

**ARTICLE II.  
EMERGENCY WRECKERS.**

**Division 1. General Provisions.**

**SEC. 15D-10. STATEMENT OF POLICY.**

It is the policy of the city to provide for the protection of the public interest as it relates to the removal of wrecked, disabled, and illegally parked vehicles from public streets and other public property. To this end, this article provides for the regulation of emergency wrecker service, to be administered in a manner that protects the public health and safety and promotes the public convenience and necessity. (Ord. 24661)

**SEC. 15D-11. POWERS AND DUTIES OF THE DIRECTOR.**

In addition to the powers and duties prescribed elsewhere in this article, the director is authorized to:

- (1) administer and enforce all provisions of this article;
- (2) keep records of all licenses and permits issued, suspended, or revoked under this article;
- (3) keep records of all authorized emergency wreckers;
- (4) by written order establish such rules and regulations, consistent with this article, as may be determined necessary to discharge the director's duty under, or to effect the policy of, this article;
- (5) adopt new emergency wrecker procedures for experimentation on a temporary basis, after reasonable notice to the licensees;
- (6) conduct, when appropriate, periodic investigations of emergency wrecker companies throughout the city; and
- (7) require periodic reports as necessary to evaluate each emergency wrecker company's operations. (Ord. Nos. 13977; 14685; 15612; 16850; 24661)

**SEC. 15D-12. POWERS AND DUTIES OF THE CHIEF OF POLICE.**

In addition to the powers and duties prescribed elsewhere in this article, the chief of police is authorized to:

- (1) enforce all provisions of this article;
- (2) by written order establish such rules and regulations, consistent with this article, as may be determined necessary to discharge the chief of police's duty under, or to effect the policy of, this article;
- (3) adopt new emergency wrecker procedures for experimentation on a temporary basis, after reasonable notice to the licensees;
- (4) conduct, when appropriate, periodic investigations of emergency wrecker companies throughout the city; and
- (5) keep records of service adequacy and responsiveness of licensees and provide these records to the director upon request. (Ord. Nos. 13977; 14685; 16850; 24661)

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

- (a) Before adopting, amending, or abolishing a rule or regulation, the director or the chief of police shall hold a public hearing on the proposal.
- (b) The director or the chief of police shall fix the time and place of the hearing and, in addition to notice required under the Public Information Act (Chapter 552, Texas Government Code), as amended, shall notify each licensee and such other persons as the director or chief of police determines are interested in the subject matter of the hearing.
- (c) After the public hearing, the director or the chief of police shall notify the licensees and other interested persons of the action

taken and shall post an order adopting, amending, or abolishing a rule or regulation on the official bulletin board in the city hall for a period of not fewer than 10 days. The order becomes effective immediately upon expiration of the posting period. (Ord. Nos. 24661; 27487)

#### **SEC. 15D-14. EXCEPTIONS.**

(a) This article does not apply to an emergency wrecker company providing emergency wrecker service within the city of Dallas on behalf of another city in the performance of the terms of a duly authorized interlocal agreement between the city of Dallas and the other city if:

- (1) the emergency wrecker company holds a valid license from and is in good standing with the other city;
- (2) the other city's regulation of emergency wrecker companies and emergency wrecker service is as strict as or stricter than regulation by the city of Dallas;
- (3) the emergency wrecker company would not be disqualified under Section 15D-22 from holding an emergency wrecker service license under this article;
- (4) the emergency wrecker company complies with the vehicle and equipment specifications and the hours of operation required respectively by Sections 15D-58 and 15D-52;
- (5) the emergency wrecker company complies with the insurance requirements of Section 15D-46; and
- (6) the emergency wrecker company does not charge more for emergency wrecker service provided in the city of Dallas than is allowed under Section 15D-57.

(b) This article does not apply to:

- (1) a governmental entity when dispatching an emergency wrecker company, pursuant to Section 545.305 of the Texas Transportation Code or other applicable state law, to perform a power, duty, or function that is within the authority and jurisdiction of the governmental entity; or
- (2) an emergency wrecker company providing emergency wrecker service within the city of Dallas in response to a dispatch from a governmental entity as described in Paragraph (1) of this subsection.

(c) This article does not apply to Dallas County when dispatching an emergency wrecker company to an accident or other police scene, or to an emergency wrecker company providing emergency wrecker service within the city of Dallas in response to a dispatch from Dallas County, if:

- (1) the emergency wrecker service is being provided pursuant to a duly authorized interlocal agreement between the city of Dallas and Dallas County;
- (2) the emergency wrecker company is currently licensed under this article to perform emergency wrecker service within the city of Dallas;
- (3) the emergency wrecker company complies with the vehicle and equipment specifications and the hours of operation required respectively by Sections 15D-58 and 15D-52;
- (4) the emergency wrecker company complies with the insurance requirements of Section 15D-46; and
- (5) the emergency wrecker company does not charge more for emergency wrecker service performed in the city of Dallas than is allowed under Section 15D-57. (Ord. Nos. 21311; 24661; 26992)

#### **SEC. 15D-15. DEFINITIONS.**

In this article:

- (1) ACCIDENT means any occurrence that renders a vehicle wrecked.
- (2) APPLICANT means:

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

service business; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) HEAVY DUTY WRECKER means a wrecker that:

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

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

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

(D) has a dual rear axle; and

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

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

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

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

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

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

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

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

(B) any operator of the licensed business.

