

## Chapter 8 AUTOMOTIVE DEALERS AND AUTO WRECKERS

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### ARTICLE II. AUTOMOTIVE DEALERS

#### DIVISION 1. GENERALLY

##### Sec. 8-16. Definitions.

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*Storage lot operator.* Any person, ~~other than the licensed owner(s) of record,~~ working at a vehicle storage facility subject to compliance with licensed under article 3 of this chapter who manages the business operations of the vehicle storage facility and is recognized by employees of the vehicle storage facility as having ultimate control over the day-to-day operations of the vehicle storage facility or is responsible for releasing vehicles held by the vehicle storage facility to the public. This definition shall also include the licensed owner of record if such person works at the storage facility on a temporary or regular basis.

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### ARTICLE III. AUTO WRECKERS AND STORAGE LOTSYARDS

#### DIVISION 1. GENERALLY

##### Sec. 8-101. Definitions.

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*Nonconsent ~~Private~~ storage lot* means an automobile storage facility ~~situated within the city~~ that is either:

- (1) Operating under a current and valid license granted pursuant to the Vehicle Storage Facility Act (Chapter 2303 of the Texas Occupations Code); or
- (2) Operating under a current and valid police private storage lot agreement ~~authorization~~ issued under division 3 of this article.

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### **DIVISION 3. NONCONSENT PRIVATE STORAGE LOTS**

#### Subdivision A. General Provisions

#### **Sec. 8-141. General; state license required. Application; affirmative defense.**

- (a) Any person who holds a valid license pursuant to the Vehicle Storage Facility Act (Chapter 2303, Texas Occupations Code) may store motor vehicles towed without the consent of the vehicle owner. Any person who is not required to obtain a license under the Vehicle Storage Facility Act (including, without limitation, a person licensed under the Texas Motor Vehicle Commission Code (chapter 2301, Texas Occupations Code)) that desires to operate a private storage lot within the city shall obtain an authorization under this division.
- (b) All nonconsent storage lots in the city are subject to the provisions of this division and the applicable provisions of section 28-34 of this Code. The provisions of this division do not apply to a vehicle storage facility operated by a person licensed under the Texas Motor Vehicle Commission Code (chapter 2301, Texas Occupations Code). It is an affirmative defense to prosecution of any offense specified in this division 3, except those offenses enumerated in section 8-193, that the actor was required to hold a license from the Texas Department of Licensing and Regulation pursuant to the Vehicle Storage Facility Act and was acting within the scope of authority granted pursuant to a license issued thereunder.
- (c) All nonconsent storage lots shall have not less than 1.25 acres of contiguous space dedicated for the storage of motor vehicles; provided however, nonconsent storage lots operated on or before \_\_\_\_\_,<sup>1</sup> shall be exempt from the requirements of this subsection, provided the nonconsent storage lot has been operated continuously without termination, revocation, or lapse longer than 90 days.
- (d) For purposes of this division, the term *vehicle owner* includes the registered owner of a vehicle or other person authorized by law to retrieve a vehicle from a storage lot.
- (e) The provisions of this article are cumulative of applicable state law and regulations concerning vehicle storage facilities. To the extent there exists any difference or inconsistency between the provisions of this article and applicable state law or regulations, the more restrictive shall apply.

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<sup>1</sup> City Secretary shall insert date of passage of these amendments to the Code of Ordinances.

**Sec. 8-142. Police private storage lots. ~~Authorization for police private storage lot use.~~**

~~Only nonconsent storage lots that have a current police private storage lot agreement may store vehicles towed under the authority of a city police officer. All persons who hold current and valid private storage lot authorizations issued under this division and all persons who hold current and valid licenses under the Vehicle Storage Facility Act may, by entering into a police private storage lot agreement with the city, act as police private storage lots.~~

**Sec. 8-143. Police private storage lot agreement (PPSLA).**

- (a) ~~The On recommendation of the police chief, the mayor may execute PPSLAs agreements for the mayor on behalf of the city with persons who hold a valid license issued pursuant to authorizations under this division 3 and with licensees under the Vehicle Storage Facility Act to store motor vehicles towed under the authority of a city police officer serve as police private storage lots. PPSLAs shall contain such other terms and conditions as the police chief determines to be necessary or desirable to safeguard the storage and disposal of motor vehicles towed without the vehicle owners' consent. A PPSLA shall be personal to the nonconsent storage lot and owner to whom it is issued and shall become void upon any attempted assignment, sublease, lease, sale or other transfer, unless prior written approval has been given for the same by the police chief. A PPSLA shall be for a term stated therein and shall be subject to suspension or termination pursuant to all applicable conditions and requirements stated in the PPSLA. The right to enter into such agreements shall be extended on a uniform basis to all eligible persons who operate a vehicle storage facility within the city limits. The agreement shall be for such term as the police chief may recommend, provided that all such agreements will provide for a right of any party thereto to terminate upon 30 days' written notice, without cause, and for suspension or termination for cause upon five days' written notice in the event of the failure of the storage facility operator to timely or fully comply with any provision of the agreement. A termination without cause shall not be effected by the city without the consent of the city council.~~
- (b) ~~The police chief may refuse to enter into a PPSLA hereunder if the nonconsent storage lot owner (including its partners if a partnership and stockholders if a corporation) or any storage lot operator has had either a PPSLA terminated or a license issued pursuant to the Vehicle Storage Facility Act revoked within the preceding five year period. The police chief may require a business records affidavit to demonstrate compliance with the foregoing provision. Without limiting the foregoing, in any instance in which a PPSLA is requested for a tract or parcel of land upon which there has been a police private storage lot holding a PPSLA that was terminated during the preceding five years, the applicant shall disclose the names of the intended nonconsent storage lot owners and any storage lot operators, and the PPSLA shall not be entered into unless the intended~~

nonconsent storage lot owner and storage lot operator demonstrate full compliance with the applicable provisions of this section. The foregoing provisions shall apply to a PPSLA that is not renewed or is terminated by the nonconsent storage lot under threat of termination in the same manner as a PPSLA that has been terminated by the city. The police chief may consider the history of complaints against the applicant or the applicant's infractions with any governing body concerning the storage of vehicles towed without the vehicle owner's consent when determining whether to execute a PPSLA with the owner of a nonconsent storage lot. For purposes of this section, *applicant* means the owner of a nonconsent storage lot who seeks to enter into a police private storage lot agreement with the city.

(c) *Application.* The owner of a nonconsent storage lot seeking a PPSLA shall file an application with the police department on a form provided by the city, accompanied by the nonrefundable application fee stated for this provision in the city fee schedule. On the application, the applicant shall set forth:

(1) The name and address of the applicant and any storage lot operator. If the applicant is an individual, the application shall so state. If the applicant is a partnership, the name and address for each partner shall be set out. If the applicant is a corporation, the applicant shall set forth:

a. The name and address of the corporation;

b. The name and address of each corporate officer;

c. The name and address of each person owning a controlling interest in the corporation. If no single person owns a controlling interest in the corporation, the applicant shall list the names of each person who owns 20 percent or more of the interest in the corporation. If the controlling interest is held by an entity, and not by one or more individuals, the applicant shall list each individual who owns 20 percent or more of the interest in any such entity.

(2) The street address and the full property description of the nonconsent storage lot, the tow zone in which the storage lot is located, and the number of vehicle storage or parking spaces thereon that will be used for the storage of motor vehicles.

(3) The telephone number of the storage lot.

(4) The business name of the storage lot.

(5) The date of birth, place of birth, sex, race, and address information for the preceding five years for each person listed under item (1) of this subsection.

- (6) Whether any person listed under item (1) above has been convicted of any criminal offense in this state or any other state or country within the five years immediately preceding the application date or has spent any time in jail or prison within the five years immediately preceding the application date due to a conviction; provided, however, convictions for any traffic offenses that are classified as no greater than a Class C misdemeanor under the laws of Texas are not required to be listed on the application. If any such person has been convicted of any offense required to be listed on the application or been in jail or prison due to a conviction, the applicant shall set out the offense convicted of, the date of the conviction, and the place, court and case number of the case.
- (7) Each person listed in the application shall be fingerprinted at a location designated by the police chief.
- (8) An application under this section shall be signed by the applicant. If a partnership, it shall be signed by each partner. If a corporation, it shall be signed by the president and attested by the corporate secretary. In all cases, the person signing shall execute an affidavit, on the application form, that the statements contained in such application are true and correct.
- (9) The PPSLA shall contain a provision that the applicant agrees that the nonconsent storage lot will be operated in compliance with all amendments or additions to the ordinances regulating storage lots as may be adopted by city council, and any requirements regarding the storage, handling or release of vehicles that have been towed without the vehicle owner's consent that may be imposed by any court of competent jurisdiction.

