

ORDINANCE NO. 2026-

AN ORDINANCE OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING CHAPTER 138 “VEHICLES FOR HIRE,” ARTICLE V, “VEHICLE STORAGE FACILITIES AND TOWING OF VEHICLES,” BY ADDING SECS. 138-114 TO 138-120, AMENDING SECS. 138-121 TO 138-136; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, in 2007, the 80th Texas Legislature amended Chapter 2303 “Vehicle Storage Facilities” and adopted Chapter 2308 “Vehicle Towing” of the Texas Occupations Code; and

WHEREAS, the provisions in Chapter 2303 and 2308 provide for the permitting, licensing and regulation of vehicle storage facilities and the towing of vehicles, including nonconsent tows which include incident management tows; and

WHEREAS, the City of New Braunfels (“City”) is a home rule municipality given broad discretionary powers under the Texas Constitution to regulate for the public peace, health, safety, and general welfare of its citizens; and

WHEREAS, on January 26, 2015 the City Council adopted its incident management towing ordinance that set forth guidelines for application and participation in the city’s towing program; and

Whereas, the ordinance also adopted provisions that regulate vehicle towing and storage services for the City of New Braunfels in order to provide for the safety of citizens and to safeguard their property; and

WHEREAS, the Chief of Police recommends the following amendments to the current ordinance that will improve the efficient operations of the city’s towing program and address concerns raised by tow companies that participate in the city’s rotation list system for incident management tows; and

WHEREAS, the City Council hereby finds that these amendments are necessary and further finds that the incident management towing fee schedule should be evaluated every two years to ensure the most current towing fees reflect average market conditions; and

WHEREAS, the City Council of the City of New Braunfels, Texas has the authority under its Home Rule Charter and under the laws of the State of Texas to adopt regulations aimed to protect the health, safety, and general welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1: That Chapter 138, Article V, entitled “Vehicle Storage Facilities and Incident Management Tows” be hereby amended and adopted as follows by using strikethrough font for deleted language and underlined font for added language:

ARTICLE V. - VEHICLE STORAGE FACILITIES AND INCIDENT MANAGEMENT TOWS

Sec. 138-~~121~~114. - Compliance with state law.

(a) Any person or entity engaged in operating a vehicle storage facility, as that term is defined in V.T.C.A., Occupations Code § 2303.002(8), within the city limits shall comply with the provisions of state law, including V.T.C.A., Occupations Code Ch. 2303 and any rules or regulations with regard to the same adopted by the Texas Department of Licensing and Regulation (“TDLR”).

(b) Any person or entity engaged in operating a tow truck, as that term is defined in V.T.C.A., Occupations Code § 2308.002(11), within the city limits shall comply with the provisions of state law, including V.T.C.A., Occupations Code Ch. 2308 and any rules or regulations with regard to the same adopted by the Texas Department of Licensing and Regulation.

(c) The City of New Braunfels Police Department is authorized to implement and maintain a rotation list system for incident management tows pursuant to the provisions of this ordinance.

(Ord. No. 2015-04, § 1, 1-26-15; Ord. No. 2017-13, § 1, 1-23-17)

Sec. 138-~~122~~115. - Definitions.

Abandoned vehicle means the condition of being abandoned as defined in V.T.C.A., Transportation Code Ch. 683 as amended.

City means the City of New Braunfels, Texas.

City controlled vehicle means those vehicles owned, leased or otherwise physically and/or lawfully under the city's control, including vehicles seized by the NBPD as evidence or for some other lawful police purpose.

Consent tows means ~~the towing of a motor vehicle with the consent of the vehicle owner, operator, person in possession, custody or control of the vehicle, or the lien holder.~~ a tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

Disabled vehicle means a vehicle which has been rendered unsafe to be driven as the result of some occurrence other ~~that~~ than a wreck, including but not limited to mechanical failures or

breakdowns, fire, vandalism or a vehicle which is in a safe driving condition, but the owner is not present or permitted to drive so as to reasonably necessitate that the vehicle be removed by a wrecker.

Drop fee means the fee charged when a consent-tow vehicle is completely hooked up to a wrecker and ready to be immediately moved, however the vehicle owner/representative decides not to have the vehicle towed by the on-call wrecker. (Example: an on-call wrecker is called and hooked up to an abandoned vehicle. The driver arrives with a can of gas after the wrecker has hooked up the vehicle. The wrecker may still charge a "drop fee".)

Heavy-duty wrecker means a wrecker equipped with a power operated winch, winch line, and a boom at least six feet in length, with a rated or tested single or double line lifting capacity of 26,001 pounds or more. Must be rated at 25 tons or more. Must be capable of towing a 12-yard tandem dump loaded trailer (50,000 lbs gvw) and tractor trailers up to 80,000 lbs gvw.

Incident management tow means the towing or other transportation of a vehicle by a tow truck ~~which~~ that is the result of a police officer exercising his/her authority to affect the removal of said vehicle pursuant to state law, a scene controlled by first responders, and/or this article.

Light-duty wreckers: A wrecker equipped with a power operated winch, winch line, and a boom at least six feet in length, with a rated or tested single line lifting capacity of 10,000 lbs or less. Flatbed (also known as a rollback) load-up wreckers are included in this wrecker category.

Medium-duty wreckers: A wrecker equipped with a power operated winch, winch line, and a boom at least six feet in length, with a rated or tested single or double line lifting capacity of 10,001 lbs up to 26,000 lbs.

Nonconsent tows means a tow of a motor vehicle that is performed without the consent of the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle, and includes incident management tows.

Operator means an individual, association, corporation or other legal entity that controls, operates or directs the operation of one or more tow trucks over a public street or highway. It includes the person operating the tow truck/wrecker regardless of whether or not the individual owns the truck.

Public roadway means a public street, alley, road, right-of-way, or other public way, including paved and unpaved portions of the right-of-way.

Tow Truck means a motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle.

