

Ordinances Governing
WRECKER OPERATIONS
in the
CITY OF ARLINGTON
TEXAS

Amended by Ordinance No. 15-011
(March 3, 2015)

(Chapter Designator: WRECKER)

ORDINANCE HISTORY

<u>Number</u>	<u>Date of Adoption</u>	<u>Comments</u>
89-01	01/03/89	
89-118	10/03/89	Amend Subsection 1.02(P) , relative to the definition of “Wrecker Service”; amend Subsection 2.03(G) , relative to the reference to the Texas Department of Labor and Standards; amend Section 5.05 , deleting the reference to “compensation”; amend Section 5.08 , relative to the definition of “Tow Service Log”; amend Section 5.10 , clarifying when a wrecker operator must notify the Arlington Police Department of his intent to remove a vehicle; amend Section 5.11 , relative to statutory changes made by the Texas Legislature.
90-68	06/26/90	Amend Section 1.02 , relative to the definitions of “police pull” and “wrecker”; amend Section 3.05 , relative to pull cards and applicability; amend Section 5.08 , relative to tow service logs and applicability; addition of new Article VI , entitled <u>Nonconsent Tows</u> , and renumbering the remaining Article.
91-04	01/08/91	Amend Section 5.10 , providing for notice requirements.
92-32	03/24/92	Amend Section 3.04 , authorizing police officers and code enforcement officers to order towing of vehicles; amend Section 3.05 relative to information on pull card forms; addition of Subsection 5.10(E) , relative to disengaging tows of stolen vehicles; amend Section 6.23 relative to sign requirements for nonconsent tows.
93-136	12/14/93	Amend Section 1.02 amending the definitions for “Illegally or Unauthorized Parked Vehicle” and “Vehicle”; amend Subsection 2.03(G) revising a reference of authority; addition of Subsection 2.05(J) relative to hearings on qualifications of applicant; amend Subsection 4.02(c) revising a reference of authority; amend Subsection 5.10(A) deleting a reference to state law; amend Section 5.11 to revise a reference of authority; amend Article VI relative to

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<u>Number</u>	<u>Date of Adoption</u>	<u>Comments</u>
		regulations for conducting a tow other than a police pull in Arlington without permission from the vehicle's owner.
98-86	07/21/98	Amend entire chapter providing for a contract towing service to conduct police pulls; providing for the proper cleanup of liquid spills at accident scenes; providing that a copy of nonconsent tow contracts be provided to the City; retaining license and permit requirements for nonconsent tow operations; setting maximum fees for nonconsent tows; requiring compliance with probable cause hearing judgments; setting maximum distance limits for nonconsent tows; prohibiting “patrol accounts” and requiring specific authorization for nonconsent tows with certain exceptions.
98-158	12/15/98	Amend Article I, General Provisions, Section 1.02, Definitions , by amending the definition of “Police Pull”; amend Article III, Miscellaneous Provisions, Section 3.02, Accident Scene Cleanup , relative to spill removal; amend Article IV, Nonconsent Tows, Section 4.05, Inspection Certificate Required, Subsection (C) , relative to the location of the City of Arlington inspection sticker on a wrecker; amend Section 4.26, Notice of V.T.C.A. Chapter 685 Hearings, Subsection (B) , relative to jurisdiction and the number of days required to request a hearing.
01-135	12/18/01	Amend Article IV, Nonconsent Tows, Section 4.25, Towing Charges, Subsection (B) , to provide for an interim increase of the maximum nonconsent towing fee for vehicles under 10,000 pounds to \$125 until a full review of the fee structure is accomplished.
03-059	05/20/03	Amend Article I, General Provisions, Section 1.02, Definitions ; addition of Section 1.03, Findings ; amend Article II, Operating Rules for Police Pulls, Section 2.02, Authority for Police Pulls, Subsections (A)(11)

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<u>Number</u>	<u>Date of Adoption</u>	<u>Comments</u>
		<p>and (B); Section 2.03, <u>Pull Cards</u>; amend Article III, Miscellaneous Provisions, Section 3.07, <u>Authority of Inspectors to Tow Junked Vehicles</u>; Section 3.08, <u>Fees for Police Pull Generated Service</u>; Section 3.10, <u>Disengaging of Tows</u>; Section 3.11, <u>Notice of Vehicle Removal</u>; addition of Section 3.14, <u>Use of Safety Chains and Wheel Straps</u>; amend Article IV, Nonconsent Tows, Section 4.01, <u>Definitions</u>; Section 4.07, <u>License Application and Requirements, Subsection (E)(7)</u>; Section 4.16, <u>Grounds For Denial, Suspension or Revocation of a License</u>; Section 4.17, <u>Grounds For Denial, Suspension or Revocation of Driver's Permit</u>; Section 4.18, <u>Revocation of License or Permit – Hearing</u>, by the addition of Subsection (I); Section 4.20, <u>Appeal of Denial, Suspension or Revocation</u>, by the addition of Subsection (M); Section 4.21, <u>Responsibilities of Licensee - Records Keeping</u>, by the addition of Subsection (A)(5); Section 4.21, Subsection (B); Section 4.22, <u>Signage and Posting</u>, by the addition of a new Subsection (C) and the relettering of the remaining subsection; deletion of Section 4.23, <u>City to be Provided Copy of Nonconsent Tow Contracts</u>; Section 4.24, <u>Towing Without Specific Authority Prohibited</u>; Section 4.25, <u>Towing Charges</u>; Section 4.27, <u>Maximum Distance of Nonconsent Tows</u>.</p>
04-022	02/24/04	<p>Amend Article I, <u>General Provisions, Section 1.03, Findings, Subsection (E)</u>, relative to towing charges; amend Article IV, <u>Nonconsent Tows, Section 4.16(F) and 4.17(G)</u> relative to maximum charges; Section 4.21(A), relative to wrecker service records; Section 4.24, <u>Towing Charges</u>, relative to state regulation of towing charges; add Section 4.28, <u>Notice to Vehicle Owner or Operator</u>, relative to written information; amend Article V, <u>Enforcement, Section 5.01, <u>Violation of a Misdemeanor</u></u>, relative to fines.</p>

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<u>Number</u>	<u>Date of Adoption</u>	<u>Comments</u>
05-109	11/22/05	Amend Article II, <u>Operating Rules for Police Pulls, Section 2.02, Authority for Police Pulls</u> , by the addition of a new Subsection (A)(13) , relative to uninsured motorists, and the renumbering of the remaining subsection.
06-087	08/22/06	Amend Article I, <u>General Provisions, Section 1.02, Definitions</u> , the term “Neighborhood Services Inspector;” Article II, <u>Operating Rules for Police Pulls, Section 2.02, Authority for Police Pulls, Subsection (B)</u> ; Section 2.03, <u>Pull Cards</u> ; amend Article III, <u>Miscellaneous Provisions, Section 3.07, Authority of Inspectors to Tow Junked Vehicles</u> , relative to updating the reference to the Community Services Department.
10-071	09/14/10	Amend Article III, <u>Miscellaneous Provisions, Section 3.08, Fees for Police Pull Generated Service</u> , relative to a police pull public safety fee.
15-011	03/03/15	Amend the Wrecker Operations Chapter in its entirety.

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ARTICLE I
GENERAL PROVISIONS

Section 1.01 Chapter Designation

This ordinance and Chapter of the Code of the City of Arlington is hereby designated and shall be known and referred to as the “Wrecker” Chapter of said Code or as the “Wrecker Ordinance”.

Section 1.02 Definitions

The following terms and phrases as used in this Chapter, unless the context clearly shows otherwise, shall have the following meanings:

Abandoned: The condition of being abandoned, as defined in Chapter 683 of the Texas Transportation Code, as amended including relocation of the applicable provisions.

