



Thursday, May 18, 2006

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*Item #8*

**Police  
RECOMMENDATION FOR COUNCIL ACTION**

**Subject:** Approve an ordinance amending Chapter 13-6 of the City Code relating to towing of vehicles; amending Ordinance No. 010308-59 relating to non-consent towing fees; and amending Ordinance No. 20050912-004 relating to wrecker permit fees (Related to Item #32 and Item #41).

**Amount and Source of Funding:** No additional funding is required.

**Fiscal Note:**



**For More Information:**

**Prior Council Action:** February 15, 2001. Council action to amend Chapter 8-14 of the City Code affecting the towing of vehicles.

**Boards and Commission Action:**

The City staff, members of the Austin Towing Association, and other towing companies have met both in larger groups and subcommittees to work through proposed changes to Chapter 13-6 of the City Code relating to Towing of Vehicles and the proposed amendment to the wrecker permit fees. The Chief of Police is responsible for enforcing the laws that pertain to vehicle towing services in the City of Austin. The current ordinance will be changed so that the critical operations of the program, including Traffic Incident Management, can be handled through the rule making process.

**Traffic Incident Management**

The ordinance will be amended to require towing companies that choose to participate in the regular rotation program to also participate in the Traffic Incident Management Program. The Traffic Incident Management Program is designed to expeditiously move disabled vehicles from the City's major roadways. The current ordinance includes a "rush hour rotation" program that specifies a 20 minute response time for Interstate 35, Mo Pac, and Highway 183 during morning and afternoon commute times. The proposed ordinance retains the 20 minute response time but will allow the zones and hours of operation to be changed in the future as part of the rule making process. This provision is necessary so the program can adjust to meet the ever-increasing demands on the City's roadways.

**General Ordinance Revisions**

The other provision added to Chapter 13-6 is the creation of a Category B (Medium Duty) category of Tow Truck. This change is required to accurately describe the three types of tow trucks currently being used in the industry. The specific descriptions of the three categories will be contained in formal rules to be adopted by the Chief of Police. Any future changes to the program related to tow truck technology and specifications will be handled through the rule

making process.

The ordinance requires towing companies to accept a major credit card. It also requires towing companies that perform non-consent tows from private property to immediately tow the vehicle to a vehicle storage facility and not unload the vehicle elsewhere. It provides exceptions for unloading a vehicle because of mechanical breakdown of the tow truck, or because the original tow truck is needed immediately at the private property and other tow trucks are not capable of entering or removing vehicles.

The grounds for removal from the non-consent tow rotation list include failure to comply with the state law, Chapter 13-6, or the towing ordinance rules. A tow truck operator license can be denied, revoked or suspended if the driver is convicted of a serious or violent crime. The ordinance will allow the Chief of Police to adopt rules that specifically list the convictions that apply. These crimes include, but are not limited to, kidnapping, sexual assault, robbery and theft involved in a vehicle tow service, and will be described in the rules under this Chapter.

#### **Regulating the Towing Fee Rate**

City staff has prepared a towing fee study, by comparing the non-consent fees set by other large Texas cities. Based on that study, and input from the Austin towing industry, staff recommends adjustment of the non-consent towing fees as follows:

#### **Maximum non-consent towing fees:**

(1) Vehicles 10,000 pounds or less: \$ 130.00

(This fee applies whether a conventional tow truck or flatbed tow truck is used. The current ordinance contains a fee of \$95.00 for conventional tow trucks, and an additional \$35.00 fee if the tow is made with a flatbed truck.)

(2) Vehicles in excess of 10,000 pounds, but less than 26,000 pounds: \$ 400.00

(The current fee is \$393 for all vehicles over 10,000 pounds.)

(3) Vehicles in excess of 26,000 pounds: \$ 600.00

(This is a new fee for towing heavy vehicles that require using the heavy duty category of tow trucks.)

*A provision is included in the ordinance that sets out the procedure for a towing company to request a towing fee study in the future as required by state law. The ordinance change describes the process and specifies that a requested towing fee study requires a deposit of \$5,000. Based on the result of a towing fee study, the City Council may change the non-consent towing fees. The City is not required to conduct more than one towing fee study within a two-year time period.*

City staff will present to the City Council every two years its recommendations for adjustments to non-consent towing fee rates, regardless of whether a towing company has requested a fee study.

#### **Wrecker Permit Fees**

The Austin Police Department also recommends increasing the fee for inspecting tow trucks, from the current \$39 per year, to \$100. That fee is paid to the City, and if approved, would become part of this year's fee schedule. The fee would be used to support a new administrative position that handle inspections of those tow trucks desiring a city license. This position would allow officers and detectives to focus on enforcement, citizen complaints, and criminal investigations related to the towing program.

ORDINANCE NO. 20050420-

AN ORDINANCE AMENDING CHAPTER 13-6 OF THE CITY CODE  
RELATING TO TOWING OF VEHICLES; AMENDING ORDINANCE NO.  
010308-59 RELATING TO NONCONSENT TOWING FEES; AND AMENDING  
ORDINANCE NO. 20050912-004 RELATING TO WRECKER PERMIT FEES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Chapter 13-6 of the City Code is amended to read:

CHAPTER 13-6. VEHICLE TOWING SERVICES.

ARTICLE 1. GENERAL PROVISIONS.

§ 13-6-1 ADMINISTRATION.

(A) The police chief shall administer and enforce this chapter.

(B) The police chief shall adopt rules for the administration and enforcement of this chapter. The rules must be reasonably designed to promote public health and safety and ensure that:

- (1) towing companies and tow truck drivers are able to perform their responsibilities under this chapter and carry adequate liability insurance;
- (2) the police chief is able to determine the correct identity and qualifications of individuals licensed under this chapter;
- (3) towing companies summoned to the scene of an accident respond reasonably promptly;
- (4) tow trucks summoned to an accident scene have the appropriate capabilities to deal with damaged vehicles at the scene; and
- (5) tow trucks are operated in a safe and efficient manner.

§ 13-6-2 COMPLIANCE REQUIRED.

(A) A person commits an offense if the person:

1           (1) performs an act prohibited by this chapter;~~[or]~~

2  
3           (2) fails to perform an act required by this chapter;or

4  
5           (3) violates a rule adopted under this chapter.

6  
7           (B) A violation of this chapter is a Class C misdemeanor.