Winch fee means fees incurred for additional winching of vehicles other than normal winching onto a flatbed rollback-style wrecker. Examples of allowed winch fees are winching vehicles

from ditches, ponds, or mud. Prohibited winch fees include loading onto a rollback wrecker, repositioning the tow line, and use of snatch blocks.

(Ord. No. 2015-04, § 1, 1-26-15; Ord. No. 2017-13, § 1, 1-23-17)

Sec. 138-116 License Required for private property tows, consent tows, non-consent tows or incident management tows

(A) An operator may not perform a tow within the city without a tow truck operator's permit (cab card) for each tow truck and an operator's license issued under V.T.C.A., Occupations Code Ch. 2308, Subchapter C-Tow Truck Permits and Subchapter D-License Requirements.

(B) A tow truck operator licensed under this article must wear or display upon demand the operator's license while performing a non-consent tow.

(C) A police officer may stop a tow truck on an incident management scene or while the tow operator is performing their duties to determine whether the operator has the proper license

Sec. 138-~~123~~117. - Incident management and non-consent tows—Authority.

A police officer of the city is hereby authorized to order removal of a vehicle, require the driver or other person in charge of a vehicle to move the same or have the vehicle removed by the towing operator on the rotation list to the nearest place of safety or to the premises of the towing operator that meets the criteria in this article, or as otherwise directed by the city police department, under the following circumstances:

- (1) When any vehicle is left unattended upon any bridge, viaduct or causeway, or in any tunnel where such vehicle constitutes an obstruction to traffic;
- (2) When any vehicle is otherwise legally parked so as to block the entrance to any private driveway;
- (3) When any vehicle is found upon a street and a report has been previously made that the vehicle has been stolen or a complaint has been filed and a warrant ~~thereon~~ issued charging that such vehicle has been embezzled, or there are reasonable grounds to believe the vehicle is stolen;
- (4) When any such officer has reasonable grounds to believe that any vehicle has been abandoned;
- (5) When a vehicle upon a street is so wrecked or disabled and because of the wreck or disability its normal operation is impossible or impractical; ~~or~~
- (6) The person or persons in charge of the vehicle are incapacitated by reason of physical injury or other reason to such extent as to be unable to provide for its removal or custody or are not in the immediate vicinity of the wrecked or disabled vehicle;

- (7) When any such officer arrests any person driving or in control of a vehicle for an alleged offense and such officer is by this Code or other law required to take the person arrested immediately before a magistrate and it is unsafe to leave the vehicle unattended at the scene, or the vehicle is being seized as evidence;
- (8) Whenever any such officer finds a vehicle standing upon a street, or public or private property in violation of any state law or local ordinance;
- (9) When the owner or operator of the vehicle consents;
- (10) When, in the opinion of a police officer, said vehicle constitutes a hazard or interferes with a normal function of a governmental agency;
- (11) When, in the opinion of a police officer, the safety of said vehicle is imperiled by reason of any catastrophe, emergency or unusual circumstance;
- (12) When any vehicle is found to be a junked vehicle;
- (13) When the vehicle is parked in violation of chapter 126, article VII, Parking, as amended, of this Code;
- (14) When the operator of a motor vehicle is requested to show proof of financial responsibility on that vehicle and, in the opinion of a police officer, is unable to establish financial responsibility under V.T.C.A., Transportation Code § 601.051; or
- (15) Where otherwise authorized by law.

Sec. 138-118. Impoundment.

A peace officer may require the removal of a vehicle that is evidence in a criminal offense from an accident scene to a vehicle storage facility, the Police Department, or location which the district attorney's office designates for storage for evidentiary purposes.

Sec. 138-119. Accident scene towing; access restricted.

Except as provided under this chapter, a towing company may not enter an accident scene or other site under a peace officer's control without the officer's permission. In this article, the term "accident scene" includes a scene of a disabled vehicle.

Section Sec. 138-120. Driving tow trucks to scene of an accident; accident scene requirements.

A person may not drive, or cause another person to drive, a tow truck to an accident scene on a City street unless the person is summoned to the scene by a peace officer or emergency dispatcher. Furthermore, that person or tow truck operator shall not remove any vehicle from an Incident Management scene unless that tow company is on the rotation list.

Secs. 138-121 to 138-122 Reserved.

Sec. 138-123 TOWING FEE STUDY.

(A) In this section, a "towing fee study" is a study to determine the fair market value of a non-consent tow originating in the City, considering financial information provided to the City by the towing company.

(B) Each towing company participating in the City's current rotation list system shall cooperate with the City to conduct the study. Each such towing company shall provide to the City information determined by the city manager to be reasonably necessary to determine the fair market value of towing services regulated under this article. In the event a company delays submission of required information in the opinion of the chief, the chief may order completion of the fee study without said company's information, and the company will be in violation of this ordinance.

(C) The City shall complete a towing fee study not later than the 120th day after receiving all information required under Subsection (B).

(D) The city manager or their designee shall present to the city council the results of the towing fee study. The city manager shall give to each towing company that owns, or leases tow trucks registered with the city written notice of the time, date, and location of the city council meeting at which the study is to be considered. The notice must be sent by United States regular mail to the towing company's address listed in the latest registration application on file with the police chief.

(E) Based on the results of the towing fee study, the city council may change the non-consent towing fees. The maximum fees must represent the fair market value of the services of a towing company performing non-consent tows originating in the City.

(F) The City is not required to conduct more than one towing fee study within a two-year time period, measured from the date the city council most recently considered a towing fee study.

(G) Not later than the second anniversary of the effective date of this ordinance and at succeeding two-year intervals that are measured from date of future ordinance amendments, the City Manager or their designee shall present to the City Council recommendations for adjustments to the fees established by ordinance for non-consent tows.

(H) Fees will be compliant with TDLR standards and are subject to change.

