

CHAPTER 111. - TOW TRUCKS AND WRECKERS

Sec. 111.01. - Compliance with state law.

Any person operating a tow truck and/or wrecker shall comply with all applicable state laws. A failure to comply with applicable state laws is a violation of this chapter.

(Ord. 2006-32, passed 11-7-2006)

Sec. 111.02. - Definitions.

For the purposes of this chapter, the following words, terms and phrases shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

Accident or collision. Any occurrence which renders a vehicle wrecked or disabled.

Certificate holder. Any person possessing a current, valid Certificate of Registration to engage in the wrecker business in the City of Stephenville.

Certificate of registration. Written authorization granted by the Chief of Police, under the provisions of this chapter, to a wrecker company having a place of business within the city or outside the city operating a tow truck that performs nonconsent tows inside the city.

Consent tow. Any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include the tow of a motor vehicle initiated by a peace officer.

Manufacturer's certificate. A plate permanently affixed to either a truck, wrecker equipment or tow sling by the manufacturer of the equipment which states the vehicle's or equipment's gross poundage capacity.

Owner. Any person who holds the legal title to a motor vehicle, or has the legal right of possession thereof. This does not include any person who has gained possession of a motor vehicle only as a result of wrecker services performed.

Person. An individual, a corporation, a partnership, joint venture, or association.

Repossession. A tow made by, or on behalf of, a lien holder taking possession of collateral.

Rotation list. A list prepared in accordance with the provisions of this chapter, of wrecker companies which have applied and qualified to appear thereon, and which maintain inspected tow trucks of a capacity required to be on said list.

Tow truck/wrecker. A motor vehicle equipped with a mechanical device used to tow, winch or otherwise move another motor vehicle.

Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, including, but not limited to, motor vehicles, but not including devices moved only by human power, or used exclusively on stationary rails or tracks.

Wrecker business. The business of towing vehicles not belonging to the wrecker company on a public street within the incorporated limits of Stephenville for compensation, or with the expectation of compensation including, but not limited to, compensation for towing, storage, and repair. It does not include a business towing a vehicle to a point outside the city when the owner requests that it be towed to a point outside the city, except as otherwise provided in this chapter.

Wrecker company. Any person or business engaged in the wrecker business.

(Ord. 2006-32, passed 11-7-2006)

Sec. 111.03. - Fees.

The City Council shall establish a fee required or authorized under this chapter by separate ordinance.

(Ord. 2006-32, passed 11-7-2006)

Sec. 111.04. - Requirements to perform nonconsent tows.

- (A) It shall be unlawful for a person to operate a tow truck that performs nonconsent tows in the city unless the person has a Certificate of Registration issued by the Chief of Police, except as provided in division (B)(9) below.
- (B) An applicant for a Certificate of Registration to perform nonconsent tows shall submit, on a form provided by the Chief of Police, an application containing or accompanied by the following:
 - (1)

The owner's name, the trade name, principal business address, and telephone number that is answered during normal business hours, of the wrecker company;

- (2) The list of wreckers proposed to be operated by the wrecker company, including but not limited to the motor vehicle identification number, make, unit number and the name of the owner of the wrecker listed (the wrecker company affiliate), if different from the wrecker company applying for the Certificate of Registration;
- (3) A certificate of insurance indicating that all state insurance requirements are met;
- (4) A certificate of on-hook cargo insurance to cover damage to a towed vehicle;
- (5) A copy of a vehicle storage facility license issued by the Texas Department of Transportation;
- (6) A copy of the motor carrier certificate of registration issued by the Texas Department of Transportation;
- (7) A copy of fees as posted on the Texas Department of Transportation website; and
- (8) Any other documents as reasonably required by the Chief of Police.
- (9) This chapter does not apply to nor prohibit a wrecker company, which obtained a motor carrier certificate of registration from the Texas Department of Transportation and having a place of business outside the incorporated city limits, from making a consent tow within the city.

Sec. 111.05. - Certificate of registration for nonconsent tows, issuance and expiration.

