

## **ORDINANCE NO. O-2024-23**

**AN ORDINANCE AMENDING ORDINANCE NO's. O-2017-07 AND O-2009-32, AND ARTICLE III OF THE CODE OF ORDINANCES RELATING TO PROVISION OF WRECKER SERVICES IN THE CITY OF PHARR; REQUIRING REGISTRATION AND APPLICATION FOR NONCONSENT TOW PERMIT; DEFINING AND AMENDING CERTAIN TERMS; SPECIFYING REQUIREMENTS FOR CERTAIN WRECKERS TO RECEIVE A SAFETY AND INSURANCE COMPLIANCE CERTIFICATE; ESTABLISHING PERIOD OF CERTIFICATE; SETTING MAXIMUM FEES AND RATES AND EXEMPTIONS; ADDING FEES FOR DISCONNECTING TRANSMISSION AND DROP FEE; EXCLUDING CITY OWNED VEHICLES FROM ORDINANCE AS STATED; SETTING FORTH PROCEDURE FOR REVOCATION OR SUSPENSION OF CERTIFICATE AND REMOVAL FROM ROTATION LIST; PROVIDING FOR PUBLICATION AND ESTABLISHING AN EFFECTIVE DATE; PROVIDING FOR PENALTY; REPEALING PRIOR ORDINANCES; PROVIDING FOR SEVERABILITY; AND ORDAINING OTHER MATTERS RELATED TO THE SUBJECT HEREOF**

### **SECTION 1. PURPOSE OF ORDINANCE; APPLICABILITY**

To establish procedures for wrecker and other related services located within the City of Pharr; requirement of proof and compliance with safety, insurance, and occupational requirements; to establish voluntary wrecker rotation listings within the City of Pharr in furtherance of the expediency of health and safety and City business; and designate maximum rates for wrecker and related services. This ordinance shall apply to all persons engaged in commerce that operate a wrecker company, wrecker business or provide wrecker services within the municipal boundaries of the City of Pharr.

### **SECTION 2. DEFINITIONS**

For the purpose of this ordinance, the following terms shall have the definitions indicated:

- (a) *Consent tow.* Any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.
- (b) *Disabled vehicle.* A vehicle that is considered to be unsafe to be driven as a result of some occurrence other than a wreck, including but not limited to mechanical failure, breakdown, fire, vandalism, or a vehicle that is in a safe driving condition, but the owner is not present, able, or permitted to drive, so as to reasonably require that the vehicle be removed by a wrecker.
- (c) *Drop Fee.* The price to be charged in lieu of a towing fee where, after wrecker or tow truck has been dispatched to, or is at the scene of a tow, and has physically attached or connected the vehicle to the wrecker or tow truck, and the vehicle has not been towed from the property when the vehicle owner requests its release. A wrecker company or business shall release the vehicle at the scene for a fee not to exceed the drop fee as indicated in the provision designating the maximum rates.

- (d) *Incident Management Tow.* Any tow of any vehicle in which the tow truck is summoned because of a traffic collision or to an incident or any tow initiated by law enforcement.
- (e) *Motor Vehicle.* Every vehicle is self-propelled.
- (f) *Nonconsent tow.* Any tow of a motor vehicle that is not a consent tow.
- (g) *Operator.* Any person operating a motor vehicle.
- (h) *Owner.* Any person who holds the legal title of a motor vehicle and has the legal right of possession of such vehicle.
- (i) *Parking Facility.* Public or private property used, in whole or in part, for restricted or paid vehicle parking. The term includes:
  - (1) a restricted space on a portion of an otherwise unrestricted parking facility; and
  - (2) a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home, apartment complex, property governed by a property's owner's association, or government- owned property leased to a private person, including:
    - (i) a portion of the right of way of a public roadway that is leased by a governmental entity to the parking facility owner; and
    - (ii) the area between the facilities property line abutting a county or municipal public roadway and the center line of the roadway's drainage way or the curb of the roadway, whichever is farther from the facility's property line.
- (j) *Parking Facility Owner.* A person, business, corporation, or other entity that includes but is not limited to:
  - (1) an owner or operator of a parking facility, including a lessee, employee, or agent of an owner or operator; and
  - (2) a property owner's association having control under a dedicatory instrument over assigned or unassigned parking areas; or
  - (3) a property owner having an exclusive right under a dedicatory instrument to use a parking space.
- (k) *Private Property Tow.* Any tow of a vehicle authorized by the owner of a parking facility, (for example, an apartment, building parking, restaurant, paid parking lot) without the consent of the owner or operator of the vehicle.

