

CHAPTER 23 - POLICE

Article IV. – Non-Consent Towing and Booting

Division 1. - Generally

Section 23.81-Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Boot or immobilization device means a device or apparatus specifically designed to prevent the movement of a vehicle. This includes devices or apparatus that might be affixed to the vehicle's tires, wheels, or windshield.

Boot Operator means an individual who installs or removes a boot on or from a vehicle.

Booting Permit (BP) means permission granted by the City to a tow company to utilize boots or similar immobilization devices as part of a parking management program conducted on private property for a period of one (1) year, renewable under the provisions of this article concurrent with a tow company permit. This permit is issued only as an additional permission granted under a private property permit.

Chief of Police means the Chief Executive of the Denton Police Department (DPD).

City means the City of Denton, Texas to include authorized personnel acting on its behalf.

Combined Tow Permit (CTP) means permission granted by the City to a tow company to have their tow truck(s) placed on the police-initiated tow list and conduct private property tows for a period of one (1) year, renewable under the provisions of this article.

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Consent tow means any tow of a motor vehicle in which the tow truck is summoned by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. This term includes repossessions where written authorization has been received from the lienholder. The term does not include an incident management tow or a private property tow.

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

Crash means any occurrence which renders a vehicle wrecked or disabled.

Department means the Texas Department of Licensing and Regulation.

Director means the Chief of Police or their designee assigned to enforce and administer this article and includes representatives, agents, or department employees designated by the Director.

Driver means an individual who drives or operates a vehicle.

Driver's license has the meaning assigned by V.T.C.A., Transportation Code Sec. 521.001.

Drop fee/Drop Charge means the maximum fee permissible that may be charged for the release of a vehicle that is hooked up but has not been removed from the property or parked location.

Federal Motor Carrier Safety Administration (FMCSA) is a federal agency that regulates the trucking industry in the United States.

Fully prepared for transport means a vehicle that is attached to a tow truck, is lifted, with tow lights and safety chains attached, and, if required, is placed on a dolly in a raised position.

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Heavy-duty tow truck means any motor vehicle designed and used primarily for removing wrecked or disabled vehicles in excess of twenty-six thousand (26,000) pounds gross vehicle weight (GVW) upon any street.

Heavy duty tow means any tow of a vehicle in excess of twenty-six thousand (26,000) pounds gross vehicle weight (GVW) or a tow requiring the use of a boom, crane, or equivalent apparatus to safely and efficiently complete the tow.

Hook-up means the application and first connection of the tow truck to the towed vehicle.

Incident means an unplanned randomly occurring traffic event that adversely affects normal traffic operations or an incident requiring law enforcement action.

Incident management (IM) tow means any tow of a vehicle in which the tow truck is summoned to the scene of a traffic crash or to an incident, including the removal of a vehicle, cargo, and debris from the crash or incident scene.

Incident Management Permit (IMP) means permission granted by the City to a tow company to have their tow truck(s) placed on the police-initiated tow list for a period of one (1) year, renewable under the provisions of this article.

License holder or Licensee means the person to which the Department issued a license.

Light-duty tow truck means any motor vehicle designed and used primarily for removing wrecked or disabled vehicles of ten thousand (10,000) pounds or less gross vehicle weight rating (GVWR) from upon any street or a specialty truck approved by the Director.

Light-duty tow means any tow of a vehicle of ten thousand (10,000) pounds or less gross vehicle weight rating (GVWR) not requiring the use of a boom, crane, or equivalent apparatus to safely and efficiently complete the tow.

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Local authority means a state or local governmental entity authorized to regulate traffic or parking and includes:

- (1) an institution of higher education; and
- (2) a political subdivision, including a county, municipality, special district, junior college district, housing authority, or other political subdivision of this state.

Medium-duty tow truck means any motor vehicle designed and used primarily for removing wrecked or disabled vehicles of more than ten thousand (10,000) pounds, but less than twenty-six thousand (26,000) pounds gross vehicle weight (GVW) from upon any street.