- (A) The Chief of Police or authorized designee shall register a wrecker company and issue a Certificate of Registration which is determined to be in compliance with the requirements of state law for conducting non-consent tows. However, the Chief of Police may deny an application for a Certificate of Registration, if the applicant:
 - (1) Has had a registration revoked;
 - (2) Operates a tow truck after the state registration has been revoked;
 - (3) Causes or allows the operation of a tow truck by an unlicensed driver on the public roadways;
 - (4) Operates a tow truck performing nonconsent tows on the public roadways

without a Certificate of Registration;

- (5) Submits false information on a registration application;
 - (6) Fails to maintain insurance required by state law for the operation of a wrecker company or its equipment;
 - (7) Fails to comply with all applicable state laws or city ordinances to include zoning laws; or
 - (8) Fails to meet any other legal requirement of obtaining such Certificate of Registration.
- (B) The term of each Certificate of Registration and placement on the rotation list shall run concurrent to licenses and registrations that are issued by the Texas Department of Transportation, Motor Carriers Division. Renewal of the certification and placement on the rotation list will be granted only upon compliance with the provisions of this chapter and any other applicable laws, ordinances, or regulations which shall be in effect at the time of the renewal application.
- (C) Each wrecker company which has received a Certificate of Registration shall at all times carry a copy of its Certificate of Registration in each wrecker it operates.
- (D) Each wrecker company which has received a Certificate of Registration shall be responsible for updating the information provided in the application by submitting supplemental information to the Chief of Police. Failure to provide updated information, such as, but not limited to, replacement or additions of tow trucks, drivers' license suspensions or revocations, change in insurance company, revocation of required insurance or expiration of storage facility license, shall be grounds for suspension or revocation of a Certificate of Registration and removal from rotation list.

(Ord. 2006-32, passed 11-7-2006)

Sec. 111.06. - Rotation list established for nonconsent tows.

The Chief of Police shall establish and maintain a rotation list, from which list wreckers shall be picked to answer calls for non-consent tows. Each wrecker business that applies and meets the requirements herein shall be entitled to one place on the appropriate list. The names of the wrecker companies on the list shall be listed in numerical order, beginning with the date the application is approved.

(Ord. 2006-32, passed 11-7-2006)

Sec. 111.07. - Rotation list qualifications.

- (A) A wrecker company shall submit an application for placement on the rotation list to the Chief of Police, containing or accompanied by the following to verify qualifications and requirements:
- (1) A copy of a vehicle storage facility license issued by the Texas Department of Transportation for a storage facility located within the incorporated limits of the city or within five miles of the corporate limits of the city where all motor vehicles it tows on behalf of the city shall be stored at all times;
 - (2) Acknowledgment that the company has registered and received a Certificate of Registration for each tow truck it owns or will use while on the rotation list. The wrecker company must maintain at least one wrecker;
 - (3) Acknowledgment that the company maintains 24-hour wrecker service and provides the Police Department with a local telephone number which is answered 24 hours a day;
 - (4) Acknowledgment that the company is able to respond to any location in the city within 30 minutes of being notified by telephone;
 - (5) Acknowledgment that the company has someone available 24 hours a day to release any vehicle impounded within one hour of a request by the owner or the Police Department;
 - (6) A list of all drivers and drivers' driving records, obtained from the Texas Department of Public Safety. Said list shall be updated as new drivers are added or when a driver's license is suspended or revoked;
 - (7) A certificate from the appropriate tax assessor-collector agency that certifies that all city taxes on all properties, real and personal, to be used in connection with the applicant's wrecker business are current. The certificate shall list the name of the wrecker business, its subsidiaries or assumed names; and
 - (8) A statement from the Community Development Division of the City of Stephenville indicating compliance with all zoning laws and other applicable ordinances.

(B)

A wrecker company will automatically be removed from the rotation list on the expiration date of its Certificate of Registration, and will be placed back on the list only upon compliance with the provisions of this chapter and any other applicable laws, ordinances, or regulations which shall be in effect at the time of the renewal request application.

