

**NOTICE OF MEETING
CITY COUNCIL OF THE CITY OF GALVESTON
THURSDAY - JUNE 25, 2020 - 9:00 A.M.
823 ROSENBERG, GALVESTON, TEXAS
TELEPHONE: (409) 797-3510**

Notice is hereby given in accordance with Order of the Governor issued March 16, 2020, the City Council of the City of Galveston will conduct its Special Meeting by telephone/video conference in order to advance the public health goal of limiting face-to-face meetings (also called "social distancing") to slow the spread of the Corona Virus/COVID-19. There will be no public access to the location described above.

WORKSHOP AGENDA

1. DECLARATION OF A QUORUM AND CALL MEETING TO ORDER
2. ROLL CALL
3. DISCUSSION ITEMS
 - 3.A. Clarification Of Consent And Regular City Council Agenda Items - This Is An Opportunity For City Council To Ask Questions Of Staff On Consent And Regular Agenda Items. (30 Minutes)
 - 3.B. Report Of Chief Hale Related To His Efforts To Build Social Equity Between The Community And GPD (Brown/Cole - 30 Minutes)
 - 3.C. Discussion Of Beach And Seawall Crowds (Hardcastle/Yarbrough - 20 Minutes)
 - 3.D. Discussion Of Chapter 19 "Licenses, Permits, And Business Regulations", Article III "Peddlers And Temporary Concessions" Of "The Code Of The City Of Galveston 1982, As Amended" (Hardcastle/Yarbrough - 30 Minutes)

Documents:

[ARTICLE_III.___CONCESSIONS_AND_PEDDLERS.DOC](#)

- 3.E. Discussion Of An Ordinance Of The City Of Galveston, Texas, Amending Chapter 33, "Taxation" Of "The Code Of The City Of Galveston 1982, As Amended" By Amending The Procedures For Allocating Net Disbursible Funds To Eligible Groups By Allowing For Re-Allocation In The Event Of Significant Reductions To Hotel Occpancy Tax; Making Various Findings And Provisions Related To The Subject And Providing For An Effective Date (Collins/Yarbrough - 20 Minutes)

Documents:

[ARTS AND HISTORIC COVID PRO RATA ADJUSTMENT ORDINANCE.DOCX](#)

- 3.F. Discussion Of An Ordinance Of The City Of Galveston, Texas, Amending The Code Of The City Of Galveston, As Amended, Chapter 37, "Wreckers, Tow And Storage Facility", By Amending Chapter 37 To Amend Regulations, Standards, And Definitions; And To Make Clarifications; And Rename, Renumber And Rearrange The Chapter As Applicable; Providing For Penalties And Fees As Applicable; Making Various Findings And Provisions Related To The Subject; Providing For An Effective Date (B. Stroud/D. Fairweather - 20 Minutes)

Documents:

CHAPTER 37 - WRECKER TOW TRUCK STORAGE FACILITY CODE -
REVIEWED ORDINANCE - 6-2020-2 RED LINED.DOC
CHAPTER 37 - WRECKER TOW TRUCK STORAGE FACILITY CODE -
REVIEWED ORDINANCE - 6-2020-2 NO RED-LINES.DOC

- 3.G. Discussion Of The City's Legislative Agenda For The 87th Legislative Session (D. Glywasky - 20 Minutes)

Documents:

CITY OF GALVESTON LEGISLATIVE AGENDA 2020.DOCX

- 3.H. Report Of City Council's Park Board Representative (Collins/Yarbrough - 10 Minutes)

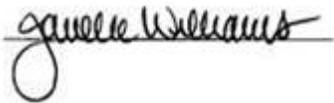
4. EXECUTIVE SESSION

- 4.A. Pursuant To Texas Gov't Code 551.071 - Consultation With Attorney, An Executive Session Will Be Conducted To Discuss And Receive Legal Advice Concerning Pending Litigation And/Or A Settlement Offer, Or On A Matter In Which The Duty Of The Attorney To The Governmental Body Under The Texas Disciplinary Rules Of Professional Conduct Of The State Bar Of Texas Clearly Conflicts With This Chapter, Related To The Following:

- 4.A.1. Report On Litigation Seeking Injunctive Relief Related To The Unpermitted Conduct Of An Unpermitted Mass Gathering On The Galveston Seawall Known As Slab Beach Party
- 4.A.2. Report On Case No. 20-0134 In Re City Of Galveston Before The Texas Supreme Court

5. ADJOURNMENT

I certify that the above Notice of Meeting was posted in a place convenient to the public in compliance with Chapter 551 of the Texas Government Code on June 19, 2020 at 12:00 P.M.



Janelle Williams, City Secretary

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE (3) DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY SECRETARY'S OFFICE, SUITE 201, 823 ROSENBERG, GALVESTON, TEXAS 77550 (409-797-3510).

ARTICLE III. - CONCESSIONS AND PEDDLERS^[2]

Footnotes:

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Editor's note— [Ord. No. 15-061, § 2, adopted July 23, 2015](#), amended ch. 19, art. III, §§ 19-51—19-59, in its entirety. Former art. III pertained to "Peddlers and Temporary Concessions," and was derived from Ord. No. 83-14, § 2, adopted March 24, 1983; Ord. No. 86-4, § 1, adopted January 9, 1986; Ord. No. 86-69, § 1, adopted December 18, 1986; Ord. No. 89-5, § 3, adopted January 12, 1989; Ord. No. 89-51, §§ 3, 4, adopted May 4, 1989; Ord. No. 90-08, § 2, adopted February 5, 1990; Ord. No. 90-24, § 2, adopted April 12, 1990; Ord. No. 91-17, § 2, adopted February 28, 1991; Ord. No. 96-04, § 2, adopted January 25, 1996; Ord. No. 97-102, § 3, adopted December 11, 1997; Ord. No. 99-33, § 2, adopted April 8, 1999; Ord. No. 00-009, § 2, adopted January 27, 2000; Ord. No. 00-019, § 2, adopted February 24, 2000; Ord. No. 00-080, § 4, adopted December 14, 2000; Ord. No. 01-008, § 2, adopted February 8, 2001; Ord. No. 01-018, § 2, adopted March 19, 2001; Ord. No. 01-032, § 2, adopted June 1, 2001; Ord. No. 04-019, § 2, adopted January 22, 2004; Ord. No. 04-061, § 2, adopted June 10, 2004; Ord. No. 09-055, § 2, adopted August 27, 2009; Ord. No. 10-082, §§ 2—5, adopted October 14, 2010; Ord. No. 12-040, § 2, adopted August 9, 2012; [Ord. No. 13-062, § 2, adopted November 21, 2013](#); [Ord. No. 14-046, § 2, 3, adopted August 14, 2014](#) and [Ord. No. 15-024, § 2, adopted March 26, 2015](#).

Sec. 19-51. - Definitions.

Concession means an enterprise which operates in the open and or utilizes a non-permanent structure and that makes available for sale perishable or non-perishable goods or commodities.

Concession park means any parcel where two (2) or more concessions gather under a designated park manager.

Concession park manager means a person, corporation or entity that owns or is designated as the responsible party for management of a park and shall be responsible for ensuring the concessions functioning in the park follow all state, city codes and all applicable regulations contained in this article.

Concession truck/trailer/kiosk means a mobile concession establishment that is self-sufficient and readily moveable.

Kiosk means any cart, table, equipment or apparatus, which is designed and intended so as to not be a permanent fixture, and which is used for retail sales, rental, and/or display of perishable and/or non-perishable goods and/or commodities. This definition does not include any motorized or non-motorized vehicle such as a truck, trailer, mobile home, automobile, van or the like.

Mobile concession means a concession that moves from location to location providing their services.

Peddler means a person who goes from place to place selling small goods for profit.

Special event for the purposes of this chapter, shall be defined by chapter 6, article II.

Trailer means a portable vehicular structure built on a chassis, which may or may not be self-propelled being either a dependent or independent unit.

([Ord. No. 15-061, § 2, 7-23-15](#))

Sec. 19-52. - Permit required.

(a) No person shall peddle or conduct a concession in the city without a permit.

- (b) A new permit shall be obtained each calendar year, from January 1 through December 31. The annual permit is valid from the date the permit is obtained and shall expire on December 31 of each year.
- (c) All permits shall be non-transferable to person and/or location, unless:
 - (1) Request is in writing with supporting application materials; and
 - (2) Request is received within sixty (60) days of original permit issuance.
- (d) Persons requesting to operate as both a concessionaire and a peddler shall be required to obtain separate permits for each request, and shall comply with the regulations for both types of operation.

([Ord. No. 15-061, § 2, 7-23-15](#))

Sec. 19-53. - Procedure for approval and applicable standards.

- (a) The application shall be submitted to the development services department at least ten (10) working days prior to the first date the contemplated concession is to take place.
- (b) Application submittal requirements may include, but not be limited to, the following:
 - (1) Completed written application;
 - (2) Valid legal identification;
 - (3) Proof of insurance and/or bond, in accordance with requirements established by the city;
 - (4) Site plan (each location of a concession shall be considered a separate business, therefore a separate permit shall be required for each location);
 - (5) Proposed signage;
 - (6) A county health department permit, is required. Any concession must adhere to county health department requirements;
 - (7) Copy of the current signed lease from the property owner to utilize the property from which the concession is to be conducted;
 - (8) State sales tax identification number and the city shall be indicated as the origin of sales;
 - (9) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance (the city reserves the right to perform a criminal background check prior to the issuance of a permit); and
 - (10) Payment of a concession fee (permit fee) as established by the city council;
 - a. The annual permit fee, as established by the city council, shall be five hundred dollars (\$500.00) per concession;
 - b. The permit is valid from the date of completion of the application and payment of the concession fee has been made;
 - (11) The concession park manager shall pay a concession park fee as established by city council;
 - a. The annual permit fee, as established by the city council, shall be one thousand dollars (\$1,000.00) per concession park permit;
 - b. The permit is valid from the date of completion of the application and payment of the concession park permit fee has been made.
- (c) Location standards.
 - (1) Concession permits are valid in commercial, resort/recreation, central business, heavy industrial and light industrial zoning districts.

- (2) Concessions will not be permitted within seventy-five (75) feet of an existing brick and mortar business which sells similar goods or services. Measurement shall be from the window of the concession to the door of the business.
- (d) The following regulations shall apply:
- (1) The proposed site of the concession may not include or be located within any required parking space(s) for a permanent business(es);
 - (2) A concession may not be located in the public right-of-way, state highway department right-of-way or driveway and any serving window shall maintain a minimum setback of five (5) feet from the street right-of-way;
 - (3) For purposes of this article, structures that are manufactured for a use other than mobile vending may not be used. Examples of acceptable vehicles include, but are not limited to, vehicle equipped with serving windows, merchandise display equipment, kitchen preparation areas, and advertisement display section. Approved structures must adhere to the following:
 - a. No cracked windows;
 - b. No visible rust or disrepair;
 - c. No offensive images or language may be on the concession or signs;
 - d. No emission of noxious gases, odors, and/or fumes;
 - (4) Shall not operate from a vehicle such as a passenger (pickup) truck, flatbed trailer, mobile home, automobile, or passenger van;
 - (5) Maximum of twelve (12) person seating allowed.
 - (6) The concession must be able to relocate within eight (8) hours of an emergency declaration by the city;
 - (7) The concession shall be maintained in a clean and sanitary manner and shall not allow the accumulation of stagnant water. The concession must be associated with a commissary for disposal of oil and grey water;
 - (8) Food preparation must meet Galveston County Health District regulations;
 - (9) Concessions must have a water source as approved by the county health district and provide a free-standing pole or on-board generator for electrical service;
 - (10) A maximum of four (4) signs shall be permitted at each concession. The cumulative square footage may not exceed the face of the structure. Flashing and/or intermittent lighting signs are prohibited. A-frame signage is limited to one (1) per concession and may not exceed a square footage of six (6) square feet. No signage may exist within the city right-of-way;
 - (11) Off-site business advertising is limited to the advertisement of brick and mortar establishments owned by the concessionaire;
 - (12) The concession shall not use noise, lighting, or windblown devices as a means of attracting attention to the business;
 - (13) Shall be permitted without a distance requirement from a residential structure when the concession is located in a commercial zoning district. Shall not be permitted within one hundred (100) feet of the district line of any single-or multiple-family zoning district;
 - (14) Must display the permit in a conspicuous location on the premises where the sale or exhibit is being conducted. The permit shall be visible from the street and shall remain on display so long as any goods or merchandise are being sold or exhibited;
 - (15) Each concession must have a litter receptacle available, clearly marked and maintained for patron use. This litter receptacle must be at least of a twenty (20) gallon capacity and composed of a leak-proof, nonabsorbent material;

- (16) Shall not be permitted within five hundred (500) feet of any public or private school building or school property being used for school classes or school activities, except secondary education institutions, during the hours when school is in session, including the time period from one (1) hour before school commences to one (1) hour after classes dismiss.
- (e) The director of the development services department, or designee, reserves the right to deny and/or revoke a permit based on any, but not limited to the following:
- (1) Inappropriate signage;
 - (2) Incompatible stand/cart design;
 - (3) Dangerous stand/cart placement or other threat to public health, safety and/or welfare; and
 - (4) Non-compliance with permit conditions or city code provisions.
- (f) Declared natural disaster. In the event of a disaster on Galveston Island, concessionaires may apply for a concession to the development services department in accordance with the following:
- (1) The following items may, as approved by the city manager, be allowed during recovery from a declared natural disaster:
 - a. Goods and services or related items: Laundry, food, charitable activities, generators, mattresses, landscaping, retail goods, internet and wireless services.
- (g) Concession parks. All concession regulations apply to the concessions within the park; including but not limited to the following:
- (1) The concession park shall have a designated concession park manager;
 - a. The concession park manager shall obtain a concession park permit to operate a concession park.
 - b. The permit shall provide contact information as required by the development services department.
 - c. A permit shall be obtained each calendar year. A year shall be from January 1, through December 31 of each year. No prorating.
 - (2) The concession park manager shall be responsible for assuring that any concessions functioning in the park follow all regulations as listed in this article; including obtaining a concession permit;
 - (3) A site plan must be provided showing placement of concessions along with any amenities;
 - a. One (1) plant per concession is required in the concession park area;
 - b. Any lighting installed in a concession park shall adhere to appendix A, article 7, as amended;
 - c. Customers of concession parks where on-site parking is not available shall utilize on-street parking.
 - (4) No more than one (1) concession per one-thousand (1,000) square feet of lot area;
- (h) Mobile concessions.
- (1) May not provide seating;
 - (2) Mobile concessions serving only frozen novelties may operate island-wide.
- (i) Renewal. A permit may be renewed on an annual basis. A permit is valid from January 1 through December 31 of each calendar year, regardless of the date of obtaining permit.

([Ord. No. 15-061, § 2, 7-23-15](#))

Sec. 19-54. - Rules for peddlers.

- (a) Peddling shall not be permitted upon the paved or graded portion of any public street, except as otherwise noted on the permit, nor upon the sidewalk of the Seawall Boulevard, nor within one hundred (100) feet of the northerly right-of-way line of the Seawall Boulevard.
- (b) The permit shall be in the permittee's possession at all times.
- (c) Peddling shall not be permitted along State Highway 87 or within one thousand (1,000) feet of the Galveston-Bolivar Ferry Landing.
- (d) Peddling shall not be permitted on any property southerly of the seawall with the exception of vendors on the beach with permission from the park board of trustees.
- (e) Peddling, to include the sale of goods from vehicles, shall not be permitted within five hundred (500) feet of any public or private school building or school property being used for school classes or school activities, except secondary education institutions, during the hours when school is in session, including the time period from one (1) hour before school commences to one (1) hour after classes dismiss.

([Ord. No. 15-061, § 2, 7-23-15](#))

Sec. 19-55. - Beach concessions—Rules for beach concessionaires.

- (a) The term beach concessionaire area shall refer to all public areas of the beachfront, south of the southerly right-of-way of Seawall Boulevard that can be utilized for equipment rental relating to recreation on the beach. This term shall only be applied to this section, as it relates to the permitting of concessionaires.
- (b) The term lease site shall refer to the designated area, determined by the city beach concessionaire agreement and/or park board of trustees lease agreement, as applicable.
- (c) Beach concessionaires shall only be permitted to install the following signs, per each lease site:
 - (1) Sandwich board sign, as defined by, appendix A, article V, may not exceed three (3) feet by two (2) feet, and is utilized solely to display the type of items for rental, and the respective fee(s). Only one (1) sandwich board sign is permitted per lease site.
- (d) Concessions within the beach concessionaire area shall not be permitted to utilize temporary or portable buildings.
- (e) All provisions of the city's land development regulations must be met.
- (f) Concessionaire permits and regulations shall not apply to designated state park facilities.
- (g) Property managed by the park board in regards to concessions shall adhere to the requirements in this article and all other city codes and ordinances.
- (h) The park board of trustees shall have authority, subject to approval by the city council to revoke or suspend any permit issued hereunder for violation of any provision of this subsection.

([Ord. No. 15-061, § 2, 7-23-15](#))

Sec. 19-56. - Exceptions and exemptions.

- (a) The provisions of this article shall not apply to special events or other public festivals of nonprofit organizations for the purpose of fundraising, as approved by the city.
- (b) Concessionaire permits and regulations shall not apply to designated state park facilities.

- (c) An owner/operator of a concession who is also the operator of a primary business conducted upon the same property and who is selling, through the concession, the same merchandise or goods that the operator is authorized to sell in the owner/operator's primary business entirely within the boundaries of the owner/operator's primary business location, and where the owner/operator is operating within the boundaries of premises from which the owner/operator has a license from the Texas Alcoholic Beverage Commission, is not required to obtain a permit to operate such concession. A business shall be considered a primary business only if the owner/operator of the business has been in business in the same location within the designated Mardi Gras or the Seawall Entertainment District area for a continuous period of at least six (6) months prior to the annual Mardi Gras Festival and has been issued a certificate of occupancy for conduct of such business.
- (d) A person who holds a valid permit for rental of beach equipment pursuant to the requirements of section 8-53 shall not be required to obtain a permit under this article.
- (e) With the exception of subsection (b), during the period of Mardi Gras activities or festivals, no person shall peddle or conduct an outdoor concession within the city without first having obtained a permit.

- (1) A Mardi Gras concession permit will be issued for locations where allowed by city regulations with written and notarized authorization from the owner of that location.
- (2) Concessions for food or drink will not be permitted within three hundred (300) feet of an existing business which sells food or drink outside of the Central Business District, as defined by the Mardi Gras ordinance (See chapter 20.5).
- (3) Concessions which sell food or drink must have a valid permit from the county health district and permission to sell food or drink from the city prior to the issuance of a Mardi Gras permit.
- (4) Separate permits are required for each concession, and shall not be issued without approval by the city council upon recommendation of the city manager.
- (5) The permit fee for each concession within the area designated "entertainment area" will be as set forth in the Mardi Gras agreement with the city. The permit fee for each concession outside the area designated "entertainment area" will be as follows:

Seventy-five dollars (\$75.00) per weekend for beer or alcohol booths.

Fifty dollars (\$50.00) per weekend for food or novelty concessions.

It is the intention of this section that a separate permit fee will be paid for each separate concession regardless of whether the concession occupies an entire lot or location or a portion of said lot or parcel, and regardless of whether the concession is located inside or outside the entertainment area. A separate concession shall be based on a space of ten (10) feet by ten (10) feet. No more than two (2) permits shall be issued per each application and each individual or entity may not apply for more than two (2) permits for concessions on public property within the entertainment area, during the duration of Mardi Gras. When the city, has designated an exclusive concessionaire, the permit fees will be established in accordance with chapter 20.5, article VII(A) and the exclusive concessionaire's contract. In addition to the permit fee, the city reserves the right to require a bond or deposit to assure the clean-up of debris.

- (6) A two hundred dollar (\$200.00) cash bond must be posted for each concession, which is refundable upon inspection of the concession site and the approval by the city.
- (7) The Mardi Gras permit will be valid only for the duration of the festival period only. Use of public rights-of-way by festival concessions will be limited to specific locations within the central business district only, and all concessions located in rights-of-way must be removed within twelve (12) hours of the conclusion of the parade for which they were erected.
- (8) Each concession will provide one (1) fifty-five (55) gallon trash receptacle.
- (9) Each concession will display the Mardi Gras permit in a conspicuous location inside the concession stand/kiosk.

- (10) If any provision of this section conflicts with chapter 20.5 (the Mardi Gras ordinance), the Mardi Gras ordinance shall control and prevail.

([Ord. No. 15-061, § 2, 7-23-15](#))

Sec. 19-57. - Penalty.

- (a) A violation under this section is a class C misdemeanor offense punishable upon conviction by a fine not to exceed five hundred dollars (\$500.00) per offense. Each day shall constitute a separate offense.
- (b) Pursuant to state law and this Code, the maximum penalty for offenses arising under such code or ordinance of the city governing fire safety, zoning, public health and sanitation, shall not exceed the sum of two thousand dollars (\$2,000.00).
- (c) If such maximum penalty provided for by this Code or any such offense is greater than the maximum penalty provided for the same or a similar offense under the laws of the state, then the maximum penalty for violation as provided by state statute shall be the maximum penalty under this Code.
- (d) Penalties provided for are in addition to any other enforcement remedies that the city may have under city ordinances and state law.

([Ord. No. 15-061, § 2, 7-23-15](#))

Sec. 19-58. - Temporary parking lot permits.

- (a) It shall be unlawful for any person to intentionally or knowingly operate a temporary parking lot during the regularly scheduled weekends of special events without a valid permit.
- (b) A temporary parking lot shall mean a parking lot that does not ordinarily charge a fee for parking.
- (c) An applicant for a temporary permit must complete a temporary parking permit application, provide proof of consent to operate from the property owner (if the applicant is not the property owner), and pay a fee as established by city council.
- (d) An applicant for a temporary seasonal permit beginning the first Friday of March through Labor Day weekend must complete a temporary seasonal parking permit application, provide proof of consent from the property owner to operate on the property (if the applicant is not the property owner), and pay a fee as established by the city council.
- (e) The violation of any provision of this section shall be unlawful and a misdemeanor offense punishable for a fine not exceeding five hundred dollars (\$500.00). Each day a continuing violation exists shall constitute a new and separate offense.

