

ORDINANCE NO. 2024-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AZLE, TEXAS, AMENDING CHAPTER 4 "BUSINESS REGULATIONS" OF THE CODE OF ORDINANCES, CITY OF AZLE, TEXAS TO REPEAL AND REPLACE ARTICLE 4.09 "WRECKERS" TO ESTABLISH REGULATIONS FOR WRECKERS OPERATING IN THE CITY AND TO PROVIDE FOR CONTRACTING WITH A SINGLE WRECKER SERVICE COMPANY FOR TOWING AND IMPOUND SERVICES FOR THE CITY; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Azle, Texas ("City") is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City previously adopted regulations for the operation of wreckers in the City; and

WHEREAS, the regulations adopted in 2001 provided for the registration of wreckers with a place of business in the City or performing nonconsent tows within the City; and

WHEREAS, the regulations adopted in 2001 provided for the operation of a rotation list for the performance of police pull tows that allowed multiple wrecker service companies to share the police pull tows for the City; and

WHEREAS, the City Council finds that it is in the best interest of the City to amend the wrecker regulations to ensure compliance with federal and state law and to address current issues related to wrecker services; and

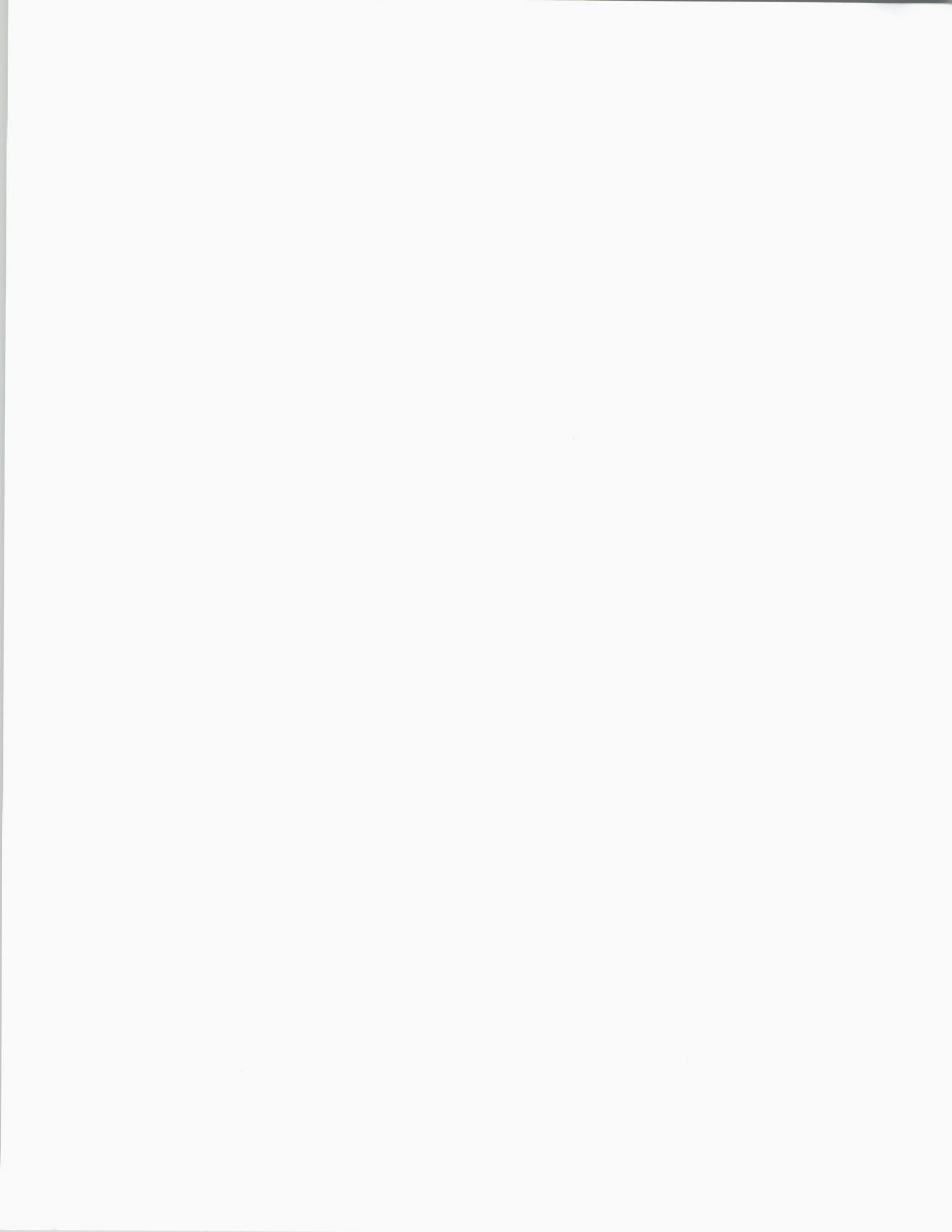
WHEREAS, the City Council finds that it is in the best interest of the City to contract with a single wrecker service company for police pull tows within the City; and

WHEREAS, the City Council finds that this Ordinance is in the best interests of the citizens of the City of Azle.

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

SECTION 1.

Chapter 14 "Business Regulations" of the Code of Ordinances, City of Azle, Texas is amended by repealing and replacing Article 4.09 "Wreckers" in its entirety to read as follows:



“ARTICLE 4.09 WRECKERS

§ 4.09.001 Definitions.

In this article, the following words shall have the meanings ascribed to them below:

Accident. Any occurrence that renders a vehicle wrecked or disabled.

Consent tow. The towing of a vehicle at the request of the owner or operator of the vehicle.

Disabled vehicle. A motor vehicle that has been rendered unsafe to be driven as the result of some occurrence, including but not limited to mechanical failure or breakdown, fire or vandalism, or a motor vehicle that is in a safe driving condition but whose owner or operator is not present, able, or permitted to drive so as to reasonably necessitate that the vehicle be removed by a wrecker.

Drop fee. The fee charged for a nonconsent tow which is disengaged, after being hooked-up, at the request of the vehicle's owner or operator while the towed vehicle is still on the premises from which it is being removed. A drop fee applies as long as the vehicle is still at the tow site.

Hooked-up. The vehicle is fully and legally prepared for transport by attachment to a tow truck, lifted in a tow position, with tow lights and safety chains attached and, if required, placed on a dolly in a raised position and the only remaining is for the wrecker operator to drive away.

Unauthorized vehicle. A vehicle parked, stored or situated in violation of any State law or city ordinance or without the effective consent of the owner of the premises where the vehicle is parked, stored or situated.

