

ORDINANCE NO. _____

ENTITLED: "AN ORDINANCE AMENDING CHAPTER 5.78, TOWING AND WRECKER RECOVERY OPERATIONS, OF TITLE 5, BUSINESS LICENSES AND REGULATIONS, OF THE MUNICIPAL CODE OF THE CITY OF CHEYENNE, WYOMING, MODIFYING PROVISIONS GOVERNING TOWING AND WRECKER RECOVERY OPERATION LICENSURE AND THE POLICE DEPARTMENT'S TOWING AND WRECKER RECOVERY OPERATIONS ROTATION LIST."

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHEYENNE, WYOMING:

Section 1. That Chapter 5.78, Towing and Wrecker Recovery Operations, of Title 5, Business Licenses and Regulations, of the City of Cheyenne, Wyoming, is hereby amended as set out in this ordinance.

5.78.010 - Purpose: ~~Authority~~ ~~General provisions~~ **authority; general provisions.**

- A. The purpose of this chapter is to license, regulate and establish ~~guidelines~~ **requirements** for businesses providing motor vehicle towing and wrecker recovery operations offered to the public within the city, including towing and wrecker recovery operators and their drivers.
- B. Authority is granted **to** cities and towns ~~by Wyo. Stat. §~~ **under W.S.** 15-1-103(a)(xiii) and (xli) to license and regulate businesses **and to adopt ordinances** for the ~~public~~ health, safety and welfare of the community.
- C. In addition to **the** business licensing provisions of this chapter, licenses shall be issued in accordance with Chapter 5.04 and ~~Chapter 5.08~~, Section 5.08.270, of **Chapter 5.08 of** the city code.
- D. Licenses may be suspended or revoked in accordance with ~~Chapter 5.04~~, Sections 5.04.100 and 5.04.110 of **Chapter 5.04 of** the city code.
- E. Every towing and wrecker recovery operator providing services under ~~the provisions of~~ this chapter **must shall** abide ~~with by~~ the motor vehicle and traffic provisions of Title 10 of the city code and applicable local, state, and federal law.
- F. ~~Pursuant to~~ **Subject to the requirements imposed under** Section 5.78.040 of this chapter, every ~~written request by a~~ business license applicant, or a current licensee, requesting participation on the police department's towing and wrecker recovery operations rotation list shall **first** be approved by the chief of police, or his or her designee. ~~The chief of police shall have the authority to remove any licensee from participation on the rotation list pursuant to Section 5.78.050 of this chapter.~~

5.78.020 - Definitions.

~~A. The following definitions shall apply in the interpretation and enforcement of As used in this chapter:~~

- ~~1. "Gate fee" means the fee a tow list participant may charge a vehicle owner for access to a vehicle stored in the participant's storage area when access is required outside of normal business hours or on a city holiday;~~
- ~~2. "Licensee" means any person, as defined in Section 1.04.020 of the city code, granted a license under this chapter to engage in the business of providing motor vehicle towing and wrecker recovery towing/recovery operations to the public within the city;~~
- ~~3. "Motor vehicle" means a any commercial, motor, rental and/or or U-Drive-It vehicle, and includes horse-drawn vehicles and any trailer as defined in Wyo. Stat. Section 31-1-101, and, for purposes of this chapter, includes horse-drawn vehicles. by W.S. 31-1-101(a)(xxiii);~~

~~"Rotation list" means the list compiled and maintained by the police department containing the names of licensees who have been approved by the chief of police, or his or her designee, to be placed on the department's rotation list, and who will be requested by the police department to respond to the scene of accidents, incidents or emergencies involving motor vehicles and the necessity for towing and wrecker recovery operations.~~

