

ORDINANCE NO. 2370

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 20 OF THE CODE OF THE CITY OF MESQUITE, TEXAS, PROVIDING FOR THE ESTABLISHMENT AND REGULATION OF WRECKER SERVICE OPERATORS WITHIN THE CITY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED TWO HUNDRED (\$200.00) DOLLARS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Mesquite has found it necessary to the health, safety, and public welfare of the inhabitants of the City to obtain dependable and adequate wrecker service for the City at competitive rates; and,

WHEREAS, it is necessary that those engaged in providing wrecker service meet certain minimum standards;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That Chapter 20 of the Code of the City of Mesquite, Texas, be and is hereby amended to read as follows, in all other respects, said Code to remain in full force and effect:

CHAPTER 20

WRECKER SERVICE

ARTICLE I - GENERAL

There is hereby established a procedure for obtaining wrecker service in the City of Mesquite as follows:

Sec. 20-1. RESPONSE TO CALLS.

(A) Standard Duty Wrecker Service

No person other than an authorized wrecker service operator and his agents, servants, and employees shall respond to a Police standard-duty wrecker call, provided however, that in case of an emergency, the Police Department or other agency of the City may authorize others to render specific services in connection with a specific emergency. Such authorization shall not extend to other situations or times. This section shall not be interpreted to prohibit the owner or operator of a disabled vehicle from securing the private wrecker service of his choice, where said disabled vehicle does not constitute a hazard or impediment to traffic.

(B) Heavy Duty Wrecker Service

No person other than an authorized wrecker service operator and his agents, servants, and employees shall respond to a Police heavy-duty wrecker call, provided however, that in case of an emergency, the Police Department or other agency of the City may authorize others to render specific services in connection with a specific emergency. Such authorization shall not extend to other situations or times. This section shall not be interpreted to prohibit the owner of a disabled vehicle from utilizing a heavy-duty wrecker owned by and registered to the owner of the disabled vehicle, where said disabled vehicle does not constitute a hazard or impediment to traffic.

Sec. 20-2. OPERATOR'S RESPONSIBILITY.

Each authorized wrecker service operator shall be responsible for responding to calls within his area of operation as defined herein. Operators shall have available sufficient personnel and equipment to provide service at all times and shall be responsible for securing the services of other wrecker service companies or individuals as agents of the authorized operator in the event of unavailability of equipment or personnel.

Sec. 20-3. CONDUCT OF PERSONNEL.

While the authorized wrecker service is a private enterprise, such service is in the nature of a public function and all personnel so engaged shall conduct themselves in a dignified and respectable manner, shall be courteous to the public, and shall follow directions of the investigating officer as to disposition of vehicles to be moved or towed to a place of storage.

Sec. 20-4. PERMITS.

Each wrecker service operator or employee shall be approved by the Chief of Police and shall be of good moral character and qualified to perform the service required. To be eligible for authorization, operators must at all times be current in their obligations to the City, including payment of ad valorem and other taxes.

Each wrecker service operator shall be in compliance with State Act, Title 116, Article 6687-9a and must display a current valid license for a vehicle storage facility issued by the TEXAS DEPARTMENT OF LABOR AND STANDARDS.

Sec 20-5. LIABILITY AND FIDELITY.

Each wrecker service operator shall hold the City harmless from liability for any act or omission on the part of the operator, his agents, servants, or employees and shall provide

a policy of liability insurance with a minimum policy coverage of two-hundred fifty thousand (\$250,000.00) dollars per person or five hundred thousand (\$500,000.00) dollars per incident for bodily injury and one-hundred thousand (\$100,000.00) dollars for damage to property.

Sec. 20-6. REPORTS.

During the term of operation, wrecker service operators shall furnish such report, both oral and written, as may be required by the Police Department.

Sec. 20-7. AVAILABILITY OF SERVICE.

Each wrecker service operator must provide twenty-four (24) hour service and be equipped with not less than two (2) telephone lines in the office-storage area. After regular business hours each wrecker service operator shall furnish one (1) telephone number. It shall be the responsibility of each wrecker service operator to receive his calls either at this telephone number or over the police or general government radio channel.

Sec. 20-8. CITY RESPONSIBILITY.

The City shall in no event be responsible for towing or storage charges or charges for related services performed pursuant to this Chapter.

