

CITY OF LOG CABIN, TEXAS

ORDINANCE 129

WRECKER / IMPOUNDMENT GOVERNMENT ENTITY FEE

STATE OF TEXAS

COUNTY OF HENDERSON

AN ORDINANCE OF THE CITY OF LOG CABIN, TEXAS, ENACTING A GOVERNMENT ENTITY FEE FOR IMPOUNDED VEHICLES; PROVIDING DEFINITIONS, PROCEDURES, AUTHORITY OF POLICE OFFICERS, LICENSE REQUIREMENTS, OBLIGATIONS OF WRECKER COMPANY, LIABILITIES OF WRECKER COMPANY, TOWING AND STORAGE CHARGES, AUDIT AUTHORITY, ASSESSMENT AND COLLECTION OF FEES, AND INSURANCE; AND PROVIDING A PENALTY FOR VIOLATIONS.

NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOG CABIN, TEXAS:

SECTION 1: DEFINITIONS

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

A. Authorized Towing / Wrecker Company – Any towing / wrecker company authorized by the City Council of the City of Log Cabin, Texas, to provide Non-Consent Towing services to the Log Cabin Police Department.

B. City- The City of Log Cabin, Texas.

C. Consent Tow - Any tow 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 the tow of a motor vehicle initiated by a police officer investigating a traffic accident or a traffic incident that involves the vehicle, or who arrests the operator of the vehicle for an alleged offense and is required by law to take the person into custody.

D. Motor Vehicle - Any vehicle that is self-propelled.

E. Non-Consent Tow - Any tow of a vehicle that is not initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term includes a tow of a motor vehicle initiated by a police officer.

F. Owner - Any person who holds the legal title of a motor vehicle or who has the legal right possession thereof, or the legal rights of said vehicle.

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G. Person - An individual person, firm, corporation, or association.

H. Street - Any public street, alley, public place, square, or highway within the corporate limits of the city.

I. TDLR - Texas Department of Licensing and Regulations

J. Tow Truck/Wrecker - A motor vehicle used for the purpose of towing or removing disabled or wrecked vehicles.

K. Towing/Wrecker Company - The business of towing, removing, storage/impound of disabled, wrecked and/or police designated vehicles off the streets of the city and engaging in providing towing services to the general public.

L. Vehicle - 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 semitrailers.

SECTION 2: WRECKER LIST

The Log Cabin Police Department shall use any authorized towing/wrecker company approved by the City Council of the City of Log Cabin (on a rotating basis approved by the Chief of Police) to provide non-consent towing or collision response towing, in response to a request for services from a police officer pursuant to the procedures set forth below.

SECTION 3: PROCEDURE FOR CONTACTING WRECKER SERVICE:

A. When a police officer investigating an accident determines that any vehicle which has been involved in a collision or accident upon a public street is unable to proceed safely under its own power or when the owner thereof is physically unable to drive such vehicle such officer shall:

(1) Request the owner to designate the towing or wrecker company the owner desires to remove the vehicle.

(2) When the owner has designated the towing or wrecker company desired, the police officer shall communicate that fact immediately to the Police Department Dispatch Office (Henderson County Sheriff's Office or any other agency used as a Dispatch Office for the Log Cabin Police Department), and the dispatcher shall then cause the designated towing or wrecker company to be called and directed to send to the scene of the accident with a wrecker capable of removing the disabled vehicle.

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(3) If the designated towing or wrecker company does not have a wrecker available of the type authorized by State and Federal law to move the vehicle, the Log Cabin Police Department is unable to contact the requested company, or the designated wrecker company cannot arrive within a reasonable amount of time pursuant to the current conditions, the owner will be requested to make another designation.

(4) In the event that the owner is unable or unwilling to designate another towing or wrecker company, and the Log Cabin Police Department is unable to contact the requested company or the company does not respond in a timely manner, and it is necessary to remove the vehicle for public safety reasons or to protect such vehicle in the event the owner is incapacitated, or if the owner of the vehicle so requests, an authorized towing/wrecker company will be called to tow the vehicle to the location designated by the owner; provided that if in such event the owner does not specify a designation to which the vehicle will be removed, the vehicle may be removed to an authorized towing/wrecker company storage facility.

