

ORDINANCE NO. 2022-20

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, OF THE CITY OF TEXAS CITY, TEXAS, TITLE XI. BUSINESS REGULATIONS, CHAPTER 112, “VEHICLES FOR HIRE”, SECTION: AUTOMOBILE WRECKERS; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE; DISPENSING WITH THE CHARTER REQUIREMENT FOR READING THIS ORDINANCE ON THREE (3) SEPARATE DAYS; AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION.

WHEREAS, there is a need to amend **The Code of Ordinances of the City of Texas City, Texas**, Title XI. Business Regulations, Chapter 112, Vehicles For Hire, Section: Automobile Wreckers, to update information contained in the Code; and

WHEREAS, there is a need to correct Scrivener’s errors.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF TEXAS CITY, TEXAS:

SECTION 1: That the City Commission approves amendment of Chapter 112, Vehicles For Hire, Section: Automobile Wreckers.

SECTION 2: That **The Code of Ordinances of the City of Texas City, Texas**, Chapter 112, Vehicles For Hire, Section: Automobile Wreckers, is hereby amended to read and provide as follows:

AUTOMOBILE WRECKERS

§ 112.01 PURPOSE AND SCOPE.

(A)(1) The ~~city~~ **City**, pursuant to the authority granted by state law, in order to protect the public, to protect the rights of persons whose vehicles may be towed, to maintain safe and efficient operating rules and to preserve the peace of the community, hereby engages in the licensing and regulation of business enterprises engaged in the non-consent towing, removing and storing of motor vehicles in the incorporated areas of the ~~city~~ **City**.

(2) The purpose and intent of this subchapter is to regulate non-consent tows initiated by a police officer or city **officer**/official(s), to the extent not preempted by federal or state law. This subchapter shall not apply to consent tows from public or private property within the ~~city~~ **City**.

(B) The Texas City Police Department is authorized to enforce these rules and shall be referred to as “TCPD” for the remainder of this subchapter.

(C) Accordingly, no person shall operate a wrecker or heavy-duty wrecker in the incorporated areas of the ~~city~~ **City** on non-consent towed vehicles unless the wrecker has been registered and permitted with the TCPD. For the purposes of this subchapter, a **PERSON** shall mean a sole proprietor, partnership, corporation or LLC. Multiple assumed names or DBAs of a person shall not be permitted. This subchapter does not apply to a consent tow.

(D) Furthermore, no person or business entity shall operate a vehicle storage facility for the storage of motor vehicles that have been subjected to non-consent tows under this subchapter unless the facility is registered with the state and meets all state requirements.

(E) This subchapter must be liberally construed to give effect to its purpose and intent. Unless superseded by state regulations, the ~~city~~ **City** is the final authority.

§ 112.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICATION. The written application form approved by the TCPD and all required documentation and all applicable fees.

AUXILIARY TOW LIGHTS. A set of red lamps, connected to the wrecker, which are attached to the rear of the towed vehicle and, when lit, will signal stops and turn movements of the towed vehicle.

CONSENT TOW. Any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle if such tow is performed pursuant to this subchapter. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle, or a tow initiated by a ~~city~~ **City** official(s) pursuant to a court order.

COMMISSION. The Texas Commission of Licensing and Regulation.

CONVICTION. A finding of guilt by a judge or jury, or any plea of guilty or nolo contendere, unless such conviction has been held invalid by the courts or the proceedings against the defendant have been dismissed and the defendant discharged by the court.

DOING BUSINESS AS (DBA). The operating name of a company, as opposed to its legal name.

EMERGENCY LIGHTS. Flashing, rotating or strobe lights that are mounted above the roof of the wrecker. The lights shall be mounted as high and as wide as possible and visible in all directions when activated. **EMERGENCY LIGHTS** shall be amber only in color. No lamps or lenses other than amber may be displayed. A rearward-facing directional arrow panel, mounted contiguous with the **EMERGENCY LIGHTS**, is permitted.

EVIDENTIARY CRIME SCENE. A crime scene in the incorporated city City that requires the response of a law enforcement agency's specialized investigative unit(s). Examples include, but are not limited to, a homicide scene or an auto theft chop shop.

HEAVY-DUTY WRECKER. A wrecker having a chassis rated at five tons or greater by the vehicle manufacturer, equipped with a winch capable of lifting a minimum of 30,000 pounds as rated by the winch manufacturer, air brakes, and tandem axles. Except where a distinction is made, the term **WRECKER** includes **HEAVY-DUTY WRECKER**.

HIGH MOUNTED STOP LAMP. A lamp conforming to Lamps, Reflective Devices, and Associated Equipment (49 C.F.R. § 571.108).

INCIDENT. An unplanned, randomly occurring traffic event that adversely affects normal traffic operations.

INCIDENT MANAGEMENT TOW. Any tow of a vehicle in which the tow truck is summoned to the scene of a traffic accident or to an incident, including the removal of a vehicle, commercial cargo, and commercial debris from an accident or incident scene.

LAW ENFORCEMENT OFFICER. A city City police officer, **marshal, or code enforcement officer/official**, or a peace officer for a law enforcement agency located in the county or state. (See Tex. Code C.C.P. Ch. 2, Art. 2.12.)

LAW ENFORCEMENT SCENE. The scene of a crime, collision or custodial arrest, or the location of a vehicle that is a traffic hazard, a recovered stolen vehicle or an abandoned/**junk** vehicle.

NO SHOW. When the TCPD dispatcher telephones a towing company on the rotation list to perform a non-consent tow, and the wrecker does not arrive on the scene within the 30-minute time limit. A towing company is allowed three "no shows" during the calendar year. Any violation of this provision shall result in suspension or revocation of that wrecker company's permit for the remainder of the calendar year.