(C) In order to be placed on the rotation list each wrecker shall meet the following minimum requirements:

- (1) Shall display in a permanent manner the name and phone number of the holder of the Certificate of Registration on both sides of each wrecker. The lettering must be at least two inches high, and lettering must be in a color that will contrast to the color of the tow truck;
- (2) Shall be in a condition such that it can be safely and reliably used as a wrecker;
- (3) Shall include the Manufacturer's Certificate and be equipped with a power-operated winch, winch line and boom, with a rated or tested lifting capacity of not less than 8,000-pound single-line capacity; and
- (4) Shall carry at all times the following standard equipment:
 - (a) Slings and/or tow bars along with "J" hooks and chains;
 - (b) Safety chain;
 - (c) A working ten-pound fire extinguisher (or the equivalent);
 - (d) Shovel;
 - (e) Wrecker bar;
 - (f) Broom;
 - (g) Dolly (except for slide-bed tow trucks);
 - (h) Ropes or other device for securing steering wheel;
 - (i) Overhead visi-bar or beacon-type light visible from front and rear; and
 - (j) Tow lights.

(D) Placement on the rotation list shall be denied if the safety requirements are not met.

(Ord. 2006-32, passed 11-7-2006)

Sec. 111.08. - Suspension and removal from the nonconsent rotation list.

The Chief of Police may suspend or revoke a Certificate of Registration or remove a wrecker company from a place on the rotation list pursuant to this chapter, if a wrecker company or any of its tow trucks fails to comply with any of the requirements in this chapter.

(Ord. 2006-32, passed 11-7-2006)

Sec. 111.09. - Inspection of wrecker equipment and storage facilities.

Any wrecker company, Certificate Holder or applicant, by virtue of making an application with the city, agrees to allow during normal business hours, the inspection of wreckers, wrecker equipment, and storage facilities for compliance under this chapter. This authority shall be cumulative of any other authority held by the Chief of Police, other law enforcement officials, or other legally authorized public officials.

(Ord. 2006-32, passed 11-7-2006)

Sec. 111.10. - Procedures for notifying wrecker services.

- (A) When the police officer investigating an incident determines that a tow truck is necessary to move the vehicle, the officer shall contact the vehicle owner to determine which wrecker company to contact. The owner of the vehicle shall designate a wrecker company, auto repair shop, automobile dealer or automobile club. If an owner does not have a preference, the wrecker company next up on the rotation list will be contacted.
- (B) If the owner of a vehicle is not available or is physically unable to designate the wrecker company, auto repair shop, automobile dealer or automobile club he or she desires to remove the vehicle, then the police officer shall communicate that fact to the dispatcher and advise as to the type of wrecker required. The dispatcher shall call the wrecker company next in line on the rotation list.
- (C) If the wrecker company, after arrival at the scene, determines that assistance is needed, the wrecker company may use assets from that same wrecker company or call another wrecker company for assistance. If the wrecker company does not have the necessary equipment and does not have a preference of a wrecker company to contact, they may ask the officer to contact another wrecker company for assistance, and the police officer on the scene will call for the wrecker that is next on the rotation list.

- (D) Failure of any wrecker company to deliver a wrecker to the scene within 30 minutes of being notified without justification acceptable to the police officer on the scene shall cause the wrecker company to forfeit that call. Additionally, the Chief of Police shall have the discretion to suspend or revoke a wrecker company from a place on the rotation list for failure to timely respond.
- (E) In any circumstance in which a vehicle or other object is so located on a public street as to constitute a hazard or obstacle, or to interfere with traffic, or in the event a stolen vehicle is found or in any other circumstance in which a police officer in the course of his or her duty directs the removal of a vehicle from or to any location, any police officer may require its removal at the owner's expense, by any practical means, including but not limited to, use of a wrecker selected by the owner, or failing that, selected by the use of the rotation list.
- (F) A wrecker business may be dispatched to the scene of accident, at the discretion of the Police Department, without consideration of the rotation list if:
 - (1) The wrecker business has specific or specialized equipment that can be used to reduce potential of additional bodily injury or additional damage to property;
 - (2) The wrecker business has specific or specialized equipment that can be used for cleanup at the accident; or
 - (3) The wrecker business is the only such business with a wrecker large enough to move a vehicle or obstacle.

(Ord. 2006-32, passed 11-7-2006)

Sec. 111.11. - Parking of wrecker at the scene of a collision.