Sec. 20-9. LIENS.

Liens arising from towing and storage charges under this Chapter shall be limited to the vehicle(s) and actual attachments and accessories but shall not attach to personal effects within the vehicle(s).

Sec. 20-10. GROUNDS FOR REVOCATION OF AUTHORIZATION.

Failure to comply with the requirements of this Chapter by any wrecker service operator shall constitute grounds for revocation of authorization and may be considered in any future application.

ARTICLE II - STANDARD WRECKER SERVICE

Sec. 20-11. DEFINITION.

Standard wrecker service shall be defined as that service requiring wrecker equipment of less capability than Heavy Duty Wrecker Service as defined in Article III of this Chapter.

Sec. 20-12. DISTRICTS.

For the purpose of this Article, the City of Mesquite is divided into two (2) districts as follows:

(1) North Mesquite District - That area of the City North of a line beginning at the West City limits and the South boundary of the North Service Road of U.S. Highway 80 and extending along such boundary to the East City limits, including that portion of any intersecting streets within such area.

(2) South Mesquite District - That area of the City South of the South boundary of the North Service Road of U.S. Highway 80 as it extends from the West City limits to the East City limits, including that portion of any intersecting streets within such area.

Sec. 20-13 RATES.

Standard wrecker service operators authorized by the City to respond to Police wrecker calls shall be authorized to charge the following rates for the towing and storage of motor vehicles. Any charge not herein listed shall be a reasonable charge considering the time, effort, and equipment involved. Provided, however, that any fee in excess of five (\$5.00) dollars per vehicle per day for storage shall be deemed excessive and is prohibited.

<u>SERVICE</u>	<u>RATE</u>
(1) Standard Pickup and Accident Tow	\$35.00
(2) Motorcycle Pickup and Tow	\$40.00
(3) Motorcycle Pickup and Tow (requiring trailer)	\$55.00
(4) Additional Services	
(a) Use dollies	\$17.50
(b) 1 operator and 1 wrecker	\$20.00 per hour pro-rated on 15 minute increments
(c) Pickup outside city	
(1) Within 1 mile	No additional charge
(2) Over 1 mile	\$1.00 per mile, round trip
(5) Storage (outside)	\$8.00 per day

Storage fee shall mean the rate charged for storing any vehicle not using more space than a passenger automobile or light truck would use.

Storage charges shall begin at 12:00 midnight after pickup. No storage charge shall be imposed on the date of pickup. After the day of pickup, any portion of a day shall be considered a chargeable day.

A maximum of twelve (12) free tows and storage charges per district per year shall be provided where emergencies exist as deemed necessary by the Chief of Police.

Three (3) days free storage fees on stolen vehicles as deemed necessary by the Chief of Police.

Sec. 20-14. OPERATOR REQUIREMENTS.

Standard wrecker service operators shall meet the following minimum requirements, together with the general requirements of Article I of this Chapter, and such other requirements as may be necessary to the end that prompt, efficient service may be rendered:

(1) Minimum outside storage - A minimum outside storage area of not less than 16,500 square feet designed to accommodate a minimum of 85 automobiles and/or light trucks. Area surface shall be of all-weather construction for impounded vehicle storage only.

(2) Fencing - A perimeter fence of at least six (6) feet in height providing solid screening plus three (3) strands of safety (barbed) wire above the solid screening portion of chain-link or better shall be required.

(3) Customer Parking - A minimum of five (5) vehicular parking spaces shall be provided for use by customers of the operator.

(4) Security Storage - Space for a minimum of two (2) vehicles shall be provided inside a building with suitable security for police storage.

(5) Location of Office/Storage Area - The storage area and office shall be contiguous and shall be open during regular business hours.

(6) Security - Each storage area shall be lighted by not less than two (2) mercury vapor lights and shall be guarded by a watchman or a trained security guard dog, and shall be guarded at all times.

(7) Facilities - Storage/office facilities must be physically located within the City of Mesquite, and in the District to be served, except where required to serve in another District during an emergency.

