

ARTICLE II. TOW TRUCKS AND TOWING COMPANIES¹

Sec. 118-31. Definitions.

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

Consent tow means any tow or recovery of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow or recovery of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

Heavy-Duty Wrecker means a wrecker having a chassis rated at five (5) tons or greater by the vehicle manufacturer equipped with a winch capable of lifting a minimum of 30,000 (thirty thousand) pounds as rated by the winch manufacturer, air brakes, and tandem axles. Except where a distinction is made, the term tow truck includes a heavy-duty wrecker.

Nonconsent/nonpreference tow means any tow of a motor vehicle that is not a consent tow; provided however, that nothing in this chapter shall be interpreted so as to abridge the rights of an owner or operator of a vehicle involved in a traffic accident or traffic incident. This includes an incident management tow.

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

Recovery tow means any tow that requires additional activities or equipment before a vehicle and/or cargo can be hooked to or put on a tow truck. This includes but is not limited to off-road vehicles, overturned vehicles, vehicles in water, or other extreme situations outside the typical hook-up and towing of a vehicle. This definition does not include or negate any duties or additional activities stated in Sec. 118-47.

Street means any street, alley, public place, square or highway within the corporate limits of the city.

Tow truck means any motor vehicle used for the purpose of towing or removing disabled or wrecked vehicles.

Towing business means the business of towing or removing disabled or wrecked vehicles on the public streets, regardless of whether the purpose of the towing is to remove, repair, wreck, store, trade or purchase the disabled or wrecked vehicles.

Towing company means any sole proprietorship, partnership, corporation, association or other entity engaged in the towing business with the expectation of compensation for the towing, storage or repair of vehicles.

Motor vehicle or Vehicle means any motor driven or propelled vehicle required to be registered under the laws of this state or that can be legally operated on a road way, including every device in or by which any person or property is or may be transported or drawn upon a public highway, except devices moved only by human power or used exclusively upon stationary rails or tracks, and shall include trailers and semi-trailers.

¹Editor's note(s)—Ord. No. 2010-13, § 2(Exh. A), adopted May 11, 2010, amended Art. II to read as set out herein. Former Art. II, §§ 118-31—118-45, pertained to similar subject matter and derived from Ord. No. 2008-41, § 2, adopted Nov. 18, 2008.

State law reference(s)—Authority to regulate tow trucks, V.T.C.A., Transportation Code, § 643.201.

Terms not defined in this chapter but defined in the Texas Occupations Code shall have the meanings assigned to them in the Texas Occupations Code Chapter 2308 – Vehicle Towing and Booting.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-32. Authority to enforce the provisions of this chapter.

The chief of police, or his designee, is hereby authorized to establish rules and regulations to enforce the provisions of this chapter.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-33. Rotation list for nonconsent/nonpreference tows.

- (a) The police department shall keep a list for nonconsent/nonpreference tows, which shall contain the names of towing companies who have a city permit.
- (b) On receiving the first communication that the owner or operator of a disabled vehicle or a vehicle involved in an accident or collision has failed or refused to designate a towing company, or has been placed under arrest, the telecommunicator receiving the communication at police headquarters shall call the first towing company on the list to tow the vehicle and remove the vehicle from the public streets of the city. If a towing company does not timely respond with its own tow truck or passes on the tow, the next towing company on the rotation list will be called.
- (c) On each succeeding communication of the failure or refusal of the owner to designate a towing company, or the owner being placed under arrest, the next company on the list shall be called, and so on, calling each towing company on the list in rotation, and proper notation of each call shall be made on the master list.
- (d) A towing company may not solicit towing business from the owner or operator of a vehicle involved in an accident or disabled on a street unless the towing company has been dispatched by the police department.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-34. Permit required to engage in nonconsent/nonpreference tows; required facilities and equipment; application; issuance.