Whenever a wrecker arrives at the place where a motor vehicle has been disabled by an accident, the wrecker driver shall park his or her wrecker as close to the street curb as possible and otherwise park the wrecker in such a manner as not to interfere with traffic, or the officer's ability to process an accident location or crime scene.

(Ord. 2006-32, passed 11-7-2006)

Sec. 111.12. - Wrecker drivers to obey orders of police officer.

It shall be unlawful for the driver of any wrecker arriving at the place where any accident has occurred or an abandoned vehicle is located to disobey any lawful order given by any police officer of the city investigating such accident or to interfere in any manner with such officer in the performance of his or her duty.

(Ord. 2006-32, passed 11-7-2006)

Sec. 111.13. - 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 and adjacent right-of-way any and all debris, parts or glass accumulated as a result of the accident from the street. If two or more wreckers are required at the location, the wrecker drivers will share the responsibility for removing debris and will take primary responsibility for the area around the vehicle they were called to tow.

(Ord. 2006-32, passed 11-7-2006)

Sec. 111.14. - General prohibitions.

- (A) It shall be unlawful for any person to drive, or cause to be driven, a wrecker to or near the scene of a collision on a street within the city unless such person has been called to the scene by the Police Department or by a party involved in the collision. The prohibition of this section shall not be applicable when such actions are necessary to prevent death or bodily injury to any person involved in a collision. An exception is also allowed if the tow truck is driving by during the normal course of business and is not intentionally trying to circumvent the provisions of the rotation list.
- (B) It shall be unlawful for any person to engage in nonconsent tows in the city unless such person possesses a current, valid Certificate of Registration. The Police Department shall be authorized to summon wreckers without Certificate of Registration in emergency situations.
- (C) It shall be unlawful for any person to operate a tow truck in the city, unless it is equipped as required by state law. A tow truck and its required equipment shall be in safe operating condition at all times when the tow truck is operating on the public roadway.

(Ord. 2006-32, passed 11-7-2006)

Sec. 111.15. - Removal of motor vehicles from private property.

The driver of a tow truck who removes a vehicle from private property, without the consent of the owner of the vehicle, shall notify the Stephenville Police Department within one hour of such removal. The information to be provided in such notification shall include:

- (A) The date, time and location of the removal;
- (B) The physical description and license or registration number of the vehicle;
- (C) The name of the Certificate Holder which performed the removal; and
- (D) The storage location of the vehicle.

(Ord. 2006-32, passed 11-7-2006)

Sec. 111.16. - Repossession of vehicles.

The driver of a tow truck who removes a vehicle for the purpose of repossessing the vehicle shall be required to do the following:

- (A) Contact the Police Department prior to making such repossession; and
- (B) Present a written notice from the lien holder requesting such repossession which shall include the following information:
 - (1) Name of owner of said vehicle;
 - (2) Date, time and location of the removal;
 - (3) The physical description and license or registration number of the vehicle;
 - (4) The name of the certificate holder which is to perform the removal; and
 - (5) The storage location of the vehicle.

(Ord. 2006-32, passed 11-7-2006)

Sec. 111.17. - Effective date.

The provisions within this chapter shall become effective 30 days after approved by vote of the City Council. The requirements for Certificates of Registration and requests for placement on the rotation list shall become effective on the date that renewal of required licenses and registrations are required.

(Ord. 2006-32, passed 11-7-2006)

Secs. 111.18—111.98. - Reserved.

Sec. 111.99. - Penalty.

Each officer, agent or employee of any corporation and every other person who violates or fails to comply with, or who aids or abets in the violation of, any provision of this chapter, or fails to obey, observe or comply with any other decision, rule or regulation, direction, demand or requirement of the city, shall be guilty of a Class "C" misdemeanor, and upon conviction shall be punished by a fine not exceeding \$500.00. Each day any provision of this chapter, or any rule, regulation or order of the city relevant thereto is violated shall constitute a separate offense, and the fact that the city may have caused prosecution for violation of its rules, regulations or orders under the penal section of this chapter shall not operate to prevent or limit the exercise of the authority of the city to suspend, revoke, alter or amend permits or certificates as provided in this chapter.

(Ord. 2006-32, passed 11-7-2006)