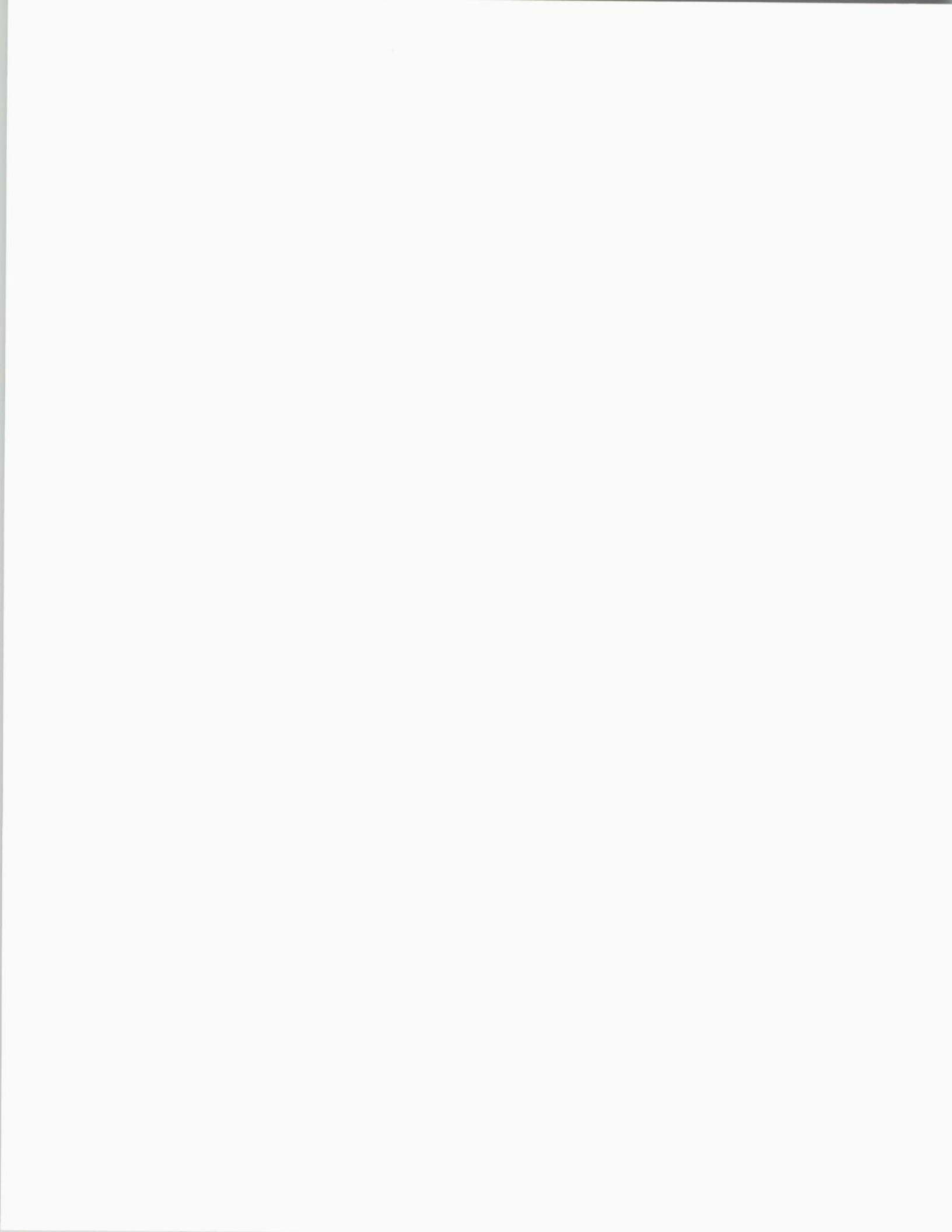
Motor vehicle. Any motor driven or propelled vehicle required to be registered under the laws of this state.

Nonconsent tow. The towing of a vehicle without the prearranged knowledge and consent of the owner or operator of said vehicle. Examples include, but are not limited to: vehicles towed when the driver is incapacitated following an accident, vehicles towed when the driver has been arrested, and vehicles removed from public or private property without pre-notification to the vehicle owner.

Nonresident wrecker or tow truck operator. A wrecker or tow truck operator registered with the state who does not maintain a place of business within the corporate limits of the city.

Person. An individual, firm, partnership, association, corporation, company or organization of any kind.

Police pull. The towing or other transportation of a vehicle by a wrecker which is the result of a police officer exercising his authority, as part of incident management, to effect the removal of said vehicle pursuant to State law and/or this article.



Private nonconsent tow. The towing of a vehicle without the prearranged knowledge or consent of the owner or operator of the vehicle.

Register. Submitting the proper information for a wrecker service company and each wrecker to the city police department for purposes of obtaining a permit issued under this article.

Permit holder. An individual, applicant, or owner who has registered and been issued a permit by the police department to operate a wrecker service company in the city.

Repossession or recovery tow. A wrecker service company requested to remove or otherwise move a vehicle on private property, without the pre-arranged knowledge or consent of the owner or operator of the vehicle, to repossess or recover the vehicle.

Tow site. The entire property associated with the physical address of the location from which the vehicle is being towed.

Vehicle. Every mechanical device in, upon or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

Vehicle storage facility. A garage, parking lot, or other facility that is owned by a person other than a governmental entity and used to store or park at least 10 vehicles each year.

Wrecked vehicle. A discarded, abandoned, junked, wrecked or worn-out motor vehicle that is not in a condition to be lawfully operated on a public road.

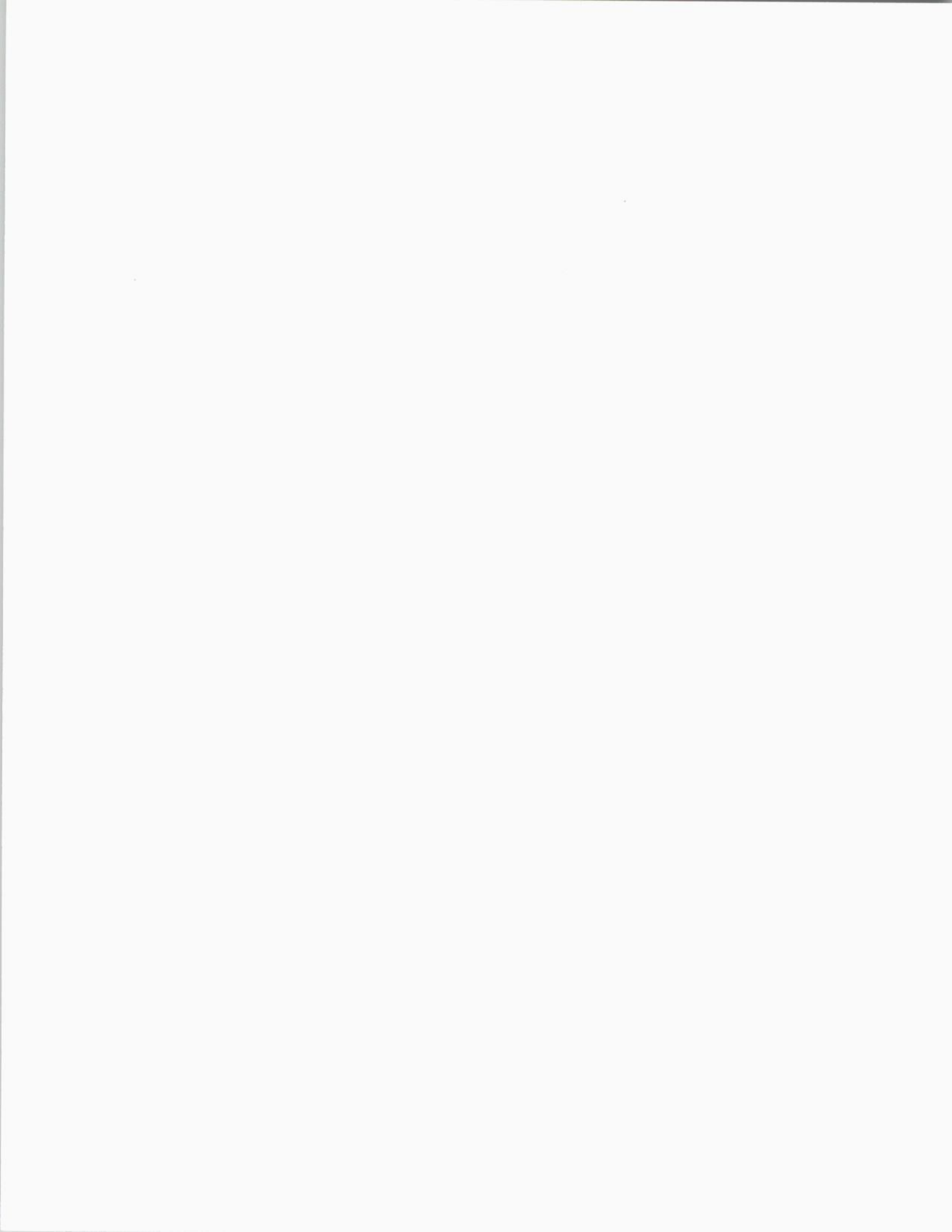
Wrecker. A vehicle designed for use primarily for removing wrecked or disabled vehicles, which is equipped with a mechanical device used to tow, winch or otherwise move a vehicle and which charges a fee for its services.