([Ord. No. 15-061, § 2, 7-23-15](#))

Sec. 19-59 - Appeal process.

Should the applicant be aggrieved by the decision of the city to deny a permit request, a letter requesting an appeal hearing must be submitted to the director of development services department within ten (10) days of the city's decision.

([Ord. No. 15-061, § 2, 7-23-15](#))

Sec. 19-60. - Reserved.

ORDINANCE NO. 20-___

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING CHAPTER 33, "TAXATION" OF "THE CODE OF THE CITY OF GALVESTON 1982, AS AMENDED" BY AMENDING THE PROCEDURES FOR ALLOCATING NET DISBURSIBLE FUNDS TO ELIGIBLE GROUPS BY ALLOWING FOR RE-ALLOCATION IN THE EVENT OF SIGNIFICANT REDUCTIONS TO HOTEL OCCUPANCY TAX; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 33-95 of the Galveston City Code created the Arts and Historical Preservation Advisory Board which oversees and manages the Arts and Historic Distribution of HOT funds to applicant organizations; and,

WHEREAS, Section 33-92 of the Code contains the distribution and procedures for the Arts and Historic HOT funds; and,

WHEREAS, Hotel Occupancy Tax is being reduced significantly due to the COVID 19 pandemic related closures in the hotel industry; and,

WHEREAS, it is estimated that HOT revenue will be reduced by 10 to 35 percent of budgeted revenue for April through September 2020; and,

WHEREAS, the Arts and Historic Preservation 6/8 value of the penny could be potentially be reduced to as low as \$756,000.00, short of its projected amount of \$1,400,000.00 for Fiscal Year 2020; and,

WHEREAS, there is currently no methodology to allow for reallocation for awarded amounts to eligible entities when there is a significant reduction to the projected HOT revenue; and,

WHEREAS, staff is proposing the awarded amounts to organization be reduced by a pro rata adjustment of the reduced amount; and

WHEREAS, after due consideration, the City Council of the City of Galveston, Texas, finds it in the best interest of the public to amend the procedures located in Arts and Historic Fund Advisory Board Criteria and Selection Procedures to allow for reallocation for awarded amounts in the event of significant reductions in the projected amount of HOT revenue.

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

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. The Arts and Historic Fund Advisory Board Criteria and Selection Procedures for Contributions of Hotel Occupancy Tax to Arts and Historical Preservation is hereby amended to read and provide as follows:

5. Allocations

Allocated funds will be disbursed on a fixed dollar amount for two year periods and will be based on a pro rata adjustment of the 6/8 made available, as provided in the City Code. The City will allocate up to ninety-five percent (95%) of available funds to qualifying organizations. Funds will be distributed on a monthly basis. No entity shall be awarded more than 25% of net disburseable funds in any fiscal year. Net disburseable funds is the gross projected amount of 6/8 of the penny minus the Arts Commission \$50,000 and the 5 percent reserve.

Annually, \$50,000 of available funds will be used to fund public art as recommended by the Arts Commission per fiscal year. The Arts Commission shall manage their own projects in compliance with state law.

The remaining five percent (5%) shall be placed in a reserve fund balance. Once this reserve fund reaches 15% of the projected 6/8 of the penny in any given year, the City Council and the Advisory Board may make interim grants out of any excess available funds.

Interim Grants are only available to entities who were grant recipients for previous standard award cycles. The Board may make recommendations for such interim grants, and City Council will make a final decision on whether to fund such application.

All forfeited and excess funds generated from an under estimate of the value of the HOT fund will be placed in the reserve fund for future use consistent with this program.

In the event of a declared disaster or state of emergency, initiated by either the City of Galveston or the State of Texas, if there is projected to be a revenue shortfall of initial projection of HOT revenue as a result of the disaster or state of emergency, the City Council shall have the option and ability to reduce awarded amounts by a pro rata adjustment of the reduced amount. This adjustment would occur to all organizations awarded funds for the fiscal year which experience HOT revenue shortfalls. This adjustment would affect only upcoming disbursed funds. Should the City Council decide to reduce awarded amounts by a pro rata adjustment, the monthly disbursements would be reduced by that pro rata adjustment.

SECTION 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final

judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 4. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 5. In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 6. This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM:

MEHRAN JADIDI
ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its regular meeting held on the 28th day of May, 2020, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this ____ day of _____, 2020.

Secretary for the City Council
of the City of Galveston

ORDINANCE NO. 20- _____

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING THE CODE OF THE CITY OF GALVESTON, AS AMENDED, CHAPTER 37, "WRECKERS, TOW AND STORAGE FACILITY", BY AMENDING CHAPTER 37 TO AMEND REGULATIONS, STANDARDS, AND DEFINITIONS; AND TO MAKE CLARIFICATIONS; AND RENAME, RENUMBER AND REARRANGE THE CHAPTER AS APPLICABLE; PROVIDING FOR PENALTIES AND FEES AS APPLICABLE; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Galveston City Council seeks to promote the public health, safety, morals and general welfare of the municipality and the safe, orderly, and healthful development of the municipality; and,

WHEREAS, staff has reviewed various Chapters of the City Code. Staff has made recommendations in order to amend rules, regulations, standards and procedures and make clarifications, and modifications, as applicable to the Chapter in furtherance of promoting the public health, safety, morals and general welfare of the municipality and the safe, orderly, and healthful development of the municipality; and,

WHEREAS, the City Council deems it in the public's interest to amend Chapter 37, "Wreckers, Tow and Storage Facility", of "The Code of The City of Galveston 1982, as amended," as provided below.

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

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Chapter 37, "Wreckers, Tow and Storage Facility", of "The Code of The City of Galveston 1982, as amended," is amended to provide as follows:

Sec. 37-1 Purpose and Scope

1. The City, pursuant to the authority granted by state law, in order to protect the public, to protect the rights of persons whose vehicles may be towed, to maintain safe and efficient operating rules, and to preserve the peace of the community, hereby engages in the licensing and regulation of business enterprises engaged in the incident management towing, removing and storing of motor vehicles in the incorporated areas of the City.
2. The purpose and intent of this Chapter is to regulate incident management tows initiated by a City official, Police Officer to the extent not pre-empted by federal

- or state law. This Chapter shall not apply to consent tows from public or private property within the City.
3. The City Manager and/or its designee, the Galveston City Marshal's Office (GMO), is authorized to enforce these rules. The Galveston City Marshal's Office shall be referred to as GMO herein.
 4. No person shall operate a wrecker or heavy duty wrecker in the incorporated areas of the City on incident management towed vehicles unless the wrecker has been registered and permitted with the Galveston City Marshal.
 - a. For the purposes of this subchapter, a PERSON shall mean a sole proprietor, partnership, corporation or LLC. Multiple assumed names or DBAs of a person shall not be permitted. This subchapter does not apply to a consent tow.
 5. No person or business entity shall operate a vehicle storage facility for the storage of vehicles that have been towed as incident management tows under this subchapter unless the facility is registered with the state and meets all state requirements.
 6. This subchapter must be liberally construed to give effect to its purpose and intent, and the City Marshal is the final authority, unless superseded by state regulations.

Sec. 37 – 2 Definitions.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Abandoned vehicle. Any vehicle on a public roadway or on private property in which a vehicle owner or operator is not present, or where a police officer or designee determines that the vehicle owner or operator does not intend to remove or take possession of the vehicle, or as defined by state law.

Accident. A situation where one (1) or more motor vehicles have collided with another motor vehicle, object, or person. "Accident" shall also include incidents in which only one (1) vehicle is involved, such as a rollover.

Application. The written application form approved by the GMO and all required documentation and all applicable fees.

Auxiliary Tow Lights. A set of red lamps, connected to the wrecker, which are attached to the rear of the towed vehicle and, when lit, will signal stops and turn movements of the towed vehicle.

Chapter. Chapter 37, Wrecker, Tow Truck and Storage Facility Code, of the Code of the City of Galveston, 1982, as amended.

City. The City of Galveston incorporated limits.

City Manager and its designee for the purposes of this Chapter shall mean the Galveston City Marshal's Office (GMO).

Commission. The Texas Commission of Licensing and Regulation.

Communications supervisor. The person appointed by the chief of police to supervise the operations of the city's radio dispatch office.

Company. The wrecker service under which an entity, or licensee operates. Entity includes, but is not limited to, person, individual, corporation, partnership, joint venture, association, or other business entity.

Compliance officer. The person designated by the director or city manager to oversee and enforce the chapter.

Consent Tow. Any tow of a motor vehicle in which the wrecker 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.

Consent tow. Shall have the meaning as defined by V.T.C.A., Occupations Code § 2308.002, and the department of licensing and regulation.

Conviction. A finding of guilt by a judge or jury, or any plea of guilty or nolo contendere, unless such conviction has been held invalid by the courts or the proceedings against the defendant have been dismissed and the defendant discharged by the court.

Department. The City of Galveston's Marshal's Office is the department designated by the city manager to oversee and enforce this Chapter.

Director. The director of the department, or the director's designee. As used in this chapter, "director" may also mean the chief of police if the Galveston police department is responsible for enforcing and overseeing the chapter.

Doing Business As (DBA). The operating name of a company, as opposed to the legal name of the company.

Driver. The person driving a licensee's tow truck.

Driver permit. Means the permit issued by the department to a driver of a tow truck.

Emergency Lights. Flashing, rotating or strobe lights that are mounted above the roof of the wrecker. The lights shall be mounted as high and as wide as possible and visible in all directions when activated. Emergency Lights shall only be amber in color. No lamps or lenses other than amber shall be displayed. A rearward facing directional arrow panel, mounted contiguous with the Emergency Lights, is permitted.

Evidentiary Crime Scene. A crime scene in the incorporated City that requires the response of a law enforcement agency's specialized investigative unit(s). Examples include, but are not limited to, a homicide scene or an auto theft chop shop.

Heavy Duty Tow List. The GMO shall maintain a master list of all permitted wrecker companies to be utilized in the event of a heavy duty tow.

Heavy Duty Wrecker. A wrecker having a chassis rated at five tons or greater by the vehicle manufacturer equipped with a winch capable of lifting a minimum of 30,000 pounds as rated by the winch manufacturer, air brakes, and tandem axles. Except where a distinction is made, the term wrecker includes a heavy duty wrecker.

High Mounted Stop Lamp. A lamp conforming to Lamps, Reflective Devices, and Associated Equipment (49 C.F.R. 571.108).

Incident. An unplanned randomly occurring traffic event that adversely affects normal traffic operations.

Incident Management Tow. Any tow of a vehicle in which the wrecker is dispatched to the scene of a traffic accident or incident, including the removal of a vehicle, commercial cargo, and commercial debris from an accident or incident scene.

Incident Management Tow List (tow list”). The GPD shall keep a master list, known as the Incident Management Tow list, in permit number order, of all wrecker companies permitted under the provisions of this subchapter. Wreckers for incident management tows shall be dispatched from this list by order of rotation.

In the water. Any vehicle in which all four (4) wheels are covered by more than four (4) inches of water. "In the water" shall not mean street flooding or water on public streets or city rights-of-way.

Law Enforcement Officer. A City Marshal, City Police Officer, or a Peace Officer for a law enforcement agency located in the county or state. (See Tex. Code C.C.P. Ch. 2, Art. 2.12.)

Law Enforcement Scene. The scene of a crime, collision or custodial arrest, or the location of a vehicle that is a traffic hazard, a recovered stolen vehicle or an abandoned vehicle.

Lawful order. Means the written or verbal directive issued by the department or police officer in the enforcement of this chapter.

License. Means the document issued under this chapter by the department to an applicant.

Licensee. Means a named tow truck service licensed under this chapter to engage in nonconsent tow service as determined by the city's rotation list.

Licensee rotation tag number. The number the city assigns to a licensee. Also referred to as a "rotation tag number" and a "tag number."

Next-out. The company whose license number is the next sequential number on the city's rotation list and which the city will call when the next vehicle needs to be towed.

Non-Consent Tow. Any tow of a motor vehicle that is not a consent tow, including an incident management tow; and a private property tow.

Nonconsent tow. Shall have the meaning as defined by V.T.C.A., Occupations Code § 2308.002, and the state department of licensing and regulation.

Open territory. IH 45 west of Teichman Road overpass, including adjacent frontage roads. During Mardi Gras and special events as declared by city council, or pursuant to

emergency circumstances as declared by the city chief of police, "open territory" shall encompass the city in its entirety.

Operate. To drive or otherwise use a wrecker.

Operator. Any person operating a wrecker, regardless of whether the person owns the truck.

Over the seawall. Means a vehicle that has two (2) or more wheels on the south side of the seawall. This does not apply to vehicles parked on the beach.

Owner. Any person who holds the legal title of the motor vehicle or who has the legal right of possession thereof.

Pass. A pass will be declared when the GPD attempts to dispatch a towing company from the tow list to perform an incident management tow, but is unable to contact the towing company, the towing company refuses or declines to accept the telephone call, the towing company refuses to accept the towing assignment, or fails to show up at the scene within 30 minutes (or 45 minutes for heavy duty). Each towing company shall be allowed three (3) passes during 12-month permit period. A violation of this section shall result in suspension or revocation of that wrecker company's permit.

Permit. Means the permit issued under this chapter by the department to the driver of a tow truck or alternatively the permit issued to an individual tow truck as applicable.

Person. A sole proprietor, partnership, corporation, Limited Liability Company (LLC), an assumed name, or doing business as (DBA) shall be considered a person for the purposes of this subchapter. For the purposes of this subchapter, multiple assumed names or DBAs of a person shall not be permitted.

Police generated tows. The police dispatcher's request for a tow.

Prisoner tow. A situation where a peace officer employed by the city takes the operator of a motor vehicle into custody and determines that it is necessary to cause the operator's vehicle to be removed from the scene for storage or for use in a criminal investigation.

Public Roadway. A public street, alley, road, right-of-way, or other public way, including paved and unpaved portions of the right-of-way.

Rotation. System used by the city for the removal of vehicles from the public rights-of-way or public streets involving nonconsent tows.

Rotation tag number. The number the city assigns to a licensee. Also referred to as a "permit number" and a "tag number."

Special events. Defined as Mardi Gras, Dickins, and Biker Rally.. Other events may be designated special events by city council.

Tag number. The number the city assigns to a company. Also referred to as a "permit number" and a "rotation tag number."

Tow. The movement of a motor vehicle by a wrecker.

Towing Company. Individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more wreckers over a public roadway in this state but does not include a political subdivision of the state.

Tow List. The City of Galveston Incident Management Tow List.

Tow truck. Any truck or other motor vehicle equipped with cables, winches, hoists or other devices capable of lifting and towing or otherwise transporting another vehicle from one place to another. "Tow truck" includes a roll back type vehicle.

Tow truck operator. The person who drives a tow truck, whether or not such individual is also the licensee of the tow truck.

Towing business. The towing of vehicles not owned by the towing company, from a public street or right-of-way within the incorporated limits of the city, for compensation.

Vehicle. 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. A vehicle as defined under the Texas Motor Vehicle laws, Article 670Id, Texas Civil Statutes.

Vehicle Owner. The motor vehicle's legal or registered owner or such owner's authorized representative who is physically present at the law enforcement scene.

Vehicle Storage Facility. A vehicle storage facility, as defined by Section 21, that is operated by a person who holds a license issued under Chapter 85 of the Texas Administrative Code to operate the facility.

Vehicle storage facility. A vehicle storage facility operated pursuant to state and city laws, rules and regulations.

Vehicle Storage Facility Owner. An individual, partnership, corporation or any other association (other than a governmental entity) that is engaged in the business of operating a garage, parking lot, storage lot or any type of facility to store motor vehicles subject to incident management tows under this subchapter.

Vehicle tow service rotation license. Means the license required under this chapter in order to be placed on the city's rotation system for nonconsent tows.

Violation. Means to violate this chapter or state law.

Working Day. Monday through Sunday, 8:00 am to 5:00 pm, excluding City holidays.

Wrecker. A commercial motor vehicle equipped with, or used in combination with a mechanical device, which is adapted or used to tow, winch or otherwise move a motor vehicle, which together with the towed vehicle has a gross vehicular weight, or actual weight of 26,000 pounds or less. For purposes of convenience, the term wrecker, as used throughout this subchapter, shall be deemed to include both the defined terms heavy duty wrecker and wrecker unless a specific reference to the term heavy duty wrecker is made.

Wrecker. A tow truck.

Wrecker Permit. A permit issued by the City Marshal authorizing a specific wrecker to perform incident management tows.

~~Sec. 37-2. Vehicle tow service rotation license and heavy-duty vehicle tow service rotation license.~~

~~(a) — A current vehicle tow service rotation license or heavy-duty vehicle tow service rotation license issued by the city is required in order to be placed on the applicable rotation list.~~

~~(b) — A license fee of five hundred dollars (\$500.00) shall accompany all application forms.~~

~~(c) — If the company complies with all requirements, the rotation tag number shall be placed on the city's applicable rotation list.~~

~~(d) — Each licensee shall possess a separate rotation tag number.~~

~~(e) — Rotation tag numbers or city licenses may not be sold, leased, or otherwise transferred to any other person or business entity.~~

~~(f) — All rotation tag numbers and permits shall be valid for twelve (12) months from date of issuance.~~

~~Sec. 37-2.1. Maximum number of licenses issued and placed on city rotation lists.~~

~~(a) The fourteen (14) permitted towing companies holding a vehicle tow service rotation license on September 1, 2004, may apply for renewal so long as they remain qualified under the terms of this chapter. The city will issue no other vehicle tow service licenses until and unless the number of licensed towing companies on the city non-consent towing rotation list is nine (9) or less because of attrition. If at any time there are nine (9) or fewer licensed towing companies on the city's non-consent towing list, the city will consider applications from other qualified companies. Those applications will be considered in the order in which they were filed, and the city shall issue a license to any qualified towing company based on their application, until such time as there are ten (10) qualified licensed tow truck companies on the city's vehicle tow service rotation list. The maximum number of companies, licensed, and on the city's rotation list will be thenceforth limited to a total of ten (10) companies.~~

(b) —The maximum number of heavy duty tow service rotation licenses issued and effective at any time, and the maximum number of companies on the city's rotation list for heavy duty tow service shall be five (5).

Sec. 37-3. Application

Sec. 37-3.1 Process

General. To obtain a wrecker permit, a towing company shall submit a written application with the GMO. The Application shall include the following for each wrecker for which an application is submitted:

1. Year, make and model;
2. Vehicle identification number
3. Texas license plate number;
4. State of Texas issued vehicle storage facility permit.
5. Identification of wrecker owner including:
 - a. Full business name, address and telephone number for the true wrecker title owner;
 - b. A D/B/A or assumed name shall be accompanied by the name of the assumed name certificate;
6. Applicable fees as required by the City Wrecker Fee Schedule.

All general applications and applications for renewal shall be submitted to the GMO by hand delivery, U.S. mail, or electronic mail. Fax applications will not be accepted.

Sec. 37-3.2 Issuance and Renewal of Permits

1. If the GMO determines that the applicant has satisfied all requirements of the above chapter, a wrecker permit shall be issued.
2. Wrecker permits are valid for one (1) year from the date the permit is issued.
3. Applications to renew a permit, along with supporting documentation must be received by the GMO thirty (30) days before expiration.
 - a. A towing company that fails to renew the wrecker permit before it expires shall be removed from the incident management tow list.
 - b. Operating a wrecker with an expired permit constitutes a violation of this subchapter.
 - c. Wrecker permits are non-transferable, and renewal permits will only be issued to the original permit holder.
4. If an owner of a towing company or and/or driver operator of a wrecker is charged with a felony during the previous year, then the company or operator shall not be eligible for a wrecker permit the following year, unless the charges have since been dismissed or resulted in a verdict of not guilty.

Sec. 37-3 Vehicle tow service rotation license and heavy duty vehicle tow service rotation license requirements, applications and violations.

The department shall adopt rules and policies consistent with the rules of this chapter and state law, with respect to the form and content of applications for licenses, the

investigation of applicants, and the disposal of vehicles per sections 23-39 and 23-40. The department shall administer and properly enforce this chapter.

~~Sec. 37-3.1. – Requirements for obtaining a vehicle tow service rotation license.~~

- ~~(a) — Applicant shall possess a valid vehicle storage facility license issued by the state department of licensing and regulation. For a location within the city.~~
- ~~(b) — Applicant shall, at the time of application present for inspection two (2) tow trucks, both of a rollback type or one (1) of a roll back type and one (1) of a wheel lift type, each having a winch capable of pulling and or lifting with a minimum rating of no less than eight thousand (8,000) pounds. These tow trucks must meet the requirements of this chapter and those of the state department of licensing and regulation before an application is considered.~~
- ~~(c) — Tow trucks must be in the name of the applicant as indicated on the state department of transportation tow truck registration. Other trucks may be added, provided they meet the requirements of this chapter and those of the state department of licensing and regulation. after an application is approved.~~
- ~~(d) — Applicant must provide a current certificate or receipt marked PAID from the county tax assessor collector that all city taxes on all property, real and personal, used in connection with the applicants business.~~
- ~~(e) — Applicants shall provide a current certificate of insurance for cargo and vehicle liability in the amounts required by the state department of licensing and regulation.~~
- ~~(f) — The required insurance policies shall be in the licensee's name and shall not be a blanket policy covering any other businesses. The insurance policies shall contain a provision that at least ten (10) days prior notice of cancellation of said insurance shall be given to the city.~~
- ~~(g) — The application shall be in a name that clearly differentiates the business from all other companies engaging in rotation towing for the city.~~
- ~~(h) — The applicant and any owner or driver shall be the current holder of an incident management towing operator's license, issued by the state department of licensing and regulation.~~

~~Sec. 37-3.2. – Requirements for obtaining a heavy duty vehicle tow service rotation license.~~

~~Licensure requirements shall be the same as the requirements found in section 37-3.1 with the following exceptions:~~

- ~~(1) — If the holder of a vehicle tow service rotation license applies for a heavy duty tow service rotation license an additional vehicle storage facility is not required.~~
- ~~(2) — A heavy duty vehicle tow service rotation licensee is required to present one (1) truck as defined by this chapter as a heavy duty tow truck as opposed to subsection 37-3.1(b).~~

- (3) — The required amounts of insurance for a heavy-duty vehicle tow service license shall be the same as those required by the state department of licensing and regulation.

