

ORDINANCE # 13 - 2022

AN ORDINANCE OF THE CITY OF BEREА, KENTUCKY, AMENDING THE CODE OF ORDINANCES OF THE CITY OF BEREА, KENTUCKY, BY ADDING CHAPTER 42, REQUIREMENTS FOR CITY TOW OPERATORS, SECTIONS 42.01-42.04, PROVIDING FOR REQUIREMENTS FOR TOW OPERATORS PROVIDING WRECKER SERVICE TO THE CITY.

WHEREAS, the City of Berea periodically has the need to call privately owned wrecker services in the event of wrecks and disabled vehicles among other causes, and

WHEREAS, the City has a rotating wrecker list from which to call, and;

WHEREAS, requirements should be established to offer consistent service to the City and the Public,

NOW, THEREFORE, be it ordained by the City Council of the City of Berea, Kentucky, as follows:

SECTION I

That the Code of Ordinances of the City of Berea, Kentucky, be amended by adding Chapter 42, REQUIREMENTS FOR CITY TOW OPERATORS, §§ 42.01-42.04, so that such Sections shall read as follows:

CHAPTER 42. REQUIREMENTS FOR CITY TOW OPERATORS

§ 42.01 This Chapter specifies the basic requirements for Wrecker Service Companies when called by any department of the City of Berea.

§ 42.02 Definitions

“Tow Truck” means a motor vehicle equipped to provide any form of towing service, including recovery service or flatbed/rollback service;

“Tow truck operator” means an individual who operates a tow truck as an employee or agent of a towing company;

“Towing” means:

(a) Emergency towing, which is the towing of a motor vehicle, with or without the owner's consent, because of:

1. A motor vehicle accident on a public highway;
2. An incident related to an emergency; or
3. An incident that necessitates the removal of the motor vehicle from a location for public safety reasons;

(b) Private property towing, which is the towing of a motor vehicle, without the owner's consent, from private property:

1. On which the motor vehicle was illegally parked; or
2. Because of an exigent circumstance necessitating its removal to another location; and

(c) Seizure towing, which is the towing of a motor vehicle for law enforcement purposes involving the:

1. Maintenance of the chain of custody of evidence;
2. Forfeiture of assets; or
3. Delinquency of highway fuel tax, weight distance tax, or any other taxes and fees administered by the Transportation Cabinet;

"Towing company":

(a) Means a service or business operating as a motor carrier that:

1. Tows or otherwise moves motor vehicles by means of a tow truck; or
2. Owns or operates a storage lot;

(b) Includes a tow truck operator acting on behalf of a towing company when appropriate in the context; and

(c) Does not include an automobile club, car dealership, insurance company, repossession company, lienholders and entities hired by lienholders for the purpose of repossession, local government, or any other entity that contracts with a towing company.

§ 42.03 Rotating Tow Service Schedules

(a) The Police Department shall maintain rotating schedules specific to the tow service needed (flat bed, conventional tow truck, and tractor-trailer capable). The schedules shall rotate in such a manner as to give each participating towing company an equal opportunity to be contacted by the Police Department

(b) The rotating schedule may be changed by unilateral action of the Chief of Police to add or delete towing companies; removals, however, to be subject to review and approval or disapproval by the City Council. Deletion from the schedule may be effected due to non-compliance with this ordinance or written request from the towing company

(c) Nothing in this ordinance shall be interpreted to prohibit the owner of a vehicle requiring wrecker service to choose his or her preferred towing company; provided that in such event it shall be the responsibility of the owner to contact the towing company.

