

Chapter 8. AUTOMOTIVE DEALERS AND AUTO WRECKERS

ARTICLE III. AUTO WRECKERS AND STORAGE YARDS

Sec. 8-101. Definitions.

Wrecker driver trainee means an individual who, to obtain on-the-job training and experience before applying for a wrecker driver license, holds a wrecker driver trainee license from the city.

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Sec. 8-111. Auto wrecker State and local registration, minimum requirements.

(a) State registration required. Any auto wrecker that is used to perform any nonconsent tow shall be registered as a tow trucks under applicable provisions of state and local law, including, without limitation, Chapter 2308 of the Texas Occupations Code and this chapter.

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(b) City registration required. Any tow truck auto wrecker that is used to performs any nonconsent tow on private property in the city must be registered with the police department, regardless of whether the owner of the tow truck auto wrecker has a place of business in the city.

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(c) Application for city registration. A tow operator registrant may apply to the police department for registration of a tow truck an auto wrecker by i) submitting a completed application on a form promulgated by the police chief; ii) paying the fee stated for this provision in the city fee schedule per tow truck auto wrecker to the police department; iii) providing verification that the tow truck auto wrecker is equipped to tow light-duty or heavy-duty motor vehicles according to the manufacturer's guidelines; and (iv) providing proof of insurance that meets the requirements of § 86.400 of title 16 of the Texas Administrative Code.

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(d) Inspection; proof of registration. Upon receipt of an application, the police department will inspect the tow truck auto wrecker to determine compliance with the requirements of subsection (d) of this section and, if the auto wrecker is found in compliance, shall issue proof of registration to the applicant. The proof of registration (a medallion) shall be attached to the auto wrecker for which it is issued, at the place on the vehicle designated by the police chief. It shall be unlawful for any person to drive or operate an auto wrecker without the proof of registration being so attached.

(e) Requirements for city registration. As a condition of registration and maintaining registration in good standing, the registrant

(1) Each tow operator must meet the signage, safety equipment, safety clothing, and identification requirements of §§ 86.701, 86.1000, and 86.1001 of Title 16 of the Texas Administrative Code and must carry and openly display the appropriate proof of city registration on the registrant's tow trucks.

(e2) Each auto wrecker shall meet the following minimum requirements for registration and maintaining registration:

(1)a. Except for heavy duty wreckers, the auto wrecker's chassis cab shall be rated at no less than one ton by the manufacturer and will be equipped by the manufacturer with dual wheels and tires at each end of the rear axle;

- (2) The auto wrecker shall have a mounted light bar that conforms to the requirements of Chapter 547 of the Texas Transportation Code;
- (3) The auto wrecker shall be equipped with wheel dollies, except on heavy duty wreckers and rollback type trucks;
- (4) The auto wrecker shall carry at all times:
- a. Warning devices for stopped vehicles consisting of:
 - [1] Three flares, each of which shall be capable of being seen at a distance of not less than 600 feet under normal conditions at nighttime, or
 - [2] Three emergency reflective triangles that conform to the requirements of Federal Motor Vehicle Safety Standard No. 125;
 - b. A push broom with a handle of not less than 36 inches and a head of not less than 18 inches;
 - c. No less than five gallons of dry sand or other absorbent that is at least as effective as sand in absorbing liquid;
 - d. A container to carry glass and debris cleaned from the roadway when picking up a wrecked vehicle;
 - e. A shovel with a flat edge of not less than nine inches and a handle of not less than 36 inches;
 - f. A wrecking bar of not less than 36 inches in length, with a wedge-shaped head;
 - g. At least one ten pound fire extinguisher or two five pound multiple purpose fire extinguishers, in good working condition;
 - h.b. The auto wrecker at all times shall carry Tow lights with appropriate cable (unless wireless), and cushions to protect a vehicle's finish; and;
 - i.c. The auto wrecker at all times shall be equipped with Safety (mud) flaps with the bottom edge of the mud flap no more than eight inches from the surface of the road.
- (f) Operators shall comply with and shall require auto wrecker drivers to comply with the following clothing requirements:
- (1) A Class 3, Level 2 reflective vest, shirt, or jacket meeting the ANSI/ISEA requirements for high visibility safety apparel must be worn at all times while working outside of the tow truck;
 - (2) Closed toe shoes; and

(3) A vest or shirt displaying, on the front of the shirt or vest, the name of the wrecker company as it is registered with the city.

