

**City of Houston, Texas, Ordinance No. 2021-753**

**AN ORDINANCE AMENDING DIVISIONS 1 AND 2, ARTICLE III, CHAPTER 8 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO AUTO WRECKERS USED TO PERFORM NONCONSENT AND POLICE-AUTHORIZED TOWS; DECLARING CERTAIN CONDUCT TO BE UNLAWFUL; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.**

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**WHEREAS**, any auto wrecker that is used to perform any nonconsent tow shall be registered as a tow truck under applicable provisions of state law, including, without limitation, Chapter 2308 of the Texas Occupations Code; and

**WHEREAS**, Section 8-126 of the Code of Ordinances, Houston, Texas, ("City Code") provides that the chief of police may execute agreements for the mayor and on behalf of the city with persons to perform police authorized tows; and

**WHEREAS**, the Houston Police Department's Auto Dealers Detail is responsible for the oversight and regulation of police authorized tow services; and

**WHEREAS**, the City has Police-Authorized Tow Service Agreements ("PATSA's") with 211 tow service operators operating in the City; and

**WHEREAS**, current PATSA's will expire on December 31, 2021; and

**WHEREAS**, the City has drafted revised PATSA's to provide for termination for convenience, release, indemnity and insurance like other standard contracts between the City of Houston and City contractors, to address changes in current technology, and to reflect updated state regulations and City ordinances; and

**WHEREAS**, Section 8-101 of the City Code defines *police scene* to include a place at which an *abandoned vehicle* is removed *by a law enforcement officer, a parking compliance officer or personnel designated by the Police Chief*; and

**WHEREAS**, the 87<sup>th</sup> Texas Legislature passed and on June 4, 2021, Governor Abbott signed House Bill 914 (effective September, 1, 2021), amending Section 2308.354 of the Texas Occupations Code by adding Section 2308.354 (a) (3) to authorize an employee designated by the municipality to request the removal and storage of illegally parked vehicles or abandoned vehicles without a peace officer's presence; and

**WHEREAS**, Chapter 26 of the City Code is the City's Parking Ordinance, and identifies the City's parking official as the City's parking management official with several duties, including but not limited to the duty to direct, control and manage all on-street parking in residential and commercial areas in the City, and enforce all parking regulations and develop a reliable and efficient method of managing on-street parking; and

**WHEREAS**, the City's parking compliance officers work at the direction of the City's parking official to enforce the provision of the City's Parking Ordinance and state laws and regulations relating to the stopping, standing and parking of motor vehicles; and

**WHEREAS**, the Houston Police Department Auto Dealers Detail recommends amending Divisions 1 and 2, Article 3, Chapter 8 of the City Code to:

- (1) Ensure the City Code accurately reflects Auto Dealers Details' current and best practices in the oversight and regulation of police authorized towing;
- (2) Harmonize the City Code and the City's revised PATSAs;
- (3) Eliminate irrelevant City Code language that is no longer necessary or applicable to the oversight and regulation of the police authorized towing; and
- (4) Authorize tow service operators with PATSAs to remove and store a vehicle at the direction of a municipal employee under Subsection (a) (3) of Section 2308.354 of the Texas Occupations Code.

**NOW THEREFORE,**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**Section 1.** That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

**Section 2.** That Section 8-101 of the Code of Ordinances, Houston, Texas, is hereby amended by adding two new definitions that read as follows:

*"Lawfully hooked up means and refers to a vehicle a wrecker driver has attached to an auto wrecker, is lifted in the tow position or, if required, placed on a dolly in a raised position, with tow lights and safety chains attached and is fully prepared for transport."*

*"Police chief means the chief of police of the city or his designee."*

**Section 3.** That Section 8-103(c)(1) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

- "(1) A tow operator holding a contract to conduct Tow and Go freeway towing under section 8-127 of this Code;"

**Section 4.** That Section 8-111 of the Code of Ordinances, Houston, Texas, is hereby amended by adding new Subsections (g) and (h) that read as follows:

- "(g) *Replacement medallion.* In the event a wrecker medallion is lost or stolen, the tow operator shall file a completed police department offense report and pay the medallion replacement fee stated in the city fee schedule to the police department for each replacement medallion.
- (h) *Medallion transfer.* In the event a tow operator wishes to transfer an auto wrecker to another towing zone, the tow operator shall pay the police department the medallion transfer fee stated in the city fee schedule for each medallion transferred."

