

ORDINANCE NO. 2024-16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF ROSENBERG, TEXAS, BY AMENDING ARTICLE V OF CHAPTER 16, ENTITLED "SALVAGE YARDS AND MOTOR VEHICLE STORAGE YARDS, AND MOTOR VEHICLE REPAIR BUSINESSES" AND DELETING ARTICLE III OF CHAPTER 30 ENTITLED "TOWING SERVICES FOR NON-CONSENT TOWS" AND SUBSTITUTING THEREFORE A NEW DIVISION 5, ARTICLE V OF CHAPTER 16, ENTITLED "TOWING SERVICES FOR NON-CONSENT TOWS"; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING A PENALTY FOR VIOLATION OF ANY PROVISION HEREOF.

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WHEREAS, Chapter 16, Article V, of the City Code of Ordinances provides for regulations to Salvage Yards and Motor Vehicle Storage Yards (Salvage Yards), and Motor Vehicle Repair Businesses; and

WHEREAS, the City Council finds it in the best interest of the citizens of Rosenberg to amend the Code of Ordinances as it relates to Salvage Yards and Motor Vehicle Repair Businesses; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ROSENBERG:

Section 1. The Code of Ordinances of the City of Rosenberg, Texas, is hereby amended by amending Article V of Chapter 16 entitled "Salvage Yards and Motor Vehicle Storage Yards, and Motor Vehicle Repair Businesses" and deleting Article III of Chapter 30 entitled "Towing Services for Non-Consent Tows" and substituting therefore a new Division 5, Article V of Chapter 16, entitled "Towing Services for Non-Consent Tows", as follows:

"ARTICLE V. SALVAGE YARDS AND MOTOR VEHICLE STORAGE YARDS, MOTOR VEHICLE REPAIR BUSINESSES, AND TOWING SERVICES FOR NON-CONSENT TOWS

DIVISION 1. IN GENERAL

Sec. 16-201. Definitions.

In this article the following definitions shall apply:

Church means a structure where a society of persons who profess a religious belief regularly assemble for religious worship or religious instruction and which is exempt from ad valorem taxes.

Day-care center has the meaning set forth in V.T.C.A., Human Resources Code § 42.002.

Junk means:

- (1) Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris or waste; or
- (2) Scrap, iron, or steel and other old or scrap ferrous or nonferrous material.

Hospital means a building used to provide health services for human inpatient medical care for the sick or injured, licensed pursuant to the Texas Hospital Licensing Law (V.T.C.A., Health and Safety Code § 241.001 et seq.) or operated by an agency of the federal government, or a convalescent facility licensed pursuant to V.T.C.A., Health and Safety Code § 242.001 et seq.

Motor vehicle has the meaning assigned by V.T.C.A., Transportation Code § 541.201.

Motor vehicle repair business means the business of motor vehicle repair and service is conducted in an enclosed building. Motor vehicles shall include automobiles, trucks, tractor-trailers, tractors, watercraft, golf carts, and motorized equipment. Such business shall have a maximum of three (3) unregistered or licensed inoperable vehicles stored on its property outside an enclosed building that is not enclosed in a fenced area as provided in section 16-203.

Motor vehicle storage yard means an establishment that is operated for the storing, buying, or selling of towed or wrecked vehicles.

Non-conforming License means a license for a salvage yard or motor vehicle storage yard that was licensed and in existence when this article was approved. This definition does not include a temporary license issued by City Council.

Operator means the owner of the property or if the owner has leased the property, operator shall mean the lessee of the property.

Person means an individual, partnership, corporation, trust, association or any other legal entity howsoever formed.

Residence means any structure which, at the time of the application for a license, is being used as a dwelling place for residential purposes, whether single-family or multi-family.

Salvage yard means an establishment maintained, used or operated for storing, buying or selling junk or processing scrap metal and/or junked, wrecked, scrapped, ruined or dismantled motor vehicles, watercraft, golf carts, equipment, motor vehicle parts, or equipment parts.

School means a public or private elementary, junior high and high school.

DIVISION 2. SALVAGE YARD AND MOTOR VEHICLE STORAGE YARD REQUIREMENTS

Sec. 16-202. Location restrictions and size requirements.

