Request for City Council
for the
City of Ingleside, Texas

Subject: Revised Wrecker Service Ordinance

Submitted By: Chief of Police Stan Bynum

Date Submitted To City Manager: 5-21-14

For The Agenda of: 6-10-14

Attachments: Revised City Code - Ch.78 Art. III Sect's. 178-210

Approved By City Manager:_____

Summary Statement: The city code regulating wrecker services for non-consent and emergency management tows initiated by police officers has not been update or revised since 1995. Since that time there have been numerous changes to state laws, administrative regulations, court decisions and police department policy effecting non-consent tow's. Updating this ordinance is necessary to acknowledge and comply with those changes and assure wrecker company service providers comply with the regulations as set out by the state, and thusly protect the city by adopting "Best Practices" in managing wrecker companies that serve as agents or service providers for incident management or non-consent towing of vehicles for the city. This updated ordinance has been implemented in similar form in other nearby cities.

Recommended Action: Adoption

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE INGLESIDE CITY CODE CHAPTER 74 ARTICLE III WRECKER SERVICE; BY REPEALING THE CURRENT SECTIONS 171 THROUGH 178 IN THEIR ENTIRETY, AND ADOPTING THE CURRENT SECTION'S 171 THROUGH 210, PROVIDING FOR AN OFFENSE, PROVIDING FOR THE OPTION OF A WRECKER ROTATION LIST, PROVIDING FOR AN APPLICATION FEE, PROVIDING FOR AN ANNUAL WRECKER ROTATION LIST FEE, PROVIDING FOR REVIEW BY THE CHIEF OF POLICE FOR COMPLIANCE WITH THIS SECTION, PROVIDING A REQUIREMENT FOR INSURANCE COVERAGE, PROVIDING FOR AN APPEAL PROCESS TO THE CITY MANAGER FOR SUSPENSION OR REVOCATION OF PERMIT, PROVIDING FOR THE INSPECTION OF VEHICLE STORAGE FACILITIES, PROVIDING FOR INSPECTION OF WRECKER AND THE REQUIRED EQUIPMENT OF PARTICIPATING WRECKERS, PROVIDING FOR MAXIMUM AUTO WRECKER SERVICE AND STORAGE FEE RATES, PROVIDING FOR A TOWING FEE STUDY IF REQUESTED, PROVIDING FOR AN ALLOWABLE ANNUAL RATE ADJUSTMENT TIED TO THE CONSUMER PRICE INDEX, AND PROVIDING FOR A SEVERANCE CLAUSE, AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

Whereas, the regulation of trade and commerce within a city is necessary to protect the public and assure that all persons conducting business within the city are treated fairly, impartially, and equably thereby promoting business and contributing to an improved quality of life for its residents, visitors and the business community;

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

SECTION ONE: THE PREVIOUS CHAPTER 74 ARTICLE III "WRECKER SERVICE" SEC'S. 171-178 IS HEREBY REPEALLED IN ITS ENTIRETY, AND THE FOLLOWING SEC'S. 171-210 ARE HEREBY ADOPTED:

ARTICLE III. AUTO WRECKERS

Sec. 74-171. Definitions.

Sec. 74-172 Offenses; Penalty.

Sec. 74-173. Approval / Permit required.

Sec. 74-174. Application, contents, fees.

Sec. 74-175. Application and certification.

Sec. 74-176. Notice of denial of application or renewal.

Sec. 74-177. Approval / Permit issuance; fees.

Sec. 74-178. Permit term

Sec. 74-179 Towing and impounding of vehicle; declaration of nuisance; causes for removal.

Sec. 74-180. Permits; identification on vehicle; drop fee sign.

Sec. 74-181. Substitution of vehicle; fees.

Sec. 74-182. Adding vehicles; fees.

Sec. 74-183. Insurance.

Sec. 74-184. Denial, suspension, probation and revocation of permit—Procedure, appeal.

Sec. 74-185. Same—Waiting period after revocation.

Sec. 74-186. Promulgation of regulations.

Sec. 74-187. Maintenance of place of business and equipment.

Sec. 74-188. One company per business location.

Sec. 74-189. Twenty-four-hour service.

Sec. 74-190. Vehicle storage facility; attendant at business address and storage area.

Sec. 74-191. Inspection of vehicle storage facility.

Sec. 74-192. Prerequisite to towing impounded or disabled vehicles.

Sec. 74-193. Transfer of disabled vehicles by wrecker not under permit.

Sec. 74-194. Dispatching in rotation.

Sec. 74-195. Soliciting wrecker business on city streets prohibited; presence at scene of collision as prima facie evidence of violation.

Sec. 74-196. Responding to calls.

Sec. 74-197. Removal of wreckage and debris, etc., at the scene of an accident.

Sec. 74-198. Notice of location of storage facility.

Sec. 74-199. Auto wrecker drivers.

Sec. 74-200. Reassembly of parts.

Sec. 74-201. Storing wreckers on public streets or rights-of-way prohibited.

Sec. 74-202. Dispatching of category A and category B wreckers.

Sec. 74-203. Officer at the scene.

Sec. 74-204. Emergency dispatches.

Sec. 74-205. Maximum auto wrecker service and storage fees.

Sec. 74-206. Notification to permit holders of pending changes to permit regulations.

Sec. 74-207. Cease and desist order.

Sec. 74-208. Logs required to be kept for non-consent tows.

Sec. 74-209. Towing fee study.

Sec. 74-210. Automatic rate adjustment tied to consumer price index

Attachment-A. Permit Application

Sec. 74-171. Definitions.

As used in this article, the following terms shall have the respective meanings ascribed to them:

Auto *wrecker:* Has the meaning assigned in Texas Occupations Code Sec.2308.002.(11)

Certificate of insurance: A certificate prescribed by and filed with the chief of police in which an insurance carrier or surety company, approved in this state, warrants that a towing company for whom the certificate is filed has the minimum coverage as required by Chapter 2308.103 of the Occupations Code.

Chief of police: The chief administrator of the police department of the City of Ingleside, Texas or his designated representative.

City: The City of Ingleside, Texas.

Closest wrecker: The owner of an auto wrecker permit which is located geographically closest to the scene of an emergency situation can be dispatched for an emergency disregarding the rotation list. This does not mean or include an auto wrecker which happens to be near the scene.

Consent tow: Has the meaning assigned by Section 2308.002.(3) of the Occupations Code.

Disabled vehicle: Any motor vehicle located on any public street, alley or sidewalk area which is incapable of being driven under its own power due to mechanical breakdown, collision, or for any other reason.

Driver's license: Has the meaning assigned by Section 521.001 of the Transportation Code.

Drop fee: The price to be charged in lieu of a towing fee where, after an auto wrecker has been dispatched to, or is at the scene of a tow, and has started to physically attach or connect the vehicle to the auto wrecker, and the vehicle has not been towed from the scene when the vehicle owner requests its release.

Emergency situation: A serious vehicle accident or any situation in which the rapid arrival of an auto wrecker would considerably reduce the risk to life or substantial property damage or in which extreme blockage of a major thoroughfare is involved.

Impounded vehicle: Any vehicle which police officers are authorized to impound or remove under the provisions of any ordinance of the city, any law of the State of Texas, or any contract or agreement with any law enforcement agency.

Incident: An unplanned randomly occurring event that adversely affects normal operations of the city or traffic flow.

Incident management tow: Has the meaning assigned by Section 2308.002.(5-a)(6) of the Occupations Code.

Non-consent tow: Has the meaning assigned by Section 2308.002.(6) of the Occupations Code.

Normal tow: All measures necessary to transport a disabled vehicle including but not limited to: double hook-up, multiple tow (vehicle and small trailer), cleaning of an accident scene; it **does not** include: up-righting vehicles, recovery operations, multiple hook ups, winching, changing tire(s), use of dolly(ies), on-scene delays caused by factors other than the wrecker driver, or need of a second wrecker to tow or assist the first wrecker on a single disabled vehicle, all of which have additional fees.

