

**CITY OF FOLEY
ORDINANCE NO. 1031-08**



**AN ORDINANCE REGULATING TOWING AND RECOVERY
ROTATION SERVICES FOR THE CITY OF FOLEY**

WHEREAS, The City Council of the City of Foley, Alabama deems it to be in the interest of public safety and for the benefit of its citizens for the City to maintain a wrecker rotation list and to provide regulations for the towing of vehicles by towing companies on that list; and

WHEREAS, the Mayor and City Council of the City of Foley, Alabama, after due consideration, believe the maintenance of a wrecker rotation list and the regulation of tow trucks and wreckers used by towing companies on that list is proper and in the best interest of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF FOLEY, 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. Unless inconsistent 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 by a representative of the City of Foley Police Department to a towing company that is on the wrecker rotation list, whereby the towing company is requested to provide towing services for vehicles that are discovered by the City of Foley Police Department to be in need of such services |
| (e). Wrecker Rotation List: | a list maintained by the City of Foley Police Department, which contains the names and contact information of selected towing companies that may be called by a representative of the City of Foley Police Department to provide towing services for vehicles that are discovered by the City of Foley Police Department to be in need of such services |
| (f). 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. |

- (g). Large Tow Truck : a class "C" or above tow truck as defined in this ordinance.
- (h). Towing Company: an individual or entity that provides towing services

SECTION 2. WRECKERS AND TOWING COMPANIES NOT ON THE WRECKER ROTATION LIST

Wreckers and towing companies that are not on the wrecker rotation list are governed by Chapter 5, Article VI of the Foley Code of Ordinances, entitled "Wrecker Service," and must comply with the requirements therein.

SECTION 3. PERMIT AND LICENSE REQUIRED; OTHER REQUIREMENTS OF LAW NOT ALTERED

No towing company shall be placed on the wrecker rotation list without first obtaining both a permit from the Chief of Police, or his designee, and a license to provide towing services from the city as provided in this ordinance. If a towing company does not possess a valid permit, it shall be unlawful for that towing company to respond to a wrecker rotation call, unless specifically authorized to do so by a representative of the City of Foley Police Department. Towing companies on the wrecker rotation list must comply with other Foley City Ordinances, including Chapter 5, Article VI of the Foley Code of Ordinances, entitled "Wrecker Service," to the extent such ordinances are not inconsistent with the requirements of this Article. Nothing in this ordinance shall be construed to otherwise alter the requirements of any other provisions of law that are applicable to towing companies or tow trucks.

SECTION 4. 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 information required under Section 4 of this ordinance to the Foley Police Department.

SECTION 5. STANDARDS FOR ISSUANCE OF PERMIT

- (a). Application for placement on the wrecker rotation list. This application will include the name and contact information of 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.

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

- (a). Public convenience and necessity require the proposed towing service for which an application has been submitted;
- (b). Insurance policies as required by this ordinance have been procured by the towing company applying for a permit;
- (c). Applicant and applicant's employees are fit and proper persons to conduct the proposed towing service;

- (d). Applicant's tow trucks are in good mechanical condition and equipped in accordance with the requirements herein so that the usual work of a tow truck can be accomplished; and
- (e). That the requirements of this ordinance have been met.

SECTION 6. PROMULGATION OF REGULATIONS

The Chief of Police or his designee may from time to time promulgate and enforce reasonable rules and regulations applicable to towing companies that are, or desire to be, placed on the wrecker rotation list .

SECTION 7. APPLICATION FOR BUSINESS LICENSE

Upon issuance of a permit by the Chief of Police or his designee and prior to being placed on the wrecker rotation list, the owner of the towing company must make application for a City of Foley business license and pay the required license fee at the office of the city clerk.

SECTION 8. PERMIT TERM

Unless sooner revoked, the aforementioned permit issued by the Chief of Police or his 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. Permits are non-transferable.

SECTION 9. INSURANCE REQUIREMENTS

- (a) No towing company shall be placed on or remain on the wrecker rotation list unless that towing company maintains 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 towing 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 towing company on the wrecker rotation list shall indemnify and hold harmless the City of Foley, the Foley Police Department, and any and all of their agents, employees, and representatives, from liability arising out of or related to any act or omission of such towing company in connection with a wrecker rotation call or a response to a wrecker rotation call. The City of Foley, the Foley Police Department, and any and all of their agents, employees and representatives, assume no liability for injury to persons, property damage, fire, theft, or other damage, arising out of or related to any act of a towing company, which arises out of or is related to a wrecker rotation call or a response to a wrecker rotation call.