~~In the event of a proposed suspension or termination for cause, the storage facility operator shall be afforded an opportunity for a hearing before the director of administration and regulatory affairs or his designee ("the hearing officer") prior to suspension or termination of the agreement. The hearing officer shall render his decision at the conclusion of the hearing, which decision shall not be effective until the time for filing an appeal has expired. Each hearing before the hearing officer shall be video recorded by the police department. In the event that the hearing officer finds that the agreement should be suspended or terminated for cause, the storage facility operator may file a written appeal of that decision with the hearing officer within three days following rendition of the hearing officer's decision. The appeal shall be decided by the automotive board within 30 days of the filing of a written request therefor with the hearing officer or as soon thereafter as the board is able to convene a meeting. The timely filing of an appeal shall stay the action of the hearing officer for a period of ten days from the date of filing of the appeal. Unless additional information is requested in the manner provided below, the appeal shall be decided on the basis of the video record and any documents filed at the hearing before the hearing officer, a copy of which shall be made available to each member of the automotive board as soon as practicable after the filing of~~

~~the appeal. The board may take additional evidence if five or more members of the board request that additional information be furnished. Any such request shall specifically state the person(s) or document(s) to be presented and the names of the five or more board members who requested that the information be provided. The notice shall be delivered in writing by the chairman of the board to the police chief and to the appellant at least 72 hours prior to the commencement of the board meeting at which the appeal will be considered. The police chief and the appellant shall make every reasonable effort to present the person(s) or document(s) requested to the extent that the person(s) are within their ability to control or the document(s) are within their possession or control. If the board fails to decide the matter within the 30-day stay period, then on the 31st day, the hearing officer's decision shall be reinstated and shall be effective until the board decides the matter.~~

~~Each agreement holder who is not authorized under this division 3 shall be required to furnish a bond or account assignment in the same manner as provided in subsection (a) or (b) of section 8-153 of this Code for persons who are authorized under this division. The agreements shall contain such other terms and conditions as the police chief determines to be necessary or desirable in order to account for and safeguard the storage and disposition of vehicles towed without the vehicle owners' consent. All agreements shall be personal to the facility operator and owner to whom they are issued and shall become void upon any assignment, sublease, lease, sale or other transfer, unless prior written approval has been given for the same by the police chief.~~

~~(b) Notwithstanding the inapplicability of the various penal provisions of this division, except section 8-193, to licensees under the Vehicle Storage Facility Act, the agreements may require agreement holders acting as police private storage lots thereunder to comply with any or all provisions of this division, including but not limited to compliance with subsection (a) or (b) of section 8-153 of this Code and of subdivisions C, D, and E of this division in the same manner that they must be complied with by city private storage lot authorization holders, except to the extent that such compliance would result in a violation of any valid and applicable provision of the Vehicle Storage Facility Act or of a regulation issued by the Texas Department of Transportation thereunder.~~

~~(c) The chief of police may refuse to enter into an agreement for any police private storage lot if the operator or any employee or owner of the storage lot (including partners if a partnership and stockholders if a corporation) has had a police private storage lot agreement terminated for cause within the preceding period of five years. The police chief may require an affidavit and the furnishing of business records to demonstrate compliance with the foregoing provision. Without limiting the foregoing, in any instance in which a police private storage lot agreement is requested for a tract or parcel of land upon which there has been a police private storage lot holding an agreement that was terminated for cause during the preceding five years, the police chief shall require a full disclosure of the intended~~

~~operator's, owners' and employees' names and the agreement shall not be made unless the intended operator demonstrates full compliance with this section. The foregoing provisions shall apply to police private storage lot agreements that are not renewed or are terminated by the operator under threat of termination for cause in the same manner as to those that have actually been terminated for cause.~~

- (d) ~~The annual PPSLA agreement fee per nonconsent storage lot stated for this provision in the city fee schedule shall be payable by the storage lot owner to the city on or before the date specified in the PPSLA. The PPSLA fee is nonrefundable and shall not be subject to proration or refund.~~
- (e) ~~A PPSLA Agreements under this section are~~ is not exclusive, and the city shall not be precluded from directing that vehicles, such as those impounded for criminal investigations, be taken to other premises.
- (f) ~~Each PPSLA agreement holder shall report the receipt and release of vehicles delivered to its storage facility without the consent of the vehicle owner via the use of an authorized electronic reporting system implemented by the police department.~~
- (g) ~~Each PPSLA holder shall maintain the minimum insurance amounts and surety bond set forth in the PPSLA. The minimum insurance amounts and surety bond shall be determined by the police chief after consulting with the director of the department of administration and regulatory affairs.~~

**Sec. 8-144. Bond required.**

- (a) ~~Each nonconsent storage lot owner who has not executed a current, valid PPSLA shall file with the city a financial guarantee bond executed by the owner as principal. The bond shall be in a form approved by the city attorney and issued by a corporate surety authorized and admitted to write surety bonds in Texas. The bond shall be filed with the auto dealers detail of the police department.~~
- (b) ~~The purpose of the bond is to satisfy any past due fees collected pursuant to section 8-123(e) of this Code but not remitted before the due date established in section 8-183(e) of this Code. The amount of the bond for existing nonconsent storage lots shall be equal to the average of the previous 12 months of release fees collected pursuant to section 8-123(e). For new nonconsent storage lots, the amount of the bond shall be \$5,000 for the first year. For each subsequent year the bond amount will be equal to the average of the previous 12 months of release fees collected pursuant to section 8-123(e).~~
- (c) ~~The bond shall be payable to the city upon the nonconsent storage lot owner's failure to remit the fees collected pursuant to section 8-123(e) of this Code by the 15<sup>th</sup> day of the month following the month the fees were collected.~~



- (d) The term of the bond shall be for one calendar year from the date of issuance and shall continue to renew annually without amendment unless cancelled by the surety, who shall provide the nonconsent storage lot and the auto dealers detail of the police department not less than 30 calendar days written notice of cancellation.
- (e) The bond shall be kept in full force and effect for the entire duration of the nonconsent storage lot's operation in the city.

**Sec. 8-145. Transfer of location.**

A nonconsent storage lot shall only operate at the location set out in the state license issued to the vehicle storage facility.

**Sec. 8-146. Vehicle records.**

- (a) Each nonconsent storage lot owner and storage lot operator shall keep written records on each vehicle that is kept or stored on the nonconsent storage lot. Such records shall contain the following information:
  - (1) The year, make, color, correct license plate number, state issuing the license and correct vehicle identification number of the vehicle.
  - (2) The date, time and location where the vehicle was towed from.
  - (3) The name and state driver license number of the wrecker driver and the name of the company towing the vehicle.
  - (4) The date the vehicle was released, the name of the individual to whom the vehicle was released, or if the vehicle was transferred to another location, the address of that location, the name of the company towing the vehicle and the wrecker driver who made that transfer.
  - (5) If the vehicle ownership has been transferred due to any action of the nonconsent storage lot or the vehicle has been disposed of or demolished, a copy of the certificate of title issued after the vehicle came into the possession of the nonconsent storage lot, the certificate of authority to demolish, a police auction sales receipt, or a transfer document issued by the state for the vehicle.
  - (6) All fees charged for the vehicle.
- (b) The receipts, records and other information required to be kept by this section, or by section 8-183, shall be kept in the form of a separate file for each vehicle, that shall be maintained either:
  - (1) By assembling all such data relating to the vehicle under a single staple, clip, binder or other attachment device that securely holds them together;



(2) By assembling all such data relating to the vehicle in a separate envelope or file folder; or

(3) By assembling all such data related to the vehicle in a commonly accepted electronic format that must also be:

(i) Stored in a safe and secure place and in protected folders;

(ii) Protected against loss, damage or overwriting, and

(iii) Held in a format that is not readily corruptible and protected from deliberate or accidental alteration.

All amounts charged or chargeable for each vehicle shall be separately itemized in the file relating to that vehicle. It shall be the duty of each nonconsent storage lot owner and storage lot operator to ensure that the aforesaid separate files for each vehicle are kept on the storage lot premises where the vehicle was towed.

