

ORDINANCE NO. 2074-02-26

AN ORDINANCE OF THE CITY OF NACOGDOCHES, TEXAS, AMENDING CHAPTER 102 – “TRAFFIC AND VEHICLES”, ARTICLE X. – “TOW TRUCK AND VEHICLE STORAGE BUSINESS REGULATIONS”, OF THE CODE OF ORDINANCES OF THE CITY OF NACOGDOCHES, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CONTINUATION CLAUSE; PROVIDING A REPEAL CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

RECITALS:

WHEREAS, Chapter 2308 of the Texas Occupations Code imposes certain regulations and guidelines for tow truck companies, tow trucks, and tow truck operators, to include both consent and non-consent towing, as well as vehicle storage facilities in the State of Texas; and

WHEREAS, the Texas Department of Licensing and Regulation (TDLR) regulates these industries and, among other things, requires a license in order to legally operate a tow truck in the State; and

WHEREAS, Texas Occupations Code §§2308.201 et seq. permits the local regulation of tow truck operations by political subdivisions of the State, including municipalities; and

WHEREAS, the City of Nacogdoches is authorized under Article II, § 22[14] of its Charter “...to license and control the operation of automobiles, motorcycles, taxicabs, busses, cabs and carriages and all character of vehicles using the public streets and to regulate the use and occupancy of the streets by any of such vehicles”; and

WHEREAS, as authorized thereunder, the City Council of the City of Nacogdoches has exercised such authority and adopted ordinances concerning the regulation of tow trucks and towing companies within the City; and

WHEREAS, the City Council has determined the need to amend certain portions of these ordinances as set forth herein;

NOW, THEREFORE BE IT ORDAINED BY THE CITY OF NACOGDOCHES:

SECTION I

All above premises are hereby found to be true and correct legislative and factual findings.

SECTION II

CHAPTER 102 – “TRAFFIC AND VEHICLES”, ARTICLE X. – “TOW TRUCK AND VEHICLE STORAGE BUSINESS REGULATIONS” of the Code of Ordinances of the City of Nacogdoches, Texas, is hereby amended, as set hereafter to include the following:

Sec. 102-365. Definitions.

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Consent tow means any tow of a 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.

Drop fee means a fee that must be offered on a private property tow where the vehicle is hooked up and is ready for immediate transport. Any vehicle that is not “hooked up” completely and ready for immediate transport and the owner or operator of the vehicle arrives on the scene the vehicle must be released without a fee.

Incident means an unplanned randomly occurring traffic event that adversely affects normal traffic.

Incident management tow means any tow of a vehicle in which the tow truck is summoned because of a traffic accident or to an incident, including the removal of a vehicle, commercial cargo, and commercial debris from a collision or incident scene.

Non-consent tow means any tow of a motor vehicle that is not a consent tow, including:

- (1) An incident management tow; and
- (2) A private property tow.

Parking facility means any public or private property used, in whole or in part, for restricted and/or paid parking of vehicles. The term includes a restricted space on a portion of an otherwise unrestricted parking facility, 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 owner’s association, or government-owned property leased to a private person.

Person means an individual, a corporation, organization, business trust, estate, trust, partnership, joint venture, association, or other legal entity.

Tow away means a tow that is conducted from a parking facility and without the consent of the owner or operator of that vehicle, but with the parking facility’s authorization.

Tow business means the business of towing or removing vehicles for compensation, or the expectation of compensation, regardless of whether the purpose of the towing is to remove, repair, wreck, store, trade, or purchase vehicles.

Tow rotation list means a list prepared and maintained by the city police department of tow companies, which have requested and qualified to appear thereon.

Tow truck means any motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another vehicle. The term does not include:

- (1) A motor vehicle owned and operated by a governmental entity, including a public school district;
- (2) A motor vehicle towing;
 - a. A race car;
 - b. A motor vehicle for exhibition; or
 - c. An antique motor vehicle.
- (3) A recreational vehicle towing another vehicle;
- (4) A motor vehicle that is used in combination with a tow bar, tow dolly, or other mechanical device if the vehicle is not operated in the furtherance of a commercial enterprise;
- (5) A motor vehicle that is controlled or operated by a farmer or rancher and used for towing a farm vehicle;
- (6) A motor vehicle that:
 - a. Is owned or operated by an entity that the primary business of which is the rental of motor vehicles; and
 - b. Only tows vehicles rented by the entity.

Towing company means a person operating a tow truck licensed with the Texas Department of Licensing and Regulation (“TDLR”). The term includes the owner, operator, employee or agent of a towing company but does not include a political subdivision of the state.

Unauthorized vehicle means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner.

Vehicle means a device in, on, or by which a person or property 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.

Vehicle storage facility (VSF) means a facility operated by a person licensed under Texas Occupations Code, ch. 2303.