SECTION 10. TOW TRUCK INSPECTIONS

Each towing company on the wrecker rotation list shall have a current ALDOT Certificate of Inspection for each vehicle, and an ALDOT number must be displayed on the vehicle. A copy of the certificate of inspection will be maintained by the towing company and will be made immediately available to the Foley Police Department upon request during normal business hours.

SECTION 11. GENERAL REQUIREMENTS

- (a) Each towing company on the wrecker rotation list 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 towing company. Towing companies may have this number forwarded to another number but no beepers or answering machines may be used.
- (b) Each towing company on the wrecker rotation list 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 (6) foot chain link fence or wall with a gate under lock and key. All towing companies on the wrecker rotation list 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 vehicle. This storage area shall be within the limits of City of Foley.
- (c) Each towing company on the wrecker rotation list shall maintain a current list of drivers and furnish a copy of said list to the Foley Police Department immediately upon request. This list shall contain current information on the owner(s) and drivers. This current information will include 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 Foley Police Department.
- (d) Each towing company on the wrecker rotation list shall maintain a current list of tow trucks in their fleet and shall furnish a copy of said list to the Foley Police Department immediately upon request. This list will include the make, model, year, VIN, tag number, vehicle size, number of axles, and lift capacity.
- (e) No person may own, either directly or indirectly through a series of partnerships or other entities, an interest in more than one towing company that is listed on the wrecker rotation list.
- (f) No two or more towing companies may share the same physical location, address, parcel of real estate, or telephone number.
- (g) No employee of a towing company listed on the wrecker rotation list may inquire to the police dispatcher as to rotation status or express grievances relating to other towing companies. Such matters shall instead be directed to the Chief of Police or his designee.

SECTION 12. 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 owned or operated by a towing company on the wrecker rotation list.
- (b). All tow truck drivers working for a towing company on the wrecker rotation list shall be properly trained and have a valid driver's license for the type of tow truck they are operating. Additionally, all such tow truck drivers must be properly trained to use any other equipment necessary to performing a tow truck service.

- (c). Tow trucks of towing companies on the wrecker rotation list shall arrive at the location of the tow within twenty (20) minutes from the time the call is dispatched by the Foley Police Department. However, all tow truck drivers responding to wrecker rotation calls shall comply with all traffic laws while so responding.
- (d). The tow truck driver responding to a wrecker rotation call on behalf of the towing company shall 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 towing company and a copy of it shall be furnished to the Foley Police Department immediately upon request. When responding to a wrecker rotation call, all State and Federal E.P.A. Guidelines shall be followed.
- (e). Each towing company 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 owned or operated by a towing company on the wrecker rotation list shall proceed to the scene of an incident without being requested to do so by the police department or by the owner or person in charge of the vehicle. No such wrecker shall solicit business at the scene of an incident or accident.
- (g). Once a tow truck has arrived at the scene, the driver shall, without undue delay and after directed to do so by a Foley Police Officer, move vehicles to a location where they do not impede or obstruct traffic and remove any debris on the ground originating from the vehicles in accordance with section 13A-7-29 (4) Code of Alabama.
- (h). No wrecker owned or operated by a towing company on the wrecker rotation list will be marked (color, decal, etc.) as to resemble a Foley Police vehicle or any other law enforcement vehicle.
- (i). Tow trucks responding to a wrecker rotation call shall not display the words "Official Police Tow" or words to that effect.
- (j). The towing company receiving a wrecker rotation call shall respond to the 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. However, a towing company responding to a wrecker rotation call shall not violate any requirements of law in responding to the call.
- (k). All towing companies on the wrecker rotation list shall maintain a minimum of one driver on duty at all times.
- (l). In the event that any wrecker rotation call is canceled prior to attaching the vehicle, the towing company that received the wrecker rotation call shall not be entitled to charge for the canceled call. However, the company shall be placed back on top of the rotation list.
- (m). Each tow truck owned or operated by a towing company on the wrecker rotation list shall be equipped with a flashing, revolving or strobe caution light, the color of amber or yellow, and mounted for 360 degree visibility and properly installed. Said caution light shall be operated only while at the scene of a wreck/collision or while a vehicle is being towed, but shall not be operated at any other time, unless such operation is authorized by the police department in a particular case because of an emergency situation. Operators of such tow trucks shall place Stop and Turn Signals on all vehicles when towing regardless of the time of day or night.

