

Proposed Amendment to Chapter 46 of the 2019 Detroit City Code, *Traffic and Vehicles*, Article II, *Enforcement*, Division 4, *Impoundment of vehicles*

Purpose

The purpose of this ordinance is to provide for tows from private property, allows for the collection of administrative fees for tows and from private property, allows for inspection of impound yards, regulates tow truck identification, requires certain methods of payment be accepted, requires all tow businesses that operate within the City to have a business license, authorizes that the police authorized tow rates be set by the City Council, provides for an administrative fee for police authorized tows, and requires disconnection of vehicle from tow truck prior to removal upon payment of a service fee.

Sec. 46-2-61. Authority to create vehicle pounds; hours of operation of same

The Chief of Police is hereby authorized to create vehicle pounds, where automobiles and other vehicles may be moved by sworn or civilian police personnel for any lawful reason in the manner provided by this division. Such pounds shall be located and operated at such places as may be designated by the Chief of Police and a sworn or civilian member of the Detroit Police Department, shall be in charge of each pound. The Chief of Police shall designate a sworn or civilian member of the Department to remain in attendance at each pound during reasonable hours as designated by the chief of Police for the purpose of receiving, safeguarding and discharging vehicles, and for collecting the fees provided by this division.

Sec. 46-2-81. Purpose, scope, and enforcement

- a) The City is responsible for maintaining clean, safe and functional streets. Residents and visitors are entitled to a well-managed vehicle towing system that affords them a high level of customer service, convenience, courtesy, and professionalism. For these reasons, private tow companies that wish to conduct tow operations in the City must obtain a license pursuant to, and conduct their operations in accordance with, the provisions of this ordinance.
- b) A tow company is deemed to conduct tow operations in the City if it has a place of business in the City or if it hooks up vehicles within the City.
- c) The Detroit Police Department shall be responsible for issuing licenses and enforcing the provisions of this division.

Sec. 46-2-82. Definitions

Department means the Detroit Police Department

Hook-up means attaching a motor vehicle to another vehicle fashioned with implements that can be used to tow a vehicle to a storage lot or other location

Tow company means any entity or individual who performs wrecker or recovery services for financial gain

Sec. 46-2-83. Misdemeanor violation; aiding and abetting violation; continuing violation; penalties for conviction thereof

- a) It shall be unlawful for any manager, operator, employee, or owner of a tow company to violate or aid and abet another to violate any provision of this division.
- b) Any person who violates or aids and abets another to violate this division may be issued a misdemeanor violation for each day the violation continues.
- c) Any person who is found guilty of violating or aids and abets another to violation any provision of this division shall be convicted of a misdemeanor for each violation that is issued and, in the discretion of the court, may be fined up to \$500.00 and sentenced up to 90 days in jail, or both, for each misdemeanor violation that is issued.

Sec. 46-2-84. Recovery of abandoned, stolen, or suspected stolen vehicles

Except as provided in Section 46-2-85 of this Code, tow companies shall not tow abandoned, stolen, or suspected stolen vehicles without having a law enforcement official inspect the vehicle at the scene and having run the vehicle in the LEIN system prior to hook-up.

Sec. 46-2-85. Towing vehicles from private property

The following provisions apply to private property impounds:

1. Tow companies must notify the Department, and obtain Department approval, prior to the hook-up of a vehicle in conjunction with any private property impound.
2. Tow companies shall maintain a written log of approvals required under Subsection (a)(1) of this section, and shall further maintain copies of documents and photographs as follows:
 - a. The date and time of the approval
 - b. The make and model and vehicle identification number of the vehicle, if ascertainable
 - c. The condition of the vehicle and any existing damage
 - d. The location from which the vehicle is being towed
 - e. name, address, and telephone number of the owner or authorized agent of the private property who has authorized the tow of the vehicle from the private property
 - f. The name of the tow company employee reporting the impound
 - g. The name and badge number of the Department employee who approved the tow

- h. Photographs of the entire exterior of the vehicle taken immediately prior to hook-up
- 3. Both the vehicle and documentary evidence required under Subsection (a)(2) of this section, must be brought to an authorized Department location within two hours of hook-up, and prior to moving the vehicle to a storage facility.
- 4. Copies of any documentation or photographs required under Subsection (2) of this section shall be made available to the vehicle owner upon request.