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

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

(B) either:

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

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

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

(A) consists of:

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

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

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

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

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

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

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

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

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

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

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

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

(27) POLICE SCENE means a location at which:

(A) an accident has taken place that is subject to city police field investigation;

(B) city police have recovered a stolen vehicle;

(C) a vehicle has been abandoned on a street or other public property;

(D) a custodial arrest has taken place;

(E) a disabled vehicle is blocking a traffic lane of a street; or

(F) an illegally parked vehicle is subject by law to removal or impoundment by the chief of police or any other authorized city official.

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

(29) RAPID RESPONSE ROTATION LIST means a list, maintained by the chief of police as provided for in Section 15D-53 of

this article, of licensed emergency wrecker companies participating in the rapid response program.

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

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

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

(A) has a manufacturer's gross vehicle weight rating of not less than 15,000 pounds;

(B) has a steel or aluminum carrier bed that is at least 17 feet long, with a load rating of not less than 8,000 pounds;

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

(D) has a wheel lift tow bar with a factory-rated lifting capacity of not less than 3,000 pounds; and

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

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

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

(A) holds legal title to a vehicle, including any lienholder of record;

(B) has legal right of possession of a vehicle; or

(C) has legal control of a vehicle.

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

(36) VEHICLE STORAGE FACILITY ACT means Chapter 2303, Texas Occupations Code, as amended.

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

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

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

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

(41) ZONE means a geographical area in which a licensee is licensed by the city to operate. (Ord. Nos. 13977; 14685; 15612; 17226; 21175; 24661; 27487)

#### **SEC. 15D-16. DRIVING WRECKER TO A POLICE SCENE PROHIBITED; EXCEPTION.**

A person commits an offense if he drives a wrecker, whether licensed or unlicensed, to a police scene unless the person has been called to the scene by the chief of police. (Ord. Nos. 13977; 14685; 24661)

#### **SEC. 15D-17. SOLICITING WRECKER BUSINESS AT A POLICE SCENE PROHIBITED; PRESENCE AT SCENE AS EVIDENCE OF VIOLATION.**

(a) A person commits an offense if he, in any manner, directly or indirectly solicits on the streets of the city the business of towing

a vehicle in need of emergency wrecker service from a police scene, regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading, or purchasing the vehicle.

(b) Proof of the presence of a person engaged in the wrecker business or the presence of a wrecker or vehicle owned or operated by a person engaged in the wrecker business, either as owner, operator, employee, or agent, on a street in the city at or near a police scene within one hour after the happening of an incident that resulted in the need for emergency wrecker service is prima facie evidence of a solicitation in violation of this section, unless the particular wrecker company has been called to the police scene by the chief of police. (Ord. Nos. 13977; 14685; 24661)

#### **SEC. 15D-18. SOLICITING BY ADVERTISING.**

(a) A person commits an offense if he, personally or through an employee or agent, solicits at or near a police scene any business that deals directly or indirectly with the towing, removing, repairing, wrecking, storing, trading, or purchase of a wrecked, disabled, or illegally parked vehicle on the streets, sidewalks, or other public place of the city by distributing an advertisement for, or by otherwise advertising, a repair shop, garage, or place of business where the wrecked, disabled, or illegally parked vehicle may be repaired, stored, wrecked, traded, or purchased.

(b) Proof of the unauthorized presence of a person engaged in the business of towing, repairing, wrecking, storing, or offering to purchase or trade for a wrecked, disabled, or illegally parked vehicle at or near a police scene is prima facie evidence of solicitation in violation of this section. (Ord. Nos. 13977; 14685; 24661)

#### **SEC. 15D-19. RESPONSE TO PRIVATE CALLS PROHIBITED.**

A wrecker company shall not respond within the city to a private request for wrecker service at a police scene, unless specifically authorized by the chief of police. (Ord. Nos. 13977; 14685; 24661)

### **Division 2. Emergency Wrecker Service License.**

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

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

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

(c) A licensee shall maintain a permanent and established place of business at a location in the city where an emergency wrecker service is not prohibited by the Dallas Development Code. This location must be either within the zone in which the licensee is licensed to operate an emergency wrecker service or within one-half mile outside the established boundaries of that zone.

(d) A licensee shall operate the licensed emergency wrecker service from a location inside the city. (Ord. Nos. 13977; 14685; 15612; 16554; 24661; 27487)

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

(a) A person desiring to engage in emergency wrecker service in the city shall file with the director a written application upon a form provided for that purpose, accompanied by a nonrefundable application processing fee of \$250. The application must be signed by an individual who will own, control, or operate the proposed emergency wrecker service. The application must be verified and include the following information:

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

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

- (3) The name, address, and telephone number of the applicant.
  - (4) An agreement that the applicant will participate in the wrecker rotation list.
  - (5) A list, to be kept current, of the owners (including each owner's percentage of ownership) and management personnel of the emergency wrecker service, and of all employees who will participate in emergency wrecker service, including names, state driver's license numbers, wrecker driver's permit numbers, and whether the person holds an incident management towing operator's license.
  - (6) A statement attesting that all property, both real and personal, used in connection with the emergency wrecker service has been rendered for ad valorem taxation in the city and that the applicant is current on payment of those taxes.
  - (7) Documentary evidence from an insurance company indicating a willingness to provide liability insurance as required by this article.
  - (8) Proof of an ability to provide emergency wrecker service with at least four wreckers, including a minimum of one conventional light duty wrecker and one tilt bed/roll back carrier (the other two wreckers may be either conventional light duty or tilt bed/roll back), that meet the requirements of this article and any rules and regulations promulgated by the director or the chief of police pursuant to this article.
  - (9) Detailed financial reports for the previous three years that include income statements and balance sheets covering all wrecker activities or, if the applicant does not prepare an annual financial report, copies of the applicant's federal income tax statements for the previous three calendar years relating to the business.
  - (10) Proof of a valid certificate of occupancy issued by the city in the name of the company and for the location of the emergency wrecker service business.
- (b) If a licensee requests a change of zone, the requirements of an initial applicant must be met.
- (c) The director may, at any time, require additional information of an applicant or licensee to clarify items on the application. (Ord. Nos. 13977; 14685; 15612; 16554; 16578; 17208; 21175; 24661; 27487; 27695; [30215](#))