- (a) No towing company shall engage in nonconsent/nonpreference tows upon any street without obtaining a permit from the city. In addition to a permit from the city, the tow company shall have all necessary licenses, permits, and be subject to all State law requirements, including but not limited to, Chapter 51 and Chapter 2308 of the Texas Occupations Code and Title 16 Chapter 86 of the Texas Administrative Code.
- (b) To obtain a permit to engage in nonconsent/nonpreference tows, the following items must be complied with:
 - (1) Payment of a permit fee of \$200.00 per truck to be used for nonconsent/nonpreference tows.
 - (2) Payment of a license fee of \$15.00 per operator of a tow truck on city rotation. This fee is also required for operator who change companies and need to be re-licensed or for a replacement license issued by the city in accordance with Subchapter E, Chapter 2308, V.T.C.A., Occupations Code § 2308.201d.
 - (3) Maintenance or ownership of an exclusively and independently operated vehicle storage facility located within the city limits, or within 10 miles of the city limits, of League City in compliance with provisions of League City ordinances. Maintenance of all licenses and permits required by the state commission of licensing and regulations regarding operation of a towing business and vehicle storage facility. Proof of licensing and permitting of all employees of the towing business shall be provided with the application required under this article for permitting of city rotation tow trucks. All operators of

- tow trucks on city rotation must have incident management licenses issued by the state commission of licensing and regulations. In addition, all personnel working at a vehicle storage facility must be licensed by the state commission of licensing and regulations as required.
- (4) Maintenance of a minimum of two certified tow trucks per permitted company for nonconsent/nonpreference tows. The chief of police or his designee will approve a rotation list for the benefit of the police department and the city, in accordance with section 118.33.
 - (5) Maintenance of tow trucks in compliance with the minimum requirements of the state commission of licensing and regulations, with a lifting capacity of at least 8,000 pounds and a weight of at least one ton, with power assisted booster brakes. The trucks shall contain a portable telephone or two-way radio, an ax, a shovel, a sledgehammer of at least eight-pound weight, a five-gallon container to hold debris, a fire extinguisher, dry chemical absorbing material (ten-pound minimum), three reflective triangles for daytime use and tow truck bar.
 - (6) Maintenance of insurance coverage, including but not limited to garage keeper's legal liability insurance as required by the state commission of licensing and regulations and by the state department of licensing and regulations. Such insurance shall also include \$500,000.00 liability for each tow truck so as to protect pedestrians and motorists from negligent tow truck drivers.
 - (7) Towing companies shall also maintain on-hook cargo insurance for each tow truck in the amount of at least \$100,000.00. Each policy shall contain an endorsement providing for ten days' notice to the city in the event of change thereof or cancellation.
 - (8) Maintenance of a 24-hour dispatch service.
 - (9) Completion of an application as delineated by the chief of police or his designee.
 - (10) Execution of the following hold harmless agreement as required in the tow truck application on behalf of the city: "The towing company covenants and agrees to, and by these presents does hereby fully indemnify, hold harmless, and defend the City of League City, its officers, agents, and employees from and against any and all claims, suits, or causes of action of any nature whatsoever, whether real or asserted, brought for or on account of any injuries or damages to persons or property, including death, arising out of or incident to the operation of its towing service and all other of its operations arising under or otherwise incident to the towing or storage of motor vehicles."
- (c) Permits shall be for a period of one year, effective February 1. The deadline for the yearly application process shall be December 1 of the year immediately proceeding the year of the effective date of the permit. When the yearly application process closes, new applications will not be accepted until the following December.
 - (d) Permits are issued by the chief of police, or his designee, after receiving the permit fee and after a showing of compliance by the applicant with all the prerequisites under the law and this article.
 - (e) No more than one permit shall be issued to any towing company or association consisting of multiple towing companies. In determining whether a towing company is considered to be included within an association of multiple towing companies, among the factors which may considered are: telephone numbers used by the business, office location, storage lot location, articles of incorporation, partnership agreements, tax records and other records suggesting common ownership interests. These factors are by way of example and should not be construed to limit the city's inquiry. This section does not impede the city's right not to issue a permit to any towing company.
 - (f) Any towing company issued a permit under this chapter shall permit inspection of its vehicle storage facility at any time deemed necessary by the chief of police or his designee. Failure to permit inspection within four hours of a request by the chief of police or his designee shall be deemed grounds for permit revocation.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-35. Vehicle storage facility specifications.