Wrecker operator. A person engaged in the business of using a wrecker to tow, winch, or otherwise move a motor vehicle.

Wrecker service company. A business engaged in towing, moving, or removing vehicles through the use of a wrecker.

§ 4.09.002 Violations; penalty.

- (a) A person commits an offense if he:
- (1) Operates a wrecker service company or drives or operates a wrecker within the city without a valid permit under this article;
 - (2) Drives or operates a wrecker or uses any equipment within the city that is not in compliance with section 4.09.006;
 - (3) Fails to maintain insurance as required in section 4.09.008;
 - (4) Violates or fails to comply with the provisions of section 4.09.007.



- (b) It is an affirmative defense to prosecution of a violation of subsection (a) hereof that the person is engaging in an activity described in Section 4.09.004.
- (c) A person who commits an offense under this article shall be fined in accordance with the general penalty provision found in section 1.01.009 of this code. Each day that a violation exists shall constitute a separate offense.

§ 4.09.003 Permit required.

- (a) Any wrecker service company that desires to provide wrecker services within the city or desires to operate a place of business within the city must register with the city and obtain a permit from the city.
- (b) It is unlawful for a person to operate, or employ another to drive or operate, any wrecker over any street in the city for the purpose of performing a nonconsent tow originating within the city without first registering with the city and obtaining a permit.
- (c) A person who charges a fee for towing nonconsent vehicles, whether by the use of a wrecker or by the use of any other vehicle utilizing ropes, chains, or other mechanisms, shall be considered to be engaging in a wrecker or towing business, and must register with the city and obtain a permit. This shall not be construed to include a service car or other vehicle not equipped with mechanical devices for transporting wrecked vehicles and not used for such purpose, such as service cars equipped with compressed air containers and tools for performing minor repairs not involving towing or transportation of wrecked or disabled vehicles.

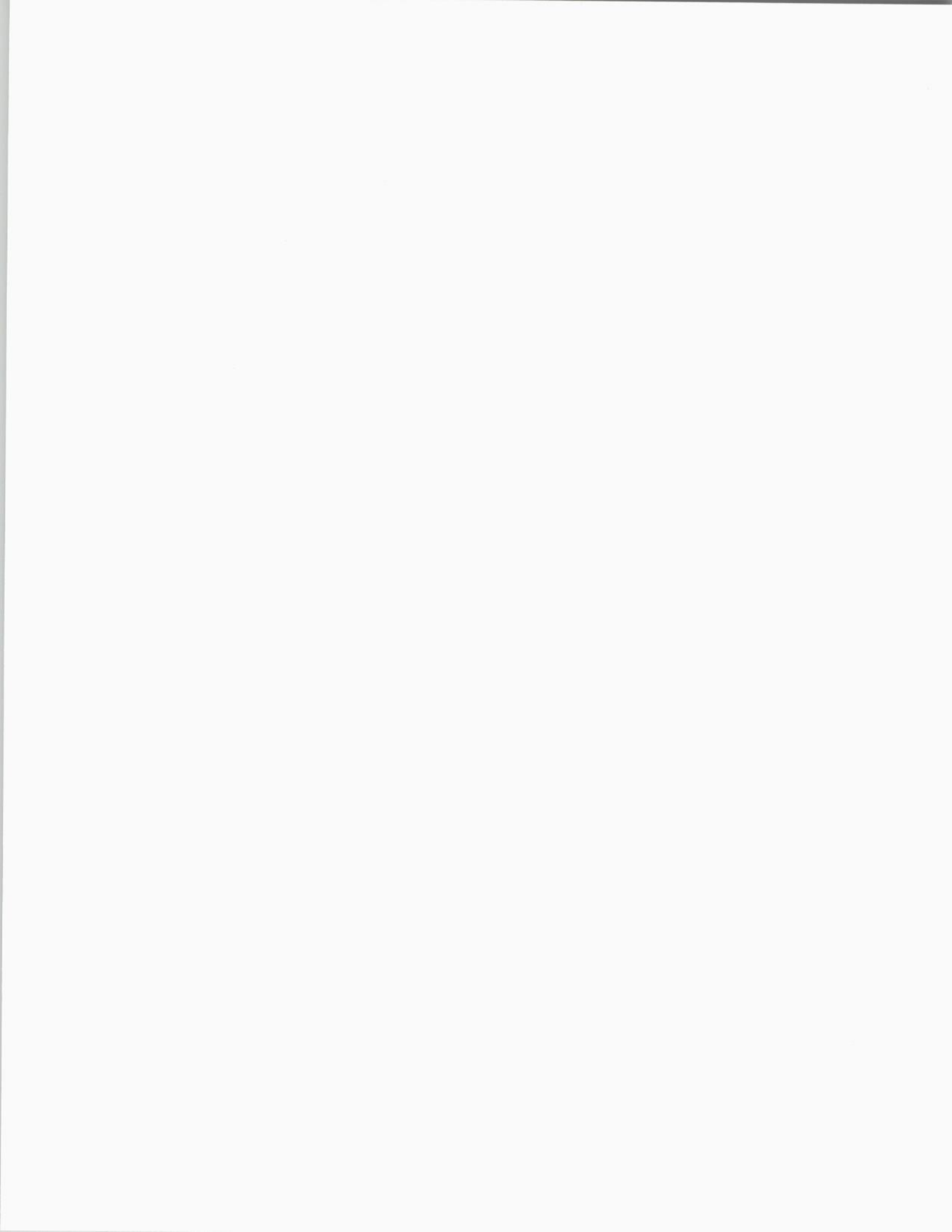
§ 4.09.004 Exceptions.

A permit is not required for the following activities:

- (1) The transportation of a vehicle by a nonresident wrecker operator from some point outside the city to some destination within the city.
- (2) The transportation of a vehicle by a nonresident wrecker operator from some point outside the city and traversing the city to some other destination outside of the city.
- (3) The transportation of a vehicle by a nonresident wrecker operator at the request of the owner or operator of a vehicle.

§ 4.09.005 Application for permit.

