(5) The operator of the body shop facility with storage privileges may, but shall not be obligated to, impose a fee of not more than $11.00 per calendar day, or any portion of a calendar day, for storage services. No additional fee may be imposed for preservation, notices or other services related to the storage services.

(6) The owner of each vehicle stored hereunder shall be notified of the applicable terms and conditions relating to storage periods and fees, including the amount of the storage fees that may be imposed, the requirement that the vehicle may not be stored on the premises for more than 30 days, the destination to which it will be taken if not timely removed, the amount of any additional towing fee that may be imposed for the removal and that the vehicle will be subject to additional fees and sale pursuant to state law if not timely redeemed from the place to which it will be removed. The notice shall be in a form approved by the police chief or his designee, shall set forth the above information and shall be mailed to the registered owner of record within five days from the date of the receipt of the vehicle, provided that the notice shall not be required to be mailed if the owner has, within five days following receipt of the vehicle on the premises, executed a work order or repair contract that includes the required notice information.

(Ord. No. 99-1354, § 3, 12-21-99)

Sec. 8-94. Compliance required; inspection.

(a) Records of compliance with this article, including tow slips, work orders, repair contracts, the daily compliance log and storage receipts shall be maintained on the premises of the body shop facility with storage privileges and shall be made available for inspection and copying by any police officer immediately upon request during regular business hours. The records shall be retained on the premises for two years from the date of their creation.

(b) Compliance with all provisions of this article is a condition of imposition of a storage fee by a body shop facility with storage privileges.

(c) It shall be the duty of the owner and each agent and employee of a body shop facility with storage privileges to comply with all requirements of this article and any failure to comply shall be an offense punishable as provided in section 1-6 of this Code.

(d) The holder of a body shop facility with storage privileges license shall only have storage privileges as extended hereunder.

(Ord. No. 99-1354, § 3, 12-21-99)

Secs. 8-95—8-100. Reserved.

ARTICLE III. AUTO WRECKERS AND STORAGE YARDS

DIVISION 1. GENERALLY

Sec. 8-101. Definitions.

For the purposes of this article:

Accident shall mean a situation where one or more motor vehicles have collided with any other motor vehicle or object.

Authorization holder shall mean a person who is operating a private storage lot under an authorization issued under division 3 of this article, rather than under a Vehicle Storage Facility Act license.

Auto wrecker shall mean any automobile, truck or other vehicle used for the purpose of towing, carrying, pushing or otherwise transporting any motor vehicle.

Consent tow shall mean the towing of a motor vehicle upon the consent of the vehicle owner.

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

Heavy-duty wrecker shall mean an auto wrecker having chassis rated at five tons or greater by the vehicle manufacturer and a winch capable of lifting a minimum of 30,000 pounds as rated by

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winch manufacturer. Except where a distinction is made, the term "auto wrecker" includes a "heavy-duty wrecker."

Nonconsent tow shall mean the towing of a motor vehicle without the consent of the vehicle owner.

Police-authorized tow shall mean the nonconsent towing of a motor vehicle upon authorization of a city police officer from a police scene at which the vehicle owner is not present or is incapable of making or unwilling to make arrangements for removal of the vehicle.

Police private storage lot shall mean a private storage lot for which the operator has a current and valid agreement with the city pursuant to section 8-143 of this Code.

Police scene shall mean a place at which an accident has taken place that is subject to city police field investigation, a place at which city police have recovered a stolen vehicle, a place at which a vehicle has been abandoned in a roadway, a place where a custodial arrest by city police has taken place or any other place at which a vehicle is subject to removal or impoundment pursuant to law by a city police officer.

Private storage lot shall mean 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 (article 6687-9a, Texas Revised Civil Statutes); or

(2) Operating under a current and valid authorization issued under division 3 of this article.

Recovery services shall mean any and all actions relating to uprighting or otherwise moving a vehicle into a position from which it can be towed, securing a shifted or lost load of cargo, and cleaning up of debris from the scene. This definition applies to scenes to which a heavy duty wrecker is called.

Vehicle owner shall mean the actual owner of the vehicle towed or transported or any driver of the vehicle who reasonably appears to have authority to operate the vehicle.

Wrecker driver shall mean any individual who drives an auto wrecker.
(Ord. No. 01-1079, § 5, 12-5-01)

Sec. 8-102. Penalty.

Unless otherwise provided, a person who violates any provision of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than $200.00 nor more than $500.00; provided, however, if the person is convicted of an offense under this article that is also a violation of the penal laws of the state, the person shall be subject to the penalties set out in the state penal laws for the offense. Each day that any violation continues shall constitute and be punishable as a separate offense.
(Ord. No. 01-1079, § 5, 12-5-01)

Secs. 8-103—8-110. Reserved.

DIVISION 2. AUTO WRECKERS*

Subdivision A. Operational Rules and Regulations and Tow Agreements†

Sec. 8-111. State registration.

Auto wreckers shall be registered as tow trucks under applicable provisions of state law, including, without limitation, Chapter 643 of the Texas Transportation Code.
(Ord. No. 04-497, § 3, 5-26-04)

Sec. 8-112. State licensing of wrecker drivers.

Auto wreckers shall be operated by persons who hold the type of state driver license that is required for their auto wrecker, as applicable.
(Ord. No. 04-497, § 3, 5-26-04)

*__Editor's note__—Ord. No. 04-497, § 3, adopted May 26, 2004, amended Ch. 8, Art. III, Div. 2 in its entirety. Formerly said division pertained to similar subject matter and derived from Ord. No. 01-1079, § 5, adopted 12-5-01.

†__Editor's note__—Ord. No. 05-115, § 4, adopted February 9, 2005, designated Subdivision A to be entitled as herein set out.

Sec. 8-113. Information to be furnished owner of vehicle who requests towing at a police scene.

(a) No wrecker driver shall accept a motor vehicle to be towed with the vehicle owner's consent from a police scene unless he has informed the vehicle owner of the following:

(1) The exact fee to be charged for the towing and any terms applicable to its payment, including the forms of payment that will be accepted and the time when payment will be due;

(2) The name, business address and phone number of the auto wrecker company that will tow the vehicle;

(3) The legibly printed name and state driver license number of the wrecker driver;

(4) The state license plate number of the auto wrecker being used for the tow;

(5) The location to which the vehicle will be towed; and

(6) A complete description of the vehicle towed, including the license plate number and vehicle identification number.