Applicant: The person, partnership or corporation that applies for a license or permit hereunder.

City: all areas within the corporate limits of the City of Arlington, Texas, and its extraterritorial jurisdiction.

Clevis Variety: U-shaped metal device for attaching parts.

Community Services Inspector: Such officers and employees of the City of Arlington Community Services Department as may be designated by the City Manager to enforce and administer the provisions of the Code of the City of Arlington.

Contract Towing Service: The towing company performing police pulls for the City pursuant to contract.

Disabled Vehicle: A vehicle which has been rendered unsafe to be driven as the result of some occurrence other than a wreck, including, but not limited to, mechanical failures or breakdowns, fire, vandalism or a vehicle which is in a safe driving condition, but the owner is not present or able or permitted to drive so as to reasonably necessitate that the vehicle be removed by a wrecker.

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Dolly: A four-wheel carriage used in towing to support the trailing end of a towed vehicle.

Drop Fee or Drop Rate: The fee charged for a nonconsent tow which is disengaged pursuant to this Chapter, while the towed vehicle is still on the premises from which it is being removed.

He, his, him: The pronouns “he,” “his” and “him” are not intended to be gender-specific, but are used for convenience only, and refer to an individual of any gender.

Illegally or Unauthorizedly Parked Vehicle: A vehicle parked, stored or situated in violation of any State law or City ordinance or without the effective consent of the owner of the premises where the vehicle is parked, stored or situated.

Inspection Certificate or Certificate of Inspection: A certificate issued by the Chief of Police to be displayed upon a wrecker after the Chief of Police has inspected that wrecker and determined that it satisfies all the inspection requirements.

Junked Vehicle: A vehicle as defined in Chapter 683 of the Texas Transportation Code, as amended including relocation of the applicable provisions.

“Junked Vehicle” does not include the following:

1. a vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
2. a vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard; or
3. unlicensed, operable or inoperable antique and special interest vehicles stored by a collector on his property, provided that the vehicles and the outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, trees, shrubbery or other appropriate means.

Person: Includes an individual, firm, corporation, association, partnership, joint venture or society.

Police Pull: The towing or other transportation of a vehicle by a tow truck which is the result of a police officer exercising his authority to effect the removal of said vehicle pursuant to State law and this Chapter.

Safety Chains: A series of metal links or rings connected to or fitted into one another, and the hooks at end of such series of links or rings.

Street: The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Tilt-bed or roll-back bed tow truck: A tow truck designed with a flatbed cargo surface in which the bed can tilt backwards and roll back to provide easy loading of a vehicle by use of cable and winch.

Tow Sling: A device used for lifting towed vehicles with the load supported on rubber belts and chains.

Tow Truck: A wrecker.

Unauthorized Vehicle: A vehicle as defined in Chapter 2308 of the Texas Occupations Code, as amended including relocation of the applicable provisions.

Vehicle: Every device in, upon or by which any person or property is or may be transported or drawn upon a street or roadway, except devices moved by human power or used exclusively upon stationary rails or tracks. The term includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle or trailer.

Vehicle Storage Facility: A facility as defined in Chapter 2308 of the Texas Occupations Code, as amended including relocation of the applicable provisions.

Wheel Lift: A device used for towing vehicles by lifting one end of the towed vehicle from under the tires.

Wheel Strap: Strap used to tie down wheels when using wheel lift or dolly tow equipment.

Wrecked Vehicle: A vehicle that has been damaged as the result of overturning or colliding with another vehicle or object so as to reasonably necessitate that the vehicle be removed by a wrecker.

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Wrecker: A motor vehicle or mechanical device adapted or used to tow, winch, or otherwise move motor vehicles. Specifically, wheeled vehicles with a mechanical, electrical or hydraulic winch, hydraulic wheel lift, or mechanical wheel lift, that are adapted or used to tow, winch or otherwise move vehicles are considered wreckers. Mini-wreckers (self-contained nonself-propelled towing devices) are also considered wreckers.

Wrecker Service or Tow Business: The business of towing, moving or removing vehicles through the use of a wrecker.

Section 1.03 Findings

- A. The regulation of wrecker service is made in the exercise of the sound discretion of the Arlington City Council. The City Council finds that regulation is necessary for the purpose of promoting safety and the general welfare of the community. The City Council further finds that such regulation has been designed to prevent the unexpected loss of the use of a vehicle without cause. The City Council finds that the owner or operator of a vehicle shall be given proper notice on any parking facility prior to the involuntary tow of any vehicle with exceptions. The City Council finds that such regulations are necessary to protect health, life and property; that such regulations apply to wreckers operating on the streets and public thoroughfares to minimize the hazards and dangers inherent in the involuntary removal of vehicles; and that public necessity requires that such regulations be adopted to preserve the health, safety and welfare of the community, and the good order and security of the City of Arlington and its inhabitants; to provide for the safety of Arlington citizens and visitors to the City and to enhance orderly traffic flow over, upon and across the highways, streets and right-of-ways in Arlington.
- B. The City Council finds that it is necessary to protect vehicle owners and the public at large from towing charges price cap abuse, towing mistakes or errors, and theft of vehicles from private and public property by requiring that specific authorization by the parking facility owner be granted before any tow by a wrecker service if not an exception in this Chapter, that every wrecker shall maintain a tow log and keep written records on each vehicle involuntarily towed, and that the Arlington Police Department be notified of such nonconsent tows and movement of towed vehicles to, and within the City of Arlington.
- C. The City Council finds that it is necessary to ensure compliance with safety regulations in the Texas Occupations Code, and all other relevant law, to ensure

- that wrecker owners or operators have not been convicted of criminal offenses related to the responsibilities of towing vehicles, wrecker service or operating a vehicle storage facility, and to ensure that wrecker service owners or operators have complied with the safety provisions of this ordinance and all other relevant law, by requiring wreckers engaged in wrecker services to have valid licenses and wrecker service registrations cards, inspection certificates and valid operator permits.
- D. The City Council finds that it is necessary to prevent congestion, interference with police and ambulance services and other dangers to the public occasioned when an unlimited number of wreckers are permitted to rush to an accident scene to solicit business, by requiring that no wrecker shall arrive or solicit business at the scene of an accident unless such wrecker has been called to the scene by the owner or operator of a vehicle, or by the Police Department.
- E. The City Council finds that it is necessary to expedite recovery of the involuntarily towed vehicle and restore safe transportation to the owner or operator of the vehicle, by requiring that the tow operator accept alternative methods of payment and comply with Texas Occupations Code towing charge limits.
- F. The City Council finds that nonconsent tow regulations will promote the safety of both visitors and residents of Arlington by contributing to a decrease in the potential for confrontation and violence between nonconsent vehicle owners and tow truck operators, a decrease in bodily injury and property damage caused by faulty tow vehicles and a decrease in negligent or criminal actions of tow truck operators and drivers. The City Council further finds that these nonconsent tow regulations are also meant to protect tow truck operators and wrecker services from potential injuries.

(Amend Ord 15-011, 3/3/15)

ARTICLE II
OPERATING RULES FOR POLICE PULLS

Section 2.01 Contract for Police Pulls

Police pulls for the City will be made pursuant to a contract between the City and a qualified towing service.