(c) The nonconsent storage lot owner and its storage lot operator shall ensure that any police officer may, without prior notice, inspect and copy all the records required to be kept pursuant to this article without delay upon appearance at the nonconsent storage lot at any time during the hours that the storage lot must ensure that vehicles can be released, provided that either the storage lot operator or someone else who is able to produce the records is present at the nonconsent storage lot. If the storage lot operator or another person who can produce the records is not present at the nonconsent storage lot, then it shall be the duty of the storage lot operator to ensure that he or some other person who is able to produce those records comes to the nonconsent storage lot within 30 minutes of a request made by a police officer during the hours the nonconsent storage lot must ensure that vehicles can be released to their owners. Upon arrival at the nonconsent storage lot, the storage lot operator or other designated person shall make the records available to the police officer without delay. All records required to be maintained for inspection shall be provided to the police officer either:

(1) In person by an employee or agent of the nonconsent storage lot; or

(2) By telephone, facsimile, email, or other method approved by the police chief.

Further, the nonconsent storage lot owner or operator shall ensure that the name of the person who is to produce such records is made known to the police officer at the time he requests to see such records pursuant to this section.

Additionally, if a police officer asks the storage lot operator or any agent or employee of the nonconsent storage lot who is able to produce the records to see the file that is required to be maintained on any specific vehicle or vehicles

pursuant to subsection (b) of this section, and informs that person of the date or dates such vehicle or vehicles were towed to the nonconsent storage lot, the storage lot operator or any employee or agent of his who is able to produce such records shall, without delay, produce the files on those vehicles.

- (d) Each record required to be kept by this article shall be kept for two years from the date of the last transaction shown in the record.
- (e) The storage lot operator shall utilize and maintain a computerized inventory system approved by the police chief. The storage lot operator shall utilize the Towed Vehicle Reporting Management System (TVRMS), or any other record management system mandated by the police chief, to provide information pertaining to nonconsent tows and to transmit any information required to be submitted to the auto dealers detail.

**Sec. 8-147. Conflicts of interests by city officials.**

No member of the police department shall have any ownership interest in any nonconsent storage lot required to comply with the provisions of this article or in any towing company that holds a police-authorized tow service agreement. No other appointed or elected official or employee of the city shall have any ownership interest in any nonconsent storage lot where there may be a conflict of interest due to the person's position or duties. This section shall not be applicable to members of the automotive board.

**~~Secs. 8-144—8-150. Reserved.~~**

~~Subdivision B. Authorization~~

**~~Sec. 8-151. Required.~~**

~~Except where specifically permitted by ordinance, no person shall store or permit any motor vehicle to be on his property when the motor vehicle was towed without the vehicle owner's consent unless a current authorization has been issued by the city for the property to be used as a private storage lot.~~

**~~Sec. 8-152. Application.~~**

- (a) ~~Each person who desires authorization to operate a private storage lot shall file an application with the police department on a form provided by the city. On the application, the applicant shall set forth:~~
- (1) ~~The name and address of the applicant if the applicant is an individual, the application shall so state. If the applicant is a partnership, the name and address for each partner shall be set out. If the applicant is a corporation, the applicant shall set forth:~~

- a. ~~— The name and address of the corporation;~~
  - b. ~~— The names and addresses of the three principal officers;~~
  - c. ~~— The name and address of each person owning a controlling interest in the corporation. If no single person owns a controlling interest in the corporation, the applicant shall list the names of each person who owns 20 percent or more of the interest in the corporation. If the controlling interest is held by an entity or entities, and not by one or more individuals, the applicant shall list each individual who owns 20 percent or more of the interest in any such entity or entities.~~
- (2) ~~— The street address and the full property description of the storage lot, the traffic management area in which it is located, and the number of vehicle storage or parking spaces thereon that will be used for the storage of motor vehicles.~~
- (3) ~~— The number of the telephone located at the storage lot.~~
- (4) ~~— The name under which business is conducted at the storage lot.~~
- (5) ~~— The number of the license issued by the city to operate as a storage lot under article II of this chapter.~~
- (6) ~~— The date of birth, place of birth, sex, race, and each address where the person has resided in the five years preceding the application for each person listed under paragraph (a)(1) above.~~
- (7) ~~— Whether any person listed under paragraph (a)(1) above has been convicted of any criminal offense in this state or any other state or country within five years immediately preceding his application or has spent any time in jail or prison within five years due to a conviction; provided, however, convictions for any traffic offenses that are classified as no greater than a Class C misdemeanor under the laws of Texas are not required to be listed on the application. If any such person has been convicted of any offense required to be listed on the application, or been in jail or prison due to a conviction, the applicant shall set out the offense convicted of, the date of the conviction, and the place, court and case number of the case. A signed authorization for the police department to investigate as to whether the person has committed any criminal offense shall be submitted by each person listed in paragraph (a)(1) above.~~
- (8) ~~— Each person listed in the application shall submit himself to be fingerprinted at the police department, or to the police department of any other city or town if such department will forward the fingerprints to the police department.~~

- ~~— An application under this section shall be signed by the applicant. If a partnership, it shall be signed by each partner. If a corporation, it shall be signed by the president and attested by the secretary. In all cases, the person signing shall execute an affidavit, on the application form, that the statements contained in such application are true and correct.~~
- ~~(b) — The applicant shall sign an agreement on a form provided by the police department in which the applicant shall be informed that it is the intention of the city council to fully comply with all requirements of due process as provided in the United States and Texas Constitutions. The applicant shall also be informed in the agreement that it is the intention of city council to fully abide by the decisions that have been rendered and that may be rendered by the courts of the United States and of the state defining the rights of due process of those persons whose vehicles are towed without the vehicle owner's consent.~~
- ~~— The applicant shall agree in the agreement that the storage lot will comply with all amendments or additions to the ordinances regulating storage lots as may be adopted by city council, and any requirements regarding the storage, handling or release of vehicles that have been towed without the vehicle owner's consent that may be imposed by any court of competent jurisdiction. If any future requirements set by a court of competent jurisdiction impose a greater burden on the applicant's business, the applicant may surrender his authorization to operate as a private storage lot to the city and the city will refund a proportionate amount of the fee that was paid for such authorization. The amount of refund shall be determined by multiplying one-twelfth of the annual fee paid by the storage lot by the number of months remaining after the date the storage lot surrenders its authorization to the next April 15. The applicant shall further agree that if he surrenders his authorization to operate as a private storage lot for any reason, he will abide by section 8-219.~~

**Sec. 8-153. Bond and insurance.**

- ~~(a) — Prior to the issuance of any authorization to operate a private storage lot or renewal of such an authorization, the applicant shall file with the city a bond, executed by the applicant as principal and by a good and sufficient corporate surety company licensed to do business in the state as surety. The bond shall be in the sum of \$1,000.00 if the storage lot has space to store no more than 50 motor vehicles, \$2,000.00 if the storage lot has space to store more than 50 motor vehicles but less than 100 motor vehicles, and \$5,000.00 if the storage lot has space to store more than 100 motor vehicles. The bond shall be payable to the city for the use and benefit of any person entitled thereto, and conditioned that the principal and surety will pay all final judgments of a court of competent jurisdiction for damages to persons or their property caused by, arising from, or growing out of the negligent, wrongful, fraudulent or illegal conduct of the applicant, or his agents or employees in the operation of the storage lot, when the cause of action arose during the period the bond was in effect and suit was filed within two years~~

~~of the date the cause of action arose. The bond shall provide that it will remain in full force and effect for the full year that the authorization is in effect, or it shall provide that it will remain in full force and effect for the full year that the authorization is in effect unless the surety has delivered notice in writing to the auto dealers' division of the police department of an intent to terminate the bond at least 30 days prior to any termination of the bond and has mailed such a notice to the storage lot operator at the address of the storage lot. The notice to the auto dealers' division of the police department may be delivered by personal delivery or by certified mail, return receipt requested.~~

~~(b) — In lieu of the aforesaid bonds, an applicant may assign an account with a financial institution insured by the Federal Deposit Insurance Corporation to the city. Such account shall be in the amount of not less than \$1,000.00 if the storage lot has space to store no more than 50 motor vehicles, \$2,000.00 if the storage lot has space to store more than 50 motor vehicles but less than 100 motor vehicles, and \$5,000.00 if the storage lot has space to store more than 100 motor vehicles. Under such an assignment, the financial institution must agree not to release, make payment from, or otherwise divert or dispose of the funds in such account except it shall agree to disburse all or such portion of the funds in the account as directed to do so by city council resolution.~~

~~— The city council shall, by resolution, instruct a financial institution to disburse funds from an account assigned to the city pursuant to this section to any person holding a final judgment from a court of competent jurisdiction for damages to persons caused by, arising from, or growing out of the negligent, wrongful, fraudulent, or illegal conduct of the storage lot operator or his agents or employees in the operation of the private storage lot in the amount of such judgment, if the authorization holder has not satisfied the judgment within 60 days after it has become final.~~

