

ORDINANCE NO. 2024-5003

ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF EDINBURG, TITLE XI: BUSINESS REGULATIONS, BY REPLACING CHAPTER 118 VEHICLE WRECKER AND TOWING SERVICES; PROVIDING FOR A REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING FOR CODIFICATION; PROVIDING A WAIVER OF THE THREE (3) SEPARATE READINGS; AND ORDAINING OTHER PROVISIONS RELATING TO THE SUBJECT MATTER HEREOF.

WHEREAS, City Code of Ordinances Title XI contains regulations for specific types of businesses; and

WHEREAS, the City Council believes it is in the best interests of the residents to allow for and regulate the operation of vehicle wrecker and towing services and businesses within City limits pursuant to its authority under Occupations Code Chapter 2308.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDINBURG, TEXAS, THAT:

SECTION I. INCORPORATION OF RECITALS. The City Council finds that the statements set forth in the Recitals are true and correct and the City Council hereby incorporates such Recitals as findings of fact.

SECTION II. AUTHORITY OF LAW. All requirements of the law have been met in the passing of this Ordinance.

SECTION III. The Code of Ordinances of the City, Title XI, Business Regulations, is amended to include a revised Chapter 118 Vehicle Wrecker and Towing Services, to be read in its entirety as shown in Exhibit A attached to this Ordinance.

SECTION VI. REPEALER CLAUSE: This Ordinance shall be cumulative of all other ordinances dealing with the same subject, and any provision of any ordinance in direct conflict with any provision of this Ordinance is hereby repealed and the provisions of this Ordinance shall supersede any provisions in conflict herewith; all provisions of any other ordinance not in conflict herewith shall remain in full force and effect.

SECTION VII. SAVINGS CLAUSE: If any section, part, or provision of this Ordinance is declared unconstitutional or invalid, by a court of competent jurisdiction, then, in that event, it is expressly provided, and it is the intention of the City Council in passing this Ordinance that its

parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION VIII. PUBLICATION AND EFFECTIVE DATE: This Ordinance shall take effect immediately upon its passage.

SECTION IX. CODIFICATION: That this Ordinance shall be published in the Code of Ordinances of the City of Edinburg, Texas.

SECTION X. WAIVER CLAUSE. The requirement of three separate readings of this Ordinance is hereby dispensed with by a vote of not less than a majority of all the members of the City Council.

READ, CONSIDERED, PASSED AND APPROVED at a regular meeting of the City Council of the City of Edinburg, Texas, at which a quorum was present and which was held in accordance with V.T.C.A., Government Code, Section 551.041, on September 3, 2024.

CITY OF EDINBURG

By: _____
Ramiro Garza, Jr., Mayor

ATTEST:

By: _____
Clarice Y. Balderas, City Secretary

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Josephine Ramirez-Solis, City Attorney

EXHIBIT A

WRECKER AND TOWING ORDINANCE

Sec. 118.01- Purpose.

The City of Edinburg, pursuant to its authority granted by state law, in order to protect the public and the rights of persons whose vehicles may be towed, to maintain safe and efficient operation rules, and to preserve the peace of the community, hereby establishes the licensing and regulation of business enterprises engaged in towing, removing and storing of vehicles within the city. The purpose of this chapter is to establish procedures for wrecker services located within the city, to show proof of safety, and to establish a voluntary wrecker rotation list within the city.

Sec. 118.02 - Definitions.

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

Consent tow has the same meaning as defined by V.T.C.A., Occupations Code§ 2308.002.

Department means the Edinburg Police Department.

Disabled vehicle means a vehicle which has been rendered unsafe to be driven as a result of some occurrence other than a wreck, including but not limited to mechanical failures or breakdown, 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.

Motor vehicle means every vehicle which is self-propelled.

Operator means any person operating a motor vehicle.

Owner means any person who holds the legal title of a motor vehicle or who has the legal right of possession of such vehicle.

Parking facility means public or private property used, in whole or in part, for restricted or paid vehicle parking. Parking facility includes:

- (1) A restricted space on a portion of an otherwise unrestricted parking facility; and
- (2) A commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:
 - (a) A portion of the right-of-way of a public roadway that is leased by a governmental entity to the parking facility owner; and
 - (b) The area between the facility's property line abutting a county or municipal public roadway and the center line of the roadway's drainage way or the curb of the roadway, whichever is farther from the facility's property line.