NON-CONSENT TOW. Any tow of a motor vehicle that is not a consent tow.

NON-CONSENT TOW LIST. The TCPD shall maintain a **two** master lists of all wrecker companies: **One** to be utilized in the event of a tow conducted not at the permission or direction of the motor vehicle's legal or registered owner, or such owner's authorized representative by TCFD a/k/a **Non-Consent Tow List** and a **second to be used by a code enforcement officer/official for the removal of abandoned/junk vehicles a/k/a Abandoned/Junk Vehicle Tow List**.

OPERATE. To drive or otherwise use a wrecker.

OPERATOR. Any person operating a wrecker, regardless of whether the person owns the truck.

OWNER. Any person who holds the legal title of the motor vehicle or who has the legal right of possession thereof.

PASS. When the TCPD dispatcher telephones a towing company on the rotation list to perform a non-consent tow, and is unable to contact the towing company, or the towing company refuses or declines to accept the telephone call, or the towing company refuses to accept the towing assignment. Each towing company shall be allowed ~~ten~~ **fifteen (15)** passes during a calendar year **accumulative of both master lists.** Any violation of this provision shall result in suspension or revocation of that wrecker company's permit for the remainder of the calendar year.

PERSON. A sole proprietor, partnership, corporation, limited liability company (LLC), assumed name or doing business as (DBA) shall be considered a **PERSON** for the purposes of this subchapter.

PUBLIC ROADWAY. A public street, alley, road, right-of-way, or other public way, including paved and unpaved portions of the right-of-way.

STORAGE COMPANY. An individual, partnership, corporation or any other association that is engaged in the business of storing motor vehicles for compensation or the expectation of compensation. The term includes the owner, operator, employee and/or agent of the **STORAGE COMPANY.**

TCPD. The City of Texas City Police Department.

TOW. The movement of a motor vehicle by a wrecker.

TOWING COMPANY. An individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in this state, but does not include a political subdivision of the state.

VEHICLE. A device in, on, or by which a person or property may be transported on a public roadway. The term includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer, but does not include a device moved by human power or used exclusively on a stationary rail or track.

VEHICLE OWNER. The motor vehicle's legal or registered owner, or such owner's authorized representative who is physically present at the law enforcement scene.

VEHICLE STORAGE FACILITY. As defined by Tex. Transportation Code § 2303.002, and that is operated by a person who holds a license issued under Tex. Transportation Code Ch. 2303 to operate the facility.

VEHICLE STORAGE FACILITY OWNER. An individual, partnership, corporation or any other association (other than a governmental entity) that is engaged in the business of operating a garage, parking lot, storage lot or any type of facility to store motor vehicles subject to non-consent tows under this subchapter.

WORKING DAY. Any day that the TCPD conducts normal business, excluding holidays and weekends.

WRECKER. A commercial motor vehicle equipped with, or used in combination with a mechanical device adapted or used to tow, winch or otherwise move a motor vehicle, which, together with the towed vehicle, has a gross vehicular or actual weight of 26,000 pounds or less. For purposes of convenience, the term **WRECKER**, as used throughout this subchapter, shall be deemed to include both the defined terms **HEAVY-DUTY WRECKER** and **WRECKER**, unless a specific reference to the term **HEAVY-DUTY WRECKER** is made.

WRECKER PERMIT. A tag issued by the TCPD authorizing a specific wrecker to perform non-consent tows. **Tow companies requesting and obtaining a permit are accepting assignment to both the Non-Consent Tow List and the Abandoned/Junk Vehicle Tow List.**

WRECKER SELECTION FORM. The form for selection of wrecker companies, prepared and used as provided by the ~~city~~ **City**.

§ 112.03 APPLICATION PROCESS.

(A) *General.* To obtain a permit for any wrecker, a towing company shall file a written application with the TCPD. The application shall contain the following information:

- (1) Year and make of the wrecker to which the permit will apply;
- (2) Vehicle identification number (VIN) of the wrecker and copy of state certificate of title;
- (3) Current state license plate number for the wrecker;
- (4) Full business name, address and telephone number for the true wrecker title owner. A DBA or assumed name shall be accompanied by the name of the underlying business entity;
- (5) Full business name, address and telephone number for the towing company (if different from title owner). A DBA or assumed name shall be accompanied by the name of the underlying business entity;
- (6) The operator's state operator's license number;
- (7) The name of the insurance company, the policy number and the insurance agent's name and telephone number;
- (8) A list of the vehicle storage facilities the towing company uses and that are listed for that wrecker, and which shall be located within the ~~city~~ **City** limits;

- (9) The applicant's original signature;
- (10) Cab card issued by the state. Full business name on cab card shall match the full business name on application;
- (11) Tax ID number for the towing company (for business identification purposes only);
- (12) Working phone number listed under towing company, with contact information of the towing company in the ~~city~~ City; and
- (13) Wrecker shall be owned or leased by the towing company. If the wrecker is leased, a copy of the lease agreement shall be provided. The lease agreement shall cover the full period of the permit. Leased wreckers shall only be used by the towing company making application for that wrecker. The same wrecker shall not be used by another towing company on rotation.

(B) *Accompaniments.* The written application form shall be accompanied by:

- (1) Copies of vehicle registration listing and cab card issued by the Texas Department of Transportation (TXDOT). Business name on cab card shall be the same name as on the application;
- (2) Copy of towing company DBA, partnership agreement or articles of incorporation, if applicable;
- (3) Receipt from the County Tax Office showing current registration, or if the wrecker is registered outside the county, the current registration from the county where the wrecker is located;
- (4) Proof designated inspection was passed;
- (5) Copy of the towing company's most recent wrecker invoice;
- (6) Current original business card for the towing company, which shall include the full business name, business phone number and all addresses and phone numbers of storage lots to be used by the towing company;
- (7) Original certificate of insurance for the wrecker being permitted, with the additional insured named as follows:

City of Texas City
1801 9th Avenue North
Texas City, Texas 77590

(8) The application shall be submitted to the TCPD by hand delivery or by delivery through the United States Postal Service or any private courier service. Applications or supporting documentation shall not be submitted by facsimile or electronic mail.