Medium-duty tow means any tow of a vehicle of more than ten thousand (10,000) pounds but less than twenty-six thousand (26,000) pounds gross vehicle weight (GVW) not requiring the use of a boom, crane, or equivalent apparatus to safely and efficiently complete the tow.

Non-consent tow means any tow of a motor vehicle that is not a consent tow, including:

- (1) an incident management tow; and
- (2) a private property tow.

Operate means to drive or to be in control of a tow truck.

Operator means the driver of a tow truck, the owner of a tow truck, or the holder of a **TDLR** permit or license.

Parking facility means public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes:

- (1) a restricted space on a portion of an otherwise unrestricted parking facility; and
- (2) a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, **home that charges a fee for parking**, apartment complex, property governed by a property owners' association, or governmentowned property leased to a private person, including:

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- a. a portion of the right-of-way of a public roadway that is leased by a governmental entity to the parking facility owner; and
- b. the area between the facility's property line abutting a county or municipal public roadway and the center line of the roadway's drainage way or the curb of the roadway, whichever is farther from the facility's property line.

Parking facility authorized agent means an employee or agent of a parking facility owner with the authority to:

- (1) authorize the removal of a vehicle from the parking facility on behalf of the parking facility owner; and
- (2) accept service on behalf of the parking facility owner of a notice of hearing requested under this chapter.

Parking facility owner means:

- (1) an individual, corporation, partnership, limited partnership, limited liability company, association, trust, or other legal entity owning or operating a parking facility;
- (2) a property owners' association having control under a dedicatory instrument, as that term is defined in V.T.C.A., Property Code, Sec. 202.001, over assigned or unassigned parking areas; or
- (3) a property owner having an exclusive right under a dedicatory instrument, as that term is defined in V.T.C.A., Property Code, Sec. 202.001, to use a parking space.

Peace officer means a person who is a peace officer under V.T.C.A., Code of Criminal Procedure, Article 2.12.

Permit holder or Permittee means the person to which the City has issued a permit.

Person means an individual, corporation, government or governmental subdivision or agency, trust, partnership, or two (2) or more persons having a joint or common economic interest.

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Police Department means the City of Denton Police Department (Police Department or DPD), its officers, professional staff, and employees.

Police Initiated Tow means any tow that commences with the request for removal by a peace officer or other designated Police Department employee. This includes tows resulting from: (1) Arrest

(2) Traffic Hazards

(3) Abandoned Vehicles

(4) Motor Vehicle Crashes

(5) Recovered Stolen Vehicles

(6) Evidence

(7) Forfeiture

(8) Safekeeping

(9) Operation Without Financial Responsibility, and

(10) Other situations in which State Law or Local Ordinance permit the removal of a motor vehicle

NOTE: All police initiated tows are considered nonconsent tows.

Private Property Permit (P3) means permission granted by the City to a tow company to have their tow truck(s) conduct private property tows for a period of one (1) year, renewable under the provisions of this article.

Private property tow means any tow of a vehicle authorized by a parking facility owner or parking facility authorized agent without the consent of the owner or operator of the vehicle.

Property owners' association has the meaning assigned by V.T.C.A., Property Code Sec. 202.001

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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.

Recovery means the retrieval of a vehicle that is stuck, damaged, or immobilized in an extraordinarily challenging or hazardous situation. These situations include the retrieval of vehicles in excess of twenty-six thousand (26,000) pounds gross vehicle weight (GVW) that are rolled, flipped, or otherwise incapable of being towed utilizing standard apparatus and those tows that require the clean-up, repacking, and/or hauling away of cargo from on or in such vehicles or towed units, public roadways, rights-of-way, or other location as a result of a crash or other incident.

Restricted space means a parking space that is properly marked in a parking facility that is properly signed according to state law.

Tilt bed/roll back/Flat bed car carrier means a motor vehicle designed and equipped as to be capable of lifting another vehicle upon itself for the purpose of transporting a motor vehicle that cannot be safely transported by a wrecker.

Tow means the process by which a vehicle is moved from one location to another by use of another motor vehicle when the subject vehicle cannot be operated on its own due to mechanical failure, unavailability of a suitable operator, crash, or other cause.