B. In the event the owner of a vehicle involved in an accident or collision is physically unable to designate the towing or wrecker company desired, or refuses to designate a towing or wrecker company, the police officer shall contact an authorized towing/wrecker company and request the disabled vehicle be taken to the authorized towing/wrecker company storage facility.

C. In the event that a vehicle is operated by a person whom a police officer arrests for an alleged offense and the officer is required by law to take the person into custody, the officer shall call the appropriate authorized towing/wrecker company for non-consent towing service. Failure of an authorized towing/wrecker company to deliver a licensed wrecker, of the type required, to the scene within 20 minutes of notification without justification acceptable to the police officer, shall cause that towing/wrecking company to forfeit the call and the next authorized towing/wrecker company on rotation shall be notified.

SECTION 4: AUTHORITY OF POLICE OFFICER AT SCENE OF DISABLED VEHICLE:

The officer in charge at the collision scene or at the location of a disabled vehicle on a public roadway may, if the safety of the public requires it or if otherwise authorized under Texas Transportation Code 545.305, as amended, take steps as needed to insure public safety, including but not limited to:

A. Directing that any vehicle be taken to impound lots owned or used by the city;

B. Directing that any vehicle be delivered to a specific location authorized by Texas transportation code 545.305, as amended; or

C. Excluding any person from the investigation area who in the opinion of the officer may hinder an investigation.

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SECTION 5: POLICE OFFICER NOT PERMITTED TO RECOMMEND WRECKER COMPANY:

No Log Cabin 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 towing or wrecker 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 a towing, wrecker or repair service. Provided, that any police officer, in the exercise of his discretion as a police officer, may direct that any vehicle (whether towed by a company selected by the owner of the vehicle or towed by an authorized towing/wrecker company) shall be taken by the driver of the tow truck or wrecker towing the vehicle directly to an authorized towing/wrecker company storage facility. The Officer may inform the owner of a vehicle to be towed that the authorized towing/wrecker companies are official towing companies for the City.

SECTION 6: WRECKER SELECTION:

The City Council of the City of Log Cabin approves all authorized towing/wrecker companies. Authorized towing/wrecker companies (towing wrecker companies approved by the City Council of the City of Log Cabin) are the only towing/wrecker companies that Log Cabin Police Department shall use for non-consent tows. In the event an authorized/towing company is not in service (vacation, equipment failure, etc), the authorized towing/wrecker company may provide an alternate towing/wrecker service to provide towing/wrecker service during their absence on their behalf, provided that the information is provided to the Chief of Police in writing prior to the call for service. Alternate towing/wrecker companies acting on behalf of authorized towing/wrecker companies shall perform all responsibilities as if the authorized towing/wrecker company had performed the tow. The authorized towing/wrecker company is responsible and liable in every way for all acts under this Ordinance for the alternate wrecker company they choose including payment to their substitute wrecker company and payment of fees to the City. The authorized towing/wrecker company is responsible for assuring all non-consent tows are delivered to the authorized towing/wrecker company impound/storage facility per this Ordinance.

SECTION 7: INSPECTION OF STORAGE FACILITIES:

The Log Cabin Chief of Police may inspect storage/impound facilities at any time. The Police Chief has the responsibility to approve/disapprove any facility.

SECTION 8: LICENSE REQUIREMENTS:

All authorized towing/wrecker companies shall comply with Texas Department of Licensing and Regulations (TDLR).

