

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING CHAPTER 12.14 (POLICE AND CITY OF MORENO VALLEY ROTATIONAL TOW SERVICE) OF TITLE 12 (VEHICLES AND TRAFFIC) OF THE MORENO VALLEY MUNICIPAL CODE**

**WHEREAS**, the City of Moreno Valley (“City”) is a General Law city organized pursuant to Article XI of the California Constitution; and

**WHEREAS**, the intent of Chapter 12.14 (Police and City of Moreno Valley Rotational Tow Service) is to prescribe the basic regulations for the operation of an official rotational tow service program in police emergency situations, removal of illegally parked, vehicles that are being operated contrary to law, and/or in the removal of vehicles which are apparently abandoned, or involved in an accident, or which constitute an obstruction to traffic because of mechanical failure; and

**WHEREAS**, the intent of Chapter 12.14 (Police and City of Moreno Valley Rotational Tow Service) is to also establish regulations and procedures for the abatement of abandoned, inoperative and dismantled vehicles; and

**WHEREAS**, the primary purpose of Chapter 12.14 (Police and City of Moreno Valley Rotational Tow Service) to provide a fair and impartial means of distributing requests for towing services among qualified firms, and to ensure that such service is prompt and reasonably priced, and in the best interests of the public as well as the interest of efficient policing operations for the removal of such vehicles from public streets; and

**WHEREAS**, Section 12.14.030 (City Business License and Permits Required) of Chapter 12.14 (Police and City of Moreno Valley Rotational Tow Service) provides in part that no towing business may participate in the assignment of service calls on a rotational basis by the police department or the City unless it is operating from a physical location in the City; and

**WHEREAS**, Section 12.14.100 (Storage Facility) of Chapter 12.14 (Police and City of Moreno Valley Rotational Tow Service) provides in part that storage facilities must be located within the City on property properly zoned for this use within the city; and

**WHEREAS**, Section 12.14.060 (Official Police Department and City Tow Operator’s Permit) of Chapter 12.14 (Police and City of Moreno Valley Rotational Tow Service) provides in part that a tow operator's permit application/proposal shall include statement that the applicant will maintain at the principal place of business located in the City of Moreno Valley, and in operating order at all times, and that prior to the issuance of a tow service agreement by the City council, the tow operator shall provide evidence that the applicant's garage or storage facility is located within City limits; and

**WHEREAS**, it is presumed that the requirement that a tow operator maintain and operated a storage facility located within the City was to make it more convenient for vehicle owners to retrieve their impounded vehicles 24 hours a day, seven days a week including holidays, within one hour upon notification by the Police Department or the City that the vehicle can be released to its owner or authorized agent, as required by Section 12.14.100 (Storage Facility), without having to travel beyond the City's boundaries to retrieve their impounded vehicles; and

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY DOES ORDAIN AS FOLLOWS:**

**Section 1.            RECITALS**

The above recitals are true and correct and are incorporated herein as though set forth at length herein.

**Section 2.            AMENDMENT TO CHAPTER 12.14 (POLICE AND CITY OF MORENO VALLEY ROTATIONAL TOW SERVICE)**

Chapter 12.14 (Police and City of Moreno Valley Rotational Tow Service) of Title 12 (Vehicles and Traffic) of the Moreno Valley Municipal Code is hereby amended as follows:

§ 12.14.030 City Business License and Permits Required

- A. No towing business may participate in the assignment of service calls on a rotational basis by the police department or the city unless it has a valid city business license to do business *in the city* and is operating *from its principal place of business with a storage facility* ~~from a physical location~~ *located within the city or no further than [one] [two] [three] [four] [five] miles from the city's jurisdictional boundaries* ~~in the city of Moreno Valley as set forth in this code.~~
- B. No person shall operate a tow truck as part of the city's rotational tow service in the city unless he or she holds a valid tow truck driver's permit issued by the city.
- C. Only those tow operators or businesses approved by the city and possessing a valid tow operator's permit and tow service agreement shall be permitted to remove, tow, impound and/or store a vehicle as part the city's rotational tow service program.