- (l) *Response Time*: The wrecker company must be able to immediately advise the City of the availability of a wrecker. The wrecker permit holder must have two-way voice communications between the wreckers and the wrecker service office.
- (m) *Street*: Any street, alley, avenue, lane, or highway within the corporate limits of the City of Pharr, Texas.
- (n) *Twenty four hour wrecker service*: means in order to be categorized as a 24 hour wrecker service the permit holder must have two telephone lines listed with the City, one of which is answered 24 hours a day, seven days a week.
- (o) *Unauthorized Vehicle*: A vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner.
- (p) *Vehicle*: Every device in, on, or by which any person or property is or may be transported on public roadway. The term includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer, but does not include a device moved only by human power or used exclusively upon stationary rails or tracks.
- (q) *Vehicle storage facility*: means a facility operated by a person or entity licensed under Chapter 2303, Occupations Code as well as 16 Administrative Code, Chapters 85, 86, as may be amended from time to time.
- (r) *Voluntary Wrecker Rotation List*: The rotation listings of persons and wrecker companies prepared and used by the Pharr Police Department.
- (s) *Wrecked vehicle*: A vehicle that has been damaged as the result of overturning or colliding with another vehicle or object so as to reasonably necessitate that the vehicle be removed by a wrecker.
- (t) *Wrecker or tow truck*: Any motor vehicle used for the purpose of towing, moving or removing vehicles. Where the word "wrecker" appears herein, it shall also include tow truck.
- (u) *Wrecker Business*: A person or entity that is in the business of towing, moving or removing vehicles on or from the public streets, regardless of whether the purpose of the towing is to remove, repair, wreck, store, trade, or purchase such vehicle, to remove a wrecked or disabled vehicle from the scene of a collision, at the instance or request of the owner thereof, or the police department, or to remove a vehicle from an unlawfully parked position, at the instance or request of the owner thereof, or the police department, or fire department.
- (v) *Wrecker Company*: Any person or entity engaged in the wrecker business.

*Cumulative and plurality*: Where the word "wrecker business," "wrecker company," appears for purposes of interpreting or enforcing this ordinance, it shall also include towing company and/or person engaged in similar activities.

This ordinance also incorporates any and all statutory definitions and applications as may adopted from time to time as if fully set out herein. If any definition or provision of this ordinance conflicts or is superseded by any state or federal law, the state or federal law shall govern for purposes of this ordinance.

**SECTION 3. REGISTRATION REQUIRED FOR NONCONSENT TOWS: (The following requirements are in addition to the requirements as set forth by Texas Department of Licensing and Regulations)**

- (1) *State registration required.* 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.
- (2) *City registration required.* Any auto wrecker that is used to perform any nonconsent tow on private property in the City must be registered with the police department, regardless of whether the owner of the auto wrecker has a place of business in the City.
- (3) *Application for City registration.* A tow operator may apply to the police department for registration of an auto wrecker by i) submitting a completed application on a form promulgated by the police chief; ii) paying the \$15.00 fee to the police department; iii) providing verification that the auto wrecker is equipped to tow light-duty or heavy-duty motor vehicles according to the manufacturer's guidelines; and (iv) providing proof of insurance that meets the requirements of § 86.400 of Title 16 of the Texas Administrative Code.
- (4) *Inspection; proof of registration.* Upon receipt of an application, the police department will inspect the auto wrecker to determine compliance with the requirements of subsection (e) of this section and, if the auto wrecker is found in compliance, shall issue a permit/proof of registration to the applicant. The proof of registration (a medallion) shall be attached to the auto wrecker for which it is issued, at the place on the vehicle designated by the police chief. It shall be unlawful for any person to drive or operate an auto wrecker without proof of registration being so attached.
- (5) *Requirements for City registration:*
  - (a) Each tow operator must meet the signage, safety equipment, safety clothing, and identification requirements of §§ 86.701, 86.1000, and 86.1001 of Title 16 of the Texas Administrative Code.
  - (b) Each auto wrecker shall meet the following minimum requirement:

1. Except for heavy duty wreckers, the auto wrecker's chassis cab shall be rated at no less than one ton by the manufacturer and will be equipped by the manufacturer with dual wheels and tires at each end of the rear axle; and
2. The auto wrecker at all times shall carry tow lights with appropriate cable (unless wireless) and cushions to protect a vehicle's finish; and
3. The auto wrecker at all times shall be equipped with safety (mud) flaps with the bottom edge of the mud flap no more than eight inches from the surface of the road.

(6) *Renewal of registration.* The registration for each auto wrecker that is used to perform non-consent tows subject to this section shall be renewed annually by payment of \$25.00 to the police department, which shall verify that the auto wrecker is still in compliance with this section.

(7) Revocation, suspension, and refusal to renew.

The Chief of Police may suspend or revoke a wrecker permit if:

(a) Any information supplied in the license application was materially false or incorrect; or

(b) The permit was issued through error; or

(c) The permit holder has failed to comply with any applicable provision of the permit or this ordinance; or

(d) The permit holder has been convicted of violating state laws or City ordinances; or

(e) The permit holder is under indictment for or has a charge pending for an offense pertaining to wrecker drivers; or

(f) Any wrecker company or tow truck whose wrecker permit has been revoked, suspended, or denied renewal is not eligible to re-apply for a permit within 6 months having its permit suspended, revoked or denied renewal.

