

Memorandum



CITY OF DALLAS

DATE February 6, 2009

TO Members of the Transportation and Environment Committee:
Linda L. Koop (Chair), Sheffie Kadane (Vice Chair), Jerry R. Allen, Carolyn R. Davis, Vonciel Jones Hill, Angela Hunt, Pauline Medrano and Ron Natinsky

SUBJECT Emergency Wrecker Ordinance and Fee Update – Amendments to Chapter 15D of City Code

Attached is the “Emergency Wrecker Ordinance and Fee Update – Amendments to Chapter 15D of City Code” briefing that will be presented to you February 9, 2009.

Please contact me if you need additional information.

A handwritten signature in black ink, appearing to read 'R. Miguez'.

Ramon F. Miguez, P.E.
Assistant City Manager

c: The Honorable Mayor and Members of the City Council
Mary K. Suhm, City Manager
Thomas P. Perkins, Jr., City Attorney
Deborah Watkins, City Secretary
Craig Kinton, City Auditor
Judge C. Victor Lander, Administrative Judge
Ryan S. Evans, First Assistant City Manager
Ramon F. Miguez, P.E., Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
A.C. Gonzalez, Assistant City Manager
Forest Turner, Interim Assistant City Manager
David Cook, Chief Financial Officer
Jeanne Chipperfield, Director, Budget and Management Services
Edward Scott, Director, Controller’s Office
Helena Stevens-Thompson, Assistant to the City Manager – Council Office
Rick Galceran, P.E., Director, Public Works and Transportation

Dallas Emergency Wrecker Ordinance Revisions

(Chapter 15D of the Dallas City Code)

Briefing to the Transportation and
Environment Committee

Prepared by
Transportation Regulation Program
Public Works and Transportation
February 9, 2009





Regulated Wrecker Services

- PWT Transportation Regulation is responsible for regulating two types of wrecker services:
 - “Emergency Wreckers” that relates to the removal of wrecked, disabled and illegally parked vehicles from public streets and property (City Code - Chapter 15D)
 - “Vehicle Tow Service” that relates to the removal of vehicles from private property without the consent of the owner (City Code – Chapter 48A)
- This briefing and recommendations only affect Chapter 15D of the City Code – Emergency Wreckers



Purpose of Briefing

- Brief the Committee on proposed revisions to Chapter 15D of the City Code (Emergency Wreckers)
- Request Committee endorsement of proposed Code changes – full Council consideration on February 11, 2009



Background

- Chapter 15D of the Dallas City Code regulates emergency wrecker companies, drivers and vehicles
- The Greater Dallas Emergency Wrecker Association (GDEWA) requested that the City of Dallas consider revising Chapter 15D to allow for a rate increase, last increase was 2001
- During the revision process the State of Texas also made revisions to the state law that regulates wreckers in Texas



Background

- Recommendations were coordinated with DPD and the GDEWA:
 - Updates reflect changes in state law
 - “First on Freeway” rapid response pilot program is incorporated
 - Rate increase recommended
 - Other minor changes



Changes in State Law

- Responsibility for state enforcement was transferred from TxDOT to the Texas Department of Licensing and Regulation (TDLR)
- Drivers must have an Incident Management Towing Operators License from the TDLR
- Companies must have an established drug testing policy
- Maximum fine increased to \$1000



Freeway Rapid Response

- Pilot program started in 2005 is incorporated into the rapid response section of the Code
- Provides for 15 minute response
- Identifies specific freeways
- Establishes guidelines for participation



Rate Increase

- Staff conducted a rate study:
 - Change in U.S. Department of Labor Consumer Price Index (CPI) since last rate change in 2001 was 27% -- this amounts to a change from \$95 to \$121 for a light duty (passenger vehicle) tow
 - Surveyed major Texas cities to determine current towing rates



Rate Increase

- Major Texas cities – summary of light duty rates based on a one hour time limit:

■ Austin	\$150
■ San Antonio	\$147
■ Houston	\$138
■ Arlington	\$135
■ Ft. Worth	\$135
■ Dallas	\$95

■ Average	\$133
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Rate Increase

- Recommendation is to adjust rates up 27% which places Dallas well below the average rate for emergency tows among major Texas cities:
 - Light Duty (vehicle less than 10,000 pounds)
 - Rate increase from \$95 to \$121
 - Medium Duty (vehicle between 10,000 and 26,000 pounds)
 - Rate increase from \$150 to \$191
 - Heavy Duty (vehicle more than 26,000 pounds)
 - Rate increase from \$350 to \$445



Other Changes

- Driver must hold a valid State of Texas drivers license
- Vehicles must have a current emergency wrecker decal issued by the City of Dallas
- Companies must be in or within one-half mile of the zone they apply to serve
- Licensee shall notify the City ten days before a change in address or trade name
- Company must have a minimum of four permitted drivers
- Drivers must meet a minimum dress code (not tank top, cut offs or sandals) and must wear traffic safety vests



Next Steps

- February 9, 2009
 - Transportation and Environment Committee Briefing
- February 11, 2009
 - City Council Agenda



Appendices

- Appendix A
 - Letter of support from the Greater Dallas Emergency Wrecker Association
- Appendix B
 - Draft Ordinance revising Chapter 15D of the Dallas City Code

2/4/2009

ORDINANCE NO. _____

An ordinance amending Sections 15D-13, 15D-15, 15D-20 through 15D-27, 15D-29, 15D-31, 15D-33, 15D-35, 15D-37, 15D-42, 15D-45, 15D-46, 15D-47, 15D-50 through 15D-58, and 15D-64 of CHAPTER 15D, "EMERGENCY VEHICLES," of the Dallas City Code, as amended; defining terms; revising qualifications and requirements for emergency wrecker service licenses and emergency wrecker driver's permits; adding grounds for suspension, revocation, and nonrenewal of emergency wrecker service licenses and emergency wrecker driver's permits and providing for appeals; revising operating, staffing, vehicle, and equipment requirements for emergency wrecker services; regulating apparel for emergency wrecker drivers; expanding and providing procedures and requirements for the city's rapid response program; establishing rapid response locations; adjusting fees allowed to be charged for emergency wrecker service; providing restrictions on the location of emergency wrecker service businesses; making certain semantic, grammatical, and structural changes; providing a penalty not to exceed \$1,000; providing a saving clause; providing a severability clause; and providing an effective date.

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

SECTION 1. That Section 15D-13, "Establishment of Rules and Regulations," of Division 1, "General Provisions," of Article II, "Emergency Wreckers," of CHAPTER 15D, "EMERGENCY VEHICLES," of the Dallas City Code, as amended, is amended to read as follows:

“SEC. 15D-13. ESTABLISHMENT OF RULES AND REGULATIONS.

(a) Before adopting, amending, or abolishing a rule or regulation, the director or the chief of police shall hold a public hearing on the proposal.

(b) The director or the chief of police shall fix the time and place of the hearing and, in addition to notice required under the Public Information [~~Open Meetings~~] Act (Chapter ~~552~~ [~~554~~], Texas Government Code), as amended, shall notify each licensee and such other persons as the director or chief of [~~or~~] police determines are interested in the subject matter of the hearing.

(c) After the public hearing, the director or the chief of police shall notify the licensees and other interested persons of the action taken and shall post an order adopting, amending, or abolishing a rule or regulation on the official bulletin board in the city hall for a period of not fewer than 10 days. The order becomes effective immediately upon expiration of the posting period.”

SECTION 2. That Section 15D-15, “Definitions,” of Division 1, “General Provisions,” of Article II, “Emergency Wreckers,” of CHAPTER 15D, "EMERGENCY VEHICLES," of the Dallas City Code, as amended, is amended to read as follows:

“SEC. 15D-15. DEFINITIONS.

In this article:

(1) ACCIDENT means any occurrence that renders a vehicle wrecked.