Sec. 46-2-86 Administrative Fees

- a) An administrative fee shall be charged to and paid by the owner of each vehicle towed by a private tow company, other than a Department authorized tower, from a location inside the City.
- b) The Department shall establish the administrative fee in accordance with Section 9-507 of the Charter, subject to approval by the City Council through the adoption of a resolution by the Mayor, the fees that are provided for in Subsection (a) of this section shall be:
 - 1. Published in a daily newspaper of general circulation and in the Journal of the City Council
 - 2. Made available at the Department and at the Office of the City Clerk
 - 3. Reviewed by the Chief at least once every two years

Sec. 46-2-87. Inspection of storage lot by Department and other authorized City agents; requirement of tow company and storage lot

- a) For the purpose of ensuring compliance with this division the owner, operator, or person in charge of the tow company's storage lot shall permit any employee, agent, sworn or civilian member of the Department, as authorized by this Code, to inspect any portion of the premises during regular business hours, subject to constitutional restrictions on unreasonable searches and seizures.
- b) All hard copy records pertaining to the towing, storage, redemption, scrap, salvage, or sale of a vehicle shall be retained for not less than six months unless a longer retention period is required by law
- c) Data on each vehicle shall be stored electronically and s subject to inspection and audit by the Department, subject to constitutional restriction on unreasonable searches and seizures
- d) Each storage facility shall contain a digital camera recording system with DVR backup that shall
 - 1. Be focused on the customer service areas, and ingress and egress points of the storage lot

2. Retain footage for no less than 30 days
 3. Be open to inspection subject to constitutional restrictions on unreasonable searches and seizures
- e) The tow company shall be responsible for securing the facility, including all vehicles located therein, for the safety of all towed vehicles
- f) Towers shall post signage which must be conspicuously displayed and easily visible at each storage lot, yard, or garage which expressly states the following:
1. The name and address of the tower's insurance broker handling the insurance coverage required by the license
 2. The schedule of all towing fees, storage fees, and additional charges
 3. The procedure for contesting towing and storage charges at the district court
 4. The procedures for filing a claim for damages incurred to the vehicle or contents thereof as a result of the tow or while in storage
 5. The list of documents required by the tow company in order for an owner to retrieve a towed vehicle
 6. A statement that the registered owner shall not be charged for the initial viewing of a recovered vehicle to retrieve title, registration, insurance documents, or personal property from the owner's vehicle
- g) The Department may, at their discretion, seek an administrative warrant for entry on the property, and the reviewing Magistrate or Judge shall issue the warrant if the request comports with applicable law and procedure

Sec. 46-2-88. Tow truck identification

- a) In accordance with the Section 8 of the Motor Carrier act, being MCL 479.8, any decal furnished for a tow truck by the Michigan Public Service Commission shall be attached to a conspicuous location on the vehicle for which it was issued as directed by the commission
- b) No towing company shall bear marking which would suggest or indicate that they are a Detroit Police Department authorized vehicle or associated with the City

Sec. 46-2-89. Methods of payment, receipt required

- a) Tow companies shall accept cash, cashier's checks, debit cards and at least three major credit cards such as Visa, Mastercard, Discover, American Express
- b) Tow companies shall provide an itemized receipt to the customer for each transaction

Sec. 46-2-101. Required

It shall be unlawful to conduct or maintain an tow company, or to perform towing or recovery services, within the City without first having obtained a license from the Detroit Police Department to operate such business