(b) The information required above shall be provided in the form of a written wrecker slip. The wrecker driver shall provide a copy of the wrecker slip to the law enforcement officer in charge of the police scene and shall also provide a copy of the wrecker slip to the vehicle owner.
(Ord. No. 04-497, § 3, 5-26-04)

Sec. 8-114. Notice to vehicle owner or police when vehicle is not towed to place designated by vehicle owner.

If a wrecker driver has accepted a motor vehicle to be towed to a place designated by the vehicle owner, but is unable to deliver the vehicle to the place so designated, he shall inform the vehicle owner immediately as to the reasons why the vehicle was not taken to the place agreed and where the vehicle was taken. If the wrecker driver is unable to so notify the vehicle owner, he shall notify the police department immediately and shall send or cause to be sent notification to the vehicle owner by certified mail, return receipt requested, within 48 hours of the time the vehicle was towed; provided, however, if it is impossible to send such certified mail within 48 hours due to a federal holiday occurring on a Monday, such notice shall be mailed within two hours of the time the post office reopens after the holidays.
(Ord. No. 04-497, § 3, 5-26-04)

Sec. 8-115. When towing from public property authorized.

No person shall tow, carry or transport any motor vehicle without the consent of the vehicle owner from any public street, alley, road, right-of-way, or park except under the direction and authority of a law enforcement officer acting in his official capacity.
(Ord. No. 04-497, § 3, 5-26-04)

Sec. 8-116. Wrecker slip for towing vehicle under direction of law enforcement officer.

(a) Except as otherwise provided in subsection (c) of this section, no person shall tow, carry or transport a motor vehicle under the direction or authority of a law enforcement officer unless a wrecker slip has been issued to the wrecker driver by the officer. Such wrecker slip shall be filled out by the law enforcement officer on a form designated by the chief of police. The wrecker slip shall contain the following information:

(1) A complete description of the vehicle to be towed, including the license plate number and the vehicle identification number;

(2) Any visible damage to the inside or outside of the vehicle;

(3) Any personal property contained within the vehicle that is visible from outside that vehicle;

(4) Any visible missing parts or paraphernalia;

(5) The location from which the vehicle is being towed;

(6) The date and time the vehicle is picked up by the auto wrecker;

(7) The reason the vehicle is being towed;

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(8) The police private storage lot or other police designated location to which the vehicle is to be towed;

(9) The state license plate number of the auto wrecker being used for the tow;

(10) The signature and employee number of the law enforcement officer authorizing the tow; and

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(11) The signature, legibly printed name, and state driver license number of the wrecker driver.

(b) The wrecker driver signing the wrecker slip shall be responsible to account for the vehicle at all times until the vehicle has been accepted by an agent of the destination set out in the wrecker slip. No fee shall be charged for towing any vehicle under the direction and authority of a law enforcement officer unless the wrecker driver has obtained a completed wrecker slip. The wrecker driver shall cause the vehicle to be delivered without delay to the location designated on the wrecker slip and may not redirect the vehicle to another destination unless:

(1) Authorization has been obtained from the operator of the police private storage lot specified on the wrecker slip on a form specified by the police department to take the vehicle to another police private storage lot and the form is delivered to the police private storage lot accepting the vehicle for storage along with the original wrecker slip; or

(2) Verbal authorization has been given by a supervisor in the auto dealers detail of the police department and noted on the wrecker slip.

(c) In accordance with orders established by the chief of police for that purpose, the signature and employee number of the authorizing officer as required in this section may be affixed to the wrecker slip by the wrecker driver by facsimile. The provisions of this authorization shall be limited to circumstances where the authorizing officer is not present at the police scene but is able to view the police scene from a remote location by televised link and/or able to communicate with the wrecker driver by telephone or radio.
(Ord. No. 04-497, § 3, 5-26-04)

Sec. 8-117. Notice to registered owner of vehicle when vehicle towed on order of police without owner's consent.

(a) Whenever a motor vehicle registered with the State of Texas has been towed without the consent of the vehicle owner but upon authorization of a law enforcement officer acting in his official capacity, the responsible law enforcement agency shall endeavor to give notice by regular mail to the last known registered owner within 48 hours of the time the vehicle was towed. The notice shall inform the vehicle owner of the name and address of the storage lot where the vehicle is being held.

(b) Once a law enforcement officer has authorized a tow under this section, the wrecker slip has been signed and the services commenced, the services shall remain nonconsent towing services under the auspices of the authorizing agency and may not be changed to a consent tow.
(Ord. No. 04-497, § 3, 5-26-04)

Sec. 8-118. Parking at police scenes.

Whenever a person operating an auto wrecker or other vehicle arrives at a police scene, the driver shall park his vehicle as close to the street curb as possible and in such a manner as not to interfere with traffic. He shall not park his vehicle within a distance of 100 feet from a wrecked or disabled vehicle. It is a defense to prosecution under this section that the vehicle is operated by a law enforcement officer or is parked as directed by a law enforcement officer at the scene. No wrecker driver shall stop or park or allow his wrecker to remain stopped or parked at or within 100 feet of a police scene if the number of wreckers already present at the scene equals the number of disabled vehicles. It is an affirmative defense to prosecution that a law enforcement officer was present and in control of the police scene at the time that the actor arrived and had called the actor to the police scene or had asked the actor to cause his wrecker to remain at the scene.
(Ord. No. 04-497, § 3, 5-26-04)

Sec. 8-119. Igniting matches, etc., or smoking at scene of accident.

It shall be unlawful for any person to ignite a match, lighter or any other flammable object within a distance of 50 feet in any direction from the location of a vehicular accident. It shall fur-

ther be unlawful for any person to enter into such area with a lighted cigarette, cigar, pipe or other burning material.
(Ord. No. 04-497, § 3, 5-26-04)

Sec. 8-120. V.I.N. inspection; transport authorization.