## **SEC. 15D-22. LICENSE QUALIFICATIONS.**

- (a) To qualify for an emergency wrecker service license, an applicant must:
- (1) be at least 19 years of age;
  - (2) be currently authorized to work full-time in the United States;
  - (3) be able to communicate in the English language; and
  - (4) not have been convicted of a crime:
    - (A) involving:
      - (i) criminal homicide as described in Chapter 19 of the Texas Penal Code;
      - (ii) kidnapping as described in Chapter 20 of the Texas Penal Code;
      - (iii) a sexual offense as described in Chapter 21 of the Texas Penal Code;
      - (iv) an assaultive offense as described in Chapter 22 of the Texas Penal Code;
      - (v) robbery as described in Chapter 29 of the Texas Penal Code;
      - (vi) burglary as described in Chapter 30 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;
      - (vii) theft as described in Chapter 31 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;
      - (viii) fraud as described in Chapter 32 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;
      - (ix) tampering with a govern- mental record as described in Chapter 37 of the Texas Penal Code, but only if the offense was

committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;

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

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

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

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

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

(B) for which:

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

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

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

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

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

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

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

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

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

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

(1) the extent and nature of the applicant's, or employee's, past criminal activity;

(2) the age of the applicant, or employee, at the time of the commission of the crime;

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

(4) the conduct and work activity of the applicant, or employee, prior to and following the criminal activity;

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

(6) other evidence of the applicant's, or employee's, present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the applicant, or employee; the sheriff and chief of police in the community where the applicant, or employee, resides; and any other persons in contact with the applicant, or employee.

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

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

(e) In determining whether the applicant is qualified to operate an emergency wrecker service in the city, the director shall consider, but not be limited to considering, the fitness of the applicant to perform an emergency wrecker service as may be indicated by the experience in wrecker operation, the safety record of the applicant, and the applicant's compliance with other city, state, and federal laws. (Ord. Nos. 24661; 27487)

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

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

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

(c) The annual fee for an emergency wrecker service license is \$520, prorated on the basis of whole months. The fee for issuing a duplicate license for one lost, destroyed, or mutilated is \$20. The fee is payable to the director upon issuance of a license. No refund of a license fee will be made.

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

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

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

(g) A licensee shall, not less than 10 days before any change of address or trade name, notify the director of such changes. (Ord. Nos. 13977; 14685; 15612; 16554; 21175; 24661; 27487; 27695; [30215](#))

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

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

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

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

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

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

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

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

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

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

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

informing the applicant or licensee of the right to, and process for, appeal of the decision. (Ord. Nos. 13977; 14685; 14996; 15612; 16554; 24661; 27487)

## **SEC. 15D-25. SUSPENSION OF LICENSE.**

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

- (1) Failure of the licensee to maintain any wrecker or equipment in a good and safe working condition.
- (2) Violation by the licensee or an employee of the licensee of a provision of this article or of the rules and regulations established by the chief of police or the director under this article.
- (3) Failure of the licensee's wrecker to arrive at a police scene location or a rapid response location within the prescribed time after having been notified to do so by the chief of police.
- (4) Conviction of an emergency wrecker driver of a provision of the motor vehicle or traffic laws of this state or city while in the scope of employment in the licensee's emergency wrecker service.
- (5) Failure to continuously employ at least four emergency wrecker drivers who hold valid wrecker driver's permits issued under this article.

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

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

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

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

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

- (A) A written request to the director must be made within 10 days after written notice to the licensee.
- (B) The appeals panel shall set a time, date, and place for a hearing and the licensee will be notified at least three days prior to the hearing.
- (C) The appeals panel may sustain, reverse, or modify the action appealed. The action of the panel is final.

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

(e) A licensee whose emergency wrecker service license is suspended shall not operate an emergency wrecker service inside the city during the period of suspension. (Ord. Nos. 13977; 14685; 15612; 16554; 24661; 27487)

## **SEC. 15D-26. REVOCATION OF LICENSE.**

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

- (1) intentionally or knowingly made a false statement as to a material matter in an application or hearing concerning the license;
- (2) used a trade name for the emergency wrecker company other than the one registered with the director;
- (3) had the emergency wrecker service license suspended on three occasions within 12 months for more than three days on each occasion;

- (4) had the emergency wrecker service license suspended for a deficiency that is detrimental to public safety and 20 days have elapsed without a correction of the deficiency;
- (5) intentionally or knowingly failed to comply with applicable provisions of this article or with the conditions and limitations of the license;
- (6) operated a towing or wrecker service not authorized by the license or other applicable law;
- (7) has been finally convicted for violation of another city, state, or federal law that indicates a lack of fitness of the licensee to perform emergency wrecker service;
- (8) is under indictment for or has been convicted of any felony offense while holding an emergency wrecker service license;
- (9) does not qualify for a license under Section 15D-22 of this article;
- (10) failed to pay a fee required under this article; or
- (11) violated Section 15D-57(c)(1), (2), or (3) of this article. (Ord. Nos. 13977; 14685; 14996; 15612; 16554; 24661; 27487)

