

OPR 04-01 COMPLIANCE WITH CITY WRECKER ORDINANCE

February 24, 2004

Executive Summary

Private wrecker companies licensed by the City to tow and store disabled vehicles for the Chattanooga Police Department and other City departments routinely violate provisions of the City Code. An audit of Police Department records and the financial records of the 35 local wrecker companies licensed to handle emergency tow calls found violations including:

- Failure to maintain records required by the City Code;
- Overcharging of motorists for towing and storage;
- Illegal conduct of joint operations within wrecker districts, thwarting the competitive intent of the rotation tow program;
- Failure to respond to tow requests from the Police Department; and
- Operation with out of date permits.

In addition, an analysis of delinquent property and personalty taxes found that nine of the licensed wrecker firms owe a total of \$14,366.51 in delinquent taxes.

Background

Wrecker companies are regulated by the City pursuant to Chapter 35 of the City Code. The Code sets forth a process where licensed wrecker companies are eligible to participate in the Police Department rotation tow program. Under the rotation tow program, wrecker firms from six designated wrecker districts tow, upon request from the Police Department, vehicles involved in accidents or that are on City streets and obstructing traffic. Between Nov. 1, 2002, and October 31, 2003, approximately 3,325 police tows were handled by district wrecker companies.

The City regulatory process is set by a nine-member Wrecker Board, with appointees from each of the City's nine Council districts, and a wrecker inspector in the Chattanooga Police Department.

Any wrecker company operating within Chattanooga city limits can apply to the Wrecker Board for a district wrecker permit. The company must pass a property and equipment inspection, show proof of insurance and pay a one-time \$200 application fee. In addition, there is an annual fee of \$50 per wrecker. An extra \$100 fee is charged whenever a wrecker is added or replaced, or a company location is changed.

When approved, a district police wrecker company is placed on a rotation call list by the Police Department. Calls originate when a police officer on the scene of an accident or upon seeing an abandoned vehicle contacts the police

dispatcher to request a wrecker. The dispatcher then calls the next company on the rotation list within that district. Disabled vehicles are towed to the wrecker company's lot and stored until the individual obtains a release form from the Police Department. Individuals must present valid proof of ownership at the Police Information Center before getting a release form. Vehicles are reclaimed after individuals present the proper release forms to the responding wrecker company and pay all charges associated with the tow.

City Code Section 35-160 sets maximum allowable charges for three different classes of vehicles. Class A vehicles include passenger cars, pickup trucks and small trailers. Class B vehicles include medium-size trucks and trailers. Class C vehicles include large trucks, road tractors and trailers. Towing charges range from \$75 (day) and \$85 (night) for Class A vehicles to \$150 for Class B vehicles and \$300 for Class C vehicles. Storage charges are \$10 per day and \$12 per night for Class A, and \$18 per day and \$30 per night for Class B and C. Winching charges are \$45 for Class A, \$150 for Class B and \$300 for Class C. The City Code also requires that district wreckers have prepared billheads with their names and addresses printed on them, and that original bills be given to the owners of disabled vehicles upon request at the time of the tow.

The current permitted charges in Chattanooga are comparable – if not slightly higher – than those in Memphis, Knoxville and Nashville. All cities, however, charge less than the current State of Tennessee rates.¹

TABLE 1. TOWING CHARGES

	Class A (Day)	Class A (Night)	Class B (Day)	Class B (Night)	Class C (Day)	Class C (Night)	Other
Chattanooga	\$75	\$85	\$150	\$150	\$300	\$300	Chattanooga also allows wreckers to charge for storage, winching, dollies and Class C vehicles with air bags.
Memphis	\$75	\$75	\$95/hr	\$95/hr	\$120/hr	\$125/hr	Memphis also has a \$10 storage (out) fee
Nashville	Nashville's charges depend on location and tow distance. For vehicles less than 5,000 lbs., the tow cost ranges from \$60 to \$75. There are also daily storage charges of \$10 and labor charges.						
Knoxville	Prices in Knoxville are set by competitive bid. Wreckers bid on a zone by zone basis, with one wrecker selected per zone. Costs vary from \$25 to \$75 per tow.						
State of Tennessee	\$125	\$135	\$250	\$285	\$425	\$500	The State also has a storage charge.

¹ Per the TN State Safety Dept Wrecker Service Standards Manual – “The Tennessee Department of Safety shall not establish tow rates. However, rates should be consistent with those of competitors in the same geographical area and be fair and equitable to all affected parties.” Rates listed were verified with the local State Office as approved allowable rates charged in the Chattanooga area.