Parking facility owner

- (1) An owner or operator of a parking facility, including a lessee, employee, or agent of an owner or operator;
- (2) A property owners' association having control under a dedicatory instrument over assigned or unassigned parking areas; or
- (3) A property owner having an exclusive right under a dedicatory instrument to use a parking space.

Street means any street, alley, avenue, lane or highway within the corporate limits of the city.

Unauthorized vehicle means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner

Vehicle means a device in, on, or by which a person or property may be transported on a public roadway. Vehicle 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 storage facility means a facility operated by a person licensed under Chapter 2303, Occupations Code, Acts 1995, 74th Leg., Ch. 165, Sec. 1, eff. September 1, 1995. Amended by Acts 2001, 77th Leg., Ch. 1420, Sec. 19.008, eff. September 1, 2001; Acts 2003, 78th Leg., Ch. 1276, Sec. 14A.839, eff. September 1, 2003.

Voluntary wrecker rotation list means the rotation list of wrecker companies prepared and used by the police department.

Wrecked vehicle means 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.

Wrecker or *tow truck* means any motor vehicle used for the purpose of towing or removing vehicles. Where the word wrecker appears herein, it shall also include tow truck unless the language specifically excludes tow trucks.

Wrecker business means the business of towing, moving or removing vehicles on or from the public streets, regardless of whether the purpose of the towing is to remove, repair, wreck, store, trade or purchase such vehicle, to remove a wrecked or disabled vehicle from the scene of a collision, or to remove a vehicle from an unlawfully parked position, or to remove an abandoned or wrecked vehicle.

Wrecker Company means any person or entity engaged in the wrecker business.

Non-consent tow has the same meaning as defined by V.T.C.A., Occupations Code §2308.002.

Sec. 118.03 -Authority and Duties of the Police Department.

The department shall implement and enforce this chapter. In addition to the powers and duties elsewhere prescribed in this Chapter, the department is authorized to:

- (1) Conduct random periodic investigations of towing, and vehicle storage facilities throughout the city concerning their compliance with this chapter and state law.
- (2) Inspect tow truck vehicles for compliance with vehicle and equipment safety standards established by this chapter.
- (3) Conduct random inspections of tow trucks records and facilities for compliance with this chapter and state law. Inspections should be performed in a reasonable manner so as to comply with the laws of the state.
- (4) Conduct random inspections of vehicle storage facility records, facilities, and storage lots for compliance with this chapter and state law. Inspections should be performed in a reasonable manner so as to comply with the laws of the state.

Sec. 118.04 -Permit Application and Minimum Requirements.

- (1) Every person desiring to engage in the wrecker business in the city shall apply to the Chief of Police on an application form provided by the Police Department. The Chief of Police, or his or her representative, shall issue a permit to engage in the wrecker business to each applicant complying with the provisions of this chapter for each wrecker to be operated in the city.
- (2) Such application shall include the following:
 - a. The name, address, telephone number, date of birth, driver's license number, and social security number of the owner and wrecker operators. If the owner is an individual, the application shall so state. If a partnership, the partnership name and address shall be given together with the names, addresses, telephone numbers, dates of birth, driver's license numbers, and social security numbers of all partners. If a corporation, the corporate name and office address shall be given, together with the names, addresses, telephone numbers, dates of birth, driver's license numbers, and social security numbers of the president and secretary.
 - b. The number of auto wreckers an owner desires to operate, listing the make, model, vehicle identification number and correct state license number of each auto wrecker.
 - c. The true ownership of each auto wrecker. If not owned outright by the owner, as defined in section 5-1, the name and address of the true owner shall be given. If the auto wrecker is operated under the terms of a contract with some company other than the owner, a copy of the contract shall also be attached.
 - d. That the owner will obey the provisions of this chapter and of all other city ordinances and state statutes applicable to motor vehicles and agrees that, upon his failure to so obey such laws, his permit may be revoked or suspended.
- (3) The application shall be sworn to by the owner. If a partnership, it shall be signed by a member of the firm. If a corporation, it shall be signed by the president and attested by the secretary and the corporate seal affixed, if the corporation has a corporate seal. In all

cases, the person signing shall execute an affidavit on the application form that the statements contained in such application are true and correct.