8  
9           ~~(C)~~~~(B)~~ Proof of a mental state is not required for the prosecution of a violation of  
10           this chapter.

11  
12           ~~(D)~~~~(C)~~ An exception to an offense under this chapter may be used as an  
13           affirmative defense.

14  
15           **§ 13-6-3 GOVERNMENTAL ENTITIES EXCLUDED.**

16  
17           This chapter does not apply to towing that is performed by a governmental entity.

18  
19           **§ 13-6-4 DEFINITIONS.**

20  
21           In this chapter:

22  
23           (1) **CONSENT TOW** means a tow of a motor vehicle initiated by the owner  
24           or operator of the vehicle or by a person who has possession, custody, or  
25           control of the vehicle. The term does not include a tow of a motor  
26           vehicle initiated by a peace officer investigating a traffic accident or a  
27           traffic incident that involves the vehicle.

28  
29           (2) **DEPARTMENT** means the Police Department.

30  
31           (3) **MANUFACTURER'S CERTIFICATE** means a plate permanently  
32           affixed to either a truck or towing equipment by the manufacturer which  
33           states the truck or equipment's gross poundage capacity.

34  
35           (4) **NON-CONSENT TOW** means a tow that is not a consent tow

36  
37           ~~(5) **RUSH HOUR** means between the hours of 6:00 a.m. and 9:00 a.m. and~~  
38           ~~4:00 p.m. and 7:00 p.m., Monday through Friday, excluding a legal~~  
39           ~~holiday.]~~  
40

1 (5) [(6)] TOW TRUCK means a motor vehicle, including a wrecker,  
2 equipped with a mechanical device used to tow, winch, or otherwise  
3 move another motor vehicle.  
4

5 (6) [(7)] TOWING COMPANY means a person operating a tow truck  
6 registered under Chapter 643 (*Motor Carrier Registration*) of the Texas  
7 Transportation Code and includes the owner, operator, employee, or  
8 agent of a towing company, but does not include a political subdivision  
9 of the state.  
10

11 (7) [(8)] VEHICLE STORAGE FACILITY has the meaning prescribed by  
12 Section 2303.002 (*Definitions*) of the Texas Occupations Code.  
13

#### 14 § 13-6-5 FEES.

15  
16 The council shall establish a fee required or authorized under this chapter by  
17 separate ordinance.  
18

#### 19 § 13-6-6 PROHIBITED CHARGES.

20  
21 A person may not charge or attempt to charge a fee related to towing under this  
22 chapter:  
23

24 (1) in excess of the fee established by ordinance;  
25

26 (2) for a service not performed or equipment not used; or  
27

28 (3) that is not authorized by ordinance.  
29

#### 30 § 13-6-7 COMPLIANCE WITH STATE LAW.

31  
32 (A) A towing company shall comply with all applicable state laws related to  
33 towing.  
34

35 (B) A towing company that violates a state law related to towing commits an  
36 offense under this chapter.  
37

#### 38 § 13-6-8 RULES.

39  
40 The police chief shall prescribe rules necessary to administer this chapter.

1                   **ARTICLE 2. OPERATOR'S LICENSE FOR NON-CONSENT TOWS.**

2  
3                   **§ 13-6-21 LICENSE REQUIRED FOR NON-CONSENT TOWS.**

4  
5                   (A) Except as provided by Section 13-6-22 (*Operation While First Application*  
6                   *Pending*), a person may not perform non-consent tows in the city without a  
7                   tow truck operator's license issued under this article.

8  
9                   (B) A tow truck operator licensed under this article must wear the operator's  
10                  license while operating a tow truck.

11  
12                ~~[(C) A peace officer may stop a tow truck to determine whether the operator has an~~  
13                ~~operator's license. The operator of the tow truck shall display the license to~~  
14                ~~the officer on request.]~~

15  
16                **§ 13-6-22 OPERATION WHILE FIRST APPLICATION PENDING.**

17  
18                (A) An applicant whose first application for a tow truck operator's license under  
19                this article is pending may:

20  
21                   (1) perform non-consent tows in the city if the applicant has a valid tow  
22                   truck operator's license issued by another city; or

23  
24                   (2) accompany and assist a tow truck operator licensed under this chapter.

25  
26                (B) A person whose application is denied may not continue to perform nonconsent  
27                tows or provide assistance under this section.

28  
29                **§ 13-6-23 APPLICATION FOR LICENSE.**

30  
31                (A) An applicant for a tow truck operator's license must file an application with  
32                the police chief on a form prescribed by the chief and signed by the applicant  
33                and the sponsoring towing company.

34  
35                (B) An application must include all information required by rule adopted under this  
36                chapter.[:

37  
38                   ~~(1) the applicant's name, address, and date of birth;~~

39  
40                   ~~(2) the applicant's Texas driver's license number and a copy of the~~  
41                   ~~applicant's driver's license;~~  
42

1           ~~(3) the name, address, and telephone number of the applicant's employer, if~~  
2           ~~applicable;~~

3  
4           ~~(4) information about the applicant's criminal history; and~~

5  
6           ~~(5) other information required by the police chief.]~~

7  
8           (C) An applicant must submit the prescribed fee with the application. The fee is  
9           non-refundable.

10  
11   **§ 13-6-24 LICENSE TERM AND RENEWAL.**

12  
13           (A) Unless revoked or suspended, a tow truck operator's license expires two years  
14           after the date of issuance.

15  
16           (B) To obtain a renewal license, a license holder must complete a new application  
17           and pay the prescribed non-refundable fee.

18  
19   **§ 13-6-25 DUPLICATE LICENSE.**

20  
21           (A) A license holder may obtain a duplicate tow truck operator's license to replace  
22           a lost or destroyed license.

23  
24           (B) The license holder must pay the required fee.

25  
26   **§ 13-6-26 CHANGE IN APPLICATION INFORMATION; EMPLOYMENT**  
27   **STATUS.**

28  
29           A license holder shall notify the police chief not later than the 10th day after:

30  
31           (1) a change in the license holder's application information; or

32  
33           (2) a change in the license holder's employment status.

34  
35   **§ 13-6-27 APPLICATION AFTER REVOCATION OR DENIAL.**

36  
37           A person whose tow truck operator's license is revoked, or whose application for a  
38           license is denied, may not reapply for a license before six months after the date of  
39           revocation.