**SECTION 4. SAFETY AND INSURANCE COMPLIANCE CERTIFICATE TO ENGAGE  
IN WRECKER BUSINESS REQUIRED FOR CERTAIN WRECKERS:  
APPLICATION REQUIRED; FEES ESTABLISHED**

(a) Every person desiring to have a wrecker or tow truck yard, vehicle storage facility, wrecker business or wrecker company located in the City of Pharr or who seeks to be on the City of Pharr's wrecker rotation list shall make an application in writing to the Department of Development Services or its designee for a Certificate of

Occupancy and a Safety and Insurance Compliance Certificate to engage in the wrecker business for each wrecker company to be located in the City of Pharr.

- (b) Such application shall contain the name, address, telephone number, date of birth, driver's license number and social security number of the applicant and the owners of the wrecker business if different from the applicant; tax identification number, operating or commercial licenses, the number and types of wrecker equipment operated, the other information and documents indicated herein, and a statement that the applicant does or does not desire to appear on the wrecker rotation list.
- (c) Every application shall be sworn to by the applicant.
- (d) All licenses shall expire one (1) year from the date of issuance unless revoked earlier pursuant to the terms of this ordinance.
- (e) The following fees shall be imposed: initial application/license/certificate fee of \$300.00 for each Wrecker Company or Wrecker Business to be located in the City of Pharr; annual renewal fee of \$100.00; initial fee of \$25.00 for each wrecker inspected and an annual renewal fee of \$25.00 per wrecker operated by the company; and Governmental Entity/ Law Enforcement fee of \$ 10.00 per vehicle towed. (This fee shall be deposited, upon recovery, in the police department's accounts and utilized for any and all efforts for the enforcement of this ordinance for both consent and non-consent tows, and general traffic safety.)

**SECTION 5. SAFETY AND INSURANCE COMPLIANCE CERTIFICATE ISSUANCE;  
MINIMUM REQUIREMENTS TO BE MET**

- (a) The Pharr Police Department or its designee shall issue a Safety and Insurance Certificate to engage in the wrecker business to each applicant complying with the provisions of this ordinance for each wrecker to be located in the City of Pharr.
- (b) No safety and insurance compliance certificate authorizing the operation of a wrecker business or authorizing the operation of a wrecker in the City limits of the City shall be issued unless the following requirements are met:
  - (1) Every wrecker proposed to be used by the applicant in the City of shall comply with the following minimum requirements:
    - A. Be not less than three-quarters of a ton in size and be equipped with booster brakes.
    - B. Be equipped with a power winch line and boom with a factory-rated capacity of not less than five thousand (5,000) pounds, single line capacity.
  - (2) Each tow truck must carry proper safety equipment. Proper equipment includes, but is not limited to, the following:

- A. At least one 10 pound or two 5-pound multiple purpose fire extinguisher, in good working condition;
  - B. Magnetic tow lights, unless wireless, with appropriate cable and cushions to protect a vehicle's finish;
  - C. Tow dollies as appropriate;
  - D. Straps and tie downs as specified by the tow truck manufacturer;
  - E. Gloves;
  - F. Wheel chocks;
  - G. Five gallon trash receptacle;
  - H. Broom and shovel;
  - I. Thirty-six inch crow bar; and
  - J. Triangle reflectors, flares, cones, safety lights or other appropriate safety signals.
- (3) Tow trucks permitted under §86.203 (Consent Tow Trucks) are exempt from the requirements of subsections (a)(3), (a) (7), and (a)(9).
- (4) Each tow truck shall:
- A. have a legible manufacturer's data plate indicating the capacity of the boom, the winch or the carry mechanism; or
  - B. have a document in the truck from the manufacturer stating the capacity of the boom, the winch or the carry mechanism.
- (5) Every hydraulic line on each tow truck must be free of leaks and be in good working condition free of defects.
- (6) The winch must not exceed the capacity of the boom or leak oil.
- (7) The cables must be as specified by the manufacturer and be in good condition, within manufacturer guidelines.
- (8) Each tow truck must have a copy of the annual state inspection.
- (9) Tow trucks placed in service after May 1, 2008, must contain the original manufacturer's warning labels on the truck, truck bed, winches, and all other accessories; and
- (a) Each wrecker shall provide that its impoundment area, be location in the City, be fenced for security, with a minimum of a six-foot chain-link fence with three strands of barbed wire at the top of such fence and such fence surround all impoundment areas.
  - (b) Have a Drug Test policy in effect as set by the guidelines of the State of Texas, administered by the Texas Department of Licensing and Regulation.

(10) Towing Operator Safety Clothing and Identification.

- (a) Towing operators, as a condition of their license must comply with the protective clothing policy.
- (b) Towing operators must wear at all times when using or assisting in the use or operation of a licensed tow truck on a road or road related area:
  - 1. a uniform, clearly marked with the tow company's name as it appears on department records.
  - 2. a reflective vest or reflective jacket at all times while working outside the tow truck; the reflective vest or reflective jacket must meet the ANSI/ISEA 207-2006 requirements for high visibility safety apparel.
- (c) During daylight hours, a fluorescent shirt may be worn instead of the reflective vest or jacket; the fluorescent shirt must meet the ANSI/ISEA 207-2006 requirements for high visibility safety apparel.
- (d) When performing towing operations, all tow truck operators must carry and openly display the appropriate TDLR issued original towing operator license.
- (e) Tow operators permitted under §86.210 are exempt from the requirements of subsection (b)(1).