Sec. 37-3.3. — Vehicle tow service rotation license application.

Application for a vehicle tow service rotation license shall be made to the director on forms furnished for that purpose and will not be considered until completed with all required documentation and fees. Renewal applications shall require the same documentation and application as the initial license application and shall be submitted not less than thirty (30) days prior to the expiration of the current license.

- (1) — The application must be signed by the person who owns, controls or operates the proposed vehicle tow service. Applicants shall submit proof of company ownership of the tow truck(s) or evidence of a lease under which the tow truck is to be operated. Applicants shall provide the city a copy of:

- a. — Assumed name certificate where applicable;
- b. — Partnership agreement disclosing the names of all general or limited partners if a partnership; or
- c. — A copy of the articles of incorporation and a certificate from the corporate secretary setting forth names of all officers, directors and persons owning ten (10) percent or more of the outstanding stock of the corporation;
- d. — A valid vehicle storage facility license registered in applicant's name.

- (2) — The application must be completed in its entirety and include the following:

- a. — The name, address and telephone number of the applicant, the trade name under which the applicant does business, the street address and telephone number of the vehicle tow service establishment. Applicants must possess their own vehicle storage license (VSF) license in the city;
- b. — The number and types of vehicles to be operated, including the year, make, model, vehicle identification number and state license plate number and the type of winch to be operated on each wrecker rated under twenty-six thousand (26,000) pounds. For a heavy-duty permit, tow truck must meet definition of heavy-duty;
- c. — Proof of an insurance policy or policies which will be in full force and effect for the duration of the permit and will meet the policy requirements outlined by the state in the Vehicle Storage Facility Act, this chapter and applicable state law;
- d. — A statement attesting that each wrecker used by the vehicle tow service has been rendered for ad valorem taxation in the city and that the applicant is current on payment of those taxes;
- e. — Any other information deemed necessary by the department consistent with and for the proper administration and enforcement of the provisions of this article;

~~f. — An indemnification and hold harmless agreement provided by the city;~~

~~(3) — All application forms shall be signed by the director.~~

~~Sec. 37-3.4. — Heavy duty vehicle tow service license application.~~

~~Application for a heavy-duty vehicle tow service license shall be made to the director on forms furnished for that purpose and will not be considered until completed fully with all required documentation submitted and fees paid as per section 37-3.3. Renewal applications shall require the same documentation and application as the initial license application and shall be submitted not less than thirty (30) days prior to the expiration of the current license.~~

~~Sec. 37-3.5. — Refusal to issue or renew vehicle tow service rotation license or heavy-duty vehicle tow service rotation license.~~

~~(a) — The department shall refuse to issue or renew a vehicle tow service license if the applicant or licensee:~~

~~(1) — Makes a false statement as to a material matter in an application for a license or license renewal or in a hearing concerning the licensee; within a 12-month period;~~

~~(2) — Has had a vehicle tow services license revoked within two (2) years prior to the date of application;~~

~~(3) — Uses a trade name for the vehicle tow service other than the one registered with the department;~~

~~(4) — Is not qualified under this article;~~

~~(5) — Has been convicted or received deferred adjudication for violation of state, or federal law that indicates a lack of fitness of the applicant to perform vehicle tow service.~~

~~(b) — If the department determines that a license should be denied the applicant or licensee, the department shall notify the applicant or licensee in writing that the application is denied and include in the notice the reason for denial and a statement informing the applicant or licensee of the right of appeal.~~

~~Sec. 37-3.6. — Suspension of vehicle tow service rotation license or heavy-duty vehicle tow service rotation license.~~

~~(a) — The department may suspend a vehicle tow service or heavy-duty vehicle tow service rotation license if the department determines a licensee or his employee has:~~

~~(1) — Allowed a person to operate a tow truck engaged in vehicle tow service rotation tows in the city without a valid tow truck driver's permit issued to the person under this article. This may result in a pass for the tow truck licensee and a one-week removal from rotation;~~

- (2) — Operated a tow truck which has not been registered with the department for rotation tows; this may result in a pass for the tow truck licensee and a one-week removal from rotation;
- (3) — Failed to answer the storage location telephone at any time, twenty-four (24) hours a day or have an employee or contractor answer such telephone at any time, twenty-four (24) hours a day. This may result in a one-week removal from rotation;
- (4) — Failed to have a license issued hereunder conspicuously displayed at his place of business. This may result in a one-week removal from rotation;
- (5) — Failed to release a vehicle within sixty (60) minutes of a request by the owner or operator of a vehicle which has been obtained due to a nonconsent tow. This may result in a one-week removal from rotation;
- (6) — Imposed or attempts to impose any condition for release of any motor vehicle which had been towed to their vehicle storage facility, other than proof of ownership, identification of the person claiming the vehicle and the payment for towing and storage. This may result in a one-week removal from rotation;
- (7) — Failed to provide the owner or operator of the vehicle with a written receipt for towing and storage charges, the date and time of removal, the date and time of return. This may result in a one-week removal from rotation;
- (8) — Failed to maintain permanent signage as required by this chapter on all tow trucks used for rotation tows. This may result in a pass for the tow and a one-week removal from rotation;
- (9) — Charged more than the maximum fee allowed by this chapter. This may result in a one-week removal from rotation and a refund of the over charge to the vehicle owner;
- (10) — Failed to submit a weekly list of vehicles that have been released after having been submitted as abandoned by the licensee to the police department. This may result in a one-week removal from rotation;
- (11) — Failed to clean the street of any broken glass or other debris resulting from a collision. If more than one (1) tow truck is summoned, each driver shall bear equal responsibility for the clean up. This may result in a one-week removal from rotation;
- (12) — Allowed an employee to tow a vehicle to a vehicle storage facility other than the licensee's vehicle storage facility unless, at the direction of the towed vehicle's owner or operator. This may result in a one-week removal from rotation;
- (13) — Failed to provide written notification to the compliance officer that the licensee's insurance has been canceled, or is no longer in force for any reasons, or the amounts of insurance have been reduced. The compliance officer shall remove the licensee's license number from the city's rotation list. The removal from the city's rotation list will be for twice the period of time that no insurance was not in full force as required by this chapter;

(b) — If the department determines that a license should be suspended, the department shall notify the licensee in writing that the license is suspended and include in the notice the reason for suspension and a statement informing, the applicant or licensee of the right of appeal.

(c) — These contractual penalties do not preclude prosecution for criminal offenses as defined by state law or city ordinance.

Sec. 37-3.7. — Revocation of vehicle tow service rotation license or heavy duty vehicle tow service license.

(a) — The department may revoke a vehicle tow service licensee from a rotation list if the department determines that the licensee has:

(1) — Made a false statement in the application for the license;

(2) — Failed to comply with applicable provisions of this chapter;

(3) — Failed to comply with the conditions and limitations of the license;

(4) — Been convicted or received deferred adjudication for any felony offense while holding a license;

(5) — Failed to pay a license fee at the time it was due;

(6) — Failed to maintain a state licensed vehicle storage facility within the city;

(7) — Three (3) or more violations of section 37-3.6 within a one-year period;

(8) — Passed four (4) tows on any one (1) rotation list during a contract period.

(b) — If the department determines that a license should be revoked, the department shall notify the licensee in writing that the license is revoked and include in the notice the reason for revocation and a statement informing, the applicant or licensee of the right of appeal.

(c) — These contractual penalties do not preclude prosecution for criminal offenses as defined by state law or city ordinance.

Sec. 37 - 4 - Insurance Requirements

1. Applicants shall provide a current certificate of insurance for cargo and vehicle liability in the amounts required by the state department of licensing and regulation.

2. The required insurance policies shall be in the permittee's name and shall not be a blanket policy covering any other businesses. The insurance policies shall contain a provision that at least ten (10) days prior notice of cancellation of said insurance shall be given to the city.

3. A towing company shall maintain insurance for each wrecker it owns or operates which meets the requirements of all other applicable statutes in addition to meeting the insurance requirements set forth in this subchapter. A law enforcement officer may request proof of financial responsibility from the owner/operator.

4. A towing company shall not perform any incident management tows if it fails to provide the required insurance coverage.

Sec. 37.4 Tow truck drivers.

- (a) ~~— No person, or licensee shall operate a tow truck for rotation tows without a valid TDLR license issued by the state.~~
- (b) ~~— All tow truck drivers shall have and maintain all applicable state and local licensing documentation as required in each vehicle at all times the vehicle is operated.~~
- (c) ~~— All tow truck drivers shall wear in a visible place on the front of the drivers' shirt a valid TDLR license, issued by the state, while at the scene of a tow. Upon request the tow truck driver shall present the tow truck drivers license to a police officer at the scene of a noneconsent tow.~~
- (d) ~~— No tow truck driver shall violate any traffic law, unless expressly instructed to do so by a licensed police officer.~~
- (e) ~~— No tow truck driver shall remove any wrecked or disabled or illegally parked vehicle from any public street without authorization from a police officer or city authorized employee or agent; however, the operator of a stalled or disabled vehicle not involved in an accident may authorize a tow truck driver to remove the vehicle if no police officer is present.~~
- (f) ~~— Each tow truck driver who is dispatched shall be responsible for cleaning the street of any broken glass or other debris resulting from a collision. If more than one (1) tow truck is summoned, each driver shall bear equal responsibility for the clean up.~~
- (g) ~~— Before a vehicle is removed from a scene, the police officer on the scene shall sign the police department's acceptance form, which shall include the tow truck driver's name, a brief description of any damage to the vehicle, and an inventory of the contents of the vehicle.~~
- (h) ~~— Upon the proper completion of the driver's towing form, the tow truck driver shall deliver the vehicle directly to the licensee's vehicle storage facility or the location agreed upon with the owner or operator of the vehicle.~~

Secs. 37.4.1—37.4.4. —Reserved.

Sec. 37-5 Required Identification on Wreckers

Each towing company that has been issued a wrecker permit shall maintain the following identification markings on each wrecker it owns, leases or operates:

1. The wrecker shall display the name of the permittee on each side of the wrecker on the doors in three-inch letters, the address of the vehicle storage facility and phone number of the permittee on each side of the wrecker on the doors in two-inch letters. The information shall be clearly and legibly painted or affixed by permanent decal in colors that contrast with the surface on which the information is painted or affixed.

2. The wrecker shall display in front of the windshield and behind the front tires on both front fenders the city tag number, unless the wrecker is a cab-over truck, in which case the rotation tag number shall be displayed on both front doors. The tag number shall be either permanently affixed or painted in numbers not less than three (3) inches. Such numbers shall be clearly and legibly painted or affixed by permanent decal in colors that contrast with the surface on which the information is painted or affixed.
3. All wreckers designated by the company to be used for incident management tows shall be inspected and permitted by the department. The winch shall have the original manufacturers rating plate intact and be rated for no less than eight thousand (8,000) pounds.

Sec. 37-5 Tow Trucks

- (a) Any tow truck towing for a licensee must be equipped as defined by this chapter as it now exists or as it may be amended.
- (b) The gross vehicle weight rating (GVWR) of the tow truck shall not be less than ten thousand (10,000) pounds as rated by the manufacturer or certifying laboratory (one-ton truck), and the tow truck shall have been manufactured with dual or tandem rear wheels and tires. All such equipment shall be maintained in good condition.
- (c) All tow trucks must arrive at the scene of the tow under the tow truck's own power and with working equipment available to tow. If at the scene of the tow, the tow truck is found by a police officer to be in a condition that does not comply with this chapter, the police officer shall notify the department. The police officer shall not allow the tow truck to tow the vehicle from the scene. However, if the driver or licensee obtains assistance from another of the licensee's tow trucks within the original response period, the licensee may proceed with the tow. If the tow truck does not obtain the needed assistance within the original response time the tow shall be deemed as a pass, and the officer may request the next out. The licensee shall not use the tow truck that was passed for any further tows until the city inspects and approves the truck.
- (d) The tow truck shall display the name of the licensee on each side of the tow truck on the doors in three-inch letters, the address of the vehicle storage facility and phone number of the licensee on each side of the tow truck on the doors in two-inch letters. The information shall be clearly and legibly painted or affixed by permanent decal in colors that contrast with the surface on which the information is painted or affixed.
- (e) The tow truck shall display in front of the windshield and behind the front tires on both front fenders the city tag number, unless the tow truck is a cab-over truck, in which case the rotation tag number shall be displayed on both front doors. The tag number shall be either permanently affixed or painted in numbers not less than three (3) inches. Such numbers shall be clearly and legibly painted or affixed by permanent decal in colors that contrast with the surface on which the information is painted or affixed.

(f) — The state department of licensing and regulation registration number shall be located next to the city tag number.

(g) — All tow trucks designated by the company to be used for next-out rotation tows shall be inspected and permitted by the department. The winch shall have the original manufacturers rating plate intact and be rated for no less than eight thousand (8,000) pounds.

(h) — All tow trucks shall carry the following equipment:

(1) — One (1) ten-pound or two (2) five-pound class BC rated fire extinguishers;

(2) — One (1) crowbar not less than thirty-six (36) inches in length;

(3) — One (1) push broom with at least an 18-inch head and a handle of not less than thirty-six (36) inches in length;

(4) — One (1) flat edged shovel of at least nine (9) inches in width with a handle of not less than thirty-six (36) inches in length;

(5) — Three (3) certified emergency triangle reflectors;

(6) — One (1) working flashlight;

(7) — Wheel lift trucks shall be equipped with wheel tie-down straps or chains, which shall be used, for every wheel lift tow;

(8) — Any other equipment required by the state department of licensing and regulation.

Sec. 37-5.1. — Tow truck rotation permit and heavy-duty tow truck rotation permit.

(a) — A current tow truck rotation permit issued by the city is required in order for the tow truck to be used by the licensee for rotation tows.

(b) — A permit fee of twenty-five dollars (\$25.00) per tow truck shall accompany all application forms for additional tow truck rotation permits in excess of the two (2) tow truck rotation permits issued with the original vehicle tow service license.

(c) — A tow truck rotation permit shall be placed on the tow truck allowing it to be used for rotation tows for the licensee.

(d) — A tow truck rotation permit may not be sold, leased, or otherwise transferred to any other person or business entity.

(e) — All tow truck rotation permits shall be valid for twelve (12) months from date of issuance.

(f) — The director may approve additional tow truck rotation permits as needed for special events or emergencies.

Sec. 37-5.2. — Tow truck and heavy-duty tow truck rotation permit application.

Application for a tow truck rotation permit shall be made to the director on forms furnished for that purpose and will not be considered until completed with all required documentation and fees.

Sec. 37-6. - Maximum number of Permits issued and Tow lists.

- (a) The fourteen (14) permitted towing companies holding a vehicle tow service rotation license on September 1, 2004, may apply for a wrecker permit so long as they remain qualified under the terms of this chapter. The city will issue no other wrecker permits until and unless the number of permitted towing companies on the city tow list is seven (7) or less because of attrition. If at any time there are seven (7) or fewer permitted towing companies on the city's tow list, the city will consider applications from other qualified companies. Those applications will be considered in the order in which they were submitted, and the city shall issue a permit to any qualified towing company based on their application, until such time as there are seven (7) permitted tow truck companies on the city's tow list. The maximum number of permitted companies on the city's tow list will be thenceforth limited to a total of seven (7) companies.
- (b) The maximum number of heavy duty wreckers permitted and effective at any time, and the maximum number of companies on the city's heavy duty tow list shall be five (3).

37.6 Police and dispatcher responsibilities.

(a) — The city will maintain four (4) lists:

- (1) — *Rotation list.* This list shall indicate all rotation tag numbers. Each licensee will be allowed one (1) listing on the rotation list.
- (2) — *Heavy duty rotation list.* This list shall indicate all heavy duty rotation tag numbers. Each licensee will be allowed one (1) listing on the rotation list.
- (3) — *Abandoned rotation list.* This list shall indicate all rotation tag numbers of licensees who chose to be on this list. Each licensee will be allowed one (1) listing on the rotation list. However, this list shall only be used for tows between 8:00 a.m. and 5:00 p.m. Monday through Friday, excepting city holidays.
- (4) — *Abandoned heavy duty rotation list.* This list shall indicate all rotation tag numbers of licensees who chose to be on this list. Each licensee will be allowed one (1) listing on the rotation list. However, this list shall only be used for tows between 8:00 a.m. and 5:00 p.m. Monday through Friday, excepting city holidays.

(b) — Dispatch procedures.

- (1) — For next-out rotation tows the communications dispatcher shall summon the next number on the rotation or abandoned list. The dispatcher shall call the first licensee's telephone number of record. If the dispatcher does not get an answer at the first telephone number, the dispatcher shall call the licensee's second telephone number. If the dispatcher receives a voice mail or calls a pager, the dispatcher shall leave a message that the company has five (5) minutes in which to return the dispatcher's call or the call will be a pass. If the company does not return the call or page to the dispatcher within five (5) minutes, or if there is no answer at the company's telephone number, the call will be a pass, and the company's tag number will be rotated to the bottom of the rotation list.

- (2) — When summoned by the communications dispatcher, the licensee shall accept the summons or pass on this next out rotation tow.
 - (3) — Upon receiving a summons from the communications dispatcher, if the licensee elects not to respond or fails to respond in the time frame permitted, the licensee shall be removed from the top of the rotation list and placed at the bottom of the list.
 - (4) — Upon accepting a summons from the communications dispatcher, a licensee shall be allowed a maximum of thirty (30) minutes to arrive at the scene from the time the police dispatcher called the licensee, or a maximum of forty-five (45) minutes to arrive at the scene if a heavy-duty wrecker is called. If the company does not arrive at the scene within the maximum time allowed, the police dispatcher shall cancel the call and the licensee shall be placed on the bottom of the list, and the next licensee on the list shall be called.
 - (5) — The officer on the scene will complete a driver's towing form. Completed drivers towing forms will be kept and maintained by the city, and available for inspection and copying, as required by state law.
 - (6) — In addition to the police dispatcher requesting a company, the city manager may authorize the director of housing and community services to designate a city employee to call for junk vehicle pick-ups.
- (e) — Log books. The communications supervisor shall prepare and keep current four (4) log books to record all vehicles picked up. The log books are as follows:
- (1) — One (1) book shall contain a record of all vehicles picked up resulting from any accident;
 - (2) — One (1) book shall contain a record of all junk vehicles or other vehicles;
 - (3) — One (1) book shall contain a record of all vehicles picked up by request of any private citizen. This log book shall apply only to those requests made through the city;
 - (4) — One (1) book shall contain a record of all heavy equipment picked up by a heavy-duty tow truck.

Sec. 37 – 7. Qualification for Placement on Incident Management Tow List

Only those towing companies meeting the following annual requirements shall be placed on the incident management tow list for regular wreckers or heavy duty wreckers:

Each regular duty towing company shall have a minimum of two permitted wreckers for the tow list. Each heavy-duty towing company shall have a minimum of one permitted wrecker per company for the tow list. This shall ensure the towing company is able to provide adequate service to the citizens it serves, Galveston Police Department and the City of Galveston Marshal.

1. Have submitted and been issued a wrecker permit under the provisions of this subchapter;

2. Each towing company which makes regular or heavy duty tows must own a vehicle storage facility within the city limits, available for the storage of vehicles which have been towed as a result of an incident management tow. Only one towing company per vehicle storage facility shall be allowed. A vehicle storage facility shall be of a size sufficient to allow for the storage of a wrecker company's incident management tows;
5. Have deposited with the City Secretary a garage keeper's legal liability policy covering fire, theft, and explosion at the vehicle storage facility in the same minimum amount as is required by state law for consent tows, and showing the City as an additional insured; and
6. Maintain a 24-hour wrecker service.

Sec. 37-7. Accident scene and police pick-up scene.

- (a) ~~It shall be a Class C misdemeanor offense for a person to stop, park, halt, or operate a tow truck within three hundred (300) feet of an accident scene until requested by a peace officer to approach the accident scene in said tow truck.~~
- (b) ~~The following actions will take place at the scene of any motor vehicle accident or situation that requires a tow truck to remove vehicles from the public streets or city right of way:~~
 - (1) ~~If the police officer makes a determination that a vehicle needs to be towed, the police officer shall ask, the vehicle owner or operator if conditions permit whether the vehicle operator has a preference for a particular tow truck. If the vehicle operator indicates a preference for a particular tow truck, the police officer shall have the vehicle operator complete the driver's towing form specifying the specific tow truck the vehicle operator is requesting. Upon completion of the driver's towing form, the police officer shall notify the communications dispatcher to request that particular tow truck if it is on the city's next out rotation list in order to expedite the consent tow. If it is not on the city's next out rotation list it shall be the responsibility of the owner or operator to contact the tow truck. If the vehicle is a traffic hazard and the requested tow truck is unable to respond within thirty (30) minutes the operator or owner will be advised that they must choose a tow truck that can respond within the 30-minute requirement, if not the next out rotation tow truck shall be summoned by the police officer for a noneconsent tow. When a licensee is called by request, the city shall not change the licensee's position on the next out rotation list. The licensee shall respond within thirty (30) minutes. If the licensee fails to respond within thirty (30) minutes, the dispatcher shall call the "next out." No police officer shall suggest or recommend a particular towing company. No police officer shall attempt to influence a vehicle operator's selection of a towing company.~~
 - (2) ~~If the vehicle operator has no preference for a specific towing company, the police officer shall notify the communications dispatcher to send the "next out" as shown on the rotation list. Once the police officer has notified the communications officer to send the "next out," the licensee shall have thirty (30)~~

minutes in which to arrive at the scene from the time the licensee is called unless the call is for a heavy duty truck, in which case the licensee shall have forty five (45) minutes in which to arrive at the scene. If the licensee fails to arrive at the scene within the required time, the city shall cancel the call, place the licensees at the bottom of the rotation list and call the "next out." The city reserves the right to cancel the "next out" as warranted by the situation on the scene. If the city cancels the "next out" for any reason other than the company's failure to arrive within the allocated time limit, or the equipment does not meet the requirements of this chapter the company shall be placed on top of the rotation list and shall receive the subsequent "next out" call.

