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Introduction Date: November 14, 2006
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CITY OF MARATHON, FLORIDA
ORDINANCE 2006-32

AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, REGULATING WRECKER OPERATORS IN THE CITY OF MARATHON WHO PROVIDE MOTOR VEHICLE TOWING AND STORAGE SERVICES AT THE REQUEST OF LAW ENFORCEMENT OFFICERS BY ESTABLISHING EQUIPMENT STANDARDS AND RATES; PROVIDING FOR REGULATION OF STORAGE FACILITIES FOR WRECKER OPERATORS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCORPORATION INTO THE CITY OF MARATHON CODE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Marathon (the “City”), shortly after its incorporation, adopted by reference all codes and regulations of the Monroe County, with the intent to revise them over time to reflect the actual needs of the City;

WHEREAS, pursuant to the foregoing action, the City adopted the County’s ordinance regulating wrecker operators engaged for hire in the recovery, towing removal, or storage of wrecked, disabled, stolen or abandoned motor vehicles; and

WHEREAS, the City of Marathon now wishes to adopt its own ordinance regulating such wrecker operators;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are hereby confirmed and adopted.

Section 2. Definitions.

(A) “Administration fee” means the charge for researching and documenting the registered owner(s) of a motor vehicle towed and stored by a wrecker operator.

(B) “Notification fee” means the charge for notifying a motor vehicle owner and any lien holders that a wrecker operator has towed and stored the motor vehicle.

(C) “Commercially manufactured wrecker” means a tow truck that is:

(1) Designed and constructed by a wrecker manufacturer which offers its wreckers for sale; or

- (2) Assembled by a business licensed and approved to assemble and certify wreckers according to manufacturer's specifications.

(D) "Motor vehicle or vehicle" shall mean any motor vehicle as described in Section 320.01(l), Florida Statutes.

(E) "Wrecker" means a tow truck.

(F) "Wrecker operator" means the individual, partnership, corporation or business entity engaged for hire in the recovery, towing removal, or storage of wrecked, disabled, stolen or abandoned motor vehicles. For the purpose of this ordinance, a hired driver or employee shall be governed by this ordinance and shall be considered an agent of the wrecker operator.

Section 3. Wrecker classification and required equipment.

(A) Each tow truck owned or maintained by a wrecker operator shall be commercially manufactured and shall conform to all other requirements of this Section. The requirements of this Section are waived only for those wrecker operators with tow trucks that were purchased before the effective date of this ordinance or which were under a binding contract to purchase entered into before the effective date of this ordinance.

(B) All tow trucks shall be equipped with a business-type communication radio or mobile telephone or cellular telephone. There shall be one radio or phone for each truck. The equipment shall be licensed and approved by the Federal Communications Commission. The mobile radio or telephone shall enable the wrecker operator to communicate with his trucks within his usual area of operation. A citizens band radio does not meet the requirements of this subsection.

(C) Specifications and required equipment shall be as follows:

(1) All wreckers (all classifications) shall include the following:

- (a) A cradle, tow plate or tow sling to pick up motor vehicles. The cradle, tow plate or tow sling shall be equipped with safety chains and constructed in such a manner that it will not damage the motor vehicle to be towed.
- (b) Dual rear wheels.
- (c) Clearance and marker lights and all other equipment as required by Chapter 316, Florida Statutes.
- (d) A rotor beam or strobe-type light, amber in color, mounted on the wrecker in such a manner that it can be seen from the front, rear, and both sides.

- (e) The name, address and telephone number of the wrecker operator shall be painted or permanently affixed in a conspicuous place on both sides of the trucks as required by Section 713.78(2), Florida Statutes.
 - (f) At least one (1) heavy duty push broom with a minimum width of twenty-four (24) inches.
 - (g) One (1) square shovel.
 - (h) One (1) ax.
 - (i) One (1) crowbar or pry bar with a minimum length of thirty (30) inches.
 - (j) Minimum of one (1) five (5) pound CO² or dry chemical fire extinguisher or equivalent, which must be an approved type and have a current inspection tag attached.
 - (k) One (1) pair of bolt cutters with a minimum opening of 1/2 inch.
 - (l) One (1) set of jumper cables.
 - (m) One (1) four-way lug wrench.
 - (n) One (1) flashlight.
 - (o) Five (5) thirty (30) minute fuses.
 - (p) One (1) snatch block for each winch with manufacturer's rating to match winch.
 - (q) Extra towing chain six (6) to eight (8) feet in length with hooks.
 - (r) At least three (3) safety cones or triangle reflectors.
 - (s) Fifty (50) pounds of sand or petroleum absorbent.
- (2) Class "A" Wreckers – for the removal of cars and light duty trucks and vehicles weighing 10,000 pounds gross vehicle weight or less. Specifications and equipment in addition to requirements outlined in subparagraph (C)(1) of this Section, shall be as follows:
- (a) A truck chassis with a manufacturer's rated capacity of at least 10,000 pounds gross vehicle weight. A complete, commercially

manufactured boom and winch(es) having a manufacturer's combined rating of at least four (4) tons must be mounted on the chassis. Hand crank winches do not satisfy these requirements and will not be approved.