§ 42.04 Minimum Requirements for The Requirements for city towing follow:

1. Each towing company must be D.O.T. compliant
 - A. Equipment and Rigging (Overhead lifting)
 - B. Drivers (Pre-employment and random drug screening and Drivers files) including Medical Card.
 - C. Technique (4-point securing, Vests)
2. Each towing company must provide the city with a written training program for all drivers covering.
 - A. D.O.T. compliant hook-up (carrier & tow)
 - B. Up righting with one piece of equipment
 - C. Proper rigging & technique for winching
3. Each towing company must provide the city with a list of drivers
 - A. It is the towers responsibility to keep the list current
 - B. All drivers are to be trained
 - C. Each towing company shall provide the city with signed documentation the driver has been trained.
4. Each towing company shall follow all state, federal, and local laws
 - A. Each towing company shall treat everyone working for them as employees for income tax withholding purposes. They will be required to withhold and pay federal income tax, social security and Medicare taxes as required by federal law. They will also be required to withhold and pay state income taxes based on state regulations.
 - B. Each towing company shall be required to withhold and pay City of Berea income taxes based on local regulations.
 - C. The City of Berea Employer's Quarterly Return of License Fee Withheld will be filed on a timely basis and the yearend report will include the annual summary.
5. Each towing company shall provide the city with a list of equipment on an annual basis.
 - A. Detailed description of the truck and bed
 - B. Inspection of equipment may be required at the city's discretion.
6. Each towing company must own and have at their disposal 24 hours per day
 - A. One twin line hydraulic tow truck with a minimum tow capacity of 4,000 lbs.
 - B. One rollback with a minimum haul capacity of 8,000 lbs.
7. Each towing company shall comply with the provisions of KRS 281.920-281.936, as such statutes may be hereafter amended, and

which statutes shall supersede any provision herein which may be contrary to the statute.

8. Vehicle Equipment and Standards:

All tow trucks utilized by any towing company shall have, at a minimum, the following equipment:

- (a) Every tow truck shall display lettering on both sides of the vehicle that indicates the name or trade name of the towing service, the city and state in which the tow truck is customarily based, the business telephone number, and their DOT or IFTA number. Said lettering shall contrast sharply in color with the background and be a minimum of two (2) inches in height. NOTE: Magnetic signs are allowed on a temporary basis only not to exceed thirty (30) days from deployment of the vehicle into operational status.
- (b) Minimum of one light mounted behind the cab of the tow truck which is capable of illuminating the area of the tow under darkened, foggy or dangerous conditions;
- (c) FCC licensed two-way radio for communications. A radio telephone or cellular is acceptable. Citizen band radios are not acceptable. Hands-free devices must be compliant with federal guidelines;
- (d) Cables or wire ropes as specified below:

Each cable shall be capable of being fully extended from and fully wound onto its drum with a minimum length of 75 feet and be 3/8 inch in diameter;

Cables or wire ropes shall be free from the following defects or conditions:

There shall be no more than six randomly distributed broken wires in one rope lay, or more than three broken wires in one strand in one rope lay;

There shall be no evidence of any heat damage from any cause;

There shall be no end attachments that are cracked, deformed, worn or loosened.

- (e) Fully functioning light bar with amber lamps at 360-degree visibility. The truck may also be equipped with flashing amber lights. Such lighting shall not be used when responding to a call, but only at the scene when necessary to warn approaching traffic of impending danger and during actual transport of a vehicle;
- (f) A broom and a shovel. The broom shall be at least eighteen inches wide and have a handle at least four feet long. The shovel shall be a flat scoop type with a minimum width of seven inches and overall length of at least three feet;
- (g) A wheel lift, car carrier or other comparable device made of a material designed to protect vehicles and motorcycles while being towed. A Tow Sling alone will not qualify. In addition, all HD wreckers must be equipped with an under-reach device;
- (h) One five-pound fire extinguisher, 25 BC rating or equivalent.
- (i) Two snatch blocks for each tow line or their equivalent in good working condition; Snatch block requirements are as follows:
 - Four (4) Ton Block for 8,000-pound winch (LD)
 - Eight (8) Ton Block for 25,000-pound winch (HD)
 - Ten (10) Ton Block for 40,000-to-50,000-pound winch (HD)
- (j) One portable dolly or its equivalent for hauling vehicles that are not towable.
- (k) One pry bar at least three (3) feet long;
- (l) Portable lights for the unit being towed including, but not limited to, taillights, stop lights tow light bar, and directional signals;
- (m) One flashlight;
- (n) A tire pump or air tank;
- (o) Battery jumper cables;
- (p) A standard first aid kit;
- (q) Five-gallon bucket filled with absorbent, and provided that the towing company shall replace any materials used by any city agency on a 1:1 basis;