- (4) Every wrecker proposed to be used by the applicant in the city shall comply with the following minimum safety requirements:
- a. Be not less than three-quarters of a ton in size and be equipped with booster brakes;
 - b. Be equipped with a power winch line and boom with a factory-rated lifting capacity of not less than 5,000 pounds, single-line capacity; and
 - c. Each wrecker shall carry as standard equipment, including a tow bar, safety chains, fire extinguisher, wrecker bar, broom, axe, shovel, flags, flares, dolly, winch, line, tow bar, blinker lights, emergency light, working light, wheel shocks, hydraulic jack, tire tools and equipment reasonably necessary to conduct wrecker service.
- (5) No delinquent taxes of any type shall be due to the city upon any property of applicant or any wrecker for which a permit is sought, and the applicant shall not have failed to render any property located within the city for ad valorem taxation.
- (6) Each application for a safety and insurance compliance certificate for a wrecker shall state that such wrecker has been inspected and approved under the direction of the Texas Department of Public Safety, and a current inspection sticker shall be affixed securely to the inside of the windshield of the wrecker.
- (7) A wrecker business may only operate one business on the Police Departments wrecker rotation list.

Sec. 118.05 -Permit Fee

The annual fee for a wrecker business permit required by this chapter shall be seventy-five dollars (\$75.00) for each auto wrecker, plus a fifteen dollar (\$15.00) processing fee. Such fee shall be paid at the time the permit application is submitted. The fee shall not be refunded whether or not a permit is issued.

Sec. 118.06 -Permit Renewals

All wrecker business permits issued under this chapter shall expire on the fifteenth day of April of each year, and if then renewed shall expire on the next succeeding fifteenth day of April.

Sec. 118.07-Permit Display

After the true owner has filed an application for a wrecker business permit, paid the permit fee, and filed the insurance policy required by this chapter, and the chief of police has examined same and found them to be in compliance with the terms of this chapter, the chief of police shall issue to the owner a permit to operate a wrecker business in the city, which permit shall bear upon its face a notice that the same expires on the succeeding April 15. Each permit shall be dated and numbered and shall show on its face the make, model, vehicle

identification number and state license number of each auto wrecker permitted to operate. Such permit shall be affixed and clearly visible to each wrecker. The chief of police is authorized to prescribe regulations for the displaying of signs on auto wreckers showing that a permit for same has been issued as provided in this article.

Sec. 118.08 -Additional Wreckers Require Application.

- 1) Where an owner has obtained a wrecker business permit and thereafter desires to increase the number of auto wreckers to be operated, the owner shall file an additional application setting forth the permit number and the fact that the owner desires to operate additional wreckers, giving the make, model, vehicle identification number and state license number of each additional auto wrecker. The owner shall also file the proper permit fee to cover the additional number of auto wreckers wanted.
- 2) The owner shall also file a new insurance policy covering the new auto wreckers with the chief of police.
- 3) The chief of police shall examine such additional auto wrecker application fee, and policy and if the same are in order, the chief of police shall issue a supplemental permit covering each new auto wrecker, at an additional fee as prescribed in this chapter.

Sec. 118.09 –Substitute Wreckers.

Whenever an owner wishes to discontinue the use of an auto wrecker during the period covered by his permit and replaced it with another, the owner shall file an affidavit stating that the owner has discontinued using the auto wrecker covered by the permit and desires to use another auto wrecker in its place. The owner shall also attach an insurance certificate demonstrating that insurer has been notified thereof and agrees thereto. The chief of police shall then issue the owner an additional permit covering the new auto wrecker and cause the description of the old auto wrecker to be cancelled from the original permit. In the affidavit, insurance certificate, and additional permit, the old and the new auto wreckers shall be described by make, model, vehicle identification number and state license number. A new fee will be required on the new application and the old fee forfeited.

Sec. 118.10-Insurance Requirements.

- 1) Before any permit shall be issued under this chapter to a wrecker business owner or before any renewal of such permit shall be granted, such owner shall procure and keep in full force and effect a policy or policies of public liability and property damage insurance issued by a causality insurance company authorized to do business in the State of Texas and in the standard form approved by the board of insurance commissioners of the State of Texas, with the insured provision of said policy or policies including the city as an insured, and the coverage provision insuring the public from any loss or damage that may arise to any person or property by reason of the operation of a wrecker of such owner and providing that the amount of recovery on each wrecker shall be in limits of not less than the following sums:

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- a. For damages arising out of bodily injury to or death of one person in any one accident: \$250,000.00
 - b. For damages arising out of bodily injury to or death of two (2) or more persons in any one accident: \$500,000.00
 - c. For injury to or destruction of property in any one accident: \$100,000.00
- 2) The chief of police may suspend, cancel or revoke any auto wrecker permit issued under this chapter without further notice to the owner if satisfactory evidence or proof of financial responsibility is not in full force and effect at all times.