Tow company 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 roadway in this state but does not include a political subdivision of the state.

Tow Company Permit (TCP) means the authority to operate a nonconsent tow company within the City limits. The permit is issued by the DPD. This term refers to the permit in general and not a specific class of permit (IM, P3, CTP).

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Tow Operator Permit (TOP) means the authority to operate as a nonconsent tow operator within the City limits. The permit is issued by the DPD. This term refers to the permit in general and not a specific class of permit (IM, P3, CTP).

Tow Permit means a tow company permit, a tow truck permit, or a tow operator permit.

Tow truck means a motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle. The term does not include:

- (1) a motor vehicle owned and operated by a governmental entity, including a public school district;
- (2) a motor vehicle towing:
 - a. a race car;
 - b. a motor vehicle for exhibition; or
 - c. an antique motor vehicle;
- (3) a recreational vehicle towing another vehicle;
- (4) a motor vehicle used in combination with a tow bar, tow dolly, or other mechanical device if the vehicle is not operated in the furtherance of a commercial enterprise;
- (5) a motor vehicle that is controlled or operated by a farmer or rancher and used for towing a farm vehicle;
- (6) a motor vehicle that:
 - a. is owned or operated by an entity the primary business of which is the rental of motor vehicles; and
 - b. only tows vehicles rented by the entity;
- (7) a truck-trailer combination that is owned or operated by a dealer licensed under V.T.C.A., Occupations Code Ch. 2301 and used to transport new vehicles during the normal course of a documented transaction in which the dealer is a party and ownership or the right of possession of the transported vehicle is conveyed or transferred; or
- (8) a car hauler that is used solely to transport, other than in a consent or nonconsent tow, motor vehicles as cargo:
 - a. in the course of:

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1. a prearranged shipping transaction; or
 2. a commercial transaction for transport of a damaged vehicle arranged or authorized by an insurance company and delivered to a salvage pool operator as defined by V.T.C.A., Occupations Code Sec. 2302.001; or
- b. for use in mining, drilling, or construction operations.

Tow Truck Permit (TTP) means the authority for a vehicle to be utilized in nonconsent tow operations within the City limits. The permit is issued by the DPD.

Unauthorized vehicle means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner.

Vehicle means a device in, on, or by which a person or property may be transported on a public roadway. The term includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer but does not include a device moved by human power or used exclusively on a stationary rail or track.

Vehicle owner means a person:

- (1) named as the purchaser or transferee in the certificate of title issued for the vehicle under V.T.C.A., Transportation Code, Ch. 501;
- (2) in whose name the vehicle is registered under V.T.C.A., Transportation Code Ch. 502, or a member of the person's immediate family;
- (3) who holds the vehicle through a lease agreement;
- (4) who is an unrecorded lienholder entitled to possess the vehicle under the terms of a chattel mortgage; or
- (5) who is a lienholder holding an affidavit of repossession and entitled to repossess the vehicle.

Vehicle storage facility (VSF) means a vehicle storage facility, as defined by V.T.C.A., Occupations Code Sec. 2303.002, that is operated by a person who holds a license issued under V.T.C.A., Occupations Code, Ch. 2303 to operate the facility.

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Sec. 23-82. – Purpose and Scope

- (a) The City, pursuant to the authority granted by state law, in order to protect the public, to protect the rights of persons whose vehicles may be towed or booted, to maintain safe and efficient operating rules, and to preserve the peace of the community, hereby engages in the licensing and regulation of business enterprises engaged in the non-consent towing, booting, removing, and storing of motor vehicles in the incorporated areas of the City.
- (a) The purpose and intent of this article is to regulate non-consent tows and booting to the extent not preempted by federal or state law. This article shall not apply to consent tows from public or private property within the City.
- (b) The Denton Police Department is authorized to enforce these rules and shall be referred to as "DPD" for the remainder of this article.
- (c) Accordingly, no person shall operate a tow company in the incorporated areas of the City on non-consent towed vehicles unless the tow company has been registered and permitted with the DPD.
- (d) Accordingly, no person shall operate a tow truck in the incorporated areas of the City on nonconsent towed vehicles unless the wrecker has been registered and permitted with the DPD.
This article does not apply to a consent tow.
- (e) Accordingly, no person shall operate a tow truck in the incorporated areas of the City on nonconsent towed vehicles unless the operator has been registered and permitted with the DPD. This article does not apply to a consent tow.
- (f) Furthermore, no person or business entity shall operate a vehicle storage facility for the storage of motor vehicles that have been subjected to non-consent tows under this article unless the facility is registered with the state and meets all state requirements.
- (g) This Article does not regulate consent towing.
- (h) This article does not apply to towing that is performed by a governmental entity.
- (i) This article does not interfere with the ability of a local authority to regulate towing and/or booting on property owned or controlled by that entity.