- (b) A minimum of one hundred (100) feet of 3/8-inch cable.
 - (c) Dollies.
 - (d) Flood lights on the hoist.
 - (e) Vehicles which are equipped with wheel lifts or the equivalent may also qualify as Class A tow trucks so long as they are equipped with a boom and all other applicable requirements are met. Wheel lifts shall be rated at a minimum of 3,000 pounds lift capacity and must utilize wheel safety-straps when lifting vehicles by the wheels only.
 - (f) Wrecker operators who wish to remove cars and light trucks may have, in addition, a roll-back or slide-back carrier truck/trailer with specifications and the equipment as provided in subparagraph (C)(3) of this Section.
- (3) Class "A" Roll-Back or Slide-Back Wreckers – for the removal of cars and light duty trucks and vehicles weighing 10,000 pounds gross vehicle weight or less. Specifications and equipment for roll-back or slide-back carriers in addition to the requirements outlined in subparagraph (C)(1) of this Section shall include the following:
- (a) A truck chassis with a manufacturer's rated capacity of at least 10,000 pounds gross vehicle weight with a minimum of a sixteen (16) foot bed, dual rear wheels and a winch with at least 8,000 pound capacity.
 - (b) A minimum of fifty (50) feet of 3/8 inch cable.
 - (c) A minimum of two (2) safety tie-down chains of at least ten (10) feet each in length.
 - (d) Two (2) spot (flood) lights mounted on the rear of the carrier.
 - (e) A roll-back or slide-back carrier trailer shall meet the following requirements:
 - (i) A commercially manufactured carrier trailer with a rated capacity of at least 8,000 pounds gross vehicle weight with

a minimum sixteen (16) foot bed. A winch with at least 8,000 pound capacity.

- (ii) A minimum of fifty (50) feet of 3/8 inch cable.
 - (iii) Brakes and trailer lights which meet the minimum statutory requirements of Florida law.
 - (iv) Safety chains.
 - (v) Must be towed by and used in conjunction with an approved wrecker that meets or exceeds the class of the vehicle to be towed.
- (4) Class "B" Wreckers – for removal of medium duty trucks or vehicles weighing 20,000 pounds gross vehicle weight or less. Specifications and equipment in addition to the requirements outlined in subparagraph (C)(1) of this Section, shall be as follows:
- (a) A truck chassis with a manufacturer's rated capacity of at least 20,000 pounds gross-vehicle weight. A complete, twin-winch, commercially manufactured boom and winches having a manufacturer's combined rating of at least ten (10) ton capacity mounted on the chassis.
 - (b) A minimum of one hundred (100) feet of at least 1/2 inch cable on each drum.
 - (c) One set of scotch blocks for wheels or hydraulic rear-extendable scotch blocks.
 - (d) Flood lights on the hoist.
- (5) Class "C" Wreckers – for the removal of heavy duty trucks, house trailers, buses, etc., weighing over 20,000 pounds gross vehicle weight. Specifications and equipment in addition to the requirements outlined in subparagraph (C)(1) of this Section, shall be as follows:
- (a) A truck chassis with a manufacturer's rated capacity of at least 30,000 pounds gross vehicle weight and 30,000 pounds gross vehicle weight for tandem axle trucks. A complete, twin-winch, commercially manufactured boom and winches having a manufacturer's combined rating of at least twenty five (25) ton capacity mounted on the chassis.

- (b) A minimum of two hundred feet (200) of at least 5/8 inch cable on each drum.
- (c) Air brakes so constructed as to lock the rear wheels automatically upon failure.
- (d) External air hookup and hoses, to supply air to disabled vehicles.
- (e) One set of scotch blocks for wheels or hydraulic rear-extendable scotch blocks.
- (f) Flood lights on the hoist.

(D) In the event that the wrecker operator removes wrecked or disabled vehicles on a rotation basis for the Florida Highway Patrol (FHP) or the Monroe County Sheriff's Department and any of those entities have mandatory equipment requirements in conflict with the requirements of this ordinance, and failure to comply with the FHP or County requirements would result in the wrecker operator being removed from the FHP or County rotation list, the wrecker operator may comply with the FHP or County requirements, but only to the extent of the conflict, without violating the terms of this ordinance.