- (3) — Upon the arrival of the licensee, the police officer shall complete the driver's towing form in the presence of the tow truck driver. The vehicle operator and tow truck driver shall properly sign the form before the vehicle is towed from the scene.
- (4) — Upon the proper completion of the driver's towing form, the tow truck driver shall deliver the vehicle directly to the licensee's vehicle storage facility or the location agreed upon with the owner or operator of the vehicle.
- (5) — In multi-vehicle towing situations, the tow truck drivers shall have their choice of vehicles in the order the tow trucks were called out from the rotation list.
- (6) — All tow truck drivers arriving or summoned to the scene shall obey all lawful orders given them by any police officer and shall not in any manner interfere with such police officer in the performance of the officer's duty. The police officer on the scene shall not advise or instruct a tow truck driver on the manner of towing except in case of a violation of this chapter.
- (7) — No tow truck driver shall remove any wrecked or disabled or illegally parked vehicle from any public street or city right of way without authorization from a police officer, or any city authorized employee; however, the owner or operator of a stalled or disabled vehicle not involved in an accident may authorize a tow truck driver to remove the vehicle if no police officer is present.
- (8) — Each tow truck driver who is dispatched shall be responsible for cleaning the street of any broken glass or other debris resulting from a collision. If more than one (1) tow truck is summoned, each driver shall bear equal responsibility for the clean up.
- (9) — Before a vehicle is removed from an accident scene in rotational towing situations, the police officer on the scene shall sign the police department's driver's towing form, which shall include the tow truck driver's name, a brief description of any damage to the vehicle, and an inventory of the contents of the vehicle. Both the police officer and the tow truck driver shall sign the driver's towing form.
- (10) — Licensees and their drivers, agents, or representatives shall not address complaints, conflicts or disagreements in an antagonistic manner at the scene of the accident or tow.

(11) — If a licensee is called for a rotation tow and the licensee determines the tow requires a heavy duty tow truck the licensee may call a heavy duty vehicle tow service rotation licensee and request their assistance, however only the fee for a heavy duty tow in the appropriate zone will apply. Alternately the licensee may pass and retain its current position on the rotation list provided they have not attempted to complete the tow.

(12) — All nonconsent "over the seawall" tows shall require a use of a licensee from the heavy duty tow service rotation licensee.

(13) — A licensee may only call additional tow trucks of that licensee's to give assistance on a tow. If the licensee is unable to complete a tow it will be deemed a pass except for subsection (11) of this subsection.

(14) — If a temporary city storage lot is used during a special event, the licensees that towed vehicles during the special event to the temporary storage facility shall remove such towed vehicles between 2:00 a.m. and 6:00 a.m. of the day following the tow. If a licensee fails to remove a vehicle that it towed to the city's temporary storage lot by 6:00 a.m., the city shall take possession of the vehicle and the licensee shall forfeit any claim against that vehicle.

Sec. 37-8. Incident Management Tow Storage

All regular and heavy duty wrecker owners who perform incident management tows at the direction of GPD or the GMO shall store towed vehicles at their vehicle storage facility, located within the City limits, licensed by the Texas Department of Licensing and Regulation (TDLR), unless otherwise directed by the police officer or owner or operator authorizing the tow.

Sec. 37-8. Fees and zones:

(a) — The following are the maximum fees that any licensee shall charge for a non-consent rotation tow in the city, subject to the exceptions set forth in subsection (b) below:

Abandoned vehicles, regardless of the zone \$125.00

Abandoned vehicles requiring a heavy duty tow, regardless of the zone 300.00

Zone 1 115.00

Zone 2 125.00

Over the seawall 250.00

In the water 250.00

Heavy duty — Zone 1 250.00

Heavy duty—Zone 2 300.00

Motoreycles regardless of the zone 135.00

(b) — The following are exceptions to the above standard fees:

(1) — If a heavy duty vehicle tow service is called and the pick-up requires the unloading of a combination vehicle or multiple heavy-duty wreckers to clear a scene, the licensee or tow truck driver shall immediately notify the officer on the scene that the pick-up is exceptional. The on-scene officer shall ask dispatch to notify the compliance officer, his designee or patrol sergeant to approve the exceptional tow status. Upon approval, the officer shall note "exceptional" on the driver's towing form.

(2) — If a heavy-duty tow truck is needed to tow an abandoned vehicle, the on-scene officer shall call the compliance officer or his designee to the scene. If the compliance officer, or designee, determines that a heavy-duty wrecker is required, the compliance officer or designee shall call for the next-out heavy-duty.

(3) — Exceptional heavy-duty tow rates:

a. — Shall include the above applicable zone rate;

b. — Two hundred dollars (\$200.00) per hour (with a one-hour minimum) to prepare the vehicle, the trailers and load for safe towing; and

c. — A maximum of twelve and one-half cents (12.5¢) per pound of the actual weight of the load and vehicle, including any trailers. The weight will be determined by certified weight scale receipts for such loaded vehicles and trailers.

(c) — Zones:

(1) — Zone 1 is defined as east of 103rd Street, to the Causeway, and Pelican Island.

(2) — Zone 2 is defined as 103rd Street, and every street west of 103rd Street and outside of city limits as state law allows.

(d) — Companies shall not charge a storage fee that exceeds the maximum allowable under state law.

(e) — In the event the vehicle owner or operator desires to have the vehicle towed to a destination outside the city municipal boundaries, the tow truck company, agent, representative or driver may negotiate a price with the vehicle owner or operator to tow to the destination.

Sec. 37-9. Use of Incident Management Tow List

1. The GPD dispatch shall maintain an incident management tow list. The list will include all wrecker companies permitted under the provisions of this subchapter. The companies shall be listed in permit number order, and shall be dispatched on a rotating basis in accordance with the company's order on the list.

2. Upon receiving the first communication that the owner of a vehicle involved in a collision has failed or refused to designate an eligible wrecker company, or has specifically designated no preference, the GPD Dispatcher receiving the communication shall call the first towing company on the Incident Management tow list to tow a disabled vehicle and remove the vehicle from the public streets. An eligible wrecker is a wrecker currently eligible for an incident management tow.
3. If the owner/operator of a disabled vehicle is unable or unwilling to designate a towing company, the investigating officer shall request an incident management tow from the GPD dispatcher. The GPD-dispatcher shall dispatch a wrecker from the incident management tow list.
4. If a dispatched towing company does not respond to the request with its wrecker within 30 minutes (absent exigent circumstances), the failure to respond will constitute a pass of the tow, and the next towing company on the tow list shall be dispatched. West of 12 mile road 45 minutes.
5. The City reserves the right to cancel the next-out wrecker as warranted by the situation on the scene if the tow is no longer necessary. If the City cancels the next-out for any reason other than the company's failure to arrive within the allocated time limit, or if the equipment is not adequate for the situation, the company shall be placed on top of the tow list and shall receive the subsequent next out call. Once the next-out wrecker is called by GPD dispatch, it can not be replaced on request.
6. If the next-out wrecker on the scene cannot complete the job with the towing company's own vehicles it shall be considered a pass, and the next-out wrecker shall be called.

Sec. 37-9. – Storage:

- ~~(a) — The licensee shall store all police-generated tows at the licensee's vehicle storage facility.~~
- ~~(b) — The city or its designee shall conduct at least one (1) auction each month for vehicles stored in the licensee's vehicle storage facility.~~
- ~~(c) — Licensees shall be responsible for any and all damages, losses, or thefts of property or vehicles stored at licensees vehicle storage facility.~~

Sec. 37-10. – Dispatch Procedures

1. For incident management tows, the communications dispatcher shall summon the next number on the tow list. The dispatcher shall call the first permittee's telephone number of record. If the dispatcher does not get an answer at the first telephone number, the dispatcher shall call the permittee's second telephone number. If the dispatcher receives a voice mail or calls a pager, the dispatcher shall leave a message that the company has five (5) minutes in which to return the dispatcher's call or the call will be a pass. If the company does not return the call or page to the dispatcher within five (5) minutes, or if there is no answer at the

- company's telephone number, the call will be a pass, and the company's permit number will be rotated to the bottom of the tow list.
2. When summoned by the communications dispatcher, the permittee shall accept the summons or pass on the incident management tow.
 3. Upon receiving a summons from the communications dispatcher, if the permittee elects not to respond or fails to respond in the time frame permitted, the permittee shall be removed from the top of the tow list and placed at the bottom of the list.
 4. Upon accepting a summons from the communications dispatcher, a permittee shall be allowed a maximum of thirty (30) minutes to arrive at the scene from the time the police dispatcher called the permittee, or a maximum of forty-five (45) minutes to arrive at the scene if a heavy-duty wrecker is called. If the company does not arrive at the scene within the maximum time allowed, the police dispatcher shall cancel the call and the permittee shall be placed on the bottom of the list, and the next permittee on the list shall be called.
 5. The officer on the scene will complete a GPD Wrecker Pick-Up Acceptance Sheet. Completed GPD Wrecker Pick-Up Acceptance Sheet will be kept and maintained by the city, and available for inspection and copying, as required by state law.
 6. In addition to the police dispatcher requesting a company, the city manager may authorize the director of housing and community services to designate a city employee to call for junk vehicle tows .

Sec. 37-10. Open territory.

~~Licensee may dispatch tow trucks into open territories without prior notice from the communications dispatcher. In open territories, the first licensee to reach a disabled vehicle will be granted the noneconsent tow unless the owner or operator of the disabled vehicle is present and has made a consent tow request. No vehicles involved in an accident may be moved without prior approval of a police officer.~~

Sec. 37-11 – Tow Service and operating procedures

No person shall participate in an incident management tow unless the following operation and safety requirements are met:

- A. The wrecker being used shall be equipped as follows:
 1. Brakes that meet braking performance requirements under all loading conditions;
 2. A power winch, winch line and boom, with factory-rated lifted cap of not less than 8,000 pounds single line cap or a hydraulic and mechanical wheel lift with a lifting cap of not less than 3,000 pounds;
 3. A tow sling or hydraulic lift sufficient to prevent swinging of any equipment and/or vehicle being transported and/or towed. This division (A) (3) shall not apply to a vehicle carrier or rollback unless the wheels of a vehicle being towed are in contact with the ground. In the event that a self-contained non-propelled

- towing device, or some other form of auxiliary device is used, the vehicle to which that device is attached and which is providing the motive and braking forces, does not need to provide this equipment;
4. Three-eighths inch highest steel chains or their equivalent for wreckers with a gross vehicle weight over 10,000 pounds. The gross vehicle weight rating (GVWR) of the wrecker shall not be less than ten thousand (10,000) pounds as rated by the manufacturer or certifying laboratory (one-ton truck), and the wrecker shall have been manufactured with dual or tandem rear wheels and tires. All such equipment shall be maintained in good condition;
 5. A ten-pound BC fire extinguisher or its equivalent. All fire extinguishers shall be properly filled, operable, and located so as to be readily accessible for use. Fire extinguishers shall meet the minimum requirements of the most recent edition of NFPA 10 the Standard for Portable Fire Extinguishers established by the National Fire Protection Association (NFPA), and shall be labeled by a recognized national testing laboratory;
 6. One crowbar or wrecking bar that is not less than 36 inches in length with a wedge head;
 7. One broom of a type designed for pushing with an 18-inch head, and a handle of not less than 36 inches;
 8. One flat-edge shovel of at least nine inches, with a handle of not less than 36 inches;
 9. A box or bucket to carry glass and/or debris removed from collision/accident scenes;
 10. Rope or wire suitable for securing doors, hoods, trunks, etc.;
 11. A functioning spotlight or flashlight;
 12. Outside rearview mirrors on both sides of the truck;
 13. Permanently mounted emergency light bar;
 14. Three portable red emergency triangle reflectors;
 15. Auxiliary tow lights;
 16. A high mounted stop lamp shall be mounted on any wrecker if its overall width is less than 80 inches, or its Gross Vehicle Weight Rating (GVWR) is 10,000 pounds or less and is manufactured on or after 9-1-1993;
 17. Work lights shall be wired to a separate switch and shall not be illuminated while the wrecker is in motion. These lights shall be steady burning white lights that project light to the rear of the wrecker; and

- B. Dispatched wreckers shall arrive at the accident scene within 30 minutes after being notified by the GPD or GMO, absent exigent circumstances (hurricane, flood, etc.). Failure to do so shall be considered a “pass”.
- C. Before leaving the scene, operators shall remove from the site of an accident all wreckage and debris. This duty specifically includes the removal of broken glass and metal fragments and the spilled load of any vehicle. Such debris shall be disposed of in a manner which shall keep it out of gutters, storm sewers, streams, public rights-of-way, and property not owned by the wrecker operator.
- D. No wrecker operator shall store any vehicle or wrecker on public roadways or public rights-of-way in the City.
- E. Wrecker operators shall use reasonable care in towing and in the storage of vehicles so as to minimize any possibility of further damage or theft.
- F. Wrecker operators shall comply with all federal and state laws, all rules and regulations promulgated pursuant to federal and state laws, and all City ordinances, including zoning, health and fire prevention ordinances.
- G. No person shall use or operate a wrecker to tow a motor vehicle without using auxiliary tow lights unless the towed vehicle is loaded on a rollback wrecker.
- H. No person shall equip a permitted wrecker with a two-way radio or scanner or with any two-way radio capable of transmitting on any law enforcement frequency or tow using a wrecker equipped with any such devices. Any operator or towing company found transmitting on any law enforcement frequency shall be subject to suspension or revocation of their permit.
- I. No person shall equip a permitted wrecker with any device designed to detect or monitor radar, laser or any other speed-measuring instrument or perform a non-consent tow using a wrecker so equipped.
- J. No person shall perform any tow without using safety chains or safety straps.
- K. No person shall operate a permitted wrecker with a slip-in bed or operate a repo-rig.
- L. No person shall use a permitted wrecker to lift more than its factory-rated lifting capacity allows.
- M. No operator shall possess nor allow any prohibited weapon, firearm or alcoholic beverage in or around a wrecker when operating the wrecker. This provision does not prohibit a peace officer as defined by Texas Code of C.C.P. Ch. 2, Art. 2.12, or a person possessing a valid handgun permit issued by the Texas Department of

Public Safety (DPS) from carrying a firearm while operating or riding in a wrecker.

- N. An operator shall ensure that while lifting a motor vehicle in preparation for a non-tow, all non-essential people are at a safe distance from the wrecker and motor vehicle. A safe distance is at least twice the distance between the end of the boom and the point of hook-up on the motor vehicle being winched or twice the distance the motor vehicle is being lifted, whichever is greater. If a hydraulic lift is being used, a safe distance is twice the distance to which the lift arm is extended. An operator is responsible for maintaining safe conditions around the wrecker during any preparation for towing and winching of the motor vehicle.
- O. If a wrecker or motor vehicle to be towed is in a lane of traffic, the operator shall ensure that the flow of traffic is diverted. An operator shall not place or operate a wrecker cable across a lane or lanes of traffic, unless the traffic is stopped or diverted by a law enforcement officer to permit safe winching or lifting of the motor vehicle to be towed.
- P. A towing company operating permitted wreckers and operators of such wreckers shall maintain and keep in good working order all safety mechanisms of the wrecker, including; but not limited to, all headlights, tail lights, turn signals, brakes, brake lights, hazard lights, flashing warning lights, windshield wipers, wiper blades, door handles, window cranks, and tires.
- Q. All permitted wreckers shall operate within the applicable recommended towed vehicle manufacturer's safety policies and procedures.
- R. No wrecker performing an incident management tow shall use a tow bar with pins of any kind, or any other method of attachment.
- S. Each permitted wrecker shall meet the safety requirements of all other applicable statutes in addition to meeting the safety requirements of this subchapter.
- T. Incident management towed vehicles from any law enforcement scene shall be taken to an approved vehicle storage facility prior to the loading of any other vehicle.
- U. All wreckers must arrive at the scene of the tow under the wrecker's own power and with working equipment available to tow. If at the scene of the tow, the wrecker is found by a police officer, deputy marshal or wrecker inspector to be in a condition that does not comply with this chapter, the police officer, deputy marshal or wrecker inspector shall notify the department. The police officer, deputy marshal or wrecker inspector shall not allow the wrecker to tow the vehicle from the scene. However, if the operator or permittee obtains assistance from another of the permittee's wreckers within the original response period, the permittee may proceed with the tow. If the wrecker does not obtain the needed

assistance within the original response time the tow shall be deemed as a pass, and the officer, deputy marshal or wrecker inspector shall request the next-out. The permittee shall not use the wrecker that passed for any further tows until the city inspects and approves the truck.

V. The following rules apply to law enforcement incident scenes.

1. Except at the direction of a law enforcement officer, an operator shall park the wrecker at least 300 feet from a law enforcement scene and remain with their vehicle. An operator shall only use beacon lights as directed by state law.
2. The operator shall park the wrecker on the same side of the road as the damaged motor vehicle.
3. The owner of a motor vehicle or his or her representative shall be allowed to determine who will safely remove the vehicle and any connected trailer and its associated load from a law enforcement scene unless the owner is under arrest or in police custody, or the vehicle is an immediate traffic hazard, as determined by law enforcement, in which case “next-out” will be summoned.
4. If a motorist in need of aid summons a police officer or deputy marshal and is in need of a tow, the police officer or deputy marshal shall use the same procedure as in a collision situation. If the vehicle owner/operator has no preference of a wrecker company, the next-out shall be called.
5. All wreckers are subject to an inspection by GMO or personnel designated as wrecker inspectors.
6. Once a wrecker has hooked up to a motor vehicle, the wrecker company may charge as authorized by this subchapter. A wrecker company shall have hooked-up when the wrecker is in position to secure and tow the vehicle and any part of the wrecker’s securing attachments are touching the vehicle.
7. No wrecker operator without a current, valid TDLR permit and city issued Chauffeurs Permit, shall be allowed to load a vehicle for an Incident Management tow.

~~Sec. 37-11. – Vehicle tow service license or heavy-duty vehicle tow service license, tow truck driver permit, or tow truck permit denial, suspension, or revocation appeal procedure.~~

~~(a) — Within ten (10) days from the date of the incident, suspension, revocation or denial, the licensee or permittee as applicable shall file a written sworn complaint with the compliance officer stating:~~

~~(1) — The grounds for the complaint;~~

~~(2) — All persons with knowledge regarding the incident the complaint is based upon;~~

~~(3) — The time, date and location of the alleged offending action by the city; and~~

~~(4) — The relief requested.~~

~~(b) — Compliance officer review. The compliance officer shall conduct an investigation into the licensee or driver's complaint. Within ten (10) days of the filing of the complaint, unless circumstances demand a longer response time, the compliance officer shall provide a written response to the licensee or driver. If the licensee or driver is not satisfied with the compliance officer's response, the licensee or driver may request the review of the compliance officers actions to his immediate supervisor. Such request shall be in writing and submitted within ten (10) days of the date of the compliance officer's response.~~

Sec. 37 – 12. Incident Management Tow Storage

All regular and heavy duty wrecker owners who perform incident management tows at the direction of GPD or the GMO shall store towed vehicles at their vehicle storage facility, located within the City limits, licensed by the Texas Department of Licensing and Regulation (TDLR), unless otherwise directed by the police officer or owner or operator authorizing the tow.

~~Sec. 37-12. — Indemnification.~~

~~The company shall fully indemnify, hold harmless and defend the city, its officers, agents and employees from and against any and all claims, suits or causes of action of any nature whatsoever, brought for or on account of any injuries or damages to persons or property, including death or loss of property, arising out of or incident to the operation of this noneconsent towing service and all other manner of operations arising under, or otherwise incident to, the towing or storage of motor vehicles.~~

Sec. 37 – 13 Storage.

1. The permittee shall store all incident management tows at the permittee's vehicle storage facility.
2. The city or its designee shall conduct at least one (1) auction each month for vehicles stored in permittees' vehicle storage facilities.
3. Permittees shall be responsible for any and all damage, losses, or thefts of property or vehicles stored at permittees' vehicle storage facilities.

Sec. 37 – 14 Authority of Peace Officer

1. The peace officer in charge at an accident site or at the location of a disabled vehicle on a public roadway may, if required for public safety, take any steps needed to ensure public safety.

2. A peace officer may, for any purpose, direct that any vehicle shall be taken to an impound lot or location owned or used by the City.
3. This subchapter does not limit the authority of the City to remove vehicles from public roadways in any manner the City deems appropriate.
4. Except as provided in rules under this subchapter, a towing company, its employees or wreckers shall not enter an accident or incident scene, or other site under a peace officer's control without the permission of the investigating officer.

Sec. 37 – 15 Non-Dispatched Wreckers

1. Once a request for an incident management tow has been made to the GPD dispatcher, wreckers who arrive on a scene voluntarily, or at the request of the vehicle owner, may not be used for the tow. Only wreckers dispatched by the GPD dispatcher will be eligible for an incident management tow.
2. The fact that no police officer of the GPD or GMO is present at a law enforcement scene when a wrecker arrives shall not constitute an exception to any requirement of this subchapter, and it shall be the duty of any wrecker owner or wrecker operator desiring to tow or haul any wrecked or disabled vehicle from the scene of an accident to notify the GPD of the occurrence of the accident and to await the arrival of the GPD police officers and the completion of their investigation.

A wrecker operator shall not remove any wrecked or disabled vehicle from the location where the accident or collision has occurred or attach his or her wrecker to the wrecked or disabled vehicle until the operator of the vehicle has given permission and until the GPD have completed their investigation.

Sec. 37 – 16 Conduct of Operators and Formalized Complaint System

1. The GMO shall establish and maintain a formal complaint system to be used by members of the public wishing to file a formal complaint on a wrecker/towing company or operator. The GMO will create, maintain and investigate complaints. In addition, all permitted towing companies shall notify the GMO, within five business days of receipt, of all complaints received.
2. Within five business days of receiving a complaint for damages, loss to a vehicle or its contents while being towed or stored by a wrecker/towing company, the operator or owner shall submit a written report to the GMO. The report shall contain all facts pertinent to the claim or complaint presented.
3. The GMO shall be notified in writing within 48 hours of any arrest or criminal conviction of the owner of a towing company or any wrecker operator employed by the towing company.

