

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To: Matthew J. Fertal
Dept.: City Manager
Subject: ORDINANCE TO AMEND REGULATIONS
PERTAINING TO POLICE ROTATIONAL
TOW SERVICES AND TOWING
OPERATION AND TOW TRUCK DRIVER
PERMITS

From: Thomas F. Nixon
Dept.: City Attorney
Date: May 28, 2013

OBJECTIVE

For the City Council to consider the introduction of an ordinance amending various provisions of Chapter 5.52 of the Garden Grove Municipal Code pertaining to police rotational tow services and towing operation and tow truck driver permits.

BACKGROUND/DISCUSSION

City Staff is in the process of finalizing a Request for Proposals (RFP) for On-Call Police Rotational Towing and Storage services. In conjunction with the RFP, modification of certain current City requirements applicable to police tow service operators and eligibility for tow operation and tow truck driver permits are proposed. The proposed modifications require an amendment to various provisions of Chapter 5.52 of the Garden Grove Municipal Code, which contains the detailed City requirements pertaining to tow trucks, towing operation and tow truck driver permits, and police rotational tow services. The proposed Code amendments would:

- Increase the maximum permitted distance that a police rotational tow service's business offices and storage yards may be located from the city limits from 2 miles to 2.5 miles.
- Increase from 5 years to 10 years the period of time since the commission of specified types of crimes that will disqualify an individual from holding a tow operations permit or a tow truck driver permit. Disqualifying crimes include sexual offenses, crimes of moral turpitude, crimes of violence, crimes involving the sale or use of a controlled substance, and crimes involving theft, embezzlement, stolen property, or fraud.
- Provide for California Highway Patrol inspections of towing facilities and equipment in addition to, or in lieu of, Police Department inspections.
- Make other minor typographical corrections.

ORDINANCE TO AMEND REGULATIONS PERTAINING TO POLICE ROTATIONAL TOW SERVICES AND TOWING OPERATION AND TOW TRUCK DRIVER PERMITS

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The specific changes to the existing Code language are highlighted in the attached "black line" version of the proposed Ordinance.

Should the City Council proceed with this Ordinance, Staff intends to issue the RFP immediately.

FINANCIAL IMPACT

None.

RECOMMENDATION

It is recommended that the City Council:

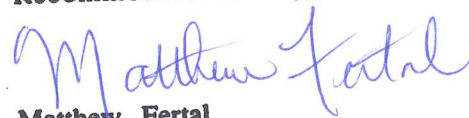
- Introduce and conduct the first reading of the attached proposed Ordinance amending the existing regulations pertaining to police rotational tow services and tow operation and tow truck driver permits.



THOMAS F. NIXON
City Attorney

Attachment: Proposed Ordinance

Recommended for Approval



Matthew Fertal
City Manager

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE AMENDING SECTIONS 5.52.090, 5.52.150, 5.52.220, 5.52.330, 5.52.360, AND 5.52.400 OF CHAPTER 5.52 OF TITLE 5 OF THE GARDEN GROVE MUNICIPAL CODE PERTAINING TO TOW TRUCKS, TOWING OPERATION AND TOW TRUCK DRIVER PERMITS, AND ROTATIONAL TOW SERVICES

City Attorney Summary

This Ordinance amends Chapter 5.52 of Title 5 of the Garden Grove Municipal Code regulating tow trucks to revise provisions pertaining to procedures and requirements for, and revocation of, towing operation permits and tow truck driver permits; inspections of tow service facilities and equipment; and additional requirements for rotational tow services. This Ordinance changes the period of time of a disqualifying prior conviction of specified crimes from five (5) to ten (10) years for purposes of the consideration or revocation of towing operation and tow truck driver permits. This ordinance also adjusts the maximum permitted distance of rotational tow service business offices and storage yards from two (2) miles to two and one-half (2 1/2) miles of city limits.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Subsection (D) of Section 5.52.090 of Chapter 5.52 of Title 5 of the Garden Grove Municipal Code is hereby amended to revise Paragraphs (3) and (4) as follows (deleted text struck-out; added text **bolded/underlined**):

“SECTION 5.52.090: Permit Procedures

...

(D) The Chief of Police or his designee shall not issue a permit if, based upon his investigation, **he** finds any one or more of the following:

...

(3) The preceding record of such permit applicant reveals a conviction or a plea of nolo contendere or guilty of a misdemeanor or felony crime involving moral turpitude or a felony involving sale or use of a controlled substances-within the last five-~~(5)~~ **ten (10)** years;”

(4) The applicant has been convicted or pled nolo contendere or guilty to a misdemeanor or a felony crime involv**ing** theft or embezzlement within the five-~~(5)~~ **ten (10)** years;

..."

Section 2. Section 5.52.150 of Chapter 5.52 of Title 5 of the Garden Grove Municipal Code is hereby amended as follows (deleted text struck-out; added text **bolded/underlined**):

"SECTION 5.52.150: Nontransferable Permit

Tow service permits shall not be transferable except as provided herein.
Business **tax** certificates are nontransferring **nontransferable**."

Section 3. Section 5.52.220 of Chapter 5.52 of Title 5 of the Garden Grove Municipal Code is hereby amended as follows (deleted text struck-out; added text **bolded/underlined**):

"SECTION 5.52.220: Inspection

"(A) An initial inspection of **each** the tow service's facility or facilities, records, vehicles and equipment will be conducted by the Police Department Traffic Division **and/or the California Highway Patrol** on all tow services.