City permitted towing companies shall each provide a single, suitable place for storage of vehicles towed at the request of the police department [or other authorized city department] and such place shall:

- (1) Be located within the corporate limits of the city. Exception: Commercial-sized vehicles or equipment, requiring a heavy-duty wrecker, that will not fit in established storage lots within city limits; such storage facility must be within 10 miles of the corporate limits of the city;
- (2) Be properly zoned;
- (3) Be a minimum of 16,000 square feet of storage room for vehicles;
- (4) Outside storage surface must be composed of an all-weather surface;
- (5) Be surrounded by a minimum six-foot high fence composed of opaque materials sufficient to completely conceal the contents of the facility yard from outside view;
- (6) Lighting in the facility yard must be maintained at a minimum of one working and adequate lighting fixture for each quarter acre of facility yard;
- (7) Have a gate which is kept locked and secured when unattended;
- (8) Maintain all fencing and structures in good condition and in compliance;
- (9) Provide a minimum of three parking spaces for customers of the tow truck service;
- (10) The facility must comply with all regulations, ordinances, and applicable state laws regarding the operation of a towing services company;
- (11) The facility must comply with all regulations, ordinances, and applicable state laws regarding business construction within League City.

For the purposes of this subsection, the term "all-weather surface" shall consist of materials such as concrete, asphalt, black-top, stone, macadam, limestone, iron ore, gravel, shell, or caliches, that enables the safe and effective movement of stored vehicles upon all portions of the lot, both under their own power and under tow, at all times, regardless of prevailing weather conditions.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-36. Formalized complaint system.

The police department shall establish and maintain a formal complaint system to be used by members of the public wishing to complain about tow truck company services covered by this article. The creation, maintenance and investigation of complaints lie within the authority of the police department. In addition, all permitted towing companies will notify the police department of any and all complaints received within five business days of receiving the complaint.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-37. Rate schedule.

- (a) A tow truck under this article will not charge any fees in excess of rates established by city council. If there is a situation in which rates established by the state apply and those rates are in conflict with city rates, the towing company will comply with state regulations. The permitted towing service rate schedule is as determined by city council.

- (b) The bill for towing of any motor vehicle shall be itemized to reflect the services performed, labor or other materials required, and any other applicable charges. A copy of the itemized bill shall be provided to the owner of the motor vehicle as soon as the tow is complete. If the owner is not on scene or cannot be contacted, the towing company shall send via certified mail with return receipt requested, a copy of the itemized bill to the address of the registered owner. Furthermore, a copy shall be provided to the police department within ten calendar days, when requested.
- (c) The rate schedule established by city council, pursuant to this section, does not apply to nonconsent recovery tow services. The rate for recovery tow services shall be established by the tow company, in accordance with state regulations. Any complaints involving recovery tow service rates are to be made to the Texas Department of Licensing and Regulation.
- (d) Nonconsent private property tows are regulated by Texas Occupations Code § 2308.0575 and 16 T.A.C. 86.455.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-38. Solicitation of business prohibited.

No person shall solicit in any manner, directly or indirectly, on the streets of the city the business of towing any vehicle which is wrecked or disabled on a public street, regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading or purchasing said vehicle. Proof of the presence of any tow truck or motor vehicle marked with tow truck advertising that is owned or operated by any person engaged in the tow truck business, either as owner, operator, employee or agent, on any public street in the city, at or near the scene or sites of a wreck, accident or collision, within one hour after the happening of a wreck, accident or collision, shall be prima facie evidence of a solicitation in violation of this section.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-39. Influence by police as to selection of tow truck prohibited.

No police officer investigating or present at the scene or site of any wreck, accident or collision on a public street shall, directly or indirectly, either by word, gesture, sign or otherwise, recommend to any person the name of any particular person engaged in the tow truck service or repair business; nor shall any such police officer influence or attempt to influence in any manner the decision of any person in choosing or selecting tow truck or repair service. The police officer shall have the discretion in an emergency involving serious injury to select any tow truck service that is available at the scene to remove vehicles so as to remove impediments to the streets and rights-of-way.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-40. Impoundment of vehicles.

