

City of Utica  
Department of Legislation  
In Common Council

Sponsored by: Councilmember Colosimo-Testa

May 1, 2024

**Ordinance Replacing Chapter 2-28: Tow Rotation List of City of Utica Code of Ordinances**

**ORDAINED**, that the City of Utica Common Council hereby rescinds and replaces Chapter 2-28: Tow Rotation List: of the Code of Ordinances of the City of Utica with the following:

**ARTICLE I  
IN GENERAL**

**Sec. 2-28-1 Definition for the Purpose of Towing**

As used in this chapter, “wrecker”, “tow truck” or “flatbed” means a motor vehicle employed for the purpose of towing, transporting, conveying or removing any passenger motor vehicle which is unable to be operated under its own power for which service a charge or fee is exacted.

As used in this chapter, tow rotation list means an established list of towing services to be used on a rotating basis by the bureau of police whenever towing services are required by the bureau of police.

**Sec. 2-28-2 Intent**

The intent of this chapter is to regulate tow truck companies operating on the Tow Rotation List of the City of Utica. This chapter serves to protect the public while offering fair tow service rates, working with towing businesses and permitting persons engaged in wrecking or towing businesses.

**Sec. 2-28-3 Applicability**

The terms and provisions of this chapter only apply to any wrecker or tow truck companies that are approved to operate on the tow rotation list and are engaged in a tow rotation service call pursuant to the tow rotation list. Any company not on the tow rotation list or engaged in tow not pursuant to a service call by the City of Utica/Utica Police Department, does not fall under the guidelines of this chapter

**Sec. 2-28-4. Violations and penalties**

- (a) Any person who violates any provision of this chapter shall, upon conviction be subjected to the penalties as provided in Section 2-1-7.
- (b) After notice and opportunity to be heard, the Chief of Police may suspend or revoke the permit of any person who violates the provisions of this chapter. The Chief may also remove a violator from the tow rotation list.

**Sec. 2-28-5. Enforcement and transfer of information "ACCIDENT INFORMATION EXCHANGE FORM."**

- (a) This article shall be enforced by the Chief of Police or his designee.
- (b) See attached accident exchange form

**Sec. 2-28-6 Composition and powers of the permit commission, Chief of Police and Grievance**

- (a) The membership of the permit commission shall be composed of a Common Council Representative or their designee, the Chief of Fire or his designee and the Commissioner of Code Enforcement or his designee. The Chief of Police or his designee shall serve as a non-voting member and shall exist in an advisory capacity.

- (b) Any person aggrieved by a decision of the Chief of Police in implementing this article may appeal to the permit commission by delivering a written appeal, stating the reasons therefore, to the City Clerk within thirty (30) days after the occurrence of the event appealed from.
- (c) The Chief of Police shall have the power to:
  - (1) Examine into the qualifications and fitness of applicants for permits under this chapter.
  - (2) Keep record of all permits issued, suspended or revoked.
  - (3) Adopt rules and regulations consistent with the intent of this chapter as may be necessary with respect to the form and content of applicants for permits, receipt of permits, the investigation and examination of applicants and their qualifications and other matters incidental or appropriate to the powers and duties as prescribed by this chapter and for the proper administration and enforcement of the provisions of this chapter.
  - (4) Investigate any and all complaints made in conjunction with the requirements of this chapter.

## **ARTICLE II PERMIT**

### **Sec. 2-28-7 Required; issuance of decal, endorsements**

- (a) No person shall be considered for the tow rotation list without first having obtained a permit.
- (b) The city clerk shall issue a decal, after permit is approved, which shall be displayed on the rear window of the wrecker or tow truck in an area not obstructing the driver's view. Every operator shall receive one (1) sticker, the cost of which shall be included in the price of the permit. Any additional stickers needed will cost five dollars (\$5.00) per sticker. Non-refundable.
- (c) No person shall operate any wrecker or tow truck or conduct any wrecker or towing service within the city without first obtaining a NYS License Tow truck endorsement "W".