(I) There is hereby established the following maximum fee schedule for non-consent tows by a towing business operating within the City:

(1) Maximum towing fees:

(a) Vehicles 10,000 lbs. or less: \$ 275

(b) Vehicles 10,001 lbs. or more, but not more than 26,000 lbs.: \$ 480

(c) Vehicles 26,001 lbs. or more: \$ 1325

(2) The following additional fees may be charged if verified by the peace officer in charge of the accident scene:

(a) Exceptional labor such as clearing debris: \$128 per hour, per working employee of the tow company (Billed in 15- minute increments, starting after the first 30 minutes). Exceptional labor does not include normal hook-up procedure or routine clean-up not to exceed 30 minutes and does not include the disposal of classified hazardous waste or vehicle cargo.

(b) Winching, one-hour minimum, only if normal hook-up is not possible because of conditions or location of vehicle: \$130 per hour for a light-duty tow, \$200 per hour for a medium-duty tow, and \$400 maximum for a heavy-duty tow. Prohibited winch fees include loading onto a rollback wrecker, repositioning the tow line, and use of snatch blocks.

(c) Wait time: \$128 per hour, if it exceeds 30 minutes from time of arrival at accident scene and billed in 15 minute increments.

(d) Exceptional labor (manpower): \$250 per hour per working employee. This covers specialized equipment such as air bags, forklift, haul trailers, trailer dollies (used to move semi-trailers), large slide trucks/rollbacks (3-ton minimum size for hauling vehicles or equipment with gross weight 15,000 pounds or more). These fees also apply when the incident management tow involves an electric vehicle that has caught fire or some other circumstance that would be outside the scope of a standard incident management tow.

(e) Drop Fees.

(i) For light-duty tows- Drop fee (in lieu of a standard towing fee) maximum \$100.00.

(ii) For medium-duty tows- Drop fee (in lieu of a standard towing fee) maximum \$200.00.

(iii) For heavy-duty tows- Drop fee (in lieu of a standard towing fee) maximum \$400.00.

(f) If there is a dispute regarding the appropriate fees, the Chief of Police shall hear the complaint and make a ruling on the dispute.

(J) Towing and storage of city vehicles. If so requested by the city, the operator shall tow city owned, leased or vehicles otherwise under the city's control, including vehicles seized as

evidence or for some other lawful police purpose. Vehicles will be towed to operator's storage facility or as directed by the police department. Operator shall store city controlled vehicles. The city shall pay operator the same rates as stated above for city controlled vehicles towed. City controlled vehicles towed from outside of the city boundaries will be charged at no more than the public rates. Operator shall provide to the police department a monthly summary statement, along with the individual tow tickets for all city controlled vehicles.

(K) In the event that a secondary tow is necessary and it is listed on the same tow ticket/invoice as the first tow, the location of the secondary storage site must be written on the operator's tow ticket/invoice.

Sec. 138-124. - Operator responsibility

Operator shall perform all necessary work and administration for the removal from the public streets, ways or other public property in the city, and from private property when directed by the police department or duly authorized representative, of vehicles which have been abandoned, disabled, involved in collisions, parking violations, vehicles to be seized for evidence, prisoners' vehicles and disabled city owned or city leased vehicles and cleaning up an accident scene. Vehicles will be stored in a local vehicle storage facility on non-consent tows. For consent tows, see subsection (9).

(1) Any person or entity having an incident management towing ~~permit~~ license issued by the state pursuant to V.T.C.A., Occupations Code ch. 2308.151 - License Requirements, shall be eligible for inclusion in the city's rotation list system for incident management tows established pursuant to section 138-121 ~~subsection (a)~~-above; provided however, that the person or entity makes an application with the police department and complies with the rules, regulations and procedures established by the chief of police pursuant to the authority granted under state law and this article. Any operator, person or entity failing to maintain a valid incident management towing permit license shall be automatically removed from the rotation list without the necessity of the hearing process provided for in this article.

(2) The tow truck operator responding to an incident management tow must be operated by a driver that has a valid incident management towing operator's ~~license~~ permit (referred to as a cab card under state law), issued by the state pursuant to V.T.C.A., Occupations Code ch. 2308, Subchapter C-Tow Truck Requirements, and as amended in the future. Any person or entity failing to use tow truck operators that have a valid incident management towing operator's ~~license~~ permit for each tow truck that is issued by the state shall be automatically removed from the rotation list by the chief of police without the necessity of the hearing process provided for in this article.

(3) Operator shall be available 24 hours per day, seven days per week, subject to assignment or dispatch by the police department, to cover the areas of the city as

needed. Operator must maintain at its storage facility an onsite office. The operator of a participating storage facility must make impounded vehicles available for release 24 hours a day, with one hour notice received from the vehicle owner. The operator must have an adequate number of employees to meet their responsibilities. The operator shall have cell phone numbers supplied to the New Braunfels Police Department that shall be answered when called 24 hours a day, when the operator is on-call. The use of answering machine and failure to call back within a reasonable amount of time are prohibited. The operator must have a publicly listed telephone number which is answered 24 hours a day by the operator or an employee. ~~Use of an answering machine is prohibited.~~

(4) ~~When a hold is placed on a vehicle by a police officer, the officer must so indicate on the vehicle inventory/impound form by writing or stamping the word HOLD with the officer's initials. When a hold is placed on a vehicle by a police officer, the officer must so indicate to both Dispatch and the tow company that a hold will be in place for that vehicle. The officer shall then issue the case number to the tow company. The vehicle shall not be released by the operator until the hold is lifted by a police officer or NBPD dispatch either orally or in writing.~~

(5) Operator shall furnish the police department with personnel data and photographs of all wrecker drivers in its employment. Further, operator agrees to update this information as new or additional tow trucks are added or personnel are employed. This data is required to be furnished within 72 hours² of such employment and also to schedule a tow truck inspection before the truck may be placed into service.

(6) Operator must employ a minimum of four drivers that are qualified pursuant to the requirements of this agreement ordinance and applicable state law. Drivers can either be full-time or part-time employees.