Methodology

The OPR auditor selected a random sample of 163 towing reports from the period May to October 2003. In addition, the auditor reviewed the City Code, interviewed officials from other Tennessee cities and the State regarding their tow programs and reviewed City tax data bases.

The random sample resulted in the review of between three and five reports for each of the 35 local wrecker companies currently licensed by the city to handle emergency towing calls. The auditor reviewed company invoices, towing forms and releases to monitor compliance with the City Code. Tow reports were gathered from the Police Department and the auditor – along with the wrecker inspector – then visited each of the wrecker firms to seek invoices and releases. In the case of 53 of the tow reports, the vehicles were still with the wrecker firm and had not yet been reclaimed by their owners (40) or were sold or salvaged (13).

Findings

1. Out of 110 tow reports (excluding those where no vehicle had been reclaimed or those sold or salvaged), wrecker companies were unable to provide supporting financial documentation for 32 – 29% -- in violation of Section 35-160 of the City Code.

Out of 35 licensed wrecker firms, 15 failed to have copies of supporting documentation on hand for review by the OPR auditor for at least one of the sample tow reports. One firm – Chattanooga Wrecker – initially refused any review of records. Eventually, Chattanooga Wrecker produced release forms for the sample of five tow reports but could not produce any invoices for the four vehicles that had been released. Four other firms – Airport Towing, Expressway, Fords Towing and Johnny's Towing – also failed to produce supporting documentation for any of the tow reports in the sample where the vehicles had been released.

The Sec. 35-157(2) of the City Code requires that “[R]ecords of the vehicles towed and charges of tows from calls received from the city rotation list shall be maintained for at least one (1) year and shall be open for inspection by the city...” The City requires that these records be maintained precisely because of the need to ensure that wrecker firms are not overcharging motorists. The failure to provide records to the City is a prima facie violation of the City Code.

2. Out of the 78 tow reports where financial documentation was available, wrecker companies overcharged motorists on 40 tows – 51% -- in violation of the City Code.

Out of the remaining 30 firms where financial documentation was available, 19 firms had at least one instance of overcharging motorists. There

were two principal types of overcharging identified during the audit. In the case of 32 tows, there was an overcharge on storage fees. According to some of the wrecker companies, this was due to confusion created when the wrecker companies received a letter from the State of Tennessee informing them that the State's storage fee had increased from \$10 to \$15 per day. Many local companies wrongly assumed that the City of Chattanooga had also increased its storage rate.

There were also 20 instances where wreckers overcharged on other rates:

- On three occasions each, R&D and Lockwood wrecker companies had charged \$95 for night tows, instead of the allowable rate of \$85.
- Jackson Wrecker also charged \$95 for one night tow.
- Yates Wrecker charged \$350 for a Class C tow that should have been \$300.
- Steve Ray's Neighborhood Chevron was found to charge an extra \$55 for rollback service on two sample invoices.
- In 10 additional cases, motorists were overcharged by \$10 when the mandated night rate of \$85 was charged during normal business hours.

3. Nine out of the 35 licensed wrecker firms appear to be violating the City Code's prohibition on joint operation.

The purpose of the rotation tow program is to enable licensed district wreckers to have an equal share of tow business resulting from police action. If firms that are really single entities have multiple "draws" on the rotation list, it thwarts the competitive intent of the statute. As a result, the City Code provides both that "[N]o district wrecker permittee shall operate his business jointly with any other district wrecker permittee... (and) [N]o permittee shall directly or indirectly operate more than one (1) district wrecker within the same zone."

In four cases, multiple firms were operating out of a single main office, with the same clerical personnel being used to handle checkouts and invoicing for more than one company.

- Interstate 2 did not have any files or workers present at its Rossville Boulevard location. All records were retained at the company's Long Street location, and all vehicles towed by either wrecker service were only released from the Long Street location. Both companies use the same invoice.
- When the auditor visited the premises of United Auto, there was only a fenced lot with vehicles on hand for resale. The office on location did not have any electrical power, nor were there any files there. United Auto was found to be sharing clerical personnel with United Transport and United Wrecker. All files for United Transport office were retained at the United Wrecker office. All three companies use the same invoice.

- Allied Wrecker, did not have records stored at its location. All records were stored at Denton's Wrecker Company. Allied Wrecker did use a separate invoice with its company name on the heading.
- Ace Auto Recovery and Ace Auto Recovery #2 were working out of the same location, using the same clerical personnel and the same invoices for both companies.