Sec. 46-2-102. Application; information required

- a) An application for a license under this subdivision shall be made on a form that is provided by the Department. The application shall be considered completed when the appropriate person has signed and dated the application in the presence of a notary public has paid the required license fee, and has provided the information that is required on the form, which shall include:
1. The towing company's full legal name, and any other name used by the company during the preceding five years, as well as the name of all owners, officers, and employees
 2. The towing company's current business address, and name and telephone number of the primary contact person
 3. Background clearances on all owners, officers, and employees to be paid at the tower's expense
 4. A list of any and all civil cases, related to any tow company, that are pending or closed within the last three years, where the prospective tower is named as a defendant
 5. Proof of insurance as required in Section 46-2-103 of this Code
 6. A list of owned or leased trucks utilized by the towing company with a copy of the current State of Michigan registration for each truck attached to the application
 7. Zoning clearances for all storage locations within the City
 8. The nae, business address, and telephone number of the statutory agent, or other agent, who is authorized to receive service of process
- b) Any information provided in accordance with Subsection (a) of this section shall be supplemented in writing and sent by certified mail, return receipt requested, to the Department within ten business days of a change of circumstances that would render false or incomplete the information that was previously submitted

Sec. 46-2-103 Insurance required for issuance of a license

The tow company shall present proof of the following insurance coverages and shall maintain all such coverage while providing services under the license

1. Worker's Compensation as required by the Worker's Disability Compensation Act of 1969, being MCL 418.101 et seq
2. All vehicle insurance as required by Michigan law
3. Liability and property damage coverage in an amount not less than \$1,000,000.00

Sec. 46-2-104. Establishment, approval, publication, and payment of annual fee

- a) A non-refundable fee shall be charged and collected in accordance with Section 0-507 of the Charter for the processing and issuance of a license under this division. Based upon the cost of issuance and administration of the licensing regulation, the Department shall establish this fee, which is subject to approval by the City Council through adoption of a resolution.
- b) After adoption of a resolution by the City Council and approval of the resolution by the Mayor, the fees that are provided for in Subsection (a) of this section shall be:
 - 1. Published in a daily newspaper of general circulation and in the Journal of the City Council
 - 2. Made available at the Department and at the Office of the City Clerk
 - 3. Reviewed by the Chief of Police at least once every two years
- c) A fee shall be charged for each new licensee, any current licensee who applies to renew an existing license, or a current licensee applying for a license at another location
- d) Prior to the expiration of a current license, a licensee shall submit an application for renewal and pay an annual fee for the renewal of a license. Submission of an application for renewal and payment of the license fee before the expiration date of the license shall allow for the continued operation of the business for the location until such time that the license renewal application is denied, or the license is suspended or revoked.

Sec. 46-2-105. Inspection and certification of approval; land use; construction requirements; maintenance, health and sanitation requirements, and fire protection and safety

- a) Upon application and before any license that is required by this division shall be issued or renewed, it shall be the duty of the Department to review its records and, where a requisite inspection has not been done, to refer such application to the Director of the Building, Safety Engineering, and Environment Department, the Director of the Health Department, and the the Fire Marshal
- b) After the completion of the respective inspections, the Buildings, Safety Engineering, and Environmental Department, the Health Department, and the Fire Department shall certify, in writing the the department that the applicant is in compliance with all pertinent state codes and regulations, and this Code.

Sec. 46-2-106. Investigation by Office of the Chief Financial Officer required to confirm no City tax or assessment arrearage.

- a) Upon application and before any license that is required by this division shall be issued or renewed, it shall be the duty of the Department to refer such application to the Office of Chief Financial Officer which shall cause an investigation to be completed in accordance with Section 2-113 of the Charter to determine whether any property tax, income tax, personal tax or special assessments, blight judgments or other legal judgments, permit fees, or penalties are unpaid, outstanding or delinquent to the City.
- b) A license shall not be issued or renewed by the Department until the Chief Financial Officer has given written confirmation that the applicant is not in arrears to the City for taxes or assessments that are delineated in Subsection (a) of this section.

Sec. 46-2-107. Department to take action upon application.

Upon compliance with the provisions of this division. the Department shall issue an annual license for the towing company in accordance with Chapter 28 of this Code, Licenses.

Sec. 46-2-108. Posting required; non-transferable.