### **Sec. 2-28-8 Application**

- (a) The application for a permit shall be made to the City Clerk on the prescribed form and shall specify the following information:
  - (1) The year, make, type, and registration number of the wrecker or tow truck.
  - (2) The name, address of the applicant and, is a corporation, the name and address of each officer, director and shareholder of the corporation and if a partnership, the name and address of each partner.
  - (3) The name and address of the owner of the wrecker or tow truck if other than the applicant.
  - (4) The location of the premises at which the wrecker or tow truck is domiciled or garaged.
  - (5) The location of the premises to which the vehicles are to be towed, the maximum number of vehicles to be stored at the premises and the name and addresses of any other tow truck operation permitted.
  - (6) The names and addresses of personal references.
  - (7) A complete list of all criminal convictions, to include minor traffic violations, of all persons named pursuant to paragraphs (2) and (3) of this subsection.
  - (8) Any other information deemed necessary by the bureau of police in order to implement the purpose of this chapter.
  - (9) False or omitted information on said application shall cause either denial of, or delay in application.

- (b) All applications shall be forwarded by the City Clerk's office to the Bureau of Police for review and approval from the Chief of Police.

**Sec. 2-28-9 Fees; term**

- (a) The fee for tow rotation list applicants shall be one hundred and fifty dollars (\$150.00).  
(b) All permits shall expire December 31<sup>st</sup> of the pursuant year.  
(c) All fees are non-refundable.

**Sec. 2-28-10 Renewal; denial**

- (a) Any permit issued under the provisions of this article may be renewed upon the following:
- (1) Submission to the city clerk of a renewal application containing the same information as required by section 2-28-8, no later than thirty (30) days before the expiration date of the current permit, December 1<sup>st</sup>.
  - (2) Payment to the city clerk or renewal fee in the amount required by section 2-28-9.
- (b) The Chief of Police may deny, within thirty (30) days after submission of all items required by this section, the renewal of any permit if it finds that the applicant no longer demonstrates the ability to comply with the terms of this chapter.

**Sec. 2-28-11 Transferability**

Any permit or registration required by this article shall not be transferred to another person or vehicle.

**Sec. 2-28-12 Suspension or revocation.**

- a.) The Chief of Police may deny, within thirty (30) days after submission of all items required in this section, the renewal of any permit if it finds that the applicant no longer demonstrates the ability to comply with the terms of this chapter.
- b.) In addition to any penalties which may be imposed for the violation of this chapter, the Chief of Police, may suspend or revoke any permit granted, under the provisions of this article, after written notice and opportunity for a hearing, for any of the following reasons:
- (1) Fraud or willful and knowing misrepresentation or false statements made in an application of permit.
  - (2) Failure to comply with all provisions of this chapter.
  - (3) Violation of any law or regulation of the state including, but not limited to, violations of the motor vehicle laws and regulations.
  - (4) Violation of any city regulations or ordinances including this chapter.
  - (5) Violation of the two-hundred-foot rule pursuant to section 2-28-33.

**ARTICLE III**

**OPERATIONAL RULES**

**Sec. 2-28-13 Equipment**

Each wrecker/tow truck shall be equipped with flashing or revolving amber lights on the truck, fully charged all-purpose fire extinguisher, one (1) dozen red flares, safety chains, rigid tow-bar, broom, pry-bar, shovel, lifting boom on rear and not less than a one-and-half-ton power winch equipped with one hundred fifty (150) feet of three-eighths-inch steel cable.