(7) At the time of application, the operator agrees to submit a list ~~which~~ that includes the following:

- a. The make, model, vehicle identification number and TDLR identification number of each vehicle to be used in performing services under this article, and
- b. The name, driver's license and TDLR license number and copies of such, of any/all drivers assigned to the wreckers, but no less than four drivers.

(8) Any wrecker dispatched pursuant to a request from the city police department must arrive on the scene within ~~25~~ 35 minutes of being dispatched. Wrecker drivers must comply with all traffic laws while getting to the scene. Once at the scene, wrecker drivers may utilize their emergency lights and drive-up shoulders, through grassy medians, etc. as directed by an officer.

(9) Under no circumstances will the operator make recommendations concerning where a vehicle should be towed or repaired, except as expressly allowed herein. In the event of consent tows, the owner of the vehicle will make the decision, and the destination of the vehicle will be written on all required forms at the scene. Operator will tow all non-consent tow vehicles to the designated/approved operator's storage lot, unless otherwise directed by the city police department.

(10) A towing company that makes an incident management tow shall tow the vehicle to a vehicle storage facility that is operated by a person who holds a license to operate the facility under V.T.C.A., Occupations Code ch. 2303 unless the towing company agrees to take the vehicle to a location designated by the vehicle's owner.

(11) Operator agrees that all fees for towing under this article shall be collected from the owner or person in charge of said vehicle upon completion of tow. Owner or person in charge includes the vehicle owner, operator, person in possession, custody or control of the vehicle, or the lien holder, but this does not include the city, unless the vehicle is a city-controlled vehicle ~~and the city has exceeded its allotted number of free tows.~~ For city-controlled vehicles, the operator must submit its invoice to the police department and payment will be made within 30 business days after receipt. Operator agrees to submit to the city police department on a monthly basis an electronic copy of all invoices for tows occurring under this article to allow the police department to verify that operator is charging applicable fees to the owner or the person in control of the vehicle. Operator shall keep a record of all invoices that must be furnished upon demand to the police department. Towing tickets must be submitted for review within 30 days from their last on-call day.

(12) Operator agrees that if it inappropriately charges in excess of the amounts as stated in this article, operator will be in violation of this article. The appropriate and prompt refund will be made to the vehicle owner or whomever made the overpayment. Operator agrees that any complaints regarding billing which arise out of this article shall be reported to the TDLR.

(13) Upon notification of a complaint concerning damage to a vehicle or its contents towed by operator which occurs during a tow, the operator will indemnify the city and shall immediately accept responsibility and liability. (See section 138-131) Operator agrees that any complaints received shall be reported to the chief of police or his/her designee within five days of the date the operator receives the notification of a complaint.

(14) Vehicle storage notification notice. Operator will attempt to notify vehicle owner by telephone or cellular phone within 24 clock hours upon completion of a tow. Operator shall notify owner in writing within 48 clock hours after completion of a tow.

Where the operator fails to give written notice to the vehicle owner within 48 hours as required in this subparagraph, the operator shall not charge or collect from the vehicle owner, any storage fees for that time including the initial 48-hour period, that the operator was in violation of this subparagraph, but may charge storage fees for that time after the vehicle owner receives written notice.

(15) Operator will be responsible for all title paperwork and subsequent auction of all unclaimed vehicles. Operator will supply a list and applicable documentation of unclaimed vehicles to the city police department for review, two weeks prior to the auction. Auctions shall comply with TDLR guidelines.

(16) By operator submission of an application, operator represents to the city that it is currently in compliance and will remain in compliance during the term of its participation in the city's rotation list system, with all federal, state and local laws, orders and regulations pertaining to the operation of a tow truck.

(17) All drivers shall be dressed in a high visibility uniform with name and company badge/patch of one operator, and TDLR prescribed credentials.

(18) Operator shall either own or have an exclusive lease to and have registered with the TDLR ~~Texas Department of Licensing and Regulation~~ in operator's name at least four tow trucks, one of which is a heavy-duty wrecker as defined herein ~~in section 138-134~~. Acceptable written documentation must be attached to application as specified in section 138-132 below.

(19) Operator cannot advertise for a body shop on tow trucks, equipment or employees unless the body shop is owned by that same operator. Operator cannot advertise for another tow company, regardless of ownership.

(20) There will be no subcontracting with other wrecker companies allowed with the exception of specialty equipment such as a bobcat, hazmat, loaders or other construction type equipment for a major scene. Specialty equipment includes a heavy-duty wrecker in addition to the one heavy-duty wrecker required under subparagraph (18) above.

(21) The city may inspect operator's records at any time to ensure that operator meets the minimum qualifications required under this article.

(22) Operator shall make wreckers, other equipment, storage facilities and on-site storage facility office available for inspection when ordered by the city police department.

(23) If operator fails to pay any city ad valorem or sales taxes, or any fines, fees, or other amounts due the city in a timely manner, the chief of police will

automatically suspend the operator from the rotation list system until the amounts due are paid and without the necessity of the hearing process provided for in this article.

(Ord. No. 2015-04, § 1, 1-26-15; Ord. No. 2017-13, § 1, 1-23-17)

Sec. 138-125. – City responsibilities.

The city shall maintain a record (open for inspection at all reasonable times) listing the date and time for each tow.

~~(a) The city will direct all requests for wrecker service under this article to the operator;~~

~~(b) The city shall tape all calls requesting wrecker service;~~

~~(c) The city shall maintain a log book (open for inspection at all reasonable times) listing the date and time for each tow.~~

(Ord. No. 2015-04, § 1, 1-26-15; Ord. No. 2017-13, § 1, 1-23-17)

Sec. 138-126. - Wrecker/tow truck technical requirements.

(a) Each tow truck/wrecker shall have brakes that meet manufacturer's braking specifications when performing under all load conditions.

(b) All wreckers shall have damage free towing attachments, hydraulic or mechanical wheel lift with a lifting capacity of not less than 2,500 pounds; hydraulic or mechanical boom with a rated lifting capacity of not less than 8,000; or a flat bed vehicle without boom with at least 3/8" cable of not less than 100-foot length and safety chains.