- a) Upon issuance by the Department and after receipt by the applicant, a license that is issued under this division shall be posted at all times by the licensee inside the licensed premises in a conspicuous location near the entrance.
- b) All licenses issued under this division are not transferable to another individual, partnership, corporation, or other legal entity.

Sec. 46-2-109. Expiration date and renewal requirements.

- a) A license that is issued under this division shall expire on January 31st of each year.
- b) A license that is issued under this division shall remain valid until the expiration date unless suspended or revoked in accordance with Chapter 28 of this Code. Licenses.
- c) A license that is issued under this division may be renewed only by submitting a completed application and paying the required fee as provided for in this division.
- d) All applications for renewal of a license that is issued under this division shall be filed February 1st of each year.

Sec. 46-2-110. Suspension, revocation, or denial of a license.

In addition to the failure to comply with the requirements of this division, a license that is issued may be suspended, revoked or denied renewal in accordance with Chapter 28 of this Code, Licenses for any of the following reasons:

1. Failure to comply with any of the requirements of this ordinance or state law, including but not limited to MCL 257.252a through MCL 257.252m

2. Evidence that the tow company or its officers, owners, agents or any person or entity having a direct financial or beneficial interest in the tow company, or its operations. has engaged or is engaging in any of the following:
 - a. A criminal offense or civil misconduct that evidences a lack of business integrity or business honesty including but not limited to embezzlement, theft, theft of services, forgery, bribery, fraud, tax evasion, falsification or destruction of records, making false statements, receiving stolen property, or violation of any law relating to the obtaining or performance of public contracts.
 - b. Submission of false or misleading documents
 - c. Making false or misleading statements

Sec. 46-2-111. Appeals process for suspension, revocation, or denial of license

- a) Any applicant aggrieved by the suspension, revocation or denial of a business license issued pursuant to this subdivision shall be entitled to a hearing before the Chief of Police or a designated hearing officer.
 1. A request for a hearing on the suspension, revocation or denial of a business license described under this subdivision shall be in writing addressed to the Chief of Police, and made within 30 days of the mailing date for the notice of suspension, revocation or denial.
 2. A hearing pursuant to a timely request shall be scheduled at the earliest possible date but not later than 30 days after the receipt of the request for a hearing.
 3. The applicant shall be notified of the hearing by the Department at least seven days prior to the hearing.
 4. The hearing may be adjourned only by agreement of the parties or upon good cause shown by order of the Chief of Police or designated hearing officer.
- b) Where the Chief of Police or designated hearing officer makes a determination that there is an immediate threat to the public health, safety, and welfare as a result of the continued operation of a tow truck operating license the Chief of Police or designated hearing officer is authorized to immediately suspend a license.
 1. The applicant shall be notified of the suspension by the Department by mail, and if possible in person with the notice specifying the basis for the emergency suspension of the license.
 2. The Department shall schedule a show cause hearing within seven days. Upon a written request to the Department, the applicant shall be entitled to a hearing within 48 hours of receipt of the written notice in order to ascertain whether the emergency suspension of the license shall continue.
- c) Where the applicant fails to appear and show good cause why the license should not be suspended, denied, or revoked, the license shall be suspended, denied, or revoked

effective the end of the business day on which the show cause hearing was regularly Scheduled.

- d) In the absence of a timely request for a hearing on the suspension, revocation or denial of a tow truck operating license, the denial shall be deemed final.
- e) A hearing that is held pursuant to this section.
- f) Notice provided for in this Section shall be sent by both certified mail, return receipt requested and regular mail to the applicant at the address on record with the Department.

Sec. 46-2-112. Report required.

The Department shall submit a report to the City Council by January 31st of each year concerning any tow company license that was suspended, denied, or revoked for the preceding calendar year.

Sec. 46-2-121. Tow rates for Police Authorized Towing

- a) Towing rates shall be set by resolution of City Council.
- b) City Council shall review the towing rates at least once every two years
- c) Any tow contract initiated after 2021 shall consider the implementation of an income based rate structure of tow hardship policy

Sec. 46-2-122. Standards for authorized towers.