Section 2.02 Authority for Police Pulls

- A. A police officer of the City of Arlington is hereby authorized to move a vehicle, require the driver or other person in charge of a vehicle to move the same or have the vehicle removed by the City's Contract Towing Service under this Chapter to the nearest place of safety or to the premises of said Contract Towing Service, under the following circumstances:
1. When any vehicle is left unattended upon any bridge, viaduct or causeway, or in any tunnel where such vehicle constitutes an obstruction to traffic;
 2. When any vehicle is otherwise legally parked so as to block the entrance to any private driveway;
 3. When any vehicle is found upon a street and a report has been previously made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that such vehicle has been embezzled, or there are reasonable grounds to believe the vehicle is stolen;
 4. When any such officer has reasonable grounds to believe that any vehicle has been abandoned;
 5. When a vehicle upon a street is so wrecked or disabled and
 - a. Because of the wreck or disability its normal operation is impossible or impractical; or
 - b. The person or persons in charge of the vehicle are incapacitated by reason of physical injury or other reason to such extent as to be

unable to provide for its removal or custody or are not in the immediate vicinity of the wrecked or disabled vehicle;

6. When any such officer arrests any person driving or in control of a vehicle for an alleged offense and such officer is by this Code or other law required to take the person arrested immediately before a magistrate and it is unsafe to leave the vehicle unattended at the scene;
 7. Whenever any such officer finds a vehicle standing upon a street, or public or private property in violation of any State law or local ordinance;
 8. When the owner or operator consents;
 9. When, in the opinion of a police officer, said vehicle constitutes a hazard or interferes with a normal function of a governmental agency;
 10. When, in the opinion of a police officer, the safety of said vehicle is imperiled by reason of any catastrophe, emergency or unusual circumstance;
 11. When any vehicle is found to be a junked vehicle;
 12. When the vehicle is parked in violation of Article XIV of the "Streets and Sidewalks" Chapter of the Code of the City of Arlington, relating to street and utility maintenance and construction; or
 13. When the operator of a motor vehicle is requested to show proof of financial responsibility on that vehicle and, in the opinion of a police officer, is unable to establish financial responsibility under Section 601.051 of Texas Transportation Code, as amended including relocation of the applicable provisions.
 14. Where otherwise authorized by law.
- B. A Community Services Inspector of the City of Arlington is hereby authorized, as an agent for the Police Department, to have a vehicle removed by the Contract Towing Service under this Chapter to the nearest place of safety or to the premises of said Contract Towing Service when the vehicle is an abandoned vehicle on private property or public property other than a public roadway.

Section 2.03 Pull Cards

The Chief of Police shall cause to be prepared a form to be used for each police pull in the City of Arlington made by the Contract Towing Service that was dispatched by the Arlington Police Department or a Community Services Inspector. Said form shall contain at least the following information:

- A. The name(s) and address(es) of the owner and operator of the vehicle to be towed;
- B. The name of the wrecker service performing the tow;
- C. The description of the vehicle to be towed;
- D. The time, date and reason for the tow;
- E. The location and destination of the vehicle to be towed;
- F. An authorization by the towed vehicle's operator for someone to claim the vehicle;
- G. Information relating to any police or other hold placed on the release of the vehicle to be towed, including notification of a release of said hold; and
- H. An indication of who authorized the release and who took possession of the vehicle after its release.

Section 2.04 Dispatch Procedures

When a police officer investigating an accident or disablement in the City determines that any vehicle involved should be removed by a wrecker, the officer shall first determine whether or not the owner or his authorized representative has already made arrangements for its removal. If no arrangements have been made, the officer shall cause the following steps to be taken, in sequence, to complete the wrecker pull form:

- A. The officer shall request that the owner, driver or other vehicle occupant designate the place to which he desires the vehicle to be removed.
- B. The officer shall request that the driver or other vehicle occupant indicate whether he has a particular wrecker operator he wishes to be called to the scene to remove said vehicle.

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- C. The officer shall then immediately notify police headquarters of the information contained in (A) and (B) above and the officer in charge at headquarters shall immediately notify the wrecker operator selected and shall give him the information in (A) above and direct that he immediately proceed to the scene of the accident, disablement or arrest.
- D. If, for any reason, no wrecker operator is selected, the officer shall notify police headquarters and the officer in charge at headquarters shall direct the Contract Towing Service to go to the scene and remove the vehicle.
- E. Upon the wrecker operator's arrival at the scene, the officer shall complete the wrecker pull form and distribute the copies in accordance with Arlington Police Department policy.
- F. In the event that a wrecker does not arrive at the scene of an accident, disablement or arrest within a reasonable time after being notified, the police officer at the scene may notify police headquarters that the Contract Towing Service be notified to respond.

Section 2.05 Procedure for Determination of Owner's Rights

- A. When a vehicle is towed pursuant to a police pull, the owner of said vehicle shall be afforded the right to a hearing in the justice court which has jurisdiction to determine whether probable cause existed to remove and store the vehicle, and any relief as may be authorized by law. Said hearing shall be pursuant to the procedures outlined in Chapter 2308 of the Texas Occupations Code, as amended including relocation of the applicable provisions.
- B. After the hearing the justice court shall make written findings of fact and a conclusion of law according to Chapter 2308 of the Texas Occupations Code, as amended including relocation of the applicable provisions.
- C. Unless a police hold is placed upon a vehicle towed pursuant to a police pull, it shall be the responsibility of the Contract Towing Service to determine whether the vehicle should be released, when it should be released and to whom it should be released.

(Amend Ord 15-011, 3/3/15)

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(Amend Ord 15-011, 3/3/15)

ARTICLE III

MISCELLANEOUS PROVISIONS

Section 3.01 No Wrecker at Scene Unless Called by Police

No wrecker shall arrive at the scene of an accident within the City of Arlington unless such wrecker has been called to the scene by the owner or operator of a vehicle involved in the accident or his authorized representative or by the Police Department. Each wrecker operator, when called by the owner or operator of a vehicle or his authorized representative, shall notify the police dispatcher before proceeding to the scene of the vehicle.

Section 3.02 Accident Scene Cleanup

- A. Any wrecker company called to the scene of an accident to clear vehicular wreckage and debris will also be responsible for the absorption and removal of all liquid spills of 25 gallons or less.
- B. All liquid spills removed from accident scenes in Arlington shall be properly contained, stored and disposed of in accordance with applicable state and federal statutes and regulations.

Section 3.03 Solicitation of Wrecker Business Prohibited

- A. No person shall solicit any wrecker business in any manner, directly or indirectly, within the City of Arlington at the scene of a wrecked or disabled vehicle, regardless of whether the solicitation is for the purpose of soliciting the business of towing, repairing, wrecking, storing, trading or purchasing the vehicle.
- B. The presence of any person engaged in the wrecker business who has not been notified by the Police Department at the scene of an accident or place of disablement shall be prima facie evidence of a solicitation and violation of this Section.

Section 3.04 City Employees Not to Recommend Wrecker

No employee of the City of Arlington shall recommend to any person, directly or indirectly, either by word, gesture, sign or otherwise, the name of any particular wrecker service.

Section 3.05 Coverage - Off Street Vehicles

The prohibitions and requirements of this Chapter shall apply to all accidents and disablements regardless of whether or not the final resting place of a vehicle is upon a street immediately after the accident or disablement.

Section 3.06 Pushing or Towing Vehicles Excepted from Prohibitions of Chapter in Certain Instances

Vehicles may be pushed or towed by another vehicle (except by a wrecker) only when they do not reasonably require removal by a wrecker and only when such may be done in a safe manner.

Section 3.07 Authority of Inspectors to Tow Junked Vehicles

Upon determination in accordance with Article VI of the Nuisance Chapter of the Code of said City, as amended and the Texas Transportation Code, Chapter 683, as amended including relocation of the applicable provisions, that a motor vehicle constitutes a junked vehicle, a Community Services Inspector of City shall hereby be authorized to move said vehicle, require the person in charge of said vehicle to move the same or have said vehicle removed by a wrecker in accordance with applicable law.

Section 3.08 Fees for Police Pull Generated Service

The fees for police pull services shall be set by the contract between the Contract Towing Service and the City. The wrecker service that accomplishes a police pull shall collect and pay to the City of Arlington a public safety fee for each police pull within ninety days from the date of the police pull. This police pull public safety fee will be set by Arlington City Council resolution.

