

ORDINANCE 2010-04

ORDINANCE TO CREATE SECTIONS 4.08 OF THE CODE OF ORDINANCES OF THE VILLAGE OF STURTEVANT, RACINE COUNTY, WISCONSIN, RELATING TO TOWING

The Village Board of the Village of Sturtevant, Racine County, Wisconsin, do ordain as follow:

1. That Section 4.08 of the Municipal Code of the Village of Sturtevant, shall be and hereby is created to read as follows:

4.08 MOTOR VEHICLE RECOVERY AND TOWING

Purpose and findings.

The Village Board finds that there arises, from time to time, a reasonable police need to recover and tow motor vehicles. Such needs include, but are not limited to:

- (1) An unattended-to vehicle illegally parked or otherwise illegally obstructing traffic;
- (2) An unattended-to vehicle at the scene of an accident when the driver is physically or mentally incapable of deciding upon steps to be taken to deal with his property, as in the case of an intoxicated, mentally incapacitated or seriously injured driver;
- (3) A vehicle that has been stolen or used in the commission of a crime when its retention as evidence is necessary;
- (4) An abandoned vehicle or nuisance vehicle;
- (5) A vehicle so mechanically defective as to be a menace to others using the public highway;
- (6) A vehicle impoundable pursuant to ordinance or statute which provides therefore, as in the case of forfeiture.

The public convenience and necessity requires that the Sturtevant Police Department obtain recovery and towing services for such vehicles from companies which have equipment and facilities which are sufficient to ensure the public convenience and safety. Such requirements dictate the necessity of licensing such companies to perform certain services at the request of the Sturtevant Police Department.

Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: Assignment means a call from the village to a licensee requesting the performance of recovery and/or towing services.

Class A wrecker means a wrecker unit with an accepted commercially manufactured wrecker apparatus, single- or twin-boom, equipped with a mechanical or hydraulic power supply and dual rear wheel units and has a minimum gross vehicle weight (GVW) of 10,000 pounds, having a

minimum unit rating of four-ton capacity as rated by the manufacturer. The wrecker apparatus shall be attached to the motor vehicle truck chassis in conformance with wrecker apparatus recommendations for truck chassis gross vehicle weight not less than 10,000 pounds GVW. The wrecker unit shall be considered as a whole for compliance with this definition and no exception shall be allowed.

Class B wrecker means a wrecker unit, single- or twin-boom, with an accepted commercially manufactured wrecker apparatus having a minimum unit rating of a 16-ton capacity as rated by the manufacturer, has a GVW of 20,000 pounds, has either air brakes or auxiliary air supply which is ready and available for use in the recovery or towing of motor vehicles which have an air brake system, and is equipped with a mechanical or hydraulic power supply and dual rear wheel units. The wrecker apparatus shall be attached to the motor vehicle truck chassis in conformance with wrecker apparatus recommendations of truck chassis gross vehicle weight not less than 20,000 pounds GVW. The wrecker unit shall be considered as a whole for compliance with this definition and no exception shall be allowed, except as otherwise provided herein. Commercial manufacturer specifications means the apparatus or equipment ratings established for the apparatus or equipment in question by the commercial manufacturer as accepted by the Sturtevant Police Department for conformance with this article. Commercial manufacturer rating for chassis GVW shall be determined by the commercial manufacturer. Commercial wrecker manufacturer recommendations shall be considered for wrecker unit compliance as a whole.

Flatbed truck means a hydraulic fill rollback bed truck, commercially manufactured and rated by the manufacturer to have a minimum winch capacity of not less than four tons by direct pull with accepted manufacturer rating. The rollback flatbed shall be attached to a truck chassis in conformance with the manufacturer's recommendations with a chassis manufacturer rating of not less than 10,000 pounds GVW and a minimum bed length of 19 feet. The unit shall be capable of and rated for a bed payload minimum of 7,000 pounds as commercially manufactured and rated. The flatbed unit shall be considered as a whole for compliance with this definition and no exception shall be allowed except as otherwise provided herein.

Licensee means a towing company which has been issued a license to perform recovery and towing services pursuant to this article.

No-tow means the response of a licensee to a specified place pursuant to the Sturtevant Police Department's request where the owner has removed the vehicle in question before the tow truck reaches the scene or when, before the vehicle is connected to the tow truck and is in motion, the owner arrives and takes possession of his vehicle.

Storage facility means a fenced-in, lighted, locked yard or secure indoor storage with a minimum capacity of 50 vehicles, with at least that capacity exclusively available as a place to temporarily keep vehicles towed hereunder. The facility shall conform to all building and zoning requirements and shall be owned or exclusively leased by the licensee for such purposes.

Towing company means any person, firm, partnership, corporation, or association engaged in the business of the recovery and towing of motor vehicles on a full-time basis.