(a) It shall be unlawful for any wrecker driver to attach or cause or permit any auto wrecker to be attached to any motor vehicle without first personally inspecting the manufacturer's permanent vehicle identification number affixed to the motor vehicle to be transported.

(b) It shall be unlawful for any wrecker driver to attach or cause or permit any auto wrecker to be attached to any motor vehicle on which the 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 is a defense to prosecution under subsection (a) or (b) that the wrecker driver obtained, prior to attaching or causing or permitting the auto wrecker to be attached to the transporting vehicle and retained in his possession at all times while transporting the vehicle, a legible written authorization for the transport of the vehicle issued by a law enforcement officer setting forth:

(1) The law enforcement officer's printed name, signature and badge number;

(2) The state license plate number of the auto wrecker;

(3) The printed name and signature of the wrecker driver;

(4) A description of the transported vehicle;

(5) The place to which the transported vehicle is authorized to be towed; and

(6) The date upon which the tow is authorized to be conducted.

The aforesaid police transport authorization shall be required in addition to any other authorization required by law for the transportation of the vehicle, and the possession of a wrecker slip issued under section 8-116 of this Code shall not constitute a defense under this subsection. An authorization issued under this subsection shall only be a defense for the transport of the vehicle designated thereon by the wrecker driver and auto wrecker identified thereon to the place designated thereon on the date authorized thereon.
(Ord. No. 04-497, § 3, 5-26-04)

Sec. 8-121. Removal of or tampering with vehicles at police scene without consent of vehicle driver or before police investigation completed.

(a) No wrecker driver shall remove any vehicle that is involved in a police scene and requires towing or attach his auto wrecker to such a vehicle until a law enforcement officer responsible for the police scene authorizes the moving of the vehicle.

(b) The fact that no law enforcement officer is present at a police scene when an auto wrecker arrives shall not constitute an exception to this section, and it shall be the duty of any vehicle owner desiring to tow or haul any vehicle from the police scene to cause the police department of the city to be notified and to await the arrival of a law enforcement officer and the completion of his investigation.

(c) Taking into consideration the location of the vehicle insofar as it may obstruct traffic, traffic conditions, and related factors of traffic management, law enforcement officers shall afford any vehicle owner who is present at a police scene and is able and willing to do so a reasonable time to make arrangements with a wrecker driver of his choice for a consent tow. However, in the event that the vehicle owner of a vehicle involved in a police scene is not present or is incapable of making or unwilling to make his own arrangements with a wrecker driver to remove the vehicle within a reasonable time, the investigating law enforcement officer shall give such orders as may be necessary to remove the vehicle from the street through a police-authorized tow.

(d) The provisions of this section shall not apply to vehicles detained for police investigation or other purposes as authorized by state and federal law, which may be removed by police department auto wreckers or as otherwise directed by the law enforcement officer in charge of the police scene, or to tows on major freeways conducted pursuant to section 8-127 of this Code. (Ord. No. 04-497, § 3, 5-26-04)

Sec. 8-122. Debris glass, etc., at accident scenes.

Where vehicles to be towed have been involved in an accident, it is the responsibility of the vehicle owners for consent tows or the persons authorizing the tow for nonconsent tows to ensure that any glass or other debris or parts are removed from the scene of the accident. The owner or person authorizing the tow may perform the work or cause the work to be performed by another person, including but not limited to the wrecker drivers performing the tows of the affected vehicles. The fees established in section 8-123 of this Code for the nonconsent tows are inclusive of glass, parts, and debris cleanup and removal for services other than tows requiring heavy-duty wreckers. For consent tows, any additional service fees for those services shall be disclosed on the wrecker slip provided under section 8-113 of this Code. This section shall not apply to the towing of vehicles under section 8-127 of this Code.
(Ord. No. 04-497, § 3, 5-26-04)

Sec. 8-123. Towing charges.

(a) Whenever a vehicle is towed without consent of the vehicle owner, the service charge for a tow not requiring the use of a heavy-duty wrecker shall not exceed the amount established pursuant to subsection (c). This charge shall be applicable whether the vehicle is to be towed from public or private property.

(b) Whenever a vehicle is towed without consent of the vehicle owner, and the use of a heavy-duty wrecker is required due to the size or condition of the motor vehicle, the fee for the tow shall be no more than the amount per hour established pursuant to subsection (c) with a minimum charge of two hours to be assessed without regard to the actual time expended. The hourly rate shall be determined by starting the time charges when the heavy-duty wrecker leaves to report to the police scene and shall be stopped when the actual towing job is completed. The time going to the police scene may be included in the charges, but the time used to return shall not be included in the charges. The hourly rate established pursuant to subsection (c) does not apply to recovery services, which may also be reasonably imposed.

The law enforcement officer in charge of a police scene shall have authority to summon a heavy-duty wrecker when in his opinion such equipment is required. The vehicle owner of the vehicle whose car is serviced by a heavy-duty wrecker called by the investigating officer shall be responsible for any and all charges that result from such heavy-duty wrecker service.

(c) The rates referred to in subsections (a) and (b), above, shall be established in accordance with the following process:

(1) A rate review for auto wreckers, including heavy-duty wreckers, shall be initiated by the director of finance and administration during calendar years ending with the digits three or eight. The rate review shall be conducted in accordance with procedures established for that purpose by the director. Without limitation, the director may select a representative group of auto wrecker owners and request that they provide verified financial data and vehicle-operating data regarding their operating costs and return on investment for use as a basis in conducting the review. Following receipt and review of the required data, the director shall make a recommendation to city council whether any change is justified, and, if so, the amount of the recommended increase or decrease. If a rate change is recommended to the city council, then the city council or a committee of city council shall conduct a hearing before adopting any increase or decrease is adopted. The increase may be adopted by motion and shall be effective on the first day of the next year.

(2) During any calendar year other than a calendar year ending with the digits three, four, eight, or nine, any towing company that performs nonconsent tows within the city may request a rate study, which shall be performed in the same manner provided in item (1) above. Any such request must be made in writing to the director and accompanied by a nonrefundable fee of $5,000.00 in the form of a cashier's check payable to the city to defray the cost of the study. If the study indicates that a rate increase is justified, then the director shall submit his recommendation to the city council. The provisions of this item shall not be applicable if a rate study has been performed within the preceding period of 12 months.