4. Towing companies and operators shall maintain proper conduct at all times when performing all tows, and shall not fight, assault, threaten use of force, use profanity or exhibit disorderly conduct. Towing companies shall be responsible for the conduct of their operators or employees. Improper conduct of an operator or employee shall be grounds for suspension or revocation of the wrecker or towing company's permit.
5. A towing company shall notify the GMO of an operator working under its permit who is convicted of a felony, a crime involving moral turpitude, a crime involving disorderly conduct, or assault, while performing a tow or otherwise, and shall prohibit that operator from performing incident management tows for the City.

Sec. 37 – 17. Influence by Police as to Selection of Wrecker

No GPD officer or GMO deputy investigating or present at the scene of an accident or incident on a public roadway shall, directly or indirectly, either by word, gesture, sign or otherwise, recommend to any person the name of any particular person engaged in the wrecker services or repair business, nor shall any police officer influence or attempt to influence in any manner the decision of any person in choosing or selecting a wrecker or repair service.

Sec. 37 – 18 Interference with Police, Fire or Emergency Medical Services

All wrecker operators arriving at any law enforcement scene shall obey all orders given by any police officer, deputy marshal, firefighter, wrecker inspector or EMS personnel.

Statutory reference:

Interference with certain officers, see Interference with Public Duties (Texas Penal Code 38.15)

Sec. 37 – 19. Following Vehicles in Response to Accident Scene

No person shall follow in a wrecker any ambulance or police car that is traveling on a public roadway in response to report of an automobile collision.

Sec. 37-20. Records of Towed Vehicles Required; Contents and Retention Periods; Inspection of Records by Police

A. Every towing company permitted for the incident management tow list shall maintain, at its storage facility location within the City, records of all vehicles towed or moved as part of an incident management tow. Records will include, for each tow, the following:

1. Make, model, and Vehicle Identification Number (VIN) of the disabled automobile towed by the company;

2. Location from which the disabled vehicle was towed and date and time of tow;
3. Total amount charged for towing;
4. Storage rate per day;
5. Description of all personal property within the disabled automobile at the time of the tow;
6. Name and phone number of the driver or owner of the motor vehicle.

B. Records shall be preserved by the towing company for at least 24 months after the date the company came into possession of the automobile.

C. Inspection by police or marshal. The records required to be kept by this subchapter shall be made available by the towing company to the GPD or GMO at upon request Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m.

Sec. 37 – 21. Additional special rules for heavy-duty rotation

The following are special rules applicable to heavy duty tows only:

1. Permittees shall own or lease a heavy-duty wrecker, as defined;
2. Permittees Shall have a vehicle storage facility located within the City;
3. Tow Response time shall be within 45 minutes after notification;
4. Permittees shall have insurance in the minimum amounts as set by the state for heavy-duty consent-tows. The City shall be named as an additional insured; and
5. Permittees shall have a permit and comply with all other provisions of this chapter that are not in conflict with this section. A permit for operation of a regular wrecker is not required for placement on the Heavy Duty Tow List.
6. If no heavy-duty wrecker is available to respond through the heavy-duty tow list, the City may contact any available heavy-duty wrecker service.

Sec. 37 – 22. Repossessions; private property tows

Wrecker operators shall notify the GMO prior to their attempt to repossess or remove private property tows. The notification shall consist of the wrecker operator's name, company name and phone number, location vehicle will be removed from, and the vehicle description (year, make, model, color, license plate number and state of issuance). The wrecker operator, upon leaving the scene, shall immediately notify the GMO Dispatcher whether the pick-up was successful or not successful. Private Property tows can only be removed to a storage lot located in the City.

Sec. 37 – 23. Suspension or renovation of a permit

j.

A. Suspension:

1. The department may suspend a vehicle tow service or heavy-duty vehicle tow service rotation license wrecker permit if the department determines a licensee permittee or his employee has:
 - a. Allowed a person to operate a wrecker engaged in vehicle tow service rotation incident management tows in the city without a valid wrecker operator's permit issued to the person under this article. This may result in a pass for the wrecker licensee permittee and a one-week removal from rotation;
 - b. Operated a wrecker without a permit which has not been registered with the department for rotation tows; this may result in a pass for the wrecker licensee permittee and a one-week removal from the tow list rotation;
 - c. Failed to answer the storage location telephone at any time, twenty-four (24) hours a day or have an employee or contractor answer such telephone at any time, twenty-four (24) hours a day. This may result in a one-week removal from tow list rotation;
 - d. Failed to have a wrecker permit license issued hereunder conspicuously displayed at his place of business. This may result in a one-week removal from the tow list rotation;
 - e. Failed to release a vehicle within sixty (60) minutes of a request by the owner or operator of a towed vehicle which has been obtained due to an incident management tow. This may result in a one-week removal from the tow list rotation;
 - f. Imposed or attempted to impose any condition for release of any towed motor vehicle which had been towed to from their vehicle storage facility, other than proof of ownership, identification of the person claiming the vehicle and the payment for towing and storage. This may result in a one-week removal from the tow list rotation;
 - g. Failed to provide the owner or operator of the vehicle with a written receipt for towing and storage charges, the date and time of removal, the date and time of return. This may result in a one-week removal from the tow list rotation;
 - h. Failed to maintain permanent signage as required by this chapter on all wreckers used for rotation tows. This may result in a pass for the tow and a one-week removal from the tow list rotation;
 - i. Charged more than the maximum fee allowed by this chapter. This may result in a one-week removal from the tow list rotation and a full refund of the over charge to the vehicle owner;

- k. Failed to clean the street of any broken glass or other debris resulting from a collision. If more than one (1) wrecker is summoned, each driver operator shall bear equal responsibility for the clean up. This may result in a one-week removal from the tow list;
 - l. Allowed an employee to tow a vehicle to a vehicle storage facility other than the licensee permittee's vehicle storage facility unless, at the direction of the towed vehicle's owner or operator. This may result in a one-week removal from the tow list rotation;
 - m. Failed to provide written notification to the compliance officer that the licensee permittee's insurance has been canceled, or is no longer in force for any reasons, or the amounts of insurance have been reduced. The compliance officer shall remove the licensee permittee's license number wrecker number from the city's rotation list tow list. The removal from the city's rotation list tow list will be for twice the period of time that no insurance was not in full force as required by this chapter;
 - n. Passed on the tow list more than two (2) times in a permit license period. This may result in a one-week removal from the tow list rotation.
 - o. Failed to allow a vehicle owner access to retrieve personal items from a stored vehicle during normal business hours or within 90 minutes of having been notified after hours. This may result in a one-week removal from the tow list rotation.
 - p. Failed to pay ad valorem taxes for the vehicle storage facility associated with the permit.
2. If the department determines that a permit should be suspended, the department shall notify the permittee in writing that the permit is suspended and include in the notice the reason for suspension, and a statement informing the applicant or permittee of the right of appeal.
 3. These penalties do not preclude prosecution for criminal offenses as defined by state law or city ordinance.

C. Revocation:

The department may revoke a vehicle tow service permittee from a rotation tow list if the department determines that the permittee has:

1. Made a false statement in the application for the license;
2. Failed to comply with applicable provisions of this chapter;
3. Failed to comply with the conditions and limitations of the license;
4. Been convicted or received deferred adjudication for any felony offense while holding a license;
5. Failed to pay a license fee at the time it was due;

6. Failed to maintain a state licensed vehicle storage facility within the city;
7. Three (3) or more violations of section 37-3.6 within a one-year period;
8. Passed two (2) tows on any one (1) tow list during an application period.
9. Failed to maintain, or provide access to business records, or altered business records.

If the department determines that a permit should be revoked, the department shall notify the permittee in writing that the permit is revoked and include in the notice the reason for revocation, and a statement informing the applicant or permittee of the right of appeal.

Sec. 37 – 24. Suspension and revocation procedures; appeals

- A. Within ten (10) days from the date of the suspension, revocation or denial, the permittee shall file a written sworn complaint with the compliance officer stating:
 1. The grounds for the complaint;
 2. All persons with knowledge regarding the incident the complaint is based upon;
 3. The time, date and location of the alleged offending action by the city; and
 4. The relief requested.
- B. Filing of an appeal under this chapter will suspend all penalties issued under this chapter.
- C. Compliance officer review. The compliance officer shall conduct an investigation into the permittee or operator's complaint. Within ten (10) days of the filing of the complaint, unless circumstances demand a longer response time, the compliance officer shall provide a written response to the permittee or operator. If the permittee or operator is not satisfied with the compliance officer's response, the permittee or operator may request the review of the compliance officer's actions to his immediate supervisor. Such request shall be in writing and submitted within ten (10) days of the date of the compliance officer's response.

Sec. 37 – 25. Permissible fees and charges

Permissible Fees and Charges

- A. The following are the maximum fees that any permittee shall charge for a tow in the city, subject to the exceptions set forth in subsection (b) below:

Abandoned vehicles	\$150.00
Abandoned vehicles requiring a heavy-duty tow	\$500.00
Incident Management tows	\$165.00
Trailer w/o vehicle	\$165.00
Trailer & vehicle	\$165.00

Over the Seawall		\$250.00
Lift Vehicle off guard rail or obstacle		\$ 75.00
Ditch or sand winch out		\$ 75.00
Rollover		\$ 85.00
In the water vehicle	\$250.00	
Heavy Duty Tow		\$500.00
Motorcycles		\$175.00

B. The following are exceptions to the above standard fees:

1. If a heavy duty vehicle tow service is called and the pick-up requires the unloading of a combination vehicle or multiple heavy duty wreckers to clear a scene, the permittee or wrecker operator shall immediately notify the officer on the scene that the pick-up is exceptional. The on-scene officer shall ask dispatch to notify the compliance officer, his designee or patrol sergeant to approve the exceptional tow status. Upon approval, the officer shall note "exceptional" on the operator's towing form.
2. If a heavy-duty wrecker is needed to tow an abandoned vehicle, the on scene officer shall call the compliance officer or his designee to the scene. If the compliance officer, or designee, determines that a heavy-duty wrecker is required, the officer on the scene, compliance officer or designee shall call for the next-out heavy duty.
3. Exceptional heavy duty tow rates:
 - (a) Two hundred dollars (\$200.00) per hour (with a one-hour minimum) to prepare the vehicle, the trailers and load for safe towing; and
 - (b) A maximum of twelve and one-half cents (12.5¢) per pound of the actual weight of the load and vehicle, including any trailers. The weight will be determined by certified weight scale receipts for such loaded vehicles and trailers.
4. Towing Companies shall not charge a storage fee that exceeds the maximum allowable under state law.
5. In the event the vehicle owner or operator desires to have the vehicle towed to a destination outside the city boundaries, the wrecker company, agent, representative or operator may negotiate a price with the vehicle owner or operator to tow to the destination.
6. The maximum rates provided under this chapter shall be displayed on any invoice provided to person picking up a vehicle.

SECTION 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 4. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 5. In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 6. This Ordinance shall be and become effective on _____, 2020, from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM:

DONNA M. FAIRWEATHER
ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its regular meeting held on _____, 2020, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this _____ day of _____, 2020.

Secretary for the City Council
Of the City of Galveston

ORDINANCE NO. 20- _____

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING THE CODE OF THE CITY OF GALVESTON, AS AMENDED, CHAPTER 37, "WRECKERS, TOW AND STORAGE FACILITY", BY AMENDING CHAPTER 37 TO AMEND REGULATIONS, STANDARDS, AND DEFINITIONS; AND TO MAKE CLARIFICATIONS; AND RENAME, RENUMBER AND REARRANGE THE CHAPTER AS APPLICABLE; PROVIDING FOR PENALTIES AND FEES AS APPLICABLE; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Galveston City Council seeks to promote the public health, safety, morals and general welfare of the municipality and the safe, orderly, and healthful development of the municipality; and,

WHEREAS, staff has reviewed various Chapters of the City Code. Staff has made recommendations in order to amend rules, regulations, standards and procedures and make clarifications, and modifications, as applicable to the Chapter in furtherance of promoting the public health, safety, morals and general welfare of the municipality and the safe, orderly, and healthful development of the municipality; and,

WHEREAS, the City Council deems it in the public's interest to amend Chapter 37, "Wreckers, Tow and Storage Facility", of "The Code of The City of Galveston 1982, as amended," as provided below.

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

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Chapter 37, "Wreckers, Tow and Storage Facility", of "The Code of The City of Galveston 1982, as amended," is amended to provide as follows:

Sec. 37-1 Purpose and Scope

1. The City, pursuant to the authority granted by state law, in order to protect the public, to protect the rights of persons whose vehicles may be towed, to maintain safe and efficient operating rules, and to preserve the peace of the community, hereby engages in the licensing and regulation of business enterprises engaged in the incident management towing, removing and storing of motor vehicles in the incorporated areas of the City.
2. The purpose and intent of this Chapter is to regulate incident management tows initiated by a City official, Police Officer to the extent not pre-empted by federal

- or state law. This Chapter shall not apply to consent tows from public or private property within the City.
3. The City Manager and/or its designee, the Galveston City Marshal's Office (GMO), is authorized to enforce these rules. The Galveston City Marshal's Office shall be referred to as GMO herein.
 4. No person shall operate a wrecker or heavy duty wrecker in the incorporated areas of the City on incident management towed vehicles unless the wrecker has been registered and permitted with the Galveston City Marshal.
 - a. For the purposes of this subchapter, a PERSON shall mean a sole proprietor, partnership, corporation or LLC. Multiple assumed names or DBAs of a person shall not be permitted. This subchapter does not apply to a consent tow.
 5. No person or business entity shall operate a vehicle storage facility for the storage of vehicles that have been towed as incident management tows under this subchapter unless the facility is registered with the state and meets all state requirements.
 6. This subchapter must be liberally construed to give effect to its purpose and intent, and the City Marshal is the final authority, unless superseded by state regulations.

Sec. 37 – 2 Definitions.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Abandoned vehicle. Any vehicle on a public roadway or on private property in which a vehicle owner or operator is not present, or where a police officer or designee determines that the vehicle owner or operator does not intend to remove or take possession of the vehicle, or as defined by state law.

Accident. A situation where one (1) or more motor vehicles have collided with another motor vehicle, object, or person. "Accident" shall also include incidents in which only one (1) vehicle is involved, such as a rollover.

Application. The written application form approved by the GMO and all required documentation and all applicable fees.

Auxiliary Tow Lights. A set of red lamps, connected to the wrecker, which are attached to the rear of the towed vehicle and, when lit, will signal stops and turn movements of the towed vehicle.

Chapter. Chapter 37, Wrecker, Tow Truck and Storage Facility Code, of the Code of the City of Galveston, 1982, as amended.

City. The City of Galveston incorporated limits.

City Manager and its designee for the purposes of this Chapter shall mean the Galveston City Marshal's Office (GMO).

Commission. The Texas Commission of Licensing and Regulation.

Communications supervisor. The person appointed by the chief of police to supervise the operations of the city's radio dispatch office.

Company. The wrecker service under which an entity, or licensee operates. Entity includes, but is not limited to, person, individual, corporation, partnership, joint venture, association, or other business entity.

Compliance officer. The person designated by the director or city manager to oversee and enforce the chapter.

Consent Tow. Any tow of a motor vehicle in which the wrecker 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.

Consent tow. Shall have the meaning as defined by V.T.C.A., Occupations Code § 2308.002, and the department of licensing and regulation.

Conviction. A finding of guilt by a judge or jury, or any plea of guilty or nolo contendere, unless such conviction has been held invalid by the courts or the proceedings against the defendant have been dismissed and the defendant discharged by the court.

Department. The City of Galveston's Marshal's Office is the department designated by the city manager to oversee and enforce this Chapter.

Director. The director of the department, or the director's designee. As used in this chapter, "director" may also mean the chief of police if the Galveston police department is responsible for enforcing and overseeing the chapter.

Doing Business As (DBA). The operating name of a company, as opposed to the legal name of the company.

Driver. The person driving a licensee's tow truck.

Driver permit. Means the permit issued by the department to a driver of a tow truck.

Emergency Lights. Flashing, rotating or strobe lights that are mounted above the roof of the wrecker. The lights shall be mounted as high and as wide as possible and visible in all directions when activated. Emergency Lights shall only be amber in color. No lamps or lenses other than amber shall be displayed. A rearward facing directional arrow panel, mounted contiguous with the Emergency Lights, is permitted.

Evidentiary Crime Scene. A crime scene in the incorporated City that requires the response of a law enforcement agency's specialized investigative unit(s). Examples include, but are not limited to, a homicide scene or an auto theft chop shop.

Heavy Duty Tow List. The GMO shall maintain a master list of all permitted wrecker companies to be utilized in the event of a heavy duty tow.

Heavy Duty Wrecker. A wrecker having a chassis rated at five tons or greater by the vehicle manufacturer equipped with a winch capable of lifting a minimum of 30,000 pounds as rated by the winch manufacturer, air brakes, and tandem axles. Except where a distinction is made, the term wrecker includes a heavy duty wrecker.

High Mounted Stop Lamp. A lamp conforming to Lamps, Reflective Devices, and Associated Equipment (49 C.F.R. 571.108).

Incident. An unplanned randomly occurring traffic event that adversely affects normal traffic operations.

Incident Management Tow. Any tow of a vehicle in which the wrecker is dispatched to the scene of a traffic accident or incident, including the removal of a vehicle, commercial cargo, and commercial debris from an accident or incident scene.

Incident Management Tow List (tow list”). The GPD shall keep a master list, known as the Incident Management Tow list, in permit number order, of all wrecker companies permitted under the provisions of this subchapter. Wreckers for incident management tows shall be dispatched from this list by order of rotation.

In the water. Any vehicle in which all four (4) wheels are covered by more than four (4) inches of water. "In the water" shall not mean street flooding or water on public streets or city rights-of-way.

Law Enforcement Officer. A City Marshal, City Police Officer, or a Peace Officer for a law enforcement agency located in the county or state. (See Tex. Code C.C.P. Ch. 2, Art. 2.12.)

Law Enforcement Scene. The scene of a crime, collision or custodial arrest, or the location of a vehicle that is a traffic hazard, a recovered stolen vehicle or an abandoned vehicle.

Lawful order. Means the written or verbal directive issued by the department or police officer in the enforcement of this chapter.

License. Means the document issued under this chapter by the department to an applicant.

Licensee. Means a named tow truck service licensed under this chapter to engage in non-consent tow service as determined by the city's rotation list.

Licensee rotation tag number. The number the city assigns to a licensee. Also referred to as a "rotation tag number" and a "tag number."

Next-out. The company whose license number is the next sequential number on the city's rotation list and which the city will call when the next vehicle needs to be towed.

Non-Consent Tow. Any tow of a motor vehicle that is not a consent tow, including an incident management tow; and a private property tow.

Nonconsent tow. Shall have the meaning as defined by V.T.C.A., Occupations Code § 2308.002, and the state department of licensing and regulation.

Open territory. IH 45 west of Teichman/Harborside overpass, including adjacent frontage roads. During Mardi Gras and special events as declared by city council, or

pursuant to emergency circumstances as declared by the city chief of police or city marshal, "open territory" shall encompass the city in its entirety.

Operate. To drive or otherwise use a wrecker.

Operator. Any person operating a wrecker, regardless of whether the person owns the truck.

Over the seawall. Means a vehicle that has two (2) or more wheels on the south side of the seawall. This does not apply to vehicles parked on the beach.

Owner. Any person who holds the legal title of the motor vehicle or who has the legal right of possession thereof.

Pass. A pass will be declared when the GPD attempts to dispatch a towing company from the tow list to perform an incident management tow, but is unable to contact the towing company, the towing company refuses or declines to accept the telephone call, the towing company refuses to accept the towing assignment, or fails to show up at the scene within 30 minutes (or 45 minutes for heavy duty). Each towing company shall be allowed three (3) passes during 12-month permit period. A violation of this section shall result in suspension or revocation of that wrecker company's permit.

Permit. Means the permit issued under this chapter by the department to the driver of a tow truck or alternatively the permit issued to an individual tow truck as applicable.

Person. A sole proprietor, partnership, corporation, Limited Liability Company (LLC), an assumed name, or doing business as (DBA) shall be considered a person for the purposes of this subchapter. For the purposes of this subchapter, multiple assumed names or DBAs of a person shall not be permitted.

Police generated tows. The police dispatcher's request for a tow.

Prisoner tow. A situation where a peace officer employed by the city takes the operator of a motor vehicle into custody and determines that it is necessary to cause the operator's vehicle to be removed from the scene for storage or for use in a criminal investigation.

Public Roadway. A public street, alley, road, right-of-way, or other public way, including paved and unpaved portions of the right-of-way.

Rotation. System used by the city for the removal of vehicles from the public rights-of-way or public streets involving non-consent tows.

Rotation tag number. The number the city assigns to a licensee. Also referred to as a "permit number" and a "tag number."

Special events. Defined as Mardi Gras, Dickins, and Biker Rally. Other events may be designated special events by city council.

Tag number. The number the city assigns to a company. Also referred to as a "permit number" and a "rotation tag number."

Tow. The movement of a motor vehicle by a wrecker.

Towing Company. Individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more wreckers over a public roadway in this state but does not include a political subdivision of the state.

Tow List. The City of Galveston Incident Management Tow List.

Tow truck. Any truck or other motor vehicle equipped with cables, winches, hoists or other devices capable of lifting and towing or otherwise transporting another vehicle from one place to another. "Tow truck" includes a roll back type vehicle.

Tow truck operator. The person who drives a tow truck, whether or not such individual is also the licensee of the tow truck.

Towing business. The towing of vehicles not owned by the towing company, from a public street or right-of-way within the incorporated limits of the city, for compensation.

Vehicle. 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. A vehicle as defined under the Texas Motor Vehicle laws, Article 670Id, Texas Civil Statutes.

Vehicle Owner. The motor vehicle's legal or registered owner or such owner's authorized representative who is physically present at the law enforcement scene.