~~— The city council shall, by resolution, instruct a financial institution to disburse all remaining funds in an account assigned to the city pursuant to this section, to the authorization holder, if the authorization holder requests such a resolution at a time not less than two years after the authorization holder ceases to have authorization to operate a private storage lot in the city.~~

~~— The authorization holder shall ensure that the balance in an account assigned to the city pursuant to this section does not fall below the amounts specified in this subsection at any time the authorization holder has any authorization to operate a private storage lot in the city.~~

~~(c) — In addition to the aforesaid bond or assignment of an account to the city, each applicant for a private storage lot authorization shall file satisfactory proof that he has garagekeepers' legal liability insurance for the storage lot for which he seeks authorization to operate as a private storage lot. Such insurance shall include coverage for comprehensive, specified perils and collision and shall be issued by~~

~~a company duly authorized to write such insurance in the state. Such insurance shall be in the amount of no less than \$9,000.00 for injury to or destruction of property of others if the storage lot has space to store no more than 50 motor vehicles, \$18,000.00 if the storage lot has space to store more than 50 motor vehicles but less than 100 motor vehicles, and \$25,000.00 if the storage lot has space to store more than 100 motor vehicles. No such policy shall have a deductible of more than the amount of the bond posted or the account assigned to the city by the authorization holder.~~

~~— Said policy shall provide that the insurance company will give notice to the police department at least 30 days prior to any cancellation or expiration of the policy.~~

~~— Such policy shall be kept in full force and effect for the entire duration of the authorization and all renewals thereof.~~

**~~Sec. 8-154. Notice to applicant of application approval, denial, etc.~~**

~~(a) — The police department shall inform the applicant that the application has been approved upon submission of an application in accordance with section 8-152 and payment of the fee for such authorization, unless it finds that the application should not be approved under section 8-155 or notice of a hearing shall be given the applicant pursuant to section 8-157.~~

~~(b) — Whenever an application for authorization to operate a private storage lot has been approved, the applicant shall be given written notice of such approval. Within 45 days of the date the applicant receives notice that the application was approved, the applicant shall provide the police department with satisfactory evidence that all requirements of sections 8-153 and 8-172 have been complied with. If an application for authorization to operate a private storage lot has been approved, and the applicant has submitted evidence that the requirements of sections 8-153 and 8-172 have been complied with within 45 days of the date he received notice of the approval of the application, the police department shall grant the applicant authorization to operate the storage lot unless it finds that the requirements of sections 8-153 or 8-172 have not in fact been complied with.~~

~~— Notice that an application to operate a storage lot has been approved shall not grant any right to operate the storage lot, and no person shall operate any private storage lot until the police department has granted authorization to operate the storage lot.~~

**~~Sec. 8-155. Standards for approval.~~**

~~— An application for authorization to operate a private storage lot shall be approved unless:~~

- ~~(1) — There is no current license issued by the automotive board under article II of this chapter for the applicant to operate an automobile storage lot at that location.~~
- ~~(2) — Any information set out in the application was incomplete or false.~~
- ~~(3) — The applicant has not signed an agreement as required under section 8-152(b).~~
- ~~(4) — The proposed private storage lot has less than 25,000 square feet of space that will be dedicated for the storage of motor vehicles.~~

~~— A private storage lot that was first operated under an authorization on or before December 18, 2013 shall be exempt from the requirements of item (4) of this section, provided that the private storage lot is operated continuously under an authorization or renewal authorization without termination, revocation, or lapse longer than 90 days.~~

**~~Sec. 8-156. Notice to applicant of reasons for denial.~~**

~~— If the police department does not approve the application for authorization to operate as a private storage lot, the applicant shall be given written notice by certified mail, return receipt requested, at the applicant's address as set out in the application. In such notice the police department shall set out the reasons the application was not approved and the applicant may fully comply with the requirements for approval within 14 days of the date of receipt of such notice without any additional application fee.~~

**~~Sec. 8-157. Notice of hearing on application.~~**

~~— The police department shall give the applicant notice that a hearing will be held in regard to his application for authorization to operate a private storage lot if:~~

- ~~(1) — Any person required to be listed in the application has been convicted of or spent any time in jail or prison for any applicable offense specified in section 4-10 of this Code.~~
- ~~(2) — Authorization to operate a private storage lot held by any person listed on the application was revoked within five years immediately preceding the date the application was submitted to the police department, or grounds existed for the revocation of such authorization when the authorization expired.~~
- ~~(3) — Any storage lot license or authorization to operate a private storage lot at the same location as that in the application was revoked within five years immediately preceding the date the application was submitted to the police department, or grounds existed for the revocation of such a license or~~



~~authorization that expired, was surrendered, or was not renewed; provided, however, the applicant shall not be denied approval of an application for authorization to operate a private storage lot under this subsection if he shows that the person or persons holding the license or authorization that was expired, was surrendered, or was not renewed, (or if the person holding the license or authorization was a corporation, any officer or person having an ownership interest in the corporation) does not have and will not have any ownership interest in the partnership or corporation seeking the authorization, and is not and will not be employed by or have any control over or connection with the storage lot so long as the storage lot is authorized to operate as a private storage lot.~~

**~~Sec. 8-158. Application fee.~~**

~~—The applicant for authorization to operate a private storage lot shall submit the nonrefundable fee stated for this provision in the city fee schedule.~~

**~~Sec. 8-159. Expiration and renewal.~~**

~~(a) —Each authorization to operate as a private storage lot shall expire on the same day that the authorization holder's storage lot license issued under article II of this chapter expires. To renew such authorizations, the applicant shall file an application for renewal on a form designated by the police department setting out such information as the police department finds is reasonably necessary to determine if the authorization should be renewed, and shall pay the renewal fee stated for this provision in the city fee schedule.~~

~~(b) —No authorization to operate a private storage lot shall be renewed more than 30 days after the date of its expiration. If an authorization had expired and not been renewed within 30 days, the applicant may apply for a new authorization as an initial applicant. The fee for such a new authorization shall be the fee set out for an original authorization.~~

**~~Sec. 8-160. Refusal to renew; revocation.~~**

~~—The police department may refuse to renew an authorization to operate a private storage lot and such authorization may be revoked at any time if:~~

~~(1) —Any person required to be listed on the application has committed or been convicted of any applicable offense specified in section 1-10 of this Code.~~

~~(2) —The authorization holder has not been in compliance with the requirements of section 8-153 at any time since the authorization was issued.~~

~~(3) —The storage lot license issued under article II of this chapter for the storage lot has been revoked or has not been renewed.~~

- ~~(4) The authorization holder has committed any violation of the ordinances regulating private storage lots or of state laws requiring notice to vehicle owners and lienholders.~~
- ~~(5) The authorization holder has violated any of the rules and regulations issued by the automotive board pursuant to this article.~~
- ~~(6) There have been two or more violations of any of the ordinances regulating private storage lots or state laws requiring notice to vehicle owners or lienholders within any one year by agents or employees of the authorization holder.~~
- ~~(7) There have been two or more violations within one year by one or more agents or employees of the authorization holder of the rules and regulations issued by the automotive board pursuant to this article.~~
- ~~(8) Any person who held a storage lot license under article II of this chapter or authorization to operate a private storage lot that was revoked, or subject to revocation at the time it was not renewed obtains an ownership interest in the storage lot.~~
- ~~(9) The authorization holder has employed or allowed a person to continue to serve as an agent or employee if the authorization holder has knowledge that such person had held a storage lot license under article II of this chapter or authorization to operate a private storage lot that was revoked or subject to revocation at the time it was not renewed.~~

~~The procedures set out in subdivision F of this division shall be applicable to any revocation or refusal to renew authorization to operate a private storage lot.~~

**~~Sec. 8-161. Revocation upon surety giving notice of intent to revoke bond.~~**

~~Whenever a surety has given the auto-dealers division of the police department notice of intent to terminate a bond, the authorization to operate as a private storage lot shall be automatically revoked and shall become void on the date the bond is to be terminated by the surety unless prior to such date the storage lot authorization holder has filed a new bond with the city meeting the requirements of section 8-153(a) or has assigned an account to the city pursuant to the provisions of section 8-153(b).~~

**~~Sec. 8-162. Transfer; change or partnership or corporate interest, etc., in applicant.~~**

~~Each authorization to operate as a private storage lot shall be personal to the applicant and shall not be transferable.~~

~~—— If the applicant was a partnership and any person becomes a partner after the application was filed, or the authorization was issued, the authorization shall be void and shall be surrendered to the auto dealers detail of the police department.~~

~~—— If the applicant was a corporation, and there is any transfer in the interest of the corporation or of any entity having an interest in the corporation after the application was filed or after the authorization was issued so that any different individuals would be required to be listed on the application if a new authorization were sought, the authorization shall be void and shall be surrendered to the police department.~~

~~—— If the applicant was a corporation and any person not listed on the original application assumes the position of one of the three principal officers, the applicant shall file within 30 days of such change a supplement showing such person's name and address and the information required under section 8-152, paragraphs (a)(6), (a)(7) and (a)(8) regarding the person not listed on the original application.~~

~~—— If the police department would have been required to give notice of a hearing if a person listed on a supplement had been listed on the original application, the authorization shall be revoked pursuant to the procedures set out in this article for revocation of such authorizations.~~

**~~Sec. 8-163. Transfer of location.~~**

~~—— An authorization to operate as a private storage lot shall only be valid for the location set out in the application.~~

**Secs. 8-148164—8-170. Reserved.**

Subdivision B-C. Operational Rules, and Regulations and Requirements

**Sec. 8-171. Persons authorized to operate lot.**

(a) No person other than the nonconsent storage lot owner and the storage lot operator shall operate the nonconsent storage lot.