Section 3.09 Tow Service Logs

- A. In this Section, a “tow service log” shall mean a wrecker slip, wrecker ticket, invoice, book or other written article that contains the addresses of pickup and delivery of the vehicle being towed, the name and telephone number of the party ordering the tow, and the license number or vehicle identification number of the vehicle being towed.
- B. A wrecker operator shall carry a tow service log while towing a vehicle.
- C. This Section shall apply to all wrecker operators, including the Contract Towing Service for police pulls.

Section 3.10 Disengaging of Tows

Any wrecker service operator shall cease the removal of a vehicle (1) upon request of the vehicle’s operator and upon payment of the drop fee, and (2) when requested to do so by a police officer upon verification that the vehicle has been stolen, except in the case of police pulls and cases in which the police officer in charge determines that public safety requires the removal of the vehicle.

Section 3.11 Notice of Vehicle Removal

- A. Prior to or not later than thirty (30) minutes after the tow begins, a wrecker operator removing a vehicle pursuant to Chapter 2308 of the Texas Occupations Code, as amended including relocation of the applicable provisions, shall give oral or written notice of the removal to the person directing the removal and to Dispatch Services at the Arlington Public Safety Building.
- B. A wrecker operator removing a vehicle pursuant to a repossession shall give oral or written notice of the removal to Dispatch Services at the Arlington Public Safety Building, no later than thirty (30) minutes after the removal.
- C. A wrecker operator that removes an unauthorized vehicle from a parking facility outside of the City, and intends to store the vehicle in a vehicle storage facility within the City, shall give oral or written notice of such tow and place of storage to Dispatch Services at the Arlington Public Safety Building before the towed vehicle is brought within the City, no later than thirty (30) minutes from the time of such removal or prior to the vehicle entering the Arlington city limits, whichever is earlier.

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D. Under this Section, notice to Dispatch Services at the Arlington Public Safety Building shall consist of:

1. The license plate number, registration year, state of registration, vehicle identification number if known, color, make, model and style of the vehicle being removed;
2. The reason for the removal of the vehicle (ie non-consent tow, repossession);
3. The name, title and phone number of the person authorizing the removal of the vehicle;
4. The location of the vehicle prior to its removal;
5. The address and phone number of the vehicle storage facility where the vehicle will be stored; and
6. The name, telephone number and address of the wrecker service removing the vehicle.
7. The name of the first and last name of the driver removing the vehicle or the Texas Department of Licensing and Regulation (TDLR) license number of the driver removing the vehicle.

E. Under this Section, notice to the person directing the tow shall consist of:

1. The license plate number, registration year, state of registration, vehicle identification number if known, color, make, model and style of the vehicle being removed;
2. The reason for the removal of the vehicle;
3. The location of the vehicle prior to its removal; and
4. The address and phone number of the vehicle storage facility where the vehicle will be stored.

If a wrecker service receives notice of a reported stolen vehicle that is towed, the wrecker operator or driver shall immediately notify the police department of the City where the vehicle was reported stolen. The wrecker service shall take all

necessary actions to isolate the reported stolen vehicle from routine access at the storage location and facilitate police access to the vehicle.

Section 3.12 Compliance with State Standards Required

- A. Any wrecker service operator shall at all times comply with all rules pertaining to minimum insurance requirements and minimum safety standards for the operation of tow trucks adopted by the Texas Department of Transportation, pursuant to the Texas Occupations Code, Chapter 2308, as amended including relocation of applicable provisions.
- B. Nothing in this chapter shall be construed to remove any requirement placed upon a wrecker operator or driver by the laws of the State of Texas.

Section 3.13 Frequency of Auctions

The Arlington Police Department will arrange for and conduct auctions for abandoned vehicles at least once every nine (9) weeks, or more frequently if the Chief of Police deems it necessary for the orderly processing of such vehicles.

Section 3.14 Use of Safety Chains and Wheel Straps

- A. An operator of a tow truck using a tow sling or wheel lift may not tow another vehicle unless two separate and individual safety chains are securely attached to both the towing vehicle and the vehicle being towed.
- B. The two safety chains will be of equal length and long enough to permit free turning of the vehicles without placing stress on the chains. The chains must be attached in such a manner so as to prevent the chains from coming into contact with the road surface.
- C. Safety chains shall be of sufficient strength to prevent the towed vehicle from separating in the event the towed vehicle disengages from the towing vehicle's sling or wheel lift. The standard used to determine sufficient strength of a safety chain shall be those listed in the Working Load Limit (WLL) table for chains, as specifically set out at 49 C.F.R. § 393.108 (2003), as amended, and incorporated herein for all purposes.

Chain Working Load Limits WLL in kg (pounds)					
Size mm (inches)	Grade 30 proof coil	Grade 43 high test	Grade 70 Transport	Grade 80 alloy	Grade 100 alloy
7 (1/4)	580 (1,300)	1,180 (2,600)	1,430 (3,150)	1,570 (3,500)	1,950 (4,300)
8 (5/16)	860 (1,900)	1,770 (3,900)	2,130 (4,700)	2,000 (4,500)	2,600 (5,700)
10 (3/8)	1,200 (2,650)	2,450 (5,400)	2,990 (6,600)	3,200 (7,100)	4,000 (8,800)
11 (7/16)	1,680 (3,700)	3,270 (7,200)	3,970 (8,750)	-----	-----
13 (1/2)	2,030 (4,500)	4,170 (9,200)	5,130 (11,300)	5,400 (12,000)	6,800 (15,000)
16 (5/8)	3,130 (6,900)	5,910 (13,000)	7,170 (15,800)	8,200 (18,100)	10,300 (22,600)

- D. Safety Chains are defined as a series of metal links or rings connected to or fitted into one another and are inclusive of the hooks.
- E. Safety Chain links and hooks shall not be broken, cracked, twisted, bent, or stretched and shall not have any weld except the original manufactured chain weld in each link.
- F. Safety Chains shall not be tied into a knot.
- G. Links of the clevis variety, having strength equal to or greater than the nominal chain are acceptable for the repair of a chain.
- H. If a wheel lift is being used for a tow and the lift is designed to be used in conjunction with wheel straps, the operator may not tow another vehicle unless the wheels are secured to the lift with wheel straps in accordance with the wheel lift manufacturer's specifications.
- I. Wheel straps shall not contain a tear, cut, burn, and/or hole through the strap which totals more than that shown in the Defect Classification Table below, established by Commercial Vehicle Safety Alliance, Appendix A, North American Standard Out-of-Service Criteria (2002), as amended, and incorporated herein for all purposes. Tears and cuts on same side edge of a strap are not additive to determine if strap is no longer serviceable. Tears, cuts, burns, and

holes on opposite edges of strap or at different locations across the width of the strap are additive to determine if a strap is no longer serviceable.

<i>Defect Classification Table</i>	
Strap Width inches (millimeter)	Out-of-Service Range Inches (Millimeter)
4 inches (100)	Tear, cut, burn, and/or hole larger than $\frac{3}{4}$ inches (19)
3 inches (75)	Tear, cut, burn, and/or hole larger than $\frac{5}{8}$ inches (16)
2 inches (50)	Tear, cut, burn, and/or hole larger than $\frac{3}{8}$ inches (10)
1.75 inches (45)	Tear, cut, burn, and/or hole larger than $\frac{3}{8}$ inches (10)

- J. Wheel straps shall not contain any fitting, tensioning device, or hardware which is broken, obviously sprung, bent, twisted, or contains visible cracks.
- K. Wheel straps shall not contain any splices, repairs, or any other apparent defects, including but not limited to crushed areas, damaged loop ends or severe abrasions.

