

AN ORDINANCE

THE MAYOR AND BOARD OF ALDERMEN DO HEREBY ORDAIN THAT CHAPTER 102, VEHICLES FOR HIRE, OF THE CITY OF ACWORTH, GEORGIA, CODE OF ORDINANCES IS HEREBY AMENDED AS FOLLOWS:

WHEREAS, the City of Acworth, Georgia, desires to amend Chapter 102, Article II, Section(s) 102-31 through 102-45 in its entirety for the purpose of selecting companies for towing services.

Section 1:

Chapter 102, Article II, Sections 102.31 – 102.45 of the City of Acworth, Georgia, Code of Ordinances is hereby amended to read as follows:

ARTICLE II. - WRECKER AND TOWING SERVICES

Sec. 102.31. - Determination of service providers.

- A. The Acworth Police Department shall from time to time after a request for qualifications, prepare an approved list of one or more companies to tow private and public vehicles as requested by the Acworth Police Department and the City of Acworth.
- B. The method of determining the list of acceptable companies for towing services will be determined by review of the company's response to a request for qualifications. The Chief of Police will determine which companies best meet the stated qualifications. The Chief will recommend not less than two and nor more than three companies to be placed on an approved list for service provision with the City of Acworth. The City of Acworth reserves the right to award service in the best interest of the city and to accept or reject any and all RFQ's and to waive technicalities and informalities in the responses as well as limiting the number of companies on the rotation.
- C. The Chief of Police will review all proposals submitted when a request for qualifications for towing has been advertised. The Chief shall determine which companies meet the city's requirements. The chief shall then meet with those companies to settle on an acceptable fee schedule that all companies shall charge. The chief shall then recommend to the Mayor and Board of Aldermen which companies shall provide towing services for the city and the rates for said services. Said rates shall not be adjusted unless approved by the Mayor and Board of Aldermen.
- D. The business owner or license holder shall not have the authority to transfer the assignment of the towing privileges for the City of Acworth in any manner whatsoever, or sell, lease, license or permit others to use the privilege.

Sec. 102.32. - Indemnity.

All wrecker companies under agreement with the City of Acworth shall indemnify and defend the city, its governing authority (mayor and city council members), officers, agents and employees, against any and all costs, losses, expenses, damages and liabilities, including attorney's fees, for injury to or death of any person or damage to property caused by the wrecker company, its officers, agents, or employees, arising out of the fulfillment of the obligations of the company under the agreement with the City of Acworth.

Sec. 102-33. - Liability insurance.

- A. At all times during term of service to the city the wrecker company shall, at its own expense, maintain in full force and effect general comprehensive liability insurance and garage keeper's liability insurance with an insurance company authorized to operate in the State of Georgia, the policies to be in form satisfactory to the city attorney.
- B. The coverage represented by such policies shall be for the protection and indemnification of the city, members of the mayor and city council, and its officers, agents, and employees against liability for loss or damages for bodily injury, death, and property damage occasioned by the activities of the wrecker company arising out of the fulfillment of the obligations of the company while providing services to the City of Acworth, and all costs and liabilities. The policy will name the City of Acworth as an additional insured. Minimum liability limits under the general comprehensive liability policy shall be \$100,000.00 to \$500,000.00 liability limits for personal injury or death of any persons, in any one occurrence, and \$50,000.00 for damage to property resulting from any one occurrence, and minimum \$100,000.00 garage keeper's liability.
- C. The wrecker company will provide proof of insurance annually. The City of Acworth must be notified immediately if the insurance is transferred to a different carrier or is cancelled.

Sec. 102-34. - Enforcement of additional regulations.

The city reserves the right to enforce such additional rules and regulations as may be deemed necessary to protect the interest, safety and welfare of the public in relation to the subject matter of this ordinance, provided that any such rules and regulations shall not be inconsistent with the provisions of this article.

Sec. 102-35. - Removal of wrecked or illegally parked vehicles from public streets, highways, right of ways and publicly owned parking areas.

A vehicle which has been wrecked or illegally parked may be removed by the City of Acworth and/or the City of Acworth Police Department from public streets, highways, right of ways, and publicly owned parking areas under any one of the following conditions:

- 1) The vehicle is obstructing traffic;
- 2) The vehicle is blocking a private entrance;
- 3) The vehicle is blocking a fire hydrant;
- 4) The vehicle has been reported stolen or taken without the consent of the owner;
- 5) The vehicle has no registration plate;
- 6) The vehicle has been left unattended as defined by O.C.G.A. 40-11-3
- 7) The driver of the vehicle is incapacitated by injury or illness;
- 8) The driver fails to produce proof of minimum insurance and the officer confirms that the vehicle is uninsured;
- 9) The driver is arrested for driving under the influence of alcohol and no other person is available and/or capable of driving the vehicle;
- 10) The driver has accumulated five or more parking citations which have not been paid; 90-45 (4)
- 11) Any condition which, in the judgment of the investigating officer; presents a traffic hazard or a threat to the public safety; and
- 12) Any condition otherwise authorized by state law or set forth in other sections of the City of Acworth Code of Ordinances.