(b) Except for nonconsent storage lot operators, all persons who release vehicles at nonconsent storage lots must have a storage lot operator's license required pursuant to section 8-81 of this Code. No person other than the person to whom an authorization to operate a private storage lot has been issued, or his agents or employees shall operate the storage lot.

**Sec. 8-172. Business name; fences, paving, signs, etc.**

(a) No name other than the name provided on the state vehicle storage facility license and police private storage lot agreement, if applicable, set out in the application as the name under which the business is conducted may be used for advertising, for

telephone listing or for the conduct of the nonconsent automobile storage business at a storage lot authorized to operate as a private storage lot.

If a nonconsent storage lot owner authorization holder desires to change the name under which it conducts business, the nonconsent storage lot owner authorization holder shall file a notice of such change with the police department on a form designated by the police chief city at least ten days before the name of the storage lot is changed. Such notice shall show ~~the license number issued under article II of this chapter for the storage lot,~~ the current name under which business is conducted, the name that will be used, and the date on which the change of name shall be made. Only one name may be used at any one time for the conduct of business at a nonconsent private storage lot.

- (b) Each nonconsent storage lot being operated ~~operating~~ under an ~~authorization issued under this article shall~~ article:
- (1) ~~Shall be~~ Be completely enclosed by a solid fence that complies with subsections (d), (e), (f), and (g) of section 8-30 of this Code, with a gate that is locked at all times when the storage lot operator authorization holder or an agent or employee of the storage lot is not at the storage lot;
  - (2) ~~Shall have~~ Have an all-weather surface of concrete, asphalt, blacktop, stone, macadam, limestone, iron ore, gravel or shell;
  - (3) ~~Shall have~~ Have a sign clearly readable from the street setting out the name of the storage lot, the street address, the hours vehicles will be released to vehicle owners, and the city- and the state-issued license numbers of the storage lot, if applicable;
  - (4) ~~Shall have~~ Have a sign setting out the charges for towing vehicles, the per diem charge for storage and all other fees that may be charged by the storage lot. This sign shall also identify the documents required for a vehicle owner to retrieve a vehicle from the storage lot and the phone number of the auto dealers detail. This sign shall be located so that it is clearly visible to a vehicle owner prior to payment of the fees; and
  - (5) ~~Shall h~~ Have an operable telephone. In the event that a nonconsent storage lot has an employee or agent who serves as an answering service or utilizes an answering machine, the nonconsent storage lot owner and the storage lot operator shall be responsible for the information provided by the service or the content of the message relayed by the answering machine. An answering service must identify itself as such to the caller. Should the caller have a complaint regarding the storage of a vehicle, the answering service must provide the caller with the Houston Police Department storage facility complaint telephone number of (832)394-4869 or (832)394-HTOW. This same telephone number must be provided at the end on a recorded

~~message if the storage lot operator uses an answering machine. At minimum, an answering service or recorded message must inform the caller that vehicles will be released within one hour after a request for release with proof of ownership, and may not suggest, imply, or state that release of a vehicle is limited to certain business hours or days of the week. A police officer from the auto dealers detail may pose as a citizen for the purposes of testing responses to calls for the release of a vehicle towed without the consent of the owner. If at any time, the number of the telephone located at the storage lot is changed from the number set out in the application for authorization to operate as a private storage lot, the authorization holder shall give written notice of the change to the police department prior to the date the new number is used setting out in such notice the name of the storage lot, its location, its city license number, the old telephone number and the new telephone number.~~

A ~~nonconsent~~private storage lot that was first operated under a PPSLA executedn authorization on or before December 18, 2013, shall be exempt from the requirements of item (1) of this subsection, provided that the ~~nonconsent~~private storage lot is operated continuously under a PPSLA~~n authorization~~ or renewal ~~thereof~~authorization without termination, revocation, or lapse longer than 90 days.

#### **Sec. 8-173. Inspection and report.**

~~When a vehicle towed without the consent of the vehicle owner is delivered and accepted by a nonconsent storage lot, the nonconsent storage lot owner, the storage lot operator authorization holder, or an agent or employee of a private nonconsent storage lot accepts a vehicle towed without the consent of the vehicle owner, such person shall inspect the vehicle and note as an addition on the wrecker slip any differences from the information previously set out thereon, but shall not write over or deface in any manner any prior writing on the wrecker slip. If the license plate number or vehicle identification number on the wrecker slip was incorrect, the storage lot shall notify the police department of the correct number within 30 minutes of after the time the vehicle was delivered to the storage lot if delivered during hours the storage lot must ensure that vehicles may be released or within two hours from after the time the storage lot must ensure vehicles may be released if the vehicle was delivered during any other time.~~

#### **Sec. 8-174. Use of fenced area required.**

~~All vehicles towed without the consent of the vehicle owner must be No vehicle may be stored or kept on any private storage lot operating under an authorization issued under this article unless it is kept inside the fenced area at all times.~~

**Sec. 8-175. Inspection by police.**

The storage lot operator ~~authorization holder~~ shall ensure that all automobiles and parts thereof located on a storage lot are available and accessible for inspection by any police officer during the hours the storage lot must ensure that vehicles may be released to vehicle owners.

**Sec. 8-176. Right of owner of stored vehicle to inspect wrecker slip.**

Whenever a person claims ownership or right of possession to a motor vehicle located on a nonconsent private storage lot ~~operated under an authorization issued under this article, such that~~ person shall be entitled to inspect the wrecker slip for the motor vehicle; and shall not be required to pay any fees or charges prior to inspecting the wrecker slip.

**Sec. 8-177. Release of liability, waiver of rights, etc., prohibited.**

No ~~private storage lot~~ operator ~~authorization holder~~, or agent or employee of the storage lot, shall ask or require any person vehicle owner to sign any statement or form containing a statement releasing a storage lot, its owner, or its agents or employees, from any liability or waiving any rights the person vehicle owner may have against the storage lot, or his agents or employees, prior to the release of a motor vehicle; provided, however, the storage lot may request a person vehicle owner to sign such a release or waiver if the vehicle is being released without any charges for towing, preservation or storage and there has been no hearing held in regard to the removal of the vehicle pursuant to chapter 685 of the Texas Transportation Code. A nonconsent private storage lot may require a persons vehicle owner claiming a vehicle to sign a receipt acknowledging that they have the vehicle owner has in fact received the vehicle after the vehicle has been delivered to the vehicle owner.

**Sec. 8-178. Release of vehicles. ~~Duty to provide attendant, etc.~~**

~~All storage lot operators shall ensure that The authorization holder of a private storage lot that has on its property vehicles that were towed without the consent of the vehicle owner shall be responsible to ensure that vehicles may be received at any time and that a motor vehicles may be is released to the vehicle owner in a manner consistent with section 2303.160, Texas Occupations Code, and section 85.710, Texas Administrative Code, at least between the hours of 9:00 a.m. and 8:00 p.m. daily. During the hours the authorization holder shall ensure that vehicles may be released, someone must be on the storage lot who has authority to release the vehicles to the vehicle owners or a phone must be provided so that a vehicle owner can contact someone who is able and will in fact be at the storage lot within 30 minutes of receiving such a call and who is able to release the vehicles.~~

**Sec. 8-179. V.I.N. inspection.**

- (a) Each vehicle towed without the consent of the owner shall be inspected by the storage lot operator for the manufacturer's permanent vehicle identification number affixed to the vehicle prior to its acceptance into the nonconsent storage lot.
- (b) It shall be unlawful for a nonconsent storage lot operator to accept and store a vehicle whose manufacturer's permanent vehicle identification number has been removed or is not permanently affixed or is not clearly legible or that, upon visual examination of the manufacturer's permanent vehicle identification number, shows any evidence whatsoever of its possibly having been changed, altered or obliterated in whole or in part.
- (c) It shall be the duty of a nonconsent storage lot operator to immediately notify the auto dealers detail of the police department if it receives a vehicle with a vehicle identification number in a condition described in subsection (b) of this section.
- (d) The provisions of subsection (b) of this section shall not apply when a police department auto theft division officer or supervisor provides a nonconsent storage lot operator with written authorization to accept a nonconsent tow from a police scene.