(gf) Renewal of registration. The registration for each auto wrecker that is used to perform non-consent tows~~truck~~ subject to this section shall be renewed annually by payment of the fee stated for this provision in the city fee schedule to the police department, which shall verify that the ~~tow truck~~ auto wrecker is still in compliance with this section.

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Sec. 8-117. Nonconsent tow regulations.

(a) A person ~~who that~~ performs a nonconsent tow in the city may not operate or permit another person to operate ~~a tow truck an auto wrecker~~ on a public roadway in the city unless the person has ~~a current wrecker driver license issued by the city registered with the police department under this subchapter.~~

Sec. 8-126. Police-authorized tow service agreement (PATSA).

(a) The chief of police may execute agreements for the mayor and on behalf of the city with persons to perform police-authorized tows. 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 tow operator~~ (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 tow operator under threat of termination for cause in the same manner as to those that have actually been terminated for cause.

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(b-1) Each auto wrecker that will be utilized under the terms of a police authorized tow service agreement shall:

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(1) Be registered with the city under pursuant to a current PATSA agreement. The police department shall inspect the auto wrecker and if it is found in compliance, shall issue proof of registration (a medallion) that shall be attached to the auto wrecker in the same manner as provided in section 8-111(e); registration under this section shall also serve as registration for private property tows;

(2) Have a mounted light bar that conforms to the requirements of Chapter 547 of the Texas Transportation Code;

(3) Be equipped with wheel dollies, except on heavy duty wreckers and rollback type trucks; and

(4) Carry at all times:

a. Warning devices for stopped vehicles consisting of:

- [1] Three flares, each of which shall be capable of being seen at a distance of not less than 600 feet under normal conditions at nighttime, or
 - [2] Three emergency reflective triangles that conform to the requirements of Federal Motor Vehicle Safety Standard No. 125;
- b. A push broom with a handle of not less than 36 inches and a head of not less than 18 inches;
 - c. No less than five gallons of dry sand or other absorbent that is at least as effective as sand in absorbing liquid;
 - d. A container to carry glass and debris cleaned from the roadway when picking up a wrecked vehicle;
 - e. A shovel with a flat edge of not less than nine inches and a handle of not less than 36 inches;
 - f. A wrecking bar of not less than 36 inches in length, with a wedge-shaped head; and
 - g. At least one ten pound fire extinguisher or two five pound multiple purpose fire extinguishers, in good working condition.

| (b-2) *Wrecker driver requirements.* Tow operators shall require their wrecker drivers who will drive auto wreckers under the terms of a police authorized tow service agreement to wear:

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- (1) A Class 3, Level 2 reflective vest, shirt, or jacket meeting the ANSI/ISEA requirements for high visibility safety apparel at all times while working outside of the auto wrecker;
- (2) Closed toe shoes; and
- (3) A vest or shirt displaying, on the front of the shirt or vest, the name of the tow operator as it is registered with the city.

(c) An annual agreement fee in the amount stated for this provision in the city fee schedule per covered auto wrecker shall be paid by the ~~auto wrecker owner tow operator~~ to the city for each agreement. The police chief may impose an additional fee not to exceed \$75.00 per year for the issuance of identification cards to drivers who are authorized to drive auto wreckers under police tow service agreements. The amount of the fee for identification cards shall be stated for this provision in the city fee schedule. 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 tows 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 an auto wrecker to tow any vehicle outside of the approved zone, except when authorized by the police department. No tow hereunder shall exceed a maximum distance of 20 miles unless the tow destination is located within the 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.

(g) Tow operators and auto wrecker drivers operating pursuant to a current and valid police-authorized tow service agreement shall report the towing of vehicles via an authorized electronic reporting system implemented by the police department.

(h) Wrecker driver trainees shall be licensed in accordance with section 8-131 of this Code. A wrecker driver trainee may provide recovery services and assistance to a wrecker driver. It shall be unlawful for a trainee to drive a wrecker on the public roadways.