## **Sec. 2-28-14 Rates and charges; Solicitation**

(a) **Towing charges.** The towing charges for towing shall be as follows:

No owner of a tow truck may charge in excess of three hundred dollars (\$300.00) for towing any vehicle. There will be no additional mileage charge if towing is within the city limits or to their place of business. The tow service shall provide services, to include, any recovery of off road vehicles. Motorcycle and winching fees will be considered an additional cost. Rates as follows:

1. Motorcycle and off road vehicle towing is an additional \$50.00.
2. Winching (with a tow) \$25, if required with tow and documented by police report
3. Winching (without a tow) \$100.00 for first 15 minutes, additional \$35 after first 15 minutes. Time must be documented on invoice.
4. Where a vehicle cannot be sufficiently towed on its own, the use of dolly wheels, flatbed, rollback, may be an additional charge of not more than twenty-five dollars (\$25.00).

b) **Storage charges.** No wrecker or tow truck operator shall charge an outdoor storage fee in excess of forty-five dollars (\$45.00) per day and no more than eighty-five dollars (\$85.00) per day for necessary inside storage (if available) for any vehicle towed pursuant to this chapter. The only reason inside storage will be necessary is if the police authorize it or the owner requests it. The vehicle must be on the premise of a minimum of twenty-four (24) hours in order to charge a storage fee. If the vehicle remains on the premise after twenty-one (21) days, the tow service may set its own storage fee.

(c) In the event no tow company on the Rotation List is capable of safely or properly recovering, transporting, relocating, or stowing a heavy equipment or special vehicle, the officer on scene, with the authorization of the squad commander, may request the services of a company that is not approved for participation in the Rotation List.

## **Sec. 2-28-15 Towing of vehicle without consent of owner**

Every person operating under the provisions of this chapter shall, immediately upon removal or towing of any vehicle without the express consent of the owner or driver of the vehicle, notify the bureau of police in person of the year, make, model and license or vehicle identification number of the towed vehicle. The location from which the vehicle is removed and the location where the vehicle will be located must also be given.

## **Sec. 2-28-16 Towing from private property**

No person operating under the provision of this chapter shall tow a vehicle from private property except at the express written request of the owner or lessee of the property or at the express written request of the owner of the vehicle and the owner or lessee of the property. The operator must notify the bureau of police in person immediately upon removal and include the same information required in section 2-28-15, if written consent of the owner of the vehicle has not been notified.

**ARTICLE IV**  
**TOW ROTATION LIST**

**Sec. 2-28-17 Establishment**

- (a) The Chief of Police must establish a list of towing services to be used on a rotating basis by the bureau of police whenever towing services are required by the bureau of police. The list shall be known as the tow rotation list and the requirements for participation in the list shall be established in this article.
- (b) Authority to impound vehicle. When any vehicle is parked or abandoned on any highway in the city during a snowstorm, flood, fire, or other public emergency which affects that portion of the highway upon which said vehicle is parked or abandoned, or when any vehicle is found unattended on a highway in this city where said vehicle constitutes an obstruction to traffic, or when any vehicle is abandoned on any highway in this city where stopping, standing or parking is prohibited, or any situation caused by said vehicle that may be deemed hazardous or any emergency by the police, said vehicle may be removed by or under the direction of any police officer of this city.

**Sec. 2-28-18 Permitting of towing service**

- (a) A towing service placed on the tow rotation list shall be permitted according to the requirements of this article and shall be in conformity with all provisions of this article.
- (b) The permit application form shall have a place where the applicant can indicate the desire to also be placed on the tow rotation list-away rotation list.

**Sec. 2-28-19 Tow truck operator's permit.**

Required. All employed drivers of a towing vehicle placed on the tow rotation list must obtain a tow truck operator's license.

- (1) Possession of a valid New York State driver's license with a NYS Tow Truck endorsement "W".

**Sec. 2-28-20 Inspections, equipment required and identification of wrecker/tow truck**

- (a) Each wrecker/tow truck applying for the tow rotation list away rotation list shall be equipped with the following required equipment: Flashing or revolving amber lights on the truck; fully charged all-purpose fire extinguisher; one (1) dozen red flares; a set of dolly wheels or flatbed; safety chains; rigid tow bar; lifting boom on rear; not less than one-and-one half ton power winch equipped with one hundred fifty (150) feet of three-eighths inch steel cable; broom; pry bar and shovel. An operator shall permit inspection by the Utica Police Department to verify that it has the required equipment.
- (b) The company name must be affixed on each side of the wrecker/tow truck. All lettering setting forth the company name, address and phone number shall be at least three (3) inches in height and in a contrasting color.