Wheel lift means an accepted commercially manufactured apparatus designed for the towing and recovery of motor vehicles by the towed unit's wheels/suspension. The wheel lift apparatus shall have a minimum manufacturer lift rating of 3,000 pounds while fully extended. The wheel lift

apparatus shall be attached in conformance with manufacturer's recommendations for chassis mounting on a truck chassis having a manufacturer's rating of at least 10,000 pounds GVW. The wheel lift shall be considered as an integral part of the wrecker apparatus considered as a whole for compliance with this definition and no exception shall be allowed.

License--Required; term; fee.

(a) No towing company shall recover or tow vehicles pursuant to a reasonable police need within the village for or at the request of the Sturtevant Police Department without first having obtained a license under this article. The acceptance of a license shall constitute a declaration and agreement by the licensee to perform licensed activities subject to the terms and conditions of this article. The acceptance of a license constitutes a commitment of the licensee to perform recovery towing services hereunder on each and every occasion requested and shall not be construed as a means to or authorizing of the business or practice of a licensee referring assignments to another licensee or towing company, except as herein provided.

(b) All licenses issued under this article shall expire on June 30 of each year. The license fee shall be as established by the village board, paid at the time of application. The license fee shall not be prorated.

License--Application; investigation; inspections.

(a) Application for a license shall be made to the village clerk upon forms provided by the village clerk's office. Upon receipt of an application, the village clerk shall refer the application to the Chief of Police or his designee for investigation and inspection. If the investigation and inspection under subsection (b) below, show that the applicant meets all conditions of licensing, the Chief of Police shall approve the application and forward it to the Administration Personnel/ Policy Legal Committee. If the police investigation and such inspection show that the applicant has not met the conditions of licensing, the applicant shall be so informed by the Chief of Police or his designee. If the applicant fails to meet the requirements of this chapter within 60 days after notice of failure to comply, the Chief of Police or designee shall forward the application to the Administration Personnel/ Policy Legal Committee with a recommendation of denial. The committee shall recommend to the Village Board the granting or denial of license based on the inspection findings.

(b) Upon receipt of an application for a license hereunder, the Chief of Police shall direct that an investigation be performed to determine whether the applicant's documentation, vehicles, equipment, facilities and personnel comply with this article.

License--Conditions.

As a condition to the granting of a license under this article, the applicant shall show evidence of the following and shall comply with the following conditions:

(1) Ownership or exclusive lease of the following vehicles, which shall be registered, licensed, insured, and maintained in a safe and serviceable condition at all times that the license hereunder is in effect, except during reasonable and expeditious repairs, not to exceed 30 days:

a. One flatbed truck and two class A wreckers, equipped with wheel lifts.

b. One class B wrecker, single- or twin-boom, which has either air brakes or an auxiliary air supply which is ready and available for use in the recovery or towing of motor vehicles which have an air brake system, and which is equipped with a mechanical or hydraulic power supply and dual rear wheel units.

(2) Exclusive use by ownership or written lease of a place of business with a storage facility at a single location within the Village of Sturtevant or within ten miles of the village limits in which the licensee is the sole licensee under this article operating the premises. The place of business shall contain the licensee's telephone, two-way radio, and other equipment and personnel reasonably necessary for the licensee to perform its obligations under this article.

(3) An executed agreement holding the village harmless from all losses, claims or damages to vehicles and vehicle contents resulting from the licensee's negligence, including but not limited to the recovery, towing and storage of vehicles.

(4) Certificates of insurance providing a minimum of ten days' written notice to the village before any such policy is amended or cancelled, including the temporary or permanent removal of any covered vehicle from such policy. The certificate shall show statutory worker's compensation for employees, insurance on the vehicles required for issuance of the license written in comprehensive form, providing at least minimum limits of general liability and motor vehicle liability insurance for bodily injury and property damage, as required by the state for obtaining carrier authority. Such certificate shall show protection of the village and the licensee against all claims arising from injuries to persons or damage to property of others arising out of any act or omission of the licensee or its agents relative to performance of work for which the license is granted.

(5) An inspection certificate for each tow vehicle used in licensee's business from a qualified motor vehicle repair business which is legally engaged in such business in the state, certifying that the vehicle has been inspected on the date indicated and that it complies with all applicable requirements of Wis. Stats. ch. 347 and trans code 305, Wisconsin Administrative Code. The repair business representative responsible for conducting inspections under this subsection may be required by the Chief of Police or his designee to successfully complete a written examination to demonstrate his/her applicable knowledge of the authorities indicated.

(6) A current licensed carrier authority from the state, a copy of which shall be carried in each required vehicle at all times.

(7) Tow trucks and equipment used in the towing operation shall be maintained in a safe condition which is adequate to perform towing services in a safe, reasonable and workmanlike manner.