(2) APPLICANT means:

(A) for purposes of Division 2 of this article, a person in whose name a license to engage in emergency wrecker service will be issued under Section 15D-23 and each individual who has a 20 percent or greater ownership interest in the emergency wrecker service business; and

(B) for purposes of Division 3 of this article, an individual applying for a wrecker driver’s permit under Section 15D-30.

(3) BUSINESS LOCATION means the place of business, required to be designated in Section 15D-20, where a licensee’s primary emergency wrecker service business activity is conducted, which location is staffed by the licensed emergency wrecker company’s employees and equipped with standard office furniture, equipment, and other items necessary to conduct the normal activities and business of an emergency wrecker service.

(4)~~(3)~~ CHIEF OF POLICE means the chief of police for the city of Dallas, and includes representatives, agents, and department employees designated by the chief.

(5)~~(4)~~ CITY means the city of Dallas, Texas.

(6)~~(5)~~ CONVICTION means a conviction in a federal court or court of any state or foreign nation or political subdivision of a state or foreign nation that has not been reversed, vacated, or pardoned.

(7)~~(6)~~ CUSTODIAL ARREST means an arrest during which a peace officer employed by the city takes the owner or operator of a vehicle into custody and determines that it is necessary to cause the person's vehicle to be removed from the police scene for storage or for use in a criminal investigation.

(8)~~(7)~~ DIRECTOR means the director of the department designated by the city manager to enforce and administer this article, and includes representatives, agents, and department employees designated by the director.

(9)~~(8)~~ DISABLED VEHICLE means a vehicle that reasonably requires removal by a wrecker because it:

(A) has been rendered unsafe to be driven as the result of some occurrence other than a wreck, including, but not limited to, mechanical failure, breakdown, fire, or vandalism; or

(B) is in a safe driving condition, but the owner is not present, able, or permitted to drive.

(10)~~(9)~~ DRIVER means an individual who drives or operates a wrecker.

(11)~~(10)~~ EMERGENCY WRECKER COMPANY means a person who owns, controls, or has a financial interest in an emergency wrecker service.

(12)~~(11)~~ EMERGENCY WRECKER SERVICE means the business of towing or removing wrecked, disabled, or illegally parked vehicles from the streets upon request of the chief of police.

(13)~~(12)~~ HEAVY DUTY WRECKER means a wrecker that ~~has~~:

(A) has a manufacturer's gross vehicle weight rating of not less than 48,000 pounds; ~~and~~

(B) has a power-operated winch, winch line, and boom, with a factory-rated lifting capacity of not less than 50,000 pounds and a dual line capacity of not less than 20,000 pounds;

(C) has an underlift device with a factory-rated lifting capacity of not less than 14,000 pounds when extended;

(D) has a dual rear axle; and

(E) is capable of towing a vehicle that weighs up to 80,000 pounds.

(14)[(13)] ILLEGALLY PARKED VEHICLE means a vehicle that is parked on a street or other public property in violation of any city ordinance or state law regulating the parking of vehicles.

(15) INCIDENT MANAGEMENT TOWING OPERATOR'S LICENSE means a tow truck operator's license issued by the state under Section 2308.153 of the Texas Occupations Code, as amended.

(16)[(14)] LAWFUL ORDER means a verbal or written directive that:

(A) is issued by the director or the chief of police in the performance of official duties in the enforcement of this article and any rules and regulations promulgated under this article; and

(B) does not violate the United States Constitution or the Texas Constitution.

(17)[(15)] LICENSEE means a person licensed under this article to engage in emergency wrecker service. The term includes:

(A) any individual who has a 20 percent or greater ownership interest in the licensed business; and

(B) any [owner or] operator of the licensed business.

(18)[(16)] LIGHT DUTY WRECKER means a wrecker that has:

(A) a manufacturer's gross vehicle weight rating of not less than 12,500 [~~10,000~~] pounds; and

(B) either:

(i) a power-operated winch, winch line, and boom, with a factory-rated lifting capacity of not less than 8,000 pounds, single line capacity; or

(ii) an underlift device with a factory-rated lifting capacity of not less than 3,000 pounds when extended.

~~(19)~~~~(17)~~ LOWBOY UNIT means a vehicle that is designed and equipped so as to be capable of carrying another vehicle upon itself for the purpose of transporting the vehicle when it cannot be safely transported by a conventional wrecker and that:

(A) consists of:

(i) a dual-axle truck tractor equipped with a power-operated winch and winch line that has a factory-rated lifting capacity of not less than 20,000 pounds, single line capacity; and

(ii) a trailer with a steel or aluminum carrier bed that is at least 40 feet long, with a load rating of not less than 40,000 pounds; and

(B) complies with all applicable state and federal vehicle weight laws.

~~(20)~~~~(18)~~ MEDIUM DUTY WRECKER means a wrecker that has:

(A) a manufacturer's gross vehicle weight rating of not less than 18,000 pounds; and

(B) a power-operated winch, winch line, and boom, with a factory-rated lifting capacity of not less than 24,000 pounds and a dual line capacity of not less than 8,000 pounds.

~~(21)~~~~(19)~~ OPERATE means to drive or to be in control of a wrecker.

~~(22)~~~~(20)~~ OPERATOR means the holder of an emergency wrecker service license.

~~(23)~~~~(21)~~ PARKING BAN means certain hours of the day during which the standing, parking, or stopping of vehicles is prohibited along designated streets as indicated by signs authorized by the traffic engineer.

~~[(22) PEAK TRAVEL HOURS means time periods, as designated by the chief of police, when vehicular traffic is the most active.]~~

~~(24)~~~~(23)~~ PERMITTEE means an individual who has been issued a wrecker driver's permit under this article.

~~(25)~~~~(24)~~ PERSON means an individual, assumed name entity, partnership, joint-venture, association, corporation, or other legal entity.

~~(26)~~~~(25)~~ POLICE DEPARTMENT means the police department of the city of Dallas.

~~(27)~~~~(26)~~ POLICE SCENE means a location at which:

- investigation;
- (A) an accident has taken place that is subject to city police field investigation;
 - (B) city police have recovered a stolen vehicle;
 - (C) a vehicle has been abandoned on a street or other public property;
 - (D) a custodial arrest has taken place;
 - (E) a disabled vehicle is blocking a traffic lane of a street; or
 - (F) an illegally parked vehicle is subject by law to removal or impoundment by the chief of police or any other authorized city official.

(28)~~(27)~~ RAPID RESPONSE LOCATION means an area designated under Section 15D-53.1 ~~[by the chief of police]~~ to which an emergency wrecker must provide rapid removal of wrecked, disabled, or illegally parked vehicles.

(29) RAPID RESPONSE ROTATION LIST means a list, maintained by the chief of police as provided for in Section 15D-53 of this article, of licensed emergency wrecker companies participating in the rapid response program.

(30)~~(28)~~ ROTATION means an occasion when the chief of police calls an emergency wrecker from either the wrecker rotation list or the rapid response rotation list to perform a vehicle tow.

(31)~~(29)~~ STREET means any public street, road, right-of-way, alley, avenue, lane, square, highway, freeway, expressway, high occupancy vehicle lane, or other public way within the corporate limits of the city. The term includes all paved and unpaved portions of the right-of-way.

(32)~~(30)~~ TILT BED/ROLL BACK CARRIER means a motor vehicle that is designed and equipped so as to be capable of lifting another vehicle upon itself for the purpose of transporting the vehicle when it cannot be safely transported by a conventional wrecker and that:

- (A) has a manufacture's gross vehicle weight rating of not less than 15,000 pounds;
- (B) has a steel or aluminum carrier bed that is at least 17 feet long, with a load rating of not less than 8,000 pounds;
- (C) ~~(B)~~ has a power-operated winch and winch line, with a factory-rated lifting capacity of not less than 8,000 pounds, single line capacity; ~~and~~
- (D) has a wheel lift tow bar with a factory-rated lifting capacity of not less than 3,000 pounds; and

(E) [(E)] complies with all applicable state and federal vehicle weight laws.