Vehicle storage facility license means the license issued by TDLR authorizing a business to store vehicles.

(Ord. No. 1570-4-11, 4-5-2011)

Sec. 102-366. License required.

It shall be unlawful for any person to engage in the tow business and make non-consent tows in the city unless such person possesses a current, valid tow truck license, issued by the State of Texas that lists each tow truck operated by that tow company.

(Ord. No. 1570-4-11, 4-5-2011)

Sec. 102-367. Vehicle storage facility.

Each tow company performing non-consent tows shall utilize a licensed VSF located in the city limits or within the extra territorial jurisdiction of the city. The VSF shall maintain the level of insurance coverage required by TDLR and maintain such insurance in full force and effect so long as the facility operates.

(Ord. No. 1570-4-11, 4-5-2011)

Sec. 102-368. Police inspection.

Any tow truck performing non-consent tows within the city limits may be inspected by an official of the Nacogdoches Police Department at any time the tow truck is being operated on the public streets as a tow truck. Such inspections may be conducted to ensure required licenses and compliance with this article and state law. Further, upon the request of the chief of police or his/her designee, a tow company performing non-consent tows within the city shall produce records from VSFs used for non-consent tows to ensure compliance with the maximum rates established under this article and other requirements of this article and state law.

(Ord. No. 1570-4-11, 4-5-2011)

Sec. 102-369. Tow rotation list.

- (a) *Qualifications.* The city police department shall establish and maintain a tow rotation list. Each tow company is required to complete any and all applications and provide required information necessary to apply for the tow rotation list. To be eligible for the rotation list, each tow company is required to comply with all of the following requirements: To qualify, a company must maintain a 24-hour tow service; have one telephone number which is answered 24 hours a day, seven days a week; and uses a VSF that meets or exceeds the Texas Accessibility Standards ("TAS") accessibility criteria, approved by the United States Department of Justice. To be eligible to be placed on the tow rotation list, a tow company shall certify in writing that the VSF meets or exceeds the criteria set forth by TAS, a copy of which will be provided by the city at the time the tow company applies for inclusion on the tow rotation list, as well as the requirements promulgated by TDLR and as specified in this article. Only those tow trucks that are included on the tow company's tow truck license and are permitted by the city

are authorized to respond to an incident management rotation call. Each tow company will maintain its own office within the city limits or the ETJ of the City of Nacogdoches. Each tow company is required to maintain a minimum of two tow trucks.

- (b) *Drivers.* Each tow company must annually submit and maintain a list of operator/drivers which will be operating the tow trucks included on the company's license along with their address, phone number, Texas driver's license number and a criminal background for each driver. Drug related offenses, theft, or crimes of moral turpitude can be grounds for denial. Each driver must possess a TDLR incident management license and submit to the city a copy of the license. Tow companies are required to update the list of operator/drivers throughout the year to reflect the addition or removal of any drivers. A minimum of two operator/drivers must be maintained to be eligible to be on rotation.
- (c) *License.* Each tow company, requesting placement on the tow rotation list must possess a tow truck license, issued by the State of Texas that lists each tow truck operated by that tow company.
- (d) *Forfeiture of calls.* Failure of any tow truck to check in route, by radio or phone, to the designated location within ten (10) minutes of dispatch making contact with the listed phone number of the tow company and arriving at the designated location dispatched by the city within thirty (30) minutes of being called will result in the forfeiture of that call and shall be considered a violation of this article. Three (3) such forfeitures within twelve (12) months will result in removal from the rotation list. A tow company may not substitute a tow truck from a different tow company or utilize drivers employed by another tow company in an attempt to avoid a forfeiture. However, a tow company may elicit assistance from other tow companies during complex incidents.
- (e) *Temporary removal from list.* Should a tow company wish to be removed from the tow rotation list for a specific period of time, the tow company shall notify the city police department dispatch, by e-mail, if the time off requested is 24 hours or longer. It shall be the tow company's responsibility to notify dispatch, by e-mail, when the tow company wishes to return to the tow rotation list.
- (f) *Unneeded calls.* If a tow company is called to respond to a scene by a police officer and subsequently is not needed, that tow company will be placed as "next in line" on the tow rotation list. If a tow truck responds and performs minor service that enables the vehicle to be driven, and for which no fee is charged, that tow company will be placed as "next in line" on the tow rotation list.
- (g) *Method of receiving payment.* Each qualified tow company must be able to accept cash or credit/debit card payments for services rendered.
- (h) *Heavy-duty tows.* The city police department shall maintain a separate list for heavy-duty tows, as that term is specified under Texas Occupations Code §2308.0575, as may be amended.

(Ord. No. 1570-4-11, 4-5-2011)

Sec. 102-370. Truck permits required for rotation non-consent tows.