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## ARTICLE 3. TOW TRUCK REGULATIONS.

### Division 1. General Requirements.

#### § 13-6-41 EQUIPMENT REQUIRED.

- (A) A person may not operate a tow truck in the city unless the tow truck is equipped as required by state law and this chapter and meets the requirements of a Category A, ~~or~~ Category B, or Category C tow truck.
- (B) A towing company shall maintain a tow truck and its required equipment in a safe operating condition at all times that the tow truck is operating on a public roadway.

#### § 13-6-42 CATEGORY A, B, AND C TOW TRUCK REQUIREMENTS.

- ~~[(A) Except as provided by Subsection (E), a]~~ A tow truck must meet the requirements as provided in rules prescribed for tow trucks [of this section] to be classified as a Category A, Category B, or Category C tow truck.
- ~~[(B) A tow truck must be not less than one-ton gross vehicle weight in size and be equipped with booster brakes with a 9,000 pounds gross vehicle weight rating as reflected on the manufacturer's certificate.~~
- ~~[(C) A tow truck must be equipped with a winch that has a winch line and boom with a lifting capacity of not less than 8,000 pounds single line capacity and a wheel lift, under reach unit with a lifting capacity of not less than 3,000 pounds lifting capacity as rated on the manufacturer's certificate.~~
- ~~[(D) Except as provided in Subsection (E), a tow truck must carry as standard equipment:~~
- ~~(1) a tow bar/sling;~~
  - ~~(2) self loading or pop up tow dollies;~~
  - ~~(3) hookup/I hook chains 5/16 inch Hi tensile steel;~~
  - ~~(4) one 10 pound or two 5 pound B.C. grade fire extinguishers;~~
  - ~~(5) a wrecking bar at least 36 inches long;~~



1 ~~(6) a push broom;~~

2 ~~(7) a flat shovel;~~

3 ~~(8) three flares, three red emergency reflectors, or three orange traffic cones;~~

4 ~~(9) overhead rotating or flashing warning lights, in the color prescribed by~~  
5 ~~state law, that are attached to the tow truck at all times;~~

6 ~~(10) two safety chains at least 5/16 inch Hi tensile steel; and~~

7 ~~(11) tow lights.~~

8 ~~(E) A slide truck or car carrier is not required to have a boom sling, tow bar, wheel~~  
9 ~~lift, tow lights, an under reach unit, or dollies.~~

10 **~~§ 13-6-43 CATEGORY B TOW TRUCK.~~**

11 ~~(A) A tow truck must meet the requirements of this section to be classified as a~~  
12 ~~Category B tow truck.~~

13 ~~(B) The tow truck must meet the requirements for a Category A tow truck except~~  
14 ~~that the safety chains must be at least 3/8 Hi tensile steel, and self loading or~~  
15 ~~pop up tow dollies are not required.~~

16 ~~(C) The tow truck must have not less than 20,000 pounds gross vehicle weight~~  
17 ~~rating and be equipped with tandem axles, air brakes, and a wheel lift~~  
18 ~~underreach unit with a minimum lifting capacity of 12,000 pounds as reflected~~  
19 ~~on the manufacturer's certificate.~~

20 ~~(D) The tow truck must be equipped with a power operated winch, winch line and~~  
21 ~~boom with a factory rated lifting capacity of not less than 35,000 pounds,~~  
22 ~~single or double line capacity.]~~

23 **~~§ 13-6-44 REQUIRED MARKINGS.~~**

24 ~~[(A)] A certificate holder shall display on the tow truck the markings required by~~  
25 ~~law, and by rules adopted under this chapter. [tow company's name, address or~~  
26 ~~the name of the city where located, and the telephone number of the business~~  
27 ~~operating the tow truck.~~

28 ~~(B) The markings required by this section must be:~~

(1) ~~permanently inscribed on each side of the truck;~~

(2) ~~in letters no less than two inches high; and~~

(3) ~~in colors that contrast with the color of the truck.]~~

## § 13-6-45 TOW TRUCK INSPECTION.

A peace officer may stop and inspect a tow truck to determine whether the tow truck is equipped as required by this article and whether the equipment is in working order.

### Division 2. Registration. ~~[Certification.]~~

## § 13-6-51 REGISTRATION ~~[CERTIFICATION]~~ REQUIRED.

(A) Except as provided by Subsection (B), a person may not operate or permit another person to operate a tow truck on a public roadway in the city unless the person obtains a registration certificate for the vehicle under this article.

(B) A towing company that is registered with the State of Texas and whose primary place of business is located outside the city may use a ~~[an uncertified]~~ tow truck that is not registered with the city to make a consent tow in the city.

## § 13-6-52 APPLICATION FOR REGISTRATION CERTIFICATE ~~[CERTIFICATION].~~

(A) An applicant for a tow truck registration certificate must:

(1) file an application with the police chief on a form prescribed by the chief; and

(2) submit the required, non-refundable, fee.

~~[(B) An application must include for each tow truck proposed to be certified:~~

~~(1) a copy of the registration or lease to show that the tow truck is owned or leased by the towing company, and is used solely by the towing company;~~

~~(2) the manufacturer's certificate for the tow truck or a statement from a~~

dealership providing information on the same make of vehicle to allow the rating of the vehicle;

(3) documentation that the vehicle is insured in compliance with state law;

(4) a certification from the appropriate taxing authority that all City taxes on all properties, real and personal, to be used in conjunction with the applicant's towing business are current; and

(5) the required fee.]

(B) [(C)] To receive a registration certificate [be certified] a vehicle must pass an inspection by the department.

### **§ 13-6-53 REGISTRATION CERTIFICATE TERM AND REAPPLICATION [RENEWAL].**

(A) A tow [Unless it is revoked, a] truck registration certificate [certification] remains in effect for one year from the date of issuance unless it is revoked [expires on March 31 each year]. The police chief shall establish a staggered schedule for inspections.

(B) If a registration certificate is revoked, [To apply for a re-certification,] an applicant requesting re-registration must file a new [renewal] application and pay the required non-refundable fee. The vehicle must pass a new inspection by the department.

### **[§ 13-6-54 CERTIFICATE DISPLAY REQUIRED.**

A certificate holder shall affix the certificate to the lower left side of the tow truck's windshield.