Sec. 118.11 -Indemnification Requirement.

Every applicant to obtain a wrecker business permit shall sign an agreement which shall be attached to the application wherein the applicant agrees to indemnify and hold harmless the city, its officers, agents and employees from any and all claims, demands, actions and causes of actions arising from the granting of a permit to operate a wrecker business or to operate a wrecker, and from the operation of the wrecker business or any wrecker.

Sec. 118.12 -Driving wreckers to scene of collision prohibited; exceptions.

No person shall drive or cause to be driven a wrecker to or near the scene of an accident or collision on a street in this city unless such person has been called to the scene by an owner or operator of a vehicle involved in such accident or collision, a party involved in the collision, or by the Police Department or Fire Department of the city unless it is necessary to prevent death or bodily injury to any person involved in an accident or collision.

Sec. 118.13 -Removal of Vehicle from Scene of Accident or Collision.

- (a) No wrecker shall remove any wrecked or disabled vehicle from the place where the accident has occurred or attach his wrecker to the wrecked or disabled vehicle until the police officer of the city investigating the accident has completed his investigation.
- (b) The fact that no police officer of the city is present at the scene of the accident when an emergency auto wrecker or an auto wrecker, which has been summoned to the scene by the vehicle owner, arrives shall not constitute an exception to this section, and it shall be the duty of any owner or driver of a wrecker desiring to tow or haul any wrecked or disabled vehicle from the scene of the accident to cause the police department of the city to be notified of the occurrence of the accident and to wait the arrival of a police officer of the city and the completion of his investigation.

Sec. 118.14 -Removal of Waste.

Any owner of a vehicle whose vehicle has been towed from a public way, street or property at the direction of the Police Department, where it was necessary for the department to incur expense for the cleanup of hazardous waste and/or material, the owner of said vehicle shall be responsible for payment of the cost associated with the cleanup.

Sec. 118.15 -Soliciting Wrecker Business Prohibited; Presence at Scene as Evidence of Violation.

No person shall solicit in any manner, directly or indirectly, on the streets of the city, the business of towing any vehicle which is wrecked or disabled on the public streets, regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading or purchasing such vehicle. The presence of a wrecker at or near the scene of a wreck, accident or collision, within one hour after the occurrence of a wreck, accident or collision without being summoned to the scene by an owner or operator of a vehicle involved in such accident or collision or by the Police Department or Fire Department shall be prima facie evidence of a solicitation in violation of this section.

Sec. 118.16- Communication from the Fire Department or Police Department radio frequency not to be intercepted

- (A) No owner of a wrecker company not permitted by the city shall intercept any messages emanating from the Police Department or Fire Department radio frequencies or divulge or publish the existence, contents, substance, purpose, effect or meaning of such intercepted communication.
- (B) The owner or operator of a wrecker shall not act upon any information received on the radio frequency of the Police Department or Fire Department for his or her own benefit or the benefit of any other person in connection with the operation of a wrecker business unless the owner or operator was called or summoned by the Police Department or Fire Department.

Sec. 118.17 -Wrecker Selection; Wrecker Rotation List

- (A) The Police Department shall maintain a list of wrecker companies on a wrecker rotation list for on call service. The Department shall maintain a rotation schedule indicating which wrecker company is next available for service at any time. The department will also keep and maintain a total (minimum) of (10) ten wrecker businesses on the Police Departments wrecker rotation list. The director may add more to the wrecker rotation list, as he/she deems necessary.
- (B) When a police officer investigating an accident, making an arrest, or otherwise performing duties as a police officer determines that any vehicle on a public street is

unable to proceed safely under its own power or determines that the operator thereof is unable to operate such vehicle, such officer shall request the operator for the name of the wrecker company the operator desires to remove the vehicle. When the operator has named the wrecker company desired, the police officer shall communicate that fact immediately to the Police Department headquarters, and it shall be the duty of the person receiving such information at headquarters to call the designated company or authorized agent of such company to send a wrecker to the scene of the vehicle

- (C) In the event the owner of a vehicle involved is not available or the operator of such vehicle is unable to name the wrecker company desired or refuses to name one, the investigating officer shall communicate this fact immediately to Police Department headquarters so that a wrecker can be selected from the wrecker rotation list.
- (D) Upon receiving a communication advising the Police Department of the need for a wrecker from the wrecker rotation list, the Police Department headquarters shall call the wrecker company next on the rotation list to remove the vehicles involved. If there are no wreckers available at the wrecker service on call, or if the Police Department cannot immediately make contact with the wrecker service on call, the Police Department shall proceed through the wrecker rotation list until a wrecker is located that is available and ready to proceed immediately to the scene of the incident requiring a vehicle to be removed.