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This article must be liberally construed to give effect to its purpose and intent. Unless superseded by state regulations, the City is the final authority.

Division 2. – Permits

23-83 – Tow Company Permit

- (a) No tow service shall engage in the business of nonconsent towing of vehicles without first obtaining a permit from the City.
- (b) Before an annual permit is granted, the application for the annual permit must be approved by the Director. The granting of an annual permit is at the discretion of the Director, but will not be granted unless:
 - (1) The proposed tow service is required by the public convenience and necessity; and
 - (2) The applicant qualifies for operating authority under Sections 23-84(e) and 2384(f) of this article and is otherwise fit, willing, and able to operate the tow company following the requirements of this article, rules and regulations of the Director, provisions of the annual permit, **TDLR rules and regulations, FMCSA regulations**, and other applicable law.
- (c) No permit shall be transferred or assigned from any person to another. When any change of ownership or change of controlling interest occurs, the prior permit shall be null and void **unless amendment is approved by the Director in writing.**

23-84 – Tow Company Permit Application

- (a) To obtain an annual permit, a **tow company** shall make application to the Director in the manner prescribed by this Section. The applicant(s) must be the person(s) who own and/or control the proposed tow company. An application required in this division shall be notarized and shall be made on forms prepared and made available by the Police Department. An applicant shall file with the Director a written, verified application statement, to be accompanied by a nonrefundable application fee as set forth in the Schedule of Fees in this Article **and a legible copy of the company's TDLR license.** The application must contain the following:
 - (1) The name, home address, and business address of each owner, part owner, or partner, silent or active;

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- (2) The business address, telephone number, and the location and telephone number of any storage VSF utilized;
- (3) **A description of all tow trucks used by the tow service to include**
 - a. **Make**
 - b. **Model**
 - c. **VIN**
 - d. **License Plate**
 - e. **Type (Light, Medium, Heavy, Trailer, etc)**
- (4) A copy of a certificate of garage liability or automobile liability insurance covering the tow service owner and their employees for liability for death, bodily injury, and/or property damage to third parties in the amount of not less than five hundred thousand dollars (**\$500,000.00**) for any one (1) person, **two million dollars (\$2,000,000.00)** for any one (1) occurrence, and five hundred thousand dollars (**\$500,000.00**) for property damage;
- (5) A copy of a certificate of garage keeper's liability insurance covering the tow service and naming the City of Denton as an additional insured for liability and for property damage to any vehicle, or contents thereof, in its care, custody, and control as a result of providing towing and/or storage services in an amount of not less than **two hundred fifty thousand dollars (\$250,000.00)**;
- (6) Documentary evidence of payment of ad valorem taxes on the property to be used in connection with the operation of the VSF **and tow company**;
- (7) The applicant must own or have exclusive use of a vehicle storage facility **within the limits of the City of Denton**;
- (8) The application shall be signed by each owner, part owner, or partner, active or silent;
- (9) List of Management personnel authorized to conduct business with the City on behalf of each listed owner, part owner, or partner, active or silent;
- (10) **Indication of the type of TCP for which the applicant is seeking approval (Private Property Permit – P3, Incident Management Permit – IM, or Combine Tow Permit – CTP), and**