(11) The wrecker company or wrecker business shall obtain and keep in full force and effect a policy of public liability and property damaged insurance issued by a casualty insurance company authorized to do business in the State of Texas in the standard form approved by the Board of Insurance Commissioners of the State of Texas, insuring the public from any loss or damage that may arise to any person or property by reason of the operation of a wrecker of such company and providing that the amount of recovery shall be limits of not less than the following sums:

**A. Incident Management Towing**

- 1. a minimum of \$500,000 liability insurance per tow truck per incident, which is combined single limit liability for bodily injury to or death of an individual per occurrence, loss or damage (excluding cargo) per occurrence, or both; and
- 2. a minimum of \$50,000 of cargo or cargo on hook insurance per tow truck per incident.

**B. Private Property Towing**

- 3. a minimum of \$300,000 of liability insurance per tow truck per incident, which is combined single limit liability for bodily injury to



or death of an individual per occurrence, loss or damage (excluding cargo) per occurrence, or both; and

4. a minimum of \$50,000 of cargo or cargo on hook insurance per tow truck per incident.

**C. Consent Towing.**

1. A minimum of \$300,000 of liability insurance per tow truck per incident, which is combined single limit liability for bodily injury to or death of an individual per occurrence, loss or damage (excluding cargo or cargo on hook) per occurrence, or both.
  2. Insurance covering permitted tow trucks must be kept in full force and effect at all times.
- b. No delinquent taxes of any type shall be due to the City upon any property of applicant or any wrecker for which a license is sought, and the applicant shall not have failed to render any property located within the City for ad valorem taxation.
- c. A copy of all licenses and/or certificates issued by the state allowing the applicant to operate a tow truck, impound yard or vehicle storage facility shall be required upon payment of annual fees per wrecker company or wrecker unit. A copy of all required proof of insurance shall also be provided to the City of Pharr upon application and renewal.
- d. No owner or a wrecker company, not licensed by the City, shall intercept any message emanating through the medium of the fire or police department radio frequency or divulge or publish the existence, contents, substance, purpose, effect or meaning of such intercepted communications; and no person, not being entitled thereto, shall receive or assist in receiving any information therein contained, for his own benefit or for the benefit of another person.

**SECTION 6: INDEMNIFICATION OF CITY, ITS OFFICERS, AGENTS AND EMPLOYEES**

Every wrecker business and wrecker company and agent thereof to obtain a safety and insurance compliance certificate to operate a wrecker service in the City of Pharr shall be required to accept these conditions to this agreement which are attached to this application wherein the applicant agrees to indemnify and hold harmless the City of Pharr, its officers, agents and employees from any and all claims, demands, actions and causes of actions arising from the granting of a license to operate a wrecker service or to operate a wrecker by the City and/or the operation of the wrecker service or any wrecker by the applicant in the City.

**SECTION 7: STATE INSPECTION REQUIRED BEFORE ISSUANCE OF SAFETY AND INSURANCE COMPLIANCE CERTIFICATE**

Each application for a Safety and Insurance Compliance Certificate for a wrecker shall state that such wrecker has been inspected and approved under the direction of the Texas Department of Public Safety and a current inspection sticker shall be affixed securely to the inside of the windshield of the wrecker.

**SECTION 8: WRECKER TO BE SUMMONED BY OWNER, OPERATOR OR POLICE OR FIRE DEPARTMENT**

No person shall drive a wrecker to or near the scene of an accident or collision on the streets of the City unless such person has been called to the scene by an owner or operator of a vehicle involved in such accident or collision or by the Police or Fire Department of the City; unless it is necessary to prevent death or bodily injury to any person involved in an accident or collision.

**SECTION 9: SOLICITING WRECKER BUSINESS PROHIBITED: PRESENCE AT SCENE AS EVIDENCE OF VIOLATION**

No person shall solicit in any manner, directly or indirectly, on the streets of the City, the businesses of towing any vehicle which is wrecked or disabled on the public streets, regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading, or purchasing such vehicle. The presence of a wrecker at or near the scene of a wreck, accident, or collision, within one hour after the occurrence of a wreck, accident or collision without being summoned to the scene by an owner or operator of a vehicle involved in such accident or collision or by the Police or Fire Department of the City, shall be prima facie evidence of a solicitation in violation of this section.

**SECTION 10: WRECKER SELECTION: USE OF VOLUNTARY WRECKER ROTATION LIST**

- (a) When a police officer investigating an accident, making an arrest, conducting a traffic stop, or otherwise performing duties as a police officer, determines that any vehicle on a roadway is unable to proceed safely under its own power, or determines that the operator therefore is unable to operate such vehicle, such officer shall notify the police department headquarters that the services of a wrecker company are necessary.