Vehicle Storage Facility. A vehicle storage facility, as defined by Section 21, that is operated by a person who holds a license issued under Chapter 85 of the Texas Administrative Code to operate the facility.

Vehicle storage facility. A vehicle storage facility operated pursuant to state and city laws, rules and regulations.

Vehicle Storage Facility Owner. An individual, partnership, corporation or any other association (other than a governmental entity) that is engaged in the business of operating a garage, parking lot, storage lot or any type of facility to store motor vehicles subject to incident management tows under this subchapter.

Vehicle tow service rotation license. Means the license required under this chapter in order to be placed on the city's rotation system for nonconsent tows.

Violation. Means to violate this chapter or state law.

Working Day. Monday through Sunday, 8:00 am to 5:00 pm, excluding City holidays.

Wrecker. A commercial motor vehicle equipped with, or used in combination with a mechanical device, which is adapted or used to tow, winch or otherwise move a motor vehicle, which together with the towed vehicle has a gross vehicular weight, or actual weight of 26,000 pounds or less. For purposes of convenience, the term wrecker, as used throughout this subchapter, shall be deemed to include both the defined terms heavy duty wrecker and wrecker unless a specific reference to the term heavy duty wrecker is made.

Wrecker. A tow truck.

Wrecker Permit. A permit issued by the City Marshal authorizing a specific wrecker to perform incident management tows.

~~Sec. 37-2. Vehicle tow service rotation license and heavy-duty vehicle tow service rotation license.~~

~~(a) — A current vehicle tow service rotation license or heavy-duty vehicle tow service rotation license issued by the city is required in order to be placed on the applicable rotation list.~~

~~(b) — A license fee of five hundred dollars (\$500.00) shall accompany all application forms.~~

~~(c) — If the company complies with all requirements, the rotation tag number shall be placed on the city's applicable rotation list.~~

~~(d) — Each licensee shall possess a separate rotation tag number.~~

~~(e) — Rotation tag numbers or city licenses may not be sold, leased, or otherwise transferred to any other person or business entity.~~

~~(f) — All rotation tag numbers and permits shall be valid for twelve (12) months from date of issuance.~~

~~Sec. 37-2.1. Maximum number of licenses issued and placed on city rotation lists.~~

~~(a) The fourteen (14) permitted towing companies holding a vehicle tow service rotation license on September 1, 2004, may apply for renewal so long as they remain qualified under the terms of this chapter. The city will issue no other vehicle tow service licenses until and unless the number of licensed towing companies on the city non-consent towing rotation list is nine (9) or less because of attrition. If at any time there are nine (9) or fewer licensed towing companies on the city's non-consent towing list, the city will consider applications from other qualified companies. Those applications will be considered in the order in which they were filed, and the city shall issue a license to any qualified towing company based on their application, until such time as there are ten (10) qualified licensed tow truck companies on the city's vehicle tow service rotation list. The maximum number of companies, licensed, and on the city's rotation list will be thenceforth limited to a total of ten (10) companies.~~

(b) —The maximum number of heavy duty tow service rotation licenses issued and effective at any time, and the maximum number of companies on the city's rotation list for heavy duty tow service shall be five (5).

Sec. 37-3. Application

Sec. 37-3.1 Process

General. To obtain a wrecker permit, a towing company shall submit a written application with the GMO. The Application shall include the following for each wrecker for which an application is submitted:

1. Year, make and model;
2. Vehicle identification number
3. Texas license plate number;
4. State of Texas issued vehicle storage facility permit.
5. Identification of wrecker owner including:
 - a. Full business name, address and telephone number for the true wrecker title owner;
 - b. A D/B/A or assumed name shall be accompanied by the name of the assumed name certificate;
6. Applicable fees as required by the City Wrecker Fee Schedule.

All general applications and applications for renewal shall be submitted to the GMO by hand delivery, U.S. mail, or electronic mail. Fax applications will not be accepted.

Sec. 37-3.2 Issuance and Renewal of Permits

1. If the GMO determines that the applicant has satisfied all requirements of the above chapter, a wrecker permit shall be issued.
2. Wrecker permits are valid for one (1) year from the date the permit is issued.
3. Applications to renew a permit, along with supporting documentation must be received by the GMO thirty (30) days before expiration.
 - a. A towing company that fails to renew the wrecker permit before it expires shall be removed from the incident management tow list.
 - b. Operating a wrecker with an expired permit constitutes a violation of this subchapter.
 - c. Wrecker permits are non-transferable, and renewal permits will only be issued to the original permit holder.
4. If an owner of a towing company or and/or driver operator of a wrecker is charged with a felony during the previous year, then the company or operator shall not be eligible for a wrecker permit the following year, unless the charges have since been dismissed or resulted in a verdict of not guilty.

Sec. 37-3 Vehicle tow service rotation license and heavy duty vehicle tow service rotation license requirements, applications and violations.

The department shall adopt rules and policies consistent with the rules of this chapter and state law, with respect to the form and content of applications for licenses, the

investigation of applicants, and the disposal of vehicles per sections 23-39 and 23-40. The department shall administer and properly enforce this chapter.

~~Sec. 37-3.1. – Requirements for obtaining a vehicle tow service rotation license.~~

- ~~(a) — Applicant shall possess a valid vehicle storage facility license issued by the state department of licensing and regulation. For a location within the city.~~
- ~~(b) — Applicant shall, at the time of application present for inspection two (2) tow trucks, both of a rollback type or one (1) of a roll back type and one (1) of a wheel lift type, each having a winch capable of pulling and or lifting with a minimum rating of no less than eight thousand (8,000) pounds. These tow trucks must meet the requirements of this chapter and those of the state department of licensing and regulation before an application is considered.~~
- ~~(c) — Tow trucks must be in the name of the applicant as indicated on the state department of transportation tow truck registration. Other trucks may be added, provided they meet the requirements of this chapter and those of the state department of licensing and regulation. after an application is approved.~~
- ~~(d) — Applicant must provide a current certificate or receipt marked PAID from the county tax assessor collector that all city taxes on all property, real and personal, used in connection with the applicants business.~~
- ~~(e) — Applicants shall provide a current certificate of insurance for cargo and vehicle liability in the amounts required by the state department of licensing and regulation.~~
- ~~(f) — The required insurance policies shall be in the licensee's name and shall not be a blanket policy covering any other businesses. The insurance policies shall contain a provision that at least ten (10) days prior notice of cancellation of said insurance shall be given to the city.~~
- ~~(g) — The application shall be in a name that clearly differentiates the business from all other companies engaging in rotation towing for the city.~~
- ~~(h) — The applicant and any owner or driver shall be the current holder of an incident management towing operator's license, issued by the state department of licensing and regulation.~~

~~Sec. 37-3.2. – Requirements for obtaining a heavy duty vehicle tow service rotation license.~~

~~Licensure requirements shall be the same as the requirements found in section 37-3.1 with the following exceptions:~~

- ~~(1) — If the holder of a vehicle tow service rotation license applies for a heavy duty tow service rotation license an additional vehicle storage facility is not required.~~
- ~~(2) — A heavy duty vehicle tow service rotation licensee is required to present one (1) truck as defined by this chapter as a heavy duty tow truck as opposed to subsection 37-3.1(b).~~

- (3) — The required amounts of insurance for a heavy-duty vehicle tow service license shall be the same as those required by the state department of licensing and regulation.

Sec. 37-3.3. — Vehicle tow service rotation license application.

Application for a vehicle tow service rotation license shall be made to the director on forms furnished for that purpose and will not be considered until completed with all required documentation and fees. Renewal applications shall require the same documentation and application as the initial license application and shall be submitted not less than thirty (30) days prior to the expiration of the current license.

- (1) — The application must be signed by the person who owns, controls or operates the proposed vehicle tow service. Applicants shall submit proof of company ownership of the tow truck(s) or evidence of a lease under which the tow truck is to be operated. Applicants shall provide the city a copy of:

- a. — Assumed name certificate where applicable;
- b. — Partnership agreement disclosing the names of all general or limited partners if a partnership; or
- c. — A copy of the articles of incorporation and a certificate from the corporate secretary setting forth names of all officers, directors and persons owning ten (10) percent or more of the outstanding stock of the corporation;
- d. — A valid vehicle storage facility license registered in applicant's name.

- (2) — The application must be completed in its entirety and include the following:

- a. — The name, address and telephone number of the applicant, the trade name under which the applicant does business, the street address and telephone number of the vehicle tow service establishment. Applicants must possess their own vehicle storage license (VSF) license in the city;
- b. — The number and types of vehicles to be operated, including the year, make, model, vehicle identification number and state license plate number and the type of winch to be operated on each wrecker rated under twenty-six thousand (26,000) pounds. For a heavy-duty permit, tow truck must meet definition of heavy-duty;
- c. — Proof of an insurance policy or policies which will be in full force and effect for the duration of the permit and will meet the policy requirements outlined by the state in the Vehicle Storage Facility Act, this chapter and applicable state law;
- d. — A statement attesting that each wrecker used by the vehicle tow service has been rendered for ad valorem taxation in the city and that the applicant is current on payment of those taxes;
- e. — Any other information deemed necessary by the department consistent with and for the proper administration and enforcement of the provisions of this article;

~~f. — An indemnification and hold harmless agreement provided by the city;~~

~~(3) — All application forms shall be signed by the director.~~

~~Sec. 37-3.4. — Heavy duty vehicle tow service license application.~~

~~Application for a heavy-duty vehicle tow service license shall be made to the director on forms furnished for that purpose and will not be considered until completed fully with all required documentation submitted and fees paid as per section 37-3.3. Renewal applications shall require the same documentation and application as the initial license application and shall be submitted not less than thirty (30) days prior to the expiration of the current license.~~

~~Sec. 37-3.5. — Refusal to issue or renew vehicle tow service rotation license or heavy-duty vehicle tow service rotation license.~~

~~(a) — The department shall refuse to issue or renew a vehicle tow service license if the applicant or licensee:~~

~~(1) — Makes a false statement as to a material matter in an application for a license or license renewal or in a hearing concerning the licensee; within a 12-month period;~~

~~(2) — Has had a vehicle tow services license revoked within two (2) years prior to the date of application;~~

~~(3) — Uses a trade name for the vehicle tow service other than the one registered with the department;~~

~~(4) — Is not qualified under this article;~~

~~(5) — Has been convicted or received deferred adjudication for violation of state, or federal law that indicates a lack of fitness of the applicant to perform vehicle tow service.~~

~~(b) — If the department determines that a license should be denied the applicant or licensee, the department shall notify the applicant or licensee in writing that the application is denied and include in the notice the reason for denial and a statement informing the applicant or licensee of the right of appeal.~~

~~Sec. 37-3.6. — Suspension of vehicle tow service rotation license or heavy-duty vehicle tow service rotation license.~~

~~(a) — The department may suspend a vehicle tow service or heavy-duty vehicle tow service rotation license if the department determines a licensee or his employee has:~~

~~(1) — Allowed a person to operate a tow truck engaged in vehicle tow service rotation tows in the city without a valid tow truck driver's permit issued to the person under this article. This may result in a pass for the tow truck licensee and a one-week removal from rotation;~~

- (2) — Operated a tow truck which has not been registered with the department for rotation tows; this may result in a pass for the tow truck licensee and a one-week removal from rotation;
- (3) — Failed to answer the storage location telephone at any time, twenty-four (24) hours a day or have an employee or contractor answer such telephone at any time, twenty-four (24) hours a day. This may result in a one-week removal from rotation;
- (4) — Failed to have a license issued hereunder conspicuously displayed at his place of business. This may result in a one-week removal from rotation;
- (5) — Failed to release a vehicle within sixty (60) minutes of a request by the owner or operator of a vehicle which has been obtained due to a nonconsent tow. This may result in a one-week removal from rotation;
- (6) — Imposed or attempts to impose any condition for release of any motor vehicle which had been towed to their vehicle storage facility, other than proof of ownership, identification of the person claiming the vehicle and the payment for towing and storage. This may result in a one-week removal from rotation;
- (7) — Failed to provide the owner or operator of the vehicle with a written receipt for towing and storage charges, the date and time of removal, the date and time of return. This may result in a one-week removal from rotation;
- (8) — Failed to maintain permanent signage as required by this chapter on all tow trucks used for rotation tows. This may result in a pass for the tow and a one-week removal from rotation;
- (9) — Charged more than the maximum fee allowed by this chapter. This may result in a one-week removal from rotation and a refund of the over charge to the vehicle owner;
- (10) — Failed to submit a weekly list of vehicles that have been released after having been submitted as abandoned by the licensee to the police department. This may result in a one-week removal from rotation;
- (11) — Failed to clean the street of any broken glass or other debris resulting from a collision. If more than one (1) tow truck is summoned, each driver shall bear equal responsibility for the clean up. This may result in a one-week removal from rotation;
- (12) — Allowed an employee to tow a vehicle to a vehicle storage facility other than the licensee's vehicle storage facility unless, at the direction of the towed vehicle's owner or operator. This may result in a one-week removal from rotation;
- (13) — Failed to provide written notification to the compliance officer that the licensee's insurance has been canceled, or is no longer in force for any reasons, or the amounts of insurance have been reduced. The compliance officer shall remove the licensee's license number from the city's rotation list. The removal from the city's rotation list will be for twice the period of time that no insurance was not in full force as required by this chapter;

(b) — If the department determines that a license should be suspended, the department shall notify the licensee in writing that the license is suspended and include in the notice the reason for suspension and a statement informing, the applicant or licensee of the right of appeal.

(c) — These contractual penalties do not preclude prosecution for criminal offenses as defined by state law or city ordinance.

Sec. 37-3.7. — Revocation of vehicle tow service rotation license or heavy duty vehicle tow service license.

(a) — The department may revoke a vehicle tow service licensee from a rotation list if the department determines that the licensee has:

(1) — Made a false statement in the application for the license;

(2) — Failed to comply with applicable provisions of this chapter;

(3) — Failed to comply with the conditions and limitations of the license;

(4) — Been convicted or received deferred adjudication for any felony offense while holding a license;

(5) — Failed to pay a license fee at the time it was due;

(6) — Failed to maintain a state licensed vehicle storage facility within the city;

(7) — Three (3) or more violations of section 37-3.6 within a one-year period;

(8) — Passed four (4) tows on any one (1) rotation list during a contract period.

(b) — If the department determines that a license should be revoked, the department shall notify the licensee in writing that the license is revoked and include in the notice the reason for revocation and a statement informing, the applicant or licensee of the right of appeal.

(c) — These contractual penalties do not preclude prosecution for criminal offenses as defined by state law or city ordinance.

Sec. 37 - 4 - Insurance Requirements

1. Applicants shall provide a current certificate of insurance for cargo and vehicle liability in the amounts required by the state department of licensing and regulation.

2. The required insurance policies shall be in the permittee's name and shall not be a blanket policy covering any other businesses. The insurance policies shall contain a provision that at least ten (10) days prior notice of cancellation of said insurance shall be given to the city.

3. A towing company shall maintain insurance for each wrecker it owns or operates which meets the requirements of all other applicable statutes in addition to meeting the insurance requirements set forth in this subchapter. A law enforcement officer may request proof of financial responsibility from the owner/operator.

4. A towing company shall not perform any incident management tows if it fails to provide the required insurance coverage.

Sec. 37.4 Tow truck drivers.

- (a) ~~— No person, or licensee shall operate a tow truck for rotation tows without a valid TDLR license issued by the state.~~
- (b) ~~— All tow truck drivers shall have and maintain all applicable state and local licensing documentation as required in each vehicle at all times the vehicle is operated.~~
- (c) ~~— All tow truck drivers shall wear in a visible place on the front of the drivers' shirt a valid TDLR license, issued by the state, while at the scene of a tow. Upon request the tow truck driver shall present the tow truck drivers license to a police officer at the scene of a noneconsent tow.~~
- (d) ~~— No tow truck driver shall violate any traffic law, unless expressly instructed to do so by a licensed police officer.~~
- (e) ~~— No tow truck driver shall remove any wrecked or disabled or illegally parked vehicle from any public street without authorization from a police officer or city authorized employee or agent; however, the operator of a stalled or disabled vehicle not involved in an accident may authorize a tow truck driver to remove the vehicle if no police officer is present.~~
- (f) ~~— Each tow truck driver who is dispatched shall be responsible for cleaning the street of any broken glass or other debris resulting from a collision. If more than one (1) tow truck is summoned, each driver shall bear equal responsibility for the clean up.~~
- (g) ~~— Before a vehicle is removed from a scene, the police officer on the scene shall sign the police department's acceptance form, which shall include the tow truck driver's name, a brief description of any damage to the vehicle, and an inventory of the contents of the vehicle.~~
- (h) ~~— Upon the proper completion of the driver's towing form, the tow truck driver shall deliver the vehicle directly to the licensee's vehicle storage facility or the location agreed upon with the owner or operator of the vehicle.~~

Secs. 37.4.1—37.4.4. —Reserved.

Sec. 37-5 Required Identification on Wreckers

Each towing company that has been issued a wrecker permit shall maintain the following identification markings on each wrecker it owns, leases or operates:

1. The wrecker shall display the name of the permittee on each side of the wrecker on the doors in three-inch letters, the address of the vehicle storage facility and phone number of the permittee on each side of the wrecker on the doors in two-inch letters. The information shall be clearly and legibly painted or affixed by permanent decal in colors that contrast with the surface on which the information is painted or affixed.

2. The wrecker shall display in front of the windshield and behind the front tires on both front fenders the city tag number, unless the wrecker is a cab-over truck, in which case the rotation tag number shall be displayed on both front doors. The tag number shall be either permanently affixed or painted in numbers not less than three (3) inches. Such numbers shall be clearly and legibly painted or affixed by permanent decal in colors that contrast with the surface on which the information is painted or affixed.
3. All wreckers designated by the company to be used for incident management tows shall be inspected and permitted by the department. The winch shall have the original manufacturers rating plate intact and be rated for no less than eight thousand (8,000) pounds.

Sec. 37-5 Tow Trucks

- (a) Any tow truck towing for a licensee must be equipped as defined by this chapter as it now exists or as it may be amended.
- (b) The gross vehicle weight rating (GVWR) of the tow truck shall not be less than ten thousand (10,000) pounds as rated by the manufacturer or certifying laboratory (one-ton truck), and the tow truck shall have been manufactured with dual or tandem rear wheels and tires. All such equipment shall be maintained in good condition.
- (c) All tow trucks must arrive at the scene of the tow under the tow truck's own power and with working equipment available to tow. If at the scene of the tow, the tow truck is found by a police officer to be in a condition that does not comply with this chapter, the police officer shall notify the department. The police officer shall not allow the tow truck to tow the vehicle from the scene. However, if the driver or licensee obtains assistance from another of the licensee's tow trucks within the original response period, the licensee may proceed with the tow. If the tow truck does not obtain the needed assistance within the original response time the tow shall be deemed as a pass, and the officer may request the next out. The licensee shall not use the tow truck that was passed for any further tows until the city inspects and approves the truck.
- (d) The tow truck shall display the name of the licensee on each side of the tow truck on the doors in three-inch letters, the address of the vehicle storage facility and phone number of the licensee on each side of the tow truck on the doors in two-inch letters. The information shall be clearly and legibly painted or affixed by permanent decal in colors that contrast with the surface on which the information is painted or affixed.
- (e) The tow truck shall display in front of the windshield and behind the front tires on both front fenders the city tag number, unless the tow truck is a cab-over truck, in which case the rotation tag number shall be displayed on both front doors. The tag number shall be either permanently affixed or painted in numbers not less than three (3) inches. Such numbers shall be clearly and legibly painted or affixed by permanent decal in colors that contrast with the surface on which the information is painted or affixed.

(f) — The state department of licensing and regulation registration number shall be located next to the city tag number.

(g) — All tow trucks designated by the company to be used for next-out rotation tows shall be inspected and permitted by the department. The winch shall have the original manufacturers rating plate intact and be rated for no less than eight thousand (8,000) pounds.

(h) — All tow trucks shall carry the following equipment:

(1) — One (1) ten-pound or two (2) five-pound class BC rated fire extinguishers;

(2) — One (1) crowbar not less than thirty-six (36) inches in length;

(3) — One (1) push broom with at least an 18-inch head and a handle of not less than thirty-six (36) inches in length;

(4) — One (1) flat edged shovel of at least nine (9) inches in width with a handle of not less than thirty-six (36) inches in length;

(5) — Three (3) certified emergency triangle reflectors;

(6) — One (1) working flashlight;

(7) — Wheel lift trucks shall be equipped with wheel tie-down straps or chains, which shall be used, for every wheel lift tow;

(8) — Any other equipment required by the state department of licensing and regulation.

Sec. 37-5.1. — Tow truck rotation permit and heavy-duty tow truck rotation permit.

(a) — A current tow truck rotation permit issued by the city is required in order for the tow truck to be used by the licensee for rotation tows.

(b) — A permit fee of twenty-five dollars (\$25.00) per tow truck shall accompany all application forms for additional tow truck rotation permits in excess of the two (2) tow truck rotation permits issued with the original vehicle tow service license.

(c) — A tow truck rotation permit shall be placed on the tow truck allowing it to be used for rotation tows for the licensee.

(d) — A tow truck rotation permit may not be sold, leased, or otherwise transferred to any other person or business entity.

(e) — All tow truck rotation permits shall be valid for twelve (12) months from date of issuance.

(f) — The director may approve additional tow truck rotation permits as needed for special events or emergencies.

Sec. 37-5.2. — Tow truck and heavy-duty tow truck rotation permit application.

Application for a tow truck rotation permit shall be made to the director on forms furnished for that purpose and will not be considered until completed with all required documentation and fees.

Sec. 37-6. - Maximum number of Permits issued and Tow lists.

- (a) The fourteen (14) permitted towing companies holding a vehicle tow service rotation license on September 1, 2004, may apply for a wrecker permit so long as they remain qualified under the terms of this chapter. The city will issue no other wrecker permits until and unless the number of permitted towing companies on the city tow list is seven (7) or less because of attrition. If at any time there are seven (7) or fewer permitted towing companies on the city's tow list, the city will consider applications from other qualified companies. Those applications will be considered in the order in which they were submitted, and the city shall issue a permit to any qualified towing company based on their application, until such time as there are seven (7) permitted tow truck companies on the city's tow list. The maximum number of permitted companies on the city's tow list will be thenceforth limited to a total of seven (7) companies.
- (b) The maximum number of heavy duty wreckers permitted and effective at any time, and the maximum number of companies on the city's heavy duty tow list shall be five (3).