When any officer is placing an evidentiary hold or considers a vehicle under investigation, the city permitted tow truck service shall be called and will transport the vehicle to the location designated by the officer or the tow truck service vehicle storage facility. The city permitted tow truck service will secure the vehicle at the vehicle storage facility so as to protect any evidence that may be recovered from the vehicle. Once the evidentiary or investigative hold has been released, the city permitted tow truck service will contact the owner of the vehicle to make disposition arrangements, as soon as possible.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-41. City permitted tow truck service to keep records.

The city permitted tow truck service shall maintain at its garage or storage location, records as to all vehicles moved by it after being notified to do so by personnel of the police department in accordance with the provisions of this article.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-42. Contents of records.

- (a) The records required to be kept by the city permitted tow truck service shall contain the following information:
 - (1) Make, model and serial number of the disabled vehicle moved by the city's permitted tow truck service;
 - (2) Location from which the disabled vehicle was removed and time of removal;
 - (3) Total amount charged for towing (copy of the itemized bill);
 - (4) Storage rate per day;
 - (5) Description of all personal property within the disabled automobile at the time of its removal; and
 - (6) Manner in which vehicle was disposed of.
- (b) The above-described records shall be preserved by the tow truck business for 36 months from and after the date said business comes into possession of the disabled automobile, or until the disabled vehicle is released from the possession of the tow truck business, whichever length of time is longer.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-43. Records available to police.

The records required to be kept by the provisions of section 118-41 and 118-42 shall be made available to the personnel of the police department by the tow truck business at any reasonable time. City permitted towing companies will file a monthly report of vehicles towed as nonconsent or nonpreference for the police department with the police administrative bureau. This report must contain the information prescribed in section 118-42 and may be mailed, faxed or electronically submitted by the fifth day of the following month.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-44. Lien for towing and storage fees.

- (a) The vehicle storage facility shall provide notice of the possession of the vehicle to the owner, in accordance with the provisions of state law [and this article], must also provide to the police department; a copy of the certified, return receipt requested, letter of notice sent to the owner and a copy of the certification paper received by the vehicle storage facility from the post office after delivery of the certified notice.
- (b) Unless specified by law, the city shall not be held liable for any towing and storage fees incurred.
- (c) When a motor vehicle has been towed and placed in storage as a result of a police request, where the city may be liable under law, the city permitted tow truck service will notify the police department when the vehicle has remained for a period of 30 days under hold. The city permitted tow truck service may be compensated for towing and storage fees, not to exceed \$1,000.00 for any vehicle which the city may be found liable for expenses under the law.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-45. City permitted tow companies to provide 24-hour operation.

The city permitted tow companies shall provide service contemplated by this article on a 24-hour basis, seven days a week.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-46. Response time.

The city permitted tow companies will arrive at the location of the vehicle to be towed within 25 minutes after receiving the request. Time will be extended to 45 minutes for requests that require heavy duty or specialized equipment.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-47. Duty of tow truck operator.

It shall be the duty of the tow truck operator responding to a call to the scene of an accident or collision to clean up and remove the debris resulting from such accident or collision.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-48. Qualifications of tow truck drivers.

To qualify for a permit, an applicant must be in compliance with TDLR Criminal Conviction Guidelines, and an applicant must not have:

- (1) Been convicted of more than three moving traffic violations arising out of separate transactions, or involved in more than two motor vehicle accidents in which it could be reasonably determined that the applicant was at fault, within any 12-month period during the preceding 36 months;
- (2) Been convicted of, discharged by probation or deferred adjudication for, or have charges pending for driving while intoxicated (DWI) or driving under the influence (DUI):
 - a. Within the preceding 12 months; or
 - b. More than one time within the preceding ten years;
- (3) Been convicted, placed on probation or deferred adjudication, or have charges pending for any crime involving:
 - a. Criminal Homicide;
 - b. Kidnapping;
 - c. Sexual Offense;
 - d. Assaultive offense, other than a Class C misdemeanor;
 - e. Arson;
 - f. Robbery;
 - g. Burglary;
 - h. Theft, other than Class C misdemeanor, or Fraud;
 - i. Perjury or Tampering with Governmental Record;
 - j. Obstructing Governmental Operation;
 - k. Public Indecency (including Prostitution and Obscenity);
 - l. The transfer, carrying, or possession of a weapon, but only if the violation is punishable as a felony;

- m. Dangerous Drugs under Chapter 483 of the Texas Health and Safety Code, but only if the violation is punishable as a felony; or
- n. Controlled Substance under Chapter 481 of the Texas Health and Safety Code, but only if the violation is punishable as a felony.
- o. Crimes are to have the definition assigned to them in the Texas Penal Code, unless indicated otherwise. This subsection is intended to include criminal attempt, criminal conspiracy, and criminal solicitation.

(4) Exemptions to subsection 3:

- a. If the applicant was convicted of a misdemeanor offense and more than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date;
- b. If the applicant was placed on probation or deferred adjudication for a misdemeanor offense and more than two years have elapsed since the date of successful completion of probation or deferred adjudication;
- c. If the applicant was convicted for a felony offense and more than ten years has elapsed since the date of conviction or the date of release from confinement for the conviction or the date of release from parole, whichever is the later date;
- d. If the applicant was placed on probation or deferred adjudication for a felony offense and more than ten years has elapsed since the date of successful completion of probation or deferred adjudication;
- e. These exemptions do not apply if the chief of police or his designee determines, in their sole discretion, allowing an exemption is not in the best interests of the public or that violence was a part of the crime for which the exemption applies.

Sec. 118-49. Tow truck operators to comply with traffic regulations.

Unless directed otherwise by a police officer a tow truck operator shall adhere to all traffic regulations.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-50. Standards of conduct for towing companies and tow truck drivers.

A towing company or tow truck driver under this article shall adhere to the following standards of conduct:

- (1) Abide by all reasonable instructions of police officers and EMS personnel and other city officials at the scene of an accident.
- (2) Not engage in price gouging. Price gouging shall consist of charging a fee that is in excess of the prices listed with the police department.
- (3) Respond to accidents within 25 minutes, and 45 minutes for requests that require a heavy-duty wrecker or specialized equipment, if the call is accepted.
- (4) Promptly notify the police department if the permit holder cannot respond within the 25 or 45 minute time limit.
- (5) Allow tow trucks, vehicle storage facilities and business premises to be inspected as required by provisions of this article.
- (6) Display the city permit sticker on each tow truck.

- (7) Towing companies shall have sufficient personnel and equipment to provide services at all times to meet the needs of the police department.
- (8) Use due care in the maintenance of the security of vehicles that are stored.
- (9) Use due care to maintain the tow trucks in optimum operating condition.
- (10) Use due care not to unreasonably interfere with the personnel at the scene of an auto accident and the orderly arrival at the scene of the tow truck called by the police department from the rotation list.
- (11) Use due care to clean the site at the scene of the accident.
- (12) Abide by all the terms as denoted in this article.
- (13) Abide by all federal and state laws and regulations, county and city ordinances and local rules and regulations.
- (14) Upon receiving a complaint from any source claiming damage or loss to a vehicle or its contents towed by a tow truck operator, the operator shall submit a written report to the chief of police or his designee within 24 hours after receipt of such complaint. Such reports shall contain all facts pertinent to the claim or complaint presented.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-51. Reporting and auction of abandoned motor vehicles.

City permitted towing companies shall report abandoned or unclaimed vehicles in their possession to the police department, in accordance with V.T.C.A., Transportation Code ch. 683, Abandoned Motor Vehicles. The department may designate another place or person to which that notification will be made. Vehicles abandoned at a vehicle storage facility as defined in V.T.C.A., Transportation Code ch. 683, shall be disposed of in accordance with appropriate statutes by the police department or by a duly authorized agent. Failure by a towing company to make reports to either the police department or its designated contractor and to fully cooperate with either the police department or its designated contractor during the auction or disposal process shall be deemed grounds for permit revocation.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-52. Suspension or cancellation of permitted towing companies.