**Sec. 8-180. Payment window.**

Any window at which a storage lot operator or an agent or employee accepts payment, processes paperwork, or otherwise deals with the public shall be:

- (1) At a height that does not prevent the customer from clearly seeing the employee; and
- (2) Transparent and free of tint or any obstruction that prevents the customer from clearly seeing the employee.

**Sec. 8-181. Acceptance of towed vehicles from unlicensed wrecker drivers.**

- (a) It shall be unlawful for a storage lot operator to accept a nonconsent tow originating from any location in the city from a wrecker driver who does not have a wrecker driver license issued by the city.
- (b) Notwithstanding the provisions of subsection (a) above and the provisions of section 8-117 of this Code, this section shall not apply to a nonconsent tow originating from any location in the city that is conducted pursuant to a contract with other governmental entities or at the request of a law enforcement agency other than the Houston Police Department.

**Secs. 8-179—8-190. Reserved.**



Subdivision D. ~~Further Operational Requirements, Fees, Etc.~~

**Sec. 8-~~182~~191. ~~Notice to owner and lienholders.~~**

~~It shall be the duty of the authorization holder of a private storage lot to mail or cause to be mailed notices as provided in this section to the registered owner and primary lienholder of each vehicle that is towed or delivered to the private storage lot without the authorization of the vehicle owner. The notice must be given by certified U.S. mail, return receipt requested, and shall be deposited in the United States Mail not later than 72 hours after but not sooner than 24 hours after the vehicle is received on the lot. The notice must contain:~~

- ~~(1) The date and time the vehicle was accepted for storage;~~
- ~~(2) The daily storage rate;~~
- ~~(3) The type and amount of all other charges to be paid when the vehicle is claimed;~~
- ~~(4) The full name, street address and telephone number of the private storage lot;~~
- ~~(5) The hours during which the vehicle owner may claim the vehicle; and~~
- ~~(6) Any additional information requested by the police chief to inform the owner/lienholder of his rights and obligations. The private storage lot authorization holder shall keep a record of the date and time that each notice was deposited in the United States mail.~~

**Sec. 8-~~192.~~ Notice to owner and lienholder; Weekly report to police department of vehicles towed to lot without consent of vehicle owner.**

~~(a) All nonconsent storage lots shall comply with all state law requirements regarding giving notices to the registered owner and primary lienholder of each vehicle that is towed or delivered to the private storage lot without the authorization of the vehicle owner. The storage lot operator shall keep a record of the date and time that each notice was provided to the registered owner and primary lienholder of each vehicle that is towed or delivered to the private storage lot without the authorization of the vehicle owner.~~

~~(b) Every Monday, each storage lot operator Each private storage lot authorization holder who stores any vehicles that have been towed to such lot without the vehicle owner's permission and does not file an authorized electronic report shall submit an electronic forward a report to the police department in a form and method approved by the police chief, each Monday by hand delivery or certified mail on a form designated by the police department containing the following information:~~

- (1) A list of all nonconsent tows ~~vehicles~~ received by the nonconsent private storage lot ~~that were taken to the lot without the vehicle owner's permission~~ between 8:00 a.m. on the Monday immediately preceding the date of the report and 8:00 a.m. on the Monday on which the report is made. Such list shall contain:
  - a. The date and the time each such motor vehicle was delivered to the nonconsent private storage lot;
  - b. The auto wrecker company, the name and state driver license number of the wrecker driver who delivered the motor vehicle to the nonconsent private storage lot; and
  - c. The license plate number, the vehicle identification number, the year, the make, and the color of the motor vehicle.
  
- (2) A list of all nonconsent tows ~~vehicles that had originally been~~ received by the nonconsent private storage lot ~~that were without the vehicle owner's permission and that had been delivered to the vehicle owner or released taken from the~~ nonconsent private storage lot between 8:00 a.m. on the Monday immediately preceding the date of the report and 8:00 a.m. on the Monday on which the report is made. Such list shall contain:
  - a. The license plate number and the vehicle identification number, the year, the make, and the color of each such motor vehicle;
  - b. The date and time the motor vehicle was released ~~taken~~ from the storage lot;
  - c. The name of the ~~person~~ vehicle owner receiving the motor vehicle; and
  - d. The payment amount ~~of payment~~ received by the nonconsent storage lot.
  
- (3) ~~All private storage lots shall comply with all requirements of state law in regard to giving notices.~~ Notices to the police department shall be provided on a form promulgated by the police chief and shall include ~~In giving notice to the police department as required by state law, the storage lot shall set out on a form designated by the police department~~ the year, make, model, vehicle identification number and license plate number of the motor vehicle, the location of the nonconsent private storage lot where the vehicle is being held, and all charges owed to the nonconsent storage lot for the ~~such~~ vehicle.

(c) All reports, notifications and the payment of fees submitted by nonconsent storage lots to the police department regarding abandoned vehicles pursuant to chapter 683 of the Texas Transportation Code shall be electronically submitted to the police department by methods approved by the police chief.

**Sec. 8-~~183193~~. Fees.**

- (a) The provisions of this section are applicable to services regulated under this article for nonconsent tows. It shall be the duty of each ~~private storage lot owner and operator whether operating under a state Vehicle Storage Facility Act license or a city authorization~~ to comply with this section and to ensure that all agents or employees of the nonconsent private storage lot comply with this section.
- (b) A nonconsent storage lot may charge a daily storage fee ~~may be imposed for each day or part of a day that a vehicle remains stored in an amount not to exceed the applicable daily storage fee established in section 2303.155(b)(3), Texas Occupations Code, for each day or portion of a day that a motor vehicle remains stored at the nonconsent storage lot.~~ The time shall be computed as provided in section 2303.155(d), Texas Occupations Code.
- (c) In addition to the daily storage fees authorized under subsection (b) ~~of this section~~, a nonconsent private storage lot may impose notification fees and other fees not exceeding those specified in the Vehicle Storage Facility Act.
- (d) Each fee charged by a nonconsent private storage lot for towing, storage, or any other service that is regulated under this article shall be separately itemized and noted on the records of the nonconsent storage lot and on a receipt ~~which shall be given to the vehicle owner. The receipt shall also include the Texas Department of Licensing and Regulation license number, printed name and signature of the storage lot operator or employee who conducted the release transaction.~~ The receipt shall also state a police department telephone number for auto wrecker/storage lot information to be provided by the police chief. No fees, except those specifically authorized by section 8-123 of this Code and by this section, may be charged for services that are regulated under this article without consent of the vehicle owner, except a nonconsent private storage lot may collect any applicable sales tax that is required to be collected pursuant to law in addition to the maximum charges permitted by this chapter. It shall be unlawful for any person to impose any sales tax on any fee authorized by this chapter unless the sales tax is imposed by state law for the services subject to the fee, and further it shall be unlawful to collect any amounts as sales tax in excess of the amount imposed by law.
- (e) The storage lot operator shall ensure that the fee collected pursuant to section 8-123(e) of this Code is remitted to the police department in a manner approved by the police chief not later than the 15<sup>th</sup> day of the month following the month the fees are collected.