(3) Except for years in which a rate adjustment adopted by city council under item (1) or (2) will take effect, the director shall adjust the rates effective January 1 of each year, based upon a weighted blend of the following indices with one-half attributed to the percentage increase or decrease in the Consumer Price Index, All Urban Consumers, All Items, United States average, and one-sixth each attributed to the percentage increase or decrease in:

a. Consumer Price Index, All Urban Customers (CPI-U), U.S. City Average, Motor Vehicle Maintenance & Repair;

b. Consumer Price Index, All Urban Customers (CPI-U), U.S. City Average, Vehicle Insurance; and

c. Consumer Price Index, All Urban Customers (CPI-U), Houston-Galveston-Brazoria Average, Gasoline;

all as published by the U. S. Department of Labor. The adjustment shall be based upon the most current data available on November 15, shall be rounded to the nearest increment of $0.50 cents and shall be effective on the following January 1. Notice of the adjusted rates shall be published one time in a daily newspaper of general circulation within the city and filed in the city secretary's office on or about December 1. The director may establish and promulgate regulations relating to the adjustment process.

(d) In any case where a vehicle is released from a storage lot and fees are collected from the owner for a non-consent tow, an additional $10.00 fee shall be collected and remitted to the police department to defray the costs of enforcement of complaints related to police private storage lot agreements and other costs associated with the nonconsent towing of vehicles.

(e) If the vehicle owner is present at or comes upon the scene where an auto wrecker is attempting to tow a vehicle, and the vehicle owner does not desire the vehicle to be towed, no charge shall be made and the vehicle owner shall be allowed to take possession of the vehicle if the vehicle has not been hooked up by the wrecker. If the motor vehicle has been lawfully hooked up to the wrecker, but not towed from the scene, the vehicle shall be released to the vehicle owner upon payment of one-half the regular wrecker fee. This section shall not apply where the vehicle owner is unable to remove the vehicle from the scene immediately if the vehicle were released to the vehicle owner. This section shall not apply to the towing of vehicles under section 8-127 of this Code.
(Ord. No. 04-497, § 3, 5-26-04)

Sec. 8-124. Oral report to police of tows authorized by persons other than vehicle owner.

Whenever a wrecker driver is authorized to pick up and tow any vehicle when such authorization was given by someone other than the vehicle owner, the wrecker driver shall make an oral report to the police department within one hour of the time the vehicle was picked up. In such an oral report the wrecker driver shall inform the police department of the license plate number of the vehicle towed, its vehicle identification number, the location from which the vehicle was towed, the date and time the vehicle was towed, and the location to which the vehicle was towed. This section shall not apply when the vehicle was towed pursuant to authorization by a

city police officer and the wrecker driver has signed the copy of the wrecker slip retained by the city police department.
(Ord. No. 04-497, § 3, 5-26-04)

Sec. 8-125. Reports to police of towing pursuant to lienholder's request.

(a) Whenever any person tows, carries, transports or otherwise takes a motor vehicle pursuant to a request by a lienholder incident to a lawful repossession, the person so taking the vehicle shall make a verbal report to the police department within one hour of the time of picking up the vehicle, which shall include the following information:

(1) The license plate number of the repossessed motor vehicle;

(2) The vehicle identification number of the repossessed motor vehicle;

(3) The year, make, model and color of the repossessed motor vehicle;

(4) The name, address and telephone number of the lienholder who requested the taking of the vehicle;

(5) The state license plate number of the auto wrecker used, and the name and Texas driver license number of the wrecker driver;

(6) The location from which the vehicle was towed, the date and time that the vehicle was picked up and the name, street address and telephone number of the place to which the vehicle was taken for storage.

(b) Within 72 hours of the time of picking up the vehicle the person shall also mail or deliver to the police department a written report of the repossession, including:

(1) The information specified above;

(2) The reporting number assigned by the police department by telephone at the time the oral report was made as required above; and

(3) A copy of the court order or other legal document(s) that authorized the repossession.

(c) The chief of police shall designate a telephone number for the filing of oral reports under this section and an address for the filing of written reports under this section. The chief of police may also promulgate a form to be used for the filing of the written reports.
(Ord. No. 04-497, § 3, 5-26-04)

Sec. 8-126. Police-authorized tow service agreement.

(a) On recommendation of the mayor, the chief of police may execute agreements on behalf of the city with persons to perform police-authorized towing. The right to enter into such agreements shall be extended on a uniform basis to all eligible persons.

(b) The chief of police may refuse to enter into an agreement hereunder if the auto wrecker owner (including partners if a partnership and stockholders if a corporation) or any employee has had an 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. The foregoing provision shall apply to police-authorized tow service 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.

(c) An annual agreement fee in the amount of $500.00 per covered auto wrecker shall be paid by the auto wrecker owner to the city for each agreement. The police chief may impose an additional fee not to exceed $35.00 per year for the issuance of identification cards to drivers who are authorized to drive auto wreckers under police tow service agreements. The fees shall not be subject to proration or refund.

(d) Agreements under this section are not exclusive. The city shall not be precluded from using city-owned auto wreckers to perform police-authorized tows, such as for certain vehicles that are detained for criminal investigation needs, or from entering into other contracts and agreements, such as for towing of vehicles involved in parking violations.

(e) The agreements shall conform to the following requirements and terms, which shall be incorporated therein by reference:

(1) Each auto wrecker shall be allowed to perform police-authorized towing in only one "zone", which for purposes of the agreements shall mean one of the five service areas that are described and depicted in Exhibits A and B to Ordinance 84-560. Consistent with the foregoing requirement, the agreement shall include the following clause:

"Operator shall choose one specific zone for each auto wrecker that is to be utilized by the Operator to perform police-authorized tows. Operator shall not allow auto wrecker to tow any vehicle authorized by the police department outside of the approved zone. Violation of this provision is grounds for revocation of this Agreement."