- (n). The name of the towing company shall be kept prominently displayed on each tow truck owned or operated by a towing company on the wrecker rotation list. A tow truck owned by a towing company on the wrecker rotation list may not be used by any other towing company on the wrecker rotation list.
- (o). A rollback and/or a flatbed tow truck can be used for rotation wrecker calls unless the police department of the City of Foley 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 in order for a towing company to remain on the rotation list; however, having at least one conventional wrecker in proper working order is required in order for a towing company to remain on the wrecker rotation list.
- (p). In the event a towing company on the wrecker rotation list becomes unavailable at any time to respond to a wrecker rotation call, the tow truck service business shall call the Foley 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 should that company be next on the list. No make up calls will be allowed. Frequent unavailability or refusals to respond will not be tolerated and may result in removal from the wrecker rotation list.

SECTION 13. STANDARD TOW TRUCK EQUIPMENT

Each towing company on the wrecker rotation list 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 degree 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' name permanently affixed to dollies)

SECTION 14. 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). Brake lock device
- (d). Minimum of (4) tie downs

SECTION 15. LARGE TOW TRUCK EQUIPMENT

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

- (a). Air control valve operable
- (b). Two chock blocks or equivalent
- (c). Automotive lock air brakes (parking brakes)
- (d). Bolt cutters (minimum ½ inch opening)
- (e). Two fire extinguishers (10 lbs minimum) - properly charged
- (f). External air hookups and hoses
- (g). Six safety cones
- (h). Six safety triangles or road flares
- (i). 50 lbs of sand or equivalent

SECTION 16. TOW TRUCK CLASSIFICATIONS

There are four (4) classes of tow trucks covered under this ordinance.

Class A – Light Duty:

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.

Class B – Medium Duty:

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 GVWR chassis and 150 feet of 7/16" 6x19 cable or OEM specifications.

Class C – Heavy Duty:

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:

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 17. MAXIMUM ALLOWABLE TOWING/STORAGE FEES

In responding to wrecker rotation calls, no towing company on the wrecker rotation list shall charge a fee for towing services in excess of the amounts expressly allowed for herein. No other fees may be charged by towing companies on the wrecker rotation list that are not expressly set forth by this ordinance.

- (A). For towing any vehicle with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, the towing company may not charge more than eighty five dollars (\$85.00) for each vehicle towed from one point in the Foley city limits or police jurisdiction to another point in the city or police jurisdiction. However, in addition to the eighty five dollar (\$85.00) charge for towing each such vehicle, any wrecker rotation call that requires the towing company's truck or trucks to remain on the scene for more than one (1) hour, shall allow that towing company to charge an additional fifteen dollars (\$15) per quarter hour, per truck, on the scene.

If a vehicle owner requests that a vehicle be towed to or from a point outside the police jurisdiction of the City of Foley, an additional two dollars and fifty cents (\$2.50) per mile charge will be allowed for each mile outside the police jurisdiction of the City of Foley for one way towing outside the police jurisdiction or to tow a vehicle into the police jurisdiction from outside.

- (B). For towing any vehicle with a gross vehicle weight rating (GVWR) of 10,001 pounds or more, the towing company may not charge more than two-hundred fifty dollars (\$250.00) for each vehicle towed from one point in the Foley city limits or police jurisdiction to another point therein. However, in addition to the two-hundred fifty dollar (\$250.00) charge for towing each such vehicle, any wrecker rotation call that requires the towing company's truck or trucks to remain on the scene for more than one (1) hour, shall allow that towing company to charge an additional twenty-five dollars (\$25) per quarter hour, per truck, on the scene.