Sec. 8-131. Wrecker driver and wrecker driver trainee--License required, qualifications.

(a) It shall be unlawful for any person 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.

(b) It shall be unlawful for any person to allow, permit, or cause another person to drive or operate any auto wrecker for the purpose of performing a nonconsent tow unless the person has a current wrecker driver license issued by the city.

(c) It shall be unlawful for any person to allow, permit, or cause a person with a wrecker driver trainee license to drive any auto wrecker on the public roadways.

(d)(e) To qualify for a wrecker driver's license, an applicant must:

- (1) Be at least 18 years old;
- (2) Hold a valid driver's license and towing operator's license issued by the state;
- (3) For the initial application, present proof of successful completion of a defensive driving course approved by the Texas Education Agency within the preceding 12 months;
- (4) Not have been convicted of an offense pertaining to wrecker drivers listed in section 1-10 of this Code;
- (5) Not have been involved in more than two motor vehicle accidents within any 12 month period during the preceding 36 months in which the chief of police could reasonably determine from a government-issued crash report that the applicant was at fault;
- (6) Be subject to no outstanding warrants of arrest; and
- (7) Provide evidence that he has passed the drug screening test required by section 8-132(c) of this Code.

(e) An applicant for a wrecker driver trainee license must meet the requirements of items (d)(1),(2), (4), and (6) of this section.

Sec. 8-132. Application.

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

- (1) The applicant's full name and residence address;
- (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 or jailed for any criminal offense in this state or any other state or country, and if so, the applicant 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 the applicant's current 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 provide the police chief evidence that he has a current driver's license and current towing operator's license (or training license for wrecker driver trainee applications) 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; and
- (6) Such other information as the police chief finds relevant.

After the application has been completed, the applicant shall sign the application and shall execute a sworn affidavit, or a declaration pursuant to Texas Civil Practice and Remedies Code sec. 132.001, that all matters stated in the application are true and correct.

The applicant shall also submit himself at such times and places designated by the police chief to be photographed and fingerprinted.

(b) Each person desiring a wrecker driver trainee license shall submit the information required in items (a)(1), (2), (3), and (4) of this section. A wrecker driver trainee license issued under this section shall expire on the sixty-first day after the date of issuance and may not be renewed.

(c)(b) Upon initial application for a wrecker driver license and at each renewal, the police chief 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 to obtain the report and shall provide funding to the police chief in a manner specified to cover any fees imposed by any state agency for the report. This provision shall not be construed to preclude the police chief from obtaining interim criminal history reports at the expense of the city.

(d)(e) 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; provided, however, that a PATSA wrecker driver who is subject to random drug tests is not required to submit a drug test for a license renewal. 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 or his designee shall authorize laboratories and facilities 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.

Sec. 8-133. Application fee.

Any person desiring a wrecker driver license or wrecker driver trainee license shall pay the non-refundable application fee stated for this provision in the city fee schedule at the time he submits his application for the license.

[Will need an uncodified section in the adopting ordinance approving the initial fee amounts and directing the Director of Finance to add or amend the city fee schedule. See A.P. 4-9. The fee will be subject to automatic annual fee increases pursuant to Section 1-13 of the Code.]

- Wrecker driver license fee: \$_____
- Wrecker driver trainee license fee: \$_____
- Wrecker driver license fee for applicant who has, or has had within past 3 months, a valid wrecker driver trainee license: \$_____]

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

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

- (1) The police chief determines that the applicant is not qualified under section 8-131;
- (2) 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;
- (3) The applicant has had a wrecker driver license revoked during the preceding one year period; or
- (4) The applicant is not in compliance with the criminal history provisions of section 1-10 of this Code.

(b) For purposes of this article, the police chief may consider an applicant to have been convicted of an offense when the applicant was charged with an offense listed in section 1-10 of this Code pertaining to wrecker drivers, and

- (1) The applicant entered a plea of guilty or nolo contendere;
- (2) The court deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or a court officer; and
- (3) After the period of supervision, the court dismissed the proceedings and discharged the person.

In the instances set forth in this subsection, and in accordance with Texas Occupations Code section 53.021, the police chief may propose denial of the application upon his determination that the applicant may pose a continued threat to public safety, or employment of the applicant as a wrecker driver or wrecker driver trainee, as applicable, would create a situation in which the person has an opportunity to repeat the prohibited conduct.