- a) The Board of Police Commissioners shall establish standards, including insurance and bonding requirements that must be met in order for a tower to qualify for police authorized tows under this chapter and the Police Department shall maintain a current list of such qualified towers. A separate list may be maintained for towers who tow abandoned vehicles in accordance with Sections 252a through 252m of the Michigan Vehicle Code, being MCL 257.252a through 257.252m, which is incorporated by reference into this chapter through Section 46-3-1 of this Code. The required insurance shall indemnify and hold harmless the City for any injury, damage, or loss that may result from a police authorized tow or storage under this chapter. The City shall not be liable for any such injury, damage, or loss. In accordance with Section 2-111 of the Charter, the Board of Police Commissioners shall promulgate administrative rules for the Body's determination as to which towers shall be called for tows under this chapter. Such rules shall provide, as nearly as practicable, for equitable distribution of police authorized towing to all towers on the list of qualified towers.
- b) All towers qualifying as police authorized towers shall be Detroit-based towers. For the purposes of this section "Detroit-based" shall indicate the physical and economic relationship to Detroit determined by the payment of:

- 1) City income taxes on the towers profits; and
 - 2) City property taxes on the towers vehicle storage lot, yard, or garage.
- c) All towing services performed by police authorized towers under this chapter shall be rendered with tow trucks clearly marked with the tow company's name, address, and telephone number. No private tow truck shall bear words which may be reasonably construed as indicating or suggesting that it is a City vehicle, Police Department vehicle, other police agency vehicle, or police authorized tow vehicle.

Sec. 46-2-123. Establishment, approval, and publication of towing, storage, and administrative fees

- a) No person performing police authorized towing or storage service on such wrecked or disabled vehicles shall charge fees in excess of the rates set by resolution of City Council. Such towing fee may consist of a flat rate hook-up fee plus an additional charge for each mile a vehicle is towed beyond one mile. Storage fees may be set on a per diem basis. The City Council may establish, by resolution, maximum fees for dolly tows, standard rates for police authorized towing to the City auto pound in lieu of the normal rates, excess time spent at the scene of a tow, separate fees for accident and non-accident tows to the curb or nearest side street, "dry runs" when the tower appears at the request of the Department but does not perform an otherwise compensable towing task through no fault of the tower, and other necessary services.
- b) An administrative fee shall be charged to and paid by the owner of each vehicle towed by a police authorized tower.
- c) In accordance with Section 9-507 of the Charter and based on the reasonable cost of processing, towing, and storing a vehicle, such administrative, towing, service, and storage fees shall be established by the City Council through adoption of a resolution.
- d) After adoption of a resolution by the City Council and approval of the resolution by the Mayor, the fees that are provided for in Subsection (a) of this section shall be:
 1. Published in a daily newspaper of general circulation and in the Journal of the City Council
 2. Made available at the Police Department and at the Office of the City Clerk
 3. Reviewed by the City Council at least once every two years for adjustment, if any, of the fees established under this section.
- e) Administrative fees, towing fees, service fees, and storage fees that are authorized by City Council resolution shall become effective at the beginning of the next fiscal year or as close to the next fiscal year as the City Council finds practicable.

Sec. 46-2-124. One hook-up fee for successive tows

The towing rates resolution may provide that when a vehicle is transported by a tower or towers summoned by the police, only one hook-up fee may be charged, notwithstanding that the vehicle may have been successively transported by the tower from the traveled portion of a street, highway, or freeway to a position at or on the curb or onto the nearest side street, and then to a destination requested by the owner or permitted by the police officer in charge.