Owner: The person, corporation, or partnership which has an auto wrecker permit and owns any auto wrecker which is permitted by article III. Owner includes all owner's employees and agents and shall be plural if the context so requires.

Parking facility: Has the meaning assigned by Section 2308.002.(7) of the Occupations Code.

Parking facility authorized agent: Has the meaning assigned by Section 2308.002.(7-a) of the Occupations Code.

Parking facility owner: Has the meaning assigned by Section 2308.002.(8) of the Occupations Code.

Private property impound: A non-consent tow from private property.

Private property tow: Has the meaning assigned by Section 2308.002.(6) of the Occupations Code.

Public roadway: Has the meaning assigned by Section 2308.002.(10) of the Occupations Code.

Rotation list: The list that may be set up as provided for by section 74-194 which determines the order in which auto wreckers are sent to tow a vehicle for the police department.

Rollback wrecker: A tow truck equipped with a moveable bed, which is adapted for winching a vehicle onto the bed for the purpose of recovering and transporting that vehicle.

Rotation wrecker: An auto wrecker company permitted to conduct police-initiated rotation or incident management tow and impound towing within the territorial limits of the city.

Scene: The location of a disabled or impounded vehicle.

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

Vehicle: Has the meaning assigned by Section 2308.002.(14) of the Occupations Code.

Vehicle owner: Has the meaning assigned by Section 2308.002.(15) of the Occupations Code.

Vehicle storage facility: Has the meaning assigned by Section 2308.002.(16) of the Occupations Code.

Wrecker Company: Means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one (1) or more tow trucks over a public roadway for compensation within the territorial limits of the city.

(Code 1979, ch. 74 §171-178)

Sec. 74-172. Offenses; penalty.

Unless otherwise stated, a culpable mental state is not a required element of an offense under this article. Each day a violation continues shall constitute a separate offense.

(a) A person commits an offense if the person, without consent of the vehicle owner, operator, or authorized representative of the owner tows or causes the towing of a vehicle from private property, other than an abandoned, junked, illegally parked, trespassing, repossessed, or unauthorized vehicle.

(b) A person commits an offense if the person tows or causes the towing of a vehicle from any public street, right-of-way, beach, or public property without the consent of the vehicle owner or operator, or at the direction of a sworn peace officer acting in his official capacity.

(c) A person commits an offense if the person tows or causes the towing of a vehicle as an unauthorized vehicle, in accordance with the Texas Occupations Code, from a parking facility that does not have a properly posted sign, or that the vehicle owner has not received proper notice, or that the vehicle was not left in violation of section 2308.254 of the Occupations Code, or that the vehicle was in or obstructing a paved driveway or abutting public roadway used for entering or exiting the facility.

(d) A person commits an offense if the person violates any section of this article, any rules or regulations promulgated by the chief of police, the Texas Department of Licensing and Regulation, or Chapter 2308 of the Occupations Code.

(e) A person commits an offense if the person charges or collects a fee that is not authorized or is greater than the amount authorized by this article.

(f) A person commits an offense if the person allows an unapproved driver to operate an auto wrecker.

(g) A person commits an offense if the person submits a falsified application, affidavit, business records, certification, training, drug or alcohol testing results.

(h) A person commits an offense if the person uses any illegal drug at any time, or; consumes any alcoholic beverage or any prescribed mind altering controlled substance during any six (6) hour period from being on duty, or on-call to operate an auto wrecker, or uses alcohol or any controlled substance while on-call, on duty, or while operating an auto wrecker.

(i) A person commits an offense if the person operates an auto wrecker from the rotation list without authorization or a valid permit issued by the chief of police.

(j) A person commits an offense if the person works or allows another person to work at a vehicle storage facility without a license issued by the Texas Department of Licensing and Regulation.

Sec. 74-173. Approval or Permit required.

An auto wrecker company or an auto wrecker operator shall not operate or cause an auto wrecker to be operated from the police department rotation list for non-consent tows within the territorial limits of the

city unless the auto wrecker is approved in accordance to section 74-180. A separate approval/permit is required for each auto wrecker in excess of three as provided in section 74-177(c).

(Code 1979, ch. 74 §172)

Sec. 74-174. Rotation list application, contents, fees.

(a) *[General.]* Any person, firm, corporation, or partnership desiring to operate one (1) or more auto wreckers for compensation on the city auto wrecker rotation list for either initial or renewal approval by the chief of police must provide documentation as follows.

(b) *Original application for approval.* An applicant shall submit:

(1) A written formal request with the name, address, and current phone number of all owners.

a. If the owner of the auto wrecker is a partnership, the application shall contain the partnership's name, address, and phone numbers and the names, addresses, and phone numbers of all partners.

b. If the applicant is a corporation, the application shall state the corporate name, the office address, and phone number of the corporation, together with the names, addresses, and phone numbers of the president and secretary of the corporation.

c. And, signed acknowledgement that the owner(s) understands that placement on the City of Ingleside Police Dept. auto wrecker rotation list is on an at-will and conveyance of the police department basis, and, that the city is not legally bound, required or obligated to have a wrecker rotation list, and may contract with a single service provider or multiple providers for wrecker services *(Stuckey vs. City of San Antonio, US 5th Circuit Court of Appeals 2003),* and the owner(s) further acknowledges their services on the rotation list can be terminated at any time with or without cause, and without recourse except as outlined herein. And, that the owner will comply with all the provisions of this article and of all other ordinances, statutes and state laws applicable to motor vehicles, auto wrecker operation and storage businesses. Further, the owner ensures that all owner's drivers, agents and/or employees will comply with said laws.

(2) A list of each wrecker the owner wants to permit and attach a copy of the Texas License Receipt and the Texas Tow Truck Registration for each wrecker. Any approval or permit issued by the chief of police is only valid to the person and for the wrecker applied. A person who succeeds to the ownership or operation of a wrecker service, and is not identified on a current wrecker service application, must submit a new application to the chief of police.

(3) A list of each wrecker the owner wants to permit, the certification (category A or category B auto wrecker, see section 74-205), and attach a copy of the Texas License Receipt and the Texas Tow Truck Registration for each auto wrecker. The wrecker company must have at least one (1) properly operating type A wreckers and one (1) properly operating type B wrecker that are fully equipped, in accordance to section 74-175, for each category wrecker company is applying for a permit. All auto wreckers must be available for twenty-four (24) hours a day service when dispatched or assigned a call for service regardless of the assigned rotation schedule published by the chief of police each month.

(4) Proof of ownership of all auto wreckers listed on the auto wrecker rotation list permit application.

(5) A current certificate from the county tax assessor-collector to prove that taxes on all property, real and personal, to be used in connection with the owner's auto wrecker business are paid.

(6) The wrecker owner shall provide a copy of a deed to, or lease for the proposed location for the auto wrecker business and storage facility and written verification of the zoning of the proposed location from the effected city planning department.

(7) A copy of owner's Texas Sales Tax and Use Permit.

(8) A copy of owner's certificate of occupancy at the business location.

(9) A copy of the owner's current Texas Vehicle Storage Facility License issued by the Texas Department of Licensing and Regulation.

(10) A copy of owner's certificate of insurance in the amounts required by Chapter 2308 of the Occupations Code.

(11) A list of all owners, auto wrecker drivers, including each driver's name, date of birth, drivers license number and state of license. All owners and drivers must successfully pass a criminal background check, drug screen for the use of illegal substances and attend annual training.

(12) A sworn affidavit indicating whether the owner(s) and wrecker company have ever been disciplined by any agency that regulates auto wrecker business including the Texas Department of Licensing and Regulation or any official of a law enforcement agency. The affidavit should state the disciplinary agency, nature of the complaint or violation, date, location, and the penalty imposed. Owner and wrecker company are required to notify the Ingleside chief of police, in writing and within five (5) days from the date in which they receive notice of any disciplinary actions taken against the owner or wrecker company during the approval/permit term.