- ~~4. "Storage area" means the area used by a towing and wrecker recovery operation towing/recovery operation for the storage of any towed motor vehicles, which areas shall have sufficient outdoor and indoor secure storage to be able to accommodate and secure any and all towed motor vehicles. If the storage area is located within city limits, the area must shall meet city zoning requirements; sufficient outdoor and indoor secure storage to be able to accommodate and secure any and all towed motor vehicles.~~
- ~~5. "Towing and wrecker recovery operations" (hereinafter "towing/recovery operation" or "towing/recovery operator") "Towing/recovery operation" or "towing/recovery operator" means the business of, or offering the services of, a motor vehicle wrecker or towing service, whereby motor vehicles may be towed or otherwise removed from one place and transported to another by the use of a motorized towing vehicle designed for that purpose;~~
- ~~6. "Tow rotation list" means the towing and wrecker recovery operations list compiled and maintained by the police department identifying those licensees approved by the chief of police or his or her designee, that on a rotating basis will be requested by the department to respond to the scenes of accidents, incidents or emergencies involving motor vehicles and the necessity for towing and wrecker recovery operations;~~

7. ~~"Towing rotation Tow~~ list participant" or "participant" means any towing/recovery operation that has a current and valid business license and has been approved by the chief of police, or his or her designee, to be on the tow rotation list; ~~and~~
8. ~~"Wyoming driver's~~ "Driving license" or "driving license" ~~licensure"~~ means an appropriate driver's license as required by ~~Wyo. Stat. Section 31-7-109, W.S. 31-7-~~ 106(a) based on the gross vehicle weight of the towing vehicles being operated; as determined by the chief of police; or his or her designee.

5.78.030 - Business license required.

- A. ~~A~~ No person shall ~~not~~ conduct, maintain; or operate a towing/recovery operation providing services within the city without a valid and current business license issued by the city clerk.
- B. Any person desiring to conduct, maintain; or operate a towing/recovery operation within the city ~~must~~ shall first obtain a business license by submitting to the city clerk an application, together with a non-refundable annual license fee, on forms provided by the city clerk. An application, or annual renewal application, for conducting business as a towing/recovery operation ~~must~~ shall contain such information and documentation as may be determined by the city clerk and the chief of police including, but not limited to the following:
1. If the applicant is an individual, the name and business address of the applicant; business mailing address and telephone number, and applicant's date of birth. If the applicant is a partnership or legal entity, the name of business (~~applicant~~) applicant, principal place of business and business mailing address and telephone number. In addition, the applicant for a partnership or legal entity ~~must~~ shall provide the names, dates of birth and the business or residential addresses of the persons who hold any legal or beneficial interest in the ~~business, and the dates of birth of the persons who hold any legal or beneficial interest in the business.~~ partnership or legal entity;
 2. Written proof of current state of Wyoming and United States Department of Transportation authorization to operate a towing/recovery operation business; ~~and~~
 3. Written proof that the applicant has current automobile insurance coverages as defined in and meeting the minimum insurance amounts required by Section 3 of Chapter 3 of the ~~Rules and Regulations~~ rules governing motor carriers promulgated by the Wyoming Department of Transportation; ~~and~~
 4. Names and written evidence of appropriate driving ~~license~~ licensure for each towing/recovery driver or operator who will be employed, or who will be providing services, on behalf of the towing/recovery operation business. Any person employed as a driver or operator of a towing/recovery operation ~~must~~ shall possess a valid driving license; ~~and~~