(33)[(34)] VEHICLE means a device in, upon, or by which a person or property may be transported on a public street. The term includes, but is not limited to, an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer, but does not include a device moved by human power or used exclusively upon a stationary rail or track.

(34)[(32)] VEHICLE OWNER OR OPERATOR means a person, or the designated agent of a person, who:

- (A) holds legal title to a vehicle, including any lienholder of record;
- (B) has legal right of possession of a vehicle; or
- (C) has legal control of a vehicle.

(35)[(33)] VEHICLE STORAGE FACILITY has the meaning given that term in the Vehicle Storage Facility Act.

(36)[(34)] VEHICLE STORAGE FACILITY ACT means Chapter 2303 [~~Article 6687-9a~~], [~~Vernon's~~] Texas Occupations Code [~~Civil Statutes~~], as amended.

(37)[(35)] WRECKED VEHICLE means a vehicle that has been damaged as the result of overturning or colliding with another vehicle or object so as to reasonably necessitate that the vehicle be removed by a wrecker.

(38)[(36)] WRECKER means a vehicle designed for the towing or carrying of other vehicles.

(39)[(37)] WRECKER DRIVER'S PERMIT means a permit issued under this article to an individual by the director authorizing that individual to operate a wrecker for an emergency wrecker service in the city.

(40)[(38)] WRECKER ROTATION LIST means a list of licensed emergency wrecker companies maintained by the chief of police, as provided for in Section 15D-50 of this article.

(41)[(39)] ZONE means a geographical area in which a licensee is licensed by the city to operate.”

SECTION 3. That Division 2, “Emergency Wrecker Service License,” of Article II, “Emergency Wreckers,” of CHAPTER 15D, "EMERGENCY VEHICLES," of the Dallas City Code, as amended, is amended to read as follows:

“Division 2. Emergency Wrecker Service License.

SEC. 15D-20. LICENSE REQUIRED; TRADE NAME REGISTRATION; BUSINESS LOCATION.

(a) A person commits an offense if he, or his agent or employee, engages in emergency wrecker service in the city without a valid emergency wrecker service license issued by the director under this article. Only one license may be issued to each emergency wrecker company.

(b) The owner of an emergency wrecker company shall register with the director a trade name that clearly differentiates that emergency wrecker company from all other companies engaging in emergency wrecker service and shall use no other trade name for the emergency wrecker company.

(c) A licensee shall maintain a permanent and established place of business at a location in the city where an emergency wrecker service is not prohibited by the Dallas Development Code. This location must be either within the zone in which the licensee is licensed to operate an emergency wrecker service or within one-half mile outside [~~in such proximity to~~] the established boundaries of that zone [~~that, in the judgment of the director or the chief of police, the licensee can render efficient service to the zone and comply with this article and any rules and regulations established by the director or the chief of police under this article~~].

(d) A licensee shall operate the licensed emergency wrecker service from a location inside the city.

SEC. 15D-21. LICENSE APPLICATION; CHANGE OF ZONE.

(a) A person desiring to engage in emergency wrecker service in the city shall file with the director a written application upon a form provided for that purpose, accompanied by a nonrefundable application processing fee of \$50. The application must be signed by an individual who will own, control, or operate the proposed emergency wrecker service. The application must be verified and include the following information:

(1) The trade name under which the applicant does business and the street address and telephone number of the emergency wrecker service’s business location.

(2) The number and types of wreckers to be operated, including the year, make, model, vehicle identification number, and state license plate number of, and the type of winch or lifting device to be operated on, each wrecker.

(3) The name, address, and telephone number of the applicant.

(4) An agreement that the applicant will participate in the wrecker rotation list [~~and rotation to rapid response locations~~].

(5) A list, to be kept current, of the owners (including each owner's percentage of ownership) and management personnel of the emergency wrecker service, and of all employees who will participate in emergency wrecker service, including names, state driver's license numbers, [~~and~~] wrecker driver's permit numbers, and whether the person holds an incident management towing operator's license.

(6) A statement attesting that all property, both real and personal, used in connection with the emergency wrecker service has been rendered for ad valorem taxation in the city and that the applicant is current on payment of those taxes.

(7) Documentary evidence from an insurance company indicating a willingness to provide liability insurance as required by this article.

(8) Proof of an ability to provide emergency wrecker service with at least four wreckers, including a minimum of one [~~two~~] conventional light duty wrecker[s] and one [~~two~~] tilt bed/roll back carrier[s] (the other two wreckers may be either conventional light duty or tilt bed/roll back), that meet the requirements of this article and any rules and regulations promulgated by the director or the chief of police pursuant to this article.

(9) Detailed financial reports for the previous three years that include income statements and balance sheets covering all wrecker activities or, if the applicant does not prepare an annual financial report, copies of the applicant's federal income tax statements for the previous three calendar years relating to the business.

(10) Proof of a valid certificate of occupancy issued by the city in the name of the company and for the location of the emergency wrecker service business.

(b) If a licensee requests a change of zone, the requirements of an initial applicant must be met.

(c) The director may, at any time, require additional information of an applicant or licensee to clarify items on the application.

SEC. 15D-22. LICENSE QUALIFICATIONS.

(a) To qualify for an emergency wrecker service license, an applicant must:

- (1) be at least 19 years of age;
- (2) be currently authorized to work full-time in the United States;
- (3) be able to communicate in the English language; and
- (4) not have been convicted of a crime:

(A) involving:

- Penal Code;
- (i) criminal homicide as described in Chapter 19 of the Texas Penal Code;
- (ii) kidnapping as described in Chapter 20 of the Texas Penal Code;
- Penal Code;
- (iii) a sexual offense as described in Chapter 21 of the Texas Penal Code;
- (iv) an assaultive offense as described in Chapter 22 of the Texas Penal Code;
- Code;
- (v) robbery as described in Chapter 29 of the Texas Penal Code;
- (vi) burglary as described in Chapter 30 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;
- (vii) theft as described in Chapter 31 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;
- (viii) fraud as described in Chapter 32 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;
- (ix) tampering with a governmental record as described in Chapter 37 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;
- (x) public indecency (prostitution or obscenity) as described in Chapter 43 of the Texas Penal Code;
- (xi) the transfer, carrying, or possession of a weapon in violation of Chapter 46 of the Texas Penal Code, or of any comparable state or federal law, but only if the violation is punishable as a felony under the applicable law;
- (xii) a violation of the Texas Dangerous Drug Act (Chapter 483, Texas Health and Safety Code), or of any comparable state or federal law, but only if the violation is punishable as a felony under the applicable law;
- (xiii) a violation of the Texas Controlled Substances Act (Chapter 481, Texas Health and Safety Code), or of any comparable state or federal law, but only if the violation is punishable as a felony under the applicable law; or

(xiv) criminal attempt to commit any of the offenses listed in Subdivision (4)(A)(i) through (xiii) of this subsection; and

(B) for which:

(i) less 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, if the applicant was convicted of a misdemeanor offense;

(ii) less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the applicant was convicted of a felony offense; or

(iii) less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if, within any 24-month period, the applicant has two or more convictions of any misdemeanor offense or combination of misdemeanor offenses;

(5) not be addicted to the use of alcohol or narcotics;

(6) be subject to no outstanding warrants of arrest;

(7) not employ any person who is not qualified under this subsection;

(8) be able to provide emergency wrecker service with at least four wreckers, including a minimum of one [two] conventional light duty wrecker[s] and one [two] tilt bed/roll back carrier[s] (the other two wreckers may be either conventional light duty or tilt bed/roll back), that meet the requirements of this article and any rules and regulations promulgated by the director or the chief of police under this article; ~~and~~

(9) have at least three years experience in wrecker operations and provide detailed financial reports for the previous three years that include income statements and balance sheets covering all wrecker activities or, if the applicant does not prepare an annual financial report, copies of the applicant's federal income tax statements for the previous three calendar years relating to the business; and

(10) have an established drug testing policy as required under Chapter 2308 of the Texas Occupations Code, as amended.