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- (11) Such additional information as the Director considers necessary to assist or promote the implementation or enforcement of this article or the protection of public safety.
- (b) A TCP holder shall notify the Director in writing of any change of address or change in ownership or management of the tow company not less than ten (10) business days prior to the change, **or as soon as practicable after an unplanned change.**
- (c) **TCP applications and renewals will not be accepted between August 16th and September 30th each year.**
- (d) A Tow Company Permit (TCP) remains in effect until the following September 30th, regardless of the issue date.
- (e) To qualify for any tow permit, an applicant, including operators, 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 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 tow truck, or that is likely to otherwise endanger the public health or safety;
 - (6) Not have been convicted of more than four (4) moving traffic violations arising out of separate transactions, or involved in more than two (2) automobile crashes in which it could be reasonably determined that the applicant was at fault, within any twelve-month period during the preceding thirty-six (36) months;
 - (7) Not have been convicted or placed on probation or deferred adjudication for a crime:
 - a. Involving:
 1. Criminal homicide as described in V.T.C.A. Penal Code Ch. 19;
 2. Kidnapping as described in V.T.C.A. Penal Code Ch. 20;
 3. A sexual offense as described in V.T.C.A. Penal Code Ch. 21;
 4. An assaultive offense as described in V.T.C.A. Penal Code Ch. 22, other than a class C misdemeanor;
 5. Robbery as described in V.T.C.A. Penal Code Ch. 29;
 6. Burglary as described in V.T.C.A. Penal Code Ch. 30;

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7. Theft as described in V.T.C.A. Penal Code Ch. 31, but only if the violation is punishable as a felony;
8. Fraud as described in V.T.C.A. Penal Code Ch. 32;
9. Tampering with a governmental record as described in V.T.C.A. Penal Code Ch. 37;
10. Public indecency (prostitution or obscenity) as described in V.T.C.A. Penal Code Ch. 43;
11. The transfer, carrying, or possession of a weapon in violation of V.T.C.A. Penal Code Ch. 46, but only if the violation is punishable as a felony;
12. A violation of V.T.C.A. Health and Safety Code Ch. 483 "Dangerous Drugs," that is punishable as a felony;
13. A violation of V.T.C.A. Health and Safety Code Ch. 481 "Controlled Substances Act," that is punishable as a felony;
14. Criminal attempt to commit any of the offenses listed in subsection (7)(a)1 through 13 of this subsection;
15. Driving while intoxicated described in V.T.C.A. Penal Code Ch. 49;
16. Driving while intoxicated with child passenger as described in V.T.C.A. Penal Code Ch. 49;
17. Intoxication assault as described in V.T.C.A. Penal Code Ch. 49; or
18. Intoxication manslaughter as described in V.T.C.A. Penal Code Ch. 49.
 - b. For which:
 1. If the applicant was convicted for a misdemeanor offense, other than a class C misdemeanor offense, less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date;
 2. If the applicant was placed on probation or deferred adjudication for a misdemeanor offense, less than two (2) years have elapsed since the date of successful completion of probation or deferred adjudication;
 3. If the applicant was convicted for a felony offense, less than five (5) years have elapsed since the date of conviction or the date of release from

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confinement for the conviction or the date of release from parole, whichever is the later date;

4. If the applicant was placed on probation or deferred adjudication for a felony offense, less than five (5) years have elapsed since the date of successful completion of probation or deferred adjudication;
5. Less than five (5) 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 twenty-four-month period, the applicant has two (2) or more convictions of any misdemeanor offense or combination of misdemeanor offenses;
6. Less than five (5) years have elapsed since the date of the successful completion of probation or deferred adjudication for the last offense, whichever is the later date, if, within any twenty-four-month period, the applicant has been placed on probation or deferred adjudication two (2) or more times for any misdemeanor offense or combination of misdemeanor offenses;
7. Not have been convicted of, or discharged by probation or deferred adjudication for, driving while intoxicated:
 - (a) Within the preceding twenty-four (24) months; or
 - (b) More than one time within the preceding ten (10) years;
8. Not be addicted to the use of alcohol or narcotics; and
9. Be subject to no outstanding warrants of arrest.