Sec. 118.18 -Application to Wrecker Rotation List.

Any owner desiring to be on the wrecker rotation list shall make application to the chief of police for a rotation list permit. Such application shall be submitted upon forms to be furnished by the chief of police and the applicant shall furnish the following proof and information with his application:

- (1) That the owner making application for an emergency auto wrecker permit shall be a citizen of the United States, more than twenty-one (21) years of age, and able to read and write the English language.
- (2) An agreement that the applicant will participate in the wrecker rotation list on a form provided by the Police Department.
- (3) The name and address of the vehicle owner, and if the wrecker is to be operated under the name of some other company than the name of the owner, the name of the company. Accompanying the application shall be a signed copy of the agreement and contract between the vehicle owner and the company in whose name the wrecker is to operate. The wrecker rotation list permit shall be issued and no transfer from one company to another company by the vehicle owner shall be permitted until the chief of police has been notified in writing and a signed copy of the new contract and agreement has been submitted to him for approval. If an individual, the application shall so state. If a partnership, the partnership name and address shall be given together with the names and addresses of all partners. If a corporation, the corporate name and office address shall be given, together with the names and addresses of the president and secretary. All of the provisions and requirements applicable to persons in this article shall apply to and be required of each partner and of each of the three (3) principal officers and the failure of any

of them to meet such requirements shall be grounds to deny the application of the corporation or partnership. All changes of such officers or partners shall be reported to the chief of police within ten (10) days after the change and said new officers or partners shall individually file applications certifying to their individual qualifications within such time and the failure to certify within said time or to possess the said qualifications required of such persons under this article, shall be cause for the suspension of all permits held by said corporation, or partnership.

- (4) The number of vehicles an emergency wrecker permit owner desires to operate and have licensed, and the make, model, vehicle identification number and correct state license number of each vehicle to be licensed.
- (5) Each person making application shall submit three (3) passport-size photographs of themselves to the chief of police and submit themselves to be fingerprinted.

The wrecker rotation list sticker must be affixed securely to the upper left-hand corner of the windshield of the inspected wrecker. Before issuance of a wrecker rotation list permit and inspection sticker, the following requirements must be met:

- (a) An applicant shall submit each wrecker which will be used in the service for inspection in a manner determined by the chief of police, and each wrecker must comply with the following minimum requirements:
 - (1) Each wrecker shall be not less than one ton in size and be equipped with booster brakes.
 - (2) Each wrecker shall be equipped with a power-operated winch, winch line and boom, with a factory-rated lifting capacity of not less than six thousand (5,000) pounds, single-line capacity.
 - (3) Each wrecker shall carry, as standard equipment, a tow bar, debris box, safety chains, a fire extinguisher, wrecker bar, broom, shovel and flares.
 - (4) Each wrecker and all of its equipment shall be in safe and good working condition.
 - (5) Each emergency wrecker shall have a towing dolly available.
- (b) Each licensee shall maintain twenty-four-hour wrecker service and shall maintain a twenty-four-hour telephone answering service.

Wrecker companies that want to be placed on the wrecker rotation list shall provide the following information and documents and comply with the following requirements:

- (1) Have been issued a safety and insurance compliance certificate by the city;
- (2) Have applied to be on the wrecker rotation list;
- (3) Have a minimum of one wrecker with lawful drivers readily available located at site within the city limits to answer calls from the Police Department or Fire Department during such times that the wrecker service is on call for services;
- (4) Maintain a physical office building with a permanent address and a storage compound within the city and operated on a daily basis (Monday through Friday), with normal working hours from 8:00 a.m. to 5:00 p.m., with an employee physically present at

the business during such normal working hours. The office building shall be served by a telephone with a number provided to the Police Department for calls during normal working hours. If the office is not manned 24 hours per day, seven days per week, the wrecker service shall also provide the Police Department with a telephone number for calls after normal working hours, weekends and holidays. An answering service or answering device shall not be used;

- (5) The storage compound shall contain sufficient space for storage of at least 20 motor vehicles and be fenced with opaque fencing material with a minimum height of six feet. The site location, layout and equipment must be approved by the city's Planning and Zoning Department (conditional use permit);
- (6) The storage compound surface shall be constructed of caliche, asphalt or concrete;
- (7) No wrecker company shall substitute another wrecker company's wrecker in order to respond to a call for service;
- (8) No wrecker company shall share storage compounds.