(b) An applicant who has been convicted of, or who employs a person who has been convicted of, an offense listed in Subsection (a)(4), for which the required time period has elapsed since the date of conviction or the date of release from confinement imposed for the conviction, may qualify for an emergency wrecker service license only if the director determines that the applicant, or the employee, is presently fit to engage in the business of an emergency wrecker service. In determining present fitness under this section, the director shall consider the following:

- (1) the extent and nature of the applicant's, or employee's, past criminal activity;
- (2) the age of the applicant, or employee, at the time of the commission of the crime;
- (3) the amount of time that has elapsed since the applicant's, or employee's, last criminal activity;
- (4) the conduct and work activity of the applicant, or employee, prior to and following the criminal activity;
- (5) evidence of the applicant's, or employee's, rehabilitation or rehabilitative effort while incarcerated or following release; and
- (6) other evidence of the applicant's, or employee's, present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the applicant, or employee; the sheriff and chief of police in the community where the applicant, or employee, resides; and any other persons in contact with the applicant, or employee.

(c) It is the responsibility of the applicant, to the extent possible, to secure and provide to the director the evidence required to determine present fitness under Subsection (b) of this section.

(d) An applicant for an emergency wrecker service license has the burden of proving that the applicant is qualified to operate an emergency wrecker service under this article.

(e) In determining whether the applicant is qualified to operate an emergency wrecker service in the city, the director shall consider, but not be limited to considering, the fitness of the applicant to perform an emergency wrecker service as may be indicated by the experience in wrecker operation, the safety record of the applicant, and the applicant's compliance with other city, state, and federal laws.

SEC. 15D-23. LICENSE ISSUANCE; FEE; DISPLAY; TRANSFERABILITY; EXPIRATION.

(a) The director shall, within 30 days after the date of application, issue an emergency wrecker service license to an applicant who complies with this article.

(b) A license issued to an emergency wrecker service authorizes the licensee and any bona fide employee to engage in emergency wrecker service.

(c) The annual fee for an emergency wrecker service license is \$500, prorated on the basis of whole months. The fee for issuing a duplicate license for one lost, destroyed, or mutilated is \$5. The fee is payable to the director upon issuance of a license. No refund of a license fee will be made.

(d) An emergency wrecker service license issued pursuant to this article must be conspicuously displayed in the emergency wrecker service's business location.

(e) An emergency wrecker service license, or any accompanying permit, badge, sticker, ticket, or emblem, is not assignable or transferable.

(f) An emergency wrecker service license expires June 30 of each year and may be renewed by applying in accordance with Section 15D-21. Application for renewal must be made not less than 30 days or more than 60 days before expiration of the license and must be accompanied by the annual license fee.

(g) A licensee shall, not less than [~~within~~] 10 days before [~~after~~] any change of address or trade name, notify the director of such changes.

SEC. 15D-24. REFUSAL TO ISSUE OR RENEW LICENSE.

(a) The director shall refuse to issue or renew an emergency wrecker service license if the applicant or licensee:

(1) intentionally or knowingly makes a false statement as to a material matter in an application for a license or license renewal, or in a hearing concerning the license;

(2) has been convicted twice within a 12-month period or three times within a 24-month period for violation of this article or has had an emergency wrecker service license revoked within two years prior to the date of application;

(3) uses a trade name for the emergency wrecker company other than the one registered with the director;

(4) has had an emergency wrecker service license suspended on three occasions within 12 months for more than three days on each occasion;

(5) has been finally convicted for violation of another city, state, or federal law that indicates a lack of fitness of the applicant to perform emergency wrecker service;

(6) fails to meet the service standards in the rules and regulations established by the director or the chief of police;

(7) is not qualified under Section 15D-22 of this article; or

(8) uses a subcontractor to provide emergency wrecker service.

(b) If the director determines that a license should be denied the applicant or licensee, the director shall notify the applicant or licensee in writing that the application is denied and include in the notice the specific reason or reasons for denial and a statement informing the applicant or licensee of the right to, and process for, appeal of the decision.

SEC. 15D-25. SUSPENSION OF LICENSE.

(a) A representative of the director or chief of police may suspend an emergency wrecker service license for a definite period of time not to exceed three days, and the director or the chief of police may suspend an emergency wrecker service license for a definite period of time not to exceed 10 days or, if the deficiency is detrimental to public safety, then for a period of time until the deficiency is corrected, for one or more of the following reasons:

(1) Failure of the licensee to maintain any wrecker or equipment in a good and safe working condition.

(2) Violation by the licensee or an employee of the licensee of a provision of this article or of the rules and regulations established by the chief of police or the director under this article.

(3) Failure of the licensee's wrecker to arrive at a police scene location or a rapid response location within the prescribed time after having been notified to do so by the chief of police.

(4) Conviction of an emergency wrecker driver of a provision of the motor vehicle or traffic laws of this state or city while in the scope of employment in the licensee's emergency wrecker service.

(5) Failure to continuously employ at least four emergency wrecker drivers who hold valid wrecker driver's permits issued under this article.

(b) Written notice of the suspension must be served on the licensee and must include the reason for suspension, the date the suspension begins, the duration of the suspension, and a statement informing the licensee of the right of appeal.

(c) A licensee may appeal a suspension imposed under Subsection (a) in the following manner:

(1) A licensee who is suspended by a representative of the chief of police may appeal the suspension by written request to the chief of police within 10 days after written notification of suspension. The chief of police shall conduct a hearing and may sustain, reverse, or modify the action appealed. The action of the chief of police is final.

(2) A licensee who is suspended by a representative of the director may appeal the suspension by written request to the director within 10 days after written notification of suspension. The director shall conduct a hearing and may sustain, reverse, or modify the action appealed. The action of the director is final.

(3) A licensee who is suspended by the director or the chief of police may appeal the suspension to an appeals panel consisting of the chief of police, the director, and a representative of the city manager's office, in accordance with the following procedures:

(A) A written request to the director must be made within 10 days after written notice to the licensee.

(B) The appeals panel shall set a time, date, and place for a hearing and the licensee will be notified at least three days prior to the hearing.

(C) The appeals panel may sustain, reverse, or modify the action appealed. The action of the panel is final.

(d) The period of suspension begins on the date specified in the notice of suspension or, in the case of an appeal, on the date ordered by the appeal hearing officer or panel, whichever applies.

(e) A licensee whose emergency wrecker service license is suspended shall not operate an emergency wrecker service inside the city during the period of suspension.

SEC. 15D-26. REVOCATION OF LICENSE.

The director shall revoke an emergency wrecker service license if the director determines that the licensee:

(1) intentionally or knowingly made a false statement as to a material matter in an application or hearing concerning the license;

(2) used a trade name for the emergency wrecker company other than the one registered with the director;

(3) had the emergency wrecker service license suspended on three occasions within 12 months for more than three days on each occasion;

(4) had the emergency wrecker service license suspended for a deficiency that is detrimental to public safety and 20 days have elapsed without a correction of the deficiency;

(5) intentionally or knowingly failed to comply with applicable provisions of this article or with the conditions and limitations of the license;

(6) operated a towing or wrecker service not authorized by the license or other applicable law;

(7) has been finally convicted for violation of another city, state, or federal law that indicates a lack of fitness of the licensee to perform emergency wrecker service;

(8) is under indictment for or has been convicted of any felony offense while holding an emergency wrecker service license;

(9) does not qualify for a license under Section 15D-22 of this article; ~~[or]~~

(10) failed to pay a fee required under this article; or

(11) violated Section 15D-57(c)(1), (2), or (3) of this article.

SEC. 15D-27. APPEALS.

If the director denies issuance or renewal of a license or revokes a license, the applicant or licensee may file an appeal with the [a] permit and license appeal board in accordance with Section 2-96 of this code.”