(2) The agreement shall include the following clause regarding insurance requirements:

"The Operator shall obtain and maintain in effect during the term of this Agreement, insurance coverage as set out below, and shall furnish certificates of insurance, prior to the beginning of the term of this Agreement. All such policies except Worker's Compensation or Occupational Safety Insurance shall be primary to any other insurance and shall name the city as an additional insured. All liability policies shall be issued by a company with a Certificate of Authority from the State Department of Insurance to conduct insurance business in Texas or a rating of at least B+ and a financial size of Class VI or better according to the current year's Best's rating. Operator shall maintain the following insurance coverage in the following amounts:

A. Automobile liability insurance * $1,000,000.00 combined single limit per occurrence.

B. Cargo on hook coverage * $50,000.00 per vehicle.

C. Workers compensation or occupational safety insurance.

D. All drivers of auto wreckers shall be named insured on operator's liability insurance policy."

(3) The agreement shall include the following clause regarding fee requirements: "The Operator shall charge no fees for servicing a police scene in excess of the fees authorized under city ordinance for vehicles towed without the consent of a vehicle owner. Further, the Operator shall not obligate the owner of a vehicle removed from a police scene and placed in storage to pay any fees in excess of those authorized for a vehicle delivered to a state licensed vehicle storage facility without the consent of the vehicle owner. Under no circumstances will a vehicle owner be charged a fee of any type in excess of the fees applicable had the vehicle been towed without the vehicle owner's consent."

(f) It shall be unlawful for the driver of any auto wrecker that is not then being operated under a current and valid police authorized tow service agreement to respond to a police scene or be or remain at a police scene if the police scene is not situated in the traffic management area (zone) for which the auto wrecker has been authorized under subsection 8-126(e)(1) of this Code. It is an affirmative defense to prosecution under this section that the driver of the auto wrecker was called to the police scene by the law enforcement officer in charge of the scene or by a vehicle owner requiring towing services from the police scene. (Ord. No. 04-497, § 3, 5-26-04)

Sec. 8-127. Major freeway tow agreement.

(a) On recommendation of the mayor and approval by the city council, the chief of police may execute agreements on behalf of the city with any operator then holding a valid police authorized tow service agreement under section 8-126 of this Code, to provide towing or emergency road service on major freeways in the manner and according to specifications required by this Code and described

in such agreements. Such agreements shall be in a form approved by the city attorney and shall provide, without limitation, the following:

(1) That an operator shall have exclusive rights to remove a disabled or abandoned vehicle from a designated segment of a major freeway on a 24-hour basis provided the operator responds to the scene within the time designated in the agreement, and provided, further, that such exclusive right shall be subject to verification of a public emergency by a law enforcement officer requiring selection of another person or company to provide the services covered by the agreement;

(2) That the agreements shall be entered into for a period not to exceed five years from date of execution unless terminated earlier as outlined in the agreement;

(3) That an operator servicing a major freeway expressly agrees to tow a disabled vehicle from a major freeway in accordance with the agreement;

(4) That no fees will be charged for the towing of a vehicle except as specifically authorized by this Code or the agreement. Major freeway towing or other fees shall be published in the manner and at the time designated by the police department;

(5) That the operator will provide continuous coverage of its designated major freeway segment, will respond immediately to a call for assistance from a law enforcement officer, and patrol its segment as required by the agreement;

(6) That the operator will cooperate with all law enforcement and other public service employees responding to or present at a police scene;

(7) That solicitation of business of any kind whatsoever at a police scene is prohibited;

(8) That the operator will not employ any person who does not meet the requirements of this Code relating to towing of vehicles and any current and valid police authorized tow service agreement;

(9) That the operator will respond to a police scene with no more towing capacity than necessary, based on the number of disabled vehicles at the scene, to minimize hazards and traffic obstructions within the time designated in the agreement and will expeditiously clear the major freeway of any abandoned or disabled vehicle, debris, and other traffic impediment;

(10) That any failure by an operator to timely respond to a call for assistance shall authorize an incident management supervisor or a law enforcement officer at a police scene who has determined that public emergency then exists to direct any wrecker to remove any abandoned or disabled vehicle, debris, or other traffic hazard or impediment;

(11) That emergency road service will consist of providing towing, gasoline, tire changing, or other services as designated in the agreement;

(12) That the chief of police or his designee shall be authorized, upon a determination of a public emergency or when required in the interest of public safety, to direct the operator to direct its patrol activities to specific times and/or portions of the operator's major freeway segment;

(13) That an operator shall report any abandoned or disabled vehicle or other hazardous road condition to the police department and remain at the scene until a law enforcement officer arrives or authorization to remove the hazardous condition is received;

(14) That authorization to remove an abandoned or disabled vehicle will be provided in the manner and form specified by the agreement; and

(15) That removal of any abandoned or disabled vehicle at the direction of a law enforcement officer will be documented on a police department vehicle disposition form.

(b) It shall be unlawful for any wrecker driver to be present or remain at, or to tow any vehicle from, a major freeway unless such wrecker driver is then operating under a current and valid towing agreement executed pursuant to this section. It shall be an affirmative defense to prosecution under this subsection that the wrecker driver was acting under the direction of a law enforcement officer as described under item (1) of subsection (a) of this section. It shall be an affirmative defense to prosecution under this subsection that the wrecker is a heavy-duty wrecker summoned to the scene by a law enforcement officer pursuant to section 8-123 of this Code.

(c) For purposes of this section, the term "major freeway" shall include those limited access roadways designated by the chief of police to be subject to the agreements. Application of the agreement and the requirements of this section shall include the entire public right-of-way of such roadways, including controlled access roadway lanes, ramps, shoulders, and unimproved areas, but excluding frontage or service roads.

(d) In designating segments of major freeways for purposes of agreements executed pursuant to this section, the chief of police shall consult with the towing industry to seek input on designing such segments to maximize competition.

(e) Notwithstanding the rates established for nonconsent towing under section 8-123 of this Code, the chief of police, with the approval of the mayor, may establish a fee for tows performed pursuant to agreements executed under this section, provided, however, that the towing fee shall not exceed the then current fee for nonconsent towing established under section 8-123 of this Code and shall be the same in all agreements executed pursuant to this section.