5. Disclosure of whether the applicant has ~~in ever, within~~ the ten (10) year period prior to ~~the date of~~ application, ~~ever~~ had a license or application relating to operation of a towing/recovery operation revoked, suspended or denied; ~~and whether the applicant, including any person who holds any legal or beneficial interest in the business (applicant), has in the ten (10) year period prior to application been convicted of a crime other than a misdemeanor traffic offense.~~
6. Disclosure of all arrests and criminal charges pending against the applicant, any of the applicant's employees or any person who holds any legal or beneficial interest in the applicant business, at the time of application, including for violations of motor vehicle and traffic laws. The application shall also include disclosure of any felony and misdemeanor convictions, including convictions for any violations of motor vehicle and traffic laws during the ten (10) year period before the date of application. Under this paragraph, the applicant shall disclose for each such offense the name and location of the court in which the conviction was rendered, the nature of the offense which resulted in conviction, the date of the conviction, and the sentence imposed; and
- ~~6-7.~~ Affirmation that the information contained in and submitted with the application form is complete, true and correct. Each application ~~must~~ shall be signed by the applicant. The applicant ~~must~~ shall also sign an authorization, in a form prescribed by the chief of police, ~~which will be~~ or his or her designee sufficient to authorize the ~~chief of police~~ police department to conduct a background investigation. The ~~chief of police~~ department may impose a reasonable fee to recover costs associated with the investigation.
- C. Upon receipt of and payment for an application for a business license, the city clerk ~~will~~ shall forward a copy of the application to the chief of police for a background investigation of the applicant and a recommendation on whether to approve or ~~disapprove~~ deny the application. The city clerk ~~will~~ shall also forward a copy of the application ~~as applicable~~ for review and recommendation by ~~various~~ any other city ~~departments~~ department as deemed necessary by the city clerk. The chief of police or any city department receiving a copy of an application under this subsection may recommend the denial of any application:
1. that ~~That~~ contains false, misleading or incomplete information, or due to any convictions involving any felony offenses, whether within Wyoming or elsewhere, involving, but not limited to, assault, battery and/or larceny and related offenses; ~~or~~
 2. If the issuance of a license to the applicant would be contrary to the public interest.
- D. Following issuance of a business license, ~~a the~~ licensee ~~must~~ shall notify the city clerk and chief of police of any change in the ~~data~~ information required to be furnished under ~~Section 5.78.030~~ this section within ten ~~calendar~~ (10) days after any change occurs.
- E. ~~All holders of a business license issued~~ Any licensee under this chapter ~~shall be required, that in any instances when a holder has towed or otherwise removed a motor vehicle from real property one place and transported to another, when such tow or removal (i) was not~~

~~requested or otherwise initiated by the police department and (ii) was not requested by the owner of the vehicle, or representative of the owner, to~~ at the request or upon the direction of the owner, owner representative or leasee of the real property shall notify the police emergency dispatch center, ~~or any other location specified by the police department,~~ of the tow or removal by telephone call within twenty (20) minutes of performing such tow or removal.

- F. ~~All holders of a business license issued under this chapter~~ Licensees under this chapter shall ~~be required by the police department to~~ attend any every training ~~session(s) as~~ session deemed necessary and appropriate by the police department, ~~deems to be necessary and appropriate,~~ including but not limited to Traffic Incident Management System (TIMS) training.

5.78.040 - Towing ~~rotation~~ list participation; requirements; abandoned vehicles.

- A. No towing/recovery operator shall be included on the tow rotation list without first having obtained a business license from the city clerk.
- B. To be ~~added to or~~ included as a participant on the ~~police department towing~~ tow rotation list, or to maintain participation on the list, licensees shall:

1. Submit to the chief of police an application or renewal application in a form proscribed by the police department. The chief of police or his or her designee shall within forty-five (45) business days after receipt of an application approve or deny the application based upon compliance with this chapter and applicable city, state and federal laws and regulations. Prior to any application being approved, the towing/recovery operation tow rotation list applicant shall permit the department to inspect the facilities and equipment of the applicant. Subject to the removal and suspension provisions of this chapter, approved applications shall authorize participation on the tow rotation list for one (1) year terms beginning July 1 and terminating on June 30. The department shall provide to each approved applicant written certification evidencing that the applicant is authorized to participate on the tow rotation list and a copy of the current fee schedule specified under subsection (F) of this section. A copy of the certification shall be provided to the city clerk, chief of the fire department and city traffic engineer;