SECTION 4. That Section 15D-29, “Qualifications for a Wrecker Driver’s Permit,” of Division 3, “Wrecker Driver’s Permit,” of Article II, “Emergency Wreckers,” of CHAPTER 15D, "EMERGENCY VEHICLES," of the Dallas City Code, as amended, is amended to read as follows:

“SEC. 15D-29. QUALIFICATIONS FOR A WRECKER DRIVER'S PERMIT.

(a) To qualify for a wrecker driver's permit, an applicant must:

(1) be at least 19 years of age;

(2) be currently authorized to work full-time in the United States;

(3) hold a valid driver's license and a valid incident management towing operator’s license issued by the State of Texas;

(4) be able to communicate in the English language;

(5) not be afflicted with a physical or mental disease or disability that is likely to prevent the applicant from exercising ordinary and reasonable control over a motor vehicle or that is likely to otherwise endanger the public health or safety, as determined by a medical doctor licensed to practice medicine in the United States;

(6) not have been convicted of more than four moving traffic violations arising out of separate transactions, nor 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;

(7) not have been convicted of a crime:

(A) involving:

(i) criminal homicide as described in Chapter 19 of the Texas Penal Code;

(ii) kidnapping as described in Chapter 20 of the Texas Penal Code;

(iii) a sexual offense as described in Chapter 21 of the Texas Penal Code;

(iv) an assaultive offense as described in Chapter 22 of the Texas Penal Code;

(v) robbery as described in Chapter 29 of the Texas Penal Code;

(vi) burglary as described in Chapter 30 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;

(vii) theft as described in Chapter 31 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;

(viii) fraud as described in Chapter 32 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;

(ix) tampering with a governmental record as described in Chapter 37 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;

(x) public indecency (prostitution or obscenity) as described in Chapter 43 of the Texas Penal Code;

(xi) the transfer, carrying, or possession of a weapon in violation of Chapter 46 of the Texas Penal Code, or of any comparable state or federal law, but only if the violation is punishable as a felony under the applicable law;

(xii) a violation of the Texas Dangerous Drug Act (Chapter 483, Texas Health and Safety Code), or of any comparable state or federal law, that is punishable as a felony under the applicable law;

(xiii) a violation of the Texas Controlled Substances Act (Chapter 481, Texas Health and Safety Code), or of any comparable state or federal law, that is punishable as a felony under the applicable law; or

(xiv) criminal attempt to commit any of the offenses listed in Subdivision (7)(A)(i) through (xiii) of this subsection;

(B) for which:

(i) less 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, if the applicant was convicted of a misdemeanor offense;

(ii) less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the applicant was convicted of a felony offense; or

(iii) less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if, within any 24-month period, the applicant has two or more convictions of any misdemeanor offense or combination of misdemeanor offenses;

(8) not have been convicted of, or discharged by probation or deferred adjudication for, driving while intoxicated:

(A) within the preceding 12 months; or

(B) more than one time within the preceding five years;

(9) not be addicted to the use of alcohol or narcotics;

(10) be subject to no outstanding warrants of arrest;

(11) be sanitary and well-groomed in dress and person;

(12) be employed by a licensee; and

(13) have successfully completed within the preceding 12 months a defensive driving course approved by the Texas Education Agency and be able to present proof of completion.

(b) An applicant who has been convicted of an offense listed in Subsection (a)(7) or (8), for which the required time period has elapsed since the date of conviction or the date of release from confinement imposed for the conviction, may qualify for a wrecker driver's permit only if the director determines that the applicant is presently fit to engage in the occupation of a wrecker driver. In determining present fitness under this section, the director shall consider the following:

- (1) the extent and nature of the applicant's past criminal activity;
- (2) the age of the applicant at the time of the commission of the crime;
- (3) the amount of time that has elapsed since the applicant's last criminal activity;
- (4) the conduct and work activity of the applicant prior to and following the criminal activity;
- (5) evidence of the applicant's rehabilitation or rehabilitative effort while incarcerated or following release; and
- (6) other evidence of the applicant's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the applicant; the sheriff and chief of police in the community where the applicant resides; and any other persons in contact with the applicant.

(c) It is the responsibility of the applicant, to the extent possible, to secure and provide to the director the evidence required to determine present fitness under Subsection (b) of this section and under Section 15D-35 of this article.”

SECTION 5. That Section 15D-31, “Investigation of Application,” of Division 3, “Wrecker Driver’s Permit,” of Article II, “Emergency Wreckers,” of CHAPTER 15D, “EMERGENCY VEHICLES,” of the Dallas City Code, as amended, is amended to read as follows:

“SEC. 15D-31. INVESTIGATION OF APPLICATION.

(a) For the purpose of determining qualification under Section 15D-29(a)(5), the director may require an applicant to submit to a physical examination conducted by a licensed physician, at applicant's expense, and to furnish to the director a signed statement from the physician certifying that the physician has examined the applicant and that in the physician's professional opinion the applicant is qualified under Section 15D-29(a)(5).

(b) ~~The [Upon request of the] director[, the police department]~~ shall obtain a current official criminal history report (issued by the Texas Department of Public Safety within the preceding 12 months) on [investigate] each applicant to determine [and furnish the director a report concerning] the applicant's qualification under Section 15D-29. The ~~[municipal court shall furnish the]~~ director shall obtain a copy of the applicant's motor vehicle driving record and a list of any warrants of arrest for the applicant that might be outstanding.

(c) The director may conduct such other investigation as the director considers necessary to determine whether an applicant for a wrecker driver's permit is qualified.

(d) The director shall provide the applicant, upon written request, a copy of all materials contained in the applicant's file to the extent allowed under the Public Information Act (Chapter 552, Texas Government Code), as amended."

SECTION 6. That Section 15D-33, "Expiration of Wrecker Driver's Permit; Voidance Upon Suspension or Revocation of State Driver's License," of Division 3, "Wrecker Driver's Permit," of Article II, "Emergency Wreckers," of CHAPTER 15D, "EMERGENCY VEHICLES," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 15D-33. EXPIRATION OF WRECKER DRIVER'S PERMIT; VOIDANCE UPON SUSPENSION OR REVOCATION OF STATE DRIVER'S LICENSE OR STATE TOWING OPERATOR'S LICENSE.

(a) Except in the case of a probationary or provisional permit, a wrecker driver's permit expires one year from the date of issuance.

(b) If a permittee's state driver's license or incident management towing operator's license is suspended or revoked by the state, the wrecker driver's permit automatically becomes void. A permittee shall notify the director and the licensee for whom the permittee drives within three days after ~~[of]~~ a suspension or revocation of either ~~[a]~~ state ~~[driver's]~~ license and shall immediately surrender the wrecker driver's permit to the director."

SECTION 7. That Section 15D-35, "Probationary Permit," of Division 3, "Wrecker Driver's Permit," of Article II, "Emergency Wreckers," of CHAPTER 15D, "EMERGENCY VEHICLES," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 15D-35. PROBATIONARY PERMIT.

(a) The director may issue a probationary wrecker driver's permit to an applicant who is not qualified for a wrecker driver's permit under Section 15D-29 if the applicant:

(1) could qualify under Section 15D-29 for a wrecker driver's permit within one year from the date of application;

(2) holds a valid state driver's license or occupational driver's license; [~~and~~]

(3) holds a valid state incident management towing operator's license; and

(4) is determined by the director, using the criteria listed in Section 15D-29(b) of this article, to be presently fit to engage in the occupation of a wrecker driver.

(b) A probationary wrecker driver's permit may be issued for a period not to exceed one year.

(c) The director may prescribe appropriate terms and conditions for a probationary wrecker driver's permit as the director determines are necessary.”