- (a) Any applicant who makes application under this chapter and is permitted by the city and is called by the police department under the terms of this chapter shall be required to respond to any authorized call. The chief of police or his designee shall remove the towing company from service, or place the towing company on suspension, for any of the following reasons:
 - (1) Passing on or failing to respond within the time limit to three consecutive calls;
 - (2) Passing on or failing to respond within the time limit to 25 calls within a 12-month period;
 - (3) Causing undue damage to vehicles picked up or any other act of incompetency of operation;
 - (4) Intoxication or incompetency of a tow truck operator;
 - (5) Failure to maintain required insurance;
 - (6) Failure to maintain all necessary licenses, permits and requirements required by Chapter 51 and Chapter 2308 of the Texas Occupations Code, and Title 16 Chapter 86 of the Texas Administrative Code;

- (7) Failure to allow the chief of police or his designee to periodically make safety inspections of the tow truck or tow trucks, the tow truck service facilities, and/or the vehicle storage facility, as required herein;
 - (8) Failure to comply with the requirements of subsection 118-34(b)(5), pertaining to required equipment;
 - (9) Failure to reasonably comply with any provisions of this chapter; or
 - (10) The making of any false statement as to a material matter in an application for a permit, or permit renewal, or in a hearing concerning the permit or services required by this chapter.
- (b) The name of any such towing company shall be removed from any city rotation list and shall not be eligible to have its name replaced on the city rotation list for a period of at least 24 months from the date of removal.
 - (c) Any towing company that receives a total of three suspensions in a 12-month period shall have its permit terminated immediately. That towing company shall not be eligible to reapply for a permit for a 24-month period commencing on the date of termination.
 - (d) Any towing company that feels that they cannot fulfill all of the terms of the permit for which they have been permitted under this chapter may apply to the chief of police for cancellation of the permit. Under this chapter, the cancellation of the permit decision rest with the chief of police.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-53. Notice of denial, suspension, cancellation or revocation; appeal.

- (a) Every denial, suspension, termination or revocation of a permit shall be in writing, shall be dated and shall state the reason for such denial, suspension, termination or revocation. Such notice shall be sent to the towing company by certified mail or by personal service. The denial, suspension, termination or revocation shall be effective on the date of the written notice.
- (b) Towing companies, whose permit has been denied, suspended, terminated or revoked, may within seven working days after the date of notice, submit a written request to the city manager for an appeal of the denial, suspension, termination or revocation.
- (c) The city manager or his designee shall set a date for hearing not later than seven working days following the receipt of the notice of appeal. Within five working days after such hearing, the city manager or his designee shall sustain or reverse the denial, suspension, termination or revocation. Written notice of the decision shall be given to the towing company.
- (d) If no appeal is made within the time and by the method hereby provided, the denial, suspension, termination or revocation shall be final and binding and shall exhaust any administrative remedies.
- (e) In the case of a suspension, after the period of suspension as herein determined, the tow truck service may apply for reinstatement of the permit. The original permit may be reinstated provided that the towing company meets all other qualifications for a permit.
- (f) In the case of denial, termination or revocation of a permit, the towing company may reapply for a permit after a period of 12 months.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-54. Penalties.

Any person found to be in violation of any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon final conviction thereof, fined in an amount not to exceed the amount allowed to be

imposed under state law. A person who violates a provision of this article is guilty of a separate offense for each day or portion of a day during which the violation is committed, continued or permitted.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-55. Permit nontransferable.

Any towing company that is permitted by the City of League City shall not transfer the permit to any other company. If a permitted towing company is sold, prior to the end of the permit, the permit will become void and nontransferable to the new owners of said company.

(Ord. No. 2010-13, § 2(Exh. A), 5-11-2010)

Sec. 118-56. Towing Fee Study.