- (a) *Unlawful to operate tow trucks without permit.* It shall be unlawful for any person to engage in the tow truck business and make rotation non-consent and or police directed/initiated tows in the City of Nacogdoches unless such a person possesses a current, valid permit for that tow truck issued by TDLR.
- (b) *Display of license number.* Tow trucks shall meet all requirements established by TDLR and the TDLR assigned numbers shall be prominently displayed on each truck in accordance with the associated regulations.

(Ord. No. 1570-4-11, 4-5-2011)

Secs. 102-371—102-381. Reserved.

Sec. 102-382. Maximum fees to be charged for non-consent tows.

The maximum fees charged by tow companies for non-consent tows within the city limits shall be the maximum fees established by the TDLR for private property tows and drop fees. Itemized receipts shall be provided to owners or operators at the time payment of tow related fees are made. Violations of this provision may result in suspension or removal from the tow rotation list, and criminal penalties against the offender.

(Ord. No. 1570-4-11, 4-5-2011)

Sec. 102-383. Driving tow trucks to scene of an incident prohibited.

No tow company shall drive, or cause to be driven, a tow truck to or near the scene of an incident on a street within the city unless such tow company has been called to the scene by the city police department.

(Ord. No. 1570-4-11, 4-5-2011)

Sec. 102-384. Soliciting towing business on a city street prohibited.

No tow company shall solicit in any manner, directly or indirectly, a person owning/operating any vehicle which is involved in an incident on a public street. This prohibition applies regardless of whether the solicitation is for the purpose of soliciting the business of towing, repairing, selling, or purchasing such vehicle.

(Ord. No. 1570-4-11, 4-5-2011)

Sec. 102-385. Impound tows.

Any police officer investigating an accident or offense within the city may order the impoundment of any vehicle involved therein when, in the judgment of such officer, criminal prosecution will be involved as a result of such event, or when it is necessary to impound such vehicle to secure evidence, or when the owner or occupant of the vehicle is

unable or fails to have such vehicle removed, or when the vehicle is stopped for a traffic violation, to effect an arrest, or is involved in an accident on a public roadway or public property and the vehicle's owner or operator fails to show proof of financial responsibility as required under Texas Transportation Code, ch. 601 as amended. The fees to be charged for impound tows will not exceed the maximum rates allowed under this article or state law.

(Ord. No. 1570-4-11, 4-5-2011)

Sec. 102-386. Duties of tow companies.

It shall be the obligation of all tow companies under this section to operate the tow business in a safe manner, to include, but not be limited to, the following:

- (1) *Taking direction from investigating officer.* Upon arrival at the scene of a collision within the city, tow truck operators shall take directions on when to engage or tow from the police officer investigating the collision.
- (2) *Removing debris of collision.* Tow truck operators that engage and tow any vehicle from the scene of a collision within the city shall remove all debris of the collision from the public street. This duty specifically includes the removal of vehicle parts, glass, and other debris. Such debris shall be disposed of in a lawful manner, which will keep it out of the gutters, storm sewers, streams, public rights-of-way, or property not belonging to the tow company.
- (3) *Disengaging.* A tow trucks that removes a vehicle from the original location shall not disengage from the vehicle until the vehicle has been deposited with the appropriate VSF except when the vehicle is released to the owner or operator or when the owner or operator specifies the location of disengagement. This restriction is enacted to prohibit tow trucks from engaging an unauthorized vehicle in a parking facility and moving it to a close location, then returning for another unauthorized vehicle, ultimately towing all the relocated vehicles to a VSF.
- (4) *Drops.* A tow truck that has hooked up to a vehicle for towing shall release the vehicle to its owner or operator upon receiving, a drop fee, payment and will not tow the vehicle, except when the vehicle is being taken into custody by a police officer. A vehicle is "hooked up" if it is immediately ready for transport. A vehicle is not "hooked up unless it can be legally towed on a public roadway.

(Ord. No. 1570-4-11, 4-5-2011)

Sec. 102-387. Report of towing of unauthorized vehicle to police dispatcher.

The VSF that receives a vehicle from a tow truck that removed the vehicle from private or public property within city and on a non-consent basis, except on police-generated tows, shall notify the police department dispatch office within one hour of receiving the vehicle. The information to be provided in such notification shall include:

- (1) The general description (brand, model, color) of the vehicle towed, including the state and the license plate, if any;
- (2) The tow company name that towed the vehicle;
- (3) The location/address from which the vehicle was towed and reason;
- (4) The date and time the vehicle was removed from the location;
- (5) The date and time the vehicle was accepted at the VSF; and
- (6) The street address and phone number of the VSF where the vehicle is located.

Such reports shall be made by e-mail or in person. A VSF must release vehicles during the time the VSF accepts vehicles. If the VSF accepts vehicles on a 24-hour-a-day basis, it shall release vehicles on the same basis, with one (1) hours' notice.