SECTION 8. That Section 15D-37, “Display of Permit,” of Division 3, “Wrecker Driver’s Permit,” of Article II, “Emergency Wreckers,” of CHAPTER 15D, "EMERGENCY VEHICLES," of the Dallas City Code, as amended, is amended to read as follows:

“SEC. 15D-37. DISPLAY OF PERMIT.

A wrecker driver shall at all times keep a valid wrecker driver's permit in the driver's possession and shall allow the director, the chief of police, or a peace officer to examine the permit upon request.”

SECTION 9. That Section 15D-42, “Appeal from Denial, Suspension, or Revocation,” of Division 3, “Wrecker Driver’s Permit,” of Article II, “Emergency Wreckers,” of CHAPTER 15D, "EMERGENCY VEHICLES," of the Dallas City Code, as amended, is amended to read as follows:

“SEC. 15D-42. APPEAL FROM DENIAL, SUSPENSION, OR REVOCATION.

(a) If the director [~~denies,~~] suspends[~~—or revokes~~] a wrecker driver's permit, the action is final unless the permittee files an appeal, in writing, with the city manager not more than 10 business days after notice of the director's action is received.

(b) The city manager or a designated representative shall act as the appeal hearing officer in an appeal hearing under this section. The hearing officer shall give the appealing party an opportunity to present evidence and make argument. The formal rules of evidence do not apply to an appeal hearing under this section, and the hearing officer shall make a ruling on the basis of a preponderance of the evidence presented at the hearing.

(c) The hearing officer may affirm, modify, or reverse all or part of the action of the director being appealed. The decision of the hearing officer is final as to available administrative remedies.

(d) If the director denies issuance or renewal of a wrecker driver's permit or revokes a wrecker driver's permit, the applicant or permittee may file an appeal with the permit and license appeal board in accordance with Section 2-96 of this code.

SECTION 10. That Section 15D-45, "Apparel to Be Worn by Drivers," of Division 4, "Miscellaneous Licensee and Driver Regulations," of Article II, "Emergency Wreckers," of CHAPTER 15D, "EMERGENCY VEHICLES," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 15D-45. APPAREL TO BE WORN BY DRIVERS.

(a) A licensee shall specify and require an item of apparel or an item placed on the apparel to be worn by drivers employed by the licensee, which item must be of such distinctive and uniform design as to readily identify the licensee's emergency wrecker company and must bear the name of the licensee's emergency wrecker company. The item specified by each licensee must be approved by the director to ensure that drivers of one licensee may be easily distinguished from drivers of another.

(b) While on duty, a driver shall wear the item specified by the licensee who employs the driver and shall comply with such other identification regulations prescribed by the emergency wrecker service license.

(c) While on duty, a driver may not wear:

(1) apparel with offensive or suggestive language;

(2) cut offs;

(3) tank tops; or

(4) sandals.

(d) While on duty, a driver shall wear a traffic safety vest that is certified by the American National Standards Institute (ANSI) for visibility.

SECTION 11. That Subsection (d) of Section 15D-46, "Insurance," of Division 4, "Miscellaneous Licensee and Driver Regulations," of Article II, "Emergency Wreckers," of CHAPTER 15D, "EMERGENCY VEHICLES," of the Dallas City Code, as amended, is amended to read as follows:

"(d) The cargo/on hook insurance for vehicles while being loaded, unloaded, or transported must provide limits of liability of not less than \$25,000 for each light duty wrecker or tilt bed/roll back carrier and \$50,000 for each medium duty wrecker, heavy duty wrecker, or lowboy unit."

SECTION 12. That Section 15D-47, "Information to Be Supplied upon Request of Director," of Division 4, "Miscellaneous Licensee and Driver Regulations," of Article II, "Emergency Wreckers," of CHAPTER 15D, "EMERGENCY VEHICLES," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 15D-47. INFORMATION TO BE SUPPLIED UPON REQUEST OF DIRECTOR.

Upon request of the director, a licensee shall submit to the director the following information:

- (1) A [a] current consolidated list of vehicles.[;]
- (2) A [a] current financial statement that includes a balance sheet and income statement.[;]
- (3) Names [names] of current officers, owners, and managers.[;]
- (4) A [a] list of current drivers employed by the licensee, with their wrecker driver's permit numbers indicated, and a copy of the incident management towing operator's license issued by the state to each driver.
- (5) A copy of the licensee's drug testing policy established under Chapter 2308 of the Texas Occupations Code, as amended.
- (6) Any additional information deemed necessary by the director relating to the operations and activities of the emergency wrecker service."

SECTION 13. That Division 5, "Service Rules and Regulations," of Article II, "Emergency Wreckers," of CHAPTER 15D, "EMERGENCY VEHICLES," of the Dallas City Code, as amended, is amended to read as follows:

"Division 5. Service Rules and Regulations.

SEC. 15D-50. EMERGENCY WRECKER SERVICE ZONES; WRECKER ROTATION LIST PROCEDURE.

(a) The chief of police shall partition the city into zones for emergency wrecker service and shall place the names of all emergency wrecker companies licensed under this article on a wrecker rotation list. Notice of the boundary limits of each zone will be provided to each licensee on the rotation list. Each licensee may apply for and be assigned to only one zone.

(b) When an emergency wrecker is needed at a police scene, the police officer or other authorized city official at the scene will communicate that need immediately to the police department. On receiving the first request for emergency wrecker service, the dispatcher will call the first available emergency wrecker company on the rotation list assigned to the zone in which the police scene is located and order removal of the wrecked, disabled, or illegally parked vehicle to a place designated by the chief of police. On each succeeding request for emergency wrecker service, the dispatcher will call the next available emergency wrecker company on the rotation list that is assigned to the zone involved, or call the nearest available emergency wrecker in an adjacent zone if none are available in the zone involved. Proper notation of each call for emergency wrecker service must be made on the master rotation list.

(c) The chief of police may direct that an emergency wrecker be called out of its zone or out of rotation when determined to be in the best interest of the public health, safety, and welfare.

SEC. 15D-51. REMOVAL OF A VEHICLE WITH A WRECKER.

A licensee or permittee commits an offense if he, either personally or through an employee or agent, removes a vehicle from a street or other public property without:

- (1) using a wrecker; or
- (2) first completing every procedure required to secure the vehicle to the wrecker or wrecker equipment, including the attachment of any safety chains, so that the vehicle may be safely towed.

SEC. 15D-52. REQUIREMENTS AND OPERATING PROCEDURES FOR EMERGENCY WRECKER SERVICE.

(a) A licensee shall comply with the following requirements and procedures:

(1) Maintain a 24 hour emergency wrecker service and operate a two-way communication system on a 24-hour basis. The licensee shall keep the business location required under Section 15D-20(c) open and staffed from 9:00 a.m. to 5:00 p.m. weekdays, except for:

(A) holidays recognized by the city; and

(B) other times for which the licensee has:

(i) obtained prior written approval from the chief of police;

and

(ii) provided the director with a copy of that approval.

(2) Arrive at the police scene, if it is not a rapid response location, within 30 minutes ~~[a reasonable time]~~ after having been notified to do so by the chief of police ~~[, such response time generally not to exceed 30 minutes]~~.

(3) ~~[Arrive at a dispatched location within a rapid response location within a reasonable time after having been notified to do so by the chief of police, such response time generally not to exceed 15 minutes.]~~

(4) Deliver, in every instance, the wrecked, disabled, or illegally parked vehicle directly to a location designated by the chief of police without stopping at any other location or for any reason other than mechanical breakdown or problems with the vehicle hookup to the wrecker. In the event of a mechanical breakdown or problem with the vehicle hookup to the wrecker, the wrecker driver or the licensee shall immediately notify the chief of police.

(4)~~(5)~~ Report to the director all changes in emergency wreckers and equipment used in the licensee's emergency wrecker service and render all additional vehicles for inspection by the director. A wrecker without a valid emergency wrecker inspection sticker is not allowed to participate in the wrecker rotation list or the rapid response rotation list.