(E) This Section only applies to wrecker operators providing towing services to law enforcement agencies.

Section 4. Insurance Requirements.

No person shall for compensation recover, tow, or remove a motor vehicle or provide motor vehicle storage or otherwise function as a wrecker operator until that person maintains in effect an insurance policy or policies which shall insure that person for its liability at a minimum:

- (A) For each tow truck, combined single limit of \$300,000.
- (B) For garage keeper's liability, in an amount not less than \$50,000 for each loss covering perils of fire and explosion, theft of a motor vehicle and parts or contents, riot and civil commotion, vandalism, malicious mischief, and for on-hook protection.

Section 5. Rates.

(A) For the removal and storage of wrecked or disabled motor vehicles or for the removal and storage of abandoned motor vehicles at the request of a law enforcement officer, the maximum rate that may be charged by a wrecker operator is:

CLASS A WRECKER SERVICE

Base Rate (any time a wrecker is called to a site)	\$135.00
Mileage Rate from wrecker Station to site and return	\$3.00 per mile
Per hour charge beginning upon arrival of wrecker	\$135.00
Inside Storage (per day)	\$40.00
Outside Storage (per day) under 20 feet	\$30.00
Price by foot over 20 feet	\$2.00 per foot
Administration fee	\$25.00
Notification fee	\$50.00
Each additional letter	\$20.00
Service calls	\$75.00
After hours gate fee	\$75.00

CLASS B WRECKER SERVICE

Base Rate (any time a wrecker is called to a site)	\$200.00
Mileage Rate from wrecker station to site and return	\$4.00 per mile
Per hour charge beginning upon arrival of wrecker	\$180.00
Inside Storage (per day)	\$40.00

Outside Storage (per day) under 20 feet	\$30.00
Price by foot over 20 feet	\$2.00 per foot
Administration fee	\$25.00
Notification fee	\$50.00
Each additional letter	\$20.00
Service calls	\$75.00
After hours gate fee	\$75.00

CLASS C WRECKER SERVICE

Base rate (any time a wrecker is called to a site)	\$485.00
Mileage Rate from wrecker station to site and return	\$5.00 per mile
Per hour charge beginning upon arrival of wrecker	\$300.00
Inside Storage (per day)	\$40.00
Outside Storage (per day) under 20 feet	\$30.00
Price by foot over 20 feet	\$2.00 per foot
Administration fee	\$25.00
Notification fee	\$50.00
Each additional letter	\$20.00
Service calls	\$75.00
After hours gate fee	\$75.00

The daily storage rate must be prorated in six (6) hour increments when the vehicle is retrieved by the owner or his agent.

The Notification fee may only be charged when notice is sent by the wrecker operator to the motor vehicle owner and any lienholder(s).

In the event a law enforcement officer needs a tow truck for a towable violation, and once the towing service has been requested by the officer at the violation site and the operator has advised the officer that he is on route to the request, should the owner or driver of the motor vehicle in violation return to the vehicle site before the wrecker operator has arrived at the motor vehicle, or before the wrecker operator has departed with the vehicle, and upon the officer's authorization to release the vehicle to the owner or driver then the owner or driver of the vehicle shall pay a charge of not more than one-half (1/2) of the maximum rate for the class of towing service called for.

(B) The provisions of this Section only apply to the rates charged for towing and storage service called for at the request of a law enforcement officer. In all other situations the provisions of this Section do not apply and the parties may negotiate prices and rates as in other ordinary service contracts.

(C) Every wrecker operator shall conspicuously display at his place of business the maximum charges that he may impose for the towing and storage services covered by this ordinance.

Section 6. Storage facilities.

(A) Wrecker operators shall provide storage facilities, which shall be maintained at the wrecker operator's place of business. These facilities must be fenced and locked for the protection of vehicles and property.

(B) The wrecker operator shall provide storage for all impounded/towed vehicles in an outside storage area unless the impounding law enforcement officer gives specific written instructions for inside storage. If required for investigative purposes, the wrecker operator shall move the vehicle(s) to a designated area for processing prior to storage. In such instance, the law enforcement agency will not authorize release of the vehicle until all outstanding charges by the wrecker operator, as authorized by this Section, have been satisfied.

(C) The wrecker operator shall not change the type of storage facility (inside or outside) afforded a vehicle without written permission from the District Captain or other Officer in Charge. The wrecker operator shall not change the storage facility location without first obtaining written permission from the District Captain or other Officer in Charge.

(D) The storage facility must be owned or leased solely by the wrecker operator and vehicles stored by the wrecker operator must be separately fenced and locked.

(E) The registered owner of a vehicle or the owner's representatives or owner's insurance adjusters, upon proper identification, shall be permitted to inspect or

photograph stored vehicles during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. The wrecker operator shall not require the owner, adjuster or representative to pay any fee in order to inspect or photograph the stored vehicle.

(F) All fencing shall be chain-link or solid-wall type and at least six (6) feet in height where permissible under land use regulations of the City Of Marathon to discourage theft of any vehicle or any property being stored inside. All storage facilities shall be illuminated with lighting of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred fifty (150) feet during nighttime.

(G) Permanent inside storage facilities must be available for twenty four (24) hour storage when weather or other conditions require inside storage for the protection of the vehicle or personal property. A lean-to, tent or shed does not meet the requirements of this Section. Inside storage must be within a weather-tight building.

(H) (a) A minimum of twenty five (25) storage spaces with three (3) inside storage spaces must be available. Wrecker operators who have been on a rotation system for the Florida Highway Patrol or the Monroe County Sheriff's Department for six (6) months prior to the effective date of this rule may continue on the list without regard to the minimum storage spaces required herein, so long as all other applicable provisions of these rules are met.

(b) Service bays or repair bays do not qualify as inside storage, nor does any area that is utilized for any activity other than serving as a permanent inside storage area, when vehicles are actually stored inside at the request of a law enforcement agency or the owner of a vehicle.

(I) Wrecker operators shall comply with hold orders placed by the law enforcement agency, including any instructions for inside or outside storage. Vehicles involved in a fatality and sealed by the traffic homicide investigator shall remain intact until the seals are removed by the investigator. No property of any kind shall be released to anyone without authority of the homicide investigator. If no fatality occurred, then the wrecker operator may release the vehicle and the property upon valid proof of ownership once the hold is released.

(J) A copy of an inventory prepared by the law enforcement agency, of all personal property found in a wrecked, disabled or abandoned vehicle shall be provided to the wrecker operator. The wrecker operator shall permit the removal of such property by the vehicle owner or his agent from a stored vehicle during normal business hours without charge. The agent's authority shall be evidenced by a writing acknowledged by the owner before a notary public or other person empowered by law to administer oaths. A signed receipt for each article removed by the owner or his agency shall be obtained. Personal property shall be defined as any item not affixed to the vehicle that was in the vehicle at the time of the tow. In the case of vehicles stored where no "hold order" has been placed, the wrecker operator will directly release any vehicle upon presentation of proper proof of identification and ownership. If these conditions cannot be met due to unusual or extraordinary circumstances, the vehicle will be released only upon authorization obtained from the law enforcement agency.

(K) Wrecker operators handling the initial tow shall exercise reasonable care and control of parts and contents located in vehicles while under their protection or while in storage.

(L) During the hours from 8:00 a.m. to 5:00 p.m., Monday through Friday, wrecker operators will provide adequate staffing at the storage facility so that personal property may be removed from the vehicle or the vehicle itself may be released without undue delay.

(M) Should it become necessary that personal property be removed from a vehicle or a vehicle be released when the storage facility is not staffed, the wrecker operator will be required to do so and will be allowed to charge a reasonable fee.

Section 7. Jurisdiction.

The provisions of this ordinance shall apply to all wrecker operators providing towing and the removal of motor vehicle service and motor vehicle storage in the City of Marathon, Florida, at the request of a law enforcement officer.

Section 8. Penalties.

This ordinance may be enforced by the Florida Highway Patrol and the Monroe County Sheriff's Department. Violations shall be prosecuted in the same manner as misdemeanors are prosecuted. Violations shall be prosecuted in the name of the state in a court having jurisdiction of, misdemeanors by a prosecuting attorney thereof and upon conviction shall be punished by a fine not exceeding five hundred dollars (\$500) or by imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment.

Section 9. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.


Section 10. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 11. The provisions of this ordinance shall be included and incorporated in the Code of The City of Marathon, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 12. This Ordinance shall be effective immediately upon enactment.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA, this 28th day of November 2006.**


THE CITY OF MARATHON, FLORIDA



Christopher M. Bull, Mayor

AYES: Worthington, Mearns, Tempest, Pinkus, Bull
NOES: None
ABSENT: None
ABSTAIN: None

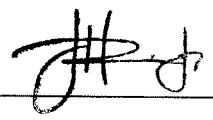
ATTEST:



Diane Clavier
City Clerk

(seal)

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**



City Attorney