A minimum of two (2) acres shall be required for a new salvage yard or motor vehicle storage yard. No new salvage yard or motor vehicle storage yard shall be maintained, used, or operated on any lot, plot or tract of land any part of which is located within five hundred (500) feet of a church, school, hospital, day-care center, or residence. The measurement of the distance between the salvage yard or motor vehicle storage yard and the church, school, hospital, day-care center, or residence shall be in a direct line from the property line of the salvage yard or motor vehicle storage yard to the property line of the church, school, hospital, day-care center or residence.

If a salvage yard or motor vehicle storage yard holds a valid license or non-conforming license under this division, then it shall not be in violation of this article, or become ineligible for a renewal of a license, due to the subsequent construction or placement of a church, school, hospital, day-care center, or residence within five hundred (500) feet of the location of such salvage yard or motor vehicle storage yard.

Sec. 16-203. Enclosure.

The entire premises of each new salvage yard or motor vehicle storage yard shall be completely surrounded and enclosed by a solid fence or wall at least six (6) feet in height, with the exception of the building frontage and the customer parking lot which may be excluded from the enclosed area. Provided, however, a salvage yard or motor vehicle storage yard lawfully existing on the date of adoption of this section that has a fence or wall that is at least six (6) feet in height, and otherwise meets the requirements of this article, shall satisfy the requirements hereof and may remain in place so long as the current operator holds a valid non-conforming license unless the fence or wall is replaced, destroyed or damaged in excess of fifty (50) percent of its then current value. Every fence or wall herein required shall be constructed and maintained as follows:

- (1) All fences shall be constructed of new wood, masonry, or twenty-six (26) gauge steel panels. All sides of the required fencing must be constructed of the same material and shall be the same color.
- (2) All fences or walls shall extend downward to within three (3) inches of the ground and shall test plumb and square at all times.
- (3) All fences or walls shall be constructed in compliance with all applicable provisions of the city's ordinances.
- (4) Openings in the prescribed enclosure which are necessary to permit reasonable access to the salvage yard or motor vehicle storage yard shall be equipped with a gate or gates, which are constructed and maintained in a manner that allows for unobstructed view of the internal lot. Such gates shall be closed and securely locked at all times, except during normal business hours.
- (5) No junk, motor vehicle, watercraft, golf carts, equipment, motor vehicle parts, or equipment parts shall be kept or stored at a salvage yard or motor vehicle storage yard in such a manner that it extends beyond the fence or wall required by this section. Furthermore, no vehicle shall be dismantled or worked on outside the fence or wall required by this section. If any junk, motor vehicle, watercraft, golf carts, equipment, parts, or materials are stored in such a manner that extends above the six-foot fence, then the fence height shall be increased to equal the height of stored junk, motor vehicle, watercraft, golf carts, equipment, parts, or materials. Fencing exceeding a height of six (6) feet must achieve a one hundred thirty-five (135) mph wind load.

Sec. 16-204. Storage and placement of junk.

- (a) Automobiles, trucks, tractors, or machinery shall be checked for leaks. If a leak is discovered, then a container shall be placed under the vehicle adequate to capture any leaking fluids.
- (b) Each salvage yard or motor vehicle storage yard shall meet the concrete or asphalt requirements contained in Sec. 1-416 of the City's Unified Development Code. All junk, vehicles, watercraft, golf carts, equipment, parts and materials shall be stored on concrete or asphalt flooring.
- (c) All junk, motor vehicles, watercraft, golf carts, equipment, or parts thereof stored on the premises of a salvage yard or motor vehicle storage yard must be arranged so as to allow reasonable access to and inspection of the premises by authorized code, fire and police officials of the city. No junk, motor vehicle, watercraft, golf carts, equipment, or parts thereof located outside shall be stacked, stored or piled to a height in excess of six (6) feet except when such stacking, storing or piling is necessary as an incident to the hauling and removal of same and then only during the time necessary to haul and remove the junk.

Sec. 16-205. Maintenance.