(a) *Yearly renewal package.* Yearly renewal package fee of \$450 to cover all expenses such as two identifications, backgrounds checks, two wrecker inspections, paper work, and verification of documents.

(b) *Additional drivers.* Additional drivers shall be required to pay a \$25 administration fee for background and driver's licenses' verifications.

(c) *Identification cards.* Identification cards shall be issued by the TCPD and shall be worn above the waist on the outer layer of clothing at all times by wrecker drivers while on scene during a pick up.

1. These identification cards shall be issued to all drivers who successfully passed a background check.
2. The fee shall be the responsibility of the drivers and/or owners of the wrecker company.
3. Any lost identification cards shall cost \$25 for replacement.

(d) *Additional wreckers.* Additional wreckers added over the required minimum of two shall be assessed an additional \$25 fee per wrecker, which includes the wrecker inspection.

(e) *Fees.*

1. All application, inspection, and tow truck operator license fees shall be remitted at the time of submission of the permit application.
2. These fees are nonrefundable except where provided by law.
3. The TCPD Chief of Police, or his or her designee, may review the application process to determine if any applicable refund is required;

(9) In order to operate a wrecker/tow truck in the ~~city~~ **City**, the following requirements shall be met:

- (a) Be at least 18 years of age;
- (b) Be authorized to work full-time in the United States;
- (c) Be able to communicate in the English language;
- (d) Shall not have been convicted of a felony offense in the preceding five years or a class A or B misdemeanor in the preceding two years.

1. Less than two years have elapsed since the date of conviction, the date of release from confinement imposed for the conviction, or termination of probation, whichever is later; if the applicant was convicted of a misdemeanor offense.

2. Less than five years have elapsed since the date of conviction, the date of release from confinement for the conviction, or the termination of probation or parole, whichever is the latter; if the applicant was convicted of a felony;

(e) Shall not be a convicted sex offender;

(f) Each applicant shall have his or her fingerprints taken by the TCPD at the time the permit application is submitted, and shall be subject to a background investigation conducted by the TCPD.

(10) An applicant for a wrecker permit shall submit the application and fee to the TCPD; and

(11) A copy of the vehicle storage facility permit issued by the state.

(C) *Issuance.* If the TCPD determines that the applicant has satisfied all requirements under this subchapter, a permit shall be issued.

(D) *Expiration of permit.* All wrecker permits expire annually at midnight on December 31, regardless of the issue date. To renew a permit, the applicant shall file a renewal application.

(E) *Permit renewal.*

(1) Wrecker permit applications shall be submitted to the TCPD from October 1 through December 1 for the next calendar year.

(a) Permits shall be valid for a period of one year.

(b) The deadline for the annual application process shall be December 1 of the year immediately preceding the effective year of the permit.

(c) When the yearly application renewal period closes, new applications shall not be accepted until the following December.

(d) If a wrecker company misses the deadline, TCPD shall accept applications for the next calendar year.

(2) A towing company that fails to renew the permit before it expires shall be removed from the non-consent tow master list.

(3) Operating a wrecker with an expired permit constitutes a violation of this subchapter.

(4) Permits shall be granted to the original applicant only and are non-transferable. Sale of a business shall require the new business to apply for a new permit.

(5) Permits are not assignable or transferable; except that, a permit may be transferred to a replacement truck if:

- (a) The replacement truck belongs to the same towing company and the original truck shall no longer be used by the towing company on rotation;
- (b) The towing company obtains written permission from the TCPD;
- (c) The replacement truck passes the required inspection; and
- (d) Proof of insurance is submitted to the TCPD;
- (e) Failure to follow this process constitutes a violation of this subchapter.

(F) *Insurance requirements.*

(1) An applicant shall procure, and keep in full force and effect, a policy of liability and property damage insurance. Joint insurance with another company or permit holder shall not be allowed. At the time of initial registration and upon renewal, the registrant shall file, or cause to be filed, a certificate of insurance with the TCPD. The certificate shall clarify the type and amount of insurance coverage and provide for 30 calendar days' notice to the TCPD of cancellation of, or material change in the policy. The certificate shall name the ~~city~~ **City** as an additional insured. Prior to the issuance of any wrecker permit, the applicant shall file with the TCPD, or cause to be filed, proof of motor vehicle liability insurance coverage issued by an insurance company listed as an authorized auto liability lines carrier on the State Department of Insurance list of authorized insurance companies. Each policy shall be issued by a casualty insurance company authorized to do business in the state and that complies with all applicable rules and regulations of the State Board of Insurance. Proof of insurance shall be carried in the wrecker at all times.

(2) The required insurance for injury to or destruction of property in any one collision shall be \$50,000.

(3) A towing company shall maintain insurance for each wrecker it owns or operates that meets the requirements of all other applicable statutes, in addition to meeting the insurance requirements set forth in this subchapter. A law enforcement officer may request proof of insurance from the owner/operator.

(4) A towing company shall not perform any non-consent tows if it fails to provide the required insurance coverage.

§ 112.04 REQUIRED IDENTIFICATION ON WRECKERS.