(13) The owner shall file an affidavit of ownership and provide business records, if requested by the chief of police, to demonstrate that the wrecker company has been established for at least two (2) years, and a sworn statement of whether the owner or wrecker company has received disciplinary actions against it by any agency that regulates the auto wrecker business within their jurisdiction. The chief of police may deny a rotation list permit to a company that has received disciplinary actions, or to a company that does not meet the two (2) years' business requirement.

(14) A detailed price list of all fee's, costs and/or charges applicable to non-consent or incident management tows as charged by the auto wrecker company.

(c) *Renewal application.* To renew and maintain continuous approval, the renewal requirements under this section must be completed prior to the expiration of the permit. A late renewal means the permit holder will have an unpermitted period from the expiration date of the expired permit to the issuance date of the renewed permit. During the unpermitted period, a tow truck may not be used, caused to be used or operated for towing from the rotation list within the limits of the city. An applicant shall submit a renewal request/application that contains *any changes* of the name, address, and current telephone number of all owners, or changes to any of the requirements of (b) (1-14) above:

(d) *Fee for original or renewal application.* The application for an auto wrecker rotation list permit or renewal application shall be accompanied by a non-refundable application fee of Fifty ($50.00). If the application or renewal is approved, the owner shall pay the permit fee(s) as provided in section 74-177. No more than one permit shall be issued to any auto wrecker company or owner of multiple auto wrecker companies. This section does not impede the city's right to issue a permit to any other towing companies, or limiting the number of permits issued, having a sole provider, or in-sourcing the service.

(e) *Inspection.* Upon receipt of the application documents, a police department representative will inspect the applicant's auto wreckers, required equipment and storage facility in accordance with the provisions of sections 74-175 and 74-191.

(*Code 1979, ch. 74 §172*)

Sec. 74-175. Application and certification.

(a) The chief of police or his designated representative shall review each auto wrecker rotation list permit application for compliance with this article, and shall inspect and certify each auto wrecker, business location, required equipment and storage facility to insure the auto wrecker meets the requirements of a rotation list category A or category B auto wrecker, and the business location and storage facility are acceptable and properly zoned.

(b) Category A; a category "A" auto wrecker shall meet the following minimum requirements:

(1) Be not less than one (1) ton (minimum ten thousand (10,000) pounds gross vehicle weight) in capacity, as reflected on the manufacturer's certificate. If the unit does not have a manufacturer's certificate, then the gross vehicle weight shall be determined by a testing procedure approved by the chief of police.

(2) Be equipped with a power winch, winch line, and boom, with a factory-rated lifting capacity of not less than eight thousand (8,000) pounds, single-line capacity. If a hydraulic wheel lift is installed, it must have a factory-rated capacity of not less than four thousand (4,000) pounds. If the unit does not have an established factory-rated lifting capacity, then such capacity shall be determined by a testing procedure approved by the chief of police.

(c) Category B; a category "B" auto wrecker shall meet the following minimum requirements:

(1) Be over twenty-five thousand (25,000) pounds gross vehicle weight in capacity, as reflected on the manufacture's certificate. If the unit does not have a manufacture's certificate, then the gross weight shall be determined by a testing procedure approved by the chief of police.

(2) Be equipped with a power operated winch, winch line, and boom with a factory-rated lifting capacity of not less than thirty-five thousand (35,000) pounds, single or double line capacity. If the unit does not have a factory-rated capacity, then said capacity shall be determined by a testing procedure approved by the chief of police.

(d) Each auto wrecker and the equipment thereon shall be in good mechanical condition and shall comply with all applicable city ordinances and state laws. Each auto wrecker shall have brakes that meet braking performance requirements under all loading conditions.

(e) Each auto wrecker at all times shall carry the following as standard equipment, except as otherwise noted in good working order:

(1) A tow sling or hydraulic lift which is sufficient to prevent the swinging of any equipment being transported.

(2) Steel safety chains of a three-eights-inch link for category A auto wreckers and of one-half-inch link for category B auto wreckers.

(3) One (1) ten-pound B-C (or two (2) five-pound B-C) fire extinguisher properly filled and located readily accessible for use.

(4) One (1) crowbar or wrecking bar of not less than thirty-six (36) inches in length with a wedge head.

(5) One (1) broom of a type designed for pushing with an eighteen (18) inch head and a handle of not less than thirty-six (36) inches.

(6) One (1) flat-edged shovel of at least nine (9) inches with a handle of not less than thirty-six (36) inches.

(7) Three (3) portable red emergency reflectors.

(8) Towing dollies in working condition, category A rollback wreckers and category B wreckers are exempted.

(9) A box or bucket to carry glass and debris cleaned from streets when picking up a wrecked vehicle.

(10) Rope, straps or wire suitable for securing doors, hoods, trunks, etc.

(11) A spotlight or flashlight.

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

(13) One (1) set of operating tow lights (for towed vehicle).

(14) Wheel chocks: minimum two (2) each.

(15) A reflective, brightly colored safety vest, shirt, or jacket must be worn by the auto wrecker operator and employee at all times while working outside the auto wrecker; the reflective vest, shirt or jacket must meet the ANSI/ISEA requirements for high visibility safety apparel.

(16) Auto wrecker operator and employee shall wear gloves, long pants, hard toe or steel toe shoes, and shirts long enough to remain inside the trouser belt line and keep the operator or employee's skin covered. All operators and employees shall maintain a neat appearance while on duty.

(f) Each auto wrecker must be labeled in accordance with Chapter 86 of the Texas Department of Licensing and Regulation Administrative Rules.

(g) Each auto wrecker or operator shall be equipped with a radio receiver set or mobile telephone device capable of clearly receiving transmissions by the owner's dispatcher.

(h) All auto wreckers shall have flashing or rotating overhead warning lights that are in good working order, with lenses free of oxidation, that rotate and are clearly visible during daylight hours, and in compliance with the applicable provisions of the Texas Transportation Code.

(i) If an auto wrecker is transporting a vehicle which does not have functioning lights, the auto wrecker driver must supply the towed vehicle with functioning lights. These lights must provide safe lighting of the towed vehicle. These lights, including turn signals, brake, and clearance lights, must be actuated by the auto wrecker.

(j) The owner and driver of each auto wrecker shall comply with all regulations governing auto wreckers contained in this article or any applicable ordinances of the City of Ingleside, all regulations of State of Texas Sec. 2308 of the Occupations Code and all rules and regulations of the Texas Dept. of Licensing and Regulation as promulgated.

(k) All auto wreckers including rollback wreckers must have the capability to, and actually put the impounded vehicle on the ground for any peace officers search, inspection or inventory if requested by the peace officer. An officer shall not be required to climb onto any auto wrecker to inspect, search or inventory an impounded vehicle. After an officers search, inspection or inventory, the auto wrecker driver may proceed with impounding the vehicle at the direction of the peace officer.

(l) All auto wreckers must keep a current certificate of registration for tow truck service issued by the Texas Department of Licensing and Regulation, vehicle tag, motor vehicle inspection sticker, tow truck license displayed, and liability insurance certificate in the cab at all times. Said certificate of registration and insurance or a true and correct copy, or a true and correct electronic copy thereof must be provided by owner or any tow truck operator to the chief of police at any time upon request. The chief of police or his designee may inspect tow trucks at any time.

(Code 1979, ch. 74 §173)

Sec. 74-176. Notice of denial of application or renewal.

The chief of police or his designee shall give owner written notice by either US Mail or **electronic mail** (email) of the denial of any application or renewal and the owner has the right to appeal the chief of police's decision in accordance to section 74-184.