(c) Safety mechanisms of the tow truck/wrecker, including but not limited to, all headlights, tail lights, turn signals, brakes, brake lights, hazard lights, flashing warning lights, windshield wipers, wiper blades, handles opening doors and windows, and tires shall operate and/or be in good state of repair. ~~No tow~~ Tow trucks shall be affixed with ~~blue~~ emergency or warning lights as allowed by the Texas Transportation Code.

(d) All tow trucks/wrecker shall operate within the applicable recommended towed vehicles manufacturer's safety policies and procedures and state laws.

(e) When towing a vehicle more than 500 feet, wrecker shall use a two bar with pins of any kind, or any other method of attachment. After 500 feet or sooner, the wrecker operator must drop the vehicle and re-hook it following all safety procedures established by this section and by the manufacturer of the vehicle being towed.

(f) Each tow truck/wrecker must meet the safety requirements of all other applicable statutes in addition to meeting the safety requirements of this article.

(g) Operator agrees that all vehicles and/or other equipment used by its employees will meet the above safety requirements.

(Ord. No. 2015-04, § 1, 1-26-15; Ord. No. 2017-13, § 1, 1-23-17)

Sec. 138-127. - Required wrecker equipment.

Each wrecker shall carry the following as minimum standard equipment:

- (1) A tow sling and hydraulic lift which is sufficient to prevent the swinging of any equipment and/or vehicle being transported and/or towed. This subsection does not apply to a vehicle carrier or rollback unless the wheels of a vehicle being towed are in contact with the ground. In the event that a self-contained non-propelled towing device, or some other form of auxiliary device is used, the vehicle to which that device is attached and which is providing the motive and braking forces, does not need to provide this equipment.
- (2) Five-sixteenths-inch link steel safety chains for wreckers with a gross vehicle weight of 10,000 pounds or less and 3/8-inch Hy-test steel chains or their equivalent for tow trucks with a gross vehicle weight over 10,000 pounds. These link sizes are minimums.
- (3) All wreckers shall carry one ten-pound or two five-pound type ABC fire extinguishers. The fire extinguishers shall be properly filled and located so they are readily accessible for use. All fire extinguishers shall be rechargeable, 2A:10BC Dry Chemical, UL/FM listed and in compliance with the current edition of NFPA standard #10, 1998 edition and shall be so labeled by a national testing laboratory.
- (4) One crowbar or wrecking bar of not less than 36 inches in length with a wedge head.
- (5) One broom of a type designed for pushing with an 18-inch head, and a handle of not less than 36 inches.
- (6) One flat-edge shovel of at least nine inches with a handle of not less than 36 inches.
- (7) A box or bucket to carry glass and/or debris removed from accident scenes.
- (8) Rope or strap suitable for securing doors, hoods, trucks, etc.
- (9) A functioning spotlight or flashlight.
- (10) Outside rearview mirrors on both sides of truck.
- (11) All wreckers must be equipped with emergency lights visible from all directions and shall be rotating or strobe type lights. The lights shall be in accordance with ~~state law~~ the requirements set forth in the Texas Transportation Code.
- (12) Three portable red emergency reflectors, orange cones or flares.

- (13) Five gallons of absorbent material.
 - (14) Safety chains must be used on all tows.
 - (15) All tow trucks with a slip-in-bed must have the bed properly secured to the body of the truck by a minimum of eight one-half diameter bolts. At least four of these bolts must be in front of the slip-in-bed.
 - (16) No wrecker shall lift more than the factory-rated lifting capacity permits.
- (Ord. No. 2015-04, § 1, 1-26-15; Ord. No. 2017-13, § 1, 1-23-17)

Sec. 138-128. - Driver responsibilities.

- (a) Tow truck/wrecker drivers shall not have or permit any prohibited weapon or alcoholic beverages in or around a tow truck when operating the tow truck. This provision does not prohibit a peace officer certified by the Texas Commission on Law Enforcement Officer Standards and Education from carrying a firearm while operating or riding in a tow truck/wrecker.
- (b) Tow truck/wrecker drivers must have a valid Texas driver's license for type of vehicle being driven, current identification and proof of a valid incident management towing Operator license. Drivers shall wear a company uniform, be neatly groomed and be prompt and courteous in order to provide services.
- (c) Tow truck/wrecker drivers shall ensure that while he is lifting a vehicle in preparation for towing that no one but the operator and/or helper shall be within a safe distance of the truck and vehicle to be towed. A safe distance is at least twice the distance between the end of the boom and the point of hook-up on the vehicle being winched or twice the distance the car is being lifted, whichever is greater. If a hydraulic lift is being used, a safe distance is twice the distance to which the lift arm is extended.
- (d) Tow truck/wrecker drivers shall ensure that if at any time during the process of connecting or winching, the tow truck or vehicle to be towed is in line of traffic, the flow of traffic must be diverted. If the tow truck cable is across lane/lanes of traffic, the traffic must be stopped or diverted by a law enforcement officer to permit safe winching or lifting of the vehicle to be towed.
- (e) Tow truck/wrecker drivers shall make all efforts to sweep and clean, remove debris, and use absorbent material at the accident scene as necessary for public safety.
- (f) Tow truck/wrecker drivers shall conduct themselves in a professional manner at all times.
- (g) Tow truck/wrecker drivers shall obey all lawful or direct orders from any and all police officers managing a scene or call where a wrecker is requested.

(Ord. No. 2015-04, § 1, 1-26-15; Ord. No. 2017-13, § 1, 1-23-17)

Sec. 138-129. - Storage facility.