### **§ 13-6-55 DUPLICATE CERTIFICATE.**

(A) A certificate holder may obtain a duplicate certificate to replace a certificate that is lost or destroyed.

(B) To obtain a duplicate certificate, the certificate holder must pay the required fee, and the truck must be re-inspected by the department.

1 **§ 13-6-56 RECERTIFICATION.**

2  
3 A person may apply for re-certification of a tow truck for which the certification is  
4 revoked once the tow truck meets the requirements of state law and this chapter.]

5  
6 **ARTICLE 4. TOWING SERVICE REGULATIONS.**

7  
8 **§ 13-6-71 PEACE OFFICER NOT TO INFLUENCE SELECTION OF TOWING**  
9 **BUSINESS.**

10  
11 A peace officer may not recommend a particular towing company to a person or  
12 influence, or attempt to influence, a person's selection of a towing business, auto repair  
13 shop, or automobile dealer.

14  
15 **§ 13-6-72 MINIMUM EQUIPMENT REQUIREMENTS.**

16  
17 (A) Except as provided by Subsection (B), a towing company must have at least  
18 one registered [certified] Category A ~~for~~ one registered [certified] Category  
19 B, or one registered Category C tow truck to tow a vehicle.

20  
21 (B) A towing company must own or have a contract for the use of a vehicle  
22 storage facility and have at least one registered [certified] Category A tow  
23 truck to tow a vehicle that is parked illegally in a private parking facility.

24  
25 **§ 13-6-73 SOLICITING TOWING BUSINESS ON CITY STREETS**  
26 **RESTRICTED.**

27  
28 (A) Except as provided by Subsection (B), a towing company may not solicit  
29 business from a City street to provide towing service to a vehicle disabled in  
30 an accident on a City street. This prohibition applies to a solicitation to tow,  
31 remove, repair, wreck, store, trade, sell, or purchase the vehicle.

32  
33 (B) A towing company participating in [on] the traffic incident management  
34 program [rush-hour rotation list] that is operating within an assigned [~~rush-~~  
35 ~~hour~~] zone may solicit towing business from the owner or operator of a  
36 disabled vehicle that is removed during the time authorized for that zone [rush-  
37 hour], unless the owner or operator has made a designation under Section 13-6-  
38 101 (*Driver Designated Towing Company*).

39  
40 **§ 13-6-74 NOTIFICATION OF VEHICLE REMOVAL.**

41  
42 (A) A towing company that removes a vehicle in accordance with Chapter 684

(Removal of Unauthorized Vehicles from Parking Facility or Public Roadway) of the Texas Transportation Code or in executing a repossession shall notify the department not later than one hour after the removal.

(B) The notification must include:

- (1) the name of the towing company;
- (2) the date, time, and location of the removal;
- (3) the physical description, license number and vehicle identification number of the vehicle removed;
- (4) the name of the tow truck operator who performed the removal; and
- (5) the storage location of the vehicle.

#### § 13-6-75 TOWING RESTRICTED.

A towing company that intends to remove a vehicle from a parking facility in accordance with Chapter 684 (Removal of Unauthorized Vehicles from Parking Facility or Public Roadway) of the Texas Transportation Code may not tow a vehicle ~~[under this chapter]~~ when the vehicle owner objects to the tow, ~~[or]~~ tenders payment of a fee authorized in Section 13-6-76 (Towing Fee Schedule), and removes the vehicle within 30 minutes.

#### § 13-6-76 TOWING FEE SCHEDULE.

(A) In this section:

- (1) FULLY PREPARED FOR TRANSPORT describes a vehicle that is attached to a tow truck, is lifted, with tow lights and safety chains attached and, if required, is placed on a dolly in a raised position.
- (2) ON SITE describes a tow truck that is backed up to a vehicle to be removed that is not yet fully prepared for transport.

(B) This section applies to a towing company that intends to remove a vehicle from a parking facility in accordance with Chapter 684 (Removal of Unauthorized Vehicles from Parking Facility or Public Roadway) of the Texas Transportation Code. This section does not apply to a repossession. [A towing company may charge a towing fee only as provided in this section.] A towing

1 company may not charge more than one fee under this section for towing a  
2 single vehicle.

3  
4 (C) A towing company may charge an on-site fee when:

5  
6 (1) the owner objects to the tow, [or] tenders payment, and removes the  
7 vehicle from the location within 30 minutes; and

8  
9 (2) the vehicle has not been fully prepared for transport.

10  
11 (D) A towing company may charge a fully prepared for transport fee when a  
12 vehicle has been fully prepared for transport but has not been removed from  
13 the property.

14  
15 (E) A towing company may charge the standard non-consent fee when it removes a  
16 vehicle from the property [~~but may not also charge an on-site fee or a fully~~  
17 ~~prepared for transport fee~~].

18  
19 **§ 13-6-77 VEHICLE STORAGE FACILITY REQUIRED.**

20  
21 A towing company shall own or have a contract to use a designated vehicle storage  
22 facility to store vehicles removed in a non-consent tow that is:

23  
24 (1) licensed by the State of Texas; and

25  
26 (2) located within 5,000 feet of the full or limited purpose annexation areas  
27 of the City.

28  
29 **§ 13-6-78 REMOVAL TO DESIGNATED FACILITY [LOCATION].**

30  
31 (A) ~~[A towing company that removes a vehicle from a property shall tow the~~  
32 ~~vehicle to a location designated by the owner.~~

33  
34 (B) ~~When an owner does not designate a removal location, the]~~ Except as provided  
35 in Subsection (B), a towing company that performs a non-consent tow of a  
36 vehicle from private property:

37  
38 (1) shall immediately [may] tow the vehicle to the towing company's  
39 designated vehicle storage facility; and

40  
41 (2) may not unload the towed vehicle at a place other than the company's  
42 designated vehicle storage facility.

1  
2 (B) A towing company that performs a non-consent tow of a vehicle from private  
3 property may unload a vehicle at a place other than its vehicle storage facility  
4 only:

5  
6 (1) if safety reasons or mechanical breakdown require the transfer of the  
7 vehicle to another tow truck; or

8  
9 (2) to transfer the vehicle to another tow truck, within 100 feet of the private  
10 property, if the original tow truck is the company's only available truck  
11 that is capable of entering the property and removing a vehicle, and the  
12 original truck is needed immediately for additional towing from the  
13 private property.