(c) The police chief may delay his decision on an application until final adjudication when the applicant is under indictment for or has charges pending for an offense listed in section 1-10 of this Code pertaining to wrecker drivers, and shall promptly inform the applicant of the reason for the delay. Upon receiving notice of the reason for the delay, the applicant shall be entitled to an appeal of the police chief's delay in the same manner as provided in Sections 8-134 and 8-135 of this Code.

(d) In the event that an application is proposed for denial, the police chief shall promptly inform the applicant in writing of the reasons for the proposed denial and of the applicant's right to a hearing before the automotive board 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.

(e) The applicant may perfect his appeal of the proposed denial by a letter addressed to the chairman of the automotive board and delivered to the chairman of the automotive board 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 is desired. The appeal process shall be conducted in accordance with rules promulgated by the automotive board 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 automotive board with respect to the application shall be final.

Sec. 8-135. Standards for review.

(a) An applicant whose application for a wrecker driver license or wrecker driver trainee license has been proposed for denial pursuant to item (4) of subsection (a) of section 8-134 of this Code may qualify for a wrecker driver license only if the automotive board determines that the applicant is presently fit to engage in the occupation of a wrecker driver. The standards for review that the automotive board 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 signed 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 police chief 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 automotive board the recommendations of the prosecution, law enforcement, and correctional authorities as required by item (6) of subsection (a) of this section.

(c) In addition to fulfilling the requirements of subsection (b) of this section, the applicant shall furnish proof in the form required by the automotive board that the applicant has:

- (1) Maintained a record of steady employment;
- (2) Supported the applicant's dependents;
- (3) Maintained a record of good conduct; and
- (4) Paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.

(d) Following the opportunity for the applicant to be heard, the automotive board may approve the license, deny the license, or condition the approval of the license on such terms and conditions as the automotive board deems appropriate, based on the evidence received at the hearing and consistent with the standards of review contained in this section.

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

(a) The police chief may suspend or revoke a wrecker driver or wrecker driver trainee license if:

- (1) Any information supplied in the license application was materially false or incorrect;
- (2) The ~~wrecker driver~~ license was issued through error;
- (3) The licensee has failed to comply with any applicable provision of the license or this chapter;
- (4) The licensee has been convicted of violating state laws or city ordinances; or
- (5) The licensee is under indictment for or has a charge pending for an offense listed in section 1-10 of this Code pertaining to wrecker drivers.

(b) A wrecker driver's license is automatically revoked if his state-issued driver's license or state-issued towing operator's license is suspended or revoked. A wrecker driver shall notify the police chief's designee within three days of a suspension or revocation of his driver's license or incident management towing operator's license and shall immediately surrender his city wrecker driver's license to the police chief's designee.

(c) 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.

(d) 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.

Sec. 1-9. Procedures for denial, suspension or revocation of licenses and permits--Generally.

No permit or license authorizing a person to engage in a trade, occupation, vocation, profession or business, shall be denied, suspended, or revoked on the grounds that the applicant, permittee, or licensee has been convicted of, or has received deferred adjudication for, a criminal offense except under the following procedures and in accordance with Chapter 53 of the Texas Occupations Code:

(a) An applicant for a license or permit or for the renewal of a license or permit shall be given written notice informing him of the following matters:

- (1) That the city has information that the applicant has been convicted of or has received deferred adjudication for, certain offenses, and a list of the specific offenses for which the city has such information.
- (2) That the application cannot be considered unless the applicant provides the city with evidence concerning each of the matters set out in Chapter 53 of the Texas Occupations Code within 30 days of the date of the notice. The applicant shall be informed that such evidence shall be in the form of sworn affidavits or declarations under penalty of perjury which must state that the affiant or declarant has personal knowledge of the facts set forth in the affidavit or declaration and state the basis of that personal knowledge, except where Chapter 53 of the Texas Occupations Code specifies that certain letters of recommendation shall be considered. If the applicant does not provide the city with the information required in the notice within 30 days of the date of the notice, the application shall be rejected for failure to complete the application process; provided, however, applicants for taxicab permits shall provide the director of the department of administration and regulatory affairs with the information required in the notice at least ten days prior to the date on which the hearing is to be held on the request for the permit.