(a) *City limits.* The storage facility must be located within the corporate limits of the city and in compliance with the provisions of state law, including V.T.C.A., Occupations Code ch. 2303, any rules or regulations with regard to the same adopted by the Texas Department of Licensing ~~or~~ and Regulation and city ordinances, including but not limited to Ch. 86 and Ch. 144 of the Code of Ordinances. Operator cannot change the location of its storage facilities more than once during the rotation period as defined in subsection 138-132(a), Application guidelines. If operator desires to change the location of its storage facility, the operator must obtain prior written approval from the chief of police of the new location and facility and comply with all applicable state and local laws.

(b) *Own or lease.* Operator can either own its storage facility or lease it under a written lease agreement for a term that at a minimum covers the entire rotation period as defined in subsection 138-132(a). A copy of the title or deed in the case of ownership, or a copy of a lease agreement must be included with the application.

(c) *Facility requirements.* The storage facility must be secure, completely enclosed by at least a six-foot high fence, well lit, and has an all-weather surface parking lot. The storage lot shall be equipped with security cameras that record and the data shall be accessible to the police department for review. The storage site must be of sufficient capacity to handle at least 50 vehicles stored pursuant to this article and exclusive of other vehicles stored not pursuant to this article at any given time. There shall be enough room to store semi trucks and trailers if necessary. At no time will cars be stored on a road or thoroughfare. All police initiated non-consent towed vehicles will be towed to the storage facility or a secure location as determined by NBPD.

(Ord. No. 2015-04, § 1, 1-26-15; Ord. No. 2017-13, § 1, 1-23-17)

Sec. 138-130. - Insurance and liability.

(a) The operator shall maintain at his expense, insurance with limits not less than those prescribed below. Operator further agrees to indemnify, defend, and hold City of New Braunfels harmless from any and all causes of action arising from performance of its responsibilities under this article.

(b) With respect to required insurance shall:

(1) Name City of New Braunfels as additional insured/or an insured, as its interests may appear.

(2) Provide City of New Braunfels a waiver of subrogation.

(3) Provide City of New Braunfels with a 30-day advance written notice of cancellation or material change to said insurance.

(4) Provide the New Braunfels Police Department with a certificate of insurance evidencing required coverage as part of the application for rotation list system.

(5) The certificate of insurance shall also specify that the policy covers the vehicle or vehicles subject to being used by operator under this article. The certificate of insurance shall identify the vehicle by make, model and vehicle identification number.

(c) Submit a certificate of insurance reflecting coverage according to TDLR Regulations. Insurance underwriters must be acceptable to the city.

(Ord. No. 2015-04, § 1, 1-26-15; Ord. No. 2017-13, § 1, 1-23-17)

Sec. 138-131. - Indemnification.

(a) The operator shall and does hereby agree to indemnify and hold harmless the city and its officials, officers, employees, agents and representatives from any and all loss, liability, obligation, penalties, judgments, claims, deficiency, expense or damages of any kind whatsoever by reason of any claim arising from a third person occasioned by any act, error or omission of operator in the performance under this article.

(b) The operator will, at its sole cost and expense, defend and protect the city against any and all claims and demands set out in subsection (a) above.

(Ord. No. 2015-04, § 1, 1-26-15; Ord. No. 2017-13, § 1, 1-23-17)

Sec. 138-132. - Application guidelines – Rotation list system for incident management tows.

(a) The rotation period shall occur annually, starting on May 1st of each year and shall run for a period of 12 months.

(b) The application period shall occur once annually. Applications from operators will only be accepted from March 1st to March 15th of each year.

(c) Applications shall be submitted to the chief of police. The chief of police for the city is authorized to establish an application fee for applying to be included on the city's rotation list so long as such fee does not exceed the amount of \$15.00.

(d) Only licensed tow companies with a physical business address in the city limits and storage lots located in the city limits may apply. Post office boxes or similar are not permitted. Operator can either own its storage facility or lease it under a written agreement for a term that at a minimum covers the entire rotation period as defined in subsection (a) above. A copy of the

property title in operator's name or operator's lease agreement must be included with the application.

(e) Applications will be reviewed by the police department, and all qualifying operators will be placed on the rotation list system for one year, subject to their rotation assignment which will be determined by the police department.

(f) All operators must apply each year during the application period to be on the rotation list and receive a rotation assignment. There are no automatic renewals.

(g) After the application period is closed, no additional wrecker services will be considered or added to the rotation list.

(h) A list of tow vehicles, including the make, model, vehicle identification number and TDLR identification number of each vehicle, valid incident management towing operator's permit (referred to as a cab card under state law) to be used in performing services under this article must be provided on the application. The vehicles on this list must be owned or exclusively leased by the operator and in the operator's name and may not be a part of any other application by another operator. Vehicle title or a vehicle lease agreement must be attached to the application as supporting documentation. Applications which contain duplicate tow vehicles will automatically be disqualified. All towing equipment listed on the application shall be made available for inspection by the police department.

(i) Operators must furnish the name, driver's license and TDLR license number and copies of such, of any/all drivers assigned to the wreckers as part of the application process. Applicant must list a minimum of four wrecker drivers who meet the requirements of this article and applicable state law.

(j) Submittal of an application is an indication of ability on the part of the operator to perform requested services, including sufficient personnel, vehicles and equipment in accordance with this article.

(k) The selection and notification of operators for the tow rotation list shall be made by April 15th of each year.

(l) A city officer or employee may not have ownership interest in any participating wrecker service or participating storage facility.

(m) Applicant must provide a copy of legal title to the property in applicant's name where the storage facility is located. If the site of the storage facility is leased, then applicant must include a copy of a valid, executed copy of the lease agreement that must be in a form approved by the city. See section 138-129 for additional requirements.

(Ord. No. 2015-04, § 1, 1-26-15; Ord. No. 2017-13, § 1, 1-23-17)

Sec. 138-133. - Towing rotation list system procedures.