14  
15 **§ 13-6-79 RELEASE OF VEHICLE FROM STORAGE, IMPOUNDMENT.**

16  
17 (A) A vehicle storage facility [towing company] may not refuse to release a vehicle  
18 in its possession to the vehicle owner, or the owner's agent, after the person  
19 pays the applicable [towing] fees, unless the storage was directed by a law  
20 enforcement agency or release of the vehicle is prohibited by a court order.

21  
22 (B) A person may not remove or attempt to remove a vehicle that is lawfully  
23 stored by a vehicle storage facility [towing company] unless the applicable  
24 charges are paid and accepted, or the person removing the vehicle has obtained  
25 permission from the vehicle storage facility [towing company].

26  
27 (C) A towing company must release a vehicle when a peace officer directs the  
28 towing company to release the vehicle.

29  
30 **§ 13-6-80 [CASH] PAYMENT.**

31  
32 (A) A person who pays a towing fee in cash or who tenders payment in cash meets  
33 the payment requirements under this chapter in all circumstances.

34 (B) A towing company shall provide a vehicle owner the option of paying the  
35 towing fee by cash or a major credit card.  
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**ARTICLE 5. ACCIDENT SCENE TOWING.**

**Division 1. General Provisions.**

**§ 13-6-91 ACCIDENT SCENE ACCESS RESTRICTED.**

Except as provided under this chapter, a towing company may not enter an accident scene or other site under a peace officer's control without the officer's permission. In this article, the term "accident scene" includes a scene of a disabled vehicle.

**§ 13-6-92 ~~[DRIVING TOW TRUCK TO SCENE OF AN]~~ ACCIDENT SCENE REQUIREMENTS.**

(A) Except as provided in rules prescribed for the traffic incident management program ~~[rush-hour rotation]~~, a person may not drive, or cause another person to drive, a tow truck to an accident scene on a City street unless:

- (1) the person is summoned to the scene by a peace officer or by a person involved in the accident; or
- (2) it is necessary to prevent death or bodily injury, and emergency medical personnel are not present.

(B) A towing company ~~that is~~ summoned to an accident scene by a person involved in an accident shall:

- (1) immediately notify the department that the towing company is responding to the accident scene; and
- (2) obtain the person's signature and information on a form provided by the police chief.

(C) A towing company stopping to protect an accident scene may not tow a vehicle from the accident scene unless it is a non-consent tow rotation or a traffic incident management program ~~[rush-hour rotation]~~ call.

(D) A towing company that is summoned to an accident scene by a peace officer or a person involved in the accident shall comply with the rules adopted by the police chief.[:

~~(1) arrive at the accident scene no later than 45 minutes after it receives~~



notice from the department, or by the deadline established by a rule adopted by the police chief;

(2) if required by a peace officer, transport a disabled vehicle to a specific location;

(3) before leaving the site, remove all wreckage and debris except vehicle cargo and hazardous waste; and

(4) comply with other procedures prescribed by the police chief.]

(E) A towing company that does not deliver a tow truck, of the category specified by a peace officer, to an accident scene by the deadline prescribed by this section or by a rule adopted under this chapter may, in the discretion of a peace officer at the accident scene, forfeit[s] the call for towing service. Regardless of whether the call was forfeited, the towing company may be subject to administrative action related to its continued listing on the non-consent tow rotation list or its continued participation in the traffic incident management program.

#### § 13-6-93 ADDITIONAL TRUCK REQUIRED.

(A) If a tow truck operator responding to an accident scene determines that an additional tow truck is needed, the tow truck operator shall tell the peace officer in charge which second tow truck or towing company to contact.

(B) The peace officer shall contact the department to summon the tow truck or towing company to the scene.

#### § 13-6-94 AUTHORIZATION FOR VEHICLE REMOVAL.

(A) A tow truck operator summoned to an accident scene may not begin preparations to remove a disabled vehicle from the scene until a [the] peace officer [in charge] authorizes the removal, except under the traffic incident management program.

(B) A peace officer may direct that a vehicle be towed to a vehicle storage facility owned or used by the City.

#### § 13-6-95 INVENTORY REQUIRED.

(A) Before a tow truck operator tows a vehicle from an accident scene, the tow

1 truck operator shall prepare an inventory of property located in the vehicle, on  
2 a form provided by the police chief.

- 3  
4 (B) The inventory must be verified by the peace officer in charge of the accident  
5 scene.  
6

7 **§ 13-6-96 REMOVAL LOCATION.**  
8

- 9 (A) The driver of a disabled vehicle may designate the location to which the  
10 vehicle is to be towed from the accident scene. A driver may not designate  
11 that the vehicle is to be towed to, or left on, a public roadway.  
12  
13 (B) If the driver fails to designate a location, the towing company shall take the  
14 vehicle to its vehicle storage facility for storage.  
15  
16 (C) If the driver designates that the vehicle be towed to a location other than a  
17 vehicle storage location, the driver and the towing company must agree on the  
18 payment method for the vehicle removal.  
19  
20 (D) If the driver does not tender payment in a satisfactory manner, the towing  
21 company shall tow the vehicle to its designated vehicle storage facility.  
22

23 **§ 13-6-97 IMPOUNDMENT.**  
24

25 A peace officer may require the removal of a vehicle that is evidence in a criminal  
26 offense from an accident scene to a vehicle storage facility.  
27

28 **§ 13-6-98 DRIVEABLE VEHICLE.**  
29

30 This article does not prevent the driver of a vehicle involved in an accident from  
31 designating a responsible licensed driver present at an accident scene to immediately take  
32 custody of a driveable vehicle.  
33

34 **Division 2. Driver-Designated [Consent] Towing.**  
35

36 **§ 13-6-101 DRIVER-DESIGNATED TOWING COMPANY.**  
37

- 38 (A) A peace officer at an accident scene who determines that a vehicle needs to be  
39 towed from the scene shall:  
40  
41 (1) request that the driver designate a towing company, automotive repair  
42 shop, automobile club, or automobile dealer to remove the vehicle;

1  
2 (2) inform the driver that consent towing fees are not regulated; [provide the  
3 driver a list of the prescribed towing fees that may be charged; and]

4  
5 (3) assist the driver in contacting the designated towing company or other  
6 business [person] designated under Subparagraph (1); and

7  
8 (4) obtain the driver's signature on a form prescribed by the police chief  
9 indicating whether the driver designated a towing service to remove the  
10 vehicle.