§ 12.14.060 Official Police Department and City Tow Operator's Permit

A. In addition to having a valid city business license to conduct business in the city, the tow operator participating in the city's rotation tow services program shall also apply for and receive a tow operator's permit. A tow operator's permit application shall be filed with the financial and administrative services director or designee, shall be verified under penalty of perjury, and shall be accompanied by the fee as established by resolution of the city council. The fee shall not be refundable. It shall contain or be accompanied by the information and documentation specified in this section. Applications for permits to conduct the tow business shall be filed with the city on a form approved by the financial and administrative services director or designee. Such application shall demonstrate that the applicant possesses a business license pursuant to Chapter 5.02 of this code. In addition, such application shall provide the following information:

1. Name/Description. Name and description of applicant.
2. Address. Permanent home address and full business address of applicant if an individual; of each partner if a partnership; and of each officer if a corporation.
3. Garage or Storage Facility. The place where the vehicles towed are to be stored or impounded **which shall be within the city or no further than [one] [two] [three] [four] [five] miles from the city's jurisdictional boundaries.**
4. Fingerprints and Photographs. Applicant shall be fingerprinted and photographed by the police department upon referral of the financial and administrative services director or designee, and a record check made. The cost of the foregoing shall be established by resolution of the city council and be borne by the applicant. The photographs taken by the police department will be used throughout the permit process, whenever photographs are required to be made part of the record.
5. Criminal Record. A statement as to whether or not the applicant, or any officer or partner of the applicant has been convicted of a felony within the immediately preceding 10 years, and the nature of each such offense and the punishment or penalty assessed, thereof.
6. Vehicle Data. The number of tow trucks to be operated or controlled by the applicant in the conduct of the tow business, and the make, body style, year, vehicle identification number, state license plate number, and the name of legal and registered owner of each vehicle.
7. Vehicle Description. A description of the proposed color scheme, insignia, trade-style and any other distinctive characteristic or design to be used to identify such vehicles.
8. Previous Licensing. A statement of whether or not the applicant has ever had any permit or franchise for a tow business issued to him/her that has been suspended or revoked, and, if so, the circumstances of each such suspension or revocation, whether in the city or elsewhere.
9. Insurance. A certification or policy of insurance in the manner and form required by Section 12.14.090.

10. Corporation Data. If the applicant is a corporation, a copy of the current Articles of Incorporation, certified as to being true and correct by the California Secretary of State, within 60 days prior to the date of application, the most current corporate bylaws and any applications, permits or notifications for the issuance of shares filed with or issued by the commissioner of corporations.
  11. Business Office and Telephone Maintenance. A statement that the applicant will maintain at ~~the~~ its principal place of business **and storage facility** ~~located in the city of Moreno Valley, and~~ **or within [one] [two] [three] [four] [five] miles from the city's jurisdictional boundaries** in operating order at all times, at least one telephone line. At all times there will be an attendant in charge of said telephone or telephones to dispatch tow trucks in response to requests therefore. After-hour answering services fulfill this requirement.
- B. Prior to the issuance of a tow service agreement by the city council, the tow operator shall provide evidence that:
1. The application conforms in all respects to the provisions of this chapter.
  2. The applicant's **principal place of business and** ~~garage or storage facility~~ **is are** located within ~~the city limits~~ **or within [one] [two] [three] [four] [five] miles from the city's jurisdictional boundaries**.
  3. The applicant is financially responsible and otherwise able to provide the service.
  4. The applicant, and all officers or partners are likely to provide tow services in a responsible and satisfactory manner. In making such determination, the financial and administrative services director or designee shall consider whether the applicant or any officer or partner of the applicant;
    - a. Has previously provided responsible and satisfactory tow services,
    - b. Has not previously violated the terms of this chapter or of any similar enactment of the city or of any other jurisdiction resulting in the revocation of a permit and/or removal from a tow rotation program.
- C. A tow operator shall not have a financial interest in any other tow business participating in the city's rotational tow service program. Any violation of this section shall cause the immediate revocation of a tow operator's permit for the balance of the contract period.
- D. A tow operator's permit is valid for one year. The failure of a tow operator or business to apply for and receive approval of a subsequent permit by the city shall suspend the tow operator from participating in the city's rotational tow service program. At such time the tow operator or business is issued a valid permit, the tow operator or business shall be permitted to participate in the city's rotational tow service program.