(8) Equipment - Each standard wrecker service operator facility shall provide not less than two (2) wrecker units with drivers. At least one (1) unit shall be equipped with approved two-way radio capable of operation on frequencies designated by the Police Department, and approved emergency lighting. Each wrecker unit shall carry a push broom and after each accident at which a pickup is made, the wrecker personnel shall thoroughly sweep and remove all glass, wreckage, debris, vehicle parts and vehicle contents from the scene of the accident. Each wrecker driver shall keep a receipt book approved by the

Police Department.

(9) Experience - Wrecker service operators shall show evidence of experience, ability, and continuity of operation to the end that they shall be able to provide efficient and uninterrupted service.

(10) Vehicles scheduled for public auction shall be designated by conspicuous marking. The vehicles shall also be accessible to potential bidder at least one (1) hour before the sale.

Sec. 20-15. DISCRETION OF POLICE DEPARTMENT.

Due to the emergency nature of wrecker service, certain matters are determined to necessarily be within the discretion of the Police Department.

(1) Type or class of wrecker needed - The Police Department shall have the responsibility for calling the type (Standard or Heavy Duty) wrecker deemed suitable for any particular situation necessitating wrecker service.

(2) Location of disabled vehicle - The Districts established are for the convenience of the City and to prevent duplication of effort. When standard wrecker service is needed, the Police Department shall determine in which district the disabled vehicle is located and notify the applicable standard wrecker service operator. In situations where it is difficult to determine the applicable district, the determination by the Police Department shall control.

(3) Response time - The Police Department shall have discretion to determine a reasonable response time based upon the circumstances such as traffic congestion or other factors involved in a particular situation that may affect the public safety. Upon failure on the part of the operator called to so respond, the Police Department may call another wrecker operator. A response time of thirty (30) minutes may be used as a guide for reasonableness but may vary depending upon circumstances.

Sec. 20-16. AUTHORIZED OPERATORS DESIGNATED.

Subject to compliance with the requirements of this Chapter, the following Standard Wrecker Service Operators are hereby designated and authorized to respond to Police wrecker calls for standard wrecker service within their districts as follows:

(1) South Mesquite District - Skip Wisdom
from January 1, 1987, through December 31, 1987.

(2) North Mesquite District - Jack Hester, d.b.a., Jack Hester's Wrecker Service, from January 1, 1987, through December 31, 1987.

The period of this designation shall be for one year; provided that the City Manager, with the recommendation of the Chief of Police, may extend this designation for one additional year without further action of the City Council. Written notice shall be given to the designees as to whether or not they have been designated for the additional year.

ARTICLE III - HEAVY DUTY WRECKER SERVICE

Sec. 20-17. DEFINITION.

Heavy Duty Wrecker Service shall be defined as that service requiring wrecker equipment with a tandem axle with a minimum Gross Vehicle Weight of 38,000 pounds and a minimum boom rating of 25 tons.

Sec. 20-18. RATES.

Heavy Duty Wrecker Service Operators authorized by the City to respond to Police wrecker calls shall be authorized to charge the following rates for the towing and storage of vehicles, including trailers and accessories. Any charge not herein listed shall be a reasonable charge considering the time, effort, and equipment included.

<u>SERVICE</u>	<u>RATE</u>
(1) Standard or Accident Pickup and Tow	\$72.00 per hour (\$90.00 min.) for one (1) heavy duty wrecker and driver
Chargeable time shall begin upon wrecker movement from its base facility or other point of origin within the City and shall terminate upon arrival at its base facility upon completion of the wrecker call. The minimum charge shall be \$90.00. Time after the first one and one-quarter hours shall be prorated in fifteen (15) minute increments.	
(2) Other Labor	\$20.00 per hour pro-rated in 15 minute increments
(3) Special Equipment Charges (Use of cranes, air bags, etc. necessary to lift or otherwise manipulate disabled heavy equipment.)	Usual and Customary rates charged for service in the Dallas Metropolitan area
(4) Storage (outside)	
(a) Truck-tractors	\$8.00 per day
(b) Semi-trailer or trailer	\$8.00 per day
(c) Dual tandem cab and chassis (bob-tail) trucks	\$8.00 per day

Storage charges shall begin at 12:00 midnight after pickup. No storage charge shall be imposed on the date of pickup. After the day of pickup, any portion of a day shall be considered a chargeable day.

One (1) free tow and storage fee per year shall be provided where emergencies exist as deemed necessary by the Chief of Police.