Every salvage yard or motor vehicle storage yard shall be kept and maintained in a clean and sanitary condition so as not to attract rodents or insects. There shall be no standing water and no water shall collect which may provide a breeding ground for mosquitoes. Grass and other vegetation shall not be allowed to grow to a height more than twelve (12) inches above the ground.

Sec. 16-206. Emergency contact numbers.

Salvage yard or motor vehicle storage yard operators shall place and maintain a sign at their salvage yards or motor vehicle storage yards which may be read from the nearest public right-of-way. The sign shall list the names and telephone numbers of one (1) or more persons in the county who may be contacted to give admittance to the salvage yard or motor vehicle storage yard in the event of an emergency.

Sec. 16-207. Fire prevention.

- (a) Fire extinguishers shall be present at salvage yards and motor vehicle storage yards. All operations thereon shall conform to the requirements of the fire prevention code adopted herein.
- (b) No toxic pollutants of any kind shall be discharged into the city's sanitary sewer system. Transmission fluid, motor oil or other related pollutants resulting from the storage of junk or salvaged material may be stored at the site in leak-proof, EPA-approved containers, but may not exceed five hundred (500) gallons in quantity at a given time. The disposal of such pollutants shall only be made in accordance with the laws of the state and health department requirements. Gasoline shall be stored in accordance with the City's Unified Development Code.

Sec. 16-208. Disturbing the peace.

All salvage yard or motor vehicle storage yard operations shall comply with the City's Code of Ordinances, as amended, regarding noise.

Sec. 16-209. Compliance with regulations and ordinances.

All salvage yards and motor vehicle storage yards must at all times be in full compliance with all federal and state laws and regulations and city ordinances regarding health and safety.

Sec. 16-210. Salvage yards and motor vehicle storage yards to be open for inspection.

All persons having the care, custody or control of any salvage yard or motor vehicle storage yard shall, during regular days and hours of business, allow the building official, the code compliance official, the fire marshal and the city's police officers, to inspect the premises for the purposes of ascertaining compliance with federal and state laws and regulations and all requirements of this article and other applicable city ordinances.

Sec. 16-211. Penalty for violations of article.

Any person convicted of intentionally, knowingly, recklessly, or with criminal negligence, violating any provision, restriction or requirement of this article shall be deemed guilty of a misdemeanor and shall be fined in a sum not exceeding two thousand dollars (\$2,000.00). A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Secs. 16-212—16-230. Reserved.

DIVISION 3. LICENSES

Sec. 16-231. License Required.

No salvage yard or motor vehicle storage yard shall be operated within the city unless the operator has applied for and obtained a license from the building official in accordance with this article.

(Ord. No. 2008-07, § 1, 3-18-08)

Sec. 16-232. Filing and contents of application.

- (a) To obtain a license under this article the operator shall file a written application with the building official on a form provided for that purpose. On the application the applicant shall provide the following information:
 - (1) The full name, mailing address, email address and phone number of the operator of the salvage yard or motor vehicle storage yard;
 - (2) The full name and address of the registered agent for service;
 - (3) Whether the operator is an individual, partnership, corporation, or other legal entity;
 - (4) If the operator is a corporation, all officers of the corporation; and if there are fewer than five (5) shareholders, the names of all shareholders;
 - (5) If the operator is a partnership, the names and addresses of all partners;
 - (6) If the operator is an association, the names and addresses of all officers of such association;
 - (7) The location of the salvage yard or motor vehicle storage yard;
 - (8) The time period or periods during which the salvage yard or motor vehicle storage yard will be open for business;
 - (9) The owner of the salvage yard or motor vehicle storage yard including their full name, mailing address, email address and phone number;
 - (10) If the operator is leasing the property, the operator shall include a copy of the current valid lease agreement; however, the lease amount may be redacted;
 - (11) The application shall be accompanied by a legal description and site plan of the property included within the application. Any new applications shall include a survey with verification of setbacks from the surrounding properties.
 - (12) Other relevant information required by the building official.
- (b) The fee for a salvage yard or motor vehicle storage yard license shall be set in the Schedule of Fees by Resolution by the City Council. The fee shall be paid at the time of submission of the application for a license or renewal thereof. Such fee shall not be prorated and shall be nonrefundable.
- (c) Licenses shall expire on the 30th day of September 2024 and annually thereafter. Annual renewal of the license shall be required. Application for annual renewal of a license shall be made on or before July 15th of each year. No license shall be issued without the required fee having been paid. Furthermore, no license shall be issued until the building official, fire marshal, and code compliance official have inspected the salvage yard or motor vehicle storage yard and determined that it is in compliance with this article and all other applicable city ordinances, and state and federal laws and regulations.
- (d) Applications for a license received after July 15th shall pay a license late filing fee in addition to the license fee as set in the Schedule of Fees by Resolution by City Council.