If the applicant provides the city with evidence as specified above, the applicant shall be given notice that a hearing will be held on his application. Such notice shall specify the date, time and place that the hearing will be held.

(b) If the city desires to revoke or suspend a permit or license on the grounds that the permittee or licensee has been convicted of, or has received deferred adjudication for, a criminal offense, the city shall give the applicant written notice informing him of the following matters:

- (1) That the city is seeking to revoke or suspend his license or permit on the grounds of a criminal conviction or convictions or deferred adjudication.

- (2) The specific conviction or convictions or deferred adjudication upon which the city intends to rely in seeking revocation or suspension of the permit or license.
 - (3) That a hearing will be held on the city's request for revocation or suspension of the permit or license and the date, time and place of the hearing.
 - (4) That he may appear at the hearing, give testimony and examine witnesses.
 - (5) That the licensee or permittee shall have the burden to present evidence concerning each of the matters set out in Chapter 53 of the Texas Occupations Code.
- (c) All hearings held in connection with the denial of an application or revocation or suspension of a permit or license to engage in a trade, occupation, profession, vocation or business, shall be conducted by the director of the department which issues such permits or licenses, or a person designated by the director to conduct such hearings; provided, however, all hearings on licenses or permits issued by any board whose members are appointed by the mayor shall be conducted by the board which issues the license or permit.

All such hearings shall be conducted under rules consistent with the nature of the proceedings.

If the hearing is on an application for an initial license or permit or an application to renew a license or permit, and the applicant fails to appear at the hearing, the application shall be rejected and the permit or license denied on the basis of the applicant's failure to appear.

If the hearing is on a request by the city to revoke or suspend a permit or license on the grounds that the licensee or permittee has been convicted of a criminal offense or has received deferred adjudication and the applicant does not appear, the city shall introduce sufficient evidence to establish a prima facie case showing grounds for revocation.

If the hearing official finds that the applicant, permittee or licensee was convicted of or has received deferred adjudication for an offense that is grounds for denial, revocation or suspension of the license or permit under the ordinances of the city, the hearing official shall deny, revoke or suspend the license or permit unless he finds that the license or permit should be granted pursuant to Chapter 53 of the Texas Occupations Code.

The hearing official shall give written notice to the applicant, licensee or permittee of his findings as to whether the license or permit should or should not be denied, revoked or suspended, and the reasons therefor.

If the hearing official finds that the permit or license should be denied, revoked, or suspended on the basis of one or more criminal convictions or deferred adjudication, he shall also inform the applicant, permittee or licensee of his right to file an action in the district court in Harris County for review of the evidence presented to the licensing authority and its decision within 30 days after the date the decision was rendered by the hearing official. The manner of review for such decision shall be under the substantial evidence rule.

Sec. 1-10. Same--Specific permits and licenses.

(a) Except as provided in ~~the succeeding sentence applicable to the license enumerated in subsection item (2) of this subsection pertaining to {wrecker driver licenses}~~, the licenses and permits enumerated in this subsection shall be denied if the applicant:

- | (i) has been convicted of any of the ~~designated~~ enumerated offenses within the seven-year period immediately preceding the date of the filing of the application or has spent time in jail or prison during the seven-year period immediately preceding the date of filing of the application for such a conviction, or
- | (ii) is subject to deferred adjudication in connection with any of the ~~above~~ enumerated offenses ~~and has not completed the period of supervision, or completed the period of supervision less than five years before the date of the application, pursuant to section 53.021 of the Texas Occupations Code.~~

| As to the wrecker driver license listed in subsection item (2) of this subsection, the seven-year limitation shall not apply to any felony conviction for any sexual offense or offense involving violence, including, but not limited to, murder.