(Amend Ord 15-011, 3/3/15)

ARTICLE IV
NONCONSENT TOWS

Section 4.01 Definitions

In this Article:

Driver's Permit: A permit issued by the City to a person, authorizing such person to operate a wrecker for the purpose of performing nonconsent tows from private property.

Drop fee or Rate: The fee charged for a nonconsent tow which is disengaged pursuant to Article III of this Chapter, while the towed vehicle is still on the premises from which it is being removed.

Nonconsent tow: A tow, not including a police pull or lawful repossession, conducted without the permission of, or not at the direction of, the towed vehicle's legal or registered owner, or such owner's authorized representative, and which originates in the City.

Nonconsent Wrecker Service or Tow Business License: A license issued by the City to a wrecker service authorizing such business to engage in nonconsent tows from private property.

Parking facility: A facility as defined in the Texas Occupations Code, Chapter 2308, as amended including relocation of the applicable provisions.

Parking facility owner: A person as defined in the Texas Occupations Code, Chapter 2308, as amended including relocation of the applicable provisions.

Tilt-bed Truck: A tow truck designed with a flatbed cargo surface in which the bed can tilt backwards and roll back to provide easy loading of a vehicle by use of cable and winch.

Section 4.02 Licensing Fees

- A. The annual fees applicable to this Article shall be as follows:
1. Nonconsent tow business license fee: \$200.00

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- 2. Inspection fee (per wrecker): \$20.00
- 3. Driver's permit fee (per driver): \$15.00
- B. The nonconsent tow business license application fee shall be \$200.00.
- C. The charge to replace a lost or destroyed license, permit or inspection certificate shall be \$5.00.
- D. The charge to reissue a license or permit before its expiration due to licensee's change of physical address shall be \$5.00.
- E. The nonconsent tow business license renewal late fee shall be \$25.00.
- F. The fees charged herein are to cover the administrative costs of investigation and processing. No fee payments shall be refundable.
- G. The fee for an original license or permit which is issued for a period of time shorter than the City's fiscal year shall be prorated using the following formula:

$$\frac{\text{Annual Fee}}{12} \times \begin{array}{l} \text{complete months} \\ \text{remaining in} \\ \text{fiscal year} \end{array} = \begin{array}{l} \text{prorated} \\ \text{fee} \end{array}$$

Section 4.03 License Required

A person commits an offense if he does not have a valid nonconsent tow business license issued by the City and with criminal negligence he allows a wrecker under his control to be used in a nonconsent tow.

Section 4.04 License Displayed

An owner or manager of a nonconsent tow business commits an offense if with criminal negligence he fails to prominently display upon the premises of such business a valid nonconsent tow business license.

Section 4.05 Inspection Certificate Required

- A. The operator of a wrecker engaging in a nonconsent tow commits an offense if he operates such wrecker without displaying thereon a valid inspection certificate issued to such wrecker by the City.
- B. A person commits an offense if with criminal negligence he allows a wrecker under his control to engage in a nonconsent tow when said wrecker does not display a valid inspection certificate issued to it by the City.
- C. An inspection certificate shall be displayed upon and affixed to the inside of the lower right hand corner of the front windshield of the wrecker, so that it may be read from outside of the wrecker.

Section 4.06 Driver's Permit Required

- A. The operator of a wrecker engaging in a nonconsent tow from private property commits an offense if he operates such wrecker without having been issued and without then and there possessing a valid driver's permit.
- B. The operator of a wrecker engaging in a nonconsent tow from private property commits an offense if he fails to display a valid driver's permit to any peace officer requesting to see it.
- C. A person commits an offense if with criminal negligence he permits a wrecker operator under his control to engage in a nonconsent tow from private property without such operator having been issued a valid driver's permit.

Section 4.07 License Application and Requirements

- A. A nonconsent tow business license shall be valid only for the physical location indicated on the license.
- B. A nonconsent tow business license shall not be transferable.
- C. A nonconsent tow business license shall expire at midnight on September 30th of the fiscal year for which it is issued.

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- D. An inspection certificate shall expire at midnight on September 30th of the fiscal year for which it is issued.
- E. An application for a nonconsent tow business license shall be in writing and sworn to, on a form prescribed by the Chief of Police, and shall include the following:
1. The wrecker service's name, physical address, mailing address and telephone number;
 2. The name, date of birth and home address of the applicant if a sole proprietorship;
 3. The name, date of birth and home address of each partner if the applicant is a partnership;
 4. The name, date of birth and home address of each corporate officer, if the applicant is a corporation;
 5. The name, date of birth and home address of each owner of the wrecker service, and the percentage of ownership interest each holds in the business;
 6. The name, date of birth and home address of the operator/manager of the wrecker service if it is not operated/managed by one of the owners;
 7. A list of all felony convictions, probations, adjudications, deferred adjudications and probation revocations and all misdemeanor convictions, probations, adjudications, deferred adjudications and probation revocations during the five (5) years prior to the date of application for which the maximum punishment is confinement in jail or a fine exceeding \$500.00, that were obtained against applicant or any owner, officer, or operator/manager of applicant. Such list shall include the court in which the hearing was conducted and the date of the hearing;
 8. A list of all Texas Occupations Code, Chapter 2308 hearings during the three (3) years preceding the date of application that involved a vehicle towed by or authorized to be towed by the applicant, a partner, a principal or general manager or officer of the applicant, or any employee thereof. Such list shall include the court in which the hearing was conducted, the date of the hearing and the court's ruling. It shall not be necessary to list

hearings which resulted from a tow authorized by a peace officer while acting in his official capacity.

9. As to each wrecker the applicant intends to utilize for nonconsent tows:
 - a. Its make, model, size and model year;
 - b. Its vehicle identification number;
 - c. Its Texas license plate number;
 - d. Its Texas tow truck license plate number; and
 - e. A photocopy of its certificate of registration issued by the Texas Department of Transportation;
10. A statement that all of applicant's wreckers utilized for nonconsent tows are currently and will remain in compliance with State tow truck requirements as specified in Texas Occupations Code, Chapter 2308, as amended including relocation of applicable provisions, and the rules adopted pursuant thereto by the Texas Department of Transportation;
11. A statement that applicant is currently and will remain in compliance with the requirements of Texas Occupations Code, Chapter 2308, as amended including relocation of applicable provisions;
12. A statement that applicant is currently and will remain in compliance with the requirements of this Chapter;
13. A certification from an underwriter that the applicant has in force, for each named wrecker, a policy or policies of insurance issued by an insurance company authorized to transact business in the State that conform to the minimum requirements adopted by the Commissioner of Licensing and Regulation;
14. An itemized list of standard fees charged by applicant including but not limited to nonconsent tows, and a drop rate; and
15. A list of all state licenses or permits issued to the business pursuant to Chapter 2308 of the Occupations Code or any other state law relating to

the licensing of tow companies, drivers, etc. including the license or permit number and expiration date.

- F. An application filed by a corporation shall be signed and sworn to by its president and secretary.

Section 4.08 Action on License Application

Upon the filing of an original or renewal application for a nonconsent tow business license, the Chief of Police shall cause such application to be investigated and all wreckers designated therein to be inspected.

Section 4.09 Issuance of License and Inspection Certificates

- A. Within forty-five (45) days after the filing of an original application (or fifteen (15) days after the filing of a renewal application) for a nonconsent tow business license, and upon the payment of the license fee and inspection fees, the Chief of Police shall issue a license unless he determines that grounds exist for its denial.
- B. Upon the issuance of the license, the Chief of Police shall issue a certificate of inspection for each wrecker named in the application which passes inspection.
- C. Upon the issuance of a nonconsent tow business license, the Chief of Police shall deliver to the licensee a copy of this Chapter.
- D. Upon the denial of a nonconsent tow business license, the Chief of Police shall send applicant a written notice of denial by certified mail, return receipt requested. Such notice shall state the reason for denial and applicant's right to appeal.