(5)~~(6)~~ Employ at least four emergency wrecker drivers who hold valid wrecker driver's permits issued under this article and valid incident management towing operator's licenses.

(6)~~(7)~~ Upon arrival at the scene of an accident and in a manner that minimizes the duration of interference with normal traffic flow, promptly clear the wreckage and debris from the travelled portion of the roadway or confine it to the smallest possible portion of the travelled roadway while removal is taking place and, before leaving the accident site, completely remove from the site all resulting wreckage or debris, including all broken glass, but excluding truck or vehicle cargoes.

(7) Request the police officer or other authorized city official at a police scene to call for the dispatch of another emergency wrecker if additional wreckers are needed to clear a police scene.

(8) Not permit the use of the licensee's wrecker by another licensee.

(b) Nothing in this article permits the operation of a wrecker as an authorized emergency vehicle.

SEC. 15D-53. RAPID RESPONSE PROGRAM [~~LOCATIONS~~].

(a) The chief of police shall create a rapid response [wrecker] rotation list to assign licensed emergency wrecker companies to rapid response locations in a particular zone for each day of the week. The chief of police may modify the rotation list on a monthly basis to prevent one emergency wrecker company from always working the same day of the week in a rotation.

(b) Participation by a licensed emergency wrecker company in the rapid response program is voluntary. An emergency wrecker company may request to be placed on the rapid response rotation list only when applying for license issuance or renewal or at other times designated by the chief of police. An emergency wrecker company may request to have its name removed from the rapid response rotation list at any time [The chief of police shall keep a list in alphabetical order of every licensed emergency wrecker company].

(c) [~~The chief of police shall assign as many emergency wrecker companies as the chief of police determines are needed to provide rapid response service during peak travel hours.~~] Each participating [assigned] emergency wrecker company shall provide at least one conventional light duty [licensed emergency] wrecker and one tilt bed/roll back carrier to be available for a [one week during the] designated day assigned by the chief of police [hours] to remove vehicles as directed by the chief of police. The emergency wrecker company shall be available to provide emergency wrecker service under the rapid response program for the full 24 hours of its assigned day.

(d) On [During] each subsequent day [one week period], an adequate number of emergency wrecker companies next appearing [in alphabetical order] on the rapid response rotation list will be assigned to remove vehicles as directed by the chief of police.

(e) The chief of police shall designate back-up emergency wrecker companies in the event that a primary emergency wrecker company is unable to respond on an assigned day. If a primary emergency wrecker company is unable to respond, it shall immediately notify the chief of police, and the chief of police will dispatch a back-up emergency wrecker company to the police scene at the rapid response location.

(f) An emergency wrecker company responding to a dispatch under the rapid response program shall arrive at the dispatched location within 15 minutes after notification to do so by the chief of police.

(g) On its assigned day, an emergency wrecker company may stage its wreckers in strategic locations within its approved zone (but not on a freeway, highway, or expressway) to facilitate timely response to a police scene in a rapid response location. An emergency wrecker company may not respond to a police scene without first being dispatched by the chief of police.

(h) An emergency wrecker company dispatched to a rapid response location may conduct a “double tow” by loading two vehicles onto a single tilt bed/rollback carrier, but only when both vehicles are towed from a single police scene to the same location approved by the chief of police. If the emergency wrecker company receives a subsequent call for service at a different location, it must send another wrecker to the other location.

(i) All towed vehicles must be disposed of in accordance with Section 15D-54.

SEC. 15D-53.1 RAPID RESPONSE LOCATIONS.

The following are rapid response locations:

- (1) C. F. Hawn Freeway.
- (2) Central Expressway.
- (3) East R. L. Thornton Freeway.
- (4) Interstate Highway 20.
- (5) John W. Carpenter Freeway.
- (6) Julius Schepps Freeway.
- (7) Lyndon B. Johnson Freeway.
- (8) Marvin D. Love Freeway.
- (9) S. M. Wright Freeway.
- (10) South R. L. Thornton Freeway.
- (11) Stemmons Freeway.
- (12) Tom Landry Freeway.
- (13) Walton Walker Boulevard.
- (14) Woodall Rogers Freeway.
- (15) All entrance and exit ramps and all adjacent service roads of the freeways named in Paragraphs (1) through (14) of this section.
- (16) Any other area designated by the chief of police.

SEC. 15D-54. DISPOSITION OF TOWED VEHICLES.

(a) Except as provided in Subsection (b) of this section, a vehicle towed under this article will be kept at a vehicle storage facility designated by the chief of police until application for the vehicle's redemption is made by the vehicle owner, or the owner's authorized agent, who will be entitled to possession of the vehicle upon payment of all costs of removal and storage that may have accrued. If the vehicle is not redeemed by the vehicle owner or the owner's authorized agent, the vehicle will be disposed of in a manner prescribed by law.

(b) The owner or operator of a wrecked or disabled vehicle, or the owner or operator's authorized agent, may request that an emergency wrecker remove the vehicle to a location other than one designated in Subsection (a). Removal of the vehicle to a location designated by the vehicle owner or operator, or the owner or operator's authorized agent, must be authorized by the chief of police, or the chief's authorized representative at the police scene, and be in accordance with rules and regulations established by the chief of police.

(c) If a licensee or wrecker driver refuses to leave a towed vehicle at the vehicle owner or operator's designated delivery location for failure of the vehicle owner or operator to pay all fees allowed under Section 15D-57, the licensee or wrecker driver shall tow the vehicle to a location designated by the chief of police under Subsection (a) and report the change in the delivery location to the police department in accordance with Section 15D-55.

SEC. 15D-55. NOTIFICATION OF POLICE DEPARTMENT; IMPOUNDED VEHICLE RECEIPTS.

(a) A licensee or wrecker driver commits an offense if he fails to notify and provide all of the following information to the police department within two hours after removing a vehicle from a police scene with an emergency wrecker:

(1) The [~~the~~] location from which the vehicle was removed and the date and time of removal. [;]

(2) The [~~the~~] reason for removal of the vehicle. [;]

(3) A [~~a~~] physical description of the removed vehicle, including the year, make, model, color, state license plate number, and vehicle identification number of the vehicle. [;]

(4) The [~~the~~] trade name of the emergency wrecker service. [;]

(5) The [~~the~~] name, address, and telephone number of the vehicle storage facility or other location to which the vehicle was taken. [; ~~and~~]

(6) The [~~the~~] fee paid to the licensee or wrecker driver for removal of the vehicle and a copy of the receipt given to the owner or operator of the towed vehicle, which receipt must be signed by, and list the telephone number of, the vehicle's owner or operator.

(7) The dispatch number assigned by the chief of police to authorize the removal of the vehicle.

(b) A licensee or wrecker driver shall obtain from the chief of police impounded vehicle receipt forms on which to record the information required in Subsection (a) and any other information determined necessary by the director or the chief of police. A licensee or wrecker driver shall complete a separate impounded vehicle receipt for each vehicle removed by the licensee or wrecker driver under this article. The licensee or wrecker driver shall return copies of all completed impounded vehicle receipts to the police department in a manner and on a schedule required by the chief of police.

SEC. 15D-56. CITY-OWNED WRECKERS.

Nothing in this article prevents the chief of police from calling a city-owned wrecker to a police scene to render emergency wrecker service in lieu of calling an emergency wrecker from the wrecker rotation list or the rapid response rotation list.”

SECTION 14. That Section 15D-57, “Maximum Fee Schedule for Emergency Wrecker Service,” of Division 6, “Fee Schedule,” of Article II, “Emergency Wreckers,” of CHAPTER 15D, "EMERGENCY VEHICLES," of the Dallas City Code, as amended, is amended to read as follows:

“SEC. 15D-57. MAXIMUM FEE SCHEDULE FOR EMERGENCY WRECKER SERVICE.