~~1.~~ 2. Possess a vehicle storage area of such size to allow for secure storage of all vehicles towed at the request of the police department. The storage area shall be enclosed by a solid fence or chain link fence at least six feet in height, and lighted in such a manner to maximize safety and security of stored vehicles. Towing/recovery operations ~~must~~ shall also have an indoor secure facility available to be used at the request of a vehicle owner, in the discretion of the towing or wrecker driver, or at the direction of a requesting police officer. Each ~~towing tow~~ list participant ~~is required to~~ shall possess its own vehicle storage area meeting the requirements of this paragraph. ~~For the avoidance of doubt, no towing~~ No tow list participant ~~shall~~ may share or otherwise utilize in common a vehicle storage area with any other towing/recovery operation, except that this prohibition shall not apply to a common lot designated by the police

department for use by all rotation tow companies where such lot has been designated in response to large community events or other special circumstances;-

~~2. Furnish the city clerk and chief of police with a written request for participation in the towing rotation list. Request may be made upon an applicant's initial business license application or by separate written request if a license has previously been issued. The chief of police, or his or her designee, shall have the authority to approve or deny the request, based upon compliance with city, state and federal law and regulations, within twenty (20) business days after receipt thereof. Notwithstanding the foregoing, the chief of police, or his or her designee, shall approve a request if full compliance with all city, state and federal law and regulations has been demonstrated. Upon approval, the chief of police shall issue the applicant written approval indicating the licensee's approved participation on the rotation list. A copy of the written approval shall be provided to the city clerk, chief of the fire and rescue department and city traffic engineer. The chief of police may suspend or revoke a licensee's participation in the towing rotation list pursuant to Section 5.78.050(B) of this chapter.~~

3. Submit to inspection by the Wyoming highway patrol each vehicle the licensee intends to use for recovery services in response to a tow rotation list service call and provide proof of each inspection to the police department;

4. Display a publicly visible sign with the licensee's name, phone number, address and business hours outside the business facility. Licensees shall also conspicuously post in their office the business' current tow, recovery and storage rates. Licensees shall have staff available to release property or vehicles during normal business hours, Monday through Friday, 8 a.m. to 5 p.m., excepting approved city holidays;

~~3.~~5. Provide written affirmation that the licensee will:

- a. Maintain the following minimum required towing vehicle equipment in good working ~~condition~~order:
 - i. Emergency lights visible from all sides;
 - ii. Remote tail and stop lights;
 - iii. Fire extinguisher;
 - iv. Broom, shovel, and empty bucket;
 - v. ~~Spill~~A minimum of forty (40) pounds or four (4) gallons of spill absorbing materials;
 - vi. ANSI Class 2 or Class 3 American National Standards Institute (ANSI) safety vest;

- vii. Spotlight and flashlight;
 - viii. ~~Flares~~ A minimum of three (3) flares and three (3) safety triangles; and
 - ix. Webbing, ~~and~~-strapping and chains; and
 - x. Towing vehicle.
- b. Ensure that all towing/recovery ~~drivers/operators~~ operators and drivers are properly trained and knowledgeable in the operation of all equipment they operate. Each licensee ~~is~~ shall be responsible for background checks on individual drivers/operators;:-
 - c. Clean up all debris at a response scene, except for hazardous materials as defined by 49 U.S.C. 5103 and 49 C.F.R. 172.101;:-
 - d. Provide the police department with a current telephone number or numbers where the towing/recovery operation may be reached on a seven-day/twenty-four (24) hour basis;:-
 - e. Abide by ~~a~~ the fee schedule adopted by the governing body in accordance with subsection (F) of this section for towing service charges related to calls for service; ~~made pursuant to the towing rotation list. The fee schedule shall be proposed by the police department and adopted by the governing body in the form of a resolution. Any amendment to the fee schedule increasing fee limits shall be adopted by the governing body in the form of a resolution. Any variation in charges in excess of the fee schedule requires: (i) express written or oral preapproval from an officer or designee of the police department prior to performing the towing services giving rise to the excess charges and (ii) sufficient written and photographic documentation provided to the police department to justify the additional charges. Notwithstanding the foregoing, the chief of police may promulgate additional documentary requirements for any variation in charges in excess of the fee schedule.~~
 - f. Follow any reasonable request made by a law enforcement officer or emergency responder;:-
 - g. Immediately accept payment ~~offered and made~~ of any fee owed in accordance with the tow rotation list fee schedule during normal ~~between the~~ weekday business hours of 8 a.m. and 5 p.m. or during the weekend, ~~pursuant to this paragraph, of any fee promulgated pursuant to the fee schedule described in subsection (B)(3)(e), above,~~ if payment is offered pursuant to in any of the forms ~~described~~ specified in ~~subsection~~ subparagraph (j) of this paragraph. For the purposes of accepting payment on the weekend, a tow list participant shall immediately accept payment offered either (i) in person, if the participant has weekend business hours, or (ii)

