Truck-tractor trailers, per linear foot per day	1.25	
Note: After-hours release charge of vehicle and/or property (any release is at the discretion of the towing agency)	50.00	<u>75.00</u>
<i>TOWS FOR CITY—TO CITY LOT(S)</i>		
<i>Class A towing services (Towed to city impound)</i>		
Standard tow, 7:01 a.m. to 7:00 p.m. (DAYS) Wheel lift or flatbed	75 <u>85</u> .00	<u>75</u> <u>85</u> .00
Standard tow, 7:01 p.m. to 7:00 a.m. (NIGHTS) Vehicles towed to city impound Wheel lift or flatbed	75 <u>85</u> 00	<u>75</u> <u>85</u> .00
<i>Class B towing and/or recovery</i>		
Per unit, \$100.00 minimum	165.00/hr	
No-tow fee	50% of minimum rate	
Rates apply to those vehicles that are owned by the city, where service is performed as a result of a call		

from a city police officer or city employee authorized to request such service on behalf of the city.		
<i>VEHICLES OWNED BY THE CITY</i>		
<i>Class A towing services</i>		
Standard tow, 7:01 a.m. to 7:00 p.m. (DAYS)	45.00	45.00
Standard tow, 7:01 p.m. to 7:00 a.m. (NIGHTS)	45.00	45.00
No-tow fee (abandoned vehicles excepted)	50% of standard rate	
<i>Class B towing and/or recovery</i>		
Per unit, \$100.00 minimum	165.00/hr	
No-tow fee	50% of minimum rate	
Note: The city does not guarantee or imply any specific number of tows or other services that will be required during any license year.		

(c) The police department dispatcher will, if possible, inform the licensee of the make, model and year of the vehicle(s) to be towed at the time of requested service. The licensee shall charge only for equipment reasonably necessary for performance of the services rendered. The police chief shall designate a departmental representative to make final determinations on appeals of licensees from compensation granted hereunder.

(Code 1973, § 22.05.080; Ord. No. 3-90, pts. 13, 14(§ 22.05.080(a), (b)), 5-15-90; Ord. No. 18-94, 9-6-94; Ord. No. 15-09, pt. 5, 7-7-09)

Sec. 22-839. - City payment for services; records required.

(a) Payment for services rendered by each licensee shall be made on a monthly basis following receipt by the city of an invoice containing pertinent information relating to each towing service provided by the licensee. The invoice shall indicate the existence of no-tow. The no-tow provision does not apply to requests for towing abandoned vehicles.

- (b) The licensee shall maintain a complete record of each vehicle towed under the terms of the contract. Such record shall be open to inspection of any law enforcement officer, the vehicle owner, or their respective agents, upon proper identification.

(Code 1973, § 22.05.090)

Sec. 22-840. - Suspension and revocation of license.

- (a) In the event that a licensee fails to remain in conformance with this article with respect to documentation, vehicles, equipment, facilities, or personnel, or it has been found to be improperly charging or billing customers, its license shall immediately be suspended by the chief of police pending corrective action by the licensee. The licensee shall be reinstated upon proof being furnished to the chief of police that the violation has been corrected. The licensee may, within ten days after the date of suspension, appeal the determination to the public safety and licensing committee which shall then hold a hearing on the matter as provided in (b) below.
- (b) In the event that a licensee fails to comply with or violates the provisions of this article other than those specifically outlined in subsection (a) above, the license may be suspended or revoked. The chief of police shall direct an investigation to determine the circumstances surrounding the basis for the violation. Any substantiated violation of this article shall be forwarded to the public safety and licensing committee for its review. The committee shall schedule a hearing upon a licensee's third or subsequent violation during any license year. The committee shall notify the licensee of the hearing date which shall be within 30 days after the determination to hold a hearing thereon. Written notice of the violation(s) shall be provided to the licensee at least ten calendar days before such hearing. Testimony at the hearing shall be under oath and subject to the right of cross examination. The committee shall make findings and recommendations and shall refer the matter to the common council for action on any recommended license suspension or revocation.

(Code 1973, § 22.05.100; Ord. No. 3-90, pt. 16(§ 22.05.100), 5-15-90; Ord. No. 8-04, pts. 7, 8, 4-7-04; Ord. No. 33-06, pt. 1, 9-5-06)

Secs. 22-841—22-860. - Reserved.