4. Two wrecker companies were operating with expired permits.

A review of existing wrecker permits on file on the Office of the City Treasurer determined that two firms -- Allied Wrecker and Denton's Wrecker—were operating with expired permits. To renew their permits, which both expired on October 17, 2003, the companies need to provide proof of insurance for each wrecker they operate and to pay for their renewal permits.²

5. Nine district wrecker companies were found to owe a total of \$14,366.51 in delinquent City property and personalty taxes.

A review of City tax records as of December 2003 found that the following nine companies are delinquent on either property or personalty taxes.³

TABLE 2. DELINQUENT TAXES

Ace Recovery 2	\$218.97
A.L. Jackson	\$1,080.28
Ashland Terrace Collision	\$637.38
Chattanooga Wrecker	\$461.74
Gant's Motors	\$2,434.74
Jackson Towing	\$6,265.11
Johnny's Wrecker Service	\$192.68
Expressway	\$835.07
Expressway 2	\$2,240.54
Total	\$14,366.51

² As of February 5, 2004, both wrecker companies' provided proof of insurance and all fees were paid. New permits were issued and expire on December 31, 2004.

³ As of February 20, 2004, Gant's Motors has paid in full and Jackson Towing paid \$1,930.69 for the 2000 taxes due leaving a balance of \$ 4,484.54. The total owed for all companies is \$10,471.22. Balances including interest are as follows: Ace Recovery 2 \$222.84; Al Jackson \$1,118.77; Ashland Terrace \$659.90; Chattanooga Wrecker \$477.30; Johnny's \$197.38; Expressway \$853.36; Expressway 2 \$2,457.13.

6. Some wrecker companies refuse to answer rotation tow calls.

The Police Department maintains a logbook of calls to district wrecker companies. A review of the logbook for 2003, from January 1 to October 31, 2003, found that there were a total of 108 refused calls, an average of three refused calls per licensed firm. Two wrecker firms – Chattanooga Wrecker and B & S Towing – however, had 27 and 15 refused calls respectively, accounting for 38% of all refused calls. Another firm – White's Auto Repair – had thirty instances where no one at the firm had answered the phone.

Firms might decline tow work if they believe that it will be unlikely to either have the vehicle reclaimed or that they will be able to sell it. Some use police scanners to monitor dispatches and determine what type of vehicle is involved—the more valuable the car, the more desirable the tow. Under State law, the wrecker company keeps all unclaimed vehicles not reclaimed. If the individual gives the wrecker company permission then they can take them to the salvage yard and the wrecker company can receive about \$25 to \$35 per vehicle. If the person signs over the title then the wrecker company can sell the vehicle. Finally, if the individual just abandons the car, the wrecker company has to follow all State regulations by sending a certified letter to owner if one can be found by the State. If an owner can not be located then the wrecker company can apply for the garage keeper's lien. Any proceeds received from the vehicle have to be offset by the expenses incurred for the towing bill.

Recommendations

1. The Wrecker Board should take immediate action against those wrecker firms that have violated provisions of the City Code. Those wrecker firms that have not maintained financial records should immediately have their licenses revoked. The City should also require that wrecker companies that have engaged in overcharging (based on the finding of this audit) formally notify motorists who have had their vehicles towed in the last year that they may have been overcharged for their services. The City should also set up a hotline through the 311 Call Center and the City Attorney should determine whether it can act on behalf of the City against those wreckers that have overcharged motorists.

2. The City should consider elimination of the rotation tow program and instead select one wrecker firm per district on the basis of competitive bids. The Police Department lacks the resources to effectively enforce the rotation tow program. The Department's one inspector also has responsibility for inspections for beer permits and enforcement of underage drinking laws. Given limited enforcement resources, the City should examine whether it should move toward a competitive program that allows for one wrecker per district to be responsible for police directed tows. To provide adequate capacity, there would also be three backup firms. Bidders would be selected on the basis of charge to motorist and fee payments to the City.

3. The Police Department should provide written notice of maximum allowable tow fees to motorists and all wreckers should be required to post fee schedules at their facilities.

4. Wrecker firms that refuse to answer more than ten calls in a calendar year – either by declining calls or not answering the phone – should be barred from participation in the rotation tow program for a period of not less than two years. For tows directed by the State, statute permits the State to either lose a turn in the rotation program or be removed from the list altogether. Companies failing to answer two consecutive calls are subject to investigation, suspension and removal from the list.

5. Wrecker companies with delinquent taxes should be prohibited from renewing their wrecker licenses.

6. Before providing a release form to motorists, the Police Department should determine whether there are outstanding citations for parking or other violations on the vehicle. Out of 163 vehicles in the sample, City Court records indicated that ten had outstanding citations – 6.1%.