Wrecker service companies on the wrecker rotation list should be able to respond to calls according to the following schedule:

- (a) During the normal workweek, Monday through Friday, 8:00 a.m. to 5:00 p.m.
 - 1. Within city limits, 20 minutes.
 - 2. Outside city limits, 30 minutes.
 - 3. Commercial (Heavy Duty), 50 minutes.
- (b) After normal working hours, on weekends or holidays:
 - 1. Within city limits, 25 minutes.
 - 2. Outside city limits, 35 minutes.
 - 3. Commercial (Heavy Duty), 60 minutes.

A wrecker service company failing to respond within five minutes of the above schedule shall have its call cancelled, and the next wrecker service company on the wrecker rotation list shall be called.

In the event the vehicle to be towed, moved or removed exceeds the capacity of the wreckers operated by the wrecker service company on the wrecker rotation list, or in the event of an emergency wherein life or property are threatened, or in circumstances where the situation requires immediate action to protect life or property, the Police Department may call any wrecker service with the capability to provide the service needed.

Operators of wreckers shall abide by any orders or instructions given by the Police Department or Fire Department dispatchers, police officers and firefighters in charge at the scene.

- (1) Each wrecker service company on the wrecker rotation list shall keep a record of all calls made in response to requests from the city, which records shall include the following

information:

- (a) Date and time of call;
- (b) Location of vehicle to be towed or removed;
- (c) Response time;
- (d) Vehicle owner or operator;
- (e) Description of vehicle;
- (f) Disposition of vehicle;
- (g) Charges involved;
- (h) Status of payment for charges;

(2) Such records shall be available for inspection by the city at any reasonable time.

The wrecker rotation schedule maintained by the Police Department shall list all wrecker services on the list in alphabetical order. Rotation shall be on a per-call basis.

In addition to the fine authorized, a wrecker service company that violates any of the provisions of this chapter shall be subject to removal from the wrecker rotation list

Separate fee for being on rotation list

- (a) The annual fee for wrecker rotation list permit is one hundred twenty-five dollars (\$125.00) for each wrecker permit. The annual fee is ten dollars (\$10.00) for each wrecker which is used in the wrecker rotation list. The fee is two dollars (\$2.00) for issuance of a duplicate license if a license is lost, destroyed, or mutilated.
- (b) Fees are payable to the Police Department upon issuance of the permit. No refund of fees will be made.

Sec. 118.19- Fee schedule

- (a) No towing fees may be charged other than those fees listed in this subsection.
- (b) The maximum fee that may be charge for towing under this article shall be:
 - (1) Two-Hundred dollars (\$200.00) for vehicles ten thousand (10,000) Pounds or less.
 - (2) Two-Hundred and fifty dollars (\$250.00) for vehicles between ten thousand one (10,001) and twenty-four thousand nine hundred ninety-nine (24,999) pounds.
 - (3) Six hundred dollars (\$600.00) for any vehicle or combination vehicle twenty-five thousand (25,000) pounds or more.

However, due to many weight sizes that this category may encompass for any multitude of challenging circumstances, it has been determined that the following wrecker service fees (4 c-t) shall be nonexclusive (no cap fees). However, the wrecker company shall provide a detailed and itemized cost (s) for the services

provided; a copy which must be submitted to the police department representative within twenty four hours of the said itemized invoice being completed.

- (4) One hundred fifty dollars (\$150.00) flat rate for vehicles towed to the police impound and Two hundred dollars (\$200.00) for vehicles towed from outside city to police impound.
- (c) Weight, for purposes of this section, shall be determined by the gross weight recorded on the vehicle registration.
- (d) Waiting time over 15 minutes at the scene of an accident (per quarter hour), \$9.50.
- (e) Disconnecting transmission, \$12.50.
- (f) Use of dollies or other specialized equipment, \$65.00.
- (g) Towing of trucks exceeding one ton:
 - (1) First hour of service (minimum charge), \$94.00.
 - (2) Additional time required to remove such vehicles (per working hour), \$94.00.
- (h) Towing vehicle from outside the city limits, \$18.70 plus per mile to and from location of vehicle, \$1.75.
- (i) Pickup and delivery of vehicle to city pound:
 - (1) Daytime delivery, \$45.00.
 - (2) Nighttime delivery, \$65.00.
- (j) The total fee charged will be made up of the towing fee (subsections (b) (1), (2), (3), or (4) specialized service fee (subsection (f)), waiting fee (subsection (d)) and storage or impoundment fees, if any (see subsection (1)). Pick Up and delivery fee (i) or ((o) Clean up fee) or ((p) Notification fee) or ((q) Impoundment fee).
- 1. If the owner or operator of a vehicle which is parked in violation of this Code or state law arrives before the vehicle is hooked up, the wrecker operator shall release the vehicle for free. If the owner or operator of a vehicle which is parked in violation of this Code or state law arrives after the vehicle is hooked up but before it is removed from the property, the wrecker operator shall advise them the vehicle will be release upon payment of the drop fee.