(f) An applicant who has been sentenced for an offense listed in subsection (a)(7), for which the required time period provided by this ordinance has elapsed, may qualify for a tow permit only if the Director determines that the applicant is presently fit to engage in the occupation of a tow truck operator. 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;

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- (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.
- (g) 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 this article.
- (h) **A tow company shall notify the department not later than the 6th business day after a material change in a permit holder's application information.**
- (i) Cancellation of insurance without replacement shall result in the immediate suspension of any permit issued under this Section and removal from the list of tow services until such time that insurance coverage is re-established. Disciplinary action may be taken for any lapse in insurance coverage.

23-85 – Tow Truck Permit

- (a) Any tow truck that is used to perform any non-consent tow, or any part thereof, shall be **permitted** as a tow truck under this article and applicable provisions of state law, including, without limitation, V.T.C.A., Occupations Code Ch. 2308.
- (b) **Any apparatus (trailer, cargo carrier, heavy duty dolly, etc.) driven or drawn upon the roadway as part of any non-consent tow, or any part thereof, shall be permitted as a tow truck under this article and applicable provisions of state law, including, without limitation, V.T.C.A., Occupations Code Ch. 2308.**
- (c) **A person may not operate or permit another person to operate a tow truck for a non-consent tow initiating in the City unless the truck is permitted as a tow truck under this article.**

23-86 – Tow Truck Permit Application

- (a) An applicant for a tow truck permit must:

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- (1) File an application with DPD on a form prescribed by the Director;
 - (2) Submit the required, non-refundable fee;
 - (3) Provide verification that the tow truck is equipped to tow light-duty, **medium-duty**, or heavy-duty motor vehicles according to the manufacturer's guidelines; and
 - (4) Provide proof of insurance that meets the requirements of this Article.
 - (5) **Provide a legible copy of the truck's TDLR license (Cab Card).**
- (b) Upon application, the department will inspect the tow truck to determine compliance with the requirements of this article. If the tow truck is found in compliance, DPD shall issue proof of **permitting** to the applicant. The proof of permitting shall be attached to the tow truck for which it is issued, at the place on the tow truck designated by the Director. It shall be unlawful for any person to drive or operate a tow truck without proof of permitting being attached.
- (c) Requirements for permitting:
- (1) Each tow truck and operator must meet the signage, safety equipment, safety clothing, and identification requirements of V.T.C.A., Administrative Code, Sec. 86.701, 86.1000, and 86.1001, **this Article, rules and regulations of the Director, provisions of the annual permit, TDLR rules and regulations, FMCSA regulations, and other applicable law.**
 - (2) Each tow truck shall meet the following minimum requirements:
 - a. Except for heavy-duty tow trucks, the tow truck's chassis cab shall be rated at no less than one ton by the manufacturer and will be equipped by the manufacturer with dual wheels and tires at each end of the rear axle;
 - b. At all times the tow truck must carry tow lights with appropriate cable (unless wireless) and cushions to protect a vehicle's finish; and
 - c. At all times the tow truck must be equipped with safety (mud) flaps with the bottom edge of the safety flap no more than eight inches from the surface of a public roadway.
- (d) **The department shall issue a permit containing a single unique permit number for each tow truck.**
- (e) **A tow company shall notify the department not later than the 6th business day if a tow truck is sold or otherwise disposed of. The TCP holder shall remove the permit sticker affixed to the vehicle before disposal.**

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- (f) Additional vehicles, including trailers, shall be inspected for safety and compliance with this Article, rules and regulations of the Director, provisions of the annual permit, TDLR rules and regulations, FMCSA regulations, and other applicable law. These vehicles will be issued the same permit as a tow truck. Permitting is required for use under this Article.