- (b) Upon receiving a communication advising the Police Department of the need for a wrecker from the wrecker rotation listings, the Police Department Headquarters shall notify the wrecker company next on the applicable rotation listings to remove the vehicle involved. If there are no wreckers available at the wrecker service on call or if the Police Department cannot immediately make contact with the wrecker service on call, the Police Department shall proceed through the wrecker rotation listings until a wrecker is located that is available and ready to proceed immediately to the scene of the incident requiring a vehicle to be removed.

**SECTION 11: VOLUNTARY WRECKER ROTATION LIST; PROCEDURES AND REQUIREMENTS TO BE PLACED ON LIST**

- (a) The Police Department shall maintain wrecker rotation listings, as approved by Resolution by the Board of Commissioners, and a wrecker rotation schedule indicating which person, wrecker business or wrecker company is on call for services at any time.
- (b) Wrecker companies that want to be placed on the wrecker rotation listings shall provide the following information and documents and comply with the following requirements:
  - (1) Have been issued a Certificate of Occupancy (if applicable) and a Safety and Insurance Compliance Certificate by the City of Pharr.
  - (2) Have applied to be on the wrecker rotation list and shall register with the City.
  - (3) Have a minimum of two (2) wreckers with lawful drivers readily available located at a site within the City limits of the City of Pharr to answer calls from the Police and Fire Department during such times that the wrecker service is on call for services.
  - (4) Maintain an office building and storage compound within the City operated on a daily basis (Monday through Friday), with normal working hours from 8:00 a.m. to 5:00 p.m. with an employee physically present at the business during such normal working hours. The office building shall be served by a telephone with a number provided to the Police Department for calls during such normal working hours. If the office is not manned twenty-hour (24) hours per day, (7) seven days per week, the wrecker service shall also provide the Police Department with a telephone number for calls after normal working hours, weekends and holidays. Answering service or answering device shall not be used.

- (5) Facility Fencing Requirements. Enclosure and security of stored vehicles.

Fencing. If not enclosed by a five-foot high fence on or before September 1, 1985, all VSFs shall be completely enclosed by a fence at least six feet high with a gate, which is locked at all times when the licensee or an agent or employee is not at the storage lot. No two VSFs may operate within the same fenced area.

- (6) Security of vehicles.

(a) No vehicle may be stored or kept at any licensed VSF unless it is kept inside the fenced or enclosed area at all times. For purposes of this subparagraph, the term "enclosed" shall mean inside a building.

(b) A vehicle accepted for storage in a VSF must be secured to prevent theft of the vehicle or its contents, including but not limited to locking doors, closing windows and hatchbacks, and raising or covering convertible tops.

- (7) Storage Lot Surface.

All VSFs shall have an all-weather surface such as concrete, asphalt, black-top, stone, macadam, limestone, iron ore, gravel, shell, or caliche, that enables the safe and effective movement of stored vehicles upon all portions of the lot, both under their own power and under tow, at all times, regardless of prevailing weather conditions. The surface shall also be free of overgrown vegetation.

- (8) Storage Lot Lighting.

All VSFs shall maintain illumination levels adequate for nighttime release of vehicles. The term "adequate" shall mean sufficient to allow inspection of a vehicle for damage at the time of release. At a minimum, there must be one lighting fixture containing at least a 250-watt element for each 1/4 acre of storage area.

- (9) Storage Lot Signs.

(a) Facility information. All VSFs shall have a clearly visible and readable sign at its main entrance. Such sign shall have letters at least 2 inches in height, with contrasting background, shall be visible at 10 feet, and shall contain the following information:

1. the registered name of the storage lot, as it appears on the VSF license.

2. street address;
  3. the telephone number for the owner to contact in order to obtain release of the vehicle;
  4. the facility's hours, within one hour of which vehicles will be released to vehicle owners; and
  5. The storage lot's state license number preceded by the phrase "VSF License Number."
- (b) All VSFs shall have a sign setting out the charge for storage and all other fees, which may be charged by the storage lot, including notification and impoundment fees. The sign shall include all forms of payments the VSF accepts for any charge associated with delivery or storage of a vehicle. The sign must be located so it is clearly visible to a vehicle owner at the place of payment and shall have letters at least 1 inch in height with a contrasting background.
- (c) Nonconsent towing fees schedule. All VSFs shall conspicuously place a sign, at the place of payment, which states in 1-inch letters that: "Applicable schedules of nonconsent towing fees will be provided for viewing upon request by persons claiming vehicles." The nonconsent towing fees provided for viewing must match the nonconsent towing fees schedule on file with the department, as provided in 16 Texas Administrative Code, Chapter 86, §86.500 (relating to Reporting Requirements--Towing Company). And must not exceed the maximum rates allowable by Section 15 of this Ordinance.
- (d) Instruments accepted for release of vehicle. All VSFs shall have a sign describing the documents that may be presented by the vehicle owner or his/her authorized representative to obtain possession of the vehicle. This sign shall list all instruments as described this chapter, and shall also state: "Affidavit of Right of Possession Furnished Upon Request." This sign shall be located so it is clearly visible to a vehicle owner at the place of payment and have letters at least 1 inch in height with a contrasting background.
- (e) Combination signs. A VSF may combine the signs described in subsections (b), (c), and (d), if the combination sign meets the requirements of each of the separate signs.
1. The owner or operator of the wrecker company shall immediately notify the Chief of Police or his designate representative of any changes in status as it relates to any

insurance, certificate, permit or any factor that may impede its ability to comply with this ordinance.