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SECTION 9: OBLIGATIONS OF WRECKER COMPANY:

Authorized towing/wrecker companies shall comply with each of the following obligations as a condition under this Ordinance:

- A. Authorized towing/wrecker companies shall remove all wreckage and debris from a collision scene, except for vehicle cargo or hazardous waste, as part of the services rendered in response to a call from the city.
- B. Authorized towing/wrecker companies shall exercise reasonable care and caution to avoid destruction or contamination of any item that a police officer may determine to be of evidentiary value.
- C. Authorized towing/wrecker companies shall perform services provided pursuant to this Ordinance in a professional manner and in compliance with all applicable local, State, and Federal laws and regulations, and shall comply with the provisions of Texas Civil Statute Article 6687-9a, the Vehicle Storage Facility Act, as amended from time to time.
- D. Authorized towing/wrecker companies shall be available to release the vehicles on which there are no investigative holds seven days a week, 24 hours a day with one hour notice. When a vehicle is under investigative hold by the Log Cabin Police Department, the police officer in charge of the investigation shall inform the authorized towing/wrecker company that the vehicle is under an investigative hold. Authorized towing/wrecker companies shall obtain the name and badge number of the officer charged with authorizing the release of any vehicle which has been impounded under the direction of the Log Cabin Police Department and shall hold such vehicle until its release is authorized by such officer or the Chief of Police.

SECTION 10: NOTIFICATION OF IMPOUNDMENT:

Authorized towing/wrecker companies shall notify the operator or owner of any towed vehicle of the location of their facility.

SECTION 11: SOLICITATION AT ACCIDENT SCENE:

No person shall solicit business at the scene of any traffic accident or collision on a public street in a manner to disrupt, impede or otherwise interfere with the flow of traffic or the provision or conduct of police, fire or emergency medical services. Proof of the presence of any person engaged in the towing for hire or wrecker business, or the presence of any wrecker or motor vehicle owned or operated by any person engaged in the towing for hire or wrecker business, at or near the scene or site of a wreck, accident, or collision on any public street in the city, within one hour after the happening of such wreck, accident, or collision, shall, absent such person or wrecker being called to the scene of such accident or collision by the Police Department or owner of a vehicle involved in the accident, be prima facie evidence of a solicitation in violation of this Ordinance.

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SECTION 12: TOWING CHARGES AND STORAGE:

Authorized towing/wrecker companies shall comply with all Texas Department of Licensing and Regulations regarding Charges and Storage (TDLR).

SECTION 13: AUDIT OF BOOKS:

The Chief of Police or the City Council may audit the books of authorized towing/wrecker companies to ensure compliance with governing permissible towing charges and fees. Upon request, authorized towing/wrecker companies shall allow the Chief of Police access to all documentation demonstrating towing and storage fees for non-consent tows.

SECTION 14: CIVIL LIABILITIES:

Authorized towing/wrecker companies assumes all responsibilities for the vehicle when authorized towing/wrecker companies takes custody of the vehicle and its contents, including but not limited to, damage of any kind or theft during their custody of the vehicle.

SECTION 15: GOVERNMENT ENTITY FEE:

Authorized towing/wrecker companies shall collect a **Twenty-Five dollar (\$25.00) Government Entity Fee** as provided for in the Texas Department of Licensing and Regulations (TDLR). The Government Entity Fee shall be paid to the City of Log Cabin no later than the 15th day of each month following the previous month's collection period.

SECTION 16: INSURANCE

Authorized towing/wrecker companies must provide and maintain, at a minimum, insurance policies as required by the State of Texas, TDLR liability requirements and cargo insurance which covers all potential liabilities for their actions and obligations under this Ordinance. Proof of insurance must be provided to the City of Log Cabin initially and at the beginning of each calendar year, no later than January 5th of each year. Authorized towing/wrecker companies, by accepting a towing agreement with the City of Log Cabin, agrees to defend itself and the City against all claims and law suits pertaining to the authorized towing/wrecker companies custody of a towed vehicle.


SECTION 17: PENALTY

Violations of this Ordinance may result in the termination of approval for towing/wrecker companies to provide non-consent towing services for the City of Log Cabin, and any other penalty(s) provided for by the Texas Department of Licensing and Regulations.

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The City of Log Cabin hereby adopts this Ordinance, City Ordinance Number 129.

PASSED AND APPROVED THIS 15th day of August, 2013.



Lawrence Nolan, Mayor

ATTESTED:



Pat Hayes, City Secretary