Sec. 102-36. – Duty to use due care; clearing of glass and debris

- A. Wrecker services shall determine the method and manner of removing vehicles; however, they shall exercise due care in removal operations and shall follow the direction of the traffic officer directing the removal so as not to impede traffic or endanger the general public and property.
- B. The driver of each wrecker truck towing away any vehicle from the scene of a wreck shall also take away all parts belonging to the vehicle which he is towing away; or, if they consist of small parts or broken glass, he shall clear the right-of-way of such small parts and glass, unless the driver is ordered not to do so by the investigating police officer due to circumstances at the scene of the accident.

Sec. 102-37. - Service and equipment standards.

- A. The wrecker company shall have available 24 hours per day, seven days per week, 52 weeks per year, equipment suitable for the accomplishment of the towing of vehicles and properties suitable for the safe and secure fenced storage of vehicles and personnel qualified to accomplish the towing and storage services. The wrecker company should be capable of responding to all calls for service made by the Acworth Police Department within 20 minutes on at least 90 percent of the calls.
- B. The wrecker service (towing, transportation, and/or storage) shall be conducted in such manner as to provide the city with immediate service so as to tow, transport, and store vehicles ordered to be towed, transported, and/or stored by the police department in a safe

and secure impoundment area. Such impoundment area shall be fully enclosed by a fence not less than six feet high with a gate which will be kept securely fastened and locked. The impound lot must be lighted and shall contain recorded surveillance cameras that will provide 100 percent coverage of the area.

- C. The wrecker company must maintain a valid business license and meet all applicable state requirements to legally operate in the State of Georgia.
- D. Each vehicle must be maintained in accordance with requirements of state law and in a clean and safe condition at all times.
- E. The Acworth Police Department reserves the right to request service from an available wrecker company not on the approved list that has access to equipment or personnel to meet the need or response requirements for a given situation or incident.

Sec. 102-38. – Drivers/Employees.

- A. Each wrecker driver employed by the wrecker company shall hold and maintain in effect during the term of his employment, a valid driver's license of appropriate class issued by the state, permitting the driver to operate the towing vehicles necessary to accomplish the services contemplated in this article. The City of Acworth requires that the wrecker company perform annual background checks on all employees and provide proof of such upon request.
- B. Owners and principals shall be examined for a ten-year period, and employees shall be examined for a five-year period. A conviction, plea of guilty or entry of a nolo contendere plea of any of the following may result in a denial or revocation of towing privileges for the City of Acworth:
 - 1. Any felony crime.
 - 2. A pattern of misdemeanor crimes.
 - 3. Any suspension or revocation of driving privileges, other than administrative suspensions.
 - 4. Any serious traffic offense as follows:
 - a) Reckless driving as defined in O.C.G.A. § 40-6-390.
 - b) More than one driving under the influence as defined in O.C.G.A. § 40-6-391.
 - c) Homicide by vehicle as defined in O.C.G.A. § 40-6-393.
 - d) Serious injury by vehicle as defined in O.C.G.A. § 40-6-394.
 - e) Fleeing, eluding or impersonating a law enforcement officer as defined in O.C.G.A. § 40-6-395.

Sec. 102-39. - Compensation for services.

- A. The wrecker company shall be responsible for the collection of all charges, fees, and rates charged for any of the services contemplated under the provisions of the arrangement with the city directly from the person who owned or had legal possession of the vehicle towed or stored. At no time shall the city be responsible to the wrecker company for any charges for towing or storage unless such charges are approved by the Chief of Police or designee.
- B. The wrecker company shall post towing rates and storage fees reflecting the prices to be charged to the public. Rates shall be posted in open view to the public in the wrecker company's lobby.
- C. In addition to towing, the company shall deliver to each owner or representative of every towed vehicle a price sheet reflecting the prices to be charged by the towing company and the location of where the vehicle has been towed to and stored.

Sec. 102-40. - Redemption of impounded vehicles.

Pursuant to the provisions of O.C.G.A. § 40-11-1 et seq., as amended, the owner of any vehicle seized may redeem the vehicle at any time after its removal but prior to the sale and destruction thereof upon proof of ownership and payment of the towing and storage charges.

Sec. 102-41. - Non-compliance.

The Chief of Police shall be authorized to suspend or revoke the towing privileges granted herein for noncompliance of the provisions of this chapter. In the event the Chief of Police seeks to suspend or to revoke the towing privilege, the Chief of Police shall give written notification to the towing company of such action and such notice shall contain a specification of the violation or violations.

***Section 2:** It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses and phrases are severable, and if any section, paragraph, sentence, clause or phrase of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance.*

***Section 3:** All Ordinances in conflict with this Ordinance are hereby repealed.*

***Section 4:** This Ordinance shall become effective upon passage by the Mayor and Board of Aldermen of the City of Acworth and signature of the Mayor subject to Georgia Laws 1983, page 4119.*

Date: November 3, 2016

Thomas W. Allegood, Mayor

Attest: _____
Regina R. Russell, City Clerk