### **SEC. 15D-27. APPEALS.**

If the director denies issuance or renewal of a license or revokes a license, the applicant or licensee may file an appeal with the permit and license appeal board in accordance with Section 2-96 of this code. (Ord. Nos. 13977; 14685; 14996; 16478; 18200; 24661; 27487)

### **Division 3. Wrecker Driver's Permit.**

#### **SEC. 15D-28. WRECKER DRIVER'S PERMIT REQUIRED.**

- (a) A person commits an offense if he operates a wrecker engaged in emergency wrecker service in the city without a valid wrecker driver's permit issued to the person under this division.
- (b) A licensee commits an offense if he employs or otherwise allows a person to operate for compensation a wrecker owned, controlled, or operated by the licensee unless the person has a valid wrecker driver's permit issued under this division. (Ord. 24661)

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

- (a) To qualify for a wrecker driver's permit, an applicant must:
  - (1) be at least 19 years of age;
  - (2) be currently authorized to work full-time in the United States;
  - (3) hold a valid driver's license and a valid incident management towing operator's license issued by the State of Texas;
  - (4) be able to communicate in the English language;
  - (5) not be afflicted with a physical or mental disease or disability that is likely to prevent the applicant from exercising ordinary and reasonable control over a motor vehicle or that is likely to otherwise endanger the public health or safety, as determined by a medical doctor licensed to practice medicine in the United States;
  - (6) not have been convicted of more than four moving traffic violations arising out of separate transactions, nor involved in more than two motor vehicle accidents in which it could be reasonably determined that the applicant was at fault, within any 12 month period during the preceding 36 months;
  - (7) not have been convicted of a crime:
    - (A) involving:
      - (i) criminal homicide as described in Chapter 19 of the Texas Penal Code;
      - (ii) kidnapping as described in Chapter 20 of the Texas Penal Code;

- (iii) a sexual offense as described in Chapter 21 of the Texas Penal Code;
- (iv) an assaultive offense as described in Chapter 22 of the Texas Penal Code;
- (v) robbery as described in Chapter 29 of the Texas Penal Code;
- (vi) burglary as described in Chapter 30 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;
- (vii) theft as described in Chapter 31 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;
- (viii) fraud as described in Chapter 32 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;
- (ix) tampering with a governmental record as described in Chapter 37 of the Texas Penal Code, but only if the offense was committed against a person with whom the applicant came in contact while engaged in a towing or wrecker service;
- (x) public indecency (prostitution or obscenity) as described in Chapter 43 of the Texas Penal Code;
- (xi) the transfer, carrying, or possession of a weapon in violation of Chapter 46 of the Texas Penal Code, or of any comparable state or federal law, but only if the violation is punishable as a felony under the applicable law;
- (xii) a violation of the Texas Dangerous Drug Act (Chapter 483, Texas Health and Safety Code), or of any comparable state or federal law, that is punishable as a felony under the applicable law;
- (xiii) a violation of the Texas Controlled Substances Act (Chapter 481, Texas Health and Safety Code), or of any comparable state or federal law, that is punishable as a felony under the applicable law; or
- (xiv) criminal attempt to commit any of the offenses listed in Subdivision (7)(A)(i) through (xiii) of this subsection;

(B) for which:

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

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

- (A) within the preceding 12 months; or
- (B) more than one time within the preceding five years;

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

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

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

(12) be employed by a licensee; and

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

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

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

- (2) the age of the applicant at the time of the commission of the crime;
  - (3) the amount of time that has elapsed since the applicant's last criminal activity;
  - (4) the conduct and work activity of the applicant prior to and following the criminal activity;
  - (5) evidence of the applicant's rehabilitation or rehabilitative effort while incarcerated or following release; and
  - (6) other evidence of the applicant's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the applicant; the sheriff and chief of police in the community where the applicant resides; and any other persons in contact with the applicant.
- (c) It is the responsibility of the applicant, to the extent possible, to secure and provide to the director the evidence required to determine present fitness under Subsection (b) of this section and under Section 15D-35 of this article. (Ord. Nos. 24661; 27487)

### **SEC. 15D-30. APPLICATION FOR WRECKER DRIVER'S PERMIT; FEE.**

To obtain a wrecker driver's permit, or renewal of a wrecker driver's permit, a person must file with the director a completed written application on a form provided for the purpose and a nonrefundable application fee of \$29. The director shall require each application to state such information as the director reasonably considers necessary to determine whether an applicant is qualified. (Ord. Nos. 24661; 27695; [30215](#))

### **SEC. 15D-31. INVESTIGATION OF APPLICATION.**

- (a) For the purpose of determining qualification under Section 15D-29(a)(5), the director may require an applicant to submit to a physical examination conducted by a licensed physician, at applicant's expense, and to furnish to the director a signed statement from the physician certifying that the physician has examined the applicant and that in the physician's professional opinion the applicant is qualified under Section 15D-29(a)(5).
- (b) The director shall obtain a current official criminal history report (issued by the Texas Department of Public Safety within the preceding 12 months) on each applicant to determine the applicant's qualification under Section 15D-29. The director shall obtain a copy of the applicant's motor vehicle driving record and a list of any warrants of arrest for the applicant that might be outstanding.
- (c) The director may conduct such other investigation as the director considers necessary to determine whether an applicant for a wrecker driver's permit is qualified.
- (d) The director shall provide the applicant, upon written request, a copy of all materials contained in the applicant's file to the extent allowed under the Public Information Act (Chapter 552, Texas Government Code), as amended. (Ord. Nos. 24661; 27487)