Section 4.10 Licensee's Change of Address

- A. No later than fifteen (15) days prior to moving the physical address of a nonconsent tow business, a licensee shall apply to the Chief of Police for an amended license.
- B. Such application shall be accompanied by the fee specified in Section 4.02.

Section 4.11 License Renewal

- A. A licensee may apply to the Chief of Police for a license renewal no earlier than September 1st of the year the license expires.
- B. Such renewal application shall be in writing and shall state:
 - 1. All changes to information contained in the original license application; and
 - 2. That all other information contained in the original application is true and correct.
- C. The license renewal application shall be sworn to.
- D. If a licensee fails to renew the nonconsent tow business license before it expires, he may renew it upon payment of the annual license fee and a \$25.00 late fee. If an application for renewal is not filed by the thirty-first (31st) day after the day the license expires, the license may not be renewed. To reinstate the license, the licensee must comply with the requirements for an original license.
- E. A licensee whose license will be under suspension on its expiration date may file a license renewal application not earlier than thirty (30) days prior to nor later than the day of the last day of the suspension. A licensee who files within this deadline shall be allowed to renew the license without payment of a late fee.

Section 4.12 Application for Driver's Permit

- A. A driver's permit shall be valid only for tows conducted for the licensee named on the permit.
- B. A driver's permit shall not be transferable.
- C. A driver's permit shall expire at midnight on September 30th of the fiscal year for which it is issued.
- D. A driver's permit shall be valid only while the licensee named thereon has a current, unsuspended, unrevoked license.

- E. An application for a driver's permit shall be in writing and sworn to, on a form prescribed by the Chief of Police, and shall include the following:
1. Applicant's name, date of birth and home address;
 2. The name of the licensee by whom applicant is employed;
 3. Applicant's places of residence for the last five (5) years;
 4. A full description of applicant including his height, weight, eye color, hair color, distinguishing body features or marks, and an impression of his fingerprints and his photograph both taken by the Arlington Police Department;
 5. A description of applicant's experience driving tow trucks;
 6. A list of all felony convictions, probations, adjudications, deferred adjudications and probation revocations and all misdemeanor convictions, probations, adjudications, deferred adjudications and probation revocations during the five (5) years preceding the date of application which are punishable by confinement in jail or a fine of \$500.00 or more;
 7. A list of all traffic and wrecker offenses for which applicant was convicted, adjudicated, placed on probation, deferred adjudication and had probation revoked for the two (2) years preceding the date of the application;
 8. Applicant's Texas driver's license number;
 9. A list of all times applicant's driver's license has been the subject of a suspension hearing, and the outcome of such hearings;
 10. A statement that applicant knows the requirements of Texas Occupations Code, Chapter 2308, as amended and the rules adopted pursuant thereto;
 11. A list of all tow hearings under Texas Occupations Code, Chapter 2308 or its predecessor, during the three (3) years preceding the date of the application that involved a vehicle towed by or authorized to be towed by applicant. Such list shall include the court in which the hearing was conducted, the date of the hearing and the court's ruling. It shall not be

necessary to list hearings which resulted from a tow authorized by a peace officer while acting in his official capacity; and

12. A list of all state licenses or permits issued to the applicant pursuant to Chapter 2308 of the Occupations Code or any other state law relating to the licensing of tow companies, drivers, etc. including the license or permit number and expiration date.

Section 4.13 Action on Permit Application

Upon the filing of an original or renewal application for the driver's permit, the Chief of Police shall cause such application to be investigated.

Section 4.14 Issuance of Permit

- A. Within fifteen (15) days after the filing of an original or renewal application for a driver's permit, and upon the payment of the driver's permit fee, the Chief of Police shall issue a permit unless he determines that grounds exist for its denial.
- B. A driver's permit shall include a photograph, physical description and home address of the permittee, the name and address of the licensee for whom he works and an identification number issued to him by the Chief of Police.
- C. Upon the denial of a driver's permit, the Chief of Police shall send written notification of such denial to the applicant by certified mail, return receipt requested. Such notification shall state the reason for the denial and applicant's right to appeal.

Section 4.15 Permit Renewal

- A. A permittee may apply to the Chief of Police for a driver's permit renewal no earlier than September 1st of the year it expires.
- B. Such renewal application shall be in writing and shall state:
 1. All changes to information contained in the original driver's permit application; and

2. That all other information contained in the original application is true and correct.
- C. The permit renewal application shall be sworn to.

Section 4.16 Grounds for Denial, Suspension or Revocation of a License

The following shall be grounds for the Chief of Police to deny an original or renewal application for a nonconsent tow business license, or, after a hearing, to suspend or revoke a license, if he determines that the applicant/licensee, a partner of the applicant/licensee, a principal in the applicant's/licensee's business, an employee of the applicant's/licensee's business or some combination:

- A. Has been finally convicted or adjudicated guilty of a felony, been placed on probation, deferred adjudication or had probation revoked for an offense which relates directly to the duty or responsibility of towing vehicles or operating a vehicle storage facility;
- B. Has within the five (5) years preceding the date of the most recent license application been finally convicted, or been placed on deferred adjudication, or had probation revoked for theft of a motor vehicle or unauthorized use of a motor vehicle, burglary of a motor vehicle, or violation of the Controlled Substances Act (or a comparable state or federal law);
- C. Has within the three (3) years preceding the date of the most recent license application, or thereafter, made or authorized the nonconsent tow of a vehicle without probable cause in Arlington as determined by a justice of the peace or magistrate on more than two percent (2%) of the tows. At the time the application for renewal is filed, the applicant will provide the number of nonconsent tows for the previous three (3) years in Arlington;
- D. Has had within the one (1) year preceding the date of the most recent license application, or thereafter, a vehicle storage facility license or tow truck certificate of registration denied, revoked or suspended by the Texas Department of Transportation; or his nonconsent wrecker service license or driver's permit denied, revoked or suspended by the City of Arlington;
- E. Failed to maintain the minimum insurance requirements as directed under this Article;

- F. Has within one (1) year preceding the date of the most recent license application, or thereafter, charged a person a nonconsent tow fee or drop fee that exceeded the amount allowed by this chapter or by the Texas Occupations Code, Chapter 2308, as amended;
- G. Made a false statement on a nonconsent tow business license application or renewal application;
- H. Received more than two (2) convictions, probations, adjudications, deferred adjudications or probation revocations (or any combination thereof) in a twelve (12) month period for a violation of this Chapter;
- I. Failed to comply with the record keeping provisions of this Article, including any failure to make requested records available for inspection or copying;
- J. Failed to comply with the signage provisions of this Article;
- K. Failed to comply with a final court order subsequent to a probable cause hearing;
- L. Is a registered sex offender; or
- M. Does not have a current, valid license or permit issued under Chapter 2308 of the Texas Occupations Code or any other state law relating to the licensing of tow companies, drivers, etc. for the type of activity for which the applicant is seeking a license or permit when one is required.