**~~Sec. 8-194. Removal of stored vehicle from private storage lot without vehicle owner's consent.~~**

- ~~(a) — When a motor vehicle has been delivered to a private storage lot operated under an authorization issued under this article, it shall not be moved from that private storage lot without authorization by the vehicle owner; provided, however, the vehicle may be moved to another location after the vehicle has been at the private storage lot for not less than 15 days if the private storage lot has sent notice to the last known registered owners of the motor vehicle and all lienholders of record pursuant to the Certificate of Title Act by certified mail, return receipt requested, at least ten days prior to the date the vehicle is moved and the private storage lot has sent a copy of the notice to the police department prior to the date the vehicle is moved. Such notice shall state:~~
- ~~(1) — The private storage lot where the motor vehicle is located and the hours the vehicle can be released to the vehicle owner from that private storage lot;~~
  - ~~(2) — The amount of all fees that must be paid before the vehicle is released; and~~
  - ~~(3) — The date on which the vehicle will be moved from the private storage lot if it is not recovered by the vehicle owner prior to that date and the name, address, and telephone number of the private storage lot to which the vehicle will be taken.~~
- ~~(b) — The authorization holder of the private storage lot from which a vehicle is moved pursuant to this section shall ensure that the following requirements are met:~~
- ~~(1) — That the vehicle owner is not charged any fees greater than those permitted under section 8-193 after the vehicle is towed to another location without the permission of the vehicle owner;~~
  - ~~(2) — That no fee is charged for towing the vehicle except for one towing fee for the initial towing of the vehicle from the place where the vehicle was originally towed without consent of the vehicle owner;~~
  - ~~(3) — That the vehicle owner can obtain possession of the vehicle upon demonstration of satisfactory evidence to show his right of possession and payment of all fees at any time between the hours of 9:00 a.m. and 8:00 p.m. daily on the same basis as is set out in section 8-178 at whatever location the vehicle may be;~~
  - ~~(4) — That the private storage lot from which the vehicle is moved retains records and informs the vehicle owner upon request of the location where the vehicle is at all times from the date the vehicle is transferred from the private storage lot until such time as the vehicle is recovered by the vehicle owner or there was issued a new certificate of title, a certificate of authority to~~

~~demolish, a police auction sales receipt or a transfer document issued by the state; and~~

- ~~(5) — The private storage lot from which the vehicle is moved maintains as part of its records a record of the ultimate disposition of the vehicle to include the date and name of the person to whom the vehicle is released if released to the vehicle owner or a description of the document under which the vehicle was sold or demolished if so disposed of.~~

**Sec. 8-184195. Separation of vehicles, records.**

- ~~(a) Each nonconsent~~police~~ private storage lot operator shall, insofar as may be practicable, maintain all vehicles parked or stored without the consent of the vehicle owner upon authority of a city police officer acting in his official capacity pursuant to section 8-116 of this Code in a separate and totally fenced and enclosed area and apart from any other vehicles that may be parked or stored upon the lot for any other reason.~~

~~— If the vehicles are not to be separated in the aforesaid manner, then it shall be the duty of the operator to:~~

- ~~(1) — Furnish a map or other diagram to the chief of police designating the boundaries of the portion of the private storage lot that will be utilized as a police private storage lot; and~~
- ~~(2) — Place or cause to be placed upon each vehicle parked or stored without the consent of the vehicle owner upon authority of a city police officer acting in his official capacity pursuant to section 8-116 of this Code a marker tag to be furnished by the police department. The aforesaid tag shall be placed upon the vehicle within five minutes after the time of its receipt at the private storage lot and shall not be removed until the vehicle is released to the vehicle owner or is sold pursuant to section 8-196 of this Code. The police department shall furnish the tags at a cost equivalent to their cost of manufacture and the chief of police shall specify the place and manner of their attachment to vehicles. In lieu of marker tags, the police department may authorize the vehicles to be marked in another manner.~~

- ~~(b) — To the extent that a private storage lot or any other vehicle storage facility is operated in conjunction with a police private storage lot, the records for vehicles parked or stored without the consent of the vehicle owner upon authority of city police officers acting in their official capacities pursuant to section 8-116 of this Code shall be maintained in a separate filing system from the records regarding all other vehicles parked or stored at the premises.~~

**Sec. 8-~~185~~196. Sale of vehicles in nonconsent ~~police private~~ storage lots.**

Each vehicle parked or stored on a nonconsent~~police private~~ storage lot without the consent of the vehicle owner ~~upon authority of a city police officer granted pursuant to section 8-116 of this Code~~ that is not reclaimed by the vehicle owner or another person having a right of possession thereof shall, ~~notwithstanding any other procedure that may be available by law for its disposition,~~ be disposed of ~~only~~ by police department sale pursuant to chapter 683 of the Texas Transportation Code. Consistent with efficient utilization of police personnel resources and the objective of obtaining the highest price for each vehicle sold, the chief of police may, at his election, either cause such sales to be conducted at the various police private storage lots where the vehicles are parked or stored or may require that the vehicles be brought to another place within the city that he may designate, from time to time, for the conduct of such sales. Vehicles from various police private storage lots may be consolidated for joint sales at the direction of the chief of police.

The sale or disposition of abandoned vehicles shall be conducted pursuant to the procedures set forth by the police department.

**Sec. 8-186. Auction procedures for abandoned vehicles.**

- (a) Vehicles stored or towed with the consent of the owner shall not be auctioned by the police department.
- (b) Vehicles stored or towed without the consent of the vehicle owner are subject to the following minimum auction procedures:
  - (1) On the day of the auction, the storage lot operator shall remove all license plates from all vehicles to be auctioned. All license plates shall be given to the police officer who conducts the auction;
  - (2) If the storage lot operator cancels an auction for any reason, all storage charges for vehicles set for that auction will be suspended and shall not accrue; and
  - (3) All vehicles set for auction shall be arranged in an orderly and safe manner that allows for unhindered movement between and inspection of each vehicle.

**Sec. 8-187. Cessation of operations.**

In the event a nonconsent storage lot that does not hold a PPSLA ceases operations and vehicles towed without the consent of the owner remain on the storage lot, the nonconsent storage lot operator shall immediately notify the auto dealers detail of the police department. The nonconsent storage lot operator and

the auto dealers detail shall make arrangements with another nonconsent storage lot operator to transfer all remaining vehicles towed without the consent of the vehicle owner at the storage lot operator's expense. In the event the operator does not accomplish the transfer of vehicles towed without the consent of the vehicle owner to another nonconsent storage lot, the police department shall have the authority to enter the property in order to take possession of such vehicles remaining on the nonconsent storage lot.

**Sec. 8-188. Penalty.**

A violation of any provision of this division is an offense punishable as provided in section 1-6 of this Code. Each day that any violation continues shall constitute and be punishable as a separate offense.

**~~Secs. 8-197—8-200. Reserved.~~**

~~Subdivision E. Records; Rules and Regulations~~

**~~Sec. 8-201. Vehicle records.~~**

- ~~(a) Each authorization holder of a private storage lot shall keep written records on each vehicle that is kept or stored on the private storage lot. Such records shall contain the following information:~~
- ~~(1) Year, make, color, correct license plate number, state issuing the license and correct vehicle identification number of the vehicle.~~
  - ~~(2) Date, time and location where towed from.~~
  - ~~(3) Name and state driver license number of the wrecker driver and the name of the company towing the vehicle.~~
  - ~~(4) The date the vehicle was released, the name of the individual to whom the vehicle was released, or if the vehicle was transferred to another location pursuant to section 8-194, the address of that location and the name of the auto wrecker owner and the wrecker driver who made that transfer.~~
  - ~~(5) If the vehicle ownership has been transferred due to any action of the private storage lot or the vehicle has been disposed of or demolished, a copy of the certificate of title issued after the vehicle came into the possession of the private storage lot, the certificate of authority to demolish, a police auction sales receipt, or a transfer document issued by the state for the vehicle.~~
  - ~~(6) All amounts charged for the vehicle.~~



~~(b) The receipts, records and other information required to be kept by this section, or by sections 8-193 and 8-194 of this Code shall be kept in the form of a separate file for each vehicle, that shall be maintained either:~~

~~(1) By assembling all such data relating to the vehicle under a single staple, clip, binder or other attachment device that securely holds them together; or~~

~~(2) By assembling all such data relating to the vehicle in a separate envelope or file folder.~~

~~— All amounts charged or chargeable for each vehicle shall be separately itemized in the file relating to that vehicle. It shall be the duty of each authorization holder to ensure that the aforesaid separate files for each vehicle are kept on the storage lot premises where the vehicle was towed.~~

~~(c) The authorization holder shall ensure that the any police officer may, without prior notice, inspect and copy all the records required to be kept pursuant to this article without delay upon appearance at the storage lot at any time during the hours that the storage lot must ensure that vehicles can be released, provided that either the authorization holder, or someone else who is able to produce the records, is present at the storage lot. If the authorization holder or another person who can produce the records is not present at the storage lot, then it shall be the further duty of the authorization holder to ensure that the authorization holder or some other person who is able to produce those records comes to the storage lot within 30 minutes of a request made by a police officer during the hours the storage lot must ensure that vehicles can be released to their owners and given in either of the following manners:~~