If a vehicle owner requests that a vehicle be towed to or from a point outside the police jurisdiction of the City of Foley, an additional three dollars and fifty cents (\$3.50) per mile charge will be allowed for each mile outside the police jurisdiction of the City of Foley for one way towing outside the police jurisdiction or to tow a vehicle into the police jurisdiction from outside.

- (C). **STORAGE FEES** shall be charged as follows:

Twenty dollars (\$20.00) per day for each vehicle stored, regardless of the tonnage or length of the vehicle.

SECTION 18. RECORDS

Each towing company on the wrecker rotation list shall document and maintain a record of all services performed in response to a wrecker rotation call. Said records shall include, but not be 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
- (g). Date and time vehicle was released

1. All records required herein must be made available for inspection by officers or agents of the Foley Police Department upon reasonable demand. Such inspections shall be conducted at a reasonable date and hour at the towing company's place of business.

2. Each such towing company 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 motor vehicles, towed in response to a wrecker rotation call, that have been abandoned by their owners shall be maintained by the towing company, and the sale or disposal of any such abandoned vehicle shall be in accordance with Chapter 13, Title 32, Code of Alabama.

SECTION 19. SELECTION OF WRECKER

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

If the owner of the vehicle in need of towing services, or the owner's representative, cannot or refuses to select the towing company to be used, the City of Foley Police Department shall select the towing company using the wrecker rotation list. The police officer on the scene shall inform the owner or the owner's representative of the cost and charges and other pertinent information concerning the wrecker rotation list and the services provided pursuant to the same.

SECTION 20. COMPLAINTS

Complaints against towing companies responding to wrecker rotation calls will be documented by the Foley Police Department and will be investigated by the Foley 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 towing companies on the wrecker rotation list shall be made in writing to the Chief of Police or his designee. The Chief of Police or his designee shall respond in writing within ten (10) business days.

SECTION 21. REVOCATION AND SUSPENSION

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

- (a). False information was provided to, or withheld from, the Foley Police Department or the City of Foley by the wrecker company or an employee of that 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 permit.
- (b). False information regarding the rotation wrecker service was provided to, or withheld from, the Foley Police Department or the City of Foley at any time by the towing company or an employee of the towing company when information was requested by the Chief of Police or his designee.
- (c). The towing company or an employee of that company conducted business in a fraudulent, unethical or questionable manner that would reflect unfavorably on the Foley Police Department.
- (d). The towing company's towing business license has expired.
- (e). The company has any violations concerning insurance.
- (f). Any tow truck driver of the towing company is operating a wrecker without a current and valid driver's license.
- (g). The towing company has failed to respond to two consecutive wrecker rotation calls without acceptable justification. It is the towing companies' responsibility to notify the Foley Police Department if they are unable to respond to wrecker

rotation calls. Such notification shall contain the reason that the company cannot respond and the length of time the company will be out of service.

- (h).. The towing company or an employee of that company violates any provisions of this ordinance.
- (i). The tow truck driver of a towing company is under the influence of drugs or alcohol when responding to a wrecker rotation call.

The length of suspension or revocation of the permit will be at the discretion of the Chief of Police or his designee, based on the severity of the violation(s) and/or the frequency of the violations. The towing 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 shall hold a public hearing on the appeal to determine whether to affirm said permit suspension or revocation.

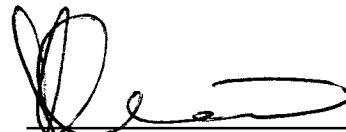
SECTION 22. SEVERABILITY

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.

This ordinance shall take effect upon its due adoption and publication as required by law.

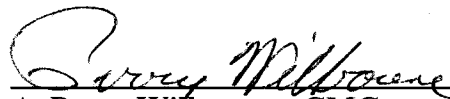
ADOPTED AND APPROVED on this 3rd day of March, 2008.





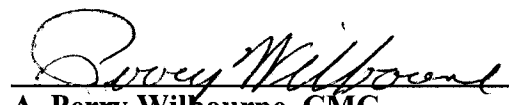
John E. Koniar, Mayor

ATTEST:



A. Perry Wilbourne, CMC
City Clerk/Administrator

"I certify that the foregoing Ordinance was published in the Foley Onlooker, a newspaper of general circulation in the City of Foley, in its issue of Saturday, March 8, 2008"



A. Perry Wilbourne, CMC
City Clerk/Administrator