Each towing company that has been issued a towing permit shall maintain the following identification markings on each wrecker it owns or operates:

- (A) Display on each wrecker used for non-consent tows a permit plate issued by TXDOT pursuant to Tex. Transportation Code § 502.281, as hereafter amended or its successor statute;
- (B) Display on each wrecker used for non-consent tows the permit issued by the ~~city~~ **City**; and
- (C) Magnetic and removable signs are not permitted.

§ 112.05 QUALIFICATION FOR PLACEMENT ON NON-CONSENT WRECKER ROTATION LISTS.

(A) Each wrecker service shall have a minimum of two licensed wreckers per wrecker company, but no more than five ~~to~~ **for** the rotation list. This shall ensure the wrecker service is able to provide adequate service to the citizens it serves and the ~~TCPD~~ **City**.

(B) Only those towing companies that have met the following annual requirements shall be placed on the non-consent wrecker rotation list:

(1) Have submitted and been issued a wrecker business permit under the provisions of this subchapter;

(2) Own or lease, and/or operate, a vehicle storage facility within the ~~city~~ **City** limits, available for the storage of automobiles which may be removed as a result of the name of the wrecking company appearing on the non-consent wrecker rotation list. Only one towing company per vehicle storage facility shall be allowed. A vehicle storage facility shall be of a size sufficient to allow for the storage of a wrecker company's non-consent tows and shall contain a minimum of 4,000 square feet. Dealerships acting as towing companies shall be exempt from the requirement to provide a vehicle storage facility, as provided by state law;

(3) Have deposited with the City Secretary a garagekeeper's legal liability policy covering fire, theft and explosion in the vehicle storage facility in the same minimum amount as is required by state law for consent tows, and showing the ~~city~~ **City** as an additional insured; and

(4) Maintain a 24-hour wrecker service.

§ 112.06 USE OF NON-CONSENT WRECKER ROTATION LISTS.

(A) TCPD Requests:

~~(A)~~ (1) Upon receiving the first communication that the owner of a vehicle involved in a collision has failed or refused to designate a wrecker company, or has specifically designated no preference, the TCPD dispatcher receiving the communication at police headquarters shall call the first towing company on the ~~list~~ **Non-Consent Tow List** to tow a disabled vehicle and remove the vehicle from the public streets of the ~~city~~ **City**. If a towing company does not timely respond with its wrecker within 30 minutes (absent exigent circumstances), the next towing company on the rotation list will be called (no show).

~~(B)~~ (2) On each succeeding communication of the failure or refusal of the owner to designate a wrecker, or where the owner has specifically designated no preference, the next company on the ~~list~~ **Non-Consent Tow List** shall be called, and so on, calling each towing

company on the ~~master list~~ **Non-Consent Tow List** in rotation, and properly noting each call on the ~~master list~~ **Non-Consent Tow List**.

~~(C)~~ (3) The ~~city~~ **City** reserves the right to cancel the next-out wrecker, as warranted by the situation on the scene. If the ~~city~~ **City** cancels the next-out for any reason other than the company's failure to arrive within the allocated time limit, or the equipment does not meet the requirements of the situation, the company shall be placed on top of the rotation list and shall receive the subsequent next-out call.

~~(D)~~ (4) If the next-out wrecker on the scene cannot complete the job with the towing company's own vehicles or needs additional help, the towing company shall notify the law enforcement officer in charge at the scene and additional next-out wreckers shall be called to the scene as warranted. The additional next-out wreckers may also charge the wrecker fee upon hook-up. The original next-out wrecker shall be the first entitled to storage of the vehicle and the storage fees.

(B) Code Enforcement Requests:

(1) Upon receiving a request from a code enforcement officer/official the TCPD dispatcher shall call the first towing company on the Abandoned/Junk Vehicle Tow List to tow and remove the abandoned/junk vehicle.

(2) On each succeeding request the next company on the Abandoned/Junk Vehicle Tow List shall be called, and so on, calling each company on the Abandoned/Junk Vehicle Tow List in rotation, and properly noting each call on the Abandoned/Junk Vehicle Tow List.

(3) The City reserves the right to cancel the next-out wrecker, as warranted by the situation on the scene. If the City cancels the next-out for any reason other than the company's failure to arrive within the allocated time limit, or the equipment does not meet the requirements of the situation, the company shall be placed on top of the rotation list and shall receive the subsequent next-out call.

(4) If the next-out wrecker on the scene cannot complete the job with the towing company's own vehicles or needs additional help, the towing company shall notify the code enforcement officer/official in charge at the scene and additional next-out wreckers shall be called to the scene as warranted.

§ 112.07 RECORDS OF REMOVAL OF VEHICLES REQUIRED; CONTENTS AND RETENTION PERIOD; INSPECTION BY POLICE.

(A) *Records of removal of vehicles required.* Every towing company qualified for and whose name appears at its request on the wrecker rotation list shall maintain, at its storage facility location within the ~~city~~ **City**, records as to all vehicles it moved after being notified to do so by personnel of the ~~city~~ **City** in accordance with the provisions of this subchapter.
(1998 Code, § 126-36)

(B) *Contents and retention period.*

(1) The records required to be kept by division (A) above shall contain the following information:

- (a) Make, model and vehicle identification number (VIN) of the disabled automobile moved by the company;
- (b) Location from which the disabled vehicle was removed, and date and time of removal;
- (c) Total amount charged for towing;
- (d) Storage rate per day;
- (e) Description of all personal property within the disabled automobile at the time of its removal; and
- (f) Name of the driver or owner of the motor vehicle.

(2) Records shall be preserved by the towing company for at least three months from and after the date the company came into possession of the automobile.

(C) *Inspection by police.* The records required to be kept by this subchapter shall be made available to the members of the TCPD by the towing company at any reasonable time upon request.

§ 112.08 NON-CONSENT WRECKER RESPONDING TO SCENE OF COLLISION.