(f) All revenues received by the city resulting from agreements execute pursuant to this section shall be allocated to the police special services fund administered by the police department.
(Ord. No. 04-497, § 3, 5-26-04)

Editor's note—Section 6 of Ord. No. 04-497 states that section shall become effective at 12:01 a.m. on January 1, , and apply to towing services governed thereunder that mence on or after that date and time.

Sec. 8-128. Wreckers not to solicit business at scene of accident until police investigation completed.

It shall be unlawful for any wrecker driver to solicit the business of towing, removing or repairing any abandoned or disabled vehicle at a police scene by words, cards, circulars or gestures, until such time as a law enforcement officer has completed his investigation or authorized the action.
(Ord. No. 04-497, § 3, 5-26-04)

Sec. 8-129. Obedience to police at accident scene; interference with police.

All wrecker drivers at a police scene shall obey all lawful orders given them by any law enforcement officer investigating such scene and shall not in any manner knowingly or intentionally interfere with such law enforcement officer in the performance of his duty.
(Ord. No. 04-497, § 3, 5-26-04)

Sec. 8-130. Reserved.

Subdivision B. Wrecker Driver Licenses

Sec. 8-131. License required.

It shall be unlawful for any wrecker driver to perform a nonconsent tow unless he has a current wrecker driver license issued by the city, which license shall be prominently displayed on his person during any nonconsent tow.

It shall be unlawful for any person to allow, permit or cause another to drive or operate any auto wrecker for the purpose of performing a nonconsent tow unless the wrecker driver has a current wrecker driver license issued by the city.
(Ord. No. 05-115, § 5, 2-9-05)

Sec. 8-132. Application.

(a) Each person desiring a wrecker driver license shall submit an application to the police chief or his designee on a form furnished by the city. On the application the applicant shall set forth:

(1) The name and address of the applicant;

(2) The applicant's date of birth, place of birth, sex, race, and each address where he has resided in the five years immediately preceding his application;

(3) Whether the applicant has been arrested for any criminal offense in this state or any other state or country. If he has been arrested or jailed for any such offense, he shall set out the offense for which he was arrested or jailed, the date of the arrest or confinement, and the place, court and case number of the case;

(4) The number of his driver's license issued by the state and a list of all driver licenses the applicant has held in the three years immediately preceding the submission of the application showing the state that issued each license and the type of license held. The applicant shall also show the police chief or his designee evidence that he has a current driver's license issued by the state and shall complete a form allowing the police department to obtain information as to the applicant's driving record from the state and from any state that had issued the applicant a driver license that was valid at any time within the three years immediately preceding the submission of the application.

(5) Evidence that the applicant has passed a drug screening test administered within the 30 days preceding the date of the application under subsection (c) below.

(6) Such other information as the police chief or his designee finds relevant.

After the application has been completed, the applicant shall sign the application and shall execute a sworn affidavit that all matters stated in the application are true and correct.

The applicant shall also provide the police chief or his designee with evidence that he is at least 18 years of age and submit himself at such times and places designated by the police chief or his designee to be photographed and to be fingerprinted.

(b) Upon initial application for a wrecker driver license and at each renewal, the police chief or his designee shall cause each applicant's criminal history to be researched by the Texas Department of Public Safety. The applicant shall complete any forms required for the police chief or his designee to obtain the report and provide funding to the police chief or his designee in a manner specified to cover any fees imposed by any state agency for the report. The provision of this requirement shall not be construed to preclude the police chief or his designee from obtaining interim reports at the expense of the city.

(c) Evidence that the applicant has passed the drug screen test administered within the 30 days preceding the date of the application shall be required for original applicants and all renewals. The police chief shall promulgate rules and regulations relating to the drug screening test. The test procedure shall be equivalent to that prescribed by the mayor for pre-employment drug screenings for city employees. The police chief his designee shall authorize laboratories and f cilities that meet nationally recognized standards to obtain samples and perform the tests. The responsibility for obtaining the test and all costs associated therewith shall rest with the applicant.
(Ord. No. 05-115, § 5, 2-9-05)

Sec. 8-133. Application fee.

Any person desiring a wrecker driver license shall pay a non-refundable application fee of $15.00 at the time he submits his application for the license.
(Ord. No. 05-115, § 5, 2-9-05)

Sec. 8-134. Issuance; denial; hearing.

(a) The police chief or his designee shall approve an application and issue the wrecker driver license after payment of the application fee and completion of the investigation of the criminal and driving record of the applicant, unless:

(1) The information provided in the application is materially false or incorrect or the applicant has failed in any material way to comply with this article;

(2) The applicant has had a wrecker driver license revoked during the preceding one year period; or

(3) The applicant is not in compliance with the criminal history provisions of section 1-10 of this Code.

(b) In the event that an application is proposed for denial, the police chief or his designee shall promptly inform the applicant in writing of the reasons for the proposed denial and of the applicant's right to a hearing before a hearing officer designated by the police chief regarding the proposed denial. The notice shall be sent by United States certified mail, return receipt requested, to the applicant's address set out in the application.

(c) The applicant may perfect his appeal of the proposed denial by a letter addressed to the police chief and delivered to the police chief or his designee within 15 days after the date that notice of the proposed denial of the application is placed in the United States mail. The letter of appeal must state that an appeal from the decision of the police chief or his designee is desired. The appeal process shall be conducted in accordance with rules promulgated by the police chief for that purpose. If the proposed denial is based in whole or in part upon section 1-10 of this Code, then the notice and hearing procedures shall also include any requirements to comply with section 1-9 of this Code and applicable state laws. The determination of the hearing officer with respect to the application shall be final, unless otherwise provided by law.
(Ord. No. 05-115, § 5, 2-9-05)

Sec. 8-135. Standards for review.

(a) An applicant whose application for a wrecker driver license has been proposed for denial pursuant to item (3) of subsection (a) of section 8-134 of this Code may qualify for a wrecker driver license only if a hearing examiner determines that the applicant is presently fit to engage in the occupation of a wrecker driver. The standards for review that the hearing examiner shall use in determining the applicant's fitness shall be:

(1) The extent and nature of the applicant's past criminal activity;

(2) The age of the applicant at the time of the commission of the crime;

(3) The amount of time that has elapsed since the applicant's last criminal activity;

(4) The conduct and work activity of the applicant prior to and following the criminal activity;

(5) Evidence of the applicant's rehabilitation or rehabilitative effort while incarcerated or following release; and

(6) Other evidence of the applicant's fitness, including letters of recommendation from:

a. Prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the applicant;

b. The sheriff and chief of police in the community where the applicant resides; and

c. Any other person in contact with the applicant.