§ 12.14.100 Storage Facility

- A. Storage Facility Standards. The tow operator shall provide for the city's tow rotation program, storage space for a minimum of 150 vehicles including a minimum of five vehicles of indoor storage. Said storage spaces shall be dedicated to the city's rotational tow service program. The following standards of performance must be maintained:
1. Storage facilities must be located within the city ~~and~~ **or within [one] [two] [three] [four] [five] miles from the city's jurisdictional boundaries and** clearly marked. Any and all signage for the facilities must be in conformance with the city's municipal code.
  2. All vehicles are to be stored at a storage facility properly zoned for this use within the city **or within [one] [two] [three] [four] [five] miles from the city's jurisdictional boundaries.** Vehicles that have been approved by the Department of Motor Vehicles for lien sale must be sold from a storage facility or other approved location by the city to conduct such a business within the city limits **or within [one] [two] [three] [four] [five] miles from the city's jurisdictional boundaries.**
  3. Each impounded or stored vehicle shall be a minimum of two and one-half feet from any other vehicle, structure or object.
  4. All stored vehicles shall be reasonably accessible to the vehicle's owner or vehicle owner's agent and the police department or city for retrieval, inspection and/or identification.
  5. Owners shall be able to retrieve a stored vehicle 24 hours a day, seven days a week including holidays, within one hour upon notification by the police department or city that the vehicle can be released to its owner or authorized agent.
  6. Storage facilities, including the indoor storage of vehicles, shall be monitored by an electronic monitoring or security system and fully secured. Said system shall be subject to review and approval by the police department before the tow business is permitted to tow and store or impound vehicles as part of the city's rotational tow service program to said lot.
  7. Storage facilities shall be properly lighted and secured by a six foot high fence as set forth in Title 9 of this code. The fence shall be installed in compliance with any applicable provision of this code and approved by the police department and city before the tow business is permitted to tow vehicles as part of the city's rotational tow service program.
  8. Storage facilities owned by a tow operator shall not be shared with another tow operator. However, a tow operator or business may be permitted on the same lot as long as there is a clear separation between tow operators. Each tow operator shall fully comply with the provisions of this code.
- B. Personal property may be removed from the vehicle and shall be released to the owner of a vehicle at the request of the vehicle owner or his/her agent. When a vehicle has been impounded for evidence or investigation, the operator shall notify the police department or city depending on the agency directing the storage of the vehicle, prior to the removal of property from a stored vehicle and will provide a receipt, with a copy placed in the stored vehicle.

- C. Vehicles ordered towed by the police department or city will only be released by the tow operator under the regulations of the Vehicle Code and the city of Moreno Valley. The city will provide tow operators with appropriate regulations including updates to these regulations as they occur.
- D. Prior to the utilization of new storage facilities that were not listed on the tow operator's permit application for the rotation tow service program, the tow operator shall obtain the approval of the city to ensure that the new garage or storage facility meets all applicable regulations.
- E. The operator shall maintain, at a minimum, business hours at the primary place of business of the tow operator of Monday through Friday, eight a.m. to five p.m. except for the following recognized holidays: New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and the day after Thanksgiving Day, and Christmas Day.
- F. Annual Storage Facility Inspections. A tow operator shall have its storage facility inspected annually. The failure of a tow operator or business to have its storage facility inspected annually by the city shall have its tow permit suspend and shall not participate in the city's rotational tow service program. At such time the storage facility is inspected by the city and found to be in compliance with this chapter, the tow operator or business shall be permitted to participate in the city's rotational tow service program.

**Section 5. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

This ordinance is exempt from CEQA under Section 15061 of the CEQA Guidelines since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

**Section 6. SEVERABILITY**

That the City Council declares that, should any provision, section, paragraph, sentence, or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

**Section 7. REPEAL OF CONFLICTING PROVISIONS**

That all the provisions of the Municipal Code as heretofore adopted by the City of Moreno Valley that are in conflict with the provisions of this ordinance are hereby repealed.

**Section 8. EFFECTIVE DATE**

That this Ordinance shall take effect thirty days after the date of its adoption (second reading).

**Section 9. CERTIFICATION**

That the City Clerk shall certify to the adoption of this ordinance, enter the same in the book for original ordinances of the City, and make a minute of passage and adoption thereof in the records of the proceedings of the City Council, in the minutes of the meeting at which this ordinance is adopted.

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Ulises Cabrera, Mayor  
City of Moreno Valley

**ATTEST:**

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M. Patricia Rodriguez, CMC, City Clerk

**APPROVED AS TO FORM:**

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Steven B. Quintanilla, City Attorney