Upon notification from the scene to the TCPD dispatcher for the next-out, non-consent wrecker to respond to a collision scene, no other wrecker operators shall arrive at the location for the purpose of soliciting business.

§ 112.09 PROCEDURE ON FAILURE OF VEHICLE OWNER TO DESIGNATE WRECKER COMPANY; MAINTENANCE OF WRECKER NON-CONSENT ROTATION LISTS.

If the owner/operator of a disabled vehicle involved in an accident or collision fails to designate a towing company, or refuses to designate one, or is placed under police custody, the investigating officer shall communicate that fact immediately to the TCPD dispatcher. The TCPD shall keep ~~a~~ **two** master lists, known as the wrecker ~~non-consent rotation list~~ **Non-Consent Tow List and the Abandoned/Junk Vehicle Tow List**, each in alphabetical order, of all wrecker companies qualifying therefor under the provisions of this subchapter.

§ 112.10 FOLLOWING VEHICLES IN RESPONSE TO COLLISION SCENE.

No person shall follow in a wrecker any ambulance or police car that is traveling on a public roadway in response to a report of an automobile collision.

§ 112.11 INFLUENCE BY POLICE AS TO SELECTION OF WRECKER.

No TCPD officer investigating or present at the scene or site of any wreck or collision on a public roadway shall, directly or indirectly, either by word, gesture, sign or otherwise, recommend to any person the name of any particular person engaged in the wrecker services or repair business, nor shall any police officer influence or attempt to influence in any manner the decision of any person in choosing or selecting a wrecker or repair service.

§ 112.12 INTERFERENCE WITH POLICE, FIRE OR EMS.

All tow truck drivers arriving at any law enforcement scene shall obey all orders given them by any police officer, firefighter or EMS technician. (*Statutory reference: Interference with certain officers, see Interference with Public Duties (Tex. Penal Code § 38.15)*)

§ 112.13 DUTY OF OWNER OR DRIVER TO NOTIFY POLICE OF ACCIDENT.

The fact that no police officer of the TCPD is present at a law enforcement scene when a tow truck arrives shall not constitute an exception to any requirement of this subchapter, and it shall be the duty of any tow truck owner or tow truck driver desiring to tow or haul any wrecked or disabled vehicle from the scene of an accident or collision to notify the TCPD of the occurrence of the accident or collision, and to await the arrival of the TCPD police officers and the completion of their investigation.

§ 112.14 REMOVAL OF VEHICLE WITHOUT PERMISSION OR BEFORE ACCIDENT INVESTIGATION.

A tow truck driver shall not remove any wrecked or disabled vehicle from the location where the accident or collision has occurred, or attach his or her tow truck to the wrecked or disabled vehicle, until the driver of the vehicle has given permission and until the TCPD police officers have completed their investigation.

§ 112.15 NON-CONSENT TOWS AT POLICE OR CODE ENFORCEMENT DIRECTION.

(A) All tow truck owners who perform non-consent tows at the direction of the TCPD shall store towed motor vehicles at a vehicle storage facility, located within the ~~city~~ City limits, licensed by the Texas Department of Licensing and Regulation (TDLR), unless otherwise directed by the police officer authorizing the tow.

(B) All tow truck owners who perform abandoned/junk vehicles at the direction of a City code enforcement officer/official shall store towed motor vehicles at a vehicle storage facility, located within the City limits, licensed by the Texas Department of Licensing and Regulation (TDLR), unless otherwise directed by the City code enforcement officer/official authorizing the tow.

(1) Owners shall complete and submit any forms required by the Texas Department of Transportation.

(2) Owners are entitled to all salvage recovery funds.

§ 112.16 AUTHORITY OF PEACE OFFICER.

- (A) The peace officer in charge at an accident site or at the location of a disabled vehicle on a public roadway may, if the safety of the public requires it, take any steps needed to ensure public safety.
- (B) A peace officer may, for any purpose, direct that any vehicle shall be taken to an impound lot or location owned or used by the ~~city~~ City.
- (C) This subchapter does not limit the authority of the ~~city~~ City to remove vehicles from public roadways in any manner the ~~city~~ City deems appropriate.
- (D) Except as provided in rules under this subchapter, a towing company or its employees or tow trucks shall not enter an accident or collision scene, or other site under a peace officer's control, without the permission of the investigating officer.

§ 112.17 TOW SERVICE AND OPERATING PROCEDURES.

No person shall participate in a non-consent tow unless the following operation and safety requirements are met.

- (A) The wrecker being used shall be equipped as follows:
 - (1) Brakes that meet braking performance requirements under all loading conditions;
 - (2) A power winch, winch line and boom, with factory-rated lifted capacity of not less than 8,000 pounds single-line capacity, or a hydraulic and mechanical wheel lift with a lifting capacity of not less than 3,000 pounds;
 - (3) A tow sling or hydraulic lift sufficient to prevent swinging of any equipment and/or vehicle being transported and/or towed. This division (A)(3) does not apply to a vehicle carrier or rollback unless the wheels of a vehicle being towed are in contact with the ground. In the event that a self-contained non-propelled towing device, or some other form of auxiliary device is used, the vehicle to which that device is attached and which is providing the motive and braking forces, does not need to provide this equipment;
 - (4) Five-sixteenths-inch link steel safety chains for wreckers, with a gross vehicle weight of 10,000 pounds or less, and three-eighths-inch highest steel chains or their equivalent for wreckers, with a gross vehicle weight over 10,000 pounds. These links are minimums;
 - (5) A ten-pound BC fire extinguisher or two five-pound BC fire extinguishers. All fire extinguishers shall be properly filled, operable, and located so as to be readily accessible for use. Fire extinguishers shall meet the minimum requirements of the most recent edition of NFPA 10, the Standard for Portable Fire Extinguishers established by the National Fire