2. The owner or operator of the wrecker company shall produce a written report upon request listing the status of all vehicles towed for the City. Such request to be made during working hours and promptly prepared.
- (f) If there are no wreckers available at the wrecker service on call or if the Police Department cannot immediately make contact with the wrecker service on call, the Police Department shall proceed through the applicable wrecker rotation listings until a wrecker is located that is available and ready to proceed immediately to the scene of the incident requiring a vehicle to be removed.
- (g) Any wrecker service company appearing on either of the wrecker rotation listings should be able to respond to calls according to the following schedule:
1. During the normal work week, Monday through Friday,  
8:00 a.m. to 5:00 p.m.  
  
within City limits – 15 minutes  
outside City limits- 20 minutes
  2. After normal working hours, on weekends or holidays;  
  
within City limits - 30 minutes  
outside City limits –35 minutes
- A person or wrecker service or business company failing to respond within five (5) minutes of the above Schedule shall have its call cancelled and the next wrecker service company on the applicable wrecker rotation listing shall be called.
- (h) In this event the vehicle to be towed, moved or removed exceeds the capacity of the Wreckers operated by the wrecker service company on the wrecker rotation list, or In the event of an emergency wherein life or property are threatened or in circumstances where the situation requires immediate action to protect life or property, the Police Department may call any wrecker service with the capability to provide the service needed.
- (i) Any wrecker rotation listing shall not contain the name of any wrecker company or business or person that failed or refused to tow any vehicle to the City pound when officially requested by the police department or other place designated by the owner thereof. Such conduct may result in removal from any listing.

- (j) Any wrecker service company on the wrecker rotation listing shall keep a record of all calls made in response to requests from the City of Pharr, which records shall include the following information:
  - (1) Date and time of call
  - (2) Location of vehicle to be towed/removed
  - (3) Response time
  - (4) Vehicle owner/operator
  - (5) Description of vehicle
  - (6) Disposition of vehicle
  - (7) Charges involved
  - (8) Status of payment for charges
- (k) The wrecker rotation schedules maintained by the Police Department shall list all wrecker companies in compliance with this ordinance. The master list shall be in alphabetical order. The rate and times of Rotation shall be determined by the Chief of Police.
- (l) From and after the effective date of this ordinance, the police department or whatever department or whatever department provides for the placement of wrecker services on the rotation listings shall not place any additional wrecker services on such list until authorized by ordinance by the Board of Commissioners. The Chief of Police is hereby authorized and directed to initiate and complete a study into the determination of the maximum number of wrecker services on such list which will result in efficient and safe service for the citizens of the City, taking into consideration the economic vitality of the companies involved.
- (m) No license or certificate issued under the terms of this Ordinance shall be transferred to any other person or business, nor shall such license be used for the operation of any vehicle except for the vehicle for which the license is issued.
- (n) All persons and entities operating or that seek to operate shall provide any and all records to the City upon request. Upon application and renewal of any and all licenses and certificates, the City shall be provided with the name of all interested owners and drivers. Should any changes be made related to the owners or drivers during the license period, such changes shall be provided to City without delay.

**SECTION 12: POLICE OFFICER, FIRE FIGHTER OR OTHER CITY EMPLOYEE NOT TO INFLUENCE SELECTION OF WRECKER SERVICE: MAY DIRECT THAT THE VEHICLE BE TAKEN TO THE CITY POLICE DEPARTMENT**

No police officer, firefighter, or other City employee who is investigating or present at the scene of a traffic stop, any accident or collision on a public street shall, directly or

indirectly, either by word, gesture, sign or otherwise, recommend any person the name of any particular person engaged in the wrecker service businesses, nor shall any such person influence or attempt to influence in any manner the decision of any person in choosing or selecting a wrecker or repair service; provided, that any police officer, in the exercise of his discretion as a police officer, may direct that any vehicle, whether towed by a wrecker selected by the owner or operator of the vehicle or from the wrecker rotation list, shall be taken to the Police Department or such other location designated by the police officer to be held by the City for any lawful purposes.

1. When a peace officer at an accident scene determines that a vehicle needs to be towed from the scene, and when the disabled vehicle does not interfere with the flow of vehicular traffic and is not a danger or hazard to the public may allow the operator or owner of the disabled vehicle to summon the wrecker company of his/her choice, as long as the wrecker responds within the time limit set by the City of Pharr of fifteen minutes:
2. The peace officer at an accident scene shall inform the operator of a disabled vehicle that the department will contact the next available towing company on the rotation list to remove the vehicle if the operator's preferred towing company does not respond within five minutes of notification by the police department.