Sec. 74-177. Approval / Permit issuance; fees.

The chief of police may issue an auto wrecker rotation list permit to an owner whose application complies with all requirements of Sec. 74-174 of this article and upon owner's payment of:

(a) An auto wrecker rotation list permit fee: one hundred twenty dollars ($120.00).

(b) The fifty dollar ($50.00) application fee above in Sec. 74-174 (14)(d) may not be applied to the auto wrecker rotation list permit fee.

(c) The one hundred twenty ($120.00) rotation list permit fee allows for up to three (3) wreckers permitted to the owner. Each auto wrecker in excess of three (3) requires an additional $120.00 fee per wrecker.

Sec. 74-178. Permit term.

(a) Each auto wrecker rotation list permit shall be issued for one (1) year from January 1 through December 31.

(b) If any auto wrecker rotation list permit is issued for less than one (1) year, the permit fee shall be prorated based on the number of months remaining until December 31.

(c) Renewal fees will be paid in the same manner as set out above.

(d) There will be no refund of permit fees.

Sec. 74-179. Towing and impounding of vehicle; declaration of nuisance; causes for removal.

(a) Any unoccupied vehicle of any kind or description found in violation of any provision of this Code is hereby declared to be a nuisance and a menace to the safe and proper regulation of traffic, and such vehicle shall be taken in charge by any police officer and removed from the street as

provided in this section, and kept in custody under the directions of the chief of police. Such vehicle may be recovered by the owner when the owner has furnished evidence of identity and ownership and has signed a receipt and paid all fees to cover the costs of removal, storage and redemption.

(b) Any police officer is hereby authorized to cause the removal of any vehicle from a street or highway to the nearest place of safety, to a garage designated or maintained by the governmental agency for which the officer is a member, or to a licensed vehicle storage facility, under the circumstances enumerated in this subsection, as follows:

(1) When any vehicle is illegally parked so as to block the entrance to any private driveway and it is impracticable to move such vehicle from in front of the driveway to another point on the highway.

(2) When any vehicle is found upon a highway and report has previously been made that such vehicle has been stolen or complaint has been filed or a warrant thereon issued charging that such vehicle has been stolen.

(3) When any such officer has reasonable grounds to believe that any vehicle has been abandoned.

(4) When a vehicle upon a street or highway is so disabled that its normal operation is impossible or impractical and the person in charge of the vehicle is incapacitated by reason of physical injury or other reason to such extent as to be unable to provide for its removal or custody, or is not in the immediate vicinity of the disabled vehicle.

(5) When an officer arrests any person driving or in control of a vehicle for any alleged offense and such officer is by law required to take the person arrested immediately before a magistrate.

(6) When, in the opinion of the police officer, a vehicle constitutes a hazard, or interferes with a normal function of a governmental agency, or by reason of any catastrophe, emergency or unusual circumstance the safety of such vehicle or the public is imperiled.

(Code 1979, ch. 74 §177)

Sec. 74-180. Rotation List Approval Permits; identification on vehicle;

(a) An approval/permit to be placed on the wrecker rotation list by the chief of police shall be affixed so that the permit is clearly visible. All identifications and permit numbers shall be securely affixed.

(b) The chief of police may issue annual permit decals for each permitted wrecker. The decals shall be affixed to the windshield of the permitted wrecker.

Sec. 74-181. Substitution of vehicle; fees.

An owner may substitute an unpermitted auto wrecker for one which has been permitted upon providing written notice of intent to substitute. The notice shall contain all information required by section 74-174, and the owner shall pay a twenty dollar ($20.00) inspection fee for each substitute auto wrecker. If the substitute auto wrecker complies with the requirements of section 74-174, the owner's permit shall be amended to add the substitute auto wrecker and delete the previous auto wrecker.

Sec. 74-182. Adding vehicles; fees.

Owner may add one (1) or more additional auto wreckers in excess of three, to the permit by filing a supplemental application containing all information required by section 74-173. If the additional auto wrecker complies with the requirements of sections 74-174 and 74-175, owner's permit shall be amended to add the additional auto wrecker(s). The fee for adding auto wreckers to a permit shall be one hundred twenty dollars ($120.00) prorated based on the number of months remaining until December 31, of the current year, provided the minimum fee for adding an additional auto wrecker shall be fifty dollars ($50.00).

Sec. 74-183. Insurance.

(a) Owner shall maintain liability insurance for each auto wrecker to meet the requirements of Chapter 2308.103 & 2308.104 of the Occupations Code and any other federal and state laws. In addition, owner shall maintain workers' compensation or occupational safety insurance for their employees in the amounts and types required by law. All such policies, except workers' compensation or occupational safety insurance, shall be primary to any other insurance. At the time of initial registration, and upon renewal, a certificate of insurance must be filed with the chief of police. The certificate must certify the type and amount of insurance coverage. Owner shall provide immediate notice to the chief of police prior to any cancellation or material changes in the policy.

(b) Unless state law permits an auto wrecker to be self-insured, any insurance required for an auto wrecker must be obtained from an insurer authorized to do business in this state; and fulfill the statutory minimums of coverage pursuant to the Texas Insurance and Transportation Codes. Insurance covering permitted auto wrecker must be kept in full force and effect at all times. The certificate of insurance must contain a provision obligating the insurer to give the chief of police notice in accordance with the policy provisions before the effective date of a policy cancellation date.

(c) All auto wrecker drivers shall be named or listed on owner's liability insurance policy.

(d) A permit issued under this article shall automatically be suspended upon the cancellation or expiration of the insurance policy and will not be reinstated until owner or wrecker company provides satisfactory proof of insurance certificate to the chief of police verifying that all required coverage's are met.

(e) The policies shall contain a clause naming the city as an additional insured. The chief of police shall have authority to increase the insurance minimum requirement amounts upon thirty (30) days' written notice to all owners or wrecker companies.

(f) An original copy of the renewal certificate of insurance shall be provided to the chief of police at least fifteen (15) days before the ending date of any insurance in effect for each owner. Failure to comply

will result in the wrecker company being deleted automatically from the rotation list until the next monthly rotation list is published following the receipt of said renewal certificate.

(g) Owner shall keep evidence of insurance in a form approved by the chief of police in the cab of each permitted auto wrecker.

(h) By application and acceptance for placement on the city wrecker rotation list, the requesting wrecker company agrees to fully indemnify and hold the city harmless from all claims, actions, and lawsuits for personal injury, thefts or property damage arising in connection with services provided by wrecker company. Owner and wrecker company are solely responsible for all vehicles towed by auto wrecker and for all properties inside or attached to vehicles. Acknowledgement of this section is perfected by the completed application process as provided for in section 74-174.

(Code 1979 ch 74 §174)

Sec. 74-184. Denial, suspension, probation and revocation of permit—Procedure, appeal.

(a) The chief of police may deny an application, suspend, or revoke a permit for no reason, or for any of the following:

(1) Lack of necessity. Additional service providers are not needed at the present time;

(2) A criminal conviction, or has pleaded guilty or nolo contendere to an offense, for a felony or a misdemeanor punishable by confinement in jail or by a fine in an amount that exceeds five hundred dollars ($500.00) or any degree of theft;

(3) Violated any provisions of Chapter 2308 of the Texas Occupations Code, rules or regulations promulgated by the Texas Department of Licensing and Regulation, any provisions of the city ordinance, or rules or regulations promulgated by the chief of police including an order for sanctions or administrative penalties;

(3) Knowingly submitted false or incomplete information on the application, or the applicant failed in any material way to comply with this article; or

(4) The applicant or owner has had a permit revoked under this chapter.