Protection Association (NFPA), and shall be labeled by a recognized, national testing laboratory;

(6) One crowbar or wrecking bar that is not less than 36 inches in length, with a wedge head;

(7) One broom of a type designed for pushing with an 18-inch head, and a handle of not less than 36 inches;

(8) One flat-edge shovel of at least nine inches, with a handle of not less than 36 inches;

(9) A box or bucket to carry glass and/or debris removed from collision/accident scenes;

(10) Rope or wire suitable for securing doors, hoods, trunks and the like;

(11) A functioning spotlight or flashlight;

(12) Outside rearview mirrors on both sides of the truck;

(13) Permanently mounted emergency lightbar;

(14) Three portable red emergency triangle reflectors, orange cones at least 18 inches tall, or flares;

(15) Auxiliary tow lights;

(16) A high mounted stop lamp shall be mounted on any wrecker if its overall width is less than 80 inches, or its gross vehicle weight rating (GVWR) is 10,000 pounds or less, and is manufactured on or after 9-1-1993; and

(17) Work lights shall be wired to a separate switch and shall not be illuminated while the wrecker is in motion. These lights must be steady burning white lights that project light to the rear of the wrecker.

(B) Shall arrive at the accident or collision scene within 30 minutes after having been notified by the TCPD, absent exigent circumstances (hurricane, flood and the like). Failure to do so shall be considered a no show.

(C) Before leaving the site, remove from the site of an accident all wreckage and debris, excluding hazardous waste. This duty specifically includes the removal of broken glass and metal fragments, and the spilled load of any vehicle. Such debris shall be disposed of in a manner which will keep it out of gutters, storm sewers, streams, public rights-of-way and property not owned by the tow truck operator.

- (D) No tow truck operators shall store any vehicle or tow truck on public roadways or public rights-of-way in the ~~city~~ **City**.
- (E) Tow truck operators shall use reasonable care in towing and in the storage of vehicles so as to minimize any possibility of further damage or theft.
- (F) Tow truck operators shall comply with all federal and state laws, all rules and regulations promulgated pursuant to federal and state laws, and all ~~city~~ **City** ordinances, including zoning, health and fire prevention ordinances.
- (G) All tow truck operators shall inform the TCPD of all non-consent tows within 45 minutes of the completion of such tows. The information shall include the vehicle identification number, license plate number, a brief description of the vehicle, the location where the vehicle was picked up, and the location where the vehicle is being stored.
- (H) No person shall use or operate a wrecker to tow a motor vehicle without using auxiliary tow lights, unless the towed vehicle is loaded on a rollback wrecker.
- (I) No person shall equip a permitted wrecker with a two-way radio or scanner or with any two-way radio that can transmit on any law enforcement frequency, or tow using a wrecker equipped with any such devices. Any operator or towing company found transmitting on any law enforcement frequency shall be subject to suspension or revocation of their permit.
- (J) No person shall equip a permitted wrecker with any device designed to detect or monitor radar, laser or any other speed-measuring instrument, or perform a non-consent tow using a wrecker so equipped.
- (K) No person shall perform a non-consent tow without using safety chains.
- (L) No person shall operate a permitted wrecker with a slip-in bed or operate a repo-rig.
- (M) No person shall use a permitted wrecker to lift more than its factory-rated lifting capacity allows.
- (N) No operator shall possess nor allow any prohibited weapon, firearm or alcoholic beverage in or around a wrecker when operating the wrecker. This provision does not prohibit a peace officer as defined by Tex. Code of C.C.P. Ch. 2, Art. 2.12, or a person possessing a valid concealed handgun permit issued by the Texas Department of Public Safety (DPS) from carrying a firearm while operating or riding in a wrecker.
- (O) An operator shall ensure that, while lifting a motor vehicle in preparation for a non-tow, all non-essential people are at a safe distance from the wrecker and motor vehicle. A **SAFE DISTANCE** is at least twice the distance between the end of the boom and the point of hook-up on the motor vehicle being winched, or twice the distance the motor vehicle is being lifted, whichever is greater. If a hydraulic lift is being used, a **SAFE DISTANCE** is twice the distance to

which the lift arm is extended. An operator is responsible for maintaining safe conditions around the wrecker during any preparation for towing and winching of the motor vehicle.

(P) If a wrecker or motor vehicle to be towed is in a lane of traffic, the operator shall ensure that the flow of traffic is diverted. An operator shall not place or operate a wrecker cable across a lane or lanes of traffic unless the traffic is stopped or diverted by a law enforcement officer to permit safe winching or lifting of the motor vehicle to be towed.

(Q) A towing company operating permitted wreckers and operators of such wreckers shall maintain and keep in good working order all safety mechanisms of the wrecker, including, but not limited to, all headlights, taillights, turn signals, brakes, brake lights, hazard lights, flashing warning lights, windshield wipers, wiper blades, door handles, window cranks, and tires.

(R) All permitted wreckers shall operate within the applicable recommended towed vehicle manufacturer's safety policies and procedures.

(S) When towing a vehicle more than 2,500 feet, no wrecker performing a non-consent tow shall use a tow bar with pins of any kind, or any other method of attachment. At 2,500 feet or less, the operator shall drop the vehicle and re-hook it following all safety procedures established by the towed motor vehicle's manufacturer.

(T) Each permitted wrecker shall meet the safety requirements of all other applicable statutes, in addition to meeting the safety requirements of this subchapter.

(U) Non-consent towed vehicles from any law enforcement scene shall be taken to an approved vehicle storage facility prior to the loading of any other vehicle.

(V) The following rules apply to law enforcement scenes.