11  
12 (B) The peace officer at an accident scene shall inform the driver of a disabled  
13 vehicle that the department will contact the next available towing company on  
14 the non-consent towing rotation list to remove the vehicle if the driver fails to  
15 designate a towing service and that the non-consent towing fee shall be  
16 charged.

17  
18 ~~[(C) The peace officer shall obtain the driver's signature on a form prescribed by~~  
19 ~~the police chief indicating whether the driver designated a towing service to~~  
20 ~~remove the vehicle.]~~

21  
22 **§ 13-6-102 DEPARTMENT TO CONTACT DESIGNATED COMPANY.**

23  
24 (A) The peace officer shall communicate the driver's choice of towing service to  
25 the department and advise the department of the category of tow truck required  
26 at the scene, as prescribed in rules adopted by the police chief.

27  
28 (B) The department shall contact the designated towing service to remove the  
29 vehicle from the scene.

30  
31 (C) If the driver's designated towing service does not have a registered [certified]  
32 tow truck of the required category available, the peace officer shall request the  
33 driver to select another towing service.

34  
35 **§ 13-6-103 DRIVER DESIGNATED TOWING COMPANY TO REMAIN ON**  
36 **ROTATION LIST.**

37  
38 The department may not change the order in which a towing company's name  
39 appears on the non-consent towing rotation list based on the company's designation by a  
40 driver as a towing service under this division.  
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**Division 3. Non-Consent Tow Rotation Programs [List].**

**§ 13-6-111 NON-CONSENT TOW ROTATION LISTS [LIST].**

(A) The police chief may establish towing zones in the City, and may assign a towing company to a zone to perform non-consent tows.

(B) The department shall maintain a rotation list of towing companies that are available to perform non-consent tows from an accident scene, or from the scene of a disabled vehicle. The department shall maintain a separate rotation list for each zone established by the police chief. The department shall use the lists [list] to assign towing companies to perform non-consent tows from an accident scene or the scene of a disabled vehicle.

**§ 13-6-112 LIST CATEGORIES.**

~~[(A)]~~ The department shall assign each towing company on the rotation list to Category A, ~~[or]~~ Category B, or Category C as provided in rules adopted by the police chief.

~~[(B) To be listed under Category A, a towing company must operate at least two Category A certified tow trucks, except that a towing company included in Category A before January 1, 2000 may remain under Category A if it operates at least one Category A tow truck.]~~

~~[(C) To be listed under Category B, a towing company must operate at least one Category B certified tow truck.]~~

**§ 13-6-113 SERVICE REQUIREMENTS.**

To be included on the rotation list a towing company must:

- (1) maintain a 24-hour towing service seven days a week;
- (2) be able to immediately advise the police chief of the availability of the company's tow truck; ~~[and]~~
- (3) have two-way voice communications between the company's tow trucks and the company's base station; and

1                   (4) participate in and comply with the requirements of the traffic incident  
2                   management program.

3  
4   **§ 13-6-114 USE OF LISTS.**

5  
6           (A) When a peace officer at an accident scene contacts the department to send a  
7           tow truck to the accident scene, the department shall call the towing company  
8           whose name appears at the beginning of the non-consent tow rotation list for  
9           the category of tow truck required at the scene.

10  
11          (B) If the first towing company contacted is unable to send a tow truck, the  
12          department shall continue to call towing companies in the order in which they  
13          appear on the list until a towing company on the list responds.

14  
15          (C) Except as provided by Section 13-6-103 (*Driver Designated Towing Company*  
16          *to Remain on Rotation List*), after the department calls a company whose name  
17          appears on the non-consent tow rotation list, the company's name shall be  
18          moved to the bottom of the list.

19  
20           **ARTICLE 6. TRAFFIC INCIDENT MANAGEMENT [RUSH-HOUR**  
21           **ROTATION] PROGRAM.**

22  
23           **§ 13-6-121 TRAFFIC INCIDENT MANAGEMENT PROGRAM [RUSH-HOUR**  
24           **ZONES].**

25  
26           The police chief may establish a traffic incident management towing program on  
27           any major street. The chief may:

28  
29           (1) designate one or more zones on a street;

30  
31           (2) maintain a list of interested towing companies authorized to remove a  
32           disabled vehicle from the right-of-way of a designated street;

33  
34           (3) establish operating times and days of the week of the program;

35  
36           (4) prescribe qualifications, response times, and procedures for a  
37           participating towing company;

38  
39           (5) prohibit a towing company from charging for removal of a vehicle from  
40           the right-of-way, and authorize a towing company to charge a fee for  
41           towing to another authorized location;  
42

1                   (6) remove a towing company from the list if the company fails to comply  
2                   with state law, this chapter, or rules adopted under this chapter; and

3  
4                   (7) impose other requirements the chief determines are necessary for the  
5                   operation of the program.

6  
7                   ~~[The police chief shall designate rush hour zones along IH-35, Loop 1 (McPae~~  
8                   ~~Expressway), U.S. Highway 183, and other arterial streets that the chief determines are~~  
9                   ~~streets that carry a high volume of traffic during rush hour.~~

10  
11                   ~~§ 13-6-122 RUSH HOUR ROTATION LIST.~~

12  
13                   ~~(A) The police chief shall maintain a list of towing companies to remove disabled~~  
14                   ~~vehicles during rush hour from the right of way of a rush hour zone.~~

15  
16                   ~~(B) Except as provided by this article, a towing company on the rush hour rotation~~  
17                   ~~list shall comply with this chapter.]~~

18  
19                   ~~§ 13-6-123 VEHICLE REMOVAL.~~

20  
21                   ~~(A) During rush hour, the department shall call towing companies that appear on~~  
22                   ~~the rush hour rotation list to remove vehicles from the right of way of a rush~~  
23                   ~~hour zone.~~

24  
25                   ~~(B) A towing company responding to a call under Subsection (A) shall:~~

26  
27                   ~~(1) arrive at the scene of the disabled vehicle within the response time~~  
28                   ~~prescribed by a rule under this chapter; and~~

29  
30                   ~~(2) promptly remove the vehicle to the closest safe and appropriate location~~  
31                   ~~near the right of way in accordance with the rules.~~

32  
33                   ~~§ 13-6-124 RUSH HOUR TOWING CHARGES.~~

34  
35                   ~~(A) A towing company may not impose a charge for removing a vehicle from the~~  
36                   ~~right of way in a rush hour zone during rush hour, if the towing company~~  
37                   ~~moves the vehicle to the closest safe and appropriate location near the right of~~  
38                   ~~way.~~

39  
40                   ~~(B) A towing company that tows a vehicle under this article shall charge the~~  
41                   ~~noneconsent tow fee if the company tows the vehicle to a vehicle storage~~

1 facility or other location designated by the driver, the owner of the vehicle, or a  
2 peace officer.