(b) Notwithstanding any penal provisions contained in this Code, the chief of police shall be authorized to deny, revoke, suspend, or place on probation any auto wrecker rotation list permit for a violation of the state law, city ordinance or any other rules or regulations governing the operation of an auto wrecker, if committed by an auto wrecker owner, his agents or employees. Such denial, suspension, revocation, or probation shall be made in accordance with the following complaint procedures:

(1) Upon the chief of police receiving a complaint by any person against any owner, agent or employee of a wrecker company for violating any provision of a city ordinance, the Texas Department of Licensing and Regulation rules or regulations governing auto wrecker, Occupations Code Sec. 2308, or any state law, the chief of police or his designee, after giving five (5) days' notice of the grounds of such complaint to the wrecker company shall hold a hearing. After proper notice was given and the owner fails to appear for the hearing, the chief of police or his designee may proceed with the hearing by taking testimony or evidence from any person or witnesses who were present. For a good cause and at the chief of police or his designee's sole discretion, a hearing may be rescheduled one time at the owner's request provided that the chief of police or his designee receive the written reschedule request at least two (2) working days before said hearing. At the conclusion of said hearing, the chief of police or his designee may issue:

a. A warning to the owner;

b. Deny the permit;

c. Permanently revoke or suspend the permit; or

d. Put the permit on probation.

Previous warnings, probations or suspensions within the preceding two (2) years may be considered by the chief of police or his designee in making the decision.

(2) If the chief of police or his designee suspends the permit, the suspension shall not exceed six (6) months. If the chief of police places a permit on probation, the probation shall not exceed Twelve (12) months. The chief's action shall be final.

(3) If the chief of police or his designee revokes a permit permanently, suspends, place a permit on probation, or deny a permit, he shall notify the owner in writing by us mail or **electronic mail** (email). The notice shall be deemed sufficient if deposited in the United States mail addressed to the owner's business address as contained in the original or renewal application for a permit, or by electronic mail or facsimile.

(4) The owner shall have the right to appeal the chief of police's decision to revoke a permit or deny a permit application, within ten (10) days from the date of the notice of revocation or denial, by sending a letter addressed to the city manager stating that an appeal from the chief of police's decision is desired. If an appeal is perfected, the chief of police's decision shall be continued pending a hearing by the city manager or his designee. The city manager or his designee shall promptly, within thirty (30) days, hear such appeal and shall either sustain, modify, or revoke the chief of police's decision. If no appeal is taken or if it is untimely filed, or if the city manager or his designee does not hear the appeal within thirty (30) days from receiving the notice of appeal, the chief of police's decision shall be final and the permit is denied, revoked or suspended. When a permit revocation is upheld, the owner shall remove, within five (5) working days, any city permit number from all wreckers previously permitted and any annual permit decal.

Sec. 74-185. Waiting period after revocation.

No person, firm, partnership or corporation whose auto wrecker rotation list permit has been revoked shall be eligible to apply for a new permit for a period of at least one (1) year from the date of revocation.

Sec. 74-186. Promulgation of regulations.

The chief of police is authorized to issue rules and regulations relating to the operation of auto wreckers consistent with the provisions of this article and designed to effectuate the general purpose of this article. Violation of any provisions of the chief of police rules and regulations may result in suspension or revocation of the auto wrecker permit and/or denial or removal from rotation list. The appeal process described in section 74-184 will apply to alleged violations of any such provisions.

Sec. 74-187. Maintenance of place of business and equipment.

No owner may operate an approved auto wrecker business and storage facility, unless he maintains his place of business, his storage facility, and all of his equipment in a manner that continuously complies with the provision of Occupations Code section 2308, the regulations as set out by the TCLR this article and the zoning, fire prevention, and any other applicable city ordinances in the location of the facility.

(Code 1979, ch. 74 §178)

Sec. 74-188. One company per business location.

Only one (1) permitted auto wrecker business and storage facility may operate at any one (1) business address and/or location, regardless of whether the same person, partnership, or corporation owns more than one (1) permitted auto wrecker business. If satisfactory proof can be presented to the chief of police that two (2) or more auto wrecker businesses were in operation at the same business address and/or location prior to January 1st,1988 they are exempted from this section. However, any owner whose auto wrecker or rotation list permit is suspended or revoked by the chief of police, or who voluntarily removes himself from the wrecker rotation list, or who fails to renew his permit shall lose the exemption and may not resume auto wrecker operations at the same business address and/or location as another permitted auto wrecker business. Each owner may only operate auto wreckers which are permitted to him in response to any call for service from the police department.

(Code 1979, ch. 74 §172)

Sec. 74-189. Twenty-four-hour service.

Owner and wrecker company who hold a rotation list permit shall maintain sufficient personnel and auto wreckers to provide twenty-four-hour a day auto wrecker service. Each owner and wrecker company shall have at least one (1) telephone number which is answered twenty-four (24) hours a day.

Sec. 74-190. Vehicle storage facility; attendant at business address and storage area.

An auto wrecker rotation list permit shall be issued only to an owner who has a properly zoned vehicle storage facility at its business address which meets the following requirements:

(a) The storage area shall be completely enclosed with a wire or wooden fence at least six (6) feet in height, or as required by the zoning ordinance, whichever requirements are greater, including a gate which is locked at all times when the owner, an agent or employee is not at the storage facility. The fence shall be continuously maintained in good condition.

(b) The storage area shall have an all-weather well drained surface such as concrete, asphalt, black-top, stone, macadam, limestone, iron ore, gravel, caliche, or shell that enables the safe and effective movement of stored vehicles upon all portions of the lot, both under their own power and under tow, at all times, regardless of prevailing weather conditions. The storage facility surface area shall be properly drained and free of standing water or overgrown vegetation.

(c) The storage area shall have a sign at the entrance which is clearly readable from the street setting out the name of the auto wrecker business, the street address, correct 24 hour/day

telephone number, the normal business hours, and the hours vehicles will be released to vehicle owners without additional charge.

(d) The storage area shall have a sign setting out the per diem charge for storage and all other fees which may be charged by the owner. This sign shall be clearly visible to a vehicle owner prior to the payment of any fees.

(e) Owner shall maintain adequate illumination levels throughout the vehicle storage facility which shall not be less than 250-watt element for each one-quarter (¼) acre of storage area.

(f) Owner, his employee, or agent shall be at the auto wrecker business address and shall have access to the vehicle storage facility, and all vehicles stored there, during normal business hours. A person who works at the vehicle storage facility must be licensed by the Texas Department of Licensing and Regulation and must produce the license upon request of the chief of police. The vehicle storage facility attendant must have the authority to release vehicles at all hours of the day or night. An additional after-hours vehicle release fee not to exceed twenty five dollars ($25.00) may be charged.

(g) Owner shall have a publicly listed phone which is answered at the business address during normal business hours using the name permitted to owner. Use of an answering service which places the police dispatcher on hold, an answering machine or voice mail is prohibited.

(h) The police dispatcher shall not be placed on hold to answer other incoming calls. Placing the police dispatcher on hold prior to obtaining all pertinent information may subject the owner to being moved to the bottom of the rotation list at the chief of police discretion.

(i) Owner must provide at least five (5) days' written notice to the chief of police before the business address or phone number is changed.

(Code 1979 ch 74 §178)

Sec. 74-191. Inspection of vehicle storage facility.

Prior to the issuance of an auto wrecker rotation list permit, and at least once annually, the chief of police or his designee shall inspect the vehicle storage area to determine that it meets the provisions of section 74-190 and that it is reasonably secured to protect stored vehicles against theft, vandalism or flood. The inspector shall also check with the department of planning to ascertain whether the storage area is located in a zoning district which allows auto wrecker businesses and vehicle storage facilities. Any auto wrecker company which holds a permit issued under this chapter shall permit inspection of its vehicle storage facility at any time deemed necessary by the chief of police. Failure to permit inspection within two (2) hours of a request by the chief of police or his designee shall be deemed grounds for revocation of permit.

(Code 1979, ch. 74 §171-178)

Sec. 74-192. Prerequisite to towing impounded or disabled vehicles.