(b) The applicant has the responsibility, to the extent possible, to obtain and provide to the hearing examiner the recommendations of the prosecution, law enforcement, and correctional authorities as required by item (6) of subsection (a) of this section.
(Ord. No. 05-115, § 5, 2-9-05)

Sec. 8-136. Term; renewal; replacement of lost or destroyed license.

(a) Each wrecker driver license shall expire each year on the anniversary of the wrecker driver license holder's date of birth. The first license hereunder shall expire on the anniversary of the wrecker driver license holder's date of birth next following the expiration of one year from issuance. A permit may be renewed by filing an application pursuant to section 8-132 of this Code at least 30 days prior to the expiration of the permit and paying the application fee pursuant to section 8-133 of this Code. A renewal permit application shall be reviewed and approved pursuant to section 8-134 of this Code.

No license shall be renewed more than 30 days after the date of its expiration. If a license had

expired and not been renewed within 30 days, the applicant may apply for a new license as an initial applicant. The fee for such a new license shall be the fee set out for an original license.

(b) A lost or destroyed wrecker driver license may be replaced upon the holder's compliance with the following conditions:

(1) The filing of a sworn affidavit with the chief of police stating that the license has been lost or stolen and setting out the details of how the license was lost or stolen, or if such facts are not known, setting out the details of where and when the license holder last saw the license and when its loss was discovered;

(2) Appearing at the police department for a replacement photograph and fingerprinting; and

(3) Paying a fee of $5.00 for the replacement license.

A replacement wrecker driver license shall expire on the date of expiration for the license that was lost or stolen.
(Ord. No. 05-115, § 5, 2-9-05)

Sec. 8-137. Revocation, suspension and refusal to renew.

(a) The police chief or his designee may suspend or revoke a wrecker driver license for violation of state laws or of city ordinances. Suspensions or revocations may also be based upon other grounds related to issuance, such as if the wrecker driver license was erroneously issued on the basis of incomplete or false information.

(b) A revoked wrecker driver license may not be renewed and shall not be subject to reissuance for a one year period as provided in section 8-134 of this Code. A suspended wrecker driver license may not be renewed until the period of suspension has expired.

(c) An individual whose wrecker driver license is revoked or suspended under this subsection is entitled to an appeal in the same manner as provided in sections 8-134 and 8-135 of this Code upon receipt of written notice of the revocation or suspension of his wrecker driver license.
(Ord. No. 05-115, § 5, 2-9-05)

DIVISION 3. PRIVATE STORAGE LOTS

Subdivision A. General Provisions

Sec. 8-141. Application; affirmative defense.

(a) 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 (article 4413(36), Texas Revised Civil Statutes) that desires to operate a private storage lot within the city shall obtain an authorization under this division.

(b) It is an affirmative defense to prosecution of any offense specified in this division 3, except those offenses enumerated in section 8-193, th the actor was required to hold a license from th Texas Department of Transportation pursuant to the Vehicle Storage Facility Act and was acting within the scope of authority granted pursuant to a license issued thereunder.
(Ord. No. 01-1079, § 5, 12-5-01)

Sec. 8-142. Authorization for police private storage lot use.

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.
(Ord. No. 01-1079, § 5, 12-5-01)

Sec. 8-143. Police private storage lot agreement.

(a) On recommendation of the police chief, the mayor may execute agreements on behalf of the city with persons who hold authorizations under this division 3 and with licensees under the Vehicle Storage Facility Act to serve as police private storage lots. 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.

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 finance and administration 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 [illegible] effective until the time for filing an appeal has [illegible]pired. Each hearing before the hearing officer [illegible]all be video recorded by the police department. [illegible]n 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

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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) An annual agreement fee in the amount of $1,000.00 per storage lot shall be payable by the storage lot owner to the city. The fee shall not be subject to proration or refund.

(e) Agreements under this section are 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.
(Ord. No. 01-1079, § 5, 12-5-01)

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.
(Ord. No. 01-1079, § 5, 12-5-01)

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.
(Ord. No. 01-1079, § 5, 12-5-01)

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.
(Ord. No. 01-1079, § 5, 12-5-01)

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 oper-

ate any private storage lot until the police department has granted authorization to operate the storage lot.
(Ord. No. 01-1079, § 5, 12-5-01)

Sec. 8-155. Standards for approval.

An application for authorization to operate a private storage lot shall not be approved if:

(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 ten vehicle storage or parking spaces that will be used for the storage of motor vehicles.

(Ord. No. 01-1079, § 5, 12-5-01)

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.
(Ord. No. 01-1079, § 5, 12-5-01)

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 1-10 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.

(Ord. No. 01-1079, § 5, 12-5-01)

Sec. 8-158. Application fee.

The applicant for authorization to operate a private storage lot shall submit a nonrefundable fee of $100.00.
(Ord. No. 01-1079, § 5, 12-5-01)

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 a renewal fee of $50.00.

(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.
(Ord. No. 01-1079, § 5, 12-5-01)

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.
(Ord. No. 01-1079, § 5, 12-5-01)

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).
(Ord. No. 01-1079, § 5, 12-5-01)

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.
(Ord. No. 01-1079, § 5, 12-5-01)

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.
(Ord. No. 01-1079, § 5, 12-5-01)

Secs. 8-164—8-170. Reserved.

Subdivision C. Operational Rules and Regulations

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

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.
(Ord. No. 01-1079, § 5, 12-5-01)

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

(a) No name other than the name 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 automobile storage business at a storage lot authorized to operate as a private storage lot.

If a storage lot authorization holder desires to change the name under which it conducts business, the authorization holder shall file a notice of such change with the police department on a form designated by the 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 private storage lot.