**Section 5.** That Subsections (a) and (e) of Section 8-123 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

- "(a) For purposes of this section, the phrase 'without the consent of the vehicle owner' applies to all nonconsent tows."
- "(e) When a vehicle is received by a storage lot and fees are collected, an additional fee stated for this provision in the city fee schedule shall be collected and remitted to the police department regardless of the origin of the tow to defray the costs of enforcement of complaints related to the towing and storage of a vehicle without the consent of the vehicle owner. The time and method of remittance of the additional fee prescribed in this subsection shall be established by the police department so as to make the transfer of funds as close to the date and time of the release of the vehicle from the storage as is practical or possible. The time and method of remittance may include the electronic transfer of funds at the time of the release of the vehicle or at a later time as specified by the police department. This subsection does not apply to a vehicle submitted for auction."

**Section 6.** That Section 8-126(a) of the Code of Ordinances, Houston, Texas, is hereby amended by replacing the words *chief of police* with the words *police chief*.

**Section 7.** That Section 8-126(b) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

- "(b) The police chief may refuse to enter into an agreement hereunder if the tow operator (including partners if a partnership and stockholders if a corporation) or any employee has had an agreement terminated

for cause within the preceding period of five years. The police chief may require an affidavit and the furnishing of business records to demonstrate compliance with the foregoing provision. The foregoing provision shall apply to PATSAs that are not renewed or are terminated by the tow operator under threat of termination for cause in the same manner as to those that have actually been terminated for cause. In addition, the police chief may refuse to enter into a PATSA with individuals (or associated entities) who have a history of complaints with any government agency that demonstrate a pattern of negative behavior and an unwillingness to take corrective action when notified. This includes suspensions and license or contract revocations. The police chief may consider the applicant's history of complaints or infractions with any governing body concerning the towing of vehicles without the vehicle owner's consent when determining whether to execute a PATSA."

**Section 8.** That Subsections (b-1), (e), and (g) of Section 8-126 of the Code of Ordinances, Houston, Texas, are hereby amended by replacing the words *police authorized tow service agreement*, the words *police-authorized tow service agreement*, and the words *PATSA agreement*, in both singular and plural forms, with the acronym *PATSA*.

**Section 9.** That Item (2) of Section 8-126(e) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

- "(2) The PATSA shall include a clause setting forth the operator's obligation to obtain and maintain required insurance coverages and minimum insurance amounts in effect during the term of the agreement. The required insurance coverages and minimum insurance amounts shall be determined by the police chief in consultation with the director of the department of administration and regulatory affairs."

**Section 10.** That Section 8-126(f) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

- "(f) It shall be unlawful for the driver of any auto wrecker that is not then being operated under a current and valid PATSA to respond to a police scene or be or remain at a police scene if the police scene is not situated in the traffic management area (zone) for which the auto wrecker has been authorized under subsection 8-126(e)(1) of this

Code. It is an affirmative defense to prosecution under this section that the driver of the auto wrecker was called to the police scene by the law enforcement officer in charge of the scene, a parking compliance officer or other personnel designated by the police chief or by a vehicle owner requiring towing services from the police scene.”

**Section 11.** That Section 8-126 of the Code of Ordinances, Houston, Texas, is hereby further amended by adding new Subsections (h), (i), (j) and (k) that read as follows:

- “(h) Every applicant for a PATSA shall make application therefor on an application form furnished by the police chief and prescribed by the automotive board, which application shall be signed and sworn to as herein provided and shall include, among other things, the following information respecting the applicant:
- (1) Trade name of each business that the applicant has engaged in during the five-year period preceding the filing of such application.
  - (2) Address of the applicant's principal office or establishment in the city.
  - (3) Whether the applicant has ever been arrested for, convicted of, or given deferred adjudication for an offense listed in Section 1-10(a)(2) of this Code, and if a partnership, the answer shall be as to all members of the partnership, and if a corporation, shall be as to all officers of the corporation.
  - (4) The name and mailing address of each owner or principal of the applicant and copies of the assumed-name registration if the business will be operated under an assumed name.
  - (5) If the applicant is a corporation, a certificate of good standing from the Texas Secretary of State for a Texas domestic corporation or a certificate of authority to do business in Texas if a foreign corporation, along with the names and addresses of all officers and the corporation's registered agent in Texas.
  - (6) If the applicant is a partnership, the partnership registration, if any, and the names and addresses of all the general partners.
  - (7) Each applicant shall submit himself to be fingerprinted at a place designated by the police department. The application shall be signed by a) the owner if the applicant is a sole

proprietorship or b) an authorized person if the applicant is a corporation or a general partnership.