Three (3) days free storage fees on stolen vehicles as deemed necessary by the Chief of Police.

Sec. 20-19. OPERATOR REQUIREMENTS.

Heavy Duty Wrecker Service Operators shall meet the following minimum requirements, together with the general requirements of Article I of this Chapter, and such other requirements as may be necessary to the end that prompt, efficient service may be rendered.

(1) Minimum outside storage - A minimum outside storage area designed to accommodate not less than three (3) tractor/trailer units shall be provided. Area surface shall be of all-weather construction for impounded vehicle storage only.

(2) Fencing - A perimeter fence of at least six (6) feet in height providing solid screening, plus three (3) strands of safety (barbed) wire above the solid screening portion of chain-link or better shall be required.

(3) Customer parking - A minimum of three (3) vehicular parking spaces shall be provided for use by customers of the operator.

(4) Security - Storage areas shall be lighted by not less than two (2) mercury vapor lights and shall be guarded by a watchman or a trained security guard dog and shall be guarded at all times.

(5) Location of office/storage area - Storage/office facilities must be physically located within the City of Mesquite and shall be open during regular business hours.

(6) Equipment - Each Heavy Duty Wrecker Service Operator shall provide at least one (1) Heavy Duty Wrecker unit as defined herein. At least one (1) unit shall be equipped with approved two-way radio equipment capable of operation on frequencies designated by the Police Department, and shall be equipped with approved emergency lights. Each unit shall carry a push-broom and after each accident at which a pickup is made, the wrecker personnel shall thoroughly sweep and remove all glass and other debris from the streets. Each wrecker driver shall keep a receipt book approved by the Police Department.

(7) Experience - Authorized Heavy Duty Wrecker Service Operators shall have a minimum of one (1) year's experience in the operation of Heavy Duty Wrecker Equipment as defined herein. Each Heavy Duty Wrecker Driver shall have a minimum of one (1) year experience in the operation of Medium or Heavy Duty wrecker equipment.

Sec. 20-20. DISCRETION OF POLICE DEPARTMENT.

Due to the emergency nature of wrecker service, certain matters are determined to necessarily be within the discretion of the Police Department:

(1) Type or class of wrecker needed - The Police Department shall have the responsibility for calling the type (Standard or Heavy Duty) wrecker deemed suitable for any particular situation necessitating wrecker service.

(2) Response Time - The Police Department shall have discretion to determine a reasonable response time based upon the circumstances such as traffic congestion or other factors involved in a particular situation that may affect the public safety. Upon failure on the part of the operator called to respond, the Police Department may call another wrecker service operator. A response time of one (1) hour may be used as a guide for reasonableness, but may vary depending upon circumstances.

Sec. 20-21 AUTHORIZED OPERATOR DESIGNATED.

Subject to compliance with the requirements of this Chapter, the following Heavy Duty Wrecker Service Operator is hereby designated and authorized to respond to Police wrecker calls for heavy duty wrecker service within the City of Mesquite:

Jack Hester, d.b.a., Jack Hester's Wrecker Service, from January 1, 1987 through December 31, 1987.

SECTION 2. Should any word, phrase, sentence, paragraph, or section of this Ordinance be held to be invalid or unconstitutional, the remaining provisions shall not be affected because of such invalidity or unconstitutionality.

SECTION 3. Any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed to be guilty of a misdemeanor, and upon conviction in the Municipal Court, shall be subject to a fine not to exceed two hundred (\$200.00) dollars for each offense.

SECTION 4. All ordinances or provisions thereof in conflict with this ordinance are repealed to the extent of such conflict.

SECTION 5. The fact that the Code of the City of Mesquite is inadequate to afford wrecker service for the necessary pro-

tection of the inhabitants of the City creates an urgency and an emergency for the preservation of the public health, safety, and welfare of its citizens and requires that this ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinance, as the law in such cases provides.

DULY PASSED by the City Council of the City of Mesquite, Texas, on the 15th day of December, A.D., 1986.

Mrs. Brunhilde Nystrom
Mrs. Brunhilde Nystrom
Mayor

ATTEST:

APPROVED AS TO FORM:

Lynn Prugel
Lynn Prugel
City Secretary

Elland Archer
Elland Archer
City Attorney