### **SEC. 15D-32. ISSUANCE AND DENIAL OF WRECKER DRIVER'S PERMIT.**

- (a) The director shall issue a wrecker driver's permit to an applicant, unless the director determines that the applicant is not qualified.
- (b) The director shall delay until final adjudication the approval of the application of any applicant who is under indictment for or has charges pending for:
  - (1) a felony offense involving a crime described in Section 15D-29(a)(7)(A)(i), (ii), (iii), (iv), or (v) or criminal attempt to commit any of those offenses; or
  - (2) any offense involving driving while intoxicated.
- (c) The director shall deny the application for a wrecker driver's permit if the applicant:
  - (1) is not qualified under Section 15D-29;
  - (2) refuses to submit to or does not pass a medical examination authorized under Section 15D-31(a); or
  - (3) intentionally or knowingly makes a false statement of a material fact in an application for a wrecker driver's permit.
- (d) If the director determines that a permit should be denied the applicant, the director shall notify the applicant in writing that the application is denied and include in the notice the specific reason or reasons for denial and a statement informing the applicant of the

right to, and the process for, appeal of the decision. (Ord. 24661)

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

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

(b) If a permittee's state driver's license or incident management towing operator's license is suspended or revoked by the state, the wrecker driver's permit automatically becomes void. A permittee shall notify the director and the licensee for whom the permittee drives within three days after a suspension or revocation of either state license and shall immediately surrender the wrecker driver's permit to the director. (Ord. Nos. 24661; 27487)

### **SEC. 15D-34. PROVISIONAL PERMIT.**

(a) The director may issue a provisional wrecker driver's permit if the director determines that it is necessary pending completion of investigation of an applicant for a wrecker driver's permit.

(b) A provisional wrecker driver's permit expires on the date shown on the permit, which date shall not exceed 45 days after the date of issuance, or on the date the applicant is denied a wrecker driver's permit, whichever occurs first.

(c) The director shall not issue a provisional permit to a person who has been previously denied a wrecker driver's permit. (Ord. 24661)

### **SEC. 15D-35. PROBATIONARY PERMIT.**

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

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

(2) holds a valid state driver's license or occupational driver's license;

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

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

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

(c) The director may prescribe appropriate terms and conditions for a probationary wrecker driver's permit as the director determines are necessary. (Ord. Nos. 24661; 27487)

### **SEC. 15D-36. DUPLICATE PERMIT.**

If a wrecker driver's permit is lost or destroyed, the director shall issue the permittee a duplicate permit upon payment to the city of a duplicate permit fee of \$24. (Ord. Nos. 24661; 27695; [30215](#))

### **SEC. 15D-37. DISPLAY OF PERMIT.**

A wrecker driver shall at all times keep a valid wrecker driver's permit in the driver's possession and shall allow the director, the chief of police, or a peace officer to examine the permit upon request. (Ord. Nos. 24661; 27487)

### **SEC. 15D-38. SUSPENSION BY A DESIGNATED REPRESENTATIVE.**

(a) If a duly authorized representative designated by the director to enforce this article determines that a permittee has failed to comply with this article (except Section 15D-29) or a regulation established under this article, the representative may suspend the wrecker driver's permit for a period of time not to exceed three days by personally serving the permittee with a written notice of the

suspension. The written notice must include the reason for suspension, the date the suspension begins, the duration of the suspension, and a statement informing the permittee of the right of appeal.

(b) A suspension under this section may be appealed to the director or the director's assistant if the permittee requests an appeal at the time the representative serves notice of suspension or within 10 days after the notice of suspension is served. When an appeal is requested, the suspension may not take effect until a hearing is provided by the director or the director's assistant.

(c) The director may order an expedited hearing under this section, to be held as soon as possible after the permittee requests an appeal, but at least 10 days advance notice of the hearing must be given to the permittee. The director may affirm, reverse, or modify the order of the representative. The decision of the director is final. (Ord. 24661)

### **SEC. 15D-39. SUSPENSION OF WRECKER DRIVER'S PERMIT.**

(a) If the director determines that a permittee has failed to comply with this article (except Section 15D-29) or any regulation established under this article, the director shall suspend the wrecker driver's permit for a definite period of time not to exceed 60 days.

(b) If at any time the director determines that a permittee is not qualified under Section 15D-29, or is under indictment or has charges pending for any offense involving driving while intoxicated or a felony offense involving a crime described in Section 15D-29(a)(7)(A)(i), (ii), (iii), (iv), or (v) or criminal attempt to commit any of those offenses, the director shall suspend the wrecker driver's permit until such time as the director determines that the permittee is qualified or that the charges against the permittee have been finally adjudicated.

(c) A permittee whose wrecker driver's permit is suspended shall not drive a wrecker for an emergency wrecker service inside the city during the period of suspension.

(d) The director shall notify the permittee in writing of a suspension under this section and include in the notice:

- (1) the reason for the suspension;
- (2) the date the suspension is to begin;
- (3) the duration of the suspension; and
- (4) a statement informing the permittee of the right of appeal.

(e) The period of suspension begins on the date specified by the director or, in the case of an appeal, on the date ordered by the appeal hearing officer. (Ord. 24661)

### **SEC. 15D-40. REVOCATION OF WRECKER DRIVER'S PERMIT.**

(a) The director shall revoke a wrecker driver's permit if the director determines that a permittee:

- (1) operated a wrecker inside the city for an emergency wrecker service during a period when the wrecker driver's permit was suspended;
- (2) intentionally or knowingly made a false statement of a material fact in an application for a wrecker driver's permit;
- (3) engaged in conduct that constitutes a ground for suspension under Section 15D-39(a) and, at least two times within the 12-month period preceding the conduct or three times within the 24-month period preceding the conduct, had received either a suspension in excess of three days or a conviction for a violation of this article;
- (4) engaged in conduct that could reasonably be determined to be detrimental to the public safety;
- (5) failed to comply with a condition of a probationary permit; or
- (6) is under indictment for or has been convicted of any felony offense while holding a wrecker driver's permit.