37.6 Police and dispatcher responsibilities.

(a) — The city will maintain four (4) lists:

- (1) — *Rotation list.* This list shall indicate all rotation tag numbers. Each licensee will be allowed one (1) listing on the rotation list.
- (2) — *Heavy duty rotation list.* This list shall indicate all heavy duty rotation tag numbers. Each licensee will be allowed one (1) listing on the rotation list.
- (3) — *Abandoned rotation list.* This list shall indicate all rotation tag numbers of licensees who chose to be on this list. Each licensee will be allowed one (1) listing on the rotation list. However, this list shall only be used for tows between 8:00 a.m. and 5:00 p.m. Monday through Friday, excepting city holidays.
- (4) — *Abandoned heavy duty rotation list.* This list shall indicate all rotation tag numbers of licensees who chose to be on this list. Each licensee will be allowed one (1) listing on the rotation list. However, this list shall only be used for tows between 8:00 a.m. and 5:00 p.m. Monday through Friday, excepting city holidays.

(b) — Dispatch procedures.

- (1) — For next-out rotation tows the communications dispatcher shall summon the next number on the rotation or abandoned list. The dispatcher shall call the first licensee's telephone number of record. If the dispatcher does not get an answer at the first telephone number, the dispatcher shall call the licensee's second telephone number. If the dispatcher receives a voice mail or calls a pager, the dispatcher shall leave a message that the company has five (5) minutes in which to return the dispatcher's call or the call will be a pass. If the company does not return the call or page to the dispatcher within five (5) minutes, or if there is no answer at the company's telephone number, the call will be a pass, and the company's tag number will be rotated to the bottom of the rotation list.

- (2) — When summoned by the communications dispatcher, the licensee shall accept the summons or pass on this next out rotation tow.
 - (3) — Upon receiving a summons from the communications dispatcher, if the licensee elects not to respond or fails to respond in the time frame permitted, the licensee shall be removed from the top of the rotation list and placed at the bottom of the list.
 - (4) — Upon accepting a summons from the communications dispatcher, a licensee shall be allowed a maximum of thirty (30) minutes to arrive at the scene from the time the police dispatcher called the licensee, or a maximum of forty-five (45) minutes to arrive at the scene if a heavy-duty wrecker is called. If the company does not arrive at the scene within the maximum time allowed, the police dispatcher shall cancel the call and the licensee shall be placed on the bottom of the list, and the next licensee on the list shall be called.
 - (5) — The officer on the scene will complete a driver's towing form. Completed drivers towing forms will be kept and maintained by the city, and available for inspection and copying, as required by state law.
 - (6) — In addition to the police dispatcher requesting a company, the city manager may authorize the director of housing and community services to designate a city employee to call for junk vehicle pick-ups.
- (e) — Log books. The communications supervisor shall prepare and keep current four (4) log books to record all vehicles picked up. The log books are as follows:
- (1) — One (1) book shall contain a record of all vehicles picked up resulting from any accident;
 - (2) — One (1) book shall contain a record of all junk vehicles or other vehicles;
 - (3) — One (1) book shall contain a record of all vehicles picked up by request of any private citizen. This log book shall apply only to those requests made through the city;
 - (4) — One (1) book shall contain a record of all heavy equipment picked up by a heavy-duty tow truck.

Sec. 37 – 7. Qualification for Placement on Incident Management Tow List

Only those towing companies meeting the following annual requirements shall be placed on the incident management tow list for regular wreckers or heavy duty wreckers:

Each regular duty towing company shall have a minimum of two permitted wreckers for the tow list. Each heavy-duty towing company shall have a minimum of one permitted wrecker per company for the tow list. This shall ensure the towing company is able to provide adequate service to the citizens it serves, Galveston Police Department and the City of Galveston Marshal.

1. Have submitted and been issued a wrecker permit under the provisions of this subchapter;

2. Each towing company which makes regular or heavy duty tows must own a vehicle storage facility within the city limits, available for the storage of vehicles which have been towed as a result of an incident management tow. Only one towing company per vehicle storage facility shall be allowed. A vehicle storage facility shall be of a size sufficient to allow for the storage of a wrecker company's incident management tows;
3. Have deposited with the City Secretary a garage keeper's legal liability policy covering fire, theft, and explosion at the vehicle storage facility in the same minimum amount as is required by state law for consent tows, and showing the City as an additional insured; and
4. Maintain a 24-hour wrecker service.

Sec. 37-7. Accident scene and police pick-up scene.

- (a) ~~It shall be a Class C misdemeanor offense for a person to stop, park, halt, or operate a tow truck within three hundred (300) feet of an accident scene until requested by a peace officer to approach the accident scene in said tow truck.~~
- (b) ~~The following actions will take place at the scene of any motor vehicle accident or situation that requires a tow truck to remove vehicles from the public streets or city right-of-way:~~
 - (1) ~~If the police officer makes a determination that a vehicle needs to be towed, the police officer shall ask, the vehicle owner or operator if conditions permit whether the vehicle operator has a preference for a particular tow truck. If the vehicle operator indicates a preference for a particular tow truck, the police officer shall have the vehicle operator complete the driver's towing form specifying the specific tow truck the vehicle operator is requesting. Upon completion of the driver's towing form, the police officer shall notify the communications dispatcher to request that particular tow truck if it is on the city's next out rotation list in order to expedite the consent tow. If it is not on the city's next out rotation list it shall be the responsibility of the owner or operator to contact the tow truck. If the vehicle is a traffic hazard and the requested tow truck is unable to respond within thirty (30) minutes the operator or owner will be advised that they must choose a tow truck that can respond within the 30-minute requirement, if not the next out rotation tow truck shall be summoned by the police officer for a noneconsent tow. When a licensee is called by request, the city shall not change the licensee's position on the next out rotation list. The licensee shall respond within thirty (30) minutes. If the licensee fails to respond within thirty (30) minutes, the dispatcher shall call the "next out." No police officer shall suggest or recommend a particular towing company. No police officer shall attempt to influence a vehicle operator's selection of a towing company.~~
 - (2) ~~If the vehicle operator has no preference for a specific towing company, the police officer shall notify the communications dispatcher to send the "next out" as shown on the rotation list. Once the police officer has notified the communications officer to send the "next out," the licensee shall have thirty (30)~~

minutes in which to arrive at the scene from the time the licensee is called unless the call is for a heavy duty truck, in which case the licensee shall have forty five (45) minutes in which to arrive at the scene. If the licensee fails to arrive at the scene within the required time, the city shall cancel the call, place the licensees at the bottom of the rotation list and call the "next out." The city reserves the right to cancel the "next out" as warranted by the situation on the scene. If the city cancels the "next out" for any reason other than the company's failure to arrive within the allocated time limit, or the equipment does not meet the requirements of this chapter the company shall be placed on top of the rotation list and shall receive the subsequent "next out" call.

- (3) — Upon the arrival of the licensee, the police officer shall complete the driver's towing form in the presence of the tow truck driver. The vehicle operator and tow truck driver shall properly sign the form before the vehicle is towed from the scene.
- (4) — Upon the proper completion of the driver's towing form, the tow truck driver shall deliver the vehicle directly to the licensee's vehicle storage facility or the location agreed upon with the owner or operator of the vehicle.
- (5) — In multi-vehicle towing situations, the tow truck drivers shall have their choice of vehicles in the order the tow trucks were called out from the rotation list.
- (6) — All tow truck drivers arriving or summoned to the scene shall obey all lawful orders given them by any police officer and shall not in any manner interfere with such police officer in the performance of the officer's duty. The police officer on the scene shall not advise or instruct a tow truck driver on the manner of towing except in case of a violation of this chapter.
- (7) — No tow truck driver shall remove any wrecked or disabled or illegally parked vehicle from any public street or city right of way without authorization from a police officer, or any city authorized employee; however, the owner or operator of a stalled or disabled vehicle not involved in an accident may authorize a tow truck driver to remove the vehicle if no police officer is present.
- (8) — Each tow truck driver who is dispatched shall be responsible for cleaning the street of any broken glass or other debris resulting from a collision. If more than one (1) tow truck is summoned, each driver shall bear equal responsibility for the clean up.
- (9) — Before a vehicle is removed from an accident scene in rotational towing situations, the police officer on the scene shall sign the police department's driver's towing form, which shall include the tow truck driver's name, a brief description of any damage to the vehicle, and an inventory of the contents of the vehicle. Both the police officer and the tow truck driver shall sign the driver's towing form.
- (10) — Licensees and their drivers, agents, or representatives shall not address complaints, conflicts or disagreements in an antagonistic manner at the scene of the accident or tow.

(11) — If a licensee is called for a rotation tow and the licensee determines the tow requires a heavy duty tow truck the licensee may call a heavy duty vehicle tow service rotation licensee and request their assistance, however only the fee for a heavy duty tow in the appropriate zone will apply. Alternately the licensee may pass and retain its current position on the rotation list provided they have not attempted to complete the tow.

(12) — All nonconsent "over the seawall" tows shall require a use of a licensee from the heavy duty tow service rotation licensee.

(13) — A licensee may only call additional tow trucks of that licensee's to give assistance on a tow. If the licensee is unable to complete a tow it will be deemed a pass except for subsection (11) of this subsection.

(14) — If a temporary city storage lot is used during a special event, the licensees that towed vehicles during the special event to the temporary storage facility shall remove such towed vehicles between 2:00 a.m. and 6:00 a.m. of the day following the tow. If a licensee fails to remove a vehicle that it towed to the city's temporary storage lot by 6:00 a.m., the city shall take possession of the vehicle and the licensee shall forfeit any claim against that vehicle.

Sec. 37-8. Incident Management Tow Storage

All regular and heavy duty wrecker owners who perform incident management tows at the direction of GPD or the GMO shall store towed vehicles at their vehicle storage facility, located within the City limits, licensed by the Texas Department of Licensing and Regulation (TDLR), unless otherwise directed by the police officer or owner or operator authorizing the tow.

Sec. 37-8. Fees and zones.

(a) — The following are the maximum fees that any licensee shall charge for a non-consent rotation tow in the city, subject to the exceptions set forth in subsection (b) below:

Abandoned vehicles, regardless of the zone \$125.00

Abandoned vehicles requiring a heavy duty tow, regardless of the zone 300.00

Zone 1 115.00

Zone 2 125.00

Over the seawall 250.00

In the water 250.00

Heavy duty — Zone 1 250.00

Heavy duty—Zone 2 300.00

Motoreycles regardless of the zone 135.00

(b) — The following are exceptions to the above standard fees:

(1) — If a heavy duty vehicle tow service is called and the pick-up requires the unloading of a combination vehicle or multiple heavy-duty wreckers to clear a scene, the licensee or tow truck driver shall immediately notify the officer on the scene that the pick-up is exceptional. The on-scene officer shall ask dispatch to notify the compliance officer, his designee or patrol sergeant to approve the exceptional tow status. Upon approval, the officer shall note "exceptional" on the driver's towing form.

(2) — If a heavy-duty tow truck is needed to tow an abandoned vehicle, the on-scene officer shall call the compliance officer or his designee to the scene. If the compliance officer, or designee, determines that a heavy-duty wrecker is required, the compliance officer or designee shall call for the next-out heavy-duty.

(3) — Exceptional heavy-duty tow rates:

a. — Shall include the above applicable zone rate;

b. — Two hundred dollars (\$200.00) per hour (with a one-hour minimum) to prepare the vehicle, the trailers and load for safe towing; and

c. — A maximum of twelve and one-half cents (12.5¢) per pound of the actual weight of the load and vehicle, including any trailers. The weight will be determined by certified weight scale receipts for such loaded vehicles and trailers.

(c) — Zones:

(1) — Zone 1 is defined as east of 103rd Street, to the Causeway, and Pelican Island.

(2) — Zone 2 is defined as 103rd Street, and every street west of 103rd Street and outside of city limits as state law allows.

(d) — Companies shall not charge a storage fee that exceeds the maximum allowable under state law.

(e) — In the event the vehicle owner or operator desires to have the vehicle towed to a destination outside the city municipal boundaries, the tow truck company, agent, representative or driver may negotiate a price with the vehicle owner or operator to tow to the destination.

Sec. 37-9. Use of Incident Management Tow List

1. The GPD dispatch shall maintain an incident management tow list. The list will include all wrecker companies permitted under the provisions of this subchapter. The companies shall be listed in permit number order, and shall be dispatched on a rotating basis in accordance with the company's order on the list.

2. Upon receiving the first communication that the owner of a vehicle involved in a collision has failed or refused to designate an eligible wrecker company, or has specifically designated no preference, the GPD Dispatcher receiving the communication shall call the first towing company on the Incident Management tow list to tow a disabled vehicle and remove the vehicle from the public streets. An eligible wrecker is a wrecker currently eligible for an incident management tow.
3. If the owner/operator of a disabled vehicle is unable or unwilling to designate a towing company, the investigating officer shall request an incident management tow from the GPD dispatcher. The GPD-dispatcher shall dispatch a wrecker from the incident management tow list.
4. If a dispatched towing company does not respond to the request with its wrecker within 30 minutes (absent exigent circumstances), the failure to respond will constitute a pass of the tow, and the next towing company on the tow list shall be dispatched. West of 12 mile road 45 minutes.
5. The City reserves the right to cancel the next-out wrecker as warranted by the situation on the scene if the tow is no longer necessary. If the City cancels the next-out for any reason other than the company's failure to arrive within the allocated time limit, or if the equipment is not adequate for the situation, the company shall be placed on top of the tow list and shall receive the subsequent next out call. Once the next-out wrecker is called by GPD dispatch, it can not be replaced on request.
6. If the next-out wrecker on the scene cannot complete the job with the towing company's own vehicles it shall be considered a pass, and the next-out wrecker shall be called.

Sec. 37-9. – Storage:

- ~~(a) — The licensee shall store all police-generated tows at the licensee's vehicle storage facility.~~
- ~~(b) — The city or its designee shall conduct at least one (1) auction each month for vehicles stored in the licensee's vehicle storage facility.~~
- ~~(c) — Licensees shall be responsible for any and all damages, losses, or thefts of property or vehicles stored at licensees vehicle storage facility.~~

Sec. 37-10. – Dispatch Procedures

1. For incident management tows, the communications dispatcher shall summon the next number on the tow list. The dispatcher shall call the first permittee's telephone number of record. If the dispatcher does not get an answer at the first telephone number, the dispatcher shall call the permittee's second telephone number. If the dispatcher receives a voice mail or calls a pager, the dispatcher shall leave a message that the company has five (5) minutes in which to return the dispatcher's call or the call will be a pass. If the company does not return the call or page to the dispatcher within five (5) minutes, or if there is no answer at the

company's telephone number, the call will be a pass, and the company's permit number will be rotated to the bottom of the tow list.

2. When summoned by the communications dispatcher, the permittee shall accept the summons or pass on the incident management tow.
3. Upon receiving a summons from the communications dispatcher, if the permittee elects not to respond or fails to respond in the time frame permitted, the permittee shall be removed from the top of the tow list and placed at the bottom of the list.
4. Upon accepting a summons from the communications dispatcher, a permittee shall be allowed a maximum of thirty (30) minutes to arrive at the scene from the time the police dispatcher called the permittee, or a maximum of forty-five (45) minutes to arrive at the scene if a heavy-duty wrecker is called. If the company does not arrive at the scene within the maximum time allowed, the police dispatcher shall cancel the call and the permittee shall be placed on the bottom of the list, and the next permittee on the list shall be called.
5. The officer on the scene will complete a GPD Wrecker Pick-Up Acceptance Sheet. Completed GPD Wrecker Pick-Up Acceptance Sheet will be kept and maintained by the city, and available for inspection and copying, as required by state law.
6. In addition to the police dispatcher requesting a company, the city manager may authorize the director of housing and community services to designate a city employee to call for junk vehicle tows .

Sec. 37-10. Open territory.

~~Licensee may dispatch tow trucks into open territories without prior notice from the communications dispatcher. In open territories, the first licensee to reach a disabled vehicle will be granted the noneconsent tow unless the owner or operator of the disabled vehicle is present and has made a consent tow request. No vehicles involved in an accident may be moved without prior approval of a police officer.~~

Sec. 37-11 – Tow Service and operating procedures

No person shall participate in an incident management tow unless the following operation and safety requirements are met:

- A. The wrecker being used shall be equipped as follows:
 1. Brakes that meet braking performance requirements under all loading conditions;
 2. A power winch, winch line and boom, with factory-rated lifted cap of not less than 8,000 pounds single line cap or a hydraulic and mechanical wheel lift with a lifting cap of not less than 3,000 pounds;
 3. A tow sling or hydraulic lift sufficient to prevent swinging of any equipment and/or vehicle being transported and/or towed. This division (A) (3) shall not apply to a vehicle carrier or rollback unless the wheels of a vehicle being towed are in contact with the ground. In the event that a self-contained non-propelled

- towing device, or some other form of auxiliary device is used, the vehicle to which that device is attached and which is providing the motive and braking forces, does not need to provide this equipment;
4. Three-eighths inch highest steel chains or their equivalent for wreckers with a gross vehicle weight over 10,000 pounds. The gross vehicle weight rating (GVWR) of the wrecker shall not be less than ten thousand (10,000) pounds as rated by the manufacturer or certifying laboratory (one-ton truck), and the wrecker shall have been manufactured with dual or tandem rear wheels and tires. All such equipment shall be maintained in good condition;
 5. A ten-pound BC fire extinguisher or its equivalent. All fire extinguishers shall be properly filled, operable, and located so as to be readily accessible for use. Fire extinguishers shall meet the minimum requirements of the most recent edition of NFPA 10 the Standard for Portable Fire Extinguishers established by the National Fire Protection Association (NFPA), and shall be labeled by a recognized national testing laboratory;
 6. One crowbar or wrecking bar that is not less than 36 inches in length with a wedge head;
 7. One broom of a type designed for pushing with an 18-inch head, and a handle of not less than 36 inches;
 8. One flat-edge shovel of at least nine inches, with a handle of not less than 36 inches;
 9. A box or bucket to carry glass and/or debris removed from collision/accident scenes;
 10. Rope or wire suitable for securing doors, hoods, trunks, etc.;
 11. A functioning spotlight or flashlight;
 12. Outside rearview mirrors on both sides of the truck;
 13. Permanently mounted emergency light bar;
 14. Three portable red emergency triangle reflectors;
 15. Auxiliary tow lights;
 16. A high mounted stop lamp shall be mounted on any wrecker if its overall width is less than 80 inches, or its Gross Vehicle Weight Rating (GVWR) is 10,000 pounds or less and is manufactured on or after 9-1-1993;
 17. Work lights shall be wired to a separate switch and shall not be illuminated while the wrecker is in motion. These lights shall be steady burning white lights that project light to the rear of the wrecker; and

- B. Dispatched wreckers shall arrive at the accident scene within 30 minutes after being notified by the GPD or GMO, absent exigent circumstances (hurricane, flood, etc.). Failure to do so shall be considered a “pass”.
- C. Before leaving the scene, operators shall remove from the site of an accident all wreckage and debris. This duty specifically includes the removal of broken glass and metal fragments and the spilled load of any vehicle. Such debris shall be disposed of in a manner which shall keep it out of gutters, storm sewers, streams, public rights-of-way, and property not owned by the wrecker operator.
- D. No wrecker operator shall store any vehicle or wrecker on public roadways or public rights-of-way in the City.
- E. Wrecker operators shall use reasonable care in towing and in the storage of vehicles so as to minimize any possibility of further damage or theft.
- F. Wrecker operators shall comply with all federal and state laws, all rules and regulations promulgated pursuant to federal and state laws, and all City ordinances, including zoning, health and fire prevention ordinances.
- G. No person shall use or operate a wrecker to tow a motor vehicle without using auxiliary tow lights unless the towed vehicle is loaded on a rollback wrecker.
- H. No person shall equip a permitted wrecker with a two-way radio or scanner or with any two-way radio capable of transmitting on any law enforcement frequency or tow using a wrecker equipped with any such devices. Any operator or towing company found transmitting on any law enforcement frequency shall be subject to suspension or revocation of their permit.
- I. No person shall equip a permitted wrecker with any device designed to detect or monitor radar, laser or any other speed-measuring instrument or perform a non-consent tow using a wrecker so equipped.
- J. No person shall perform any tow without using safety chains or safety straps.
- K. No person shall operate a permitted wrecker with a slip-in bed or operate a repo-rig.
- L. No person shall use a permitted wrecker to lift more than its factory-rated lifting capacity allows.
- M. No operator shall possess nor allow any prohibited weapon, firearm or alcoholic beverage in or around a wrecker when operating the wrecker. This provision does not prohibit a peace officer as defined by Texas Code of C.C.P. Ch. 2, Art. 2.12, or a person possessing a valid handgun permit issued by the Texas Department of

Public Safety (DPS) from carrying a firearm while operating or riding in a wrecker.