telephonically, at the telephone number provided under ~~subsection (B)(3)(d), above, subparagraph (d) of this paragraph~~ if the participant does not have weekend business hours. ~~For the avoidance of doubt, the requirement of this~~ This subparagraph shall not be construed to preclude acceptance of payment of any service fee or gate fee made outside of normal weekday business hours, including during approved city holidays; including but not limited to any "gate" fee that may be charged by the licensee.

- h. Upon acceptance of payment ~~described in subsection (B)(3)(g), above, of a fee owed in an amount authorized under the tow rotation list fee schedule,~~ release the towed vehicle to the vehicle owner, authorized operator, ~~or~~ authorized agent of the owner of the vehicle, the lienholder or agent of the lienholder of the vehicle, or the insurance company or agent of the insurance company providing coverage on the motor vehicle, if released to the insurance company by the vehicle owner; ~~;~~
- i. Release items of personal property during normal weekday or weekend business hours without charge to the lawful owner of the towed vehicle when authorized by the police department. This requirement ~~applies shall~~ only apply to personal property items contained within the vehicle towed, ~~but~~ and not items considered part of the vehicle; ~~;~~
- j. Accept cash and at least two (2) major credit cards as form of payment; ~~;~~
- k. Not solicit or move wrecked, impounded or disabled vehicles for which another towing tow list participant has been dispatched by the city; and
 - l. Immediately notify the police department of any owner, driver or operator that has been charged or convicted of any felony or any misdemeanor that has as an element of the offense the use, attempted use, or threatened use of physical force against the person of another.

C. In addition to the requirements imposed under subsection (B) of this section, each tow rotation list participant shall:

- 1. Immediately contact the chief of police, or his or her designee, when a participant becomes aware that they will be unavailable for any reason, including but not limited to a planned medical treatment or vacation, so that arrangements can be made for coverage for such time period and disruption of operations is avoided. In the event that the tow list participant is unavailable, the participant shall rotate to the bottom of the list;
- 2. Maintain itemized towing and recovery invoices and billing statements affiliated with response to police department calls for services for at least two (2) years from date of response. The reports required under this paragraph shall include every vehicle owner name, address, telephone number, the fees charged, to whom the vehicle was released and the date of release. The chief of police, or his or her designee, may inspect any

participant's reports, records, vehicles, or storage areas for compliance with the provisions of city code and any applicable state and federal laws;

3. Receive clearance by the police department before releasing any vehicle that has been classified as a "police hold." Any invoice for a police hold on a vehicle shall include the name and badge number of each police officer placing the hold and each officer authorizing the release of any hold;
4. Assume full fiscal responsibility for all property and motor vehicles entrusted to them; and
5. Refrain from releasing, within ten (10) hours of time of towing, any vehicle towed or recovered in connection with an incident involving driving under the influence of intoxicating liquor or controlled substances to the individual who was driving said vehicle at the time of the incident.