(b) A person whose wrecker driver's permit is revoked shall not:

- (1) apply for another wrecker driver's permit before the expiration of 12 months from the date the director revokes the permit or, in the case of an appeal, the date the appeal hearing officer affirms the revocation; or
- (2) operate a wrecker for an emergency wrecker service inside the city.

(c) The director shall notify the permittee and the licensee in writing of a revocation and include in the notice:

- (1) the specific reason or reasons for the revocation;
- (2) the date the director orders the revocation; and
- (3) a statement informing the permittee of the right to, and process for, appeal of the decision. (Ord. 24661)

#### **SEC. 15D-41. WRECKER OPERATION AFTER SUSPENSION OR REVOCATION.**

(a) After receipt of a notice of suspension, revocation, or denial of permit renewal, the permittee shall, on the date specified in the notice, surrender the wrecker driver's permit to the director and discontinue operating a wrecker for an emergency wrecker service inside the city.

(b) Notwithstanding Section 15D-39(c), Section 15D-40(b), and Subsection (a) of this section, if the permittee appeals a suspension or revocation under this section, the permittee may continue to operate a wrecker for an emergency wrecker service pending the appeal unless:

(1) the permittee's wrecker driver's permit is suspended pursuant to Section 15D-39(b) or revoked pursuant to Section 15D-40(a) (6) of this article; or

(2) the director determines that continued operation by the permittee would impose a serious and imminent threat to the public safety. (Ord. 24661)

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

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

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

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

(d) If the director denies issuance or renewal of a wrecker driver's permit or revokes a wrecker driver's permit, the applicant or permittee may file an appeal with the permit and license appeal board in accordance with Section 2-96 of this code. (Ord. Nos. 24661; 27487)

### **Division 4. Miscellaneous Licensee and Driver Regulations.**

#### **SEC. 15D-43. LICENSEE'S AND DRIVER'S DUTY TO COMPLY.**

(a) Licensee. In the operation of an emergency wrecker service, a licensee shall comply with the terms and conditions of the emergency wrecker service license and, except to the extent expressly provided otherwise by the license, shall comply with this article, rules and regulations established under this article, and other law applicable to the operation of an emergency wrecker service.

(b) Driver. While on duty, a driver shall comply with this article, rules and regulations established under this article, other law applicable to the operation of a motor vehicle in this state, and orders issued by the licensee employing the driver in connection with the licensee's discharging of its duty under its emergency wrecker service license and this article. (Ord. 24661)

#### **SEC. 15D-44. LICENSEE'S DUTY TO ENFORCE COMPLIANCE BY DRIVERS.**

(a) A licensee shall establish policy and take action to discourage, prevent, or correct violations of this article by drivers who are employed by the licensee.

(b) A licensee shall not permit a driver who is employed by the licensee to drive a wrecker if the licensee knows or has reasonable

cause to suspect that the driver has failed to comply with this article, the rules and regulations established by the director or the chief or police, or other applicable law. (Ord. 24661)

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

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

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

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

- (1) apparel with offensive or suggestive language;
- (2) cut offs;
- (3) tank tops; or
- (4) sandals.

(d) While on duty, a driver shall wear a traffic safety vest that is certified by the American National Standards Institute (ANSI) for visibility. (Ord. Nos. 24661; 27487)

#### **SEC. 15D-46. INSURANCE.**

(a) A licensee shall procure and keep in full force and effect automobile liability insurance written by an insurance company that:

- (1) is approved, licensed, or authorized by the State of Texas;
- (2) is acceptable to the city; and
- (3) does not violate the ownership/ operational control prohibition described in Subsection (j) of this section.

(b) The insurance must be issued in the standard form approved by the Texas Department of Insurance, and all provisions of the policy must be acceptable to the city. The insured provisions of the policy must name the city and its officers and employees as additional insureds. The coverage provisions must provide coverage for any loss or damage that may arise to any person or property by reason of the operation of an emergency wrecker service by the licensee, including but not limited to damage to a towed vehicle caused directly or indirectly by improper hookup or improper towing.

(c) The automobile liability insurance must provide combined single limits of liability for bodily injury and property damage of not less than \$500,000 for each occurrence, or the equivalent, for each wrecker used by the licensee. Aggregate limits of liability are prohibited.

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

(e) If a vehicle is removed from service, the licensee shall maintain the insurance coverage required by this section for the vehicle until the director receives satisfactory proof that all evidence of operation as an emergency wrecker has been removed from the vehicle.

(f) Insurance required under this section must include:

- (1) a cancellation provision in which the insurance company is required to notify the director in writing not fewer than 30 days before canceling, failing to renew, or making a material change to the insurance policy;
- (2) a provision to cover all vehicles, whether owned or not owned by the licensee, that are operated under the license; and
- (3) a provision requiring the insurance company to pay every claim on a first-dollar basis.

(g) Insurance required by this section may be obtained from an assigned risk pool if all of the policies and coverages are managed by one agent, and one certificate of insurance is issued to the city.

(h) A license will not be granted or renewed unless the applicant or licensee furnishes the director with such proof of insurance as the director considers necessary to determine whether the applicant or licensee is adequately insured under this section.