- (i) If the application is by a corporation, the same shall be signed and sworn to by a duly authorized officer thereof, if by a partnership, then by one of the general partners therein, and if by an individual, then by such individual personally.
- (j) Such application, properly filled out and executed, shall be delivered by the applicant to the police chief or his duly authorized representative.
- (k) If the application is denied because of a conviction or deferred adjudication for an offense listed in Section 1-10(a)(2) of this Code, the applicant shall have the right to appeal such denial to the automotive board under the terms and conditions provided for in section 8-57 of this Code, and the automotive board shall follow the procedure set forth in that section.”

**Section 12.** That the catchline of Section 8-127 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

**“Sec. 8-127. Tow and Go—Freeway tow agreement.”**

**Section 13.** That Section 8-127 of the Code of Ordinances, Houston, Texas, is hereby amended by (1) replacing the words *chief of police* and the words *chief of police or his designee* with the words *police chief*, and (2) replacing the words *police-authorized tow service agreement* with the acronym *PATSA*.

**Section 14.** That Section 8-131 of the Code of Ordinances, Houston, Texas, is hereby amended by replacing the words *chief of police* with the words *police chief*.

**Section 15.** That Section 8-132(a) of the Code of Ordinances, Houston, Texas, is hereby amended by inserting the following two sentences after the first sentence thereof:

“A wrecker driver may only operate an auto wrecker for the tow operator listed on the wrecker driver’s license application. Individuals desiring to operate an auto wrecker for more than one tow operator must submit a wrecker driver license application and the accompanying license fee for each tow operator for whom the wrecker driver license-applicant seeks to operate an auto wrecker.”

**Section 16.** That Section 8-133 of the Code of Ordinances, Houston, Texas, is hereby amended by adding the following sentence after the existing text:

“In addition, PATSA drivers shall pay the nonrefundable fee stated in the city fee schedule to the police department.”

**Section 17.** That Section 8-136 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

**“Sec. 8-136. Term; renewal; transfer; replacement of lost or destroyed license.**

- (a) Each wrecker driver license shall expire each year on the last day of the wrecker driver license holder's birth month. A license may be renewed by filing an application pursuant to section 8-132 of this Code at least 30 days prior to the expiration of the license and paying the application fee pursuant to section 8-133 of this Code. A renewal license application shall be reviewed and approved pursuant to section 8-134 of this Code.

No license shall be renewed more than 30 days after the date of its expiration. If a license had expired and not been renewed within 30 days, the applicant may apply for a new license as an initial applicant. The fee for such a new license shall be the fee set out for an original license.

- (b) A lost or destroyed wrecker driver license may be replaced upon the holder's compliance with the following conditions:
- (1) The filing of an offense report with the police department stating that the license has been lost or stolen and setting out the details of how the license was lost or stolen, or if such facts are not known, setting out the details of where and when the license holder last saw the license and when its loss was discovered;
  - (2) Appearing at the police department for a replacement photograph and fingerprinting; and
  - (3) Paying the license replacement fee stated for this provision in the city fee schedule.

A replacement wrecker driver license shall expire on the date of expiration for the license that was lost or stolen.

- (c) A wrecker driver wishing to transfer to a different tow company shall pay the license transfer fee stated in the city fee schedule.”

**Section 18.** That Section 8-137(a) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

- “(a) The police chief may suspend or revoke a wrecker driver license or wrecker driver trainee license if:
- (1) Any information supplied in the license application was materially false or incorrect;
  - (2) The license was issued through error;
  - (3) The licensee has failed to comply with any applicable provision of the license or this chapter;
  - (4) The licensee has been convicted of violating state laws or city ordinances;
  - (5) The licensee is under indictment for or has a charge pending for an offense listed in section 1-10 of this Code pertaining to wrecker drivers; or
  - (6) The licensee has failed to comply with any applicable state law or regulation regarding nonconsent towing.”

**Section 19.** That the City Council hereby approves the new medallion transfer, lost/stolen wrecker medallion replacement and wrecker transfer fees established in Sections 8-111(g), 8-111(h) and 8-136(c) of the Code of Ordinances, Houston, Texas, in the amounts shown below:

Description	Statutory Authority	Amount
Medallion transfer fee	8-111(g)	\$118.01
Replacement of lost/stolen wrecker medallions	8-111(h)	\$118.01
Wrecker transfer fee	8-136(c)	\$232.34

These fees shall not be subject to the annual fee increase under Section 1-13 of the Code of Ordinances, Houston, Texas. The police chief shall ensure that these new fees are



provided to the Director of Finance for incorporation into the City Fee Schedule as soon as possible.

**Section 20.** That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, (the “Code”) to make such nonsubstantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance, and also to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

**Section 21.** That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**Section 22.** That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor.

**PASSED AND APPROVED this 1st day of September, 2021.**

Sylvester Turner  
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Mayor of the City of Houston

Prepared by Legal Dept. \_\_\_\_\_  
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