

ORDINANCE NO. O-2024-015

AMENDING TOWING REGULATIONS

AN ORDINANCE OF THE CITY OF HUTTO, TEXAS, AMENDING THE HUTTO CODE OF ORDINANCES, ARTICLE 8.06 OF CHAPTER 8 REGARDING REGULATIONS FOR VEHICLE TOWING AND TOW ROTATION; ESTABLISHING A PROVISION FOR CITY OWNED AND REGULATED VEHICLES IN THE TIRE ROTATION; AMENDING FEES; PROVIDING A SEVERABILITY CLAUSE; REPEALING CONFLICTING ORDINANCES OR RESOLUTIONS; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Hutto, Texas (“City Council”) is authorized by Section 51.001 of the Texas Government Code to adopt an ordinance that is for the good government, peace, or order of the City and is necessary or proper for implementing a power granted by law to the City; and

WHEREAS, the City Council has determined it must amend its towing ordinance and adjust the fees attached to towing City owned and regulated vehicles that are subject to law enforcement holds to protect its citizens from overcharges and ensure that tow trucks providing services for nonconsensual tows within the City limits meet the necessary insurance and State law requirements; and

WHEREAS, the City Council finds that the amendments to the tow ordinance and the associated fees are necessary to protect the health, safety, and welfare of the citizens of Hutto.

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

SECTION 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

SECTION 2. The rules, regulations, terms, conditions, provisions, and requirements of this Ordinance are hereby found to be reasonable and necessary to protect the public health, safety, and quality of life in the City of Hutto.

SECTION 3. The City of Hutto Code of Ordinances, Chapter 8 Business Regulations, Article 8.06 Vehicle Towing is hereby amended and Section 8.06.028 is established as follows:

VEHICLE TOWING

Sec. 8.06.001 Purpose

The proper and safe functioning of the towing companies has a critical impact on the safety and welfare of the public since it involves the use of the public streets of the city, often in circumstances necessitating prompt removal of dangerous obstructions to traffic. Therefore, the privilege of any

person to engage in a towing company in the city shall be subject to regulation in order to protect the health, safety and welfare of the public.

Sec. 8.06.002 Compliance with state laws

Any person operating a tow truck shall comply with all applicable state laws. A failure to comply with applicable state laws is a violation of this article.

Sec. 8.06.003 Definitions

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

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

Additional labor. Shall mean when a second tow truck is summoned by the police department for the same towing company in order to accomplish the original tow, but does not include winching or a second tow truck arriving when not requested.

Certificate holder. Any person possessing a current, valid certificate of registration to engage in the towing business in the city.

Certificate of registration. Written authorization granted by the chief of police, under the provisions of this article, to a towing company having a place of business within the city operating a tow truck that performs non-consent tows or incident management tows.

Chief of police. The chief of police for the city or the person designated by him/her to act in his/her stead for the purposes of this article.

City. Shall include all areas that have been fully annexed by the City of Hutto.

Consent tow. Any tow of a motor vehicle in which the tow truck is summoned 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 an incident management tow or a private property tow.

Incident management tow. Any tow of a vehicle in which the tow truck is summoned because of a traffic accident (crash) or to an incident.

Inspection sticker. Written authorization granted by the chief of police, under the provisions of this article, and affixed to a tow truck used by a tow company on the rotation list, indicating that the tow truck has passed the required inspection.

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

Motor vehicle. Any vehicle which is self-propelled. This does not include motor-assisted bicycles as defined by the laws of the state.

Non-consent tow. Any tow of a motor vehicle that is not a consent tow or incident management tow.

Owner. A person:

- (1) Named as the purchaser or transferee in the certificate of title issued for the vehicle under chapter 501, Transportation Code;
- (2) In whose name the vehicle is registered under chapter 502, Transportation Code, or a member of the person's immediate family;
- (3) Who holds the vehicle through a lease agreement;
- (4) Who is an unrecorded lienholder entitled to possess the vehicle under the terms of a chattel mortgage; or
- (5) Who is a lienholder holding an affidavit of repossession and entitled to repossess the vehicle.

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

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

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

Standby. The amount of time a tow truck must wait to perform the towing service, not including the first hour from the time of arrival.

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

Towing company or business. An individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in this state, but does not include a political subdivision of the state. It does not include 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 article.

Vehicle. Every device in, upon, or by which any person or property is or may be transported on a public roadway. The term includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer, but does not include a device moved by human power or used exclusively on a stationary rail or track.

Winching. The use of a winching device to move a vehicle from ditches, fields, culverts, or ravines, and vehicles that have rolled or have come to rest on top of another vehicle or person, but does not include the normal loading of a vehicle for tow.

Wrecker. Shall have the same definition as “tow truck.”

Sec. 8.06.004 Certificate of registration for non-consent towing required; application.

(a) It shall be unlawful for a person to operate a tow truck that performs non-consent or incident management towing in the city unless the person has a certificate of registration issued by the chief of police, except as provided in subsection (c) below.

(b) An applicant for a certificate of registration to perform non-consent or incident management towing shall submit, on a form provided by the chief of police, a verified application containing or accompanied by the following:

(1) The true name, trade name, principal business address, and telephone number that is answered twenty-four (24) hours a day, of the towing company.

(2) The list of tow trucks proposed to be operated by the towing company, including but not limited to the motor vehicle identification number, make, and unit number from the tow company applying for the certificate of registration.

(3) The name of the owner(s) of the tow company, partners and/or corporation officers.

(4) A certificate of public liability and property damage insurance, for each tow truck to be registered, issued by a casualty company authorized to do business in the state, in the standard form approved by the city attorney, containing a provision that at least ten (10) days' prior notice of cancellation of said insurance shall be given to the chief of police by the insurance company, and with the insured provision of such policy including the city as an additional insured and the coverage provision insuring members of the public from any loss or damage that may arise to any person or property by reason of the operation of a certificate holder's business, and providing that the combined single limit liability insurance coverage amount for bodily injury to or death of an individual per occurrence, loss or damage to property shall be \$300,000.00 for tow trucks whose gross vehicle weight is less than 26,000 pounds and \$500,000.00 for tow trucks whose gross vehicle weight is 26,000 pounds or more.

(5) A certificate of on-hook cargo insurance to cover damage to a towed vehicle during hookup and/or towing in the minimum amount of fifty thousand dollars (\$50,000.00).

(6) A copy of a vehicle storage facility license issued by the state department of transportation pursuant to the Vehicle Storage Facilities Act, chapter 2303, Texas Occupations Code, as now enacted or as hereafter amended.

(7) A copy of the motor carrier certificate of registration issued by the state department of transportation.

(8) No company, owner, operator, or entity, regardless of the number of Doing Business As identifiers may occupy more than one (1) position on the non-consent or incident management tow rotation.

(9) A fee as provided in the fee schedule in appendix A of this code.

(c) This section does not apply to nor prohibit a tow company which obtained a motor carrier certificate of registration from the state department of transportation, and having a place of business outside the incorporated city limits, from making a “consent tow” within the city.

Sec. 8.06.005 Issuance of certificate of registration; expiration; carrying in tow trucks

(a) Issuance or denial. The chief of police or authorized designee shall register a tow company and issue a certificate of registration under this article which is determined to be in compliance with the requirements under [section 8.06.004](#). However, the chief of police may deny an application for a certificate of registration if the applicant:

(1) Has had a registration revoked under Texas Transportation Code section 643.252, as now enacted or as hereafter amended;

(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 non-consent or incident management tows without a certificate of registration on the public roadways;

(5) Submits false information on a registration application;

(6) Fails to maintain insurance required by state law for the operation of a tow company or its equipment; or

(7) Other legal grounds exist for denying such certificate of registration.

(b) Expiration and renewal. Each certificate of registration issued shall expire at midnight one calendar year from the date of issuance, and will be renewable only upon compliance with the provisions of this article and any other applicable laws, ordinances, or regulations which shall be in effect at the time of the renewal application.

(c) Carrying in tow trucks. Each tow company which has received a certificate of registration under this article shall at all times carry a copy of its certificate of registration in each tow truck it operates.

(d) Updating of information. Each tow company which has received a certificate of registration shall be responsible for updating the information provided in the application by submitting supplemental information on forms provided by the chief of police. Failure to provide updated

information, such as, but not limited to, replacement or additions of tow trucks, driver's license suspensions or revocations, change in insurance company, or expiration of the storage facility license, shall be grounds for suspension or revocation of a certificate of registration.

Sec. 8.06.006 Suspension or revocation of certificate of registration

The chief of police may suspend or revoke a certificate of registration issued under this article, or place a tow company on probation, if the tow company or any of its tow trucks fail to comply with state law or the requirements set out in this article, or for any other lawful reason.

Sec. 8.06.007 Rotation list established for non-consent or incident management towing

(a) The chief of police shall establish and maintain a rotation list, from which tow trucks shall be picked to answer calls for non-consent or incident management towing. Each tow company who applies and meets the requirements herein shall be entitled to one (1) place on said list. The names of the towing companies on the list shall be listed in numerical order, beginning with the date the application is approved.

(b) It shall be unlawful for any tow company to operate tow trucks under a different company name for purposes of gaining additional towing on the established rotation list.

Sec. 8.06.008 Rotation list qualifications; maximum fees

(a) Requirements for participation. A tow company may participate on the rotation list if the tow company meets the following requirements:

(1) It has registered and received a certificate of registration and inspection sticker for each tow truck it owns or will use while on the rotation list under this article.

(2) It owns, leases, or otherwise lawfully possesses and operates a storage facility located within the full, ~~or~~ limited purposes annexation, within 10 miles from city hall where all motor vehicles are towed on behalf of the city or private property tows shall be stored areas of the city where all motor vehicles towed on behalf of the city or private property tows shall be stored at all times and which:

(A) Is enclosed by a permanent eight (8) foot privacy fence that is constructed according to the city building regulations as now enacted or as hereafter amended; and

(B) Has a gate which is locked when there is no attendant on duty or after normal business hours.

(3) It maintains at least one (1) tow truck.

(4) It maintains twenty-four (24) hour tow service and a local telephone number which is answered twenty-four (24) hours a day.

(5) It is able to respond to any location in the city within thirty (30) minutes of being notified by telephone. Tow trucks 2-1/2 tons or more in size must be able to respond within forty-five (45) minutes after notification.

(6) It has someone available twenty-four (24) hours a day to release any vehicle impounded within thirty (30) minutes of a request by the owner or the police department.

(7) It or the owner of the leased storage facility holds a license issued by the state department of transportation pursuant to the Vehicle Storage Facility Act, chapter 2303, Texas Occupations Code, as now enacted or as hereafter amended.

(8) It submits an application for placement on the rotation list.

(b) Application for placement on rotation list. A tow company shall submit a verified application for placement on the rotation list, on a form provided by the chief of police, containing or accompanied by the following:

(1) A copy of a vehicle storage facility license issued by the state department of transportation for a storage facility within the city.

(2) A list of all drivers and drivers' driving records, obtained from the state department of public safety; said list shall be updated as new drivers are added or when a driver's license is suspended or revoked.

(3) A city certificate of insurance form indicating general liability in the amount of \$1,000,000.00, in addition to the insurance requirements under [section 8.06.004\(b\)\(4\)](#).

(4) 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 towing company are current. The certificate shall list the name of the towing company, its subsidiaries or assumed names.

(c) Maximum fees. The following maximum fees may be charged by tow companies under this article for the use of tow trucks on the rotation list for non-consent and incident management tows, any fees in addition to normal tow rate must be signed off by the officer in charge of the incident:

(1) ~~Regular or flat bed tow: \$120.00.~~

(2) ~~Additional labor: \$60.00.~~

(3) ~~Heavy duty tow (over 26,000 pounds): \$560.00.~~

(4) ~~Standby (after first hour): \$55.00.~~

(5) ~~Winching: \$35.00.~~

Light Duty Tows (Less than 10,000 pounds)
\$225.00

Medium Duty Tows (10,000 > 25,999 pounds)
\$400.00

\$300.00 Attached trailer/heavy loads (in addition to \$425.00)

Additional Fees Applicable for Light and Medium Duty Tows

\$40.00 For necessary use of dollies/flatbed.

\$60.00 Wait time (Per hour, after the first hour. Billed at 30-minute intervals).

\$60.00 Extra labor, per person per hour.

\$60.00 Clean up (per hour, after first hour on scene).

\$25.00 No Keys

\$100.00 Winching- For more than 1 hook up to same vehicle.

Heavy Duty Tows (In excess of 26,000)

\$800.00 Vehicle only

\$500.00 Off Load / Haul Trailer

\$300.00 Air Bags (per bag/per hour / Maximum of \$4,000)

\$100.00 Wait time (\$25 per 15 minutes after the first hour)

\$100.00 Fork lift (per hour)

\$100.00 Additional Labor to assist primary driver per man hour.

Rental + 35% Special Equipment

Maximum vehicle storage fees shall be determined by Texas Department of Licensing and Regulation rule.

(d) Removal from rotation list. A tow company will automatically be removed from the rotation list on the expiration date of its certificate of registration, as provided in [section 8.06.005](#), and will be placed back on the list only upon compliance with the provisions of this article and any other applicable laws, ordinances, or regulations which shall be in effect at the time of the renewal request application.

(e) Updating of information. Each tow company having a place on the rotation list shall be responsible for updating the information provided in the application by submitting supplemental information on forms provided by the chief of police. Failure to provide updated information, such as, but not limited to, replacement or addition of tow trucks, driver's license suspensions or revocations, change in insurance company, change in storage facility, or expiration of a storage facility license, shall be grounds for suspension or removal from the rotation list.

Sec. 8.06.009 Suspension or removal from non-consent rotation list

The chief of police may suspend or remove a tow company from a place on the rotation list pursuant to this article if a tow company or any of its tow trucks fails to comply with any of the requirements in this article.

Sec. 8.06.010 Requirements for obtaining inspection sticker

(a) In order to receive an inspection sticker, each tow truck shall meet the following minimum requirements:

- (1) Shall have a capacity of not less than one (1) ton.
- (2) Shall display in a permanent manner the name and twenty-four (24) hour phone number of the holder of the certificate of registration on both sides of each tow truck.
- (3) Shall display in a permanent manner the names of the tow companies listed on the certificate of registration as affiliates.
- (4) Shall be in a condition such that it can be safely and reliably used as a tow truck.
- (5) 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 eight thousand (8,000) pounds single line capacity.
- (6) 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) 10 lb. 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 the steering wheel.
 - (I) Overhead visa-bar or beacon type light visible from the front and rear.
 - (J) Tow lights.

(7) Any other information [equipment] the chief of police may determine is necessary for the safe operation of a tow truck under this article.

(b) An inspection sticker shall be denied if the safety requirements provided for in this section are not met.

(Ordinance 09-010-00 adopted 7/16/09)

Sec. 8.06.011 Issuance of inspection sticker; expiration; display

(a) Issuance or denial; fee. The chief of police or authorized designee shall issue an inspection sticker for a tow truck if in compliance with the requirements under [section 8.06.010](#). An inspection fee as provided in the fee schedule in [appendix A](#) of this code is required and shall be charged for each tow truck inspected. The inspection fee is nonrefundable and shall be paid whether or not the tow truck passes inspection. The chief of police may deny the issuance of an inspection sticker on the same grounds as provided for in [section 8.06.005\(a\)\(1\)](#) through (7). (Ordinance 09-010-00 adopted 7/16/09; Ordinance adopting Code)

(b) Expiration and renewal. Each inspection sticker issued shall expire one year from the date of issuance and will be renewable only upon compliance with the provisions of this article and any other applicable laws, ordinances, or regulations which shall be in effect at the time of the renewal application.

(c) Display. Each tow truck which has received an inspection sticker under this article shall prominently display it on the back windshield.

(d) Compliance with safety requirements. Each tow company which has received an inspection sticker for a tow truck shall be responsible for keeping the tow truck in compliance with the safety requirements provided for in [section 8.06.010](#), at all times. Failure to comply with the safety requirements provided for in [section 8.06.010](#) shall be grounds for suspension or revocation of an inspection sticker.

Sec. 8.06.012 Suspension or revocation of inspection sticker

The chief of police may suspend or revoke an inspection sticker issued under this article, or place a towing company on probation, if the tow company or any of its tow trucks fail to comply with state law or the requirements set out in this article, or for any other lawful reason.

Sec. 8.06.013 Inspection of wrecker equipment and storage facilities

Any towing company, certificate holder, or applicant, by virtue of making an application with the city, agrees to allow, during normal business hours, the inspection of tow trucks, tow equipment, and storage facilities for compliance under this article. 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.

Sec. 8.06.014 Procedures for selection of towing company

(a) When the police officer investigating a crash determines that (i) any vehicle involved in a crash is unable to safely proceed under its own power, or (ii) the driver of any vehicle involved in a crash is physically unable to safely move the vehicle to a location where it will not create a traffic hazard, such officer shall request the owner to designate a tow company which he/she desires to remove the vehicle.

(1) Such designation by the owner will be indicated in writing on a form provided by the chief of police and signed by the owner.

(2) When the designation has been properly made, the police officer shall communicate the name of the designated towing company, auto repair shop, automobile dealer, or automobile club to the communications center.

(3) The communications center shall cause the designated towing company, auto repair shop, automobile dealer, or automobile club to be called and directed to send a tow truck capable of removing the vehicle.

(4) If the designated towing company, auto repair shop, automobile dealer, or automobile club does not have available a tow truck of the type required to move a vehicle, the owner will be requested to make another designation.

(b) If the owner of a vehicle is (i) physically unable to designate the towing company, auto repair shop, automobile dealer, or automobile club he desires to remove the vehicle, (ii) fails or refuses to designate one, (iii) has no preference, or (iv) is not available, then the police officer shall communicate that fact to the police communications center, and advise as to the type of tow truck required.

(1) Such designation by the owner will be indicated in writing on a form provided by the chief of police and signed by the owner if he/she is physically able. If the owner is not able or is not available, the police officer shall so indicate by a notation on the form.

(2) The communications center shall call the tow company next in line on the rotation list after the last towing company so called and request the towing company to tow the vehicle from the scene.

(3) On each succeeding communication or the inability or refusal of a towing company to send a tow truck, the next towing company on the rotation list shall be called. After the last towing company on said list has been called, the next such call shall go to the first towing company on said list.

(4) When no towing company on the rotation list is available or the type tow truck needed is not available, officers will notify the communications center and request the next available tow truck from the county rotation list.

(c) If the towing company, after arrival at the scene, determines, in conjunction with the police officer in charge, that assistance is needed, then the police officer shall communicate that fact to the communications center, which shall proceed under subsection (a) or (b)(4) of this section.

(d) Failure of any towing company selected under subsection (a) or subsection (b) of this section to deliver a tow truck to the scene within thirty (30) minutes of notification, or forty-five (45) minutes for a tow truck 2-1/2 tons or more in size, without justification acceptable to the police officer on the scene, shall cause the tow company to forfeit that call. Additionally, the chief of police shall have the discretion to suspend or revoke a tow 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 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 practicable means, including but not limited to use of a towing company selected by the owner, or, failing that, selected by the use of the rotation list.

Sec. 8.06.015 Unlawful for police to influence selection

It shall be unlawful for a police officer to directly or indirectly recommend to any person the name of any towing company, auto repair shop, automobile dealer, or automobile club engaged in the towing business, nor shall any such police officer influence or attempt to influence in any manner the decision of any person in choosing or selecting a towing company, auto repair shop, automobile dealer, or automobile club.

Sec. 8.06.016 Parking of tow truck at scene of crash

Whenever a tow truck arrives at the place where a motor vehicle has been disabled by a crash, the tow truck driver shall park his tow truck as close to the street curb as possible and otherwise dispose of it in such a manner as not to interfere with traffic. The tow truck driver shall not park the tow truck within a distance of fifty (50) feet from a wrecked or disabled vehicle, unless permitted to do so by a police officer.

Sec. 8.06.017 Tow truck drivers to obey orders of police officer

It shall be unlawful for the driver of any tow truck arriving at the place where any crash has occurred or when a police officer has summoned a tow truck for a non-consent or incident management tow to disobey any lawful order given them by any police officer of the city investigating such crash or to interfere in any manner with such officer in the performance of his/her duty.

Sec. 8.06.018 Duty to remove debris

It shall be the duty of each tow truck driver that removes a wrecked, damaged, or disabled vehicle from the place where a crash has occurred to clear and remove any and all debris, parts, fluids, or glass accumulated as a result of the crash from the street, right-of-way, or adjacent properties.

Sec. 8.06.019 Solicitation prohibited

It shall be unlawful for any tow company or its employees to solicit in any manner, directly or indirectly, on the streets of the city, for towing business involving any vehicle which is crashed or disabled on a public street. This prohibition applies regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading, selling, or purchasing such vehicle. Proof of the presence of any person engaged in the towing business or of the presence of any tow truck, whether or not certified or identified under the provisions of this article, except a tow truck called pursuant to the provisions of this article, at or near the scene or site of a crash on any public street in the city after the crash occurs and prior to removal of all disabled or damaged vehicles shall be prima facie evidence of a solicitation in violation of this section.

Sec. 8.06.020 Administrative disposition of violations

In lieu of or in addition to any criminal prosecution or civil remedy for the violation of any provision of this article, the chief of police shall have, as to the holders of any certificate of registration or inspection sticker, or as to any applicant therefor, the duty and authority to enforce the provisions of this article by administrative action in accordance with the principles and procedures set forth hereinafter.

(1) The proper and safe functioning of towing companies has critical impact on the health, safety, and welfare of the public and involves use of the public streets of the city, often in circumstances necessitating prompt removal of dangerous obstructions to traffic on said streets. Accordingly, the privilege of any person to engage in the tow business in the city shall be subject to strict regulation in order to protect the public.

(2) For purposes of invoking any administrative remedy against a certificate holder, the acts or omissions of any agent or employee of said holder shall be considered to be the acts or omissions of said holder.

(3) Administrative remedies which the chief of police may employ to enforce the provisions of this article include, but are not limited to:

(A) Suspension or revocation of any certificate of registration or inspection sticker; or

(B) Suspension, revocation or removal of a tow company from the rotation list.

(4) Grounds for suspension or revocation of a certificate of registration include:

(A) Any conduct in the towing business which endangers the life or safety of any person;

- (B) Repeated violations of the provisions of this article;
 - (C) Violation of the zoning ordinance or fire prevention code for one (1) week after notice of said violation has been given to said tow business by the building official, the fire marshal or other authorized official, respectively;
 - (D) Failure to maintain in effect any insurance required by this article; and
 - (E) Fraud or theft in the conduct of the towing business.
- (5) Grounds for suspension or revocation of an inspection sticker include responding to a non-consent tow call when said tow truck:
- (A) Is in such condition that it cannot safely tow a vehicle;
 - (B) Is not then covered by insurance as required in this article; or
 - (C) Does not then meet all requirements for an inspection sticker.
- (6) Grounds for removal of a tow company from the rotation list include:
- (A) Failure to meet at all times the requirements for a place on the list;
 - (B) Failure to maintain at all times at least one (1) tow truck in a condition that meets the requirements for an inspection sticker and for eligibility to be on the rotation list;
 - (C) Responding to a non-consent tow call with a tow truck which does not then meet the requirements of the rotation list;
 - (D) Driving a tow truck in response to a non-consent tow call in a manner which endangers the life or safety of any person;
 - (E) Driving a tow truck to a location to perform towing services in response to a call made by the communications center when the towing company is not the next company on the list; the towing company owning that tow truck shall be subject to removal from the list for a period of at least thirty (30) days;
 - (F) Collecting or charging any fees or charges in excess of those set out in this article;
 - (G) Violation of the zoning ordinance or fire protection ordinance, as determined by the building official, the fire marshal, or other authorized official, respectively;
 - (H) Failing to answer within the required time when called by the communications center; or

(I) Declining to respond to a call from the communications center to perform towing services.

Sec. 8.06.021 Appeals

(a) Suspension or revocation of certificate of registration. Suspension or revocation of a certificate of registration may be ordered by the chief of police. The reasons for suspension or revocation of a certificate of registration shall be given in writing to the certificate holder whose certificate of registration is being suspended or revoked within ten (10) days of such suspension or revocation. The mailing of such notice to the last known business address provided on the application of said certificate holder shall constitute sufficient notice. The notice shall provide an opportunity for a hearing before the chief of police on the suspension or revocation by filing a request for a hearing within five (5) days from the receipt of the notice. Pending a ruling by the chief of police, a certificate of registration that has been suspended or revoked shall be considered suspended or revoked. If a written request for a hearing is not filed within the required time, the suspension or revocation shall be final.

(b) Suspension or revocation of inspection sticker. Suspension or revocation of an inspection sticker may be ordered by the chief of police without notice. The reasons for suspension or revocation of an inspection sticker shall be given in writing to the towing company within five (5) days of such suspension or revocation. Faxing of such notice to the last known business fax number provided on the application of said towing company shall constitute sufficient notice. The notice shall provide an opportunity for a hearing before the chief of police on the suspension or revocation of the inspection sticker by filing a request for a hearing within five (5) days from the receipt of the notice. Pending a ruling by the chief of police, an inspection sticker that has been suspended or revoked shall be considered suspended or revoked. If a written request for a hearing is not filed within the required time, the suspension or revocation shall be final.

(c) Suspension or removal from rotation list. Suspension or removal from the rotation list may be ordered by the chief of police without notice. The reasons for suspension or removal from the list shall be given in writing to the towing company within five (5) days of such suspension or removal. Faxing of such notice to the last known business fax number provided on the application of said towing company shall constitute sufficient notice. The notice shall provide an opportunity for a hearing before the chief of police on the suspension or removal by filing a request for a hearing within five (5) days from the receipt of the notice. Pending a ruling by the chief of police, the towing company shall be considered suspended or removed from the list. If a written request for a hearing is not filed within the required time, the suspension or removal shall be final.

(d) Reissuance of certificate of registration. If, after a certificate of registration has been suspended or revoked, the condition for which it was suspended or revoked has been corrected, and proof of such correction is made to the chief of police, then a new certificate of registration shall be issued upon proper application, fee payment, and proof of meeting all requirements therefor.

(e) Appeals from ruling by chief of police. Appeals from a ruling by the chief of police shall be made in writing to the city manager within twenty (20) days of such ruling. A hearing or personal

appearance shall be at the discretion of the city manager. Written notice of the ruling of the city manager shall be given to the certificate holder within thirty (30) days of the date of the appeal. Pending a ruling by the city manager, a certificate of registration or inspection sticker that has been suspended or revoked or a towing company that has been suspended or removed from the rotation list shall be considered suspended, revoked or removed. If a written request to appeal is not filed within the required time, the suspension, revocation or removal shall be final.

(f) Reissuance of inspection sticker. If an inspection sticker is revoked, a new inspection sticker shall not be issued for that tow truck for a period of at least six (6) months from the date of revocation, unless otherwise authorized by the chief of police.

Sec. 8.06.022 General prohibitions

(a) It shall be unlawful for any person to drive, or cause to be driven, a tow truck to or near the scene of a crash 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 crash; provided, however, that the prohibition of this subsection shall not be applicable when such actions are necessary to prevent death or bodily injury to any person involved in a crash.

(b) It shall be unlawful for any person to engage in non-consent tows in the city unless such person possesses a current, valid certificate of registration. The police department shall be authorized to summon tow trucks without a certificate of registration in emergency situations or as an operational necessity.

(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, and [section 8.06.010](#) herein, if the towing company is participating in the rotation list, as described herein. 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.

Sec. 8.06.023 Removal of vehicles from private property

The driver of a tow truck who removes a vehicle from private property under this article shall notify the city police department within 30 minutes of such removal and the registered owner within seventy-two (72) hours. The information to be provided in such notification shall include:

- (1) The date, time and location of the removal;
- (2) The physical description and license or registration number of the vehicle;
- (3) The name of the certificate holder which performed the removal; and
- (4) The storage location of the vehicle.

Sec. 8.06.024 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:

- (1) Contact the police department prior to making such repossession; and
- (2) Present a written notice from the lienholder requesting such repossession, which shall include the following information:
 - (A) The name of the owner of said vehicle;
 - (B) The date, time and location of the removal;
 - (C) The physical description and license or registration number of the vehicle;
 - (D) The name of the certificate holder which is to perform the removal; and
 - (E) The storage location of the vehicle.

Sec. 8.06.025 Vehicle owner notification and documentation by companies storing vehicles

It shall be the responsibility of the towing company who stores vehicles in the city to comply with Vehicle Storage Facilities Act, chapter 2303, Texas Occupations Code, and, as appropriate, Abandoned Motor Vehicles, chapter 683, Texas Transportation Code, as now enacted or as hereafter amended.

Sec. 8.06.026 Towing fee study

A “towing fee study” is a study to determine the fair market value of a non-consent tow and incident management tow originating in the city, considering financial information provided to the city by the towing company requesting the study.

- (1) A towing 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, or by hand delivery.
- (2) Within 90 days after the filing of an initial request, additional towing companies may join the request by filing written requests in accordance with subsection (1).
- (3) The city shall conduct a towing fee study if the initial requestor and the additional requestors, if any:
 - (A) Accounted for not less than 50 percent of the non-consent tows or incident management tows performed in the city during the preceding twelve-month period, as determined by the city manager; and

(Ordinance 09-010-00 adopted 7/16/09)

(B) Deposit with the city manager a fee as provided in the fee schedule in [appendix A](#) of this code.

(4) If the towing fee study is not conducted, the city shall refund the fee, less an administrative fee as provided in the fee schedule in [appendix A](#) of this code.

(Ordinance 09-010-00 adopted 7/16/09; Ordinance adopting Code)

(5) Each towing company requesting the towing fee study shall cooperate with the city to conduct the study. Each such towing company shall provide to the city information determined by the city finance department to be reasonably necessary to determine the fair market value of towing services regulated under this article.

(6) The city finance department shall complete a towing fee study not later than the 120th day after receiving all information required under subsection (5).

(7) The city finance department shall present to the city council the results of the towing fee study. The city manager shall give to each towing company that owns or leases tow trucks registered with the city 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 to the towing companies' addresses listed in the latest registration applications on file with the chief of police.

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

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

Sec. 8.06.027 Prohibited charges

A towing company may not charge or attempt to charge a fee related to non-consent or incident management towing under this article:

- (1) In excess of the fee established;
- (2) For a service not performed or equipment not used; or
- (3) That is not authorized by this article.

Sec. 8.06.028

City Owned and Operated Vehicles

A tow company who is authorized to participate in the non-consent or incident management tow rotation shall agree to waive storage fees on vehicles under a valid law enforcement hold. Once the hold is released by an authorized law enforcement official, storage fees may be collected from the registered owner, beginning from the date the registered owner is notified that the hold has been removed. Additionally, rotation towing companies shall provide the following listed services to any City of Hutto owned or operated vehicle at the prescribed rates:

- \$25.00 Change a flat tire within the extraterritorial jurisdiction of Hutto.
- \$25.00 Jump start vehicle.
- \$50.00 Tow any light duty vehicle within the extraterritorial jurisdiction of Hutto.
- \$125.00 Tow a vehicle outside the extraterritorial jurisdiction of Hutto (plus \$4 per loaded mile).

SECTION 4. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such case provide.

SECTION 5. The provisions of this Ordinance are severable, and in case any one or more of the provisions of this Ordinance or the application thereof to any person or circumstance should be held to be invalid, unconstitutional, or ineffective as to any person or circumstance, then the remainder of this Ordinance nevertheless shall be valid, and the application of any such invalid provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SECTION 6. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof were discussed, considered and formally acted upon, all in accordance with and as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and the Act.

READ and APPROVED on the first reading this the 15th day of **February 2024**.

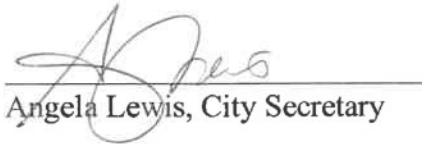
READ, PASSED, and ADOPTED on the second reading of this 7th day of March **2024**, at a regular meeting of the City Council of Hutto, there being a quorum present.

CITY OF HUTTO



Mike Snyder, Mayor

ATTEST



Angela Lewis, City Secretary