- (e) Licenses shall not be transferable and shall be valid only for the operator of the property for the location set forth in the application except as specifically provided in Sec. 16-237.
- (f) There shall be only one operator per permitted salvage yard or motor vehicle storage yard. The salvage yard or motor vehicle storage yard shall not be subleased or subdivided in any effort that would allow more than one operator.

Sec. 16-233. Disapproval and revocation of licenses.

If the building official refuses to approve an application for a license or revokes or suspends a license under this article, the applicant or licensee therefor shall have the right of appeal to the city council. An appeal is perfected by the filing of a written request to the office of the city secretary within ten (10) days after the action of the building official disapproving the application or revoking or suspending the license.

The city council shall hold a hearing within thirty (30) days of receipt of the written appeal and written notice thereof will be given the applicant. The hearing before the city council shall be de novo and the applicant or licensee shall have the burden of proving that he is entitled to the license for which he applied or that the license should not have been revoked or suspended.

If such appeal is from the denial of a license and if such license is granted by the city council, the applicant therefor shall be entitled to the issuance in the same manner as other licenses are issued. City Council's granting of a non-conforming license through the approval process is valid for the salvage yard or motor vehicle storage yard as long as there is no change to the owner or operator of the salvage yard or motor vehicle storage yard and all other requirements of this article are met. If ownership of the property changes or the operator of the salvage yard or motor vehicle storage yard changes, the property must be brought into full compliance with all current City requirements, or the license shall be denied.

If City Council denies the license, City Council's decision is final. The operator of the property may not submit another application unless all requirements have been met including the issue that was previously appealed.

Sec. 16-234. Disapproval, revocation or suspension.

A license may be disapproved, revoked or suspended after it has been granted under this article for any of the following reasons.

- (1) Fraud or misrepresentation in obtaining the license.
- (2) Upon satisfactory proof that the licensee, on at least two (2) incidents in the past twenty-four (24) months, has been convicted of a violation for any of the provisions of this ordinance adopted by the city council.
- (3) Upon satisfactory proof that the licensee has violated any of the federal laws or laws of Texas affecting its salvage yard or motor vehicle storage yard operation.

Sec. 16-235. No vested rights.

No license issued under this article shall be construed as the grant of a vested right but shall be subject to such other regulations or amendments as the city council may from time to time promulgate in the regulation of salvage yards or motor vehicle storage yards coming within the scope of this article.

Sec. 16-236. Existing salvage yards or motor vehicle storage yards with non-conforming licenses.

Existing Salvage yards or motor vehicle storage yards with non-conforming licenses are exempt from the following sections of this article during the term of such non-conforming license:

- (a) Section 16-202 Location restrictions and size requirements – A non-conforming license allows an existing salvage yard or motor vehicle storage yard to be located within the prohibited distance and with less than the minimum acreage as established in Section 16-202.-
- (b) Section 16-203 Enclosure – A non-conforming license allows for an existing chain link fence to remain. The chain link fence must be galvanized and have wood, plastic, or metal slats or strips that run through all links of the fence.
- (c) Section 16-204 Placement of Junk (b) – A non-conforming license does not require a concrete or asphalt flooring; however, any fluids that may contaminate the ground or the underground water must be captured and contained.