(b) Each storage lot operating under an authorization issued under this article:

(1) Shall be completely enclosed by a fence of at least six feet in height, with a gate that is locked at all times the authorization holder or an agent or employee is not at the storage lot;

(2) Shall have an all-weather surface of concrete, asphalt, blacktop, stone, macadam, limestone, iron ore, gravel or shell;

(3) Shall 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 license number of the storage lot;

(4) Shall 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 be located so that it is clearly visible to a vehicle owner prior to payment of the fees;

(5) Shall have an operable telephone. 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.

(Ord. No. 01-1079, § 5, 12-5-01)

Sec. 8-173. Inspection and report.

When the authorization holder, agent or employee of a private 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 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 the time the storage lot must ensure vehicles may be released if the vehicle was delivered during any other time.

(Ord. No. 01-1079, § 5, 12-5-01)

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

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.

(Ord. No. 01-1079, § 5, 12-5-01)

Sec. 8-175. Inspection by police.

The 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.

(Ord. No. 01-1079, § 5, 12-5-01)

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 private storage lot operated under an authorization issued under this article, such 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.

(Ord. No. 01-1079, § 5, 12-5-01)

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

No private storage lot authorization holder, or agent or employee, shall ask or require any person 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 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 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 private storage lot may require persons claiming a vehicle to sign a receipt acknowledging that they have in fact received the vehicle after the vehicle has been delivered to the vehicle owner.

(Ord. No. 01-1079, § 5, 12-5-01)

Sec. 8-178. Duty to provide attendant, etc.

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 motor vehicles may be released to the vehicle owner 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.
(Ord. No. 01-1079, § 5, 12-5-01)

Secs. 8-179—8-190. Reserved.

Subdivision D. Further Operational Requirements, Fees, Etc.

Sec. 8-191. 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 48 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.

(Ord. No. 01-1079, § 5, 12-5-01)

Sec. 8-192. Weekly report to police of vehicles towed to lot without consent of vehicle owner.

Each private storage lot authorization holder who stores any vehicles that have been towed to such lot without the vehicle owner's permission shall forward a report to the police department each Monday by hand delivery, by certified mail, or authorized electronic means on a form designated by the police department containing the following information:

(1) A list of all vehicles received by the 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 vehicle was delivered to the private storage lot;

b. The auto wrecker company, the name and state driver license number of the wrecker driver who delivered the vehicle to the private storage lot; and

c. The license plate number, the vehicle identification number, the year, the make, and the color of the vehicle.

(2) A list of all vehicles that had originally been received by the private storage lot without the vehicle owner's permission and that had been delivered to the vehicle owner or taken from the 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 vehicle;

b. The date and time the vehicle was taken from the storage lot;

c. The name of the person receiving the vehicle; and

d. The amount of payment received by the storage lot.

(3) All private storage lots shall comply with all requirements of state law in regard to giving notices. 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 private storage lot where the vehicle is being held, and all charges owed to the storage lot for such vehicle.

(Ord. No. 01-1079, § 5, 12-5-01)

Sec. 8-193. 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 private storage lot comply with this section.

(b) A maximum daily storage fee of $15.00 may be imposed for each day or part of a day that a vehicle remains stored. The time shall be computed as provided in section 14(c) of the Vehicle Storage Facility Act. The above fee shall not apply to the storage of vehicles that are longer than 25 feet, which shall instead be subject to the fee provided for such vehicles in section 14(c) of the Vehicles Storage Facility Act.

(c) In addition to the daily storage fees authorized under subsection (b), a private storage lot may impose notification and other fees not exceeding those specified in the Vehicle Storage Facility Act.

(d) Each fee charged by a 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 storage lot and on a receipt which shall be given the vehicle owner. The receipt shall also include the 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 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.

(Ord. No. 01-1079, § 5, 12-5-01; Ord. No. 01-1108, § 1, 12-12-01)

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.

(Ord. No. 01-1079, § 5, 12-5-01)

Sec. 8-195. Separation of vehicles, records.

(a) Each police private storage lot 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 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.
(Ord. No. 01-1079, § 5, 12-5-01)

Sec. 8-196. Sale of vehicles in police private storage lots.

Each vehicle parked or stored on a 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.
(Ord. No. 01-1079, § 5, 12-5-01)

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.
(Ord. No. 01-1079, § 5, 12-5-01)

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.
(Ord. No. 01-1079, § 5, 12-5-01)

Sec. 8-203. Quarterly reports.

(a) It shall be the duty of each person who holds an authorization to operate a private storage lot under this article to furnish to the director of finance and administration, on forms provided by the director, a quarterly report summary for each private storage lot disclosing full information on operations for each calendar year quarter. The data furnished shall include data on reasonably incurred expenditures, including salaries, administrative costs, accounting and legal fees, insurance, licenses, taxes, utilities, maintenance, depreciation and any other information reasonably required and requested by the director in order to accurately determine private storage lot

operating costs. Such reports shall be delivered on or before the twentieth day of May, August, November and February of each year, and shall cover operations for the preceding calendar quarter. Such report shall be sworn to before a notary public.

(b) It shall be unlawful for any operator of a private storage lot to fail to keep records supporting the quarterly reports for two years following the date of their entry or creation.

(c) The failure to keep such records or to timely file any quarterly report shall be punishable by a fine of not less than $100.00 nor more than $500.00. Each day that any offense continues shall constitute a separate offense. To the extent that any violation of this section also constitutes an offense under state law, the offense shall be punishable as provided by the applicable state law.
(Ord. No. 01-1079, § 5, 12-5-01)

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.
(Ord. No. 01-1079, § 5, 12-5-01)

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).
(Ord. No. 01-1079, § 5, 12-5-01)

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.
(Ord. No. 01-1079, § 5, 12-5-01)

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.

(Ord. No. 01-1079, § 5, 12-5-01)

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.

(Ord. No. 01-1079, § 5, 12-5-01)

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.

(Ord. No. 01-1079, § 5, 12-5-01)

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).

(Ord. No. 01-1079, § 5, 12-5-01)

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.
(Ord. No. 01-1079, § 5, 12-5-01)

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.
(Ord. No. 01-1079, § 5, 12-5-01)

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.
(Ord. No. 01-1079, § 5, 12-5-01)

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.
(Ord. No. 01-1079, § 5, 12-5-01)

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