(B) **Subject to Subsection(C), below, and in addition to any inspections conducted by the California Highway Patrol,** with the exception of the tow services on the Police Rotational Tow List, ~~who~~ **which** shall be **subject to inspection by the Police Department** inspected **up to** two (2) times per year (semi-annually), all other tow service permittee's towing equipment, facility or facilities will **shall** be **subject to inspection** inspected **up to** one (1) time per year (annually) with notice, during normal business hours by the Police Department Traffic Division, and a report filed thereon.

(C) The **Notwithstanding Subsection (B), above, each** tow service permittee's towing equipment, facility or facilities can be inspected with cause, with twenty-four (24) hours notice, during normal business hours by the Police Department Traffic Division, and a report filed thereon. **The Police Department may rely on inspections conducted by the California Highway Patrol.** If any deficiencies or equipment violations are discovered **during any Police Department or California Highway Patrol inspection,** the tow service will be so advised in writing. The tow service will be given ten (10) business days, to rectify

the deficiency or violation. Failure to comply **may** will result in the tow service **permit** being suspended.

(D) If in the opinion of the Police Department Traffic Division, the deficiencies or equipment violations which are discovered **during any Police Department or California Highway Patrol inspection**, prevent the **any** vehicle from being operated in a safe manner, the vehicle will **shall** be taken out of service. Failure to comply **may** will result in the tow service being suspended."

Section 4. Subsection (F) of Section 5.52.330 of Chapter 5.52 of Title 5 of the Garden Grove Municipal Code is hereby amended to revise Paragraphs (3) and (7) as follows (deleted text ~~struck-out~~; added text **bolded/underlined**):

"SECTION 5.52.330: Tow Truck Driver--Permit Required / Renewal of Same

...

(F) The Chief of Police, or his designee, within thirty (30) days or longer upon a showing of good cause, shall conduct an investigation of the applicant, and the application for a tow truck driver's permit may be denied within the same period of time for any one of the following:

...

(3) The preceding record of the permit applicant reveals a conviction or a plea of nolo contendere or guilty of a misdemeanor or a felony crime involving sexual offenses or moral turpitude or a felony involving sales or use of a controlled substance within the last five ~~(5)~~ **ten (10) years**;

...

(7) The applicant has been convicted or pled nolo contendere or guilty to a misdemeanor or a felony crime involving theft or embezzlement within the last five ~~(5)~~ **ten (10) years**;"

Section 5. Section 5.52.360 of Chapter 5.52 of Title 5 of the Garden Grove Municipal Code is hereby amended to revise Subsections (D) and (I) to read as follows (deleted text ~~struck-out~~; added text **bolded/underlined**):

"SECTION 5.52.360: Additional Requirements for Rotational Tow Services

Requirements for police rotational tow services will include the aforementioned Municipal Code Sections, as well as Subsections (A) through (Z) of this Section:

...

(D) The tow service shall have its business office and storage lots within two **and one-half (2 1/2)** miles of the city limits, **as measured by a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the parcel where the tow service is located to the nearest point on the city limit boundary.**

...

(I) The tow service shall not dispose of or otherwise relinquish control of any vehicle stored or impounded by the Police Department without a written authorization to do so. The written authorization is required for any vehicle stored or impounded by the Police Department and **for which** the tow truck driver signs a stored vehicle report form and receives a copy of the stored vehicle report. The Police Department stored automobile release form will be the normal form for release.

..."

Section 6. Subsection (A) of Section 5.52.400 of Chapter 5.52 of Title 5 of the Garden Grove Municipal Code is hereby amended to revise Paragraphs (1) and (5) of Subsection (A) and Paragraphs (1) and (6) of Subsection (B) as follows (deleted text struck-out; added text **bolded/underlined**):

"SECTION 5.52.400: Grounds for Suspension or Revocation of All Permits

(A) It shall be grounds for suspension or revocation of a tow service permit, if any permittee, his agent or employee or any person connected or associated with the permittee as an operator, director, officer, stockholder, general manager, or person who is exercising managerial authority of or on behalf of the permittee has committed any one of the following acts:

(1) Has been convicted of a felony or any crime involving theft, embezzlement, stolen property, fraud or crimes of violence within the last five ~~(5)~~ **ten (10)** years;

...

(5) Has violated or permitted other persons to violate, through an act of omission or commission by the permit holder, any felony or misdemeanor crime involving sexual offenses or moral turpitude, or a felony involving sales or use of a controlled substance, or any act of dishonesty, fraud, within the last five ~~(5)~~ **ten (10)** years;

...

(B) It shall be grounds for suspension or revocation of a tow truck driver's permit, if any permittee has committed any one of the following acts:

(1) Has a conviction or a plea of nolo contendere or guilty of a misdemeanor or felony crime involving sexual offenses, theft, embezzlement, stolen property, fraud, crimes of violence or moral turpitude, or a felony involving sales or use of a controlled substance within the last five ~~(5)~~ **ten (10)** years;

...

(6) Has violated or was present when others violated, through an act of omission or commission any felony or misdemeanor crime involving sexual offenses or moral turpitude or a felony involving sales or use of a controlled substance, within the last five ~~(5)~~ **ten (10)** years;

Section 7. Severability. If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

Section 8. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.