3  
4 ~~§ 13-6-125 DELETION FROM RUSH HOUR ROTATION LIST.~~

5  
6 The police chief may delete from the rush hour rotation list a towing company that  
7 fails to comply with state law, this chapter, or rules adopted under this article.]

8  
9 **ARTICLE 7. ENFORCEMENT.**

10  
11 **§ 13-6-131 DENIAL, SUSPENSION, AND REVOCATION OF LICENSE.**

12  
13 The police chief may deny a person's application for a tow truck operator's license  
14 and suspend or revoke a tow truck operator's license issued [granted] under this chapter,  
15 as prescribed in rules adopted by the chief. [if the person:

- 16  
17 (1) ~~has a Texas driver's license that is suspended or revoked;~~
- 18  
19 (2) ~~performs a consent or non-consent tow after the person's operator's~~  
20 ~~license is suspended;~~
- 21  
22 (3) ~~is indicted for or convicted of an offense included in guidelines issued~~  
23 ~~by the police chief under Chapter 53 (Consequences of Criminal~~  
24 ~~Conviction) of the Texas Occupations Code;~~
- 25  
26 (4) ~~causes or permits the operation of a certified tow truck on the public~~  
27 ~~roadways by an unlicensed driver;~~
- 28  
29 (5) ~~operates an uncertified tow truck on the public roadways;~~
- 30  
31 (6) ~~fails to maintain insurance required by state law for the operation of a~~  
32 ~~towing company or its equipment;~~
- 33  
34 (7) ~~operates a tow truck in a grossly negligent manner that endangers the life~~  
35 ~~or safety of any person; or~~
- 36  
37 (8) ~~submits false information on a license application.~~

38  
39 ~~§ 13-6-132 RESTRICTION ON LICENSE SUSPENSION.~~

40  
41 The police chief may suspend a tow truck operator's license for a maximum of:  
42

1           ~~(1) 30 days for a first violation of this chapter; and~~

2  
3           ~~(2) 60 days for a second or subsequent violation of this chapter.]~~

4  
5       **§ 13-6-132 [§ 13-6-133] REVOCATION OF TOW TRUCK REGISTRATION**  
6       **CERTIFICATE.**

7  
8           The police chief shall revoke the registration certificate [eertification] for a tow  
9 truck that fails to meet the requirements of state law, [and] this chapter, or rules adopted  
10 under this chapter.

11  
12       **§ 13-6-133 REMOVAL FROM NON-CONSENT TOW ROTATION LIST.**

13  
14           The police chief may remove a towing company from a non-consent rotation list,  
15 including a list of the traffic incident management program, if the company fails to  
16 comply with state law, this chapter, or rules adopted under this chapter.

17  
18       **§ 13-6-134 NOTICE REQUIRED.**

19  
20       (A) Before taking adverse action under this article, the police chief shall notify the  
21 applicant or holder of the intended action, except that advance notice is not  
22 required in actions related to:

23           (1) safety hazards;

24           (2) absence of state motor carrier registration; or

25           (3) absence of ownership or contract with licensed vehicle storage facility.

26  
27       (B) The police chief shall send the notice by certified mail, return receipt requested  
28 to the mailing address listed on the person's application, certificate, or license,  
29 as applicable.

30  
31       (C) The notice is presumed to have been received on the 10th working day after  
32 mailing, unless an earlier date is indicated on the return receipt.

33  
34       (D) Except for actions that are authorized to take effect without advance notice, a  
35 [A] denial, suspension, [or] revocation, or removal is effective on the 20th day  
36 after the notice is mailed.  
37  
38  
39  
40



1       **§ 13-6-135 HEARING.**

- 2
- 3           (A) The person to whom the notice is sent may request a hearing.
- 4
- 5           (B) The request must be in writing and received by the police chief not later than
- 6           the 15th day after the notice was sent. If the person fails to submit to the
- 7           police chief a request for hearing not later than the 15th day after the notice is
- 8           sent, the suspension, revocation or denial of the license or certificate, or the
- 9           removal from the list or program, becomes final on expiration of the time
- 10           specified in the notice.
- 11
- 12           (C) The police chief shall hold an informal [a] hearing not later than the 15th day
- 13           after the request for a hearing is received. At the hearing the formal rules of
- 14           evidence do not apply. The police chief shall decide the appeal on the basis of
- 15           the preponderance of the evidence presented.
- 16
- 17           (D) The police chief shall make a determination on the appeal not later than the
- 18           10th day after the hearing. The police chief may affirm, reverse, or modify the
- 19           previous determination.

20       **§ 13-6-136 APPEAL.**

- 21
- 22           (A) A person may appeal the police chief's decision in writing to the city manager
- 23           not later than the 10th day after the effective date of the decision. The person
- 24           must include a statement of the grounds for the appeal.
- 25
- 26           (B) The notice of appeal does not stay the police chief's decision.
- 27
- 28           (C) The city manager shall schedule a public hearing not later than the 15th day
- 29           after receipt of the notice of appeal. The city manager shall give notice of the
- 30           time and place set for the hearing to the police chief and the appellant not less
- 31           than five days before the hearing.
- 32

33       **§ 13-6-137 APPEAL-PROCEDURE.**

- 34
- 35           (A) At an appeal hearing under Section 13-6-136 (*Appeal*), the police chief and the
- 36           appellant may present evidence, testimony, and argument.
- 37
- 38           (B) The city manager's decision is final.
- 39

**ARTICLE 8. TOWING FEE STUDY.**

**§ 13-6-141 TOWING FEE STUDY.**

(A) In this section, a "towing fee study" is a study to determine the fair market value of a non-consent tow originating in the City, considering financial information provided to the City by the towing company requesting the study.