Each applicant for a permit, whether wishing to provide nonconsent tows within the city or operating a place of business in the city limits, must file a written permit application with the chief of police or his designee. The application shall be verified by the applicant and be on a form furnished by the police department. Only completed applications will be accepted. The application must contain the following information, in addition to any other reasonable information required by the form furnished by the police department:



- (1) the owner of the wrecker service company;
- (2) the wrecker service company's fee schedule for nonconsent tows;
- (3) identify all wrecker operators;
- (4) identify all wreckers to be operated in the city; and
- (5) identify the vehicle storage facility.

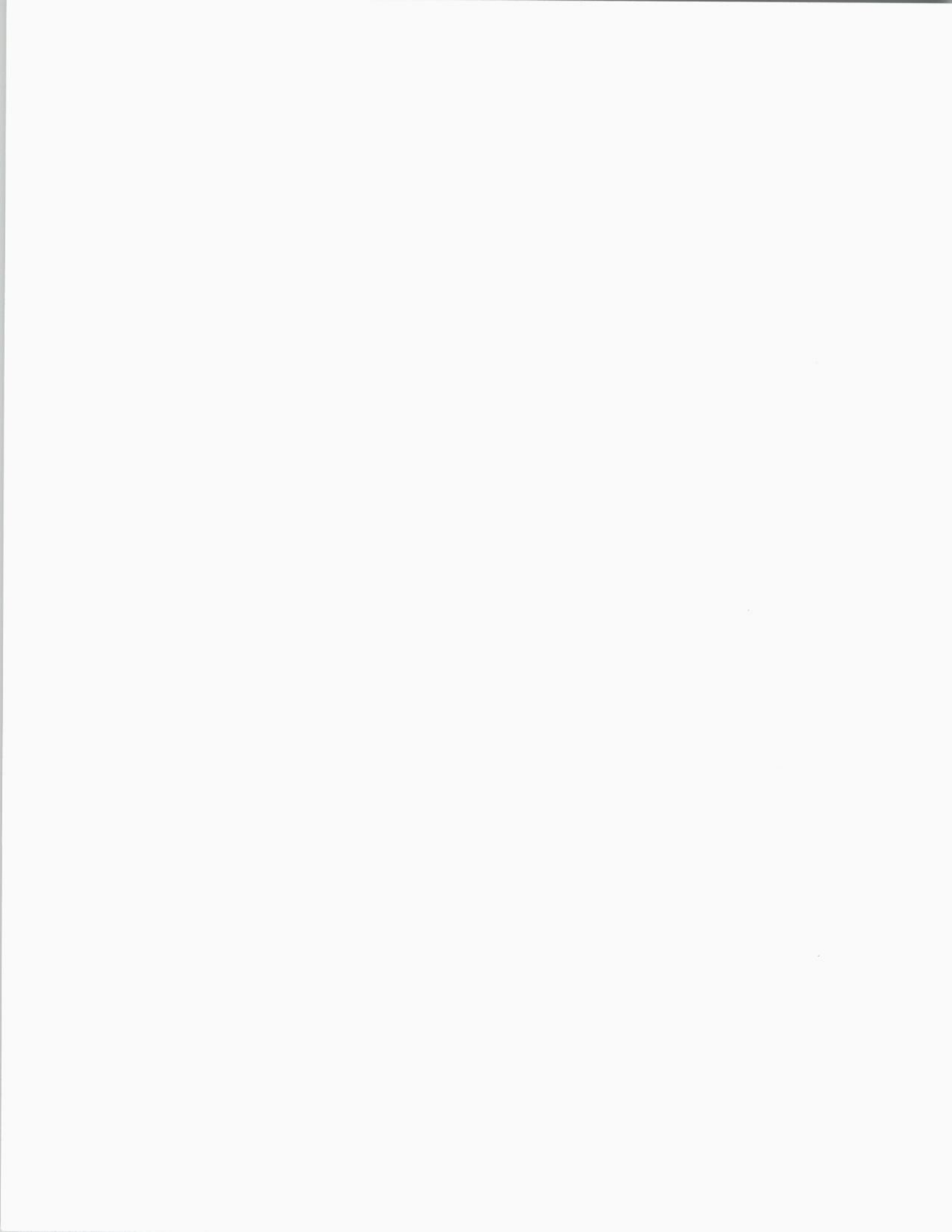
§ 4.09.006 Vehicle requirements.

Each wrecker for a wrecker service company registered with the city shall meet the following minimum requirements:

- (1) Each wrecker shall not be less than one ton in size.
- (2) Each wrecker shall position a copy of the permit for the wrecker service company where it is clearly visible in the vehicle's front window, either hanging from the inside rear window or secured inside face-out next to the state inspection sticker.
- (3) Each wrecker shall be equipped with a power or hand-operated winch line and boom or lifting device with a factory-rated capacity of not less than five thousand pounds single capacity.
- (4) Each wrecker shall have inscribed on each side the name, address, telephone number, and TDLR permit number of the wrecker service company in letters not less than three inches in height.
- (5) Each wrecker shall carry as standard equipment safety chains, a fire extinguisher, wrecking bar, broom, axe, shovel, either flares or traffic-control reflectors, a wheel dolly and a container to carry debris.
- (6) Each wrecker shall be equipped so as to provide two-way voice communication by mobile telephone or radio with the permit holder's base station at all times.
- (7) Each wrecker shall be equipped with overhead flashing emergency lights visible from one thousand five hundred feet.

§ 4.09.007 Recordkeeping; inspections.

- (a) Each permit holder shall maintain books and records reflecting its operation in accordance with generally accepted accounting principles as may be necessary for verification of the permit holder's compliance with the terms of this article. The permit holder agrees to make such records available at reasonable times to the chief of police or his designee upon request.