A non-conforming license held under this Article will expire, shall not be subject to renewal and may not be appealed for reinstatement if any of the following conditions exist:

- (1) The use of a salvage yard or motor vehicle storage yard is ceased at any time for a period of ninety (90) or more consecutive days non-conforming.
- (2) The operator fails to comply with any applicable law, regulation or statute relating to licensing, or other regulation of the business.
- (3) The non-conforming license holder fails to submit an application for annual renewal on or before the expiration date of the license.
- (4) No holder of a non-conforming license shall be entitled to expand or otherwise enlarge the business unless the entire premises meets the current regulations, and the non-conforming license provision will no longer apply.
- (5) No holder of a non-conforming license shall allow a condition which previously complied with this Article to fall below the standards required by this Article. If a non-conforming license previously met the requirements for acreage, fencing, or concrete or asphalt flooring; no such condition shall be permitted to fall below the standards required by this Article.
- (6) Upon the expiration date specified by city council for a non-conforming license which was granted for only a specific term.

16-237. Transfer of non-conforming license.

Notwithstanding any other Section in this Article, a non-conforming license may be transferred to another owner or operator only in accordance with the following:

- (a) The new operator shall immediately apply for a non-conforming license transfer;
- (b) The salvage yard or motor vehicle storage yard must be in compliance with each requirement contained in this Article except for the following:
 - (1) The salvage yard or motor vehicle storage yard shall be brought into compliance with the City's current fencing requirements for new salvage yards within 365 days of the transfer to a new operator;
 - (2) The salvage yard or motor vehicle storage yard shall be brought into compliance with the City's current concrete and asphalt requirements within 365 days of the transfer to a new operator;
 - (3) The salvage yard or motor vehicle storage yard shall remain exempt from the minimum acreage and prohibited distance requirements contained in Sec. 16-202.
 - (4) The salvage yard or motor vehicle storage yard shall remain exempt from the requirement that the entire premises shall be completely surrounded and enclosed by a solid fence contained in Sec. 16-203.

DIVISION 4. MOTOR VEHICLE REPAIR BUSINESSES

Sec. 16-238. Enclosure.

For a motor vehicle repair business, the enclosure requirement provided herein shall apply to the location used for storing operable, inoperable, wrecked, scrapped, ruined, or dismantled motor vehicles, watercraft, golf carts, equipment, motor vehicle parts, or equipment parts. Every fence or wall herein required shall be constructed and maintained as follows:

- (1) All fences shall be constructed of new wood, masonry, or twenty-six (26) gauge steel panels. All sides of the required fencing must be constructed of the same material and shall be the same color.
- (2) All fences or walls shall extend downward to within three (3) inches of the ground and shall test plumb and square at all times.
- (3) All fences or walls shall be constructed in compliance with all applicable provisions of the city's ordinances.
- (4) No junk, motor vehicle, watercraft, golf carts, equipment, motor vehicle parts, or equipment parts shall be kept or stored at a motor vehicle repair business in such a manner that it extends beyond the fence or wall required by this section. Furthermore, no vehicle shall be dismantled or worked on outside the fence or wall required by this section. If any junk, motor vehicle, watercraft, golf carts, equipment, parts, or materials are stored in such a manner that extends above the six-foot fence, then the fence height shall be increased to equal the height of stored junk, motor vehicle, watercraft, golf carts, equipment, parts, or materials. Fencing exceeding a height of six (6) feet must achieve a one hundred thirty-five (135) mph wind load.

A maximum of three (3) unregistered or licensed inoperable vehicles may be stored at one (1) time outside an enclosed building and/or fence but shall not be stored or parked within the public right-of-way.

Sec. 16-239. Placement of vehicles.

- (a) Automobiles, trucks, tractors, or machinery shall be checked for leaks. If a leak is discovered, then a container shall be placed under the vehicle adequate to capture any leaking fluids.

Sec. 16-240. Maintenance.

Every motor vehicle repair business shall be kept and maintained in a clean and sanitary condition so as not to attract rodents or insects. There shall be no standing water and no water shall collect which may provide a breeding ground for mosquitoes. Grass and other vegetation shall not be allowed to grow to a height more than twelve (12) inches above the ground.

Sec. 16-241. Fire prevention.