(B) A towing company may request that the City conduct a towing fee study by filing a written request with the city manager by certified mail, return receipt requested, or by hand delivery.

(C) Within 90 days after the filing of an initial request, additional towing companies may join the request by filing written requests in accordance with Subsection (B).

(D) The City shall conduct a towing fee study if the initial requestor and the additional requestors, if any:

(1) accounted for not less than 50 percent of the non-consent tows performed in the City during the preceding twelve month period, as determined by the city manager; and

(2) deposit with the city manager a fee of \$5,000.

(E) If the towing fee study is not conducted the City shall refund the fee, less an administrative fee of \$250.

(F) Each towing company requesting the towing fee study shall cooperate with the City to conduct the study. Each towing company shall provide to the City information determined by the city manager to be reasonably necessary to conduct a meaningful fee study, including:

(1) an audited financial statement not more than one year old prepared by an independent certified public accountant that shows the current financial status of the towing company and includes an itemized statement of revenues and expenses;

(2) the number of employees of the towing company, including drivers and dispatchers, and each employee's position and annual compensation with the towing company;

1 (3) identification of all equipment owned or leased by the towing company  
2 that is used for the towing service, including a statement of the costs of  
3 acquiring or leasing the equipment; and

4 (4) copies of the past three years tax returns for the towing company.

5 (G) The City shall, to the extent permitted by law, keep confidential the  
6 information provided by the towing companies relating to the towing fee  
7 study.

8 (H) The City shall complete a towing fee study not later than the 120<sup>th</sup> day after  
9 receiving all information required under Subsection (F).

10 (I) The city manager shall present to the city council the results of the towing fee  
11 study. The city manager shall give to each towing company that owns or  
12 leases tow trucks registered with the city written notice of the time, date, and  
13 location of the city council meeting at which the study is to be considered.  
14 The notice must be sent by United States regular mail to the towing  
15 company's address listed in the latest registration application on file with the  
16 police chief.

17 (J) Based on the results of the towing fee study, the city council may change the  
18 non-consent towing fees. The maximum fees must represent the fair market  
19 value of the services of a towing company performing non-consent tows  
20 originating in the City and be reasonably related to any financial or accounting  
21 information provided to the City relating to towing services.

22 (K) The City is not required to conduct more than one towing fee study within a  
23 two-year time period, measured from the date the city council most recently  
24 considered a towing fee study.

25 **PART 2.** Not later than the second anniversary of the effective date of this ordinance  
26 and at succeeding two year intervals, regardless of whether a towing company has  
27 requested a fee study, the City Manager shall present to the City Council  
28 recommendations for adjustments to the fees established by ordinance for nonconsent  
29 tows.

30 **PART 3.** Part 19 of Ordinance number 010308-59 is amended to read:

31 That there is established the following maximum fee schedule for nonconsent tows  
32 by a towing business:

33 (A) Maximum towing fees:

34 (1) Vehicles 10,000 pounds or less: \$ 130.00 [~~\$95.00~~]

(2) Vehicles in excess of 10,000 pounds, but  
less than 26,000 pounds: \$ 400.00 [~~\$393.00~~]

(3) Vehicles in excess of 26,000 pounds: \$ 600.00

(4) "On Site" fee: \$ 15.00

(5) "Fully Prepared for Transport" fee: \$ 25.00

(B) The following additional fees may be charged if verified by the peace officer in charge of the accident scene:

(1) [~~Use of dollies: \$35.00. A dolly fee may not be charged for flatbeds and rollbacks.~~]

(2) Exceptional labor such as clearing debris: \$35.00 per hour.  
Exceptional labor does not include normal hook-up procedure or routine cleanup not to exceed 30 minutes, and does not include the disposal of classified hazardous waste or vehicle cargo.

(3) Winching, one-hour minimum, only if normal hook-up is not possible because of conditions or location of vehicle: \$35.00 per hour.

(4) Wait time: \$15.00 per hour, if it exceeds 30 minutes from time of arrival at accident scene.

~~(5) Use of flatbed: \$ 35.00.]~~

(C) A towing company may make additional charges under the following schedule for Category C [~~Class B~~] tow trucks:

(1) Work time (Winching, preparing the vehicle to be towed, and wait time): \$25.00 per 15 minutes.

(2) Exceptional labor (manpower): \$ 15.00 per hour per man.

(3) Additional Category C [~~Class B~~] tow truck: \$100.00 per hour.

(4) Additional specialized equipment: \$300.00 per hour.

Air bags \$ 75.00 per hour.

Fork lift \$ 75.00 per hour.

Haul trailers \$ 75.00 per hour.

Trailer dollies

(Used to move semi-trailers) \$ 75.00 per hour.

Large slide trucks/rollbacks (3 ton minimum size for hauling vehicles or equipment with gross weight 15,000 pounds or more)

\$200.00 maximum.

Wait time (Category A [Class-A] tow trucks): \$ 20.00 per hour.

(D) If there is a dispute regarding the appropriate fees, the Chief of Police shall make a determination of the correct charges for the services provided.

**PART 4.** Ordinance Number 20050912-004, containing the 2005-2006 Fee Schedule for Police Department fees relating to Wrecker Permits, is amended to read:

|                        | Approved       | Approved                               |
|------------------------|----------------|--|
|                        | <u>2004-05</u> | <u>2005-06</u>                         |
| <u>Wrecker Permits</u> |                |  |
| Wrecker License        | \$15.00        | \$15.00                                |
| Rotation Listing Fee   | \$110.00       | \$110.00                               |
| Inspection Fee         | \$39.00        | <u>\$100.00</u> [ <del>\$39.00</del> ] |
| Name/Phone Change      | \$22.00        | \$22.00                                |
| Duplicate Documents    | \$11.00        | \$11.00                                |
| Late Filing Fee        | \$110.00       | \$110.00                               |

1 **PART 5.** This ordinance takes effect on \_\_\_\_\_, 2006.

2 **PASSED AND APPROVED**

3  
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5  
6 \_\_\_\_\_, 2006

§  
§  
§

7 Will Wynn  
8 Mayor

9  
10  
11 **APPROVED:** \_\_\_\_\_  
12 David Allan Smith  
13 City Attorney

14  
15 **ATTEST:** \_\_\_\_\_  
16 Shirley A. Gentry  
City Clerk