The wrecker operator will allow the vehicle owner or operator at least fifteen (15) minutes to get the funds for the drop fee. There is nothing requiring the wrecker operator to release a legally towed vehicle that is properly hooked up and has left the private property.
- 2. The maximum fee that may be charged for a drop fee under this chapter shall be one-half (1/2) of the full rate as set forth in subsection (b) above.
- (k) For payment of any fee under this section, a towing company or vehicle storage facility

shall accept payment by an electronic check, debit card, or credit card for any charge associated with delivery or storage of a vehicle. For payment of any fee under this section, a vehicle storage facility shall accept payment by an electronic check, debit card, or credit card for any charge associated with delivery or storage of a vehicle. Release of a vehicle may not be denied based on the inability of the facility to accept payment by electronic check, debit card, or credit card of any charge associated with delivery or storage of the vehicle unless the inability to accept such payment is due to factors outside the control of the vehicle storage facility, such as a power outage or machine malfunction. However, payment by credit or debit card may be refused if the named cardholder is not present.

- (l) The cost for the storage of a vehicle under 25 feet in length shall be no more than \$22.85 for the initial 24 hours, and \$22.85 for each day thereafter. For vehicles that exceed 25 feet, \$39.99 for initial 24 hours, and \$39.99 for each day thereafter.
- (m) In no way is subsection (b) above to be construed to mean that a towing company may not charge less than the fees stated in this section. These fees are the maximum that can be charged for any towing, or drop fee of a vehicle in accordance with this article.
- (n) Where any state law, rule or regulation requires a different rate for services rendered by a wrecker service or storage facility or any other type of business entity regulated under this chapter, then such state-regulated rate shall control.
- (o) Clean up fee, \$65.00.
- (p) Notification letter fee, \$50.00 (with proof of certified receipt)
- (q) Impoundment fee, \$20.00

Sec. 118.20- Safety requirements

All towing companies, tow truck drivers, vehicle storage facilities and property owners under this article shall comply with all applicable state laws, local ordinances and rules issued by the state department of licensing and regulation applicable to a tow truck, towing company, tow operator, or storage facilities.

Sec. 118.21 -Revocation of Wrecker Permit; Removal from wrecker rotation list

The Chief of Police may refuse to issue or renew a wrecker business permit for one or more of the following reasons:

- (1) The making of any false statement as to a material matter in an application for a permit or permit renewal.
- (2) Revocation of a license, pursuant to this article, of the applicant or any proprietor, partner or corporation officer of the applicant within eighteen (18) months preceding application.
- (3) Use by the licensee of a trade name for his wrecker business other than the one

registered with the chief of police.

- (4) Suspension of the wrecker business permit on three (3) occasions within twelve (12) months for more than three (3) days on each occasion.
- (5) Failure to meet the service standards in the rules and regulations established by the Police Department.
- (6) Licensee has been convicted of a crime involving theft, theft of an automobile or receiving and concealing stolen property, unless five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date.
- (7) Failure to maintain insurance requirements.
- (8) If it is found that rates being charged are unreasonable or in violation of this chapter or other law.

Sec.118.22 -Penalties

- a) Each violation of this chapter constitutes a separate offense.
 1. An offense committed under this article is punishable by a fine of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00). The minimum fine established in this subsection shall be doubled for the second conviction of the same offense within any two-year period. A third conviction within any two-year period will result in a fine of five hundred dollars (\$500.00). At no time shall the minimum fine exceed the maximum fine established in this subsection. Nothing in this section shall prohibit application of any fines authorized by state law to be assessed.
 2. Prosecution for an offense under this section does not prevent the use of other enforcement remedies or procedures applicable to the person charged with the conduct or involved in the offense.