(a) The following fees are authorized for providing emergency wrecker service to vehicles (except for vehicles owned by the city):

(1) \$~~121~~^[95] for towage of a vehicle with a manufacturer's gross vehicle weight rating of not more than 10,000 pounds, plus a fee of \$~~64~~^[50] for each hour over two [~~three~~] hours that is required to complete the tow, with partial hours paid in quarter hour increments.

(2) \$~~191~~^[150] for towage of a vehicle with a manufacturer's gross vehicle weight rating of more than 10,000 pounds but not more than 26,000 pounds, plus a fee of \$~~95~~^[75] for each hour over two hours that is required to complete the tow, with partial hours paid in quarter hour increments.

(3) \$~~445~~^[350] for towage of a vehicle with a manufacturer's gross vehicle weight rating of more than 26,000 pounds, plus a fee of \$~~159~~^[125] for each hour over two hours that is required to complete the tow, with partial hours paid in quarter hour increments.

(4) \$64~~[50]~~ for any service a wrecker operator or driver performs that renders a vehicle operable, including, but not limited to, removing or straightening a bumper or fender, or another similar service.

(5) When dispatched by the chief of police to a location more than 100 yards outside the corporate limits of the city to tow a vehicle from the dispatched location to a location inside the corporate limits of the city, \$3~~[4]~~ for each loaded one-way mile that the wrecker travels, measured from the dispatched location to the nearest point of the corporate limits of the city ~~[to the dispatched location]~~ using the most direct and expeditious route.

(6) When dispatched by the chief of police to a location inside the corporate limits of the city to tow a vehicle to a location more than 100 yards outside the corporate limits of the city, \$3 for each loaded one-way mile that the wrecker travels, measured from the nearest point of the corporate limits of the city to the vehicle delivery location using the most direct and expeditious route.

(7) No additional fee may be charged for linkage of a vehicle prior to a tow or for the use of towing dollies, go-jacks, winching, or air bags.

(b) The charges allowed in Subsections (a)(1), (2), and (3) are calculated from the time a wrecker is dispatched by the chief of police to the time the vehicle to be towed is delivered to a location designated by the chief of police.

(c) A licensee or permittee commits an offense if he, either personally or through an employee or agent:

(1) charges more than the maximum towage fee allowed by this section for the particular vehicle towed;

(2) charges any fee in addition to those lawfully charged under this section; or

(3) requests payment of a fee for emergency wrecker service from a person or in a manner not authorized by this article or rules and regulations established by the director or the chief of police pursuant to this article.”

SECTION 15. That Section 15D-58, “Vehicles and Equipment,” of Division 7, “Vehicles and Equipment,” of Article II, “Emergency Wreckers,” of CHAPTER 15D, "EMERGENCY VEHICLES," of the Dallas City Code, as amended, is amended to read as follows:

“SEC. 15D-58. VEHICLES AND EQUIPMENT.

(a) An applicant or licensee shall submit each wrecker to be used in the emergency wrecker service for inspection in a manner determined by the director. Each wrecker must:

(1) if used for towing a vehicle with a manufacturer's gross vehicle weight rating of not more than 10,000 pounds, meet the requirements for a light duty wrecker or a tilt bed/roll back carrier;

(2) if used for towing a vehicle with a manufacturer's gross vehicle weight rating of more than 10,000 pounds but not more than 26,000 pounds, meet the requirements for a medium duty wrecker;

(3) if used for towing a vehicle with a manufacturer's gross vehicle weight rating of more than 26,000 pounds, meet the requirements for a heavy duty wrecker or a lowboy unit;

(4) carry, as standard equipment, a tow bar, towing dollies, safety chains, a fire extinguisher, a wrecking bar, a broom, a shovel, at least six flares or three reflective triangles, absorbent material for oil or fuel leakages, and a container to carry debris, except that:

(A) towing dollies are not required on medium duty or heavy duty wreckers; and

(B) towing dollies and^[5] tow bars^[5] ~~and wheel lift systems~~ are not required on tilt bed/roll back carriers or lowboy units;

(5) be maintained in a safe and good working condition, contain equipment that is maintained in a safe and good working condition, and comply with all minimum safety and equipment standards required for a wrecker by city ordinance or state or federal law;

(6) have permanently affixed to each side of the front doors ~~[power unit]~~ of the wrecker legible letters and numbers, at least two inches high, in a color that contrasts with the front doors ~~[power unit]~~, stating the trade name and telephone number (including area code) of the emergency wrecker service and the motor carrier registration number of the wrecker; and

(7) be capable of providing two-way communication with the licensee's base station at all times.

(b) An inspection fee of \$23 must be paid for each wrecker that is used in the emergency wrecker service. Upon inspection and approval of each vehicle, the director shall issue a decal to the applicant or licensee. The decal must be affixed securely to the lower left corner of the front windshield of the inspected wrecker.

(c) The director, the chief of police, or a peace officer may, at any time, inspect a wrecker used by a licensee for emergency wrecker service to determine whether the vehicle complies with this section.

(d) A licensee or permittee commits an offense if he, either personally or through an employee or agent^[5]

(1) uses a light duty wrecker, a tilt bed/roll back carrier, a medium duty wrecker, a heavy duty wrecker, or a lowboy unit to tow a vehicle that exceeds the manufacturer's gross vehicle weight rating allowed to be towed by the particular type of wrecker under Subsection (a)(1), (2), or (3), whichever is applicable; or

(2) tows a vehicle using a wrecker that does not have a valid city of Dallas emergency wrecker decal affixed to the windshield as required by Subsection (b) of this section."

SECTION 16. That Section 15D-64, "Offenses," of Division 8, "Enforcement," of Article II, "Emergency Wreckers," of CHAPTER 15D, "EMERGENCY VEHICLES," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 15D-64. OFFENSES.

(a) A person commits an offense if he violates a provision of this article applicable to him. ~~[A culpable mental state is not required for commission of an offense under this article unless the provision defining the conduct expressly requires a culpable mental state.]~~

(b) A separate offense is committed each day in which an offense occurs. An offense committed under this article is punishable by a fine of not less than \$200 ~~[n]~~ or more than \$1,000 as provided by Section 2308.505 of the Texas Occupations Code, as amended [500]. The minimum fine established in this subsection will ~~[shall]~~ be doubled for the second conviction of the same offense within any 24-month period and trebled for the third and subsequent convictions of the same offense within any 24-month period. At no time may ~~[shall]~~ the minimum fine exceed the maximum fine established in this subsection.

(c) The culpable mental state required for the commission of an offense under this article is governed by Section 1-5.1 of this code.

(d) ~~[(b)]~~ Prosecution for an offense under Subsection (a) does not prevent the use of other enforcement remedies or procedures applicable to the person charged with the conduct or involved in the offense."

SECTION 17. That any person holding a valid emergency wrecker service license on February 11, 2009 is not required to comply with Section 15D-58(a)(6) of the Dallas City Code, as set forth in this ordinance, until July 1, 2009.

SECTION 18. That CHAPTER 15D of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 19. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 20. That this ordinance will take effect on February 16, 2009, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By _____
Assistant City Attorney

Passed _____

RM/DCC/000015

GREATER DALLAS EMERGENCY WRECKER ASSOCIATION

Competitors working together for the good of Dallas

P. O. Box 59327
Dallas, TX 75229
*A non-profit membership
organization*

November 26, 2008

Mr. Gary Titlow
City of Dallas
Transportation Regulation

Via: Electronic Mail

Dear Gary

We appreciate the time and effort you have dedicated to the rewrite of Ordinance 15 D as it relates the Emergency Wreckers which work for the City on a daily basis. We understand it is no small task.

As you are aware, the Emergency Wreckers have seen no rate increase since the last Ordinance modifications in 2001. We have reviewed the latest proposals and proposed rates and are completely "on board" with the current direction. Please let us know if there is any area we can assist in expediting this through Council.

Sincerely



Steve Smith
Chairman GDEWA
972-620-0420
ssmith@unitedroadtowing.com