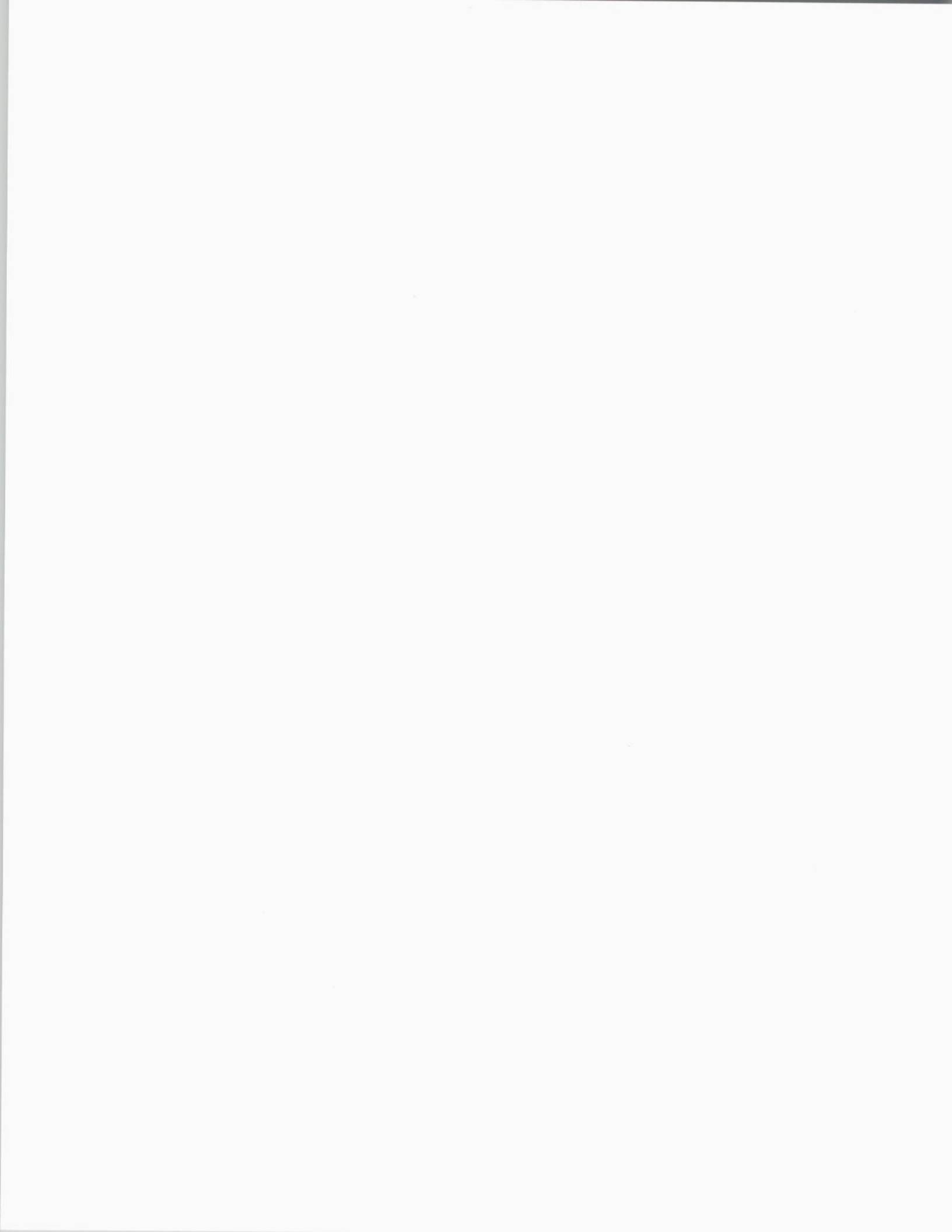
- (b) Members of the police department may inspect each wrecker and/or vehicle storage facility used by the permit holder at reasonable times during the application or permit period to insure compliance with the requirements of this article.

§ 4.09.008 Insurance.

- (a) The city shall not issue a permit unless the wrecker operator or wrecker service company shall procure and keep in full force and effect automobile liability insurance and truck cargo insurance written by an insurance company authorized to do business in the state, acceptable to the city, and issued in the standard form approved by the state department of insurance. Such policies of insurance shall require at least thirty days' written notice to the city of any cancellation or termination or of any material change in the terms of the insurance coverage. The insurance policies shall contain appropriate provisions to cover all wreckers and wrecker operators conducting business under the permit.
- (b) The automobile liability insurance must provide combined single limits of liability for bodily injury and property damage of not less than five hundred thousand dollars (\$500,000.00) for any person killed or injured, one million dollars (\$1,000,000.00) for more than one person killed or injured in any one accident, and five hundred thousand dollars (\$500,000.00) for property damage and theft coverage on all vehicles removed or impounded. The automobile liability insurance must also meet the minimum requirements under the laws of the state.
- (c) The garagekeeper's liability insurance or tow truck cargo insurance, whichever is maintained, must provide limits of liability for any one loss of not less than five hundred thousand dollars (\$500,000.00).
- (d) A copy of the required insurance policies shall be submitted to the city at the time of application for a permit and a current copy of such policies shall be maintained with the chief of police or his designee throughout the term of the permit.

§ 4.09.009 Issuance of permit; term; fee.

- (a) Upon payment of the applicable application fees, the chief of police or his designee shall review the permit application. The chief of police or his designee shall issue a permit to each qualifying applicant complying with the provisions of this article and all wrecker and towing services regulations which have been established by the city and the state. In addition, the chief of police or his designee shall provide a copy of the permit for each wrecker operated by the applicant with the wrecker's VIN number on the face of the permit.
- (b) Permits shall expire on December 31st in the year in which it is issued.
- (c) The permit shall not be transferable to any wrecker service company other than the one for which it is issued and a permit may not be used on any wrecker other than the one for which it is issued.



- (d) The annual fee for a permit shall be as provided for in the fee schedule found in appendix A of this code.

§ 4.09.010 Changes in permit information.

- (a) A permit holder shall notify the police department of any and all personnel changes for those persons who will operate a wrecker within three working days of such personnel changes. The permit holder shall immediately notify the police department of any change in ownership of the wrecker service company, any change in the number of wreckers, any change in the fee schedule for nonconsent tows, any change in the location of a storage facility, or any other material change in the information provided on the application. The current permit will immediately expire and become void upon the addition of wrecker operators, the addition of wreckers, the change of location of a storage facility, the change of the fee schedule for nonconsent tows, or any other material change in information provided on the application for permit.
- (b) New owners, the addition of wreckers, change of location of storage facility, change in the fee schedule for nonconsent tows, or any other material change in the information provided on the application for permit requires a new permit application to be submitted.

§ 4.09.011 Stored vehicles; right to hearing when vehicle removed without consent.

- (a) Each vehicle storage facility must provide to the police department on the required police department form an inventory listing of stored vehicles by Tuesday of every week.
- (b) As provided in Texas Transportation Code section 683.076, an owner or operator whose vehicle is removed without consent from a location within the city and placed in a vehicle storage facility is entitled to a hearing on whether probable cause existed for the removal and placement of the vehicle before a city municipal court judge. The police department will not support a wrecker service's claim of legality on non-police department requested tows.

§ 4.09.012 Denial, suspension or revocation of permit.

- (a) The chief of police or his designee may refuse to approve the issuance or renewal of a wrecker permit, or may suspend or revoke a wrecker permit previously issued, for one or more of the following reasons:
 - (1) The making by the applicant of any false statement or omission of information as to a material matter in a permit application or in a hearing concerning the permit.
 - (2) Conviction of the applicant, the permit holder or an employee of the applicant or permit holder for a violation of a provision of this article.
 - (3) Revocation of permit issued to the applicant or any owner, partner or corporate officer of the applicant within three years preceding the application pursuant to this section.

- (4) Conviction of the applicant or permit holder of a felony, assault, fraud, burglary, theft, DWI or other offense involving moral turpitude within five years preceding the application.
 - (5) Suspension of a state license for any reason.
 - (6) Failure to comply with any of the requirements of this article.
- (b) If the chief of police or his designee denies a permit application, written notice shall be mailed to the applicant, at the address shown on the application, by certified mail, return receipt requested. The notice shall state the reason for denial.
- (c) No permit shall be suspended or revoked without notice to the permit holder and an opportunity for a hearing. A permit holder who receives notice of a proposed suspension or revocation may file a written request for a hearing with the chief of police or his designee within ten days from the date of the notice. The chief of police or his designee shall conduct a hearing and shall thereafter determine whether to suspend or revoke the permit.

§ 4.09.013 Appeals.

Any person whose application for a wrecker permit has been denied, suspended, or revoked by the chief of police or his designee shall have the right to appeal in writing such action to the city manager within ten calendar days after notification of such action. The city manager shall review the matter and may uphold, modify, or reverse the action of the wrecker permit. The decision of the city manager shall be final.

§ 4.09.014 Contract for providing service to city.