- (a) All qualified operators shall be placed on the rotation list. When it is known how many operators are on the list, the rotation schedule will be set by the police department. The period an operator is assigned on the schedule shall be referred to as the rotation assignment.
- (b) If an operator is called to perform a city tow and does not charge a fee for the work, then that operator keeps its place at the top of the list for rotation assignments. This does not apply to tows of abandoned or wrecked vehicles that are to be auctioned at a later date.
- (c) Should an odd number of operators be approved for the tow rotation list, a lottery will be held to determine which operator will get the extra rotation assignment on the rotation list. Operators will be given the opportunity to be present at this drawing.
- (d) There will be two operators scheduled for each rotation assignment and they will be called out by the police department on alternating calls. There will be no subcontracting allowed. Each operator is responsible for having on duty equipment and personnel to handle their own calls, and to respond within the prescribed time limit. In cases where there is a large scene, the alternate operator may be called by the police department to help.
- (e) If conditions are such that both operators are fully engaged and are unable to provide necessary services, the on-duty police supervisor shall have the latitude to call another qualified operator from the tow rotation list to handle the excess workload.
- (f) Operators may not sell or transfer their rotation assignment place on the rotation list to another operator. Another operator may not respond to calls for service at the request of an operator on the list.
- (g) An operator may withdraw from the towing rotation list with a one week notice to the chief of police. That operator must wait until the next application period for consideration to be placed back on the list.
- (h) In the case of voluntary or involuntary removal from the towing rotation list, a lottery will be held of the remaining qualified operators to fill each vacant rotation spot on the list.

(Ord. No. 2015-04, § 1, 1-26-15)

~~Sec. 138-134. Fees for incident management tows.~~

~~Operator agrees to follow the below listed fees for services rendered under this article. The below listed fees are the only fees to be charged by operators participating under this article. No additional fees or surcharges can be added.~~

~~(1) — Towing.~~

a. — *Light-duty wreckers:* A wrecker equipped with a power operated winch, winch line, and a boom at least six feet in length, with a rated or tested single line lifting capacity of not 10,000 pounds or less. Flatbed (also known as a rollback) load up wreckers are included in this wrecker category.

1. — Standard towing with conventional or rollback \$160.00 maximum.
2. — Standard towing for a wrecked vehicle, with conventional or rollback \$190.00 maximum. (No additional winch fees allowed on standard tow.)
3. — Waiting fee after first 30 minutes, \$32.00 for each additional 15 minutes not to exceed \$128.00 per hour.
4. — Rollover fee can be applied at a rate no greater than the waiting fee for time used.
5. — Drop fee (in lieu of a standard towing fee.) maximum \$75.00.
6. — Any tow that starts and ends within the city limits will have no additional mileage fees.
7. — For consent tows, if customer requests vehicle to be towed outside city limits, a mileage rate will be a private contract between the operator and the customer.
8. — Standard clean-up of debris will have no additional fees. Charges for clean-up of major incident scenes will require approval from on-duty police supervisor or the officer in charge of the scene who approved the major incident scene clean-up. The officer's name must be included on the tow ticket/invoice.
9. — Winch fee maximum \$100.00. Winch fees must be approved either verbally or in writing by the on-duty police supervisor or the officer in charge of scene. No additional winch fees will be approved on standard tows.

b. — *Medium-duty wreckers:* A wrecker equipped with a power operated winch, winch line, and a boom at least six feet in length, with a rated or tested single or double line lifting capacity of more than 10,000 to less than 25,000 pounds. Medium duty wrecker fees are only applicable if a medium duty wrecker is actually required.

1. — Standard towing \$330.00 maximum.
2. — Standard towing for wrecked vehicle \$380.00 maximum.
3. — Waiting fee after first 30 minutes \$62.00 for each additional 15 minutes not to exceed \$248.00 per hour.
4. — Drop fee (in lieu of a standard towing fee.) maximum \$115.00.

~~5. — Standard clean-up of debris will have no additional fees. Charges for cleanup of major incident scenes will require approval from on-duty police supervisor.~~

~~6. — Winch fee maximum \$150.00. Winch fees must be approved either verbally or in writing by the on-duty police supervisor or the officer in charge of scene. No additional winch fees will be approved on standard tows.~~

~~c. — *Heavy-duty wreckers:* A wrecker equipped with a power-operated winch, winch line, and a boom at least six feet in length, with a rated or tested single or double line lifting capacity of 25,000 pounds or more. Must be rated at 25 tons or more. Must be capable of towing a 12-yard tandem dump loaded trailer (50,000 lbs gvw). Additionally, it is preferred that this specialty equipment have airbags, and other equipment needed to right an overturned big truck or 18-wheeler.~~

~~1. — Standard towing fee \$700.00 maximum.~~

~~2. — Standard towing fee for wrecked vehicle \$800.00 maximum.~~

~~3. — Waiting fee after first 30 minutes \$110.00 for each additional 15 minutes not to exceed \$440.00 per hour.~~

~~4. — Labor fee \$585.00 per hour, per incident maximum. Additional recovery equipment and personnel labor left open for major scenes as needed. Additional personnel or labor needed must be approved by the on-scene police supervisor.~~

~~5. — Drop fee (in lieu of a standard towing fee.) maximum \$325.00.~~

~~6. — Winch fee maximum \$300.00. Winch fees must be approved either verbally or in writing by the on-duty police supervisor or the officer in charge of scene. No additional winch fees will be approved on standard tows.~~

~~(2) Towing and storage of city vehicles. If so requested by the city, the operator shall tow up to 15 per month at no cost to the city of city-owned, leased or vehicles otherwise under the city's control, including vehicles seized as evidence or for some other lawful police purpose. Vehicles qualifying for a free tow shall not exceed one-ton hauling capacity. Vehicles will be towed to operator's storage facility or as directed by the police department. Operator shall store city-controlled vehicles at no cost. However, city agrees that any of the vehicles stored at operator's vehicle storage facility shall not remain stored in excess of 15 days without arrangement of fees to be charged to the city. The city shall pay operator the same rates as stated above for city-controlled vehicles towed in excess of 15 per month. City-controlled vehicles towed from outside of the city boundaries will be charged at no more than the public rates. If this tow is within the 15 free tows no charge will occur once inside the city limits. Operator shall provide to the police department a monthly summary statement, along with the individual tow tickets for all city-controlled vehicles to include the 15 free tows.~~

~~(3) In the event that a secondary tow is necessary and it is listed on the same tow ticket/invoice as the first tow, the location of the secondary storage site must be written on the operator's tow ticket/invoice.~~

Sec. 138-134. Grounds for suspension or termination.