(a) No auto wrecker shall knowingly winch, right, or tow any vehicle which exceeds the auto wrecker's weight limitations, except in case of an emergency as determined by the peace officer in charge at the scene.

(b) Rotation list / incident management or non-consent tow; impounded vehicles towed by police-initiation from the rotation list shall be taken to the auto wrecker storage facility or other designated place as determined by the requesting peace officer. Disabled vehicles shall be taken to the

wrecker's vehicle storage facility. The auto wrecker dispatched for a rotation list or incident management tow shall be the next scheduled rotation wrecker, unless the owner or driver of the vehicle to be towed requests and contacts another wrecker of his/her own choosing and the on-scene police officer approves the request and there is no urgency for the vehicle to be moved, or there is no evidentiary value to the vehicle, otherwise the next scheduled rotation wrecker shall be dispatched to the scene.

(c) Consent tow; the auto wrecker dispatched for a consent tow shall be the next scheduled rotation wrecker if requested by a peace officer unless the vehicle owner or driver:

(1) Personally calls an auto wrecker of his/her preference; or

(2) A not-for-hire wrecker, trailer or other appropriate transporting conveyance summoned by the owner for a consent tow.

(d) No vehicle shall be towed for a non-consent tow by an auto wrecker which does not display a Texas tow truck plate, a Texas license plate, and is an approved rotation wrecker service or displays a City of Ingleside wrecker permit decal.

(e) In a situation where safety, circumstances or time dictates otherwise, the peace officer on the scene may direct actions inconsistent with these requirements.

Sec. 74-193. Transfer of disabled vehicles by wrecker not under permit.

No disabled vehicle shall be moved by any auto wrecker not on the rotation list unless the owner or driver of said disabled vehicle personally calls an auto wrecker of his own preference prior to the time that the next scheduled rotation wrecker has been dispatched to the scene.

Sec. 75-194. Dispatching in rotation.

(a) The chief of police may establish an equitable rotation list system comprised of approved auto wrecker companies where each wrecker company is dispatched in rotation to a police-initiated, incident management or non-consent tow. No police officer or dispatcher shall cause any auto wrecker to go to the scene of a disabled or impounded vehicle other than the next scheduled rotation wrecker unless:

(1) The closest wrecker is sent because:

a. An extreme emergency situation exists where a human life is at risk;

b. An accident or incident has blocked a traffic lane on any major highway or interchange or the respective highway access road intersections where traffic congestion is causing traffic to back up on those highways constituting a danger; or

c. An extreme risk or extensive loss of property or further catastrophe would occur due to further delay, or:

(2) The owner or driver of a disabled or impounded vehicle wants to use another auto wrecker than the next scheduled rotation wrecker and requests that company prior to the next scheduled rotation wrecker being dispatched to the scene, and the requested wrecker service will not result in further or unnecessary delays.

(b) If the owner or driver of a disabled vehicle wants to use an auto wrecker company not on the rotation list, the owner or driver must contact that company directly but not through the police officer or dispatcher.

(c) No police officer shall suggest or recommend that the owner or driver of a disabled vehicle call any auto wrecker company other than the next scheduled rotation wrecker.

(d) However, in a situation where safety or time indicates otherwise, the peace officer on the scene may direct actions inconsistent with these requirements.

(e) A police supervisor may approve a deviation from the rotation list or put a wrecker back up 1st on rotation for convenience of the city or police department.

(Code 1979, ch. 74 §175)

Sec. 74-195. Soliciting wrecker business on city streets prohibited; presence at scene of collision as prima facie evidence of violation.

(a) A person commits an offense if:

(1) The person arrives at the scene of a traffic accident or an incident to perform a non-consent or incident management tow of a motor vehicle without first being contacted by the police department or vehicle owner;

(2) The person directly or indirectly solicits, on streets located in the city, towing services, including towing, removing, repairing, wrecking, storing, trading, selling, or purchasing related to a vehicle that has been damaged in an accident to the extent that it cannot be normally and safely driven; or

(3) The person enters the scene of a traffic accident, an incident, or other area under the control of a peace officer without the permission of the peace officer.

(b) The intentional presence of any auto wrecker that was not dispatched by the police department or requested by the vehicle owner at, or near the scene of an accident in the city after the accident, or prior to the removal of all disabled vehicles shall be prima facie evidence of solicitation in violation of this section.

Sec. 74-196. Responding to calls.

(a) Each owner or wrecker company on the rotation list shall have sufficient personnel, equipment, and auto wreckers to respond to all tow assignments given by the police dispatcher. Response time obeying all traffic laws, shall not exceed thirty (30) minutes after the police dispatcher's notification of the assignment.

(b) The owner, his agent or employee shall not refuse an assignment except for safety reasons or if all owner's auto wreckers are already performing other police tow work. If the owner, his agent or employee refuses an assignment, he must notify the police dispatcher of the reason. Documentation may be required if the reason is auto wrecker equipment failure or prior tow work.

(c) If an owner or wrecker company fails to respond or refuses an assignment, the police chief may revoke or suspend the wrecker company or owner's auto wrecker rotation list permit.

(d) A revocation or suspension may be appealed in the manner set out in section 74-184.

(Code 1979, ch. 74 §175)

Sec. 74-197. Removal of wreckage and debris, etc., at the scene of an accident.

The owner or assigned wrecker service shall completely remove from an accident scene all resulting wreckage, debris, including all broken glass and metal fragments, oils and fluids before leaving the scene. This debris shall be properly disposed of, and shall be removed to the extent that the debris, oils or fluids will not enter the gutters, storm sewers, streams, and public rights-of-way. Property not belonging to the auto wrecker company shall be collected and removed from the scene but shall not be disposed of without the property owner's prior consent.

(Trans. Code §600.001)

Sec. 74-198. Notice of location of storage facility.

(a) If the vehicle owner or driver of a disabled vehicle is at the scene and capable of receiving information, the wrecker company shall notify the vehicle owner or driver of the disabled vehicle by giving him or her a fee schedule and/or a card which notifies him or her that the disabled vehicle will be towed to owner's vehicle storage facility unless the vehicle's owner or operator makes arrangements with the wrecker operator to have the vehicle towed elsewhere.

(b) The card shall contain the business's name, address, phone number, hours during which the vehicle can be reclaimed, and a statement that there will be charges for all services provided.

(c) Failure to provide the card and fee schedule may result in revocation or suspension or probation of owner's auto wrecker or rotation list permit, which may be appealed as set out in section 74-184.

Sec. 74-199. Auto wrecker drivers.

(a) An auto wrecker driver must hold a driver's license and at least eighteen (18) years of age, and must be trained, in accordance to the Texas Department of Licensing and Regulation, in the use and operation of any specialized equipment to be used in towing disabled and impounded vehicles for the police department.

(b) An auto wrecker driver must be familiar with the city road system in order to promptly respond to the scene and any request for service.

(c) The chief of police may request documentation of training or demonstration of a potential driver's ability to tow a disabled or impounded vehicle and/or test his/her knowledge of the city roadway system prior to approving a driver. For rotation wrecker companies, drivers are required to complete continuing education courses approved by the Texas Department of Licensing and Regulation .

(d) Only approved auto wrecker drivers may perform towing operations and operate permitted auto wreckers. An invoice with an unapproved auto wrecker or driver is not required to be paid by the vehicle owner.