- (a) The city will contract with one wrecker service company for all police pulls in the city, for the towing of city owned vehicles, or for the towing or impoundment of any vehicle made necessary in the exercise of the city's police and governmental functions, and to store or impound such vehicles on the parking facility of such wrecker service company.
- (b) The fees for police pull services shall be set by contract between the wrecker service company and the city.
- (c) The city may call any wrecker service company or use any wrecker service in cases where the contractor is unable to respond as required by this article, during emergency situations, or when deemed necessary by the chief of police or his designee.

§ 4.09.015 Requirements for city contract wrecker service company.

The wrecker service company contracting with the city for police pulls must be registered with the city and comply with the vehicle requirements established in Section 4.09.006, all state laws regarding wreckers and vehicle storage facilities, and the following requirements:

- (1) Meet all city and state qualifications and requirements, and be registered as a wrecker service with the city and comply with all city ordinances.
- (2) Operate a principal place of business in the city limits and have a storage facility within a five-mile radius of the city limits.
- (3) Arrive at the scene within twenty minutes upon notification.
- (4) Deliver wrecked or disabled vehicles to a location designated by the owner or operator of the vehicle or by the police department.
- (5) Must not release any police department requested towed vehicle without proper documentation from the police department.
- (6) Upon arrival at an accident scene, promptly clear the wreckage and debris from the traveled portion of the roadway and confine wreckage and debris to the smallest possible portion of the traveled roadway. In a manner to minimize the duration of the interference with normal traffic flow, completely remove from the site of the accident all resulting wreckage or debris, including all broken glass, excluding the truck's or vehicle's cargo, before leaving the site.
- (7) To the extent feasible, comply with all traffic regulations in removing any vehicle from the scene of an accident. Under no circumstances shall a vehicle be moved or towed in such a manner as to jeopardize the safety of other vehicles on the roadway.
- (8) Depart the scene of an accident at the request of a police officer when such wrecker has not been called to the scene in compliance with this article.
- (9) Keep and maintain wrecker vehicles and towing equipment in a safe and working condition to ensure that said wrecker and equipment are adequate to perform towing services.
- (10) Must have ability to access at least one flat-bed vehicle capable of handling the safe movement of motorcycles and front wheel drive cars.
- (11) Must provide proof of ability to access, upon receipt of notice, a wrecker that is capable of towing a tractor-trailer and other large vehicles.
- (12) Must operate wreckers equipped with an overhead flashing non-emergency (red) light that is visible from one thousand five hundred feet.
- (13) Shall provide pickup and towing services for city vehicles, within the city at no charge to the city, and for vehicles outside the city but within Tarrant and Parker counties, and those counties contiguous to Tarrant and Parker counties, at the minimum rate provided by state law.
- (14) Shall provide storage at no cost to the city for city-owned vehicles.

- (15) Shall not charge the city for storage of vehicles towed and/or stored without the owner's consent but shall charge the owner.
- (16) Maintain its certificates of convenience and necessity as issued by the state department of transportation and the United States Interstate Commerce Commission.
- (17) Shall employ and maintain, or have the ability to access a sufficient number of personnel to accommodate a minimum of three wrecker units at the same time and to respond and be on the scene within twenty (20) minutes of notification.
- (18) Shall have the ability to access a heavy wrecker and to be on the scene within forty-five (45) minutes of notification.
- (19) Shall furnish a list of any liens, judgments, or other encumbrances against the registering company owned by applicant. The list shall include the amount secured by each lien, judgment, or encumbrance, the amount due, the character of such lien, judgment, or encumbrance, and the names and address of the holder of such lien, judgment, or encumbrance.

§ 4.09.016 Police-requested vehicle removal.

No person may drive a wrecker to the scene of an accident on the streets of the city unless the person has been called to the scene by a police officer or the owner or operator of the vehicle. When a wrecker operator has been called directly the owner or operator of the vehicle, the wrecker operator shall notify the police dispatcher before proceeding to the scene of the disabled vehicle at the accident scene.

§ 4.09.017 Non-police-requested vehicle removal.

The wrecker service company shall first notify the city police department of the intent to remove and store a wrecked or disabled vehicle before removing the vehicle from its location in the city to another location if the owner and/or operator of the vehicle has not given consent.

§ 4.09.018 Solicitation of business.

- (a) No person may solicit in any manner, directly or indirectly, on the streets of the city, the business of towing a vehicle which is wrecked or disabled, regardless of whether the solicitation is for the purpose of soliciting business of towing, removing, repairing, storing, trading or purchasing the vehicle.
- (b) Proof of the presence of a person engaged in the wrecker business, either as owner, operator, employee or agent, on a street in the city, at or near the scene of an accident, who has not been called to the scene by the police department or the owner or operator of the vehicle, within one hour after the happening of an accident is prima facie evidence of a solicitation in violation of this section.

§ 4.09.019 City employees not to recommend wrecker operator.

No police officer or other employee of the city shall recommend to any person, directly or indirectly, the name of any particular wrecker service company or wrecker operator, nor shall any police officer or other city employee attempt to influence in any manner a decision of a person in selecting a wrecker service company or wrecker operator.

§ 4.09.020 Permitted Tows.

The towing of vehicles shall fall into one of four categories: (a) consent tow; (b) police pull; (c) repossession or recovery tow; or (d) private nonconsent tow.