23-87 – Tow Operator Permit Application

- (a) To obtain an annual permit, a tow operator shall make application to the Director in the manner prescribed by this Section. The applicant must be the person who operates a tow truck or tow company. An application required in this Section shall be notarized and shall be made on forms prepared and made available by the Police Department. An applicant shall file with the Director a written, verified application statement, to be accompanied by a nonrefundable application fee as set forth in the Schedule of Fees of this Article and a legible copy of the operator's TDLR license.
- (b) The application must contain the following:
 - (1) The name, home address, and business address of the operator.
 - (2) The business address, telephone number, and the location and telephone number of the sponsoring tow company;
- (c) DPD may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.
- (d) TOP application renewals will not be accepted between August 16th and September 30th each year. New TOP applications or employment changes will be processed during this time but might be delayed.
- (e) A TOP remains in effect until the following September 30th, regardless of the issue date.
- (f) A permit holder shall notify the department not later than the tenth (10th) business day after a material change in a permit holder's application information or a change in the permit holder's employment with the sponsoring tow company ends.

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23-88 - Booting Permit

- (a) A Booting Permit (BP) shall be issued only in conjunction with a P3 or CTP, only when requested on the application, and the supplemental fee has been paid. This permit shall only be issued at the time of annual renewals.

23-89 – Permit Renewal

- (a) Renewal applications shall be on a form furnished by the police department. Each permit shall expire at 23:59 hours on September 30th of each year, and will be renewable only upon compliance with this article and any other applicable laws, ordinances, and regulations in effect at the time of the renewal application.
- (b) Any person seeking a renewal of a permit for the next fiscal year must apply for renewal between **July 15th and August 15th. Applications will not be accepted between August 16th and September 30th each year.** Renewed permits shall become effective October 1 of each year.
- (c) An annual permit will be denied if:
- (1) The holder is not in compliance with the permit or applicable provisions of this Code, department regulations, or other law; or
 - (2) The holder does not qualify for operating authority under Section 23-84 of this article, or is otherwise not fit, willing, or able to continue to operate the tow service in accordance with the permit and applicable provisions of this Code, department regulations, and other law; or
 - (3) Public convenience and necessity do not require the continued operation of the tow service.
 - a. Minor changes may be made in a permit by the Director at the written request of the permit holder.
 - b. If the Director determines that a denial of a permit renewal or material change in the terms or conditions of the permit is required by public convenience and necessity, then he may deny renewal of the permit or make changes in the terms

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or conditions of the permit. A holder may request a change in the terms or conditions of their permit and the Director may grant the change if the change is required by public convenience and necessity.

- c. If the permit expires at no fault of the holder before a ruling on the approval or denial of the renewal, the holder may continue to operate the tow service pending a final decision. The holder shall cease operation of the tow service immediately upon denial of the request for renewal by the Director.
- d. A holder may file an appeal of the Director's decision not to renew a permit in accordance with this article.

Sec. 23-90. – Permit Revocation; Suspension.

- (a) If the Director determines that a tow company has failed to comply with this article or a regulation established under this article, the Director may suspend the tow permit of the company, truck, operator, or **booting permit**.
- (b) **The Director shall maintain guidelines for suspension, provide those guidelines to each tow company, and post those guidelines on the DPD website.**
- (c) If at any time the Director determines that a licensee is not qualified under Section 23-84 of this article, or is under indictment or has charges pending for any offense involving a crime described in Section 23-84 of this article, or criminal attempt to commit any of those offenses, the Director shall suspend the tow service permit until such time as the Director determines that the licensee is qualified or that the charges against the licensee have been finally adjudicated.
- (d) A licensee whose tow permit is suspended shall not operate a tow truck for any non-consent tows within the City.
- (e) The Director shall notify the licensee in writing of a suspension under this Section and include in the notice the reason for the suspension, the date the Director orders the suspension to begin, the duration of suspension, and a statement informing the licensee of a right of appeal. 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. **If the permit suspension is of a TOP, the Director shall similarly notify the sponsoring TCP holder.**
- (f) The Director may revoke a tow permit if the Director determines that the licensee:

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- (1) Operated a tow company or tow truck within the City during a period in which the tow permit was suspended;
- (2) Made a false statement of a material fact in an application for a tow service permit or any appeal relating to a permit;
- (3) Engaged in conduct that constitutes a ground for suspension under subsection (a), and received either a suspension on three (3) separate occurrences or a conviction for violation of this article two (2) times within the