### **Sec. 2-28-21 Certificates of insurance**

Each applicant for the tow rotation list shall submit a certificate of a current garage liability insurance policy and current automobile liability insurance policy issued by an insurance company authorized to do business in the state. Policy limits must include not less than one million (1,000,000.00) for the injury or death fifty thousand dollars (50,000.00) for the property damage or a combined single limit of five hundred thousand (500,000.00)

### **Sec. 2-28-22 Indemnification**

Each towing service operator on the tow rotation list shall agree to defend indemnify and hold harmless the City from any claims or liabilities which may occur as a result of performing service at the request of the Bureau of Police.

### **Sec. 2-28-23 Rates and charges**

The towing service operator on the tow rotation list and responding to a City of Utica towing request, upon completion of a tow, shall levy tow charges against the rightful owner of the vehicle. No fee may be levied for response not resulting in a removal of the vehicle. Tow facility must be able to accept credit cards, checks and cash for payment of services. The cost of the removal or towing shall be the responsibility of the vehicle owner or operator and shall not exceed the rates established by this chapter.

### **Sec. 2-28-24 Removal from list**

- (a) If, at any time, the towing service fails to maintain the requirements of this chapter or violates any provision of this article, the towing service may be removed from the rotation list by the order of the Chief of Police. The Chief of Police or his designee has forty-eight (48) hours to notify the City Clerk's office if the towing service is ordered removed from the rotation list. The towing service will also be notified by the Chief of Police or his designee of their right to appeal that decision to the Licensing Commission within thirty (30) days after the date of that decision.
- (b) If any towing service arrives at the scene without all of the equipment required in section 2-28-20, it shall be grounds for immediate removal from the rotation list.

### **Sec. 2-28-25 Number of towing services on a list; filling vacancies**

There shall be no more than fifteen (15) towing services participating on the tow rotation list at any one (1) time. Vacancies on the list shall be filled on a first come, first served basis from an established waiting list.

### **Sec. 2-28-26 Availability; response to calls; Acceptance or rejection of calls**

- (a) The towing service on the tow rotation list must be available for assignment on the twenty-four-hour basis, seven (7) days a week, three hundred sixty-five (365) days a year.
- (b) The towing service must be able to respond to any call for service in the city area within twenty-five (25) minutes of receiving the call from the Bureau of Police. The towing service must have a phone number on file with the Bureau of Police where the towing service can be reached at all times. There can be no more than two (2) numbers per towing service on file at any given time. Failure to answer all numbers listed for that towing service when called by the Bureau of Police for a rotation call will be considered as a rejection.

- (c) Upon request for the rotation tow service, the service next on the rotation must be the service to respond. The Bureau of Police must be informed of any acceptance by the towing service on the tow rotation list-away rotation list at the time the service is first called. The service called can accept or choose to be skipped; it cannot designate its replacement. In the event the tow service on the rotation cannot respond to the call, then the tow service next on the list shall be called to respond, and so forth, until a tow service does respond to the call. If any tow service rejects more than three (3) calls within a six (6) month period for any reason, it will be suspended from the rotation list for a period of one (1) month. Rejection of five (5) calls within a six (6) month period shall result in suspension from the rotation list for a six (6) month period. If there are more than six refusals in a six-month period, the operator will be subject to review by the permitting commission whether to permanently drop them from the rotation list.
- (d) A tow operator may respond for another tow service, as long as the responding operator is on the tow rotation list approved by the Chief of Police. The vehicle must be towed to the original tow facility. The Chief of Police will use his discretion for abuse of this section.