(1) Except in an emergency or at the direction of a law enforcement officer, an operator shall park the wrecker at least 300 feet from a law enforcement scene. An operator shall only use beacon lights as directed by state law.

(2) The operator shall park the wrecker on the same side of the road as the damaged motor vehicle.

(3) The owner of a motor vehicle, or his or her representative, will be allowed to determine who will remove the vehicle and any connected trailer and its associated load from a law enforcement scene, unless the owner is under arrest or in police custody, or the vehicle is an immediate traffic hazard, as determined by law enforcement.

(4) If a motorist in need of aid summons a police officer and is in need of a tow, the police officer shall use the same procedure as in a collision situation. If the vehicle owner/operator has no preference for a wrecker company, the next-out shall be called.

(5) All wreckers are subject to an inspection by TCPD personnel designated as wrecker inspectors.

(6) Once a wrecker has hooked up to a motor vehicle, the wrecker company may charge as authorized by this subchapter. A wrecker company shall have hooked-up when the wrecker is in position to secure and tow the vehicle, and any part of the wrecker's securing attachments are touching the vehicle.

(7) No wrecker operator without a current, valid permit, shall be allowed to load a vehicle for a non-consent tow.

§ 112.18 ADDITIONAL SPECIAL RULES FOR HEAVY-DUTY ROTATION.

(A) The following are special rules:

(1) Shall own or lease a heavy-duty wrecker, as defined;

(2) Shall have a vehicle storage facility located in the ~~city~~ **City**;

(3) Response time must be within one hour after notification;

(4) Shall have insurance in the minimum amounts as set by the state for heavy-duty consent tows. The ~~city~~ **City** must be named as an additional insured; and

(5) Shall have a permit and comply with all other provisions of this chapter that are not in conflict with this section. Operation of a regular wrecker on rotation is not required to operate on heavy-duty rotation.

(B) If no heavy-duty wrecker is available to respond through the heavy-duty rotation list, the ~~city~~ **City** may contract with any available heavy-duty wrecker service.

§ 112.19 CONDUCT OF OPERATORS.

(A) The TCPD shall establish and maintain a formal complaint system to be used by members of the public wishing to file a formal complaint on a tow truck/wrecker company or driver. The creation, maintenance, and investigation of these complaints lie within the authority of the TCPD. In addition, all permitted towing companies shall notify the TCPD of any and all complaints received within five business days of receiving the complaint.

(B) Upon receiving a complaint from any source claiming damages, loss to a vehicle, or its contents, while being towed or stored by a tow truck/wrecker operator, the operator or owner shall submit a written report to the TCPD Chief of Police, or his or her designee, within five business days of receipt of the complaint. These reports shall contain all facts pertinent to the claim or complaint presented.

(C) The TCPD Chief of Police, or his or her designee, shall be notified in writing within 48 hours of any arrest or criminal conviction of the owner of a wrecker company, or of any wrecker driver employed by a wrecker company.

(D) Operators shall maintain proper conduct at all times when performing a non-consent tow, and shall not fight, assault, threaten use of force, use profanity or exhibit disorderly conduct. Towing companies shall be responsible for the conduct of their operators. Improper conduct of an operator shall be grounds for suspension or revocation of the towing company's permit for the calendar year. Additionally, towing companies shall prohibit operators who are convicted of a felony, a crime involving moral turpitude, or a crime involving disorderly conduct or assault, associated with conduct performing a non-consent tow or otherwise, subsequent to the issuance of a permit, from performing further non-consent tows for the ~~city~~ City. The towing company shall have an affirmative duty to disclose to the TCPD if any of its operators have been convicted as stated above, subsequent to the issuance of a permit.

§ 112.20 SUSPENSION OR REVOCATION OF A PERMIT.

Grounds for suspension or revocation of a permit may include the following:

(A) Failure at any time to meet or keep any of the requirements of this subchapter, including conduct of operators and interfering with police, fire and EMS;

(B) Operating a tow truck in such a manner as to endanger any person or property;

(C) Failure to adhere to the TCPD's rules and regulations;

(D) Violation of any federal or state law, or any rules or regulations promulgated pursuant to federal or state law, or any other ~~city~~ City ordinances related to the operation of a tow truck or vehicle storage business; and/or

(E) Failure to arrive within the specified response time limit (as defined for a no show).

§ 112.21 SUSPENSION AND REVOCATION PROCEDURES; APPEALS.

(A) Notwithstanding any provision of this subchapter, the TCPD Chief of Police, or his or her designee, shall be authorized to suspend or revoke any permit for a violation of any of those items listed as grounds for suspension or revocation. The TCPD Chief of Police, or his or her designee, may immediately suspend a permit for up to 15 calendar days if there is substantial evidence of a violation that constitutes an imminent danger to the public, and the permit holder is unable or unwilling to correct the violation. Otherwise, before any permit may be suspended or revoked, the TCPD Chief of Police, or his or her designee, shall hold a hearing at which evidence of such violation may be presented and rebutted. A hearing may be scheduled by the TCPD Chief of Police, or his or her designee, after receiving a complaint charging a violation or, at his or her discretion, upon his or her investigation and review. Notice of the hearing, the administrative action proposed to be taken, and the grounds therefor, shall be given to the permit holder at least ten calendar days prior to the hearing. Mailing such notice by certified mail to the last known business address of

the permit holder, not less than ten calendar days prior to the hearing, shall constitute adequate notice. If the TCPD Chief of Police, or his or her designee, suspends or revokes a permit, he or she shall notify the permit holder in writing of the reasons for the suspension or revocation, the effective date of the suspension or revocation, the date of reinstatement, if any, and the conditions that must be satisfied for reinstatement. Such notification shall advise the permit holder that he or she may appeal the decision to the Mayor. Mailing such notification by certified mail to the last known business address of the permit holder within ten calendar days of the hearing shall be deemed sufficient. No person whose permit has been revoked shall be eligible to apply for a new permit until the next renewal period. The TCPD Chief of Police, or his or her designee, in determining whether to suspend or revoke a permit, may consider prior suspensions.