~~(1) In person to any employee or agent of the authorization holder at the private storage lot; or~~

~~(2) By telephone to the same telephone number by which a vehicle owner can request someone to come to the private storage lot to release a vehicle to him pursuant to section 8-178.~~

~~— Upon his arrival at the private storage lot, the authorization holder or other designated person shall make the records available to the police officer without delay.~~

~~— Further, the authorization holder shall ensure that the name of the person who is to produce such records is made known to the police officer at the time he requests to see such records pursuant to this section.~~

~~— Additionally, if a police officer asks any agent or employee of the authorization holder who is able to produce the records or the authorization holder to see the file~~

~~that is required to be maintained on any specific vehicle or vehicles pursuant to subsection (b) above, and informs that person of the date or dates such vehicle or vehicles were towed to the private storage lot, the authorization holder or any employee or agent of his who is able to produce such records shall, without delay, produce the files on those vehicles.~~

- ~~(d) Each record required to be kept by this article shall be kept for two years from the date of the last transaction shown in the record.~~

**~~Sec. 8-202. Rules and regulations authorized.~~**

~~The automotive board shall issue rules and regulations governing the behavior of the private storage lot authorization holders, and their agents and employees, toward all persons with whom they come into contact in the course of their business and shall issue rules and regulations by which the private storage lot authorization holders, and their agents and employees, conduct their business if the automotive board finds that such rules and regulations will aid in assuring the operation of the private storage lots will be conducted in a courteous, fair, reasonable and equitable manner.~~

**~~Sec. 8-203. Reserved.~~**

**~~Secs. 8-204—8-210. Reserved.~~**

~~Subdivision F. Hearing Procedures~~

**~~Sec. 8-211. Notices to applicants for authorizations, etc.~~**

~~Whenever the police department must give notice to an applicant of a hearing to be held on his application for an authorization to operate a private storage lot, written notice shall be given to the applicant setting forth the reasons the hearing will be held, the date, time and place of the hearing and such further information as may be required in section 1-9 of this Code.~~

**~~Sec. 8-212. Notices for revocation or denial of authorizations, etc.~~**

- ~~(a) Prior to revocation of an authorization to operate a private storage lot and at any time the city refuses to renew such an authorization after a proper application therefor has been filed, the city shall give written notice to the applicant or holder setting forth:~~
- ~~(1) The grounds upon which the city will seek revocation of the authorization, or the grounds upon which the city has refused to renew the authorization.~~
  - ~~(2) The specific violations of this division and/or any federal or state law or laws upon which the city will rely in seeking revocation of the authorization to~~

~~operate the storage lot or has refused to renew the authorization, or the specific convictions upon which the city will rely.~~

- ~~(3) That the applicant or holder shall have the burden to present evidence concerning each of the matters set out in section 53.023 of the Texas Occupations Code, if the city is relying on one or more convictions in denying the request for renewal or seeking revocation of the authorization.~~
- ~~(4) That a hearing will be held on the denial of the request for renewal or on the city's request to revoke the authorization.~~
- ~~(5) The date, time and place of such hearing.~~
- ~~(6) That the applicant or holder may appear in person and/or be represented by counsel, may present testimony, and may cross-examine all witnesses.~~
- ~~(b) The city may seek to have an authorization suspended for a period of not more than one year rather than refusing to renew the authorization or seeking to have the authorization revoked if:
  - ~~(1) The person designated by the chief of police to make such decisions is of the opinion that the public interest will be adequately protected by a suspension rather than a revocation, and~~
  - ~~(2) The city is not setting forth in the notice of hearing any grounds set out in 8-160(1).~~~~

**~~Sec. 8-213. Service of notices.~~**

~~— All notices required hereunder shall be served by personal delivery or by certified mail, return receipt requested addressed to the applicant at the address shown on the application or the most recent supplement thereto; provided, however, the notice required in section 8-211 may be served by regular mail.~~

**~~Sec. 8-214. Hearing officer or agency designated.~~**

- ~~(a) Hearings on an application for authorization to operate a private storage lot or regarding revocation of or refusal to renew authorization to operate a private storage lot shall be conducted by the automotive board.~~
- ~~(b) All hearings shall be conducted under rules consistent with the nature of the proceedings; provided, however, the following rules shall apply to such hearings:
  - ~~(1) All parties shall have the right to representation by a licensed attorney though an attorney is not required;~~
  - ~~(2) Each party may present witnesses on his own behalf;~~~~

~~(3) Each party has the right to cross-examine all witnesses;~~

~~(4) Only evidence presented before the automotive board at the hearing may be considered in rendering the decision.~~

**~~Sec. 8-215. Failure to appear at hearing.~~**

~~— If an applicant fails to appear at a hearing on an application for or a refusal to renew an authorization to operate a private storage lot, the application or renewal shall be denied.~~

~~— If the holder fails to appear at a hearing on a request by the city to revoke an authorization to operate a storage lot hereunder, the city shall present sufficient evidence to establish a prima facie case showing grounds for revocation.~~

**~~Sec. 8-216. Standards for denial.~~**

~~— Following the hearing on an application for authorization to operate a private storage lot, the automotive board shall deny the application if the board finds facts did exist so that the police department was required to give notice of a hearing on the application under this article unless the board finds that the application should be approved pursuant to Chapter 53 of the Texas Occupations Code.~~

**~~Sec. 8-217. Actions to be taken after hearing on denial of private storage lot authorization.~~**

~~— If, after the hearing on an appeal of a denial of authorization to operate a private storage lot, the automotive board finds that grounds exist for such denial, the finding and the reasons therefor shall be entered in the minutes of the meeting at which the decision is made. If the automotive board finds that grounds do not exist for the denial of the application for the authorization, such decision shall be entered into the minutes and the application shall be approved. Approval of an application for authorization to operate a private storage lot shall not grant any right to operate the storage lot, and no person shall operate any private storage lot until the police department has granted authorization to operate the storage lot pursuant to section 8-154(b).~~

**~~Sec. 8-218. Action on results of hearing to revoke, or deny renewal of, private storage lot authorization.~~**

~~— If, after a hearing on a request by the city to revoke an authorization issued pursuant to this article, or upon an appeal of a refusal to renew such authorization, the automotive board finds that grounds exist for the revocation or refusal to renew, the hearing officials shall order the authorization revoked or denied, unless the hearing officials find that the public interest will be adequately protected by a warning, a suspension for a definite period of time not exceeding one year, or other~~

~~penalties authorized under the law; provided, however, except as provided in Chapter 53 of the Texas Occupations Code, the automotive board must order the authorization revoked or denied if it finds the holder has committed or been convicted of any applicable offense specified in section 1-10 of this Code when the offense occurred in connection with the operation of the person's storage lot.~~

~~— If the denial was based upon a conviction, and an appeal of that conviction is pending, the authorization shall be suspended during the pendency of the appeal and until the holder provides the hearing official with satisfactory evidence to show that the conviction was overturned unless the hearing official has determined that the public interest will be adequately protected by a warning or a shorter suspension pursuant to the authority of this section.~~

**~~Sec. 8-219. Actions to be taken after private storage lot authorization lapses or is suspended or revoked.~~**

~~— If authorization to operate a private storage lot is not renewed or is suspended or revoked, or if a storage lot surrenders its authorization for any reason, the former holder shall continue to comply with section 8-178 and all provisions of this article relating to the care of vehicles on the storage lot, the moving of such vehicles from the storage lot and the release of such vehicles to vehicle owners until all vehicles that have been brought to the lot without the vehicle owner's consent have been released to the vehicle owner or moved from the storage lot.~~

**~~Sec. 8-220. Surrender of authorizations after suspension; no refund of fees after revocation.~~**

~~— In the event a private storage lot authorization is suspended for a definite period of time, the authorization shall be surrendered to the city immediately upon demand of the police department and shall be void and of no effect during the period of such suspension.~~

~~— In the event a private storage lot authorization is revoked, the city shall not be liable to the holder for any refund or any part of the fee paid for the authorization.~~

**~~Secs. 8-221—8-230. Reserved.~~**

~~Subdivision G. Miscellaneous Requirements~~

**~~Sec. 8-231. Conflicts of interests by city officials.~~**

~~— No member of the police department shall have any ownership interest in any or private storage lot that is required to be authorized under the provisions of this article or in any towing company that holds a police-authorized tow service agreement. No other appointed or elected official or employee of the city shall have any ownership interest in any private storage lot where there may be a conflict of~~

~~interest due to the person's position or duties. This section shall not be applicable to members of the automotive board.~~