A. The Chief of Police may suspend or terminate an operator from the city's rotation list if, after a hearing as outlined in Sec. 138-135, the chief determines that:

1. The operator gave false or misleading information in the material submitted to the city during the application process.
2. The operator allowed their insurance, as required herein, to be canceled, withdrawn, expired, or terminated.
3. The operator's tow truck permits as defined by Texas Department of Licensing and Regulation (TDLR) has been suspended, expired, or revoked.
4. The operator's certificate of registration for any tow truck has been suspended, expired, or revoked, in which case, notwithstanding the above, the chief shall suspend operator from the approved operations for that tow truck for the remainder of the suspension period levied by TDLR.
5. The operator's or operator's lessor's vehicle storage facility license issued by TDLR has been suspended, expired, or revoked.
6. The operator has missed more than three (3) rotation calls in a ninety (90) day period. The penalty for this violation shall be suspension from the rotation list for a period of thirty (30) calendar days, or the next rotation whichever is later, for the first violation and sixty (60) days, or the next two rotations whichever is later, for the second violation in a twelve (12) month period. The chief shall have the discretion upon the third such violation by an operator in a twelve (12) month period to set a higher suspension period, up to and including termination from the rotation list.
7. The operator or one of its employees violated any of the required duties under this ordinance, other than response to the scene, which is separately addressed.
8. The operator or one of its employees illegally solicited tow or repair services at the scene of a police investigation.
9. The operator or one of its employees charged or collected any fess in excess of those allowed by law or this ordinance.
10. The operator has established a pattern of conduct causing legitimate consumer complaints, to include but not be limited to, complaints regarding damage to towed or stored vehicles, loss of items from towed or stored vehicles, problems relating to vehicle redemption.

B. If the chief of police determines that grounds exist for suspension or termination of an operator, the chief shall issue such notice of a hearing and provide notice to the operator in accordance with the provisions of Sec. 138-135.

Sec. 138-135. Hearing; suspension and termination by chief of police.

(a) *Hearing.* Before the chief of police suspends or terminates an operator from the rotation list system, the operator must be afforded an opportunity to present his/her reasons why the chief should not take any suspension or termination action, or to present factors that the chief can consider in assessing the length of the suspension or termination. If the operator does not appear at the scheduled hearing, the hearing will be considered closed. The only exceptions to the hearing opportunity are those provided in Sec. 138-124(1), (2), and (23).

(b) *Suspension by chief of police.* The chief of police shall suspend an operator from the rotation list system for any violation of this article or any policy adopted by the chief of police under authority of this article or state law. The period of suspension is to be determined by the chief of police, whose decision is final and is not appealable to the city manager or city council. The chief shall notify a rotation operator of suspension from the rotation list system in writing either by confirmed fax, certified mail return receipt requested, company email that returns both a read and delivery receipt, or hand delivered notice. The suspension notice must state the basis for the action.

(c) *Termination by the chief of police.* The chief shall terminate the operator from participating in the rotation list system based upon:

- (1) Any repeated violations of the provisions of this article;
- (2) Any criminal offense committed by the service or by the driver, employee or agent of the service, in the course of providing services under this article, whether or not the services are being performed as part of the rotation list system call; or
- (3) Any conduct which endangers the life or safety of any person.

A tow operator that has been terminated will not be placed on the rotation list for up to five years. The decision of the chief of police to terminate an operator is final and is not appealable to the city manager or city council. The chief shall notify a rotation operator of termination from the rotation list system in writing either by confirmed fax, certified mail return receipt requested, company email that returns both a read and delivery receipt, or hand delivered notice. The termination notice must state the basis for the action.

(Ord. No. 2015-04, § 1, 1-26-15; Ord. No. 2017-13, § 1, 1-23-17)

Sec. 138-136. - Penalties.

An operator who violates any provision of this article commits a class C misdemeanor and upon conviction shall be punished by a fine of not less than \$200.00 nor more than \$500.00, unless a different fine is otherwise specifically provided for a violation under this article. A culpable

mental state is not required for an offense under this article where the offense is not punishable by a fine exceeding \$500.00.

(Ord. No. 2015-04, § 1, 1-26-15; Ord. No. 2017-13, § 1, 1-23-17)

Secs. 138-137. THIS ORDINANCE DOES NOT CREATE ANY CONTRACTUAL RIGHTS FOR OPERATORS OR ANY THIRD PARTIES.

138-138—138-165. - Reserved.

SECTION 2: This Ordinance shall be and is hereby declared to be cumulative to all other ordinances of the City of New Braunfels relating to vehicle storage facilities and nonconsent towing of vehicles within the city limits, and same shall not operate to repeal or affect any such ordinance or ordinances except insofar as the provisions of such ordinance or ordinances are inconsistent or in conflict with the provisions of this Ordinance, in which instance or instances those provisions shall be and they are hereby repealed.

SECTION 3: That if any provisions of this Ordinance shall be held void, illegal, or unconstitutional, it is hereby provided that all other parts of the same which are not held void, illegal or unconstitutional shall remain in full force and effect.

SECTION 4: Effective Date and Publication.

This Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, and filing by the City Secretary. This ordinance must also be published in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required by the City Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this _____ day of _____, 2026.

PASSED AND APPROVED: Second reading this ____ day of _____, 2026.

CITY OF NEW BRAUNFELS, TEXAS

Neal Linnartz, Mayor

ATTEST:

Gayle Wilkinson, City Secretary

APPROVED AS TO FORM:

Valeria M. Acevedo, City Attorney