Sec. 46-2-125. When authorized

- a) No person shall perform any police authorized towing of any wrecked or disabled vehicle or any vehicle for safekeeping pursuant to Section 252d of the Michigan Vehicle Code, being MCL 257.252d, which is incorporated by reference into this chapter through Section 46-3-1 of this Code, without first having obtained written permission on forms approved by the Police Department, from the driver or owner of the vehicle or until the Detroit police officer investigating the wrecked or disabled vehicle, or vehicle subject to removal, shall have completed such officer's investigation, and has given written permission for the towing service. A copy of the completed permission form shall be given to the authorizing person. Any person performing police authorized towing shall maintain a record of completed permission forms of all such towing for a period of six months. Completed forms must show total fees charged for services rendered.
- b) The tower shall provide the vehicle owner or driver with a copy of the towing rate schedule approved by City Council.
- c) In accordance with Section 252d (2) of the Michigan Vehicle Code, being MCL 257.252d (2), if the owner or other person who is legally entitled to the possession of a vehicle to be towed or removed arrives at the location where the vehicle is located before the actual towing or removal of the vehicle the vehicle shall be disconnected from the tow truck and the owner or other person who is legally entitled to possess the vehicle may take possession of the vehicle and remove it without interference upon the payment of a service fee for which a receipt shall be provided.

Sec. 46-2-126. Requirements

- a) During a police authorized tow, as defined in Section 46-1-5 of this Code, the tower shall remove the vehicle from the traveled portion of the street, highway, or freeway:
 1. To a position at or on the curb or onto the nearest side street in order to remove the vehicle for the safety, health, and welfare of the persons using the traveled portion of the City's streets, highways, or freeways
 2. To a destination requested by the owner or driver
 3. To the City auto pound or precinct station at the direction of the police officer in charge in accordance with Article II, Division 4 of this chapter, or police impoundment pursuant to Section 252d of the Michigan Vehicle Code, being MCL

257.252d, which is incorporated by reference into this chapter Section 46-3-1 of this Code

4. To the private storage lot, yard, or garage of the police authorized tower at the direction of the police officer in charge in the case of a wrecked or disabled vehicle, or any vehicle for the safekeeping pursuant to MCL 257.252d, provided, that the private storage lot, yard, or garage shall be located within the boundaries of the City and, provided further, that the driver or other person in charge of the vehicle is unable to provide for its immediate custody and immediate removal or determine where the vehicle should be taken or is not otherwise immediately available to make such a decision. The towing and storage rates for such tow shall not exceed the rate established by resolution of the City Council after notice and hearing.

b) A police authorized tow:

1. Shall include the removal of all debris from the street, highway, or freeway
2. Shall be made by the shortest and best legal route

Sec. 46-2-127. Payment

- a) In the case of a vehicle towed to an owner-or a driver-requested destination or to a tower's private storage lot, yard, or garage under Section 46-2-126(a)(2) or (4) of this Code, the tower shall pursue payment for services rendered from the owner or driver of the vehicle and the City shall assume no responsibility for payment or collection of the tow bill.
- b) The Police Department shall make arrangements to pay a police authorized tower for each tow of a vehicle to the City auto pound or precinct station under section 46-2-126(a)(3) of this Code, for tows of illegally parked vehicles and for services for which payment by the vehicle owner is exempted by this Code. The Board of Police Commissioners may specify, with City Council approval and subject to Subsection (a) of this section, other circumstances under which the Police Department may arrange to pay the tow bill. Payment of a tow bill by the Police Department shall not relieve the vehicle owner of the owner's responsibility for payment and the owner shall upon demand, reimburse the City for the amount of such bill except as a payment by the owner is exempted under section 46-2-69 of this Code. In accordance with section 2-111 of the Charter, the Board of Police Commissioners shall establish a procedure by which this subsection shall be implemented and administered.

Sec. 46-2-128. Storage of vehicles generally

- a) All wrecked or disabled vehicles removed from any freeway or from the scene of any accident in the City and which are being stored for the driver or owner must be reported

by the tower to the Police Department within 24 hours. The Police Department shall maintain for a period of six months a record of all such vehicles. The list shall include a description of the vehicle, the registration plate number, and the place of storage. This information shall be given to the Police Department at the time the storage is reported.

- b) Any place where wrecked or disabled vehicles are stored shall post the name, address, and telephone number of the operator of the business and the hours that the business is open.

Sec. 46-2-129. Release of stored vehicle

Upon the presentation of proof of ownership and payment of permissible charges for towing and storage, no person shall refuse to release promptly and willingly any vehicle which is claimed by any owner or any owner's representative.