

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON AMENDING THE CODE OF ORDINANCES, CHAPTER 23, ARTICLE IV (POLICE INITIATED TOWING SERVICES), CHAPTER 23, ARTICLE V (NON-CONSENT TOWING), AND CHAPTER 18, ARTICLE IV, DIVISION I, SECTION 18.104(a)(1-6) (IMPOUNDMENT OF STANDING OR PARKED VEHICLES – FEES); PROVIDING FOR A PENALTY IN THE MAXIMUM AMOUNT OF \$500 FOR VIOLATIONS THEREOF, PROVIDING A SEVERABILITY CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Denton Code of Ordinances, specifically Chapter 18, Article IV, Division I, Section 18.104(a)(1-6)(Impoundment of Standing or Parked Vehicles - Fees), Chapter 23 Article IV (Police Initiated Towing Services), and Chapter 23, Article V (Non-Consent Towing), was passed in 2006 and amended in 2015; and

WHEREAS, there have been no updates to Chapter 18, Article IV, Division I, Section 18.104(a)(1-6) since 2015 to address fees despite numerous changes to State and Federal level regulations and to the economic environment; and

WHEREAS, there have been no updates to Chapter 23, Article IV since 2006, and no updates to Article V since 2015, which have led to concerns that some tow companies operating in the city have been taking advantage of regulatory loopholes to charge excessive fees; and

WHEREAS, Chapter 18 and Chapter 23 lack enforcement mechanisms to ensure vendor compliance with safety and operational requirements specifically intended to protect the motoring public within the city; and

WHEREAS, the Texas Transportation Code does not expressly authorize a municipality's peace officers to impound a vehicle to protect the public when the driver fails to provide evidence of financial responsibility (insurance); and

WHEREAS, on August 14, 2015, the Texas Attorney General issued Opinion No. KP-0034, stating that a municipality's governing body may pass an ordinance authorizing peace officers working for the municipality to impound a vehicle to protect the public when the driver fails to provide evidence of financial responsibility (insurance); and

WHEREAS, the Texas Transportation Code does not expressly authorize a municipality's peace officers to impound a vehicle to protect the public when the driver does not possess a valid driver's license; and

WHEREAS, it is a reasonable reading of Texas Attorney General Opinion No. KP-0034, and supported by Texas case law, that a municipality's governing body may pass an ordinance authorizing peace officers working for the municipality to impound a vehicle to protect the public when the driver is operating a motor vehicle without a valid driver's license; and

WHEREAS, Texas Occupations Code Chapter 2308, Section 2308.2085 (Local Authority Regulation of Booting Activities) grants a local authority to right to regulate booting activities; and

WHEREAS, booting is less expensive, less time consuming, and less burdensome process for the owner/operator of a vehicle; and

WHEREAS, representatives of the Denton Police Department met on more than one occasion with representatives of tow companies and tow truck drivers to solicit their input into changes in the City Code affecting their business operations;

NOW THEREFORE, THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1: The findings and recitations contained in the preamble of this ordinance are incorporated herein by reference.

SECTION 2: The City Council finds that the proposed amendments to Chapter 18, Article IV, Division I, Section 18.104(a)(1-6), Chapter 23, Article IV, and Chapter 23, Article V, in the form of Exhibit “A,” serves the public interest and improves the quality of life of residents and visitors to the city, improves transparency in the towing of vehicles within the city, provides for a clear and consistent fee schedule, provides for the fair treatment of vehicle owners, provides a reasonable alternative to non-consent towing a vehicle through booting, and provides an enforcement mechanism for the Police Department to ensure compliance.

SECTION 3: All other provisions of Chapter 18 and Chapter 23 of the City Code of Ordinances not expressly amended by this ordinance remain in full force and effect.

SECTION 4: Any person violating any provisions of this ordinance shall, upon conviction, be fined a sum not exceeding Five Hundred and no/100 Dollars (\$500.00). Each violation of this ordinance shall constitute a separate and distinct offense.

SECTION 5: It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance, shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 6: In compliance with Section 2.09(c) of the Denton Charter, this ordinance shall become effective fourteen (14) days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this ordinance to be published twice in the Denton Record Chronicle, a daily newspaper published in the City of Denton, within ten (10) days of this date of its passage.

SECTION 7: In compliance with Section 2.09(d) of the Denton Charter, the City Secretary is hereby directed to codify the amendments in the form of Exhibit “A” in the City Code of Ordinances.

The motion to approve this ordinance was made by _____ and seconded by _____; this ordinance was passed and approved by the following vote [___ - ___]:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Gerard Hudspeth, Mayor:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

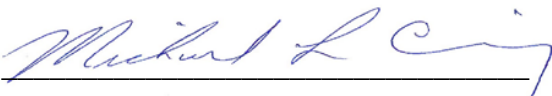
PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY:  _____