- (a) A "towing fee study" is a study to determine the fair market value of a nonconsent tow originating in the city. A towing company may request that the city conduct a tow fee study in accordance with Texas Occupations Code § 2308.203 by filing a written request with the chief of police, or his designee. The written request is to be delivered in the same manner as the permit application.
- (b) The following shall apply to towing fee studies performed at the request of a towing company:
 - (1) A study fee in the amount of \$2,500.00 shall be required for each initial request submitted to the city for a towing fee study. A cashier's check or certified check, payable to the city for such amount shall accompany the request and no portion of the fee shall be refundable, regardless of the final action by city council or the city. Except as provided in (b)(4) of this section.
 - (2) The study fee of \$2,500.00 shall be a minimum fee only. In the event the towing fee study cost exceeds \$2,500.00 or city council finds that the administrative overhead to the city for conducting such study exceeds the \$2,500.00; the city shall have the right to require an additional fee to cover the costs incurred by the study. The additional fee will be due 10 business days after an additional cost invoice has been hand delivered or delivered by certified mail, return receipt requested to the requesting tow company's address listed on the latest permit. Failure to pay any additional fee(s) may result in cancellation or delay of the towing fee study, at the sole discretion of the city.
 - (3) The city shall conduct a towing fee study if the initial requestor is on the Nonconsent tow list and accounts for 30 percent or more of the Nonconsent tows performed in the city during the preceding twelve-month period, as determined by the police chief or his designee.
 - (4) If it is determined that the initial requestor does not meet the threshold established in subsection (b)(3), a towing fee study shall not be conducted and the city shall refund the fee, less an administrative fee of \$250.00.
 - (5) Within 10 business days after the filing of an initial request, additional towing companies may join the request by filing written requests in accordance with this section. The additional towing companies must be in current and good standing on the city's Nonconsent tow rotation list to join the initial request and will be subject to the obligations and responsibilities provided below in subsection (b)(6).
 - (6) Each towing company requesting the towing fee study shall cooperate with the city to conduct the study. Each towing company shall provide to the city any information determined to be reasonably necessary to determine the fair market value of towing services regulated under this chapter. This information includes but is not limited to, financial records as they relate to vehicle insurance, registrations and operating costs. Failure of an additional requesting tow company to cooperate with the city, as determined by city staff, will result in the removal of the additional request and shall not affect the initial request.

- (7) The study shall be conducted by the Budget and Finance Planning Department of the city, or department designated by the City Manager. The department shall obtain current fuel prices and towing fees from other cities of similar population. The methodology used to conduct the study will be established, at the sole discretion, of the city. The study shall determine the fair market value of a Nonconsent tow originating in the city by considering the information provided by subsection (b)(6), (b)(7), and any other information the department deems relevant.
- (8) The city shall complete the towing fee study not later than the 120th calendar day after receiving the initial request, study fee, additional fees if applicable, and information required under this section. If information under subsection (b)(6) is not supplied to the city within 60 calendar days from the initial request, or the city's request for additional information, the city in its sole discretion may decline to complete the study.
- (9) The City Manager, or his designee, shall present to city council the results of the towing fee study.
- (10) The chief of police or his designee, is to provide written notice to the requesting tow company, or companies, of the time, date, and location of the city council meeting at which the study is to be considered. The notice is to be sent by United States regular mail to the towing company's address listed in the latest permit application or email address listed on the latest permit application. However, failure to provide notice will not invalidate any decision of city council so long as the city council agenda is posted in compliance with the Texas Open Meetings Act.
- (11) Based on the results of the towing fee study, the city council may change by resolution the Nonconsent towing fees. The maximum fee(s) must represent the fair market value of the services provided by a towing company performing Nonconsent tows originating in the city.
- (12) The city is not required to conduct more than one towing fee study within a two (2) year period, measured from the date city council considered a towing fee study or increased Nonconsent towing fees, whichever is later.
- (13) Nothing in this section shall preclude the city from undertaking a towing fee study, at its own discretion, at any time.