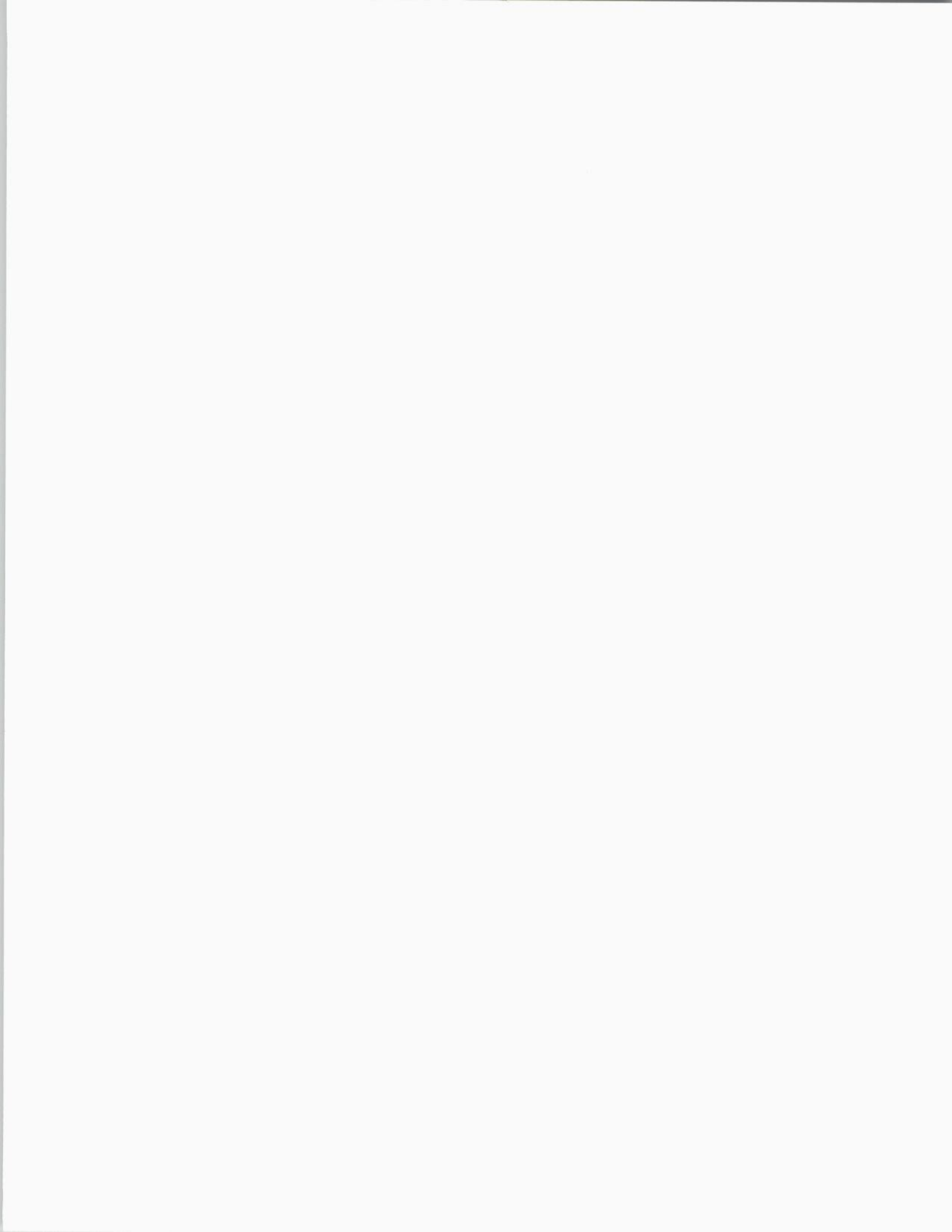
- (a) **Consent tow.** A wrecker requested to remove or otherwise move a vehicle for a particular person at their request. The operator of the vehicle or its owner must request this wrecker service company by name. This wrecker service company is not required to be on an approved listing to tow, but must have in place a tow truck tag as required by the Texas Occupations Code or it will not be allowed to tow the vehicle. An owner's request (consent tow) may be used at the scene of a collision, mechanical breakdown, or on a vehicle that is abandoned, unless the officer on the scene determines that the vehicle is hazardous or that a time delay would endanger or hamper the general public's safety, well-being, or the investigation. If the officer deems it necessary, a contract wrecker service company will be notified for immediate removal of the vehicle.
- (b) **Police pull.** A wrecker called to remove or otherwise move vehicles at the request of a police officer exercising his authority under the law, for the purpose of incident management, or in the interest of public safety. A contract wrecker service company may be used to tow vehicles involved in a collision when the owner or operator is not present, is incapacitated, or is otherwise unable to request a tow truck including but not limited to when the operator is hospitalized or incarcerated, and when the police officer otherwise deems it necessary to remove the vehicle by police authority in the interest of incident management or public safety. A contract wrecker service company may be used to tow any vehicles to be held as evidence in a criminal case or to be seized for forfeiture in a civil action. A contract wrecker service company may be used to tow any vehicle under police authority when the removal is authorized by another law or in the interest of public safety, including but not limited to abandoned vehicles, pursuant to Chapter 683, Texas Transportation Code, or vehicles being operated without insurance.
- (c) **Repossession or recovery tow.** A wrecker requested to remove or otherwise move a vehicle on private property, without the pre-arranged knowledge or consent of the owner or operator of the vehicle, to repossess or recover the vehicle.
- (d) **Private nonconsent tow.** A wrecker requested to remove or otherwise move vehicles on private property, without the pre-arranged knowledge or consent of the owner or operator of the vehicle, where notice of prohibited parking is given by signs, where vehicles are parked in fire lanes or obstructing an entrance, exit or aisle of a parking facility, or where otherwise authorized by law.

§ 4.09.021 Repossession or recovery tow.

- (a) A person or firm operating a wrecker in any manner, directly or indirectly, within the city limits for the purpose of repossessing or recovering a vehicle without the direct and express consent of the owner of the vehicle being towed must make the proper notification prescribed by law to the Azle police department.
- (b) Proper notification must include:
 - (1) Name of the wrecker service company;
 - (2) Name of the wrecker operator;
 - (3) Location the vehicle is being removed from;
 - (4) The storage location;
 - (5) Contact information for the storage facility;
 - (6) Name of the person authorizing the tow;
 - (7) Year, make, model and color of the vehicle;
 - (8) Vehicle license plate number and state; and
 - (9) Vehicle VIN.
- (c) This notification must be completed by providing all of the information listed in Section 4.09.021(b) to police dispatch at (817) 444-3221 within thirty (30) minutes of towing the vehicle.
- (d) The vehicle must be dropped if the wrecker operator is confronted by the owner of the vehicle before leaving the tow site. In such case no fees shall be charged.
- (e) No vehicle shall be removed from a location or the immediate area that it was parked, without the vehicle being hooked-up and legally prepared for transport as defined by this article.

§ 4.09.022 Private nonconsent tows.

- (a) A wrecker service company engaging in private nonconsent towing of vehicle from a location in the city shall be licensed by the State pursuant to Chapter 2308, Texas Occupations Code, in addition to the permit required under this article.
- (b) A wrecker service company towing and/or vehicle storage facility accepting a vehicle nonconsent towed from private property must report the tow to the Azle police department.
- (c) The proper notification must include:



- (1) The name of the wrecker service company;
 - (2) Name of the wrecker operator;
 - (3) Location the vehicle is being removed from;
 - (4) The storage location;
 - (5) Contact information for the storage facility;
 - (6) Name of the person authorizing the tow;
 - (7) Year, make, model and color of the vehicle;
 - (8) Vehicle license plate number and state; and
 - (9) Vehicle VIN.
- (d) This notification must be completed by providing all of the information listed in Section 4.09.022(c) to police dispatch at (817) 444-3221 within thirty (30) minutes of towing the vehicle.
- (e) Any wrecker operator shall cease the removal of a vehicle upon request of the vehicle's operator and upon payment of the drop fee. A wrecker operator must accept cash, credit cards and debit cards as payment for the drop fee.
- (f) If a wrecker operator is notified by the police department that the vehicle he is removing has been reported stolen, he shall immediately disengage his wrecker from such vehicle and shall abandon the tow at no charge.
- (g) Even if a wrecker service company has a general contractual or "patrol account" arrangement with a private property owner, it is unlawful for a wrecker service company to make a nonconsent tow from private property of any vehicle unless the private property owner has given authority to tow that specific vehicle and the signs required by Section 4.09.023 of this article are in place on the private property. The requirements for specific authority and posting of signs shall not apply if the vehicle being towed:
- (1) is in or obstructs a vehicular traffic aisle, entry or exit of the parking facility;
 - (2) prevents a vehicle from exiting a parking space in the facility;
 - (3) is in or obstructs a fire lane marked according to Chapter 2308 of the Texas Occupations Code;
 - (4) does not display the proper special license plates or disabled parking placard and is in a parking space that is designated for the exclusive use of a vehicle transporting a disabled person; or

- (5) is blocking access to a dumpster.
- (h) The owner or operator of a wrecker service company may not charge a nonconsent towing fee, including administrative fees and surcharges, in excess of the maximum fees established by the city, as follows:
- (1) Nonconsent tow fees.
- | | | |
|-----|---|--|
| (A) | For vehicles with a gross weight rating up to 10,000 pounds: | \$272.00 |
| (B) | For vehicles with a gross weight rating of 10,001 and up to 24,999 pounds | \$380.00 |
| (C) | For vehicles with a gross weight rating of 25,000 pounds and up | \$489.00 per unit
(\$978.00 max) |
- (2) Drop fee.
- | | | |
|-----|--|-----------------|
| (A) | For vehicles up to 10,000 pounds: | \$135.00 |
| (B) | For vehicles 10,001 to 24,999 pounds: | \$190.00 |
| (C) | For vehicles 25,000 pounds and higher: | \$244.00 |
- (i) All fees established by this article in Section 4.09.022, subsection (h), shall be reviewed by the city annually, unless additional review is specifically requested by a wrecker service company.
- (j) Wrecker operators and wrecker service companies shall prepare and issue a tow ticket for each nonconsent tow, a copy of which must be given to the vehicle owner, if the vehicle owner is present and available at the time of the tow, and a copy must be delivered to the vehicle storage facility. The tow ticket shall itemize each charge and each charge must be characterized in accordance with the fee structure stated in the towing company's nonconsent towing fee schedule on file with the vehicle storage facility.
- (k) Wrecker operators and wrecker service companies performing nonconsent tows within the City must accept cash, major credit cards, and debit cards as payment for the fees described in Section 4.09.022, subsection (h), of this article.
- (l) Upon initial contact with the owner of a vehicle which is the subject of a nonconsent tow, a wrecker operator, a vehicle storage facility operator, or any employee or agent thereof shall give written notice to the vehicle owner of his right to a hearing pursuant to the Texas Occupations Code, Chapter 2308. Such notice shall include the name, address and phone number of the person or agency that authorized the removal, and a statement that

the hearing must be requested in writing within fourteen (14) days of the date the vehicle was stored and that the request must be filed with a magistrate in whose jurisdiction the location from which the vehicle was removed is located.

- (m) The vehicle must be dropped if the wrecker operator is confronted by the owner of the vehicle before leaving the tow site. In such case no fee shall be charged, except that a drop fee shall apply only if the vehicle is hooked-up and legally prepared for transport as defined by this article. A wrecker operator and a wrecker service company must accept cash, credit cards and debit cards as payment for the drop charge.
- (n) No vehicle shall be removed from a location or the immediate area that it was parked, without the vehicle being hooked-up and legally prepared for transport as defined by this article.
- (o) Nonconsent towed vehicles removed from a location within the city shall only be taken to a storage facility that is within a ten (10) mile radius from the location from which the vehicle was removed.
- (p) Nonconsent towed vehicles removed from a location within the city shall not be taken to a vehicle storage facility that does not accept cash, major credit cards, and debit cards.
- (q) A vehicle storage facility shall not charge a fee in excess of the fees authorized by Section 2303.155 of the Texas Occupations Code. A vehicle storage facility must accept payment by cash, debit cards and credit cards.
- (r) A vehicle storage facility shall provide the owner of a vehicle released, or the owner's representative, a tow ticket. The tow ticket may be combined with the vehicle storage facility invoice if it complies with the following requirements:
 - (1) the tow charges must be separated from the vehicle storage facility charges and each category of charges must be preceded by a heading or label identifying the charges as "Tow Charges" or "Storage Charges;"
 - (2) the tow charges must appear on a combined statement exactly as stated on the tow ticket prepared by the wrecker operator and provided to the vehicle storage facility at the time the vehicle is presented for storage; and
 - (3) a combined statement of charges must meet and contain all required elements of a separate vehicle storage facility invoice and tow ticket, except that the license number and name of the tow operator may be excluded.

§ 4.09.023 Required signage for private nonconsent tows.

- (a) A parking facility must comply with the following signage and posting requirements in order to tow an unauthorized vehicle from the property:
 - (1) The requirements of this section shall apply only where notice of prohibited parking is given by signs. They shall not apply to tows made of vehicles parked

in fire lanes or of vehicles obstructing an entrance, exit, or aisle of a parking facility.

- (2) Signs shall be placed on the right or left side of each driveway access or curb cuts allowing vehicular access to a parking facility. If there are no curbs or access barriers, signs shall be placed at intervals of not less than twenty-five (25) feet around the perimeter which is accessible by vehicles.
- (3) Each sign shall be placed at a right angle so as to face entering traffic. They shall be placed no farther than five (5) feet from the public right of way, but shall not be within said right of way.
- (4) Each sign shall be permanently installed on a pole, post, permanent wall, or permanent barrier so that the bottom edge of the sign is no lower than five (5) feet and no higher than eight (8) feet above the ground level.
- (5) Each sign shall be a minimum of eighteen (18) inches wide by twenty-four (24) inches high, and a maximum of twenty-four (24) inches wide by thirty (30) inches high. Their facings shall be fabricated out of weather-resistant material. The letters on such signs shall be of a minimum height of two (2) inches, of a contrasting color to the background, and shall be light-reflective. The background shall be white, except as otherwise provided by this ordinance or state law.
- (6) Each sign shall state who may park in the facility, and shall further state that all others are prohibited and will be towed away at the owner's expense. The words "TOWING ENFORCED" shall be included on each sign in white capital letters of a minimum height of two (2) inches on a bright red background.
- (7) Each sign must have the bright red international towing symbol, at least 4 inches in height, with a white background on the uppermost portion of the sign or on a separate sign placed immediately above the sign.
- (8) Each sign shall provide the name and current telephone number of the wrecker service company authorized to tow vehicles from the parking facility, and the name and current telephone number of the vehicle storage facility, if different from the wrecker service company. Alternatively, each sign may state the name and phone number of the parking facility owner if that person has knowledge of the location of the stored vehicle.
- (9) Signs shall be continuously maintained at a parking facility for twenty-four (24) hours prior to the towing or removing of any vehicle. However, this subsection shall not be deemed as giving proper notice to the owner of a vehicle parked on a parking facility prior to the installation of the signs and not subsequently moved by the owner.
- (10) These provisions shall be in addition to the requirements of Chapter 2308 of the Texas Occupations Code.

- (b) The city may place a sign immediately below the state required signage that provides an email address and/or phone number for towing related complaints.”

SECTION 2.

This Ordinance shall be cumulative of all provisions of ordinances of the City of Azle, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 3

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

SECTION 4

All rights or remedies of the City of Azle, Texas, are expressly saved as to any and all violations of the Code of Ordinances, City of Azle, Texas, or any amendments thereto that have accrued at the time of the effective date of this Ordinance; and as to such accrued violations, and all pending litigation, both civil and criminal, same shall not be affected by this Ordinance, but may be prosecuted until final disposition by the courts.

SECTION 5

Any person, firm or corporation who violates, disobeys, omits, neglects, refuses or fails to comply with, or who resists the enforcement of any provision of this Ordinance shall be fined, upon conviction, not more than five-hundred (\$500.00) for each offence. Each day that a violation is permitted to exist shall constitute a separate offense.


SECTION 6

The City Secretary of the City is hereby directed to publish caption and penalty clause in the official newspaper at least once within ten (10) days after the passage of this Ordinance.

SECTION 7

This Ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 20 DAY OF FEBRUARY 2024.



Alan Brundrett, Mayor

ATTEST:



Yael Forgey, City Secretary

APPROVED AS TO FORM AND LEGALITY:



Andrea Russell, City Attorney