(e) For rotation wrecker list, owner and wrecker company shall require drug and alcohol tests of newly hired drivers who will be on the rotation wrecker list, and must submit drug and alcohol test results to the chief of police (test results must be from a test taken within ten (10) days from the date of expected employment) and the following information at least five (5) working days before the expected employment of an auto wrecker driver:

(1) Driver's full name, including any aliases;

(2) Date of birth;

(3) ~~Social Security number~~;

(4) Copy of current Texas and all other states driver's licenses issued to the driver within five (5) years prior to the submission of the application;

(5) Current address and each address where driver has resided in the ten (10) years prior to the application;

(6) Whether driver has been arrested for any criminal offense in this state or any other state or country, the date of the arrest or confinement, and the place, court and case number;

(7) Evidence that the applicant has passed a drug screening test administered within ten (10) days preceding the date of the application;

(8) Driver must submit himself or herself at such times and places designated by the police chief or his designee to be photographed and fingerprinted;

(9) Complete any forms required by the chief of police or his designee to obtain or perform criminal history or background check; and

(10) Such other information as the chief of police or his designee finds relevant.

The chief of police shall conduct a criminal history or background check on all auto owners and wrecker drivers and send a written approval or denial notice, within ten (10) working days, to the owner or wrecker company indicating whether the driver is eligible to operate an auto wrecker on the city rotation list. The chief of police shall investigate or cause to be investigated the character, experience, and qualifications of the driver's in order to determine the driver's fitness to operate an auto wrecker consistent with the public safety and welfare, and shall consider whether approving the driver would constitute an unreasonable risk to the public safety and welfare. The chief of police shall consider whether the driver has been guilty of a criminal act directly related to the occupation of auto wrecker. In determining whether the criminal act directly relates to said occupation, the chief of police shall consider:

a. The nature and seriousness of the crime;

b. The relationship of the crime to the operating an auto wrecker, for example, the following are deemed to have such a relationship because of the danger to the public and their property and potential for criminal activities enhanced by the large number of public contacts:

   i. Theft and other crimes of dishonesty,

   ii. Assaultive and harassment crimes,

   iii. Solicitation of prostitution,

   iv. Sexual abuse crimes,

   v. Crimes of alcohol or drug abuse, or

   vi. Traffic offenses;

c. The extent to which the approval might offer an opportunity to engage in further criminal activity of the same type;

d. The extent and nature of the past criminal activity;

e. The age of the driver when the crime was committed;

f. The amount of time elapsed since the driver's last criminal activity;

g. The conduct and work activity of the person prior to and following the criminal activity;

h. Evidence of rehabilitation efforts;

i. Other evidence of personal fitness submitted by the driver such as recommendations from prosecution, law enforcement, and /or correctional officers.

(f) The rotation wrecker companies owner or wrecker company manager shall submit the above required driver's information on all drivers to the chief of police annually on or before December 31st. Owner shall notify the chief of police within five (5) working days after termination of any driver.

(g) For rotation list wrecker companies, no auto wrecker may be operated by any driver who has received three (3) moving violations or traffic citations within the preceding twelve-month period, unless all three (3) violations arose out of one (1) incident. Unless directed otherwise by a police officer, all auto wrecker drivers shall adhere to all traffic regulations.

(h) For rotation list wrecker companies, owner shall require each driver annually to submit to an alcohol and drug testing in accordance with Chapter 2308.158 of the Occupations Code and Chapter 86 of the Texas Department of Licensing and Regulation Administrative Rules and shall submit the results to the chief of police within five (5) working days. Drivers are required to sign a consent form authorizing the test and permitting release of test results to the Ingleside Police Department. The failure or refusal by a driver or applicant to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this chapter in a timely manner will be grounds for denial, revocation or suspension of permit. The submission by a driver or applicant of a urine sample that is not his/her own or is a diluted specimen shall be affirmative and immediate grounds for denial, revocation or suspension of permit.

(i) For rotation list wrecker companies, owner shall inform the chief of police in writing of any towing operator convicted (including pleas of guilty and nolo contendere) of any offenses listed in this section within five (5) working days of the conviction.

(j) For rotation list wrecker companies, owner shall notify the chief of police, within fifteen (15) days, in writing, of any changes to driver's home address.

(Code 1979, ch. 74 §176)

Sec. 74-200. Reassembly of parts.

Whenever it is necessary to disassemble parts to a vehicle in order to tow said vehicle, the owner or wrecker company shall reassemble such parts upon reaching his storage facility if requested by the vehicle owner or if the vehicle is to be reclaimed by the vehicle owner.

Sec. 74-201. Storing wreckers on public streets or rights-of-way prohibited.

No owner shall store any disabled vehicle or auto wrecker on the public streets or rights-of-way.

Sec. 74-202. Dispatching of category A and category B wreckers.

When the police dispatcher assigns a rotation wrecker to the scene of a disabled or impounded vehicle, the assignment will include how many and what category of auto wrecker shall be sent to the

scene. The owner, his agent or employee will advise the police dispatcher how many of its permitted auto wreckers are available at the time of the call.

Owner shall not refer an assignment to another auto wrecker company, even if the owner owns the other company. Any such referral may result in revocation or suspension of owner's auto wrecker permit, which may be appealed as set out in section 74-184, at the chief of police discretion.

If an auto wrecker is not at owner's business location, or if an auto wrecker has been assigned to the scene of a disabled or impounded vehicle and not already on its way back to owner's business address at the time of the police dispatcher's call, an auto wrecker is considered not available for being assigned a new scene.

Neither owner nor his agents or employees shall drive a disabled or impounded vehicle which they have been assigned to tow.

Sec. 74-203. Officer at the scene.

A police officer shall stay at the scene of an accident until the scene is completely cleared whenever practical.

(Code 1979, ch. 74 §175)

Sec. 74-204. Emergency dispatches.

No auto wrecker shall be dispatched on an emergency run without a police escort.

(Code 1979, ch. 74 §171-178)

Sec. 74-205. Maximum auto wrecker service and storage fees.

The following towing fees shall be paid by the person reclaiming the towed vehicle:

(a) Police-initiated non-consent rotation list or incident management tow fees will be paid to the auto wrecker company according to that company's policy and fee schedule.

(b) If a vehicle owner or operator pays a drop fee and the police officer at the scene authorizes the release of a vehicle after an auto wrecker has arrived at the scene and started physically attaching the vehicle to the auto wrecker, but before the vehicle has been towed from the location, then the auto wrecker owner or driver shall release the vehicle.

(c) Maximum towing, storage and administrative fees for non-consent or incident management:

1. **Category A** auto wreckers; All rotation list permitted light or standard auto wreckers:

   a. Normal, rotation list uncomplicated non-consent tow...ie DWI offender or Incident management fee; (includes double hook up and towing of truck and small trailer as one unit) $400.00

   b. Drop fee: $100.00

   c. Required use of dollies, go-jacks or skates:.....$75.00 ea.

   e. Additional labor such as winching for removal from a ditch or water, righting an overturned vehicle or for similar unusual circumstances (all inclusive) $1,200.00

f. Total maximum towing fee including the use of dollies and additional labor, but excluding additional time at the scene: $ $1,500.00 .

g. Additional fee for each half-hour or portion thereof at the scene in excess of one-half hour not caused by delay on the part of the permit holder, per 30 minutes $50.00

h. No key to vehicle.....$60.00

i. Cleanup only, no tow required $50.00

2. **Category B auto wreckers**:

a. Non-consent or Incident management tow; (includes double hookup and towing of tractor and trailer as one unit, removal of shaft or axle, application of air to brake system, and/or caging brakes, to prepare for tow) $2,000.00

b. Additional fee allowed in subsection 74-205 (c)(1)(e) includes rigging up, winching for removal from ditch or water, righting an overturned vehicle, clean up, or for similar unusual circumstances, per hour .....$200.00 per hr.

c. Additional costs (specialized equipment such as crane, backhoe, fork lift) actual cost (within industry standard) for leasing or renting equipment plus a maximum of thirty (30 %) per cent up charge.