Additionally, the following licenses and permits shall be subject to denial, revocation, or refusal for renewal, as applicable, if the licensee or permittee has been convicted of any of the designated offenses since the application was filed. Provided, however, no such license or permit shall be denied, revoked, or refused for renewal if the conviction was set aside as invalid or if it is found that the license or permit should not be denied, revoked, or refused for renewal under Chapter 53 of the Texas Occupations Code:

- (1) All licenses issued pursuant to article II of chapter 8 of this Code:
 - a. Any violation of the ordinances or statutes regulating the sale, trade, servicing, storage, handling, dismantling, or destruction of any motor vehicle or motor vehicle parts, accessories, or supplies.
 - b. Any violation of the ordinances or statutes regulating the business of selling, trading, storing, dismantling or destruction of motor vehicles or motor vehicle parts, accessories, or supplies.
 - c. Any offense involving fraud or misrepresentation.
 - d. Any offense involving theft, robbery, or burglary.
 - e. Any offense involving bribery or perjury.
 - f. Any offense involving violence to any person except for conduct that is classified as no greater than a Class C misdemeanor under the laws of Texas.
 - g. Any felony conviction for any violation of any state or federal laws regulating firearms.
 - h. For salesman licenses, in addition to the offenses listed in this subparagraph, any offense involving rape, sexual abuse, sexual assault, enticing of a child, rape of a child, sexual abuse of a child, or indecency with a child.

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The above listed offenses shall be grounds for denial, revocation, or refusal for renewal of the licenses issued pursuant to article II of chapter 8 as all licenses issued under that article allow persons to engage in businesses connected with the sale, trade, servicing, storage, handling, dismantling, or destruction of motor vehicles or motor vehicle parts, accessories or supplies and city council finds that persons engaged in such businesses have contact with the public or have special opportunities to engage in the offenses listed above due to the nature of the businesses and the lack of relevant technical knowledge on the part of many of those persons who deal with such businesses.

- (2) Wrecker driver licenses issued pursuant to subdivision B of division 2 of article III of chapter 8 of this Code:
- a. Any violation of the ordinances or statutes regulating the sale, trade, servicing, storage, towing, handling, dismantling, or destruction of any motor vehicle or motor vehicle parts, accessories, or supplies.
 - b. Any offense involving fraud or misrepresentation.
 - c. Any offense involving burglary, robbery, or misdemeanor or felony theft.
 - d. Any offense involving bribery or perjury.
 - e. Any offense involving violence to any person except for conduct that is classified as no greater than a Class C misdemeanor under the laws of Texas.
 - f. Any felony conviction for any violation of any state or federal laws regulating firearms.
 - g. Any offense involving forgery.
 - h. Any offense involving the theft or unauthorized use of a motor vehicle, or burglary of a motor vehicle.
 - i. Any offense involving prostitution or the promotion of prostitution.
 - j. Any offense involving rape, sexual abuse, sexual assault, enticing of a child, rape of a child, sexual abuse of a child or indecency with a child.
 - k. Any offense involving misdemeanor or felony possession or delivery of drugs.
 - l. Four or more moving violations of the traffic laws of this state or any other state, each of which arises from a separate incident, occurring within any 12 month period during the three years immediately preceding the application for a license or of the notice of a hearing for revocation of a license.
 - m. Any offense involving driving a motor vehicle while intoxicated, whether under the influence of alcohol or drugs, or both.

The above listed offenses shall be grounds for denial, revocation, or refusal for renewal of a wrecker driver license issued pursuant to subdivision B of division 2 of

article III of chapter 8 as that license allows persons to engage in an occupation in which there is a high degree of danger to the public through the involuntary towing and storage of automobiles, and city council finds that such activities involve substantial contact with the public including contact with persons whose vehicles may have become disabled at all hours of day and night and in remote locations. This occupation also affords special opportunities for theft and fraud. Therefore, there is a serious need to protect the public from the types of criminal conduct represented by such offenses.

Provided, however, no such license or permit shall be denied, revoked or refused for renewal if any conviction was set aside as invalid or if it is found that the license should not be revoked, denied or refused for renewal under Chapter 53 of the Texas Occupations Code.

Additional provisions relating to the revocation, suspension, and refusal to renew wrecker driver licenses are established in article III of chapter 8 of this Code. The applicable provisions of chapter 8 are cumulative of the provisions of this section and shall also constitute grounds for the revocation, suspension or refusal to renew a wrecker driver license.

Note: The offenses added to Subsection 1-10(a)(1)h shall apply only to offenses committed on or after the effective date of this Ordinance.

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