Section 4.17 Grounds for Denial, Suspension or Revocation of Driver's Permit

The following shall be grounds for the Chief of Police to deny an original or renewal application for a driver's permit, or, after a hearing, to suspend or revoke a permit if he determines that the applicant/permittee:

- A. Has, at any time, been convicted or adjudicated guilty, placed on probation, deferred adjudication or had probation revoked for a felony offense which relates directly to the duty or responsibility of towing vehicles or operating a vehicle storage facility;
- B. Has within the five (5) years preceding the date of the most recent driver's permit application, or thereafter, been finally convicted or adjudicated guilty, placed on probation, deferred adjudication or had probation revoked for a misdemeanor

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- offense that is punishable by confinement or by a fine exceeding \$500.00, and which relates directly to the duty or responsibility of towing vehicles or operating a vehicle storage facility;
- C. Has within the three (3) years preceding the date of the most recent driver's permit application, or thereafter, made or authorized the nonconsent tow of a vehicle without probable cause in Arlington as determined by a justice of the peace or magistrate on more than two percent (2%) of the tows. At the time the application for renewal is filed, the applicant will provide the number of nonconsent tows for the previous three (3) years in Arlington;
 - D. Has had within one (1) year preceding the date of his most recent driver's permit application, or thereafter, a vehicle storage facility license or certificate of registration denied, revoked or suspended by the Texas Department of Transportation; or his nonconsent wrecker service license or driver's permit denied, revoked or suspended by the City of Arlington;
 - E. Made a false statement on a driver's permit application or renewal application;
 - F. Was convicted, placed on probation, deferred adjudication or had probation revoked during the year prior to the date of the original application, or thereafter, for more than two (2) violations of this Chapter, moving traffic violations, or any combination thereof;
 - G. Has within one (1) year preceding the date of the most recent driver's permit application, or thereafter, charged a person a nonconsent tow fee or drop fee that exceeded the amount allowed by this chapter or by the Texas Occupations Code, Chapter 2308, as amended;
 - H. Is a registered sex offender; or
 - I. Does not have a current, valid license or permit issued under Chapter 2308 of the Texas Occupations Code or any other state law relating to the licensing of tow companies, drivers, etc. for the type of activity for which the applicant is seeking a license or permit when one is required.

Section 4.18 Revocation of License or Permit - Hearing

- A. When it comes to the attention of the Chief of Police that grounds exist for the revocation of a license or permit issued under this Article, he shall schedule a hearing.
- B. The Chief of Police shall issue notice to a licensee or permittee of such hearing with service by certified mail, return receipt requested, or by personal service.
- C. A hearing notice shall be in writing and shall name the place, date and time of the hearing. The notice shall also set forth a summary of the charges.
- D. A hearing shall be scheduled for a date no later than fifteen (15) days after the notice is issued.
- E. The Chief of Police or his designee shall preside at the hearing as hearings officer.
- F. At the conclusion of a hearing, the hearings officer shall make written findings of fact and conclusions of law without undue delay. The hearings officer shall further issue written orders appropriate to his findings within thirty (30) days of conclusion of the hearing.
- G. If grounds exist for the revocation of a license or permit, the hearings officer may order such license or permit revoked or may order it suspended for a period not to exceed six (6) months.
- H. A copy of the findings, conclusions and order shall be delivered to the licensee or permittee. If the hearings officer suspends or revokes a license or permit, he shall further deliver to the licensee or permittee written notice of the right to appeal.
- I. All notices are presumed to be delivered to the nonconsent wrecker service licensee or holder of a driver's permit within three days of being mailed certified mail, return receipt requested, to the licensee's or permittee's address listed in the most recent license or permit application.

Section 4.19 Determining Factors

In determining whether to deny, suspend or revoke a license or driver's permit, the Chief of Police shall consider:

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- A. The seriousness of the violation;
- B. The history of previous violations;
- C. The sanction necessary to deter future violations;
- D. Efforts made to correct the violation;
- E. Compliance with court orders subsequent to probable cause hearings; and
- F. In determining whether a criminal conviction directly relates to the duty or responsibility of towing or storing vehicles, the Chief of Police shall consider:
 - 1. The nature and seriousness of the crime;
 - 2. The relationship of the crime to the purposes for requiring a license or permit;
 - 3. The extent to which a license or permit might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had 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 license or permit;
 - 5. In addition to the factors that may be considered above, the Chief of Police, in determining the present fitness of a person who has been convicted of a crime, shall consider the following evidence:
 - a. The extent and nature of the person's past criminal activity;
 - b. The age of the person at the time of the commission of the crime;
 - c. The amount of time that has elapsed since the person's last criminal activity;
 - d. The conduct and work activity of the person prior to and following the criminal activity;

- e. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and
 - f. Other evidence of the person's present fitness, including letters of recommendation from: prosecution, law enforcement, and correctional officers who prosecuted, arrested or had custodial responsibility for the person; the sheriff and chief of police in the community where the person resides; and any other persons in contact with the convicted person; and
6. It shall be the responsibility of the applicant to the extent possible to secure and provide to the Chief of Police the recommendations of prosecution, law enforcement, and correctional authorities. The applicant shall also furnish proof in such form as may be required by the Chief of Police that he has maintained a record of steady employment and has supported his dependents and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he has been convicted.

Section 4.20 Appeal of Denial, Suspension or Revocation

- A. A person whose license or permit application is denied shall have the right to appeal.
- B. A person whose license or permit is suspended or revoked shall have the right to appeal.
- C. An appeal shall be in writing, setting forth the reasons for the appeal, and shall be sworn to.
- D. An appeal shall be filed with the Chief of Police no later than the tenth (10th) day following the date of the denial or the date that the revocation/suspension orders are signed.
- E. After receiving an appeal, the Chief of Police shall immediately forward it and all pertinent records to the appeals officer designated by the City Manager.
- F. An appeal shall stay a suspension or revocation.

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- G. The appeals officer shall set a date for a hearing that is no later than the twentieth (20th) day following the date the appeal is filed.
- H. The appeals officer shall issue notice of the hearing to the person filing the appeal and to the Chief of Police.
- I. The appeals officer shall be empowered to reverse or amend the decision of the hearings officer.
- J. The appeals officer shall make written findings of fact and conclusions of law, and his decision shall also be in writing. He shall forward a copy of such to the person making the appeal and to the Chief of Police within thirty (30) days of the conclusion of the hearing.
- K. An appeal shall exhaust all administrative remedies.
- L. If the appeals officer upholds or modifies a suspension or revocation, he shall in writing further notify the licensee/permittee who made the appeal of the right to appeal the decision to district court.
- M. All notices are presumed to be delivered to the nonconsent wrecker service licensee or holder of a driver's permit within three days of being mailed certified mail, return receipt requested, to the licensee's or permittee's address listed in the most recent license or permit application.

Section 4.21 Responsibilities of Licensee – Records Keeping

- A. A licensee shall keep written records on each vehicle it tows as a nonconsent tow, including those which are disengaged due to the payment of a drop fee. These records shall contain:
 - 1. The year, make, model, color, correct license plate number, state issuing the license, correct vehicle identification number of the vehicle, and the owner or operator's name if reasonably available;
 - 2. The date, time and location from which the vehicle was towed, the name of the person who authorized the tow, and the specific reason for the tow;

3. The name of the tow truck driver that towed the vehicle, and the regular and tow truck license plate numbers of the tow truck that towed the vehicle; and
 4. All amounts charged for the towing of such vehicle, and the specific nature of each charge.
 5. Photographs or videos of each vehicle before it is towed, demonstrating the condition of unauthorized parking, such as in a handicapped parking space without a permit, blocking a dumpster, blocking a vehicle in a parking space, blocking an entrance or exit, parked in a fire lane or other violation.
 6. A copy of the towing agreement or specific written directive. It is sufficient for the purposes of this provision that a copy of the towing agreement is kept on file as long as the agreement which was in effect at the time of the tow is retained for two (2) years from the date the tow was conducted.
- B. The licensee, his agent or employee shall make these records available for inspection and copying by the Chief of Police or his designee upon his request, and the City shall have access, upon request, to any books, documents, papers and records for the purpose of making audit examinations during the operating hours of the licensee. If copies of records related to a specific tow are requested by the Police Department, the licensee shall provide the records, including any tow agreement or specific authorization, in hard copy or electronic form to the person requesting the records within five (5) business days.
- C. Required records shall be kept under the care and custody of the licensee for at least two (2) years from the date of the tow.