#### **Sec. 2-28-27 Log books**

- (a) All towing service operators on the tow rotation list will keep a log book in which will be listed, the time the call was dispatched from the bureau of police, the date and time the vehicle was picked up, the location from where the vehicle was towed, the make, the model and color of the vehicle and the permit or vehicle and the permit or vehicle identification number. This log book will be subject to inspection by any police officer.
- (b) The bureau of police must also keep a list on all calls made from the tow rotation list. The police officer at the scene of the accident will notify the police dispatcher of the exact time the towing service arrived on the scene, and this information will be part of the log entry, as well as the information contained in subsection (a) of this section. The police list is also open to inspection by the interested towing service.

#### **Sec. 2-28-28 Removal of vehicle to certain location**

Any motor vehicle picked up in the city by a towing service on the tow rotation list must be removed to a location designated by the owner, person in charge of the motor vehicle or police officer. When the owner, person in charge of the motor vehicle or police officer does not designate a place to which the motor vehicle is to be towed, the motor vehicle shall be towed to the depot, body shop or garage designated in the operators application.

#### **Sec. 2-28-29 Storage of automobiles**

- (a) Storage area requirements. All towing services on the tow rotation list must provide a secure storage area with space for a minimum of ten (10) automobiles at any one (1) time. If the storage area is outside, it must be surrounded by a six-foot-high, industrial type fence. All premises will be inspected by the department of codes enforcement and reports issued to the Chief of Police.

#### **Sec. 2-28-30 Remaining first on the list of services not needed; refusal to tow vehicle**

- (a) If the towing service on the tow rotation list has accepted a dispatched call and towing is not required, that towing service will remain the first to be called for the next rotation call.
- (b) It shall be a violation of this section for any operator on the rotation list to refuse to tow a motor vehicle after having appeared on the scene at the request of the bureau of police, provided that the wrecker or tow truck equipment is capable of towing the vehicle. The tow service will not be placed back on the tow rotation list.

**Sec. 2-28-31 Towing service cards**

A business card containing the business name and phone number in addition to the maximum rates will be given to the vehicle owner or operator at the scene of the accident by the towing service on the tow rotation list-away rotation list.

**Sec. 2-28-32 Responsibility for cleaning area**

The tow truck operator for the towing service on the tow rotation list will be responsible for cleaning the area of any debris resulting from the towed vehicle. The department of public works is not responsible for cleaning the area. Any tow operator who refuses to clean the area may be immediately removed from the rotation list.

**Sec. 2-28-33 Soliciting business; maintaining distance from accident**

It shall be a violation of this section for any person to have any agent, servant or employee engaged in a towing or wrecking service to solicit business within two hundred (200) feet of the scene of any accident. The bureau of police has full authority to enforce this section. Violation of this section will result in revocation of the violator’s permit and any other penalty deemed appropriate.

**Sec. 2-28-34 Use of other wrecker or tow truck**

Nothing in this article shall be construed to prohibit any owner or operator of a motor vehicle from calling any tow truck or wrecker of the owner’s or operator’s choice.

**Sec. 2-28-35 Notice and hearing**

Nothing in this article shall be construed to prevent any person notice and opportunity to be heard.

**Yeas: Aiello, Burmaster, Betar, Carcone, Ervin, Betrus, Williamson, Colosimo-Testa, LoMedico – 9**

**Nays: 0**

**Adopted.**

STATE OF NEW YORK, CITY OF UTICA )  
 City Clerk’s Office ) ss.

) I hereby certify that I have compared the foregoing copy of an Ordinance of the Common Council with the record of proceedings of the Common Council of said City of Utica, duly made and on file in this office, and that same is a correct transcript therefrom and of the whole of said Ordinance.

In TESTIMONY WHEREOF, I hereunto affix the Corporate Seal of said City, and subscribe my name, this 2<sup>nd</sup> day of May, 2024

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 Melissa R. Sciortino, *City Clerk*