- (r) Compliant Level II reflective safety vest(s) NOTE: Must be worn on all calls
 - (s) A standard tow truck (LD) as necessary to recover passenger cars, pickup trucks and their loads, small trailers or equivalent vehicles shall be equipped as follows:
 - (t) All equipment used in conjunction with the tow truck must be compatible with the manufacturer's recommendations for its installation and maintenance. Additionally, all equipment must comply with current state and federal laws and regulations;
- 10,001 Lbs. Gross Vehicle Weight Rating (GVWR) or greater;

Dual tires on the rear axle;
 Six-ton boom rating, dual or single boom with dual or single winches to control a minimum of one service cable, except a car carrier which by its nature does not utilize a boom. NOTE: All booms and winches must be operated by hydraulics; May include wheel lift or roll back tow trucks for this class of tow truck.

- 9. Each towing company must have a storage lot.
 - A. The lot must be owned or leased for use only by the towing company
 - B. The lot must be large enough to hold at least 10 vehicles
 - C. Lot must be located within 1 mile of city limits of Berea.
- 10. Each towing company must respond to all calls within 30 minutes, 24 hours per day 7 days a week.
- 11. Each towing company shall maintain the following minimum insurance coverages:

Workers Comp.	State Minimum
Garage liability, bodily injury and property damage	750,000 each occurrence
Contractual bodily injury and Property damage	750,000 each occurrence
Garage keepers' legal liability	300,000 each occurrence
Including coverage for vehicles While being towed	300,000 each occurrence

Automobile bodily injury \$1 Million each occurrence
 And property damage

12. Rates

Maximum rates for Class A Towing and recovery cars, pick-ups, and motorcycles:

TOW

Standard Tow \$125.00
 Motorcycle Tow.....\$225.00

ADDITIONAL CHARGES

Dolly Charge \$50.00
 Mileage Outside City Limits \$4.00 One way per mile
 Winching (First ½ Hour) \$100.00
 Winching (After First ½ Hour) \$50.00
 Tire Change \$75.00
 Standby Time (First ½ Hour) \$50.00
 Standby Time (After First ½ Hour) \$50.00
 Show-Up Fee \$50.00
 Collision Clean -up (first ½ Hour)\$50.00
 Collision Clean-up (after first ½ Hour)\$40.00
 Additional Oil Dry (one bag included in initial clean-up) ...\$15.00
 Lockout Charge..... \$50.00
 No Key Fee.....\$50.00

Storage

Cars, Pick-Ups, Motorcycles (Outside) \$75.00 per day
 Cars, Pick-Ups, Motorcycles (Inside) \$100.00 per day
 Vehicle Release Charge (after regular hours, weekends and holidays)\$50.00
 Gate Fee.....\$75.00
 Admin Fee (3rd party pickups and/or assessments at towers discretion)..... \$75.00

(B) The Owner of the vehicle will have the right to call a wrecker company of their choice if they so desire.

(C) A copy of the Rates shall be posted at the Berea Police Department and the Berea Dispatch Center.

(D) Any towing company desiring to be placed on the City's towing list shall abide by these requirements at all times and shall be solely responsible for the

requirements of the Ordinance. Each towing company shall complete the City of Berea "Towing Service Rotation Application" which can be obtained and filed with the Berea Police Department. If at any time the information changes, it's the company's responsibility to update the information on the Application.

(E) The City Council will review the rates in this Code section every two years.

SECTION II

The provisions of this Ordinance shall become effective on August 17, 2022, and all necessary information required by this Ordinance shall be given to the Berea Police Department by that time.

All ordinances or parts of ordinances in conflict herewith are repealed.

This ordinance shall be published according to law.

FIRST READING: August 2, 2022.

SECOND READING AND ENACTMENT: August 16, 2022.

APPROVED BY:

Bruce Fraley, Mayor

ATTEST:

Clerk of the City Council

Published this 17 day of August, 2022.

PREPARED BY:

Corporate Counsel