~~C.~~ D. All ~~licensees who are towing rotation tow~~ list participants ~~must abide by~~ shall adhere to the following ~~guidelines requirements~~ regarding calls for service:

1. ~~Towing rotation~~ Tow list participants should respond immediately to calls for service and arrive within thirty (30) minutes of accepting a call for service ~~(forty-five (45) minutes during inclement weather).~~ or within forty-five (45) minutes during inclement weather. If unable to arrive within the specified time, ~~operator~~ the participant must notify the police department with the estimated time of arrival. Failure to respond within the specified time, or notify the police department of the delay shall be cause for the police department to contact the next scheduled ~~operator~~ participant;
2. ~~Towing rotation~~ Tow list participants shall not transfer or attempt to transfer a call for service to another ~~towing list~~ participant or use another towing/recovery operator's equipment vehicle to respond to a service call;
3. If a ~~towing rotation tow~~ list participant fails to answer their telephone when called, or rejects a call for service, it will be considered as a turn on the tow rotation list and ~~said the~~ participant shall rotate to the bottom of the ~~rotation list~~; ~~When calling towing list participants, phones shall be allowed to ring a minimum of eight times prior to determining that a participant is unavailable;~~
4. When ~~contacting telephoning~~ or attempting by to telephone ~~to contact a towing rotation a tow~~ list participant ~~and the police department shall allow the call to ring not less than eight (8) times or until an automated message system answers before determining that a participant is unavailable. If the call results in receiving a busy signal or automated message system recording, the police department emergency dispatch shall attempt to place the call two times one (1) additional time. If no response is received, the effort the tow list participant fails to answer the call, it shall be deemed a no answer or rejection;~~ and the participant shall rotate to the bottom of the tow rotation list. ~~The~~

~~police department~~ Emergency dispatch shall then call the next participant on the ~~rotation~~ tow rotation list; ~~and~~

5. Tow list participants shall on a monthly basis accept not less than fifty percent (50%) of all rotation list service requests made of the participant.

~~D. Towing rotation list participants must:~~

- ~~1. Immediately contact the chief of police, or his or her designee, when a participant becomes aware that they will be unavailable for any reason, including, but not limited to, planned medical treatment, vacation, etc., so arrangements can be made for coverage for such time period and disruption of operations is avoided. In the event that the towing rotation list participant is unavailable, the participant shall rotate to the bottom of the rotation list.~~
- ~~2. Respond to tow abandoned vehicles when requested. Refusal to respond to an abandoned vehicle tow will be considered as a turn on the rotation list, and said participants shall rotate to the bottom of the rotation list.~~
- ~~3. Maintain towing and recovery reports affiliated with response to police department calls for services for at least one year from date of response. Included in the report should be vehicle owner name, address, telephone number, fees charged, and to whom the vehicle was released and the date of release. The chief of police, or his or her designee, reserves the right to inspect all participants' reports, records, vehicles, and storage areas for compliance with the provisions of city code and any applicable state and federal laws.~~
- ~~4. Receive clearance by the police department prior to releasing any vehicle that has been classified as a "police hold."~~
- ~~5. Assume full fiscal responsibility for all property and/or motor vehicles entrusted to them.~~
- ~~6. Refrain from releasing, within ten (10) hours of time of towing, any vehicle towed or recovered in connection with an incident involving driving under the influence of alcoholic/malt beverages or drugs to the individual who was driving said vehicle at the time of the violation.~~

E. Every tow list participant, by virtue of their participation on the tow rotation list, may also elect to be included on a separate list maintained by the police department to be used for the purpose of towing/recovery operators providing towing and wrecker recovery services related to abandoned motor vehicles, which list shall be subject to the following conditions and requirements:

1. The list shall be administered by the police department in the same manner as the tow rotation list but providing services related to abandoned motor vehicles shall not affect the towing/recovery operator's position on the tow rotation list;
 2. For any towing/recovery operator that is on the abandoned vehicles rotation list and which refuses to respond to an abandoned vehicle tow, the refusal shall be considered as a turn on the abandoned vehicles rotation list and the participant shall rotate to the bottom of the rotation list;
 3. To maintain participation on the abandoned motor vehicle rotation list, the towing/recovery operator shall on a monthly basis accept not less than fifty percent (50%) of all abandoned vehicles rotation list service requests made of the of the operator; and
 4. Fees assessed for recovering abandoned motor vehicles services shall be governed as provided by W.S. 31-13-111(g)(ii).
- F. The fee assessed for any service provided by a tow list participant in response to a request by the department using the tow rotation list shall not exceed the amounts specified in the fee schedule, which schedule shall be set by resolution adopted by the governing body. During calendar year 2028 and every four (4) years thereafter, the governing body shall review and reevaluate the fee schedule required under this subsection to determine if any changes are appropriate.
- G. No tow list participant shall impose any fee in an amount more than the fee schedule required by under subsection (F) of this section except upon a showing of good cause and the:
1. Written approval of the police department prior to tow list participant providing the services giving rise to the excess charges; and
 2. Submittal of sufficient documentation by the tow list participant as specified by the police department justifying the additional charges. The documentation required under this paragraph shall be submitted to the police department not more than fifteen (15) calendar days after the date of the services that were provided by the tow list participant.

5.78.050 – Police department ~~towing tow~~ rotation list procedures; ~~Participant participant~~ removal from list.

- A. Police department procedures involving the ~~towing tow~~ rotation list ~~will shall~~ be in accordance with the following:
1. The police department shall maintain a log of all calls or contacts made by the department to ~~towing rotation list~~ participants for response services made in connection with the ~~tow~~ rotation list:-

2. Each ~~towing list~~ participant ~~is shall~~ only be allowed one (1) place on the tow rotation list, regardless of the number of towing or wrecker vehicles owned~~;~~:-
 3. If the party requiring towing or recovery service requests a particular towing/recovery operator, the police department shall call the same. If the requested towing/recovery operator is not available, the next available participant on the tow rotation list shall be called. Special request calls shall not affect the ~~rotation order of the~~ list or result in the "skipping" of any ~~towing tow~~ list participant. A towing/recovery operator need not be on the tow rotation list to be called in the case of a special request, but ~~must still shall~~ possess a valid business license issued by the city clerk and ~~must~~ abide by the fee schedule ~~described specified~~ in Section ~~5.78.040(B)(3) 5.78.040(C)~~ of this chapter~~;~~:-
 4. If the party requiring towing or recovery service has no preference, the police department shall call the next participant on the tow rotation list. If the towing/recovery operator is unavailable or cannot otherwise respond after being contacted pursuant to the provisions of this chapter, the department shall call the next participant on the ~~rotation list; shall be called. and~~
 5. Should responding police officers or fire fighters determine that an accident or incident has resulted in a life threatening condition, towing/recovery operators may be called out of the tow rotation list order~~;~~ ~~should the same be located closer to the emergency where they could respond more expediently than the next participant on the rotation list.~~
- B. The chief of police shall have the authority to summarily remove any participant from the ~~towing recovery tow~~ rotation list~~;~~ or penalize suspend any participant provided under Section 5.78.060 of this chapter, ~~based upon non-compliance or violations for any violation~~ of this chapter, ~~other~~ applicable provisions of city code~~;~~ or state or federal law. The chief of police may also remove a participant from the tow rotation list upon receipt and investigation of any written complaint submitted to the chief of police from members of the public. The chief of police, or his or her designee, shall provide written notification to any participant relative to suspension or removal from the list, ~~and specify~~ the ~~accompanying~~ reasons ~~therefore, for the suspension or removal~~ and ~~will~~ provide the city clerk with a copy of the notification.

5.78.060 – Participant violation of towing tow rotation list requirements and appeal process.

- A. Upon receipt of a complaint~~;~~ from a member of the public as provided in Section 5.78.050(B) of this chapter or when separately initiated at the direction of the chief of police~~;~~ or his or her ~~designee(s), designee, the police department~~ shall~~;~~ within ten (10) business days~~;~~ fully and diligently investigate ~~the violations any~~ alleged ~~in the complaint violation~~ and document the same. ~~The investigating officer shall thereafter contact The investigation required under this subsection shall require contacting~~ the ~~towing/recovery operation and tow list participant to~~ obtain the ~~towing/recovery operation's participant's~~ version of the facts ~~and incident in question. relative to the alleged violation.~~ After completing the investigation, the investigating ~~official officer~~ shall produce a report of the

investigation and ~~forward it~~ provide the report to the chief of police, or his or her ~~designee(s), designee,~~ within ten (10) business days of completion of the investigation.