- (a) Fire extinguishers shall be present at motor vehicle repair businesses. All operations thereon shall conform to the requirements of the fire prevention code adopted herein.
- (b) No toxic pollutants of any kind shall be discharged into the city's sanitary sewer system. Transmission fluid, motor oil or other related pollutants resulting from the storage of junk

or salvaged material may be stored at the site in leak-proof, EPA-approved containers, but may not exceed five hundred (500) gallons in quantity at a given time. The disposal of such pollutants shall only be made in accordance with the laws of the state and health department requirements. Gasoline shall be stored in accordance with the City's Unified Development Code.

Sec. 16-242. Disturbing the peace.

All motor vehicle repair business operations shall comply with the City's Code of Ordinances, as amended, regarding noise.

Sec. 16-243. Compliance with regulations and ordinances.

All motor vehicle repair business must at all times be in full compliance with all federal and state laws and regulations and city ordinances regarding health and safety.

Sec. 16-244. Penalty for violations of article.

Any person convicted of intentionally, knowingly, recklessly, or with criminal negligence, violating any provision, restriction of requirement of this article shall be deemed guilty of a misdemeanor and shall be fined in a sum not exceeding two thousand dollars (\$2,000.00). A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

DIVISION 5. TOWING SERVICES FOR NON-CONSENT TOWS

Sec. 16-245.1. Definitions.

Motor vehicle means every vehicle that is self-propelled, but not operated upon rails. 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.

Non-consent tow means vehicles that a City of Rosenberg police officer orders to be removed from public or private property in accordance with the police officer's instructions and without the consent or instruction of the owner or operator because the owner or operator is not physically able to give directions for the removal of the vehicle or refuses to make arrangements for the removal of the vehicle in a reasonable time, or the officer has taken charge of the vehicle incident to an arrest or impoundment.

Public roadway means a public street, alley, road, right-of-way, or other public way including paved and unpaved portions of the rights-of-way.

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

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.

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

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.

Vehicle storage facility (VSF) means a facility operated by a person licensed under V.T.C.A. Occupations Code, ch. 2303 and owned by a towing company.

Vehicle storage facility license means the license issued by TDLR (Texas Department of Licensing and Regulation) authorizing a business to store vehicles.

Sec. 16-245.2. License and permit required tow business.

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. In addition to a license issued by the State of Texas, a person engaged in a tow business shall possess a permit issued by the City of Rosenberg.

Sec. 16-245.3. Tow business requirements.

- (a) Each tow company performing non-consent tows shall own and have access to a state licensed VSF located within the incorporated city limits of Rosenberg.
- (b) A towing company shall only utilize their own VSF when performing a non-consent tow.
- (c) A towing company or a tow business shall be limited to having one (1) towing company or one (1) tow business per each "doing business as," i.e., DBA, on the tow rotation list.

Sec. 16-245.4. License and permit required vehicle storage facility.

It shall be unlawful for any person, firm or corporation to operate a vehicle storage facility in the City of Rosenberg without first obtaining a permit from the City of Rosenberg. In addition, said vehicle storage facility shall hold a state license to operate the facility.

Sec. 16-245.5. Vehicle storage facility requirements.

- (a) An applicant for a vehicle storage facility permit shall submit to an annual inspection by an official of the Rosenberg Police Department to ensure required licenses, permit and compliance with this section and state law.
- (b) The annual inspection fee shall offset the cost and time of the inspection. Said fee shall be established by the city as set forth by a fee schedule.
- (c) The inspection shall include the following:
 - (1) Verification of TDLR license for each VSF location.
 - (2) Verification that location of the VSF is within the incorporated city limits of Rosenberg.
 - (3) Verification of TDLR license for each vehicle storage facility employee that works at the VSF.
 - (4) Proof of insurance for VSF.
 - (5) Proof of retention of documentation for tows, storage, and release of vehicles at VSF.
 - (6) Verification of acceptance of payment including but not limited to cash, credit card, debit card, and electronic check.
 - (7) The vehicle storage facility must be in compliance with the fencing requirements set forth in Chapter 16.
 - (8) Signs must meet the following requirements:

- a. Must be clearly visible and readable at the main entrance and located outside of the entrance as to be visible when the business is closed.
 - b. Must have letters at least two (2) inches in height, contrasting backgrounds, and visible at ten (10) feet.
 - c. Must state registered name of the storage lot as it appears on the VSF license.
 - d. Must state the VSF address.
 - e. Must state the telephone number for the owner to contact in order to obtain release of vehicle.
 - f. State the VSF hours, within one (1) hour of which vehicles will be released to vehicle owner.
 - g. State the storage lot's state license number preceded by the phrase "VSF License Number."
 - h. State the charge for storage and all other fees which may be charged.
 - i. Each VSF must state the forms of payment accepted by the VSF and must be able to accept cash or debit/credit card payments for services rendered.
- (9) The VSF must be in compliance with all rules and regulations presented by TDLR at all times.
- (10) The VSF located within the incorporated limits of the City of Rosenberg, shall be in compliance with Chapter 16, Article V of Rosenberg's Code of Ordinances, Salvage Yards and Motor Vehicle Storage Yards and Motor Vehicle Repair Businesses.

Sec. 16-245.6. Police inspection tow truck.

Any tow truck performing non-consent tows within the city limits may be inspected by an official of the Rosenberg 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 ordinance 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 vehicle storage facilities used for non-consent tows to ensure compliance with the maximum rates established under this ordinance and other requirements of this ordinance and state law.

Sec. 16-245.7. Tow rotation list and requirements.

- (a) 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.
- (b) To be eligible for the rotation list, each tow company is required to comply with all of the following requirements:
 - (1) Maintain a twenty-four-hour tow service.
 - (2) Have one (1) telephone number which is answered by a person twenty-four (24) hours a day, seven (7) days a week.
 - (3) Only those tow trucks that are licensed by the City of Rosenberg Police Department are authorized to respond to a non-consent rotation calls.
 - (4) A tow company may not substitute a tow truck from a different tow company.
 - (5) Each tow company must 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.

- (6) Each driver shall wear on the outside of their clothing a photo identification badge. The badge shall be provided by the City of Rosenberg for the list of drivers on the rotation list. The photograph shall be taken of the driver at least every four (4) years. The photo identification badge shall also include the drivers full name.
- (7) Each driver must possess a TDLR incident management license and submit to the city a copy of the license.
- (8) 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.
- (9) A response time of not more than twenty (20) minutes shall be required of regular duty tow trucks and a response time of not more that forty (40) minutes shall be required of heavy duty tow trucks. In the event a tow truck has not arrived at the scene or site within the time limit, the investigating officer shall notify the police communication officer to call that tow company and advise them that their tow is cancelled. The police communications officer will then select the next tow truck service from the list of permitted tow truck companies. Three (3) such forfeitures within twelve (12) months will result in removal from the rotation list.
- (10) 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, in writing, fax or e-mail, if the time off requested is twenty-four (24) hours or longer. It shall be the tow company's responsibility to notify dispatch in writing, fax or e-mail, when the tow company wishes to return to the tow rotation list.
- (11) 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.
- (12) Each qualified tow company must be able to accept cash or credit/debit card payments for services rendered.

Sec. 16-245.8. Truck permits required for rotation non-consent tows.

- (a) The permit shall be affixed to the front windshield so that it can be read from the exterior of the vehicle. Permits will be issued upon successful inspection of each vehicle according to prescribed standards and/or equipment listed in the application. Permits may be suspended and/or revoked by the chief of police or the designee.
- (b) All tow truck inspections shall be renewed or completed each year by September 30th and shall expire September 30th of each following year. Permits may be issued for tow trucks added to the tow truck business during the course of the year.
- (c) *Tow truck permit fee.* The permit fee charged by the City of Rosenberg shall be fifteen dollars (\$15.00) per tow truck, annually.
- (d) Any applicant for a tow truck permit shall submit, on a form supplied by the Rosenberg Police Department, a verified application form containing or accompanied by the following:
 - (1) The true trade name, true owner's name, address, and telephone number of the tow truck company.
 - (2) A detailed description of each tow truck proposed to be operated, including Texas tow truck license plate number.
 - (3) A copy of the state issued tow truck license (Cab card).
 - (4) The original certificate of insurance that lists public liability, property damage, and any and all other amounts as prescribed by the State of Texas. Must show City of Rosenberg as certificate holder. The original will be returned to the owner after a photocopy has been made.

- (5) A photocopy of the vehicle storage facility license issued by the State of Texas which must include the physical address and phone number of the facility to be used.

Sec. 16-245.9. Inspection of tow truck.

Every tow truck to be used by the applicant for non-consent tows in the tow truck business shall be inspected annually by the Rosenberg Police Department delegate prior to the issuance of a permit to ascertain if it has met all state requirements along with the following items:

- (1) Current TDLR license (listing all trucks permitted with TDLR).
- (2) Current tow truck license plate registration.
- (3) The company name and phone number must be permanently displayed on both the left side and the right side of the tow truck at least three (3) inches in height.
- (4) One (1) fire extinguisher, type ABC dry chemical, at least ten (10) pounds or equivalent. Each extinguisher shall have a number permanently affixed that correlates with the truck it belongs on.
- (5) Light set sufficient to provide rear brake/turn lights and taillights for the towed load (tow lights).
- (6) Three (3) portable red emergency reflectors or reflective orange safety cones.
- (7) Broom and scoop along with a container to contain any and all debris removed from a scene.
- (8) Amber-colored overhead rotating/flashing lights that are to be used only while under the direction of a law enforcement officer at the scene of an accident or while assisting/hooks up to a disabled vehicle on a roadway.
- (9) Dollies, sand/floor-dry, safety straps/safety chains.
- (10) Address of VSF permanently affixed on the tow truck.
- (11) Payment of annual inspection fees which shall be established by the city as set forth by a fee schedule.

Sec. 16-245.10. Failure to have required equipment.

It shall be unlawful for any permitted tow truck to operate at any time without the required equipment stipulated by state law or this article.

Sec. 16-245.11. Maximum fees authorized to be charged for non-consent tows.

The maximum fees charged by tow companies for non-consent tows are hereby established by the city as set forth by a fee schedule established by resolution of the city council. 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, in addition to criminal penalties against the offender. Towing fees may be reviewed by the City of Rosenberg. A towing fee study shall be performed in conjunction with this review.

Sec. 16-245.12. Driving tow trucks to scene of an incident prohibited.

- (a) No person shall stop or park a tow truck within three hundred (300) feet of the scene or site of a vehicle accident or collision while any disabled, damaged, or wrecked vehicle remains at such scene or site.
- (b) The provisions of this section shall not apply to any tow truck that is authorized by the investigating officer or any tow truck that is called to the scene or site of an accident or collision by the Police Department of the City of Rosenberg.

Sec. 16-245.13. Following ambulance or police vehicle prohibited.

No person shall follow in a tow truck any ambulance or police vehicle, which is traveling on a public street while that ambulance or police vehicle is using emergency signals.

Sec. 16-245.14. 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.

Sec. 16-245.15. 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 truck 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.

Sec. 16-245.16. 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 (1) 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 fax, 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.

Sec. 16-245.17. 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.

Sec. 16-245.18. 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.

Sec. 16-245.19. Appeal procedure.

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

Sec. 16-245.20. Penalty.

Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon a conviction shall be subject to a penalty in an amount as provided in section 1-13 of this Code.

Sec. 16-245.21. Conflict.

All ordinances or parts inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Secs. 16-246—16-250. Reserved.”

Section 2. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Rosenberg, Texas, declares that it would have passed each and every part of

the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 3. This ordinance shall be effective upon its adoption in accordance with and as provided by law and the City Charter.

PASSED AND APPROVED by a vote of 5 "ayes" in favor, 2 "noes" against, and 0 abstentions on this first and final reading in full compliance with the provisions of Section 3.10 of the City Charter of the City of Rosenberg, Texas on this the 16 day of April 2024.

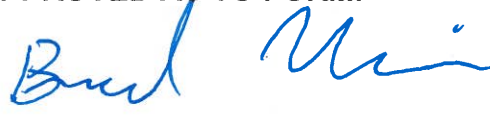
ATTEST:


Danyel Swint, TRMC, **CITY SECRETARY**

APPROVED:


Kevin Raines, **MAYOR**

APPROVED AS TO FORM:


CITY ATTORNEY
Randle Law Office, Ltd., L.L.P.