(Ord. No. 1570-4-11, 4-5-2011)

Sec. 102-388. Administrative penalties for violations.

In addition to the criminal penalties imposed for violations of state law or this article, any tow company on the tow rotation list that violates this article or state law may be subject to sanctions by the chief of police or designee, depending upon the nature of infraction, number of infractions, and other circumstances. The sanctions shall range from written notification of violation with warning to, and including, removal from the tow rotation list.

(Ord. No. 1570-4-11, 4-5-2011)

Sec. 102-389. Appeal of sanctions.

An individual who has been issued a sanction may appeal the chief of police's or designee's decision by submitting a written request to the city manager no later than the tenth (10th) day after the effective date of the decision. The individual must include a statement of the grounds for the appeal. The city manager shall schedule a hearing no later than the fifteenth (15th) day after receipt of the notice of appeal. The city manager shall give notice of the time and place set for the hearing to the chief of police and the appellant not less than five (5) days before the hearing.

(Ord. No. 1570-4-11, 4-5-2011)

Sec. 102-390. Appeal procedure.

- (a) At the appeal hearing under section 102-389 (appeal of sanctions), the chief of police and the appellant may present evidence, testimony, and argument.
- (b) The city manager's decision is final.

(Ord. No. 1570-4-11, 4-5-2011)

SECTION III

APPENDIX A – “MASTER FEE SCHEDULE”, of the Code of Ordinances of the City of Nacogdoches, Texas, is hereby amended to remove the fees under Sections 102-370 and 102-382, as set forth in the attached Exhibit “A”.

SECTION IV

Severability. If any word, article, phrase, paragraph, sentence, clause, or provision of this Ordinance shall be held to be invalid or unconstitutional, such holding shall in no way affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end provisions of this Ordinance are declared to be severable.

SECTION V

Continuation. All provisions of Chapters 102 and Appendix A of the Code of Ordinances existing prior to the date of passage of this Ordinance remain in full force and effect.

SECTION VI

Repeal. This Ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Nacogdoches, and this Ordinance shall not operate to repeal or affect any such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with provisions of this Ordinance, in which such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

SECTION VII

Effective Date. This Ordinance shall take effect ten (10) days from its passage and publication as may be required by governing law.

SECTION VIII

Proper Notice & Open Meeting. It is hereby officially found and determined the meeting at which this Ordinance was passed was open to the public as required and public notice of time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION IX

Official Public Records. The City Secretary is hereby authorized and instructed to file a signed and sealed copy of this Ordinance in and among the records of the City of Nacogdoches.

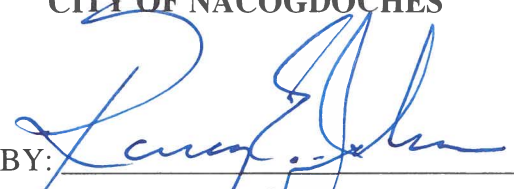
PASSED AND APPROVED this the 3rd day of February, 2026, by a vote of 5 (ayes) to 0 (nays) of the City Council of the City of Nacogdoches.

ATTEST:

CITY OF NACOGDOCHES



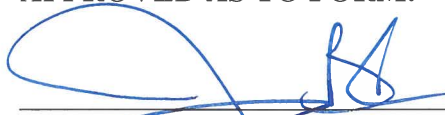
Karen Hadnot, City Secretary

BY: 

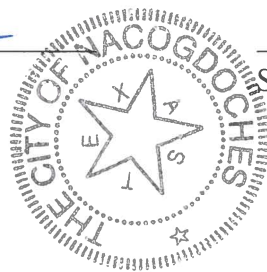
Randy Johnson, Mayor

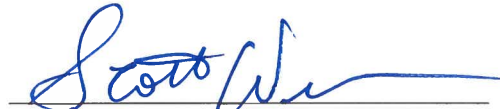
APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



Jerry Baker, City Attorney





Scott Weems, Chief of Police

Exhibit A

CODE OF ORDINANCES CITY OF NACOGDOCHES, TEXAS

Appendix A

Master Fee Schedule

Chapter 102 – TRAFFIC AND VEHICLES

Ordinance Reference	Description	Fee
Sec. 102-370	Tow truck permit fee	\$30.00/year per tow truck
Sec. 102-382	Non-consent tow fees:	
	Light-duty tow trucks:	
	Incident management	\$150.00
	Private property tow	\$150.00
	Drop fee	\$75.00
	Stand-by time (over 1 hour)	\$125.00/additional hour
	Heavy-duty tow trucks:	
	Incident management	\$500.00
	Private property tow	\$500.00
	Drop fee	\$250.00
	Stand-by time (over 1 hour)	\$250.00/additional hour