BY COUNCIL MEMBER EVANS

PROPOSED ORDINANCE NO. 2016-___

TO AMEND TITLE 11, CHAPTER 24, SECTION 11:299 OF THE CODE OF ORDINANCES OF THE CITY OF CENTRAL (ENACTED BY ORDINANCE NO. 2014-30) TO ADDRESS THE TOWING OF HEAVY DUTY ITEMS AND TO PROVIDE FOR ALL RELATED MATTERS.

WHEREAS, the Council for the City of Central acknowledges that Louisiana law allows for the City of Central to regulate, control, supervise, and govern the business of operation and use of wreckers and towing devices;

WHEREAS, the Council for the City of Central previously enacted an ordinance (Ordinance No. 2014-30) relative to an approved law enforcement rotation list for wrecker and towing services to provide for the public safety, general welfare, and good order of the City of Central;

WHEREAS, that Ordinance authorized and directed the Chief of Police of the Central Police Department to maintain an approved law enforcement rotation list for all wrecker and towing services desiring to participate in a wrecker and tow rotation program within the City. That list is known as the "approved wrecker rotation list";

WHEREAS, pursuant to Ordinance No. 2014-30, placement on the approved wrecker rotation list is limited to wrecker and towing services that meet and maintain certain requirements, including maintaining a regular place of business in the City of Central;

WHEREAS, none of the wrecker and towing services that currently meet the requirements set forth in Ordinance No. 2014-30 are able to provide towing and wrecker services for heavy duty items, including but not limited to buses and tractor trailer rigs;

WHEREAS, the Central Police Department desires to amend Ordinance No. 2014-30 to address towing and wrecker services for heavy duty items, including but not limited to buses and tractor trailer rigs;

BE IT ORDAINED by the Council of the City of Central, State of Louisiana as follows:

Section 1: Title 11, Chapter 24, Section 11:299 of the Code of Ordinances of the City of Central as enacted by Ordinance No. 2014-30 is hereby amended and re-enacted, so as to read as follows:

a. The Chief of Police of the Central Police Department is authorized and directed to maintain an approved law enforcement rotation list for all wrecker and towing services desiring to participate in a wrecker and tow rotation program

within the City. This list shall be known as the "approved wrecker rotation list."

b. Placement on the approved wrecker rotation list shall be limited to wrecker and towing services that meet and maintain the following requirements:
   1. Maintain a regular place of business in the City of Central;
   2. Be registered with the Louisiana Secretary of State and in good standing in accordance with La. R.S. 12:102;
   3. Maintain insurance coverage in accordance with Louisiana law;
   4. Provide twenty-four hour service on a 365 day per year basis;
   5. Not be owned, operated by, or knowingly employ any person that operates tow trucks who has been convicted of a felony relating to auto theft, vehicle insurance fraud, burglary of a vehicle, or possession of stolen vehicles or vehicle parts;
   6. Obtain and maintain an active and current wrecker license from the Louisiana Public Service Commission, in accordance with La. R.S. 45:180.1(D); and
   7. Obtain and maintain a common carrier certificate or a contract carrier permit from the Louisiana Public Service Commission, in accordance with La. R.S. 45:180.1(E).

In order to be placed on the approved wrecker rotation list, each wrecker service must provide proof that it meets these requirements. If a wrecker and towing service fails to adhere to these requirements, including failing to maintain the requisite insurance, license, and certificate or permit, the wrecker and towing service may be immediately removed from the approved wrecker rotation list by the Chief of Police of the Central Police Department.

c. The Chief of Police of the Central Police Department also has the authority to remove a wrecker and towing service from the approved wrecker rotation list where the wrecker and towing service consistently fails to adhere to all laws, agency rules, and policies of the State of Louisiana, including but not limited to the Louisiana Highway Regulatory Act, La. R.S. 32:1, *et seq.*, the Louisiana Towing and Storage Act, La. R.S. 32:1711, *et seq.*, and the rules and regulations of the Department of Public Safety and Corrections, Office of State Police, and all ordinances of the City.

d. When an officer of the City of Central Police Department determines that a motor vehicle must be towed, the law enforcement officer shall give the owner or operator of the motor vehicle the option to select a properly licensed towing company to tow his vehicle. If the owner or operator of the motor vehicle is unable to select a licensed towing company, chooses not to select a particular licensed towing company, or an emergency situation requires the immediate removal of the vehicle, the next available licensed towing company on the approved wrecker rotation list shall be called by the law enforcement officer to tow the vehicle.

The towing company selected by the owner or operator of a vehicle or law enforcement agency shall be allowed to respond to the call within 30 minutes. If the towing company fails to arrive within 30 minutes, the law enforcement officer may select the next available towing company from the approved wrecker rotation list.

e. In accordance with the following guidelines, the Chief of Police of the Central Police Department is authorized to suspend any wrecker and towing service from the approved wrecker rotation list due to the wrecker service's failure to respond to a call-out within thirty (30) minutes from the time the service is requested:
   1. First violation within a twelve-month rolling period – Verbal warning;
   2. Second violation within a twelve-month rolling period – Thirty (30) days' suspension from approved wrecker rotation list;
   3. Third violation within a twelve-month rolling period – Permanent suspension from approved wrecker rotation list.

   Any wrecker and towing service suspended from the approved wrecker rotation list may request a review of the suspension by the Council for the City of Central.

f. <u>If each of the wrecker and towing services identified on the approved wrecker rotation list is unable to provide the services needed, such as the towing of heavy duty items, including but not limited to buses and tractor trailer rigs, the Chief of Police of the Central Police Department shall act in accordance with subsection (d) above, but is not required to select a wrecker and towing service from the approved wrecker rotation list and may instead call Varnado & Sons, L.L.C.</u>

g. Any verbal or written estimate of the cost of the wrecker and towing services shall be binding on the wrecker service.

h. It shall be unlawful for any wrecker and towing service to tow a vehicle to any location other than the wrecker service's storage facility, unless the owner or operator of the vehicle or the Chief of Police of the Central Police Department or his designee requests that it be towed to another location.

i. The Chief of Police of the Central Police Department or his designee is authorized to enforce this ordinance and is directed to cooperate with the State Department of Public Safety and Corrections relative to compliance with the towing recovery and storage rules and regulations of that Department.

j. Nothing contained herein shall establish a contract for hire between the City of Central and the wrecker service. A wrecker driver shall be deemed the legal agent and employee of the wrecker service.

Section 2: Conflicts.
All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 3: Severability.
If any section, subsection, sentence, clause or provision of this Ordinance is declared by a court of competent jurisdiction to be invalid, such declaration of invalidity shall not affect the validity of the Ordinance as a whole, or parts thereof, other than the part declared invalid. The remainder of the Ordinance shall not be affected by the declaration of invalidity and shall remain in force and effect.

Section 4. Effective Date.
This Ordinance shall be effective upon publication in the Official Journal.

Introduced before the Council on February 23, 2016.

This Ordinance having been submitted to a vote, the vote thereon was as follows:

For:
Against:
Absent:

Adopted the _____ day of _____, 2016.

Signed the _____day of _____, 2016.

Delivered to the Mayor on the _____ day of _____, 2016.

_____
Mark Miley, City Clerk

Approved:

_____
I.M. Shelton, Jr. Mayor

Received from Mayor on the _____ day of _____, 2016.

_____
Mark Miley, City Clerk

Adopted Ordinance published in The Advocate on the _____ day of _____, 2016.