3. **Daily storage fee for non-consent tows**: Storage for all or part of the first 24 hours, and for each subsequent 24-hour period or part thereof:

a. Vehicles not longer than 25 feet $25.00

b Vehicles longer than 25 feet $40.00

c. Initial impound fee...$20.00

4. **Notification fees** for: Vehicle registration research, certified letters, newspaper advertisements and preparation necessary to inform the last registered owner and lien holder(s). Can be charged only if actually performed $50.00

(e) Multiple vehicles;

1. When a vehicle and trailer, when practical are both towed by one (1) auto wrecker, only one (1) towing fee shall be paid by the owner. If the vehicle and trailer are too large or too heavy to be safely towed together by a single wrecker, another wrecker may be used and an additional fee charged.

2. When more than one (1) vehicle is transported by one (1) auto wrecker, e.g., motorcycles or parts of vehicles, only one (1) towing fee shall be paid by owner.

(f) Invoices;

1. Each customer invoice shall include the wrecker company name, business address, phone number, TDLR Certificate of registration number, Vehicle Storage Facility License number, and the "Rights of owners or operators of stored vehicles" notice and an itemized statement of charges.

2. The wrecker service shall provide each owner with the basic fee schedule copies to the non-consent tow customer invoices. Failure to attach the fee schedule shall be grounds for revocation or suspension of owner's permit, unless the vehicle owner or agent consents to the omission.

(g) An auto wrecker company and owner shall charge no fees for servicing a police initiated non-consent or incident management tow in excess of the fees authorized under city ordinance or Occupations Code sect. 2308 for vehicles towed. Further, the auto wrecker owner shall not obligate the vehicle owner in a non-consent or incident management tow to pay any fees in excess of those authorized for a vehicle delivered to a state licensed vehicle storage facility without the consent of the vehicle owner. The chief of police may require the auto wrecker owner or wrecker company to reimburse the vehicle owner or operator for any overcharges or unauthorized charges. Any overcharges or unauthorized charges shall be reimbursed to vehicle owner within five (5) business days, and the chief of police may suspend the auto wrecker company permit if it fails to comply.

(Occupations Code

Sect. 2308.202. Regulation by political subdivisions of fee's)

Sec. 74-206. Notification to permit holders of pending changes to permit regulations.

Holders of rotation wrecker permits under Article III of this chapter of the City Code shall be notified by the City of Ingleside of any pending changes in Article III.

Sec. 74-207. Cease and desist order.

The chief of police may issue a cease and desist order as necessary to enforce this article if the chief of police determines the action is necessary to prevent a violation of Section 74-205, or for any safety violation to protect public health and safety. A cease and desist order may accompany removal or suspension from the rotation list until compliance with the order is accomplished.

Sec. 74-208. Logs required to be kept for tow.

The police communications section shall keep a record of each vehicle towed on the rotation list showing the; date, time, make, model, color, license plate number, the location where the vehicle was picked up, the officer or person requesting the tow, the wrecker company towing the vehicle, the Dispatcher on-duty, and indicating the reason for the tow (abandoned, impound, accident, ect)

Sec. 74-209. Towing fee study.

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

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

(c) Within thirty (30) days after the filing of an initial request, additional wrecker companies may join the request by filing written requests in accordance with subsection (b).

(d) The city may conduct a towing fee study only if the initial requestor and the additional requestors, if any:

(1) Deposit with the city manager a fee of two thousand, five hundred dollars ($2,500.00) to cover personnel labor, overtime, consultants, other necessary or travel related expenses as reimbursement for use of city personnel or resources.

(e) If the towing fee study is not conducted at the option of the city manager, the city shall refund the fee, less an administrative fee of five hundred dollars ($500.00).

(f) Each wrecker company requesting the towing fee study shall cooperate with the city to conduct the study and such wrecker company shall provide to the city information determined by the city manager or his designated representative to be reasonably necessary to determine the fair market value of towing services regulated under this article.

(g) The city shall complete a towing fee study not later than the 180th day after receiving all information required under subsection (f).

(h) The city manager shall present to the city council the results of the towing fee study if conducted. The city manager shall give each rotation list wrecker company written notice of the time, date, and location of the city council meeting at which the study is to be considered. The notice must be sent by United States regular mail or electronic (email) to the wrecker company's address listed in the latest registration application on file with the chief of police.

(i) Based on the results of the towing fee study, the city council may change the non-consent towing fees. The maximum fees should represent the fair market value of the services of a wrecker company performing non-consent tows originating in the city.

(j) The city is not required to conduct more than one (1) towing fee study within a two-year time period, measured from the date the city council most recently considered a towing fee study.

(Occupations code sect. 2308.203)

Sec. 74-210. Maximum Allowable Automatic Rate Adjustment: Tied to Annual Consumer Price Index.

An auto towing company may, on an annualized basis increase towing rates for non-consent tows in excess of those maximum rates listed in Sec.74-205 by no more than the percentage rise in the prior year consumer price index. The towing company must notify the Chief of Police in writing prior to implementing any increase, and provide a new fee schedule based on the new rate, but may not exceed the fee's authorized by commission rule in Occupations Code sect. 2308.202

FOOTNOTE(S):

State Law reference— Tow truck regulation by political subdivisions, V.T.C.A., Transportation Code § 643.201 et seq.; authority for regulation by political subdivisions of fees for non-consent tows, V.T.C.A., Transportation Code § 643.203; storage of towed vehicles, non-consent tows, V.T.C.A., Transportation Code § 643.206. Professional Standards, Occupations Code 2803.201 Licensing, Texas Dept. of Licensing and Regulation. Texas Occupations Code § 2308.002. Texas Transportation § 521.001. Texas Transportation Code § 600.001.

Federal law references—Federal law preempts local government regulation relating to price, route or service of any motor carrier respecting transportation of property, 49 U.S.C. § 14501(c)(1); safety regulations by local governments are not preempted, 49 U.S.C. § 14501(c)(2)(A); regulation of price of for-hire tows performed without prior consent of owner, exempt from preemption, 49 U.S.C. § 14501(c)(2)(C).

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and separable, and if any section, paragraph, sentence, clause or phrase of this ordinance shall be declared unconstitutional by the valid judgment or decree or any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this ordinance since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase,

This ordinance shall be in full force and effect after passed and publication as required by law.

Passed and approved this _____ day of _____, 2014.

City of Ingleside

_____

BY: Peter Perkins, Mayor

ATTEST.

_____

BY: Kimberly Drysdale, City Secretary

First reading: _____ Second reading: _____

Publication Date:_____

Attachment – A

Permit Application
City of Ingleside Police Dept. Wrecker Rotation List

Name of Towing Company:_____ Date:_____
Company Address:_____ City:_____
Main Business Phone:_____ 24 hr. Phone #:_____

All Owners Name(s):1-_____ 2-_____
Address: 1-_____ 2-_____
1-_____ 2-_____
1-email address:_____ 2-_____

Storage Facility Location:

Name:_____ 24 Hour Phone #:_____
Address:_____ City:_____

Number of wreckers permitted under this permit, (3 maximum):_____
Texas Tow Truck Registration Numbers:
1)_____ 2)_____3)_____

Acknowledgement:

By signature herein, witness my binding contractual obligation and accepted acknowledgement that the owner(s) understands that placement on the City of Ingleside Police Dept. auto wrecker rotation list is on an at-will and conveyance of the police department basis, and, that the city is not legally bound, required or obligated to have a wrecker rotation list, and may contract with a single service provider or multiple providers for wrecker services as decided in *(Stuckey vs. City of San Antonio, US 5th Circuit Court of Appeals 2003),* and the owner further acknowledges their services on the rotation list can be terminated at any time with or without cause, and without recourse except as outlined herein. And, that the owner will comply with all the provisions of this article and of all other ordinances, statutes and state laws applicable to motor vehicles, auto wrecker operation and storage businesses. Further, the owner ensures that all owner's drivers, agents and/or employees will comply with said laws.

_____ _____
Signature of Owner - 1 Date

_____ _____
Signature of Owner – 2 Date