(8) Equipment to be present on each tow truck required under this article shall include dollies on class A wreckers, and all wreckers shall have brooms, shovels, one four-foot pry bar, fire extinguishers, J-hooks, T-hooks, snatch blocks with a minimum rating equal to the optional equipment made available by the manufacturer of the wrecker unit, two skotch blocks, one light bar for the towed vehicle, and at least 100 feet of cable on each winch, 50 feet for each flatbed, with a capacity of at least the tonnage rating required for the wrecker in question.

(9) The storage facility shall be open to the public for the recovery of vehicles and personal property from 8:00 a.m. to 5:00 p.m., Mondays through Fridays, except legal holidays, and during such times the licensee shall have at least one employee on duty at the facility who has

the authority to release such vehicles and property. The licensee shall, between the hours of 8:00 a.m. and 12:00 noon Saturdays, excepting legal holidays, have at least one employee available to the public by answering service who will release vehicles and/or personal property. There shall be no fee charged for the Saturday service during the indicated hours.

(10) The licensee, prior to towing a vehicle from the scene of an accident, shall remove from the street all broken glass and other matter that may be in the street as a result of the accident.

(11) The vehicles required under this article shall be equipped with two-way radios with a range of at least 15 miles and the licensee shall maintain a compatible base radio at its place of business so that dispatches can be made via radio during regular business hours.

(12) The licensee shall not use any vehicle required under this article as a vehicle required to be available for service outside the county under license or contract.

(13) The licensee shall provide to the village, upon request, the appropriate commercial/regular driver's license number for each employee who operates a wrecker for the licensee.

(14) The licensee shall have a sufficient number of employees to operate all equipment required under this article at any time.

Procedure.

(a) Requests for towing service made by the Sturtevant Police Department shall be on a rotation basis from a list containing the names of all towing companies licensed under this article. Assignments shall be deemed waived by *non-response* or *non-acceptance*, and the name of such carrier shall be placed at the end of the list. In the event of *non-acceptance* or *non-response*, the towing company shall provide the Chief of Police or his designee with the factual basis for such *non-action*. The police department shall maintain records of *non-acceptance* or *non-response*, including the factual basis therefore, and shall, upon request, forward such information to the Village Board and to each licensee with respect to its information.

(b) If the owner of a vehicle to be towed makes a specific request for a named towing service, the police officer at the scene shall so inform the dispatcher and the owner's request shall be complied with, if reasonably possible. If the persons involved in an accident are incapacitated or otherwise unavailable or unknown, the police officer at the scene shall assume the authority and use the list for towing service. If the licensee, which responds to the scene, requires assistance to complete the towing or recovery operation, the licensee may call whom they choose upon notification to the police officer at the scene.

(c) Upon notification by the Sturtevant Police Department, the licensee shall immediately send a tow truck to the designated scene, and the licensee shall remove disabled vehicles, and abandoned vehicles affecting traffic, stolen vehicles, vehicles held for evidence, or prisoners' vehicles, wrecked vehicles will be towed to the licensee's storage facility. If directed by a police officer, a licensee shall tow a vehicle to a different storage location as directed.

(d) Prompt and efficient service shall be provided by each licensee. Unless emergency conditions dictate otherwise, "prompt service" means arrival of the wrecker within 30 minutes following the request therefore, except as provided in the *Availability for service* section. Failure to provide prompt and efficient service shall be cause for review and suspension or revocation of the license.

(e) Upon proof of ownership of a towed vehicle, a licensee shall provide to the owner any personal property contained in the vehicle, with the exception of components of the vehicle, such as license plates, tires, wheels, batteries, and radios, pending payment of the towing and storage charges. Upon written request by the licensee, the police department shall provide the licensee with the name and address of the last known registered owner of a vehicle towed under this article and the name of any lien holder which the police department has knowledge of. No provision of this article is intended to modify the requirements of Wis. Stats. §§ 349.13(5), 779.415 or 779.48(2).

Availability for services.

The licensee shall furnish services on a 24-hour-a-day basis each day of the year. To ensure availability for services, the licensee shall have a single designated phone number through which the Sturtevant Police Department can request service at any time. During regular business hours, the licensee shall answer the designated phone number at its place of business required under **License Conditions**. The licensee may use an answering service for calls during other than regular business hours, but shall not use an answering machine.

(b) Dispatch services for the Sturtevant Police Department will, if possible, inform the licensee of the make, model and year of the vehicle(s) to be towed at the time of requested service. The licensee shall charge only for equipment reasonably necessary for performance of the services rendered. The Police Chief or his designee shall make final determinations on appeals of licensees from compensation granted hereunder.

2. That this ordinance shall take effect immediately upon adoption and publication as provided by law.

Adopted by the Village Board of the Village of Sturtevant, Racine County, Wisconsin this 7th day of April, 2010.

VILLAGE OF STURTEVANT

By: _____
Steve Jansen, President

Attest: _____
Mary Cole, Village Clerk