Sec. 118.23 -Information and data to be kept and maintained two (2) years; records to be made available for inspection.

Each tow truck company shall maintain at the business office information and data on his towing company business and operations. The following specific requirements are hereby prescribed:

Accurate records, reports, receipts and other operating information and data as may be required by the director shall be kept and maintained in a business office located in the City of Edinburg for at least two (2) years after date, and all such documents shall be made available at a place readily accessible for examination and copying at all reasonable times by the department or a peace officer upon request.

Sec. 118.24- Vehicle storage facilities and towing company's duty to report after towing or accepting a lawfully repossessed or towed vehicle.

- (a) Whenever any vehicle is removed from private property without the consent of the vehicle owner or a lienholder, a control number must be requested from the department within forty-five (45) minutes of the vehicle leaving the property by reporting the following information to the department:
 - (1) A general description, including the year, make, model, and color;
 - (2) The state and number of the vehicle's license plate, if any;
 - (3) The vehicle identification number;
 - (4) The date and time of the tow as well as the location from which the vehicle would have been towed;
 - (5) The name of the company towing the vehicle;
 - (6) The name of the person or entity authorizing the tow and a valid contact phone number; and
 - (7) The name of the vehicle storage facility to which the vehicle has been or will be taken.
- (b) Whenever any person tows, carries, transports or otherwise takes a motor vehicle pursuant to a request by a lienholder incident to a lawful repossession, the person so taking the vehicle shall, within forty-five (45) minutes of taking possession, report to the department:
 - (1) A general description of the vehicle, including the year, make, model, and color;
 - (2) The state and number of the vehicle's license plate, if any;
 - (3) The vehicle identification number of the vehicle;
 - (4) The date and time of tow as well as the location from which the vehicle was towed;
 - (5) The name of the company towing the vehicle, the name and state department of licensing and regulation number issued to the driver of the tow truck driver doing the tow, and the name and location where the vehicle is being stored; and
 - (6) The name, title and phone number of the lienholder causing the vehicle to be repossessed.
- (c) The required report must be made by telephone, by facsimile, other electronic device, or delivered personally to the department.

Sec. 118.25 -Claimed vehicles.

- (a) When a storage facility acquires possession of a private property non-consent towed motor vehicle, the storage facility is entitled to:
 - (1) Towing charges, if applicable;
 - (2) Impound fees when authorized by state law;
 - (3) Storage fees as allowed by state law; and
 - (4) Notification charges.
- (b) A vehicle storage facility must notify owners or operators of vehicles:
 - (1) What methods of payments are accepted;
 - (2) The location from which the vehicle may be retrieved;
 - (3) The total amount of charges if the vehicle is picked up the same day as the call;
 - (4) Procedures for civil recourse as provided in V.T.C.A., Occupations Code §§ 2308.452 and 2308.455; and
 - (5) Procedures for filing complaints with the state department of licensing and regulation.
- (c) A towing company that removes or is in the process of removing a vehicle from a parking facility, upon request of the vehicle owner or operator, shall provide the owner or operator an explanation of the reason for removing the vehicle from the parking facility.

Sec. 118.26 -Disposition of property left in towed vehicles.

Upon request and during normal business hours, an individual demonstrating ownership or right to possession of a vehicle, a vehicle storage facility shall give that individual access to a vehicle in the facility and allow removal of any personal property left in the towed vehicle, unless otherwise indicated by a law enforcement officer. All such personal property must be surrendered to the property owner regardless of whether or not any or all fees associated with the towing or storage of the vehicle have been paid. "Personal property" for purposes of this section refers to property in the vehicle which is not permanently affixed to the vehicle. The vehicle storage facility must request a receipt from the person to whom the personal property is released for any such property removed from the stored vehicle. Nothing in this provision is intended to conflict with the provisions of 16 Tex. Admin. Code § 85.708.

Sec. 118.27. - Duty to remove debris.

It shall be the duty of each wrecker that removes a wrecked, damaged, or disabled vehicle from the place where an accident has occurred to clear and remove from the street any and all debris, parts, or glass accumulated as a result of the accident from the street. Each wrecker that is required to remove from the street any and all debris, parts, or glass accumulated as a result of accident from the street is

allotted 15 minutes for such clean up. A wrecker may charge a fee, as established in the city fee schedule in Chapter 118 for clean up if the debris, parts, or glass accumulated is to the extent that more than 30 minutes is required for such clean up.