(i) If the insurance of a licensee lapses or is canceled and new insurance is not obtained, the director shall suspend the license until the licensee provides evidence that insurance coverage required by this section has been obtained. A person shall not operate an emergency wrecker service while a license is suspended under this section whether or not the action is appealed. A \$100 fee must be paid before a license suspended under this section will be reinstated.

(j) No person with any direct or indirect ownership interest in the licensee's emergency wrecker service may have any operational control, direct or indirect, in any insurance company that provides insurance required by this section to the emergency wrecker service. For purposes of this subsection, "operational control" means holding any management position with the insurance company (including, but not limited to, the chief executive officer, the president, any vice-president, or any person in a decision-making position with respect to insurance claims) or having the right to control the actions or decisions of any person in such a management position in the insurance company. (Ord. Nos. 21175; 21238; 24661; 25215; 27487)

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

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

- (1) A current consolidated list of vehicles.
- (2) A current financial statement that includes a balance sheet and income statement.
- (3) Names of current officers, owners, and managers.
- (4) A list of current drivers employed by the licensee, with their wrecker driver's permit numbers indicated, and a copy of the incident management towing operator's license issued by the state to each driver.
- (5) A copy of the licensee's drug testing policy established under Chapter 2308 of the Texas Occupations Code, as amended.
- (6) Any additional information deemed necessary by the director relating to the operations and activities of the emergency wrecker service. (Ord. Nos. 24661; 27487)

#### **SEC. 15D-48. EMERGENCY WRECKER SERVICE RECORDS.**

A licensee shall maintain the business records of the emergency wrecker service, including but not limited to records relating to the activities, operations, service, and safety record of the emergency wrecker service, at its business location required by Section 15D-20(c). The licensee shall make the emergency wrecker service records available for inspection by the director or the chief of police upon reasonable notice and request. (Ord. 24661)

#### **SEC. 15D-49. FAILURE TO PAY AD VALOREM TAXES.**

A licensee or an applicant for an emergency wrecker service license shall not allow the payment of ad valorem taxes upon any vehicle, equipment, or other property used directly or indirectly in connection with the emergency wrecker service to become delinquent. (Ord. 24661)

### **Division 5. Service Rules and Regulations.**

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

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

(b) When an emergency wrecker is needed at a police scene, the police officer or other authorized city official at the scene will

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

(c) The chief of police may direct that an emergency wrecker be called out of its zone or out of rotation when determined to be in the best interest of the public health, safety, and welfare. (Ord. Nos. 13977; 14685; 15612; 16850; 24661; 27487)

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

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

- (1) using a wrecker; or
- (2) first completing every procedure required to secure the vehicle to the wrecker or wrecker equipment, including the attachment of any safety chains, so that the vehicle may be safely towed. (Ord. Nos. 24661; 27487)

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

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

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

- (A) holidays recognized by the city; and
- (B) other times for which the licensee has:
  - (i) obtained prior written approval from the chief of police; and
  - (ii) provided the director with a copy of that approval.

(2) Arrive at the police scene, if it is not a rapid response location, within 30 minutes after having been notified to do so by the chief of police.

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

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

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

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

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

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

(b) Nothing in this article permits the operation of a wrecker as an authorized emergency vehicle. (Ord. Nos. 13977; 14685; 16554; 21175; 24661; 27487)

### **SEC. 15D-53. RAPID RESPONSE PROGRAM.**

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

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

(c) Each participating emergency wrecker company shall provide at least one conventional light duty wrecker and one tilt bed/roll back carrier to be available for a designated day assigned by the chief of police to remove vehicles as directed by the chief of police. The emergency wrecker company shall be available to provide emergency wrecker service under the rapid response program for the full 24 hours of its assigned day.

(d) On each subsequent day, an adequate number of emergency wrecker companies next appearing on the rapid response rotation list will be assigned to remove vehicles as directed by the chief of police.

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

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

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

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

(i) All towed vehicles must be disposed of in accordance with Section 15D-54. (Ord. Nos. 13977; 14685; 15612; 21175; 24661; 27487)

### **SEC. 15D-53.1 RAPID RESPONSE LOCATIONS.**

The following are rapid response locations:

- (1) C. F. Hawn Freeway.
- (2) Central Expressway.
- (3) East R. L. Thornton Freeway.
- (4) Interstate Highway 20.
- (5) John W. Carpenter Freeway.
- (6) Julius Schepps Freeway.
- (7) Lyndon B. Johnson Freeway.
- (8) Marvin D. Love Freeway.

- (9) S. M. Wright Freeway.
- (10) South R. L. Thornton Freeway.
- (11) Stemmons Freeway.
- (12) Tom Landry Freeway.
- (13) Walton Walker Boulevard.
- (14) Woodall Rogers Freeway.
- (15) All entrance and exit ramps and all adjacent service roads of the freeways named in Paragraphs (1) through (14) of this section.
- (16) Any other area designated by the chief of police. (Ord. 27487)

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

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

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

(c) If a licensee or wrecker driver refuses to leave a towed vehicle at the vehicle owner or operator's designated delivery location for failure of the vehicle owner or operator to pay all fees allowed under Section 15D-57, the licensee or wrecker driver shall tow the vehicle to a location designated by the chief of police under Subsection (a) and report the change in the delivery location to the police department in accordance with Section 15D-55. (Ord. Nos. 21175; 24661; 27487)

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

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

- (1) The location from which the vehicle was removed and the date and time of removal.
- (2) The reason for removal of the vehicle.
- (3) A physical description of the removed vehicle, including the year, make, model, color, state license plate number, and vehicle identification number of the vehicle.
- (4) The trade name of the emergency wrecker service.
- (5) The name, address, and telephone number of the vehicle storage facility or other location to which the vehicle was taken.
- (6) The fee paid to the licensee or wrecker driver for removal of the vehicle and a copy of the receipt given to the owner or operator of the towed vehicle, which receipt must be signed by, and list the telephone number of, the vehicle's owner or operator.
- (7) The dispatch number assigned by the chief of police to authorize the removal of the vehicle.