(1) If a permit holder has only two vehicles and one has a mechanical failure, and the owner notifies both the TCPD wrecker coordinator and TCPD dispatcher of the mechanical failure, the permit holder shall be removed from the ~~city~~ City rotation lists for the reasonable amount of time necessary for the permit holder to perform the repairs.

(2) The owner must show proof of such mechanical failure in writing (repair bill) to the TCPD wrecker coordinator before they are placed back on rotation.

(3) Any proof of mechanical failure shall be presented, Monday through Friday, from 7:30 a.m. to 4:30 p.m.

(4) Once placed back on rotation, the permit holder will be placed at the bottom of the list.

(B) If an owner and/or driver of a wrecker company shall have any felony criminal charges filed against him or her during the previous year, then he or she will not be eligible for a wrecker permit the following year, unless the charges have since been dismissed or resulted in a verdict of not guilty.

§ 112.22 PERMISSIBLE FEES AND CHARGES.

(A) A tow truck under this subchapter shall not charge any fees in excess of rates established by the TCPD and confirmed by the City Commission. If a situation occurs where rates established by the state apply and those rates are in conflict with ~~city~~ City rates, the towing company shall comply with state regulations. The permitted towing service rate schedule is as determined by City Commission. The bill for towing any motor vehicle shall be itemized to reflect the services performed, labor, and/or other materials required and/or any other applicable charges. A copy shall be provided to the TCPD within ten calendar days, when requested.

(1) The maximum base towing charge for a non-consent tow shall be \$150. The maximum towing base charge for a non-consent heavy-duty tow shall be \$250, plus \$ 150 per hour after the first hour, or portion thereof, on the scene, not including tow time to destination. The maximum towing base charge for vehicles in the water is \$250. The maximum towing base charge for vehicles over the rocks on the Texas City Dike is \$250.

If a heavy-duty wrecker is requested, the charge shall be in accordance with the following fee schedule.

STANDARD SERVICES	MAXIMUM FEE
STANDARD SERVICES	MAXIMUM FEE
Standard Tow - Light- or Medium- Duty	\$150
Motorcycle Tow	\$175
Heavy-Duty Tow (single vehicle, combination or trailer)	\$250 + \$150 per hour (or portion thereof) after first hour on scene, not including tow time to destination
Submerged/Partially Submerged Vehicle (any type)	Light-Duty: \$200 Heavy-Duty: \$250 + \$150 per hour after first hour (or portion thereof) on scene, not including tow time to destination
Trailer, Light- or Medium-Duty (no vehicle)	\$150
Vehicle + Trailer (light- and medium-duty)	\$150
Boat or other item (with or without trailer)	\$150
SPECIAL SERVICES	
Dolly fee	\$45 + Standard Tow*
Ditch or Sand Pull	\$65 + Standard Tow*
Rollover	\$85 + Standard Tow*
Shift Transmission Under Car	\$20 + Standard Tow*
Remove Drive Shaft	\$30 + Standard Tow*
Replace Tire (standard vehicle or trailer)	\$15 + Standard Tow*
EXTRA FEES	
No Keys	\$35 + Standard Tow*
Extra Cost (All Accidents)	\$35 + Standard Tow*
Storage Fee	\$5 to \$20 per day or portion of day for vehicles under 25 feet; \$35 per day or portion of day for vehicles over 25 feet (per statute)
SERVICES NOT LISTED	Heavy-Duty: \$150 per hour All Others: \$75 per hour

(2) **IN THE WATER** shall mean any vehicle in which all four wheels are covered by more than six inches of water. **IN THE WATER** shall not mean street flooding, water on public streets, ~~city~~ City rights-of-ways or drainage ditches of four feet or less in depth.

(B) Wrecker companies will be allowed to charge an additional \$5 surcharge per tow. This additional charge is to help offset the additional cost to comply with Tex. Occupations Code § 2303.159(a), which requires the operator of a vehicle storage facility to accept payment by an electronic check, debit card or credit card for any charge associated with delivery or storage of a vehicle.

(C) The ~~city~~ **City** shall review the towing charges on an annual basis and solicit input from all towing companies on rotation.

§ 112.23 REPOSSESSIONS; PRIVATE PROPERTY TOWS.

Tow truck drivers shall notify the TCPD officer (dispatcher) prior to their attempt to repossess or remove private property tows **not at the direction of TCPD or a code enforcement officer/official**. The notification shall consist of the tow truck driver's name, company name and phone number, location from which the vehicle will be removed, and the vehicle description (year, make, model, color, license plate number and state of issuance). Upon leaving the scene, the tow truck driver shall immediately notify the TCPD dispatcher whether the pick-up was successful or not successful.

SECTION 3: That all ordinances or parts of ordinances in conflict herewith are hereby expressly repealed to the extent of such conflict.

SECTION 4: That, in the event any section, clause, sentence, paragraph, or part of this Ordinance shall be for any reason adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, invalidate, or impair the remainder of this Ordinance.

SECTION 5: That the Charter requirement for reading this Ordinance on three (3) separate days has been dispensed by a majority vote of the City Commission.

PASSED AND ADOPTED this 7th day of September 2022.

Dedrick D. Johnson, Sr., Mayor
City of Texas City, Texas

ATTEST:

APPROVED AS TO FORM:

Rhomari D. Leigh
City Secretary

Kyle L. Dickson
City Attorney