~~1. B.~~ Upon receipt of the report required under subsection (A) of this section, the chief of police or his or her designee shall, within ten (10) business days, notify the tow list participant of the investigation result. If the chief of police determines that the participant has violated any of the requirements imposed under Sections 5.78.040 and 5.78.050 of this chapter, the notice shall inform the participant of the penalty being imposed.

~~B. C.~~ Violation of rotation list requirements or operations, as set forth in Except for summary removals as authorized under section 5.78.050(B) of this chapter, a failure to follow the requirements imposed under Sections 5.78.040 and 5.78.050 of this chapter, by a towing rotation tow list participant shall be subject to the following penalties: as determined by the chief of police:

1. First Violation. Immediate ~~removal~~ suspension from the ~~police department towing tow~~ rotation list for a ~~six month~~ six (6) month period. If the violation is related to required equipment or facilities, the chief of police may grant the participant thirty (30) calendar days to remedy the violation, in lieu of a six (6) month suspension;
2. Second Violation. Immediate ~~removal~~ suspension from ~~the police department towing tow~~ rotation list for a twelve (12) month period; ~~or~~
3. Third Violation. Immediate and permanent removal from the ~~police department towing tow~~ rotation list.

~~C. D.~~ Upon receipt of the notice, the Any tow list participant who has been penalized in accordance with this section or under section 5.78.050(B) of this chapter may request petition for a contested case hearing in accordance with chapter 2.92 of the city code. The request petition must be in writing and include the name and contact information of the petitioner, a short and plain statement of the matters asserted, identification of the challenged action or inaction of the police department and be signed by the petitioner or the petitioner's attorney or representative. Any petition submitted under this subsection must be received by the city clerk within seven (7) calendar days of receipt of the notice required under subsection (B) of this section. Failure on the part of the participant to request a hearing in writing within the specified time period to timely petition for a contested case hearing as required under this subsection shall be deemed a waiver of the participant's right to request a hearing.

~~D. E.~~ If a tow list participant petitions for a contested case hearing is requested and the petition is received by the city clerk within the specified time period specified by subsection (D) of this section, the city clerk will shall schedule a hearing before the governing body and notify the participant in writing; by certified mail of the date, time and place of the meeting hearing.

~~E. At the hearing, the participant and other interested parties may be in attendance to present any information relative to the removal from the city's towing/recovery rotation list. The hearing, deliberations and notification of decision from the governing body will be conducted pursuant to the Wyoming Administrative Procedure Act, Wyo. Stat. Sections 16-3-101, et seq. The city clerk will notify the participant in writing, by certified mail, of the governing body decision as the result of the hearing.~~

5.78.070 – Violation; ~~General~~ general penalty.

It is unlawful for any person ~~or licensee~~ to violate any of the provisions of this chapter. ~~Persons or licensees~~ Any person violating any provision of this chapter ~~or causing the provisions of this chapter to be in violation will be~~ is guilty of a misdemeanor, punishable ~~pursuant to the general penalty provision of the city code.~~ by a fine of not more than seven hundred fifty dollars (\$750.00), imprisonment for a period not more than six (6) months, or both.

Section 2. Sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable. If any section, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or otherwise unlawful, such declaration shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases.

Section 3. This ordinance shall be in full force and effect upon approval and publication.

FIRST READING: _____

SECOND READING: _____

THIRD AND FINAL READING: _____

PATRICK COLLINS, MAYOR

(SEAL)

ATTEST:

KRISTINA F. JONES, CITY CLERK

Published: _____
Wyoming Tribune-Eagle