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

department in a manner and on a schedule required by the chief of police. (Ord. Nos. 24661; 27487)

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

Nothing in this article prevents the chief of police from calling a city-owned wrecker to a police scene to render emergency wrecker service in lieu of calling an emergency wrecker from the wrecker rotation list or the rapid response rotation list. (Ord. Nos. 13977; 14685; 24661; 27487)

### **Division 6. Fee Schedule.**

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) requests payment of a fee for emergency wrecker service from a person or in a manner not authorized by this article or rules and regulations established by the director or the chief of police pursuant to this article. (Ord. Nos. 13977; 14685; 15612; 16403; 17673; 18566; 21175; 21311; 24661; 27487)

### **Division 7. Vehicles and Equipment.**

## **SEC. 15D-58. VEHICLES AND EQUIPMENT.**

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

(1) if used for towing a vehicle with a manufacturer's gross vehicle weight rating of not more than 10,000 pounds, meet the

requirements for a light duty wrecker or a tilt bed/roll back carrier;

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

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

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

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

(B) towing dollies and tow bars are not required on tilt bed/roll back carriers or lowboy units;

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

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

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

(b) An inspection fee of \$226 must be paid for each wrecker that is used in the emergency wrecker service. Upon inspection and approval of each vehicle, the director shall issue a decal to the applicant or licensee. The decal must be affixed securely to the lower left corner of the front windshield of the inspected wrecker.

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

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

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

(2) tows a vehicle using a wrecker that does not have a valid city of Dallas emergency wrecker decal affixed to the windshield as required by Subsection (b) of this section. (Ord. Nos. 24661; 25048; 27487; 27695; [30215](#))

## **Division 8. Enforcement.**

### **SEC. 15D-59. AUTHORITY TO INSPECT.**

(a) The director, the chief of police, or a peace officer may inspect any emergency wrecker service to determine whether a licensee or permittee complies with this article, rules and regulations established under this article, or other applicable law.

(b) A licensee or permittee, either personally or through an employee or agent, shall not attempt to interfere or refuse to cooperate with the director, the chief of police, or a peace officer in the conduct of any investigation or discharge of any duty pursuant to this article. (Ord. 24661)

### **SEC. 15D-60. ENFORCEMENT BY POLICE DEPARTMENT.**

Officers of the police department shall assist in the enforcement of this article. A police officer upon observing a violation of this article, or of any rule or regulation established by the director or the chief of police pursuant to this article, shall take necessary enforcement action to ensure effective regulation of emergency wrecker service. (Ord. 24661)

### **SEC. 15D-61. CORRECTION ORDER.**

(a) If the director or the chief of police determines that a licensee, either personally or through an employee or agent, violates this

article, the terms of its license, a rule or regulation established by the director or the chief of police, or other law, the director or the chief of police may notify the licensee in writing of the violation and by written order direct the licensee to correct the violation within a reasonable period of time. In setting the time for correction, the director or the chief of police shall consider the degree of danger to the public health or safety and the nature of the violation. If the violation involves equipment that is unsafe or functioning improperly, the director or the chief of police shall order the licensee to immediately cease use of the equipment.

(b) If the director or the chief of police determines that a violation constitutes an imminent and serious threat to the public health or safety, the director or the chief of police shall order the licensee to correct the violation immediately, and, if the licensee fails to comply, the director or the chief of police shall promptly take or cause to be taken such action as considered necessary to enforce the order immediately.

(c) The director or the chief of police shall include in a notice issued under this section an identification of the specific violation, the date of issuance of the notice and the time period within which the violation must be corrected, a warning that failure to comply with the order may result in suspension or revocation of license or imposition of a fine or both, and a statement indicating how the order may be appealed. (Ord. 24661)

### **SEC. 15D-62. SERVICE OF NOTICE.**

(a) A licensee shall designate and maintain a representative to receive service of notice required under this article to be given a licensee.

(b) Notice required under this article to be given to:

(1) a licensee must be personally served by the director on the licensee or the licensee's designated representative; or

(2) a driver permitted by the city under Division 3 of this article must be personally served or sent by certified United States Mail, five day return receipt requested, to the address, last known to the director, of the person to be notified.

(c) Notice required under this article to be given a person other than a driver permitted under Division 3 of this article or a licensee may be served in the manner prescribed by Subsection (b)(2).

(d) Service executed in accordance with this section constitutes notice to the person to whom the notice is addressed. The date of service for notice that is mailed is the date received. (Ord. 24661)

### **SEC. 15D-63. APPEAL.**

(a) A licensee may appeal a correction order issued under Section 15D-61 if an appeal is requested in writing not more than 10 days after notice of the order or action is received.

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

(c) The hearing officer may affirm, modify, or reverse all or a part of the order of the director. The decision of the hearing officer is final. (Ord. 24661)

### **SEC. 15D-64. OFFENSES.**

(a) A person commits an offense if he violates a provision of this article applicable to him.

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

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

(d) Prosecution for an offense under Subsection (a) does not prevent the use of other enforcement remedies or procedures

applicable to the person charged with the conduct or involved in the offense. (Ord. Nos. 24661; 27487)