- N. An operator shall ensure that while lifting a motor vehicle in preparation for a non-tow, all non-essential people are at a safe distance from the wrecker and motor vehicle. A safe distance is at least twice the distance between the end of the boom and the point of hook-up on the motor vehicle being winched or twice the distance the motor vehicle is being lifted, whichever is greater. If a hydraulic lift is being used, a safe distance is twice the distance to which the lift arm is extended. An operator is responsible for maintaining safe conditions around the wrecker during any preparation for towing and winching of the motor vehicle.
- O. If a wrecker or motor vehicle to be towed is in a lane of traffic, the operator shall ensure that the flow of traffic is diverted. An operator shall not place or operate a wrecker cable across a lane or lanes of traffic, unless the traffic is stopped or diverted by a law enforcement officer to permit safe winching or lifting of the motor vehicle to be towed.
- P. A towing company operating permitted wreckers and operators of such wreckers shall maintain and keep in good working order all safety mechanisms of the wrecker, including; but not limited to, all headlights, tail lights, turn signals, brakes, brake lights, hazard lights, flashing warning lights, windshield wipers, wiper blades, door handles, window cranks, and tires.
- Q. All permitted wreckers shall operate within the applicable recommended towed vehicle manufacturer's safety policies and procedures.
- R. No wrecker performing an incident management tow shall use a tow bar with pins of any kind, or any other method of attachment.
- S. Each permitted wrecker shall meet the safety requirements of all other applicable statutes in addition to meeting the safety requirements of this subchapter.
- T. Incident management towed vehicles from any law enforcement scene shall be taken to an approved vehicle storage facility prior to the loading of any other vehicle.
- U. All wreckers must arrive at the scene of the tow under the wrecker's own power and with working equipment available to tow. If at the scene of the tow, the wrecker is found by a police officer, deputy marshal or wrecker inspector to be in a condition that does not comply with this chapter, the police officer, deputy marshal or wrecker inspector shall notify the department. The police officer, deputy marshal or wrecker inspector shall not allow the wrecker to tow the vehicle from the scene. However, if the operator or permittee obtains assistance from another of the permittee's wreckers within the original response period, the permittee may proceed with the tow. If the wrecker does not obtain the needed

assistance within the original response time the tow shall be deemed as a pass, and the officer, deputy marshal or wrecker inspector shall request the next-out. The permittee shall not use the wrecker that passed for any further tows until the city inspects and approves the truck.

V. The following rules apply to law enforcement incident scenes.

1. Except at the direction of a law enforcement officer, an operator shall park the wrecker at least 300 feet from a law enforcement scene and remain with their vehicle. An operator shall only use beacon lights as directed by state law.
2. The operator shall park the wrecker on the same side of the road as the damaged motor vehicle.
3. The owner of a motor vehicle or his or her representative shall be allowed to determine who will safely remove the vehicle and any connected trailer and its associated load from a law enforcement scene unless the owner is under arrest or in police custody, or the vehicle is an immediate traffic hazard, as determined by law enforcement, in which case “next-out” will be summoned.
4. If a motorist in need of aid summons a police officer or deputy marshal and is in need of a tow, the police officer or deputy marshal shall use the same procedure as in a collision situation. If the vehicle owner/operator has no preference of a wrecker company, the next-out shall be called.
5. All wreckers are subject to an inspection by GMO or personnel designated as wrecker inspectors.
6. Once a wrecker has hooked up to a motor vehicle, the wrecker company may charge as authorized by this subchapter. A wrecker company shall have hooked-up when the wrecker is in position to secure and tow the vehicle and any part of the wrecker’s securing attachments are touching the vehicle.
7. No wrecker operator without a current, valid TDLR permit and city issued Chauffeurs Permit, shall be allowed to load a vehicle for an Incident Management tow.

~~Sec. 37-11. – Vehicle tow service license or heavy-duty vehicle tow service license, tow truck driver permit, or tow truck permit denial, suspension, or revocation appeal procedure.~~

~~(a) — Within ten (10) days from the date of the incident, suspension, revocation or denial, the licensee or permittee as applicable shall file a written sworn complaint with the compliance officer stating:~~

~~(1) — The grounds for the complaint;~~

~~(2) — All persons with knowledge regarding the incident the complaint is based upon;~~

~~(3) — The time, date and location of the alleged offending action by the city; and~~

~~(4) — The relief requested.~~

~~(b) — Compliance officer review. The compliance officer shall conduct an investigation into the licensee or driver's complaint. Within ten (10) days of the filing of the complaint, unless circumstances demand a longer response time, the compliance officer shall provide a written response to the licensee or driver. If the licensee or driver is not satisfied with the compliance officer's response, the licensee or driver may request the review of the compliance officers actions to his immediate supervisor. Such request shall be in writing and submitted within ten (10) days of the date of the compliance officer's response.~~

Sec. 37 – 12. Incident Management Tow Storage

All regular and heavy-duty wrecker owners who perform incident management tows at the direction of GPD or the GMO shall store towed vehicles at their vehicle storage facility, located within the City limits, licensed by the Texas Department of Licensing and Regulation (TDLR), unless otherwise directed by the police officer or owner or operator authorizing the tow.

~~Sec. 37-12. — Indemnification.~~

~~The company shall fully indemnify, hold harmless and defend the city, its officers, agents and employees from and against any and all claims, suits or causes of action of any nature whatsoever, brought for or on account of any injuries or damages to persons or property, including death or loss of property, arising out of or incident to the operation of this noneconsent towing service and all other manner of operations arising under, or otherwise incident to, the towing or storage of motor vehicles.~~

Sec. 37 – 13 Storage.

1. The permittee shall store all incident management tows at the permittee's vehicle storage facility.
2. The city or its designee shall conduct at least one (1) auction each month for vehicles stored in permittees' vehicle storage facility.
3. Permittees shall be responsible for any and all damage, losses, or thefts of property or vehicles stored at permittees' vehicle storage facility.

Sec. 37 – 14 Authority of Peace Officer

1. The peace officer in charge at an accident site or at the location of a disabled vehicle on a public roadway may, if required for public safety, take any steps needed to ensure public safety.

2. A peace officer may, for any purpose, direct that any vehicle shall be taken to an impound lot or location owned or used by the City.
3. This subchapter does not limit the authority of the City to remove vehicles from public roadways in any manner the City deems appropriate.
4. Except as provided in rules under this subchapter, a towing company, its employees or wreckers shall not enter an accident or incident scene, or other site under a peace officer's control without the permission of the investigating officer.

Sec. 37 – 15 Non-Dispatched Wreckers

1. Once a request for an incident management tow has been made to the GPD dispatcher, wreckers who arrive on a scene voluntarily, or at the request of the vehicle owner, may not be used for the tow. Only wreckers dispatched by the GPD dispatcher will be eligible for an incident management tow.
2. The fact that no police officer of the GPD or GMO is present at a law enforcement scene when a wrecker arrives shall not constitute an exception to any requirement of this subchapter, and it shall be the duty of any wrecker owner or wrecker operator desiring to tow or haul any wrecked or disabled vehicle from the scene of an accident to notify the GPD of the occurrence of the accident and to await the arrival of the GPD police officers and the completion of their investigation.

A wrecker operator shall not remove any wrecked or disabled vehicle from the location where the accident or collision has occurred or attach his or her wrecker to the wrecked or disabled vehicle until the operator of the vehicle has given permission and until the GPD have completed their investigation.

Sec. 37 – 16 Conduct of Operators and Formalized Complaint System

1. The GMO shall establish and maintain a formal complaint system to be used by members of the public wishing to file a formal complaint on a wrecker/towing company or operator. The GMO will create, maintain and investigate complaints. In addition, all permitted towing companies shall notify the GMO, within five business days of receipt, of all complaints received.
2. Within five business days of receiving a complaint for damages, loss to a vehicle or its contents while being towed or stored by a wrecker/towing company, the operator or owner shall submit a written report to the GMO. The report shall contain all facts pertinent to the claim or complaint presented.
3. The GMO shall be notified in writing within 48 hours of any arrest or criminal conviction of the owner of a towing company or any wrecker operator employed by the towing company.

4. Towing companies and operators shall maintain proper conduct at all times when performing all tows, and shall not fight, assault, threaten use of force, use profanity or exhibit disorderly conduct. Towing companies shall be responsible for the conduct of their operators or employees. Improper conduct of an operator or employee shall be grounds for suspension or revocation of the wrecker or towing company's permit.
5. A towing company shall notify the GMO of an operator working under its permit who is convicted of a felony, a crime involving moral turpitude, a crime involving disorderly conduct, or assault, while performing a tow or otherwise, and shall prohibit that operator from performing incident management tows for the City.

Sec. 37 – 17. Influence by Police as to Selection of Wrecker

No GPD officer or GMO deputy investigating or present at the scene of an accident or incident on a public roadway shall, directly or indirectly, either by word, gesture, sign or otherwise, recommend to any person the name of any particular person engaged in the wrecker services or repair business, nor shall any police officer influence or attempt to influence in any manner the decision of any person in choosing or selecting a wrecker or repair service.

Sec. 37 – 18 Interference with Police, Fire or Emergency Medical Services

All wrecker operators arriving at any law enforcement scene shall obey all orders given by any police officer, deputy marshal, firefighter, wrecker inspector or EMS personnel.

Statutory reference:

Interference with certain officers, see Interference with Public Duties (Texas Penal Code 38.15)

Sec. 37 – 19. Following Vehicles in Response to Accident Scene

No person shall follow in a wrecker any ambulance or police car that is traveling on a public roadway in response to report of an automobile collision.

Sec. 37-20. Records of Towed Vehicles Required; Contents and Retention Periods; Inspection of Records by Police

A. Every towing company permitted for the incident management tow list shall maintain, at its storage facility location within the City, records of all vehicles towed or moved as part of an incident management tow. Records will include, for each tow, the following:

1. Make, model, and Vehicle Identification Number (VIN) of the disabled automobile towed by the company;

2. Location from which the disabled vehicle was towed and date and time of tow;
3. Total amount charged for towing;
4. Storage rate per day;
5. Description of all personal property within the disabled automobile at the time of the tow;
6. Name and phone number of the driver or owner of the motor vehicle.

B. Records shall be preserved by the towing company for at least 24 months after the date the company came into possession of the automobile.

C. Inspection by police or marshal. The records required to be kept by this subchapter shall be made available by the towing company to the GPD or GMO at upon request Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m.

Sec. 37 – 21. Additional special rules for heavy-duty rotation

The following are special rules applicable to heavy duty tows only:

1. Permittees shall own or lease a heavy-duty wrecker, as defined;
2. Permittees Shall have a vehicle storage facility located within the City;
3. Tow Response time shall be within 45 minutes after notification;
4. Permittees shall have insurance in the minimum amounts as set by the state for heavy-duty consent-tows. The City shall be named as an additional insured; and
5. Permittees shall have a permit and comply with all other provisions of this chapter that are not in conflict with this section. A permit for operation of a regular wrecker is not required for placement on the Heavy-Duty Tow List.
6. If no heavy-duty wrecker is available to respond through the heavy-duty tow list, the City may contact any available heavy-duty wrecker service.

Sec. 37 – 22. Repossessions; private property tows

Wrecker operators shall notify the GMO prior to their attempt to repossess or remove private property tows. The notification shall consist of the wrecker operator's name, company name and phone number, location vehicle will be removed from, and the vehicle description (year, make, model, color, license plate number and state of issuance). The wrecker operator, upon leaving the scene, shall immediately notify the GMO Dispatcher whether the pick-up was successful or not successful. Private Property tows can only be removed to a storage lot located in the City.

Sec. 37 – 23. Suspension or renovation of a permit

A. Suspension:

1. The department may suspend a vehicle tow service or heavy-duty vehicle tow service rotation license wrecker permit if the department determines a licensee permittee or his employee has:
 - a. Allowed a person to operate a wrecker engaged in vehicle tow service rotation incident management tows in the city without a valid wrecker operator's permit issued to the person under this article. This may result in a pass for the wrecker licensee permittee and a one-week removal from rotation;
 - b. Operated a wrecker without a permit which has not been registered with the department for rotation tows; this may result in a pass for the wrecker licensee permittee and a one-week removal from the tow list rotation;
 - c. Failed to answer the storage location telephone at any time, twenty-four (24) hours a day or have an employee or contractor answer such telephone at any time, twenty-four (24) hours a day. This may result in a one-week removal from tow list rotation;
 - d. Failed to have a wrecker permit license issued hereunder conspicuously displayed at his place of business. This may result in a one-week removal from the tow list rotation;
 - e. Failed to release a vehicle within sixty (60) minutes of a request by the owner or operator of a towed vehicle which has been obtained due to an incident management tow. This may result in a one-week removal from the tow list rotation;
 - f. Imposed or attempted to impose any condition for release of any towed motor vehicle which had been towed to from their vehicle storage facility, other than proof of ownership, identification of the person claiming the vehicle and the payment for towing and storage. This may result in a one-week removal from the tow list rotation;
 - g. Failed to provide the owner or operator of the vehicle with a written receipt for towing and storage charges, the date and time of removal, the date and time of return. This may result in a one-week removal from the tow list rotation;
 - h. Failed to maintain permanent signage as required by this chapter on all wreckers used for rotation tows. This may result in a pass for the tow and a one-week removal from the tow list rotation;
 - i. Charged more than the maximum fee allowed by this chapter. This may result in a one-week removal from the tow list rotation and a full refund of the over charge to the vehicle owner;
 - j.

- k. Failed to clean the street of any broken glass or other debris resulting from a collision. If more than one (1) wrecker is summoned, each driver operator shall bear equal responsibility for the cleanup. This may result in a one-week removal from the tow list;
 - l. Allowed an employee to tow a vehicle to a vehicle storage facility other than the licensee permittee's vehicle storage facility unless, at the direction of the towed vehicle's owner or operator. This may result in a one-week removal from the tow list rotation;
 - m. Failed to provide written notification to the compliance officer that the licensee permittee's insurance has been canceled, or is no longer in force for any reasons, or the amounts of insurance have been reduced. The compliance officer shall remove the licensee permittee's license number wrecker number from the city's rotation list tow list. The removal from the city's rotation list tow list will be for twice the period of time that no insurance was not in full force as required by this chapter;
 - n. Passed on the tow list more than two (2) times in a permit license period. This may result in a one-week removal from the tow list rotation.
 - o. Failed to allow a vehicle owner access to retrieve personal items from a stored vehicle during normal business hours or within 90 minutes of having been notified after hours. This may result in a one-week removal from the tow list rotation.
 - p. Failed to pay ad valorem taxes for the vehicle storage facility associated with the permit.
2. If the department determines that a permit should be suspended, the department shall notify the permittee in writing that the permit is suspended and include in the notice the reason for suspension, and a statement informing the applicant or permittee of the right of appeal.
 3. These penalties do not preclude prosecution for criminal offenses as defined by state law or city ordinance.

B. Revocation:

The department may revoke a vehicle tow service permittee from a rotation tow list if the department determines that the permittee has:

1. Made a false statement in the application for the license;
2. Failed to comply with applicable provisions of this chapter;
3. Failed to comply with the conditions and limitations of the license;
4. Been convicted or received deferred adjudication for any felony offense while holding a license;
5. Failed to pay a license fee at the time it was due;

6. Failed to maintain a state licensed vehicle storage facility within the city;
7. Three (3) or more violations of section 37-3.6 within a one-year period;
8. Passed two (2) tows on any one (1) tow list during an application period.
9. Failed to maintain, or provide access to business records, or altered business records.

If the department determines that a permit should be revoked, the department shall notify the permittee in writing that the permit is revoked and include in the notice the reason for revocation, and a statement informing the applicant or permittee of the right of appeal.

Sec. 37 – 24. Suspension and revocation procedures; appeals

- A. Within ten (10) days from the date of the suspension, revocation or denial, the permittee shall file a written sworn complaint with the compliance officer stating:
 1. The grounds for the complaint;
 2. All persons with knowledge regarding the incident the complaint is based upon;
 3. The time, date and location of the alleged offending action by the city; and
 4. The relief requested.
- B. Filing of an appeal under this chapter will suspend all penalties issued under this chapter.
- C. Compliance officer review. The compliance officer shall conduct an investigation into the permittee or operator's complaint. Within ten (10) days of the filing of the complaint, unless circumstances demand a longer response time, the compliance officer shall provide a written response to the permittee or operator. If the permittee or operator is not satisfied with the compliance officer's response, the permittee or operator may request the review of the compliance officer's actions to his immediate supervisor. Such request shall be in writing and submitted within ten (10) days of the date of the compliance officer's response.

Sec. 37 – 25. Permissible fees and charges

Permissible Fees and Charges

- A. The following are the maximum fees that any permittee shall charge for a tow in the city, subject to the exceptions set forth in subsection (b) below:

Abandoned vehicles	\$150.00
Abandoned vehicles requiring a heavy-duty tow	\$500.00
Incident Management tows	\$165.00
Trailer w/o vehicle	\$165.00
Trailer & vehicle	\$165.00

Over the Seawall	\$250.00
Lift Vehicle off guard rail or obstacle	\$ 75.00
Ditch or sand winch out	\$ 75.00
Rollover	\$ 85.00
In the water vehicle	\$250.00
Heavy Duty Tow	\$500.00
Motorcycles	\$175.00

B. The following are exceptions to the above standard fees:

1. If a heavy duty vehicle tow service is called and the pick-up requires the unloading of a combination vehicle or multiple heavy duty wreckers to clear a scene, the permittee or wrecker operator shall immediately notify the officer on the scene that the pick-up is exceptional. The on-scene officer shall ask dispatch to notify the compliance officer, his designee or patrol sergeant to approve the exceptional tow status. Upon approval, the officer shall note "exceptional" on the operator's towing form.
2. If a heavy-duty wrecker is needed to tow an abandoned vehicle, the on scene officer shall call the compliance officer or his designee to the scene. If the compliance officer, or designee, determines that a heavy-duty wrecker is required, the officer on the scene, compliance officer or designee shall call for the next-out heavy duty.
3. Exceptional heavy duty tow rates:
 - (a) Two hundred dollars (\$200.00) per hour (with a one-hour minimum) to prepare the vehicle, the trailers and load for safe towing; and
 - (b) A maximum of twelve and one-half cents (12.5¢) per pound of the actual weight of the load and vehicle, including any trailers. The weight will be determined by certified weight scale receipts for such loaded vehicles and trailers.
4. Towing Companies shall not charge a storage fee that exceeds the maximum allowable under state law.
5. In the event the vehicle owner or operator desires to have the vehicle towed to a destination outside the city boundaries, the wrecker company, agent, representative or operator may negotiate a price with the vehicle owner or operator to tow to the destination.
6. The maximum rates provided under this chapter shall be displayed on any invoice provided to person picking up a vehicle.

SECTION 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 4. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 5. In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 6. This Ordinance shall be and become effective on _____, 2020, from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM:

DONNA M. FAIRWEATHER
ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its regular meeting held on _____, 2020, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this _____ day of _____, 2020.

Secretary for the City Council
Of the City of Galveston

CITY OF GALVESTON STATE LEGISLATIVE AGENDA
WORKSHOP DISCUSSION

The 87th Legislative Session is scheduled to convene on January 12, 2021 and end on May 31, 2021.

Texas Municipal League has reached out for topics to include in their Legislative agenda. As such it is timely to consider the City's Legislative program for the upcoming session. To the extent we can partner with TML we can consider it. But there are advantages and disadvantages. There is palpable disdain for TML among many in the Legislature, a clear disadvantage. On the other hand, its organizational ability and communications network are invaluable tools in assessment of trends in Austin.

In the past two sessions the City has had major accomplishments. Two sessions ago the City proposed a disaster relief provision to evade sought after tax caps until real property values returned to pre- storm values. The legislation on tax caps did not become law, but was reintroduced in the last session and was included in the final bill. In the last legislative session the City was able to handle the police pension plan reform. The City was able to have legislation passed by both houses to extend governmental immunity to expenditures of federally funded disaster relief programs, to ensure another CDM matter could happen; unfortunately the Governor vetoed the Legislation. These initiatives were accomplished without involvement of TML.

So although we have had success independent of TML, the recommendation remains to work with TML whenever possible.

In the past, the priorities of the city have been organized in the following categories:

1. Legislative Priorities –
 - Protect a Diverse Local Revenue Base
 - Strengthen State and Local Partnership Roles and Responsibilities
 - Promote Local Self-Determination (Governance)
 - Oppose Unfunded State and Federal Mandates
2. Legislative Requests (Galveston-specific bills)
3. Regional and Statewide Legislation Supported by the City of Galveston
4. Legislative Policy Statements

About Redistricting:

This session follows the release of the US Census and that typically garners much time and energy in Austin. However, the Department of Commerce has requested the date release be delayed due to difficulties flowing from the pandemic. The impact of this delay on State redistricting will have to be weighed after the release of the data.

Legislation that could be sponsored by the City and/or by TML:

1. Governmental immunity for contract claims related to disaster recovery programs financed by federal funds-

This would be a reintroduction of legislation successfully passed by both houses in the last session. The purpose is to ensure that when the City is administering a federally funded program it is not exposed to claims for damages and avoid another CDM experience.

2. Increased IT security in the procurement process-

The City is required to publicly procure high technology items; i.e. computer hardware and software. Advertising the types of systems we seek also alerts hackers of precisely the systems we are using which could in turn create a hacking opportunity. The solution would be to allow public procurement but to keep confidential the precise systems we are considering purchasing. This may not entirely protect the City, but on the other hand why tell the bad guys what systems we are using. This recommendation was made by Hope Dean of the City IT Department.

3. Port procurement legislation-

Transportation Code Ch 54.054 provide that the Port will competitively bid procurements unless excepted by the section. There are reasonable exceptions for personal or professional services, real estate transaction and purchase of insurance. However, another exception allows competitive bidding to be averted if “if the board determines that the delay posed by the competitive bidding procedure would prevent or substantially impair the operation of a port.” Although this is a Port issue it is placed for City discussion.

4. Municipal Court of record-

Increase of maximum jurisdictional limit and/or grant power to add injunctive relief.

5. Municipal Court of record-

Require municipalities to treat judges as employees for the purpose of FICA and IRS withholding.

6. Texas Municipal Retirement System-

Seek opportunities to sunset the three pension plans serving city employees and moving into TMRS.

7. Voting-

Shall voting by mail be expanded.

A note on local control issues:

There has been a consistent erosion of local control over municipal and county affairs due to Legislative action. It is anticipated this will be an ongoing initiative.

TML General Counsel has observed the last several sessions have seen increasingly aggressive assault on issues we would consider to be matters of local control. He expects that this session is likely to see an even more aggressive assault on local control issues. He expects that the local authority given mayors and county judges in the Texas Emergency Management Act will certainly be closely examined.

However, the Republicans hold a nine seat majority in the House. Once again there is an anticipated "blue wave" which conceivably cause the House to tip to a Democratic majority and conceivably blunt the assault on local control.

Simply stated we will need to monitor the legislation and identify those bills which are a challenge to our autonomy.