Section 4.22 Signage and Posting

- A. Every parking facility owner who causes or authorizes a nonconsent tow shall comply with at least the signage requirements set forth in Texas Occupations Code, Chapter 2308, Subchapter G, as amended including relocation of applicable provisions, for nonconsent tows from parking facilities, except when tows are made of:

1. Vehicles parked in violation of Section 2308.251 of the Texas Occupations Code, as amended including relocation of applicable provisions; or
 2. Vehicles when the vehicle's owner has actually received notice as specified in Texas Occupations Code, Chapter 2308, as amended, from the parking facility owner that the vehicle will be towed away if it is not removed.
- B. In addition to the requirements in (A), each sign shall provide the name of the person or firm authorized to tow vehicles from the parking facility; and name and address of the vehicle storage facility the vehicle is removed to.
- C. Every parking facility owner who causes or authorizes a nonconsent tow must remove all signs upon the termination of the parking facility owner's interest in the parking facility or upon the expiration of the parking facility owner's nonconsent tow contract.
- D. Every holder of a nonconsent tow business license or driver's permit issued pursuant to this Chapter shall comply with Section 2308.255 of the Texas Occupations Code, as amended including relocation of applicable provisions.

Section 4.23 Towing Without Proper Notice and/or Authority Prohibited

- A. Regardless of any general contractual or "patrol account" arrangement which may exist between a towing company and parking facility owner, it is a violation of this Chapter to make a non-consent tow any vehicle without ensuring that all notice and/or signage requirements required by this Chapter and state law have been met unless the nonconsent tow is directed by a peace officer in accordance with this Chapter.
- B. A nonconsent tow of a vehicle may not be conducted unless the tow truck driver first secures a specific, written directive to tow such vehicle signed by the owner of the parking facility or the owner's authorized representative that is not a wrecker service unless the vehicle is determined to be improperly or illegally parked on the sole basis of immediate visual observation.
- C. Examples of vehicles determined to be improperly or illegally parked on the sole basis of immediate visual observation and thus exempt from the specific notice required under Subsection B include a vehicle which:

1. Is parked in open and obvious violation of a state or municipal law;
 2. Is in or obstructs a vehicular traffic aisle, entry or exit of the parking facility;
 3. Prevents another vehicle from exiting a parking space in the parking facility;
 4. Is in or obstructs a fire lane marked according to Section 684.011(c), Texas Transportation Code, as amended;
 5. Does not display the proper special license plates or disabled parking placard and is in a parking space that is designated for the exclusive use of a vehicle transporting a disabled person;
 6. Blocks access to a dumpster;
 7. Is in an area prohibited to all parking, such as a cross-hatched area of a parking facility, an area that is clearly marked as prohibiting all parking at all times, an area that is clearly marked as prohibiting the parking of specific types of vehicles (e.g., tractor-trailer rigs) at all times, or an unpaved area clearly not intended for motor vehicles; or
 8. Is in open and obvious violation of clearly posted contractual requirements of the parking facility (e.g., does not display a parking sticker required of all vehicles in such parking facility).
- D. When a written directive is required under Subsection (B), such written directive must:
1. Identify the vehicle to be towed by make, color and license plate number;
 2. Identify the person signing the directive;
 3. State the location from which the vehicle is to be towed; and
 4. State the date and time the directive is signed.
- E. A tow truck driver may not remove a vehicle from a parking facility serving or adjacent to an apartment complex consisting of one or more residential apartment

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units and any adjacent real property serving the apartment complex for failing to display an unexpired license plate or registration insignia unless the driver has been presented with and maintains proof that the owner or operator of the vehicle:

1. Has entered into a contract with the parking facility owner which contains a valid provision providing for the removal of a vehicle in such circumstances, and
2. Was given at least 10 days written notice that the vehicle will be towed from the facility at the vehicle owner's or operator's expense if it is not removed from the parking facility and said notice was delivered in person or sent certified mail, return receipt requested.

Section 4.24 State Regulation and Towing Charges

- A. The owner or operator of a wrecker business commits an offense if he charges a fee in excess of the maximum fee for the applicable nonconsent tow set by State regulation in accordance with Chapter 2308 of the Texas Occupations Code, as amended.
- B. A wrecker service operator or vehicle storage facility operator may not charge any other fee except as authorized by law.
- C. The wrecker service and vehicle storage facility shall allow two or more of the following methods of payment in addition to cash: credit card, traveler's check, personal check, money order, or debit card. Wrecker operators and vehicle storage facilities must have enough bills and coins available to provide change on bills of one-hundred dollars (\$100.00) or less. Notice of the methods of payment shall be given to the owner of the vehicle towed if the owner is on sight at the time of the tow and at the vehicle storage facility when the owner appears to claim the towed vehicle.

Section 4.25 Notice of Texas Occupations Code, Chapter 2308 Hearings

- A. Upon initial contact with the owner of a vehicle which is the subject of a nonconsent tow, a wrecker service operator, a vehicle storage facility operator, or any employee or agent thereof shall give written notice to the vehicle owner of his right to a hearing pursuant to Texas Occupations Code, Chapter 2308, as amended.

- B. Such notice shall be on a form promulgated by the Chief of Police and shall include the name, address and phone number of the person or agency that authorized the removal, and a statement that the hearing must be requested in writing within fourteen (14) days of the date the vehicle was stored and that the request must be filed with a magistrate in whose jurisdiction is the location from which the vehicle was removed.
- C. A person commits an offense if with criminal negligence he fails to provide notice as provided by this Section.

Section 4.26 Maximum Distance of Nonconsent Tows

Vehicles involved in a nonconsent tow must be transported directly to a vehicle storage facility. A parking facility cannot be used as a temporary vehicle storage facility.

Nonconsent towed vehicles shall not be taken to a vehicle storage facility that is more than five miles outside the City.

Section 4.27 Culpable Mental State

Any offense in this Chapter which does not include a culpable mental state in its definition shall be deemed not to require one.

Section 4.28 Notice to Vehicle Owner or Operator

Upon contact with the owner or operator of a vehicle which is the subject of a nonconsent tow, a wrecker service operator or a vehicle storage facility operator, or any employee or agent, shall give written notice to the vehicle owner or operator of the following information. If there is no person-to-person contact, then this notice shall be mailed or faxed only when another required notification is sent. A separate notice is not required.

The intent of this Section is that the owner or operator of a vehicle that is the subject of a nonconsent tow receive written information from the tow operator or vehicle storage facility operator, in order to enhance the safety in a potentially volatile situation and allow safe, prompt, legal and orderly vehicle retrieval after a nonconsent tow without a breach of the peace by any party.

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1. The name, address and phone number of the wrecker service and vehicle storage facility;
2. The name and address of the property owner that authorized the tow;
3. The methods of payment accepted by the wrecker service and vehicle storage facility;
4. An address for citizens to file written complaints with the City;
5. A copy or summary of the relevant City Wrecker Operations Ordinance provisions; and
6. A statement that the City does not regulate nonconsent tow rates.

(Amend Ord 15-011, 3/3/15)

ARTICLE V
ENFORCEMENT

Section 5.01 Violation; Penalties

Any person who violates any provision in this Chapter, for which a specific penalty is not provided, shall be guilty of a misdemeanor and upon conviction may be punished by a fine of not less than \$200 or more than \$1,000 per violation in accordance with Section 2308.505 of the Texas Occupations Code, as amended including relocation of the applicable provisions. Each act of violation and each day in which a violation is permitted to continue shall constitute a separate offense. An offense under this Chapter which is also a violation under state law may be charged under either provision.

Section 5.02 Other Remedies

The City shall be entitled to pursue all other criminal and civil remedies to which it is entitled under any other law and the remedies provided herein are not exclusive.

(Amend Ord 15-011, 3/3/15)