### **SECTION 13: MAXIMUM RATES**

- (a) Any person, wrecker company or wrecker business that appears on any rotation listing or that receives a request to haul unauthorized vehicles from any roadway, or public or private parking facility, within the boundaries of the City of Pharr, Texas shall not charge more than the maximum rates provided in this subsection as follows:

(1) **Light Duty Vehicles**: Gross weight of 10,000 lbs. or less

- a. Towing a wrecked, disabled vehicle or illegally parked vehicles \$200.00
- b. Towing of disabled vehicle from high water: Up to a maximum fee per hour, per Wrecker \$ 50.00

(Any person requesting that their vehicle be removed to a garage or other area will be responsible for paying the wrecker fee.)

- c. Towing vehicle from outside the City Limits \$30.00  
Plus, per mile to and from location of Vehicle \$ 1.75
- d. Pickup and delivery of vehicle to City Pound (official police business)
  - (a) Daytime delivery \$ 50.00
  - (b) Nighttime delivery \$ 75.00



The total fee charged will be made up of the applicable towing fees found in subsection (i), or (ii) or (iii) or (iv), and storage fees, impoundment initial fees and notification fees if any. (see subsection (B) below).

Drop Fee (Light Duty Vehicle) \$50.00

- e. If the owner arrives at the scene of the tow, the owner will be charged this fee, no storage fees or towing fees shall be charged.

(2) **Medium Duty Vehicle**: Gross weight rating of more than 10,000 lbs. but less than 25,000 lbs.

- a. Towing a wrecked, disabled vehicle or Illegally parked Commercial vehicle \$250.00 per hour, Max 2 hrs.

b. Drop Fee (Medium Duty Vehicle) \$200.00

If the owner arrives at the scene of the tow, the owner will be charged this fee, no storage fees or towing fees shall be charged.

(3) **Heavy Duty Vehicle**: Gross weight rating that exceeds 25,000 lbs.

- a. Towing a wrecked, disabled vehicle or Illegally parked Commercial vehicle \$500.00 per hour, Max 8 hrs.

b. Drop Fee (Heavy Duty Vehicle) \$400.00

If the owner arrives at the scene of the tow, the owner will be charged this fee, no storage fees or towing fees shall be charged.

(b) The cost of impounding a vehicle and storing a vehicle shall not exceed the following schedule:

(1) Impounding vehicle: Initial Fee (not including towing charges but including first day's storage charge) not more than \$20.00

(2) Daily Storage Fees:

- (a) At a facility licensed by the Texas Department of License and Regulation per day (not more than) \$20.00

(3) Notification Fee

- (a) A VSF may not charge a vehicle owner more than \$50 for notification under these rules. If a notification must be published, and the actual cost of publication exceeds 50% of the notification fee, the VSF operator may recover the additional amount of the cost of publication. The publication

fee is in addition to the notification fee.

- (b) If a vehicle is removed by the vehicle owner within 24 hours after the date the VSF receives the vehicle, notification is not required by these rules.
- (c) If a vehicle is removed by the vehicle owner before notification is sent or within 24 hours from the time VSF receives the vehicle, the VSF operator may not charge a notification fee to the vehicle owner.

(4) No Additional Fees are allowed by the laws of the State of Texas.

Where any state law, rule or regulation requires a different rate for services rendered by a Wrecker service and/or storage facility or any other type of business entity regulated under this Ordinance, as provided for in this ordinance, then such state-regulated rate shall be followed without the necessity of further amendment of this ordinance.

- (a) All City of Pharr owned vehicles while in furtherance of City business shall be exempt from charges and service fees by any person, wrecker business, wrecker company, or vehicle storage facility as authorized by law or this ordinance.
- (b) A wrecker company that has been randomly selected to provide services shall be entitled to recover applicable fees pursuant to this section for any and all actual services provided up to the time of a cancellation.

#### **SECTION 14: SAFETY PRECAUTIONS**

Each wrecker shall follow standard safety precautions and operations generally recognized in the wrecker business to proceed to and from the scene of an accident or collision and shall comply with all ordinances of the City of Pharr. Each wrecker present at the scene of any accident or collision shall follow standard safety precautions and procedures generally recognized in the wrecker business, fees applied are inclusive to roadway cleanup, to include the prompt removal of debris from accidents or collisions occurring on the public right of way.

#### **SECTION 15: REVOCATION OR SUSPENSION OF CERTIFICATE: REMOVAL FROM WRECKER ROTATION LIST. HEARING**

- (a) Upon a finding of a violation of the motor vehicle laws or the criminal laws of the state or a violation of the requirements of this Ordinance, the Municipal Judge may revoke or suspend a certificate or remove a wrecker from the rotation list.
- (b) Upon written complaint by any person against any wrecker service on the wrecker rotation list or against any agent or employee of a wrecker service on the wrecker rotation list filed with the Chief of Police, or upon written complaint by the Chief of Police, the Municipal Judge shall conduct a hearing as set out herein:

1. The hearing shall be conducted in Municipal Court within 30 days of the filing of the complaint.
2. Written notice shall be given to the wrecker service involved, to all other persons involved and to the Chief of Police at least 20 days prior to the hearing.
3. Parties may be represented by attorneys at their own expense.
4. The Chief of Police may be represented by the City Attorney or designated assistant.
5. The burden of proof shall be on the complainant or Chief of Police to prove the allegations by a preponderance of the evidence.
6. All witnesses shall be sworn.
7. Only evidence admissible under the law and rules of evidence of the state shall be admissible.
8. All witnesses shall be subject to cross-examination by all opposing parties.
9. All evidence shall be subject to objection by all opposing parties.
10. Parties shall be permitted to offer evidence and argue to the Court.
11. The Municipal Judge or his or her alternate shall decide all questions of law and fact and determine whether to suspend for a specified period or revoke the certificate of the service company from the wrecker rotation list. The determination of the Municipal Judge is final and not appealable to the County Court at Law.
12. The above procedure is applicable only to hearings involving the revocation or suspension of a certificate or removal from the wrecker rotation list. Normal court procedures shall be followed when charges are filed seeking imposition of the fine authorized by this Ordinance.

#### **SECTION 16: PENALTY FOR VIOLATIONS: CIVIL SUIT AUTHORIZED**

- (a) Any person, firm, corporation, company or association that violates any provision of this ordinance or suffers or allows the same to be violated, shall, upon conviction, therefore, be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00). A violation may also result in removal from the voluntary wrecker rotation list. Any violation of this Ordinance shall be subject to both civil and criminal penalties. A criminal conviction shall be a Class C misdemeanor. A violator shall also be subject to the maximum penalties allowed by law for failing to appear in Court when charged with an offense as described herein. If conduct constituting an offense under this ordinance also constitutes an offense under another law, the person may be prosecuted under all

applicable laws.

- (b) The City Attorney is hereby authorized to file a civil suit in state district court or any court of competent jurisdiction to enjoin any violations of this ordinance or seek any remedy available. Should any person or business violate the prohibitions contained herein or allow the commission of any act or condition that proximately resulted in a violation of this ordinance, the City Attorney may take any action to enforce this or any ordinance to prevent and summarily abate the action and remove or seize any objects used to violate this ordinance. These actions may also include but not be limited to allowing for municipal resources and personnel to: abate any premises or property, closure, condemn, remove any person or thing, court action, suspend, cancel, or void any license or permit issued by the City of Pharr or a state or federal agency, and any and all other relief as may be necessary. Any civil actions by the City Attorney shall not be deemed a waiver of any rights and entitlements of any person that has suffered harm or damages as a result of any act or omission prescribed by this ordinance.

#### **SECTION 17: ESTABLISHING A LIMIT ON THE NUMBER OF WRECKER COMPANIES**

- (a) The number of wrecker companies approved to operate on either of the rotation listings, shall be set by the city commission from time to time and such number may be increased or decreased at the discretion of the city commission, based partially on the police chief's recommendation. A person or entity with an interest in a wrecker company shall be restricted to one (1) wrecker company on either of the rotation listings as may be selected.
- (b) This ordinance shall not affect the right of any person, business, or entity to contract. The City of Pharr may also contract to terms and conditions for other services that may be specialized in nature unaffected by this ordinance.

#### **SECTION 18: REPEAL OF CONFLICTING ORDINANCE**

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

#### **SECTION 19: SEVERABILITY**

The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part thereof.

#### **SECTION 20: PUBLICATION; EFFECTIVE DATE**

The Ordinance shall take effect and be in force 120 days after its passage and approval on three (3) separate readings in accordance with Section 8, Article 3 of the Charter of the City of Pharr, Texas. Publication may also be in caption form as allowed under Section 9 of the Pharr City Charter.

**PASSED AND APPROVED ON THE FIRST READING BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF PHARR, TEXAS, on this the 3rd day of June, 2024.**

CITY OF PHARR, TEXAS

  
*for*   
AMBROSIO HERNANDEZ  
MAYOR

ATTEST:

  
IMELDA PEREZ, CITY CLERK

**PASSED AND APPROVED ON THE SECOND READING BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF PHARR, TEXAS, on this the 17th day of June, 2024.**

CITY OF PHARR, TEXAS



  
*for*   
AMBROSIO HERNANDEZ  
MAYOR

ATTEST:

  
IMELDA PEREZ, CITY CLERK

**PASSED AND APPROVED THE THIRD READING BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF PHARR, TEXAS, on this the 1st day of July, 2024.**

CITY OF PHARR, TEXAS

  
*for*   
AMBROSIO HERNANDEZ  
MAYOR

ATTEST:

  
IMELDA PEREZ, CITY CLERK