

NOTICE OF RULE ADOPTION

ADOPTION DATE: DECEMBER 1, 2020

**By: Brian Manley, Chief of Police
Austin Police Department**

The Chief of Police of the Austin Police Department hereby adopts the following rule: "**AUSTIN POLICE DEPARTMENT -TOWING RULES.**" The rules adopt policies relating to enforcement of Chapter 13-6 (Vehicle Towing Services) of the City Code.

A Notice of Proposed Rule was posted on September 30, 2020. Comments from the public were solicited by the Notice of Proposed Rule. This Notice of Rule Adoption is issued pursuant to Section 1-2-8 of the City Code. Adoption of one or more of these rules may be appealed pursuant to Section 1-2-10, et seq., as explained below.

EFFECTIVE DATE OF ADOPTED RULE

A Rule adopted by this notice is effective December 1, 2020.

SUMMARY OR COMMENTS

Three written comments were received from the public. Austin Police Department has reviewed the comments and determined that clarifications or modifications to the rule are warranted and has made the applicable changes. A summary of the responses to the comments is below.

The person from whom comments were received is Ron Perry, Service Manager, AutoReturn.

Responses to comments:

Below is a summary of Mr. Perry's comments and the City's responses.

Comment 1. Mr. Perry's first comment addresses the new requirement that companies performing Class C Incident Management Tow have a 60-ton rotator, found in Section B (*Tow Truck Requirements*) subsection (3)(e)(2)(C)(i). Mr. Perry indicates that after doing research into the matter, he determined that the companies currently performing Class C Incident Management tows all have 50-ton rotators in their existing inventories. He also determined that requiring a 60-ton rotator is excessive and unnecessary and that 50-ton rotators are sufficient to safely perform Class C Incident Management tows.

Response: The Austin Police Department (APD) agrees with this comment. A 50-ton rotator is sufficient to safely perform Class C Incident Management tows.

As part of this rule adoption, APD will amend the Section (B)(3)(e)(2)(C)(i) to reflect a requirement for a 50-ton rotator.

Comment 2. Mr. Perry's second comment addresses the new requirement that companies performing Class C Incident Management Tow have a 48' enclosed trailer. This new requirement is found in Section B (*Tow Truck Requirements*) subsection (3)(e)(2)(C)(xi).

Mr. Perry's comment states that if a commercial truck (e.g., an 18-wheeler or box truck) is overturned the unit can generally be up-righted and towed with its cargo inside. If the trailer is damaged, and it cannot be towed with its cargo inside, then means other than an enclosed 48' trailer are sufficient to safely remove and haul-away the cargo.

Response: APD agrees with this comment for the reasons stated by Mr. Perry. Accordingly, as part of this rule adoption, APD will remove the requirement for a 48' enclosed trailer from Section B (*Tow Truck Requirements*) subsection (3)(e)(2)(C) of the Adopted Rules. The subsection will be appropriately re-numbered.

Comment 3. Mr. Perry's third comment addresses the new requirement that companies performing Class C Incident Management Tow have a 48' reefer (refrigerated trailer). This new requirement is found in Section B (*Tow Truck Requirements*) subsection (3)(e)(2)(C)(xii).

Mr. Perry's comment states that if a commercial truck (e.g., an 18-wheeler or box truck) with perishable cargo is overturned the unit can generally be up-righted and towed with its cargo inside. If the trailer is damaged, and it cannot be towed with its cargo inside, or if the refrigeration unit on the trailer is damaged, then the perishable items will typically be damaged or spoiled and not sellable.

Response: APD agrees with this comment for the reasons stated by Mr. Perry. Accordingly, as part of this rule adoption, APD will remove the requirement for a 48' reefer from Section B (*Tow Truck Requirements*) subsection (3)(e)(2)(C) of the Adopted Rules. The subsection will be appropriately re-numbered.

TEXT OF ADOPTED RULE

The text of the adopted rules is attached to this notice.

Changes from Proposed Rules:

The adopted Rule contain changes from the proposed Rule. Those changes are in the following sections:

1. Section B (*Tow Truck Requirements*) subsection (3)(e)(2)(C)(i) is amended to require a 50-ton rotator.

2. Section B (*Tow Truck Requirements*) subsection (3)(e)(2)(C) is amended to remove the requirement for a 48' enclosed trailer. The remainder of the subsection is renumbered to reflect this removal.

3. Section B (*Tow Truck Requirements*) subsection (3)(e)(2)(C) is amended to remove the requirement for a 48' reefer. The remainder of the subsection is renumbered to reflect this removal.

AUTHORITY FOR ADOPTION OF RULE

The authority and procedure for adoption of rules is set forth in Chapter 1-2, and in Section 13-6-8 of the City Code.

APPEAL OF ADOPTED RULE TO CITY MANAGER

A person may appeal the adoption of a rule to the City Manager. **AN APPEAL MUST BE FILED WITH THE CITY CLERK NO LATER THAN THE 30TH DAY AFTER THE DATE THIS NOTICE OF RULE ADOPTION IS POSTED. THE POSTING DATE IS NOTED ON THE FIRST PAGE OF THIS NOTICE.** If the 30th day is Saturday, Sunday, or official city holiday, an appeal may be filed on the next day which is not a Saturday, Sunday, or official city holiday.

An adopted rule may be appealed by filing a written statement with the City Clerk. A person who appeals a rule must (1) provide the person's name, mailing address, and telephone number; (2) identify the rule being appealed; and (3) include a statement of specific reasons why the rule should be modified or withdrawn.

Notice that an appeal was filed and will be posted by the city clerk: A copy of the appeal will be provided to the City Council. An adopted rule will not be enforced pending the City Manager's decision. The City Manager may affirm, modify, or withdraw an adopted rule. If the City Manager does not act on an appeal on or before the 60th day after the date the notice of rule adoption is posted, the rule is withdrawn. Notice of the City Manager's decision on an appeal will be posted by the city clerk and provided to the City Council.

On or before the 16th day after the city clerk posts notice of the City Manager's decision, the City Manager may reconsider the decision on an appeal. Not later than the 31st day after giving written notice of an intent to reconsider, the City manager shall make a decision.

REVIEWED AND APPROVED



Brian Manley
Chief of Police, Austin Police Department

Date: 11-19-2020

CERTIFICATION BY CITY ATTORNEY

By signing this notice, the City Attorney certifies that the adopted rule has been reviewed by the Law Department, and is within the authority of the Chief of Police to adopt.

Anne L Morgan

Anne L. Morgan
City Attorney

Date: 11/19/2020

This Notice of Rule Adoption was posted on the City website by the City Clerk. Date and time stamp are on the front of the notice.

TEXT OF ADOPTED RULE:

EFFECTIVE DECEMBER 1, 2020:

AUSTIN POLICE DEPARTMENT RULES

TOWING RULES

The Austin Police Department designates TEGSO, LLC DBA AUTORETURN (AutoReturn) as the department's towing management vendor. AutoReturn will act in the place of the department for those responsibilities it has been delegated by ordinance and by the department. AutoReturn will administer tow truck responses to accident scenes, traffic incident management involving tow trucks, and police authorized impoundment of vehicles. On May 21, 2015, the Austin City Council approved the award of a contract with AutoReturn to delegate to it the responsibility for these duties, and adopted ordinance no. 20150521-005, to authorize the police chief to enter into the contract and to adopt rules to implement the ordinance.

AutoReturn will provide communications between itself and towing companies related to towed vehicles, and will receive reports, as the agent of the department, from towing companies and vehicle storage facilities through an automated web-based system. AutoReturn will serve as the department's agent in responding to calls and inquiries from the public regarding towed vehicles. The communication system will include computer and phone access.

A. TOW TRUCK OPERATORS LICENSE REQUIREMENTS

- (1) Application required. An applicant for a tow truck operator's license must file an application with the police chief on a form prescribed by the chief and signed by the applicant and the sponsoring towing company.
- (2) Application contents. An application must include:
 - (a) the applicant's name, address, and date of birth;
 - (b) the applicant's valid Texas driver's license number and a copy of the applicant's driver's license;
 - (c) the applicant's driver's license number that was issued by another state, if the applicant has not had a domicile in this state for more than 30 days, and a copy of the applicant's driver's license;
 - (d) the name, address, and telephone number of the applicant's employer, if applicable;
 - (e) information about the applicant's criminal history;
 - (f) other information required by the police chief; and
 - (g) the prescribed non-refundable fee.

(3) Denial, Suspension or Revocation of Tow Truck Operator License.

A tow truck operator license allows persons to engage in an occupation in which there is a high degree of danger to the public through the involuntary towing and storage of automobiles. The police chief finds that such activities involve substantial contact with the public, including contact with persons whose vehicles may have become disabled at all hours of day and night, and in remote locations. This occupation also affords special opportunities for theft and fraud. Therefore, there is a serious need to protect the public from the types of criminal conduct represented by the offenses listed in this section.

(a) The police chief may deny a person's application for a tow truck operator's license and suspend or revoke a tow truck operator's license granted under this chapter if the person:

- (1) has a driver's license that is suspended or revoked;
- (2) performs a non-consent tow without a valid tow truck operator's license, or during a time period when the person's tow truck operator's license is suspended, or after the person's tow truck operator's license has been revoked;
- (3) causes or permits the operation of a registered tow truck on the public roadways by an unlicensed driver;
- (4) operates an unregistered tow truck on the public roadways;
- (5) fails to maintain insurance required by state law for the operation of a towing company or its equipment;
- (6) operates a tow truck in a grossly negligent manner that endangers the life or safety of any person;
- (7) submits false information on a license application; or
- (8) has been convicted of any crime:

(A) involving, but not limited to:

(i) criminal homicide as described in Chapter 19 of the Texas Penal Code;

(ii) kidnapping as described in Chapter 20 of the Texas Penal Code;

(iii) a sexual offense as described in Chapter 21 of the Texas Penal Code;

(iv) an assaultive offense as described in Chapter 22 of the Texas Penal Code;

(v) robbery as described in Chapter 29 of the Texas Penal Code;

(vi) burglary as described in Chapter 30 of the Texas Penal Code;

(vii) theft as described in Chapter 31 of the Texas Penal Code;

(viii) fraud as described in Chapter 32 of the Texas Penal Code;

(ix) tampering with a governmental record as described in Chapter 37 of the Texas Penal Code;

(x) public indecency (prostitution or obscenity) as described in Chapter 43 of the Texas Penal Code;

(xi) the transfer, carrying, or possession of a weapon in violation of Chapter 46 of the Texas Penal Code, or of any comparable state or federal law;

(xii) a violation of the Dangerous Drugs Act (Chapter 483 of the Texas Health and Safety Code), or of any comparable state or federal law;

(xiii) a violation of the Controlled Substances Act (Chapter 481 of the Texas Health and Safety Code), or of any comparable state or federal law; or

(xiv) criminal attempt to commit any of the offenses listed in Subdivision (8)(A)(i) through (xiii) of this subsection;

(B) for which:

(i) less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the applicant was convicted of a misdemeanor offense;

(ii) less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the applicant was convicted of a felony offense;

Exception: A conviction for the following may result in denial or revocation when more than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date: Murder; Capital Murder; Manslaughter; Criminally Negligent Homicide; Intoxication Manslaughter; Robbery; Kidnapping; Indecency with a Child; Sexual Assault; Aggravated Assault; Theft of a motor vehicle; any offense requiring the person to register as a sex offender; Failure to Register as a Sex Offender; or three felony convictions for any offense or combination of offenses; and Unauthorized Use of a Motor Vehicle; or

(iii) less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if, within any 24-month period, the applicant has two or more convictions of any misdemeanor offense or combination of misdemeanor offenses;

(9) has been convicted of, or discharged from probation for, driving while intoxicated:

(A) within the preceding 24 months; or

(B) more than one time within the preceding five years;

(10) is the subject of an outstanding warrant of arrest; or

(11) is required by law to register as a sex offender.

(b) An applicant who has been convicted of an offense listed in Subsection (a)(8) or (9) may qualify for a tow truck operator's license only if the Chief of Police or her/his designee determines that the applicant is presently fit to engage in the occupation of a tow truck operator. In determining present fitness under this section, the Chief of Police shall consider the following:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purpose for requiring a license to engage in the occupation;

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person had previously been involved;

(4) the relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the licensed occupation;

(5) the extent and nature of the applicant's past criminal activity;

(6) the age of the applicant at the time of the commission of the crime;

(7) the amount of time that has elapsed since the applicant's last criminal activity;

(8) the conduct and work activity of the applicant prior to and following the criminal activity;

(9) evidence of the applicant's rehabilitation or rehabilitative effort while incarcerated or following release; and

(10) other evidence of the applicant's present fitness, including letters of recommendation from prosecution, law enforcement,

and correctional officers who prosecuted, arrested, or had custodial responsibility for the applicant; the sheriff or chief of police in the community where the applicant resides; and any other persons in contact with the applicant.

- (c) It is the responsibility of the applicant, to the extent possible, to secure and provide to the police chief the evidence required to determine present fitness under Subsection (b) of this section.
 - (d) In addition to the factors for determining an applicant's fitness under Subsection (b) of this section, the Chief of Police shall also consider whether the applicant maintained a record of steady employment; supported his/her dependents; maintained a record of good conduct; and paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.
 - (e) A sentence of community supervision (probation) is considered a conviction. During the period of community supervision that a person serves under a sentence of deferred adjudication, the person is considered to have been convicted. A dismissal and discharge in a deferred adjudication proceeding shall not be considered a conviction for the purpose of this section.
 - (f) Provided, however, no such license will be denied, revoked or suspended if any conviction was set aside as invalid or it is found that the license should not be denied, revoked or suspended under Chapter 53 of the Texas Occupations Code.
 - (g) If an applicant timely appeals to the City Manager's Office regarding a decision of the police chief or the chief's designee to suspend, deny or revoke a tow truck operator's license, the police chief, or a member of the chief's executive staff, will review all evidence presented at the applicant's APD hearing to ensure that the evidence supports the decision of the police chief or the chief's designee, before forwarding such evidence to the City Manager's Office.
- (4) Suspensions. The police chief may suspend a tow truck operator's license for a maximum of:
- (a) 30 days for a first violation; and
 - (b) 60 days for a second or subsequent violation.
- (5) Notification by Towing Management Vendor. The department's Towing Management Vendor will notify the department if it learns of

any violations applicable laws or rules, including these Towing Rules, by a licensed tow truck operator.

B. TOW TRUCK REQUIREMENTS

- (1) Category A (Light Duty) Trucks. Except as provided by Subsection (d), a tow truck must meet the following requirements to be classified as a Category A tow truck.
 - (a) The tow truck must be not less than one ton, gross vehicle weight in size and be equipped with booster brakes with a 14,000 ~~[10,000]~~ pounds gross vehicle weight rating as reflected on the manufacturer's certificate.
 - (b) A Category A truck may only tow a vehicle with a manufacturer's gross vehicle weight rating of not more than 10,000 pounds.
 - (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) self loading or pop up tow dollies;
 - (2) hookup/J-hook chains 5/16 inch Hi tensile steel;
 - (3) one 10 pound or two 5 pound B.C. grade fire extinguishers;
 - (4) a wrecking bar at least 36 inches long;
 - (5) a push broom;
 - (6) a flat shovel;
 - (7) three flares, three red emergency reflectors, or three orange traffic cones;
 - (8) overhead rotating or flashing warning lights, in the color prescribed by state law, that are attached to the tow truck at all times;
 - (9) two safety chains at least 5/16 inch Hi tensile steel;
 - (10) tow lights;
 - (11) ANSI approved safety attire ~~[a reflective vest]~~ that must be worn during traffic incidents;
 - (12) pet litter or similar absorbent material; and
 - (13) a bucket or other container suitable to hold small debris.
 - (e) A slide truck or car carrier is not required to have a boom sling, tow bar, wheel lift, tow lights, an under-reach unit, or dollies. However, if a slide truck is equipped with an under-reach unit, it is required to have tow lights.
- (2) Category B (Medium Duty) Trucks. A tow truck must meet the following requirements to be classified as a Category B tow truck.

- (a) The tow truck must meet the requirements for a Category A tow truck except that the safety chains must be at least 3/8 inch Hi-tensile steel, and self loading or pop up tow dollies are not required.
 - (b) The tow truck must have not less than 18,000 pounds gross vehicle weight rating and be equipped with air brakes, and a wheel lift under-reach unit with a minimum lifting capacity of 8,000 pounds as reflected on the manufacturer's certificate.
 - (c) A Category B truck may only tow a vehicle with a manufacturer's gross vehicle weight rating of not more than 26,000 pounds.
 - (d) The tow truck must be equipped with a power operated winch or combination of winches, winch line or lines, and boom with a factory rated lifting capacity of not less than 24,000 pounds.
- (3) Category C (Heavy Duty) Trucks. A tow truck must meet the following requirements to be classified as a Category C tow truck.
- (a) The tow truck must meet the requirements for a Category A tow truck except that the safety chains must be at least 3/8 inch Hi tensile steel, and self loading or pop up tow dollies are not required.
 - (b) The tow truck must have not less than 48,000 pounds gross vehicle weight rating and be equipped with tandem axles, air brakes, and a wheel lift under-reach unit with a minimum lifting capacity of 12,000 pounds as reflected on the manufacturer's certificate,
 - (c) Only a Category C truck may tow a vehicle with a manufacturer's gross vehicle weight rating of more than 26,000 pounds.
 - (d) The tow truck must be equipped with a power operated winch or combination of winches, winch line or lines, and boom with a factory rated lifting capacity of not less than 50,000 pounds, single or double line capacity.
 - (e) Class C tow requests will be classified as either Simple or Incident Management tows.
 - (1) Simple Class C Tows are all non-Incident Management Class C Tows. An example of a Simple Class C Tow is a tow for a tractor trailer involved in a minor collision with a passenger vehicle and there is not a significant amount of damage or debris field. A peace officer will determine if the tow request is a Simple Class C tow.
 - (2) Incident Management Class C Tows are tows for any incidents involving more than one vehicle with a manufacturer's gross vehicle weight rating of

more than 26,000 lbs., or tows for any incident involving a single a vehicle with a manufacturer's gross vehicle weight rating of more than 26,000 lbs. and significant damage or debris. An example of an Incident Management Class C Tow is a tow for an incident involving a tractor trailer and there is significant damage and debris. A peace officer will determine if the tow request is an Incident Management Class C Tow.

(A) Class C Incident Management Tows are among the most complex and potentially dangerous tows. To perform a Class C Incident Management Tow, an operator shall have successfully obtained and completed certified training in Incident Management scenes from Miller Industries, WreckMaster, or a similar APD approved certification program.

(B) All incident management training for Class C Incident Management Tows must include, at a minimum, training in:

- (i) Truck and equipment capacities,
- (ii) Attachments of heavy-duty vehicles,
- (iii) Rigging,
- (iv) Vehicle placement,
- (v) Recovery formulas,
- (vi) Preparation for towing,
- (vii) Weather conditions,
- (viii) Knowledge of blood-borne pathogens,
- (ix) Customer relations on the scene,
- (x) Fire potential and working with fire departments,
- (xi) Proper maintenance of snatch blocks,
- (xii) Air cushion recovery,
- (xiii) Hydraulic recovery,
- (xiv) Scene assessment,
- (xv) Unloading,
- (xvi) HAZMAT awareness,
- (xvii) EPA awareness,
- (xviii) Knowledge drug and alcohol regulations,
- (xix) Incident management, and
- (xx) Documentation procedures

(C) Contractors and/or Sub-Contractors performing Incident Management Class C tows shall have the following additional equipment immediately accessible:

- (i) One (1) 50 ton rotator
- (ii) Two (2) 50 ton heavy duty wrecker
- (iii) One (1) medium duty wrecker
- (iv) Two (2) heavy slide tandem axles
- (v) One (1) lowboy trailer
- (vi) One (1) truck tractor tandem axle

- (vii) One (1) Landoll or City approved trailer
- (viii) Four (4) light duty slides
- (ix) One (1) skid steer tractor with attachments
- (x) One (1) wheel loader/forklift capable of operating in rough terrain (rubber tires)
- (xi) Twenty (20) absorbent bags
- (xii) Four (4) recovery barrels open
- (xiii) Four (4) recovery barrels closed
- (xiv) Four (4) overpack drums
- (xv) Shrink wrap
- (xvi) Banding equipment (steel or poly)

(4) Required Markings. A certificate holder shall display on the tow truck the markings required by state law. The markings required by this section must be:

- (a) permanently inscribed on each side of the truck;
- (b) in letters no less than two inches high; and
- (c) in colors that contrast with the color of the truck.

(5) Registration Certificate.

(a) An applicant for a tow truck registration certificate must file an application with the police chief on a form prescribed by the chief. An applicant must submit the prescribed fee with the application. The fee is non-refundable.

(b) An application must include for each tow truck proposed to be registered:

- (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;
- (5) the required fee;
- (6) a cab card for the vehicle issued by the Texas Department of Transportation;
- (7) a vehicle storage facility license for a facility owned by the applicant, or a contract that authorizes the applicant to use the facility; and
- (8) a motor carrier license for the vehicle.

(c) To be registered a vehicle must pass an annual inspection conducted by the department or conducted by the department's designated towing management vendor.

- (d) A towing company or tow truck operator may not use a tow truck to tow a vehicle that exceeds the manufacturer's gross vehicle weight rating allowed to be towed by the particular category of wrecker.

C. REQUIREMENTS FOR ACCIDENTS AND DISABLED VEHICLE TOWING

- (1) Requirements. A tow truck operator who ~~[towing company that]~~ is summoned to tow a ~~[the scene of an accident or disabled]~~ vehicle by a peace officer or by the department's designated towing management vendor shall:
 - (a) be expected to arrive at the accident scene within 20 minutes after the operator ~~[it]~~ receives notice to respond to the scene ~~[from the department]~~, or by the deadline established by rule for the Traffic Incident Management Program. The department's designated towing management vendor will take into consideration traffic congestion and other factors if a tow truck summoned to the scene of an accident or disabled vehicle by a peace officer made a diligent effort to arrive at the scene within the response time; ~~[]~~
 - (b) if required by a peace officer, transport a disabled vehicle to a specific location;
 - (c) before leaving the site, remove all wreckage and debris except vehicle cargo and hazardous waste;
 - (d) provide written information to the owner or operator of the vehicle, if present, on a form prescribed by the police chief, in English and Spanish that describes the rights and responsibilities of the person related to the vehicle; ~~and~~
 - (e) wear their company's uniform, including shirt and pants appropriate for the job they are performing. The shirt shall bear the company name and the operator's name. Operators will start each shift with a clean uniform;
 - (f) prior to moving a vehicle from its location at the time of the operator's arrival, and as soon as the safely possible, take a minimum of six (6) photographs of the vehicle that capture the entirety and each side of the vehicle. Operator's must upload photographs using the towing management vendor's mobile application;
 - (g) respond in a wrecker or unloaded slide truck/car carrier unless an Licensed Impound Provider is responding to an impound tow request;
 - (h) act in a courteous and professional manner to all first responders, HERO personnel, members of the general public, and other tow truck operators;

- (i) tow only the assigned vehicle, unless other instructions are provided by the peace officer on scene;
 - (j) not solicit business from the owner or driver of any other vehicle on the scene;
 - (k) possess only one device capable of receiving tow requests;
 - (l) possess a valid Texas driver's license, Texas Department of Licensing and Regulation (TDLR) tow truck operators permit, and City of Austin tow truck operators permit;
 - (m) respond in a tow truck authorized by the department and TDLR, and that complies with applicable state, local, and federal regulations;
 - (n) ~~transport the towed vehicle directly to an approved vehicle storage facility without delay; and~~ transport the "non consent" towed vehicle to a licensed vehicle storage facility or a location agreed upon by the vehicle owner without delay; and
 - (o) comply with other procedures prescribed by the police chief.
- (2) Officer Determines Category. A peace officer may specify the category (A, B or C) of tow truck to be summoned to an accident or disabled vehicle scene.
- (3) Non-Consent ~~Rotation~~ List Requirements.
- (a) Category A (Light Duty) ~~Rotation~~ List. To be listed under Category A, a towing company must operate at least two Category A registered 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.~~
 - (b) Category B (Medium Duty) ~~Rotation~~ List. To be listed under Category B, a towing company must operate at least one Category B or one Category C registered tow truck.
 - (c) Category C (Heavy Duty) ~~Rotation~~ List. ~~[After January 1, 2007,] T[t]o be listed under Category C, a towing company must operate at least two Category C registered tow trucks; except that if the company operates only one Category C registered tow truck it may be listed under Category C if it has a contract with another towing company that provides that the other company will respond to a scene with a Category C registered tow truck within the applicable response time.]~~

D. REMOVAL FROM LISTS

- (1) The department's designated towing management vendor may remove a towing

company from a towing rotation list (including the non-consent tow [rotation] list or a list of the Traffic Incident Management Program) if the towing company or any of its drivers has violated a law, ordinance, rule of the Department, TDLR rule, or rule of the towing management vendor in accordance with the requirements of City Code Section 13-6-133.

- (2) The department's towing management vendor will determine the appropriate sanction for a towing company that violates an applicable law, ordinance, or rule. A first violation may result in a warning. No appeal is allowed from a warning. ~~[A second violation may result in removal from the rotation list for one month. A third violation may result in a removal from the [rotation] list for six months.]~~ Additional violations, or serious first violations, may result in suspension or permanent removal from the list or lists.

E. TRAFFIC INCIDENT MANAGEMENT PROGRAM

- (1) Program established. The Chief of Police (Chief) has established the Traffic Incident Management Program (T.I.M.) for removing disabled vehicles from the right-of-way of designated major highways. The goal of the T.I.M. program is to provide safe, prompt and efficient removal of disabled vehicles from the roadways that are part of the program. A towing company must participate in the T.I.M. program if it is on the [a] Non-Consent [Rotation] List. The Department's towing management vendor will maintain and control the list of companies participating in the T.I.M. program.
- (2) Designated T.I.M. [Highways] Roadways. The Chief will designate major [highways] roadways, or portions of major roadways, as part of the T.I.M. program ("T.I.M. Roadways"). Those [highways] T.I.M. Roadways are located on the attachment that contains the designated [highways] T.I.M. Roadways and the hours of operation for each [highway] T.I.M. Roadway or portion of [highway] T.I.M. Roadway. The attachment is considered part of these rules.
- (3) [Zones] Map and Modification of T.I.M. Roadways. The [zones] T.I.M. Roadways for the T.I.M. program are established, as set out in the map that is attached to these rules. ~~[Towing companies will be assigned to a zone.]~~ The [zones] T.I.M. Roadways maybe modified by the Chief or the department's designated towing management vendor as needed, after 10 days notice to towing companies that are participating in the T.I.M. program.
- (4) [Zone Boundaries] T.I.M. Roadway Boundaries. ~~[A zone]~~ Each T.I.M. Roadway includes frontage roads ~~[, if any,]~~ of the designated [highways] roadways ~~[in that zone]~~ and will include that [highway's] roadway's entrance and exit ramps. ~~[A zone]~~ Each T.I.M. Roadway also includes major intersecting streets for a distance of 300 feet from the designated roadway. The intersecting streets that are included ~~[in the zone]~~ will be designated on one or more maps that will be made available to participants in the T.I.M. program.

(5) Hours of Operation. During the hours of operation for each T.I.M. Roadway, tow truck operators participating in the T.I.M. program are required to comply with all T.I.M. program requirements as established by these rules. The hours of operation for the T.I.M. program on a designated highway T.I.M. Roadway [will be] are established by these rules and may be set separately for each [highway] T.I.M. Roadway. [~~During the T.I.M. hours of operation on a designated highway T.I.M. Roadway, a towing company [assigned to a zone] must comply with the T.I.M. requirements.]~~ During days or times that the T.I.M. program is not in operation, the regular Non-Consent Tow [~~Rotation~~] List and requirements will apply.

~~[(6) Trucks Stationed in Zones. The towing company assigned to a T.I.M. zone must station one or more tow trucks in the zone during the hours set out in these rules for the specific zone. The number of tow trucks stationed in a particular zone by the assigned towing company will be at the discretion of the assigned company. The company must comply with the requirements of the T.I.M. program regardless of the number of tow trucks it assigns to the zone.~~

~~(7) Rotation Lists. The department's designated towing management vendor Wrecker Enforcement Unit will maintain a rotation list for each T.I.M. designated highway and zone. The list will be compiled by a system that assures a random selection of participating towing companies for positions on the list.~~

~~Companies owning or leasing four (4) or fewer tow trucks may opt to skip every other rotation cycle. A company must request the reduced T.I.M. rotation cycle.~~

~~— Companies owning six (6) or more tow trucks, and that are currently in good standing and in compliance with covering assignments, may request to be placed on a list for stand-by status to cover additional zone assignments if another company is unavailable.]~~

(6[8]) Communications.

(a) Each tow truck participating in [~~assigned to a zone within~~] the T.I.M. System is required to be equipped with a device capable of communicating with the department's designated towing management vendor.

(b) All towing companies and their non-consent tow truck operators [~~wrecker drivers~~] will monitor the towing management vendor's communications system, and will be available to assist with traffic incidents, during an activation of the City of Austin Emergency Operations Center (EOC). Normal towing operations will resume at such time when the EOC is deactivated and emergency traffic incident management is no longer required.

~~[(c) Exception: A towing company may have one spare tow truck that is not equipped with a device capable of communicating with the towing~~

~~management vendor's communication system. This truck is not required to have a driver assigned to it, and will not add a rotation slot to the company.]~~

(7[9]) T.I.M. Requests [Responsibility for Zone]. The assigned tow truck operator [towing company, or a company with which it has a written agreement on file with APD,] will receive a tow request dispatched through department's designated towing management vendor's dispatching communications system to the operator's mobile device. This request will indicate "TIMS" and "expedite." The tow truck operator receiving the request is responsible to promptly remove vehicles from the right-of-way. ~~[If a towing company provides additional towing service to a vehicle as part of the T.I.M. program, or for any other purpose, the towing company remains responsible for complying with the requirements of the T.I.M. program for that zone, including the response time for other calls.]~~

(8[40]) Response Time. A ~~[towing company]~~ tow truck operator assigned to a ~~[zone]~~ tow request must arrive at the scene of the accident or disabled vehicle within 10 [20] minutes of the tow request being sent [notification to the company]. The 10 [20] minute response time applies at all times during the hours of operation for the T.I.M. program on the T.I.M. Roadway [designated highway]. The department's designated towing management vendor will take into consideration traffic congestion and other factors if a tow truck operator [assigned to a zone] made a diligent effort to arrive at the scene within the required time.

(9[44]) Approach to Scene. A tow truck operator must use due care for the safety of other vehicles on the roadway, and where possible must use the roadway to approach a disabled vehicle, including improved shoulders. ~~[A tow truck may be driven to an accident scene in that truck's assigned zone without being called to the scene by a peace officer or party involved in the accident.]~~

(10[42]) Removal From Right-of-Way. The tow truck driver will promptly remove the vehicle to the closest safe and appropriate location near the right-of-way. The tow truck driver will provide written information, on a form prescribed by APD, to the owner or operator of the vehicle, if present. The tow truck driver will remove disabled vehicles to the nearest place of safety upon authorization from APD. The tow truck driver will ~~[not]~~ only be required to tow the vehicle farther than one mile ~~[, unless a]~~ if the nearest place of safety is unavailable within that distance.

The term "nearest place of safety" means a location chosen with regard to the following criteria: the age, physical or other condition of the vehicle owner, including whether the vehicle owner is accompanied by one or more minor children, the remoteness of the location, the proximity of authorities or persons who could render aid or assistance, the time of day, the weather conditions, the character of the location or surrounding neighborhood and the vehicle owner's knowledge or familiarity with the location or surrounding neighborhood.

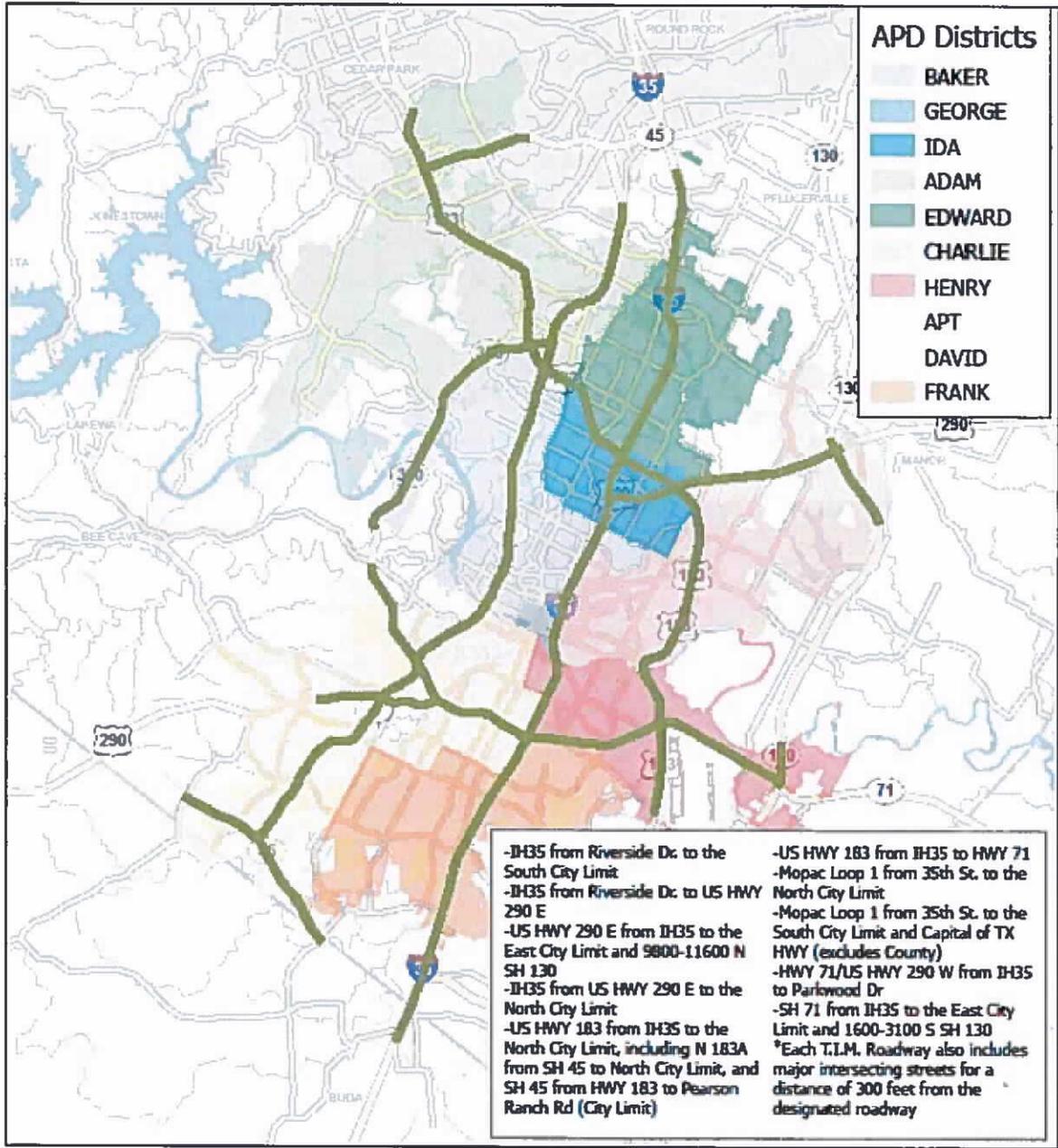
~~[(13) Towing Restricted to Assigned Company: During times that the T.I.M. program is in operation on a designated highway, only a towing company assigned to that zone, or a company with which it has a written agreement on file with the~~

department's towing management vendor, will remove disabled vehicles from that highway. However, a peace officer may authorize another towing company to remove a vehicle if the assigned company does not respond in a timely manner, lacks appropriate equipment for the situation, or the situation requires additional tow trucks that the assigned company cannot provide in a timely manner.]

- (11[44]) Charges. A towing company may not charge a fee for removing a vehicle from the right-of-way to the nearest place of safety.
- (12[45]) Solicitation by Assigned Company. A tow truck operator [towing company] dispatched to a T.I.M. tow request [in its assigned zone during the T.I.M. hours of operation] may solicit additional towing services from the owner or operator of a vehicle, and may charge a fee if the owner or operator designates the towing company to perform that service.
- (13[46]) Designation by Peace Officer. If the owner or operator does not designate a towing company to tow the vehicle, a peace officer will request a non-consent tow operator who will [designate the towing company assigned to the T.I.M. zone to] tow the vehicle to another location.
- (14[47]) Compliance. Towing companies and tow truck operators must comply with all applicable federal, state, and local laws and regulations, including [law, city ordinances, and] these rules.
- (15[48]) Removal from T.I.M. Program [and Towing or Rotation List]. The department's towing management vendor may remove a towing company from the T.I.M. program [or a rotation list] if the towing company failed to comply with any applicable law or regulations, including these [state law, city ordinance or police department] rules, related to towing. A towing company may be removed from the T.I.M. program [a rotation list] based upon a tow truck operator's failure to comply with any applicable law or regulations, including these [state law, city ordinance or police department] rules, if:
- (a) the company directed, encouraged, or solicited a tow truck operator's conduct; or
 - (b) the company knew or should have known that the operator or other operators have engaged in such conduct but failed to take corrective action within a reasonable amount of time.
- (16[49]) Towing Company Contacted by Owner or Operator. A vehicle owner or operator may call a towing company of the person's own choice, but the assigned [T.I.M.] tow truck must perform the removal from the right of way.

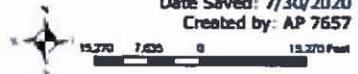
TRAFFIC INCIDENT MANAGEMENT PROGRAM
DESIGNATED ROADWAYS [HIGHWAYS] AND
HOURS OF OPERATION

Designated Highways	Days/Hours of Operation	10 [20] Minute Response Time Rules
IH-35	Monday thru Friday, excluding legal holidays; 6 a.m. to 9 a.m. & 4:00 p.m. to 7 p.m.	Monday thru Friday, excluding legal holidays; 6 a.m. to 9 a.m. & 4:00 p.m. to 7 p.m.
Loop 1 (Mopac)	Monday thru Friday, excluding legal holidays; 6 a.m. to 9 a.m. & 4:00 p.m. to 7 p.m.	Monday thru Friday, excluding legal holidays; 6 a.m. to 9 a.m. & 4:00 p.m. to 7 p.m.
US 183, including N 183A & SH 45	Monday thru Friday, excluding legal holidays; 6 a.m. to 9 a.m. & 4:00 p.m. to 7 p.m.	Monday thru Friday, excluding legal holidays; 6 a.m. to 9 a.m. & 4:00 p.m. to 7 p.m.
HWY 71	<u>Monday thru Friday, excluding legal holidays;</u> <u>6 a.m. to 9 a.m. & 4:00 p.m. to 7 p.m.</u>	<u>Monday thru Friday, excluding legal holidays;</u> <u>6 a.m. to 9 a.m. & 4:00 p.m. to 7 p.m.</u>
US HWY 290	<u>Monday thru Friday, excluding legal holidays;</u> <u>6 a.m. to 9 a.m. & 4:00 p.m. to 7 p.m.</u>	<u>Monday thru Friday, excluding legal holidays;</u> <u>6 a.m. to 9 a.m. & 4:00 p.m. to 7 p.m.</u>



Designated T.I.M.S Roadway Map
2020

Date Saved: 7/30/2020
Created by: AP 7657



INFORMATION SYSTEMS

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