ORDINANCE NO. 21-04a

AN ORDINANCE ESTABLISHING A ROTATION SYSTEM FOR WRECKER SERVICE DISPATCH BY THE TRINITY POLICE DEPARTMENT OR OTHER DEPARTMENTS OF THE TOWN WHEN APPLICABLE; PROVIDING RULES AND REGULATIONS FOR PARTICIPATING WRECKER SERVICES; DEFINING VIOLATIONS; AND ESTABLISHING PENALTIES FOR VIOLATIONS

WHEREAS, the Town Council of the Town of Trinity, Alabama ("Council") is advised by the Mayor and the Chief of Police ("Chief") that there is a need to establish a rotation system for dispatch of wreckers by the police department, or other city departments where applicable, in order to assure prompt, quality service at reasonable prices for persons requesting wrecker service referral in the Town of Trinity, Alabama ("Town"); and

WHEREAS, the Mayor and Chief have determined, and the Council adopts as its finding, that the most effective way to assure prompt, reliable response times and to assure that citizens whose vehicles are towed do not have to drive unreasonable distances to recover them or their belongings from them, is to limit operators allowed on the rotation list to those operators with permanent business locations and impound facilities within the Trinity municipal limits or within a five mile driving distance of the Trinity Police Jurisdiction if the business location and impound lot is not within the Trinity municipal limits.

WHEREAS, the Council concurs with the findings of the Mayor and Chief and with their recommendations relative to establishing a wrecker dispatch rotation system and rules and regulations for same.

NOW, THEREFORE, be it **ORDAINED** by the Town Council of the Town of Trinity,

Alabama, as follows, to-wit:

Section 1. Purpose/Short Title.

(a) The purpose of this Ordinance is to establish reasonable standards and criteria for the provision of rotation wrecker services to the Town by wrecker operators voluntarily requesting to participate in the Town's rotation system; provided, however, nothing herein shall obligate the Town to the use of operators on the rotation list as the sole or exclusive means of providing wrecker services to the Town and the Town reserves the right to contract independently of the provisions of this article for wrecker services for any particular aspect of municipal operation it deems appropriate.

(b) The provisions of this Ordinance are not intended to and do not relate to the price, route or provision of consensual towing services as preempted by *49 USC §14501(c)(1)* or other applicable federal or state law. "Consensual towing or wrecker services" are defined as those situations where the vehicle owner, driver or other authorized person expressly requests towing or wrecker services from a specific wrecker operator and enters into a private contract with that wrecker operator for services.

(c) This Ordinance may be referred to as the "Wrecker Rotation Ordinance."

Section 1. Definitions.

For the purposes of this Ordinance, the following terms shall have the meanings ascribed to them unless the context clearly indicates otherwise:

(a) *Applicant* means the operator of a wrecker service who, after being advised of the requirements and regulations for participation therein, makes known his desire to voluntarily participate in the Town's rotation system by making application for the same.

(b) *Call* or *dispatch* means a request initiated by the Town for wrecker services from an operator on the city's rotation list, said request resulting in a rotation operator being required to perform wrecker services pursuant to the provisions of the Town's rotation system.

(c) *Chief* or *Police Chief* shall refer to the Chief of the Trinity Police Department or his/her designee.

(d) *Town* means the Town of Trinity, Alabama.

(e) *Department* means the Trinity, Alabama police department or other department of the Town.

(f) *Large wrecker* shall mean any wrecker classified as a tandem dual wheel or tandem rear end wrecker, with single or twin booms with factory rated or tested lifting capacity of 12.5 tons or over per drum and per winch and per winch line. Such definition includes wreckers equipped with dual rear twin-screw axles, the same required to be equipped with air brakes which shall be equipped with quick air couplings for towing vehicles with air brakes, and shall be utilized to tow any vehicle having a gross vehicle weight exceeding ten tons (10,000) pounds, or any vehicle having dual rear axles or any tractor-trailer combination. The wrecker operator shall provide documentation of lifting capacity from the factor or a qualified testing facility. All large wreckers shall comply with the applicable periodic inspection requirements contained in Title 40, *Code of Federal Regulations* and as the same may be amended from time to time.

(g) *Owner* shall mean any person who holds legal title or a legal leasehold to a motor vehicle or who has the legal right to possession or use thereof.

(h) *Permanent business location* means a permanent storage facility meeting the criteria of Section 8(a) hereof and a permanent structure, both of which an operator owns, leases, rents or otherwise lawfully possesses and utilizes. The structure must be occupied at regular times with telephone service and office space where the operator's business records and recovery books and records are kept and be put to *bona fide* use by the operator as a base of operations incidental to the wrecker services provided by the operator as a rotation list operator. The storage facilities need not be at the same location as the structure, but must be located within the area defined in Section 2(j) hereof.

(i) *Person* is any individual, firm, partnership, association, corporation, company, organization, bureau, agency, business or any legal entity of any kind.

(j) *Police officer* means any duly sworn law enforcement officer employed by the Town.

(k) *Rotation list* means a sequential list, as maintained by the department, of those operators of wrecker services who have made voluntarily application for participation in the rotation system and who are duly qualified and authorized pursuant to the provisions of this Ordinance to receive and respond to calls from the department when a vehicle owner or operator has not or cannot express a preference or consent for such services from a specific wrecker operator.

(l) *Scene* means the site to which a wrecker is dispatched to provide wrecker services.

(m) *Services* or *wrecker services* means:

i. The towing, lifting, righting, winching, removal or storage of a wrecked, damaged or disabled vehicle which is otherwise incapable of self-propulsion away from the scene of an accident or other traffic event; and

ii. The towing, lifting, righting, winching, removal or storage of a vehicle any time a police officer deems it necessary to protect the public safety and/or personal property by means of a vehicle which is capable of doing so and which meets the requirements of this Ordinance.

(n) *Wrecker* means any motor vehicle designed and manufactured for the purpose of towing or removing motor vehicles or other transport devised from one location to another location.

(o) *Wrecker operator* or *operator* means any person, as that term is defined herein, engaged for hire in the recovery, towing or removal of wrecked, disabled, stolen or abandoned motor vehicles, and, where the context indicates by usage, shall include any employee (including any driver), authorized agent or legal representative of the wrecker operator.

Section 2. Applications and conditions for participation.

(a) *Written request for participation on the rotation list.* Each applicant desiring to be placed on the rotation list shall file a written application with the police chief on a form or forms prescribed by the chief.

(b) *Copy of rules and regulations.* The chief will furnish each applicant with a copy of the rules and regulations pertaining to the operation of wreckers within the rotation system, which may be in the form of a copy of this Ordinance.

(c) *Investigation of applicant.* Prior to being placed on the rotation list, each operator shall be investigated, to the extent allowed by prevailing law, regarding any criminal history which would directly reflect on the qualifications of the job, given the nature, circumstances, seriousness of the crime, the time elapsed since the conviction, and the degree to which the applicant has rehabilitated. The applicant shall furnish the chief with a list of operator personnel, including each person's full name, current address, date of birth, driver's license number, and social security number. The chief will then conduct a criminal background investigation and driver's history check on all individuals listed on the application. In addition, the chief will investigate other information supplied by the applicant to determine if applicant meets all requirements for participation in the rotation system. Applicants must furnish any additional information requested by the department's representative during the investigation.

(d) *Inspection of wreckers and equipment.* The applicant shall present and make available for inspection by the chief all wreckers and equipment that are to be used by the applicant for the provision of wrecker services. This shall be a continuing obligation as additional or replacement wreckers are placed into service from time to time and upon request of the chief at any time.

(e) *Business license required.* The applicant must furnish the chief with a copy of a current, valid business license issued by the Town in the applicant's name.

(f) *Certificate of insurance.* The applicant shall furnish the chief with a certificate of insurance that indicates the policy numbers, policy period and the amounts of coverage as required by this ordinance.

(g) *Authorization, placement on list.* When the chief is satisfied that the applicant is qualified, he/she will place the applicant on the rotation list and so notify the applicant.

(h) *Valid license plates required.* Each wrecker operator shall be required to maintain a current, valid license plate on each wrecker used in responding to rotation list calls.

(i) *Wrecker operator listed only once.* Each wrecker operator shall be listed on the rotation list only once. This listing will use the name the operator submitted during the application process and under which he/she is qualified under this Ordinance. It is prohibited for a wrecker operator conducting business at one location to receive multiple listings by utilizing a different or fictitious name for trucks operating from the same location or by utilizing trucks with the same name out of different locations within the Town. Wrecker companies operating more than one rotation wrecker business within the Town must maintain completely separate offices, required documentation, logs, and assigned rotation wreckers at the approved locations. Attempts to circumvent the intent of the rotation system will result in the removal of all wrecker companies and operators associated in any way the offending wrecker operator.

(j) *Wrecker service or operator business location.* No wrecker service or operator shall be eligible to participate in the dispatch rotation system, and shall not be permitted to do so, unless the service or operator has a permanent business location as defined herein within the Trinity municipal limits or, if without said municipal limits, within a five (5) mile driving distance of any point on the Trinity Police Jurisdiction boundary as adjusted from time to time. This limitation shall be initially inapplicable where the applicant certifies to the chief in writing that said applicant intends to comply with said requirements within six (6) months of the effective date of this ordinance, subject, however, to such compliance within said time, failing which the chief shall remove such service or operator from the rotation list.

Section 3. Operation.

The following conditions shall govern the conduct of operators on the rotation list:

(1) *Police department dispatch necessary, exception.* Except for private requests for consensual wrecker services by the vehicle owner, no operator shall proceed to the scene without being dispatched to do so by the police department nor drive a wrecker to or near the scene of a vehicular accident or disabled vehicle on the streets of the Town and park the same unless such wrecker has been authorized to proceed to the scene of the vehicular accident or disabled vehicle by the department or by the owner or operator of the vehicle. No representative, agent or employee of

a wrecker operator shall solicit business in any manner for a wrecker operator at the scene of a vehicular accident or disabled vehicle. The unauthorized presence of any wrecker or large wrecker parked on any public street or highway in the Town at or near the scene of any accident, collision or disabled vehicle shall be prima facie evidence of a solicitation in violation of this section.

(2) *Obedience to traffic laws; operator safety.* No operator shall speed or violate any other traffic laws or disregard any traffic control devices while answering a call. The provision of wrecker services shall be done in a reasonable and safe manner and no operator shall needlessly congest the scene of a vehicle accident. All services shall be provided in a timely, workmanlike manner in accordance with industry standards and practices unless otherwise required hereby. Operators shall take due care and exercise due caution at all times when responding to disptacher or performing services when dispatched to do so.

(3) *Rotation system participation.* Authorization to participate in the rotation system shall be considered a personal grant of a privilege and permission to the operator who made application for the same and shall constitute authorization only to that particular legal entity as it operates a bona fide wrecker service. It shall not be subject to assignment, transfer or lease; neither shall the operator sublet the use of the name under which rotation system participation was requested and neither shall the operator permit the exercise by another in any manner of the rights or privileges granted by authorization for participation in the rotation system. Participation on the rotation log shall not constitute a property interest. Authorization under this Ordinance shall be voided if the business address or location of facilities is changed. Further, any change in ownership due to sale, merger, dissolution, death or any other reason shall result in the removal of the business from the rotation list and shall necessitate a new application being filed.

(4) *Submission of daytime and nighttime telephone numbers.* At the time of application, each operator shall furnish the chief with one telephone number to be used for dispatches during the day and one telephone number to be used for dispatches during the night. Any changes in the aforementioned telephone numbers shall be immediately transmitted to the chief. No pagers or answering machines are permitted as call-out numbers. Answer by a live person is required.

(5) *Twenty-four-hour service; hours of availability for vehicle access.* Each wrecker operator shall maintain and be fully capable of providing wrecker services twenty-four (24) hours a day, seven (7) days a week. Further, each wrecker operator shall, at no additional charge, provide access to its storage facilities between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, to individuals legally entitled to or otherwise authorized to view, inspect, access, claim or retrieve personal property or vehicles stored therein.

(6) *Availability.* A wrecker operator shall not accept a dispatch for wrecker services from the rotation list unless the operator has a wrecker and the necessary equipment

immediately available to perform the requested service in accordance with the standards of this ordinance.

(7) *Use of lights.* No operator shall use yellow emergency lights when en route to a service or wrecker call. The use of yellow emergency lights is authorized only at the scene of an accident or other call for service and when towing a vehicle from the scene. The use of "wig-wag" or flashing strobe headlights is prohibited at all times.

(8) *Response with own wrecker.* The wrecker operator shall respond to each dispatch received from the Town with its own wrecker and shall not send another wrecker operator in response to a rotation list dispatch. In the event the dispatched wrecker is unable to perform the required services or needs assistance, the police officer has the discretion to cancel that wrecker and/or dispatch another rotation wrecker.

(9) *Response while impaired prohibited.* No operator shall respond to a dispatch when he or she has consumed alcohol in any amount or has ingested either prescription or non-prescription drugs that may impair motor skills. No operator shall respond to a dispatch when he or she is under the influence of any controlled substance.

(10) *Restriction for conviction of crimes.* No operator shall be on the rotation list or allowed to operate a wrecker by a rotation service or operator if he or she has been convicted of any crime within the past five (5) years that is related to his or her capability to provide wrecker services to the public in a safe, honest and responsible manner.

(11) *Proficiency.* All operators on the rotation list shall be proficient and competent in the operation of such wrecker.

(12) *Driver's license required.* No person shall be an operator or be allowed to drive any wrecker unless such person has a Alabama state driver's license and a commercial driver's license, if required by law, issued by state department of public safety.

(13) *Reflective wear required.* All operators shall wear reflective vests, coats or shirts while on the scene of any dispatch.

(14) *Attendance of hazardous material training sessions required.* Where required by the Chief, all wrecker operators shall attend such hazardous material training sessions.

(15) *Removal of glass, debris, etc.* Operators shall remove glass and debris from the scene of a dispatch and, as conditions dictate, apply sufficient oil dry. If cleanup at a reasonable, workmanlike pace takes more than thirty (30) minutes at any one accident or stall scene, the operator may charge, in addition to the fees hereafter provided, $45.00 per hour, broken into intervals of one

tenth of an hour at $4.50 per tenth rounded up to the next nearest tenth for such services, said charges to be made to the owner or operator of the vehicle(s) involved.

(16) *Notice of acquisition of wrecker.* Each operator on the rotation list shall give notice to the chief of any wrecker acquired subsequent to placement on the rotation list. The police department will inspect the wrecker to determine if it meets all the criteria required by this Ordinance.

Section 4. Equipment requirements and wrecker standards.

(a) Every wrecker to be placed on the rotation list shall, at a minimum, carry the following equipment and meet the following standards:

(1) All equipment necessary for the towing vehicle or combination of towing vehicle and towed vehicle must comply with the applicable requirements of *CFR 49, Parts 390-399*, of the *Federal Motor Carrier Rules and Regulations*, as the same currently exist or as they may be amended in the future.

(2) Each wrecker shall be equipped with factory installed one-ton capacity dual wheels. Dummy dual wheels are prohibited.

(3) Each wrecker shall be equipped with a power winch, winch line, and boom, each with a factory rated lifting capacity, or a tested capacity, of not less than eight thousand (8,000) pounds single line capability. At the time of application, the wrecker operator shall provide documentation of lifting capacity from the factory or qualified testing facility.

(4) Appropriate equipment shall be attached to each wrecker in order to prevent any vehicle being hauled or towed from being further damaged by coasting, rocking, swinging, or slamming into the wrecker or any part thereof.

(5) Each wrecker shall have the following standard equipment:

a. Tow bar;
b. Safety chains;
c. Operating, fully charged fire extinguisher mounted in an easily accessible location;
d. Wrecking bars;
e. Brooms;
f. Shovel;
g. Axe;
h. Dolly, with name and telephone number of wrecker operator prominently affixed thereto; and

i. Minimum forty (40) pounds of oil dry.

(6) Yellow emergency lights shall be affixed above the top of the cab of the wrecker. The warning lights shall be visible from a distance of not less than one thousand five hundred (1,500) feet under normal atmospheric conditions at night. Sirens are prohibited.

(7) Each wrecker shall be equipped with a minimum of one hundred (100) feet of three-eighths-inch diameter or larger steel cable in good condition

(8) The name, address, and telephone number of the wrecker operator shall be permanently affixed to and prominently displayed on both sides of the wrecker, using letters and numerals that are clearly visible from a distance of one hundred (100) feet. The lettering used for the operator name shall be at least four (4) inches tall and the lettering and numerals used for the address and telephone number shall be at least two (2) inches tall.

(9) The wrecker operator shall not place or imprint on their vehicles, buildings, equipment, clothing, advertisements, or correspondence anything suggesting or implying any official relationship between the wrecker operator and the Town. Without limitation, the wrecker operator shall not use any colors or paint schemes similar to those used by the police department; decals similar in design to department decals; any logo similar to those employed by the Town or any of its departments; or any other language or wording which would cause the general public to believe the wrecker is owned or operated by the Town. The relationship of any wrecker service or operator on the rotation list and the Town shall be that of an independent contractor.

(10) Each wrecker shall be properly equipped with clearance and marker lights and all other equipment as required by law.

(11) Each wrecker shall be equipped with warning devices, as the same are required by law and applicable to trucks, capable of protecting the scene of an accident by day or night.

(12) Dual rear adjustable floodlights with a minimum of twenty thousand (20,000) candlepower each shall be affixed to each wrecker.

(b) Each operator shall be duly licensed by the Town pursuant to the provisions of this ordinance and all other applicable provisions of the ordinances of the Town. Additionally, each operator shall at all times comply with all applicable federal, state, and local laws.

(c) Before leaving the scene all operators shall provide the vehicle owner, driver or representative person a card, form or receipt which states the business name, address, phone number and contact person and which includes a complete schedule of rates stated in this section.

Section 5. Additional requirements applicable to large wreckers.

In addition to the requirements contained in section, large wreckers, as defined herein, are required to be equipped with the following additional items and equipment:

(1) Air control valve for the purpose of providing braking capability for the vehicle or trailer being towed or removed.

(2) Two (2) chock blocks to prevent rolling or slippage of the wrecker. These chock blocks should have the capability of being secured firmly to the wrecker and should be of a width equal to that of the dual wheels of the wrecker.

(3) A minimum of two hundred (200) feet of five-eighths-inch steel cable on multiple drums.

(4) Air brakes constructed to lock the rear wheels automatically upon failure and to supply air to disabled vehicles.

(5) One (1) pair of bolt cutters with a minimum one-half-inch opening.

(6) A minimum total of two (2) operating, fully charged fire extinguishers mounted in easily accessible locations.

(7) External air hookups and hoses.

(8) At least six (6) safety cones or triangle reflectors.

(9) Minimum eighty (80) pounds of oil dry.

Section 6. Use of "roll-back" wrecker.

Wrecker companies wishing to utilize a "roll-back," "flatbed," or "slide-back" carrier must comply with the specifications contained in this section and have, as a minimum, the following equipment and meet the following requirements:

(1) A one-ton truck with a nineteen-foot bed, dual wheels, and one (1)power winch with an eight thousand-pound capacity.

(2) Fifty (50) feet of three-eighths-inch or larger steel cable in good condition.

(3) A brake lock device.

(4) Two (2) safety tie-down chains at least ten (10) feet in length.

(5) Tow bar.

(6) Safety chains.

(7) One (1) operating, fully charged fire extinguisher mounted in an easily accessible location.

(8) Wrecking bars.

(9) Brooms.

(10) Shovel.

(11) Axe.

(12) Minimum forty (40) pounds of oil dry.

(13) The name, address, and telephone number of the wrecker operator shall be permanently affixed to and prominently displayed on both sides of the wrecker, using letters and numerals that are clearly visible from a distance of one hundred (100) feet. The lettering used for the operator name shall be at least four (4) inches tall and the lettering and numerals used for the address and telephone number shall be at least two (2) inches tall.

(14) The wrecker operator shall not place or imprint on their vehicles, buildings, equipment, clothing, advertisements, or correspondence anything suggesting or implying any official relationship between the wrecker operator and the Town. Without limitation, the wrecker operator shall not use any colors or paint schemes similar to those used by the police department; decals similar in design to department decals; any logo similar to those employed by the Town or any of its departments; or any other language or wording which would cause the general public to believe the wrecker is owned or operated by the Town. The relationship of any wrecker service or operator on the rotation list and the Town shall be that of a independent contractor.

(15) Any wrecker operator wishing to use a "roll-back" wrecker must also meet any requirements contained in this ordinance which would apply to wreckers or wrecker companies in general.

(16) "Roll-back" wreckers may be used to respond to rotation list calls unless

otherwise specified by the police officer requesting service; who shall have the discretion to so specify where circumstances reasonable dictate.

Section 7. Towing equipment specifications.

(a) The minimum equipment standards referred to throughout this Ordinance shall be determined solely by the manufacturer's specifications for the capabilities and capacities of the wreckers and all towing equipment.

(b) Each wrecker shall be equipped with only those winches and cranes that have been produced and constructed by a manufacturer of such equipment which carries product liability and which regularly produces winches and cranes. A winch or crane will not be prohibited by this section if the wrecker operator submits to the chief a certification from a reputable testing laboratory, regularly engaged in the testing of such equipment or similar equipment, indicating that the capacity of the winch or crane is not less than what is required in this chapter.

Section 8. Storage facilities and procedures.

(a) Each wrecker operator shall maintain sufficient storage space available to accommodate a minimum of ten (10) vehicles. Such area shall be enclosed by a fence made of chain link or other material designed to protect against unauthorized entry, said fence to be no less than six (6) feet in height and secured by a locked gate. This storage area must be suitable for properly accommodating and protecting all motor vehicles and their contents against damage or theft. All vehicles towed pursuant to calls resulting from the wrecker operator's participation on the rotation list shall be secured within this enclosed space or inside a building located fully within this storage facility.

(b) In addition to the provision of a secure storage area, each wrecker operator shall employ reasonable safeguards and procedures so that all personal belongings and contents in a stored vehicle remain intact and are returned to the vehicle's owner or agent upon release of the vehicle.

(c) All personal property left in a vehicle and which is unclaimed will be handled in accordance with existing laws.

(d) Any person showing proof of identity and showing either proof of ownership or written authorization from the vehicle's registered or legal owner may, without charge, inspect the vehicle and remove personal belongings therefrom during normal business hours. For purposes of this subsection, personal belongings shall be defined as those items which belong to the owner, driver or other occupant of the vehicle and which are not attached in any permanent or semi-permanent manner to the interior or exterior of the vehicle.

(e) In addition, the operator shall also reasonably permit and allow, during normal business hours, without charge, insurance agents, adjusters, and/or law enforcement officers to enter, inspect and photograph any such vehicles.

Section 9. Records.

(a) Each operator shall maintain accurate records reflecting all wrecker services performed pursuant to his/her participation on the rotation list. Each record of wrecker service shall include the following information:

(1) The date and time the operator was contacted and requested to perform the service.

(2) The name of the person requesting the service.

(3) The location of the vehicle.

(4) A description of the towed vehicle, including license tag and identification number.

(5) The owner or driver of the vehicle, if known.

(6) The service charge and fees.

(b) All records required herein must be available during normal business hours for inspection by the chief or other Town representatives.

(c) The operator shall maintain the aforementioned records for the current calendar year and the preceding calendar year.

(d) A record of all abandoned motor vehicles is to be maintained by the wrecker operator and any abandoned motor vehicle sold or disposed of by the operator shall be so sold or disposed of in accordance with §§ 32-13-1 through 32-13-8, *Code of Alabama, 1975*.

Section 10. Insurance.

(a) Each wrecker operator participating on the rotation list, from the time he/she moves or otherwise makes contact with any vehicle to be towed, assumes liability for injury to persons, damage to property, fires, or theft resulting from the operator's negligent acts or omissions.

(b) Each operator shall maintain a liability insurance policy or policies issued by an

insurance company currently authorized to issue policies of insurance covering risks in the state of Alabama. The aforementioned insurance policy shall protect the public against loss of life, bodily injury to the person, and damage to the property and shall name the city and its officers, agents and employees as additional insureds. The coverage shall be for the following amounts:

(1) Not less than one hundred thousand dollars ($100,000.00) for bodily injury to any one person.

(2) Not less than three hundred thousand dollars ($300,000.00) for bodily injury in any one accident.

(3) Not less than one hundred thousand dollars ($100,000.00) for damage to property.

(4) Not less than fifty thousand dollars ($50,000.00) in garage keeper's legal liability, which must include fire, explosion, theft, riot and civil commotion, vandalism, and collision with a deductible no greater than one thousand dollars ($1,000.00).

(5) Not less than fifty thousand dollars ($50,000.00) "on-hook"/cargo coverage for each wrecker and not less than one hundred thousand ($100,000.00) "on-hook"/cargo coverage for each large wrecker.

(c) Each policy required herein shall contain an endorsement providing for thirty (30) days' written notice to the police chief of any material change therein or cancellation or non-renewal thereof.

(d) A copy of the certificate of insurance shall be filed with the chief.

Section 11. Rotation list.

(a) An operator shall promptly respond to a dispatch and arrive on-scene with a fully functional wrecker within twenty (20) minutes under normal driving conditions. If an operator is not capable at the time of dispatch to so respond, he/she shall immediately notify the department's communication center of this fact. If the operator provides immediate notice of delay and provides a reasonable time of arrival on-scene, the operator may take up to a total of thirty (30) minutes from the time of dispatch to arrive. If this is not feasible, however, the operator shall make the same known to the department's communication center and the operator will be passed over for that rotation and the dispatch will go to the next operator on the rotation list.

(b) When an operator responds to a dispatch, but renders no wrecker services through no fault of his/her own, the operator will not lose position on the rotation list if the operator provides

prompt notification of the same to the department's communications center.

(c) Whenever heavy equipment or large vehicles are involved in an accident and it is determined by the police officer on-scene that the wrecker next up on the rotation list does not have adequate equipment to handle the accident, then the department reserves the right to call a large wrecker from an operator on the rotation list capable of providing the needed services. If a call is made under these circumstances, the operator being passed over will be repositioned on the rotation list accordingly. Calls for a large wrecker will be rotated among the companies having qualified large wreckers.

(d) If the operator does not arrive on-scene within the time requirements established herein or if the public health, safety and welfare necessitate more expeditious action, the police department reserves the right to request the services of the next operator on the rotation list. Under these circumstances, the operator who received the first call will forfeit his/her position on the rotation list for that turn. Any operator who is late in responding to dispatches for wrecker service without justification may be subject to penalties as provided herein.

(e) When emergency conditions necessitate, the Town reserves the right to request the services of the operator who is best able to handle the situation and/or who can reach the scene most expeditiously, regardless of the operator's position on the rotation list. If a dispatch is made under these circumstances, the operator making such a response will not forfeit his/her respective position on the rotation list.

(f) The chief has the right to inspect any wrecker or equipment of an operator on the city's rotation list at any time to ascertain if it is being properly maintained and all required equipment is on the wrecker and in proper operating order.

(g) All operators on the rotation list shall have their wreckers and equipment inspected annually by the police department.

Section 12. Suspension or removal from rotation list; hearing; reinstatement.

(a) Violation of any rule, regulation or provision of this Ordinance as it relates to wrecker services for rotation list dispatches may be cause for suspension or removal of the operator from the rotation list. The chief shall notify the operator in writing of a violation and the applicable penalty.

(1) Upon receipt of notification, the operator may, within fifteen (15) days thereof, deliver a written request to the chief for a hearing to be held before the Town Council. The receipt of a written request by the chief for a hearing within the prescribed time shall stay the penalty pending final disposition unless he/she determines that it would endanger public safety to allow said operator to continue on the rotation list.

(2) A hearing shall be held within thirty one (31) days after the filing of a written request for a hearing before the Town Council. The chief shall notify the operator of the time, date and place of the hearing. At such public hearing, the operator shall be provided an opportunity to be heard by the Town Council, which may also choose to hear from Town representatives and any others who may have relevant information.

(3) The Town Council shall render a decision by resolution within thirty one (31) days from the date of such hearing. Such resolution shall set forth the decision of the Town Council and the reasons for the same.

(b) The department will reinstate to the rotation list a suspended operator upon written application after the period of suspension has elapsed and after the department has determined that such operator is in compliance with all regulations of this ordinance.

(c) If any violations of the regulations or provisions of this article are deemed by the chief to be of such a nature as to endanger public safety, the chief shall immediately suspend from the rotation list the operator committing such violation, and then provide notice pursuant to the provisions of subsection (a) above.

(d) No applications for reinstatement to the rotation list resulting from violation of these regulations will be considered by a transferee of the suspended operator's business interest unless such transfer was the result of a bona fide sale of a majority of the assets of the business for a reasonable consideration. All documents demonstrating the same must be provided to the chief.

Section 13. Penalties.

The following penalties shall be assessed for violations of the provisions of this ordinance by operators included on the rotation list:

(1) First violation: Written warning.

(2) Second violation within twelve (12) months of the first violation: Thirty-day suspension from rotation list.

(3) Third violation within twelve (12) months of the first violation: Ninety-day suspension from rotation list.

(4) Fourth violation within twelve (12) months of the first violation: One (1) year suspension from rotation list.

(5) Fifth violation within twelve (12) months of the first violation: Permanent removal from rotation list.

Section 14. Enhanced penalties.

Penalties for violations involving failure to arrive on the scene of a dispatched rotation list call; charging in excess of the rates established herein; or any infraction which jeopardizes the safety of the public, depending upon the severity thereof, may be accelerated up to and including permanent removal without following the above progressive penalty steps. There shall be no written warnings issued for any such violations and the minimum penalties therefore shall commence with a thirty-day suspension unless accelerated.

Section 15. Rates and charges.

The maximum fees to be charged to a vehicle owner or person responsible for the vehicle for wrecker services provided by any wrecker service operator on the rotation list in regard to services provided as a result of a rotation system dispatch shall be set from time to time by the Town Council. Initial maximum rates upon adoption of this Ordinance shall not exceed the following amounts per wrecker, unless otherwise indicated:

(1) Base Rate, day, night, weekend and holiday: $200.00

(2) Rate per mile (one way): $5.00

(3) Dolly: $75.00

(4) Rate per hour: $150.00

(5) Winching (per hour): $150.00

(6) Rate per man hour: $85.00

(7) Roll over (righting vehicle): $150.00

(8) Hourly rates shall be charged pro rata in 15 minute intervals at 25% of the hourly rate per 15 minute interval, rounded up to the nearest 15 minute interval.

(9) Passenger vehicle storage rates:
   a. First 24 hours: No charge.
   b. Each day thereafter: $25.00 for outside storage; $35.00 for inside storage

(10) After-hours vehicle release: $35.00.

(11) Glass and debris cleanup are included in the fees established by this section, except that in cases of longer than usual cleanup time, operators may charge the additional fees provided in Section 3(15).

(12) The rates and charges as established herein do not relate to or regulate consensual wrecker services, being those situations where the vehicle's owner or operator expressly requests towing or wrecker services from a specific wrecker operator and enters into a private contract with that wrecker operator for services.

Section 16. Complaints and grievances.

Complaints or grievances by or for owners relating to the application and operation of this Ordinance, such as missed rotations or other allegations of unfair or improper treatment of the complaining party shall be submitted in legible, understandable written format or shall not be given consideration. All such complaints or grievances shall be submitted during regular business hours to the Town Clerk to be forwarded to the Police Chief and shall specify in detail the act, conduct or omission complained of, including dates, times and other pertinent information.

Section 17. Administrative and additional regulations.

The Chief of Police is hereby charged with the duty to implement and administer the provisions adopted hereby and vested with the authority to promulgate such directives and take such actions as shall be necessary and convenient to implement and administer the same.

Section 18. Conflict with state law.

In the event that any provision of this Ordinance shall be in conflict with the codified laws of the State of Alabama, state law shall be given precedent.

Section 19. Severability.

If any portion of this ordinance shall be held or adjudged void, invalid or unenforceable by a court of competent jurisdiction, the remaining portions shall continue in full force and effect without the void, invalid or unenforceable portion as though the same had never been included herein.

Section 20. Effective date/previous regulations superseded.

This Ordinance shall be effective immediately upon its adoption and publication according

to law. All previous regulations regarding wreckers and towing rotation are superseded by this Ordinance.

ADOPTED and **APPROVED** this 9 day of August, 2021.

APPROVED BY:

Vaughn Goodwin, Mayor

ATTEST:

(Seal)

Barbara L. Jones, Clerk

LMW/sip0821/trinity ordinance wreckerservice
T102-

Barbara L. Jones
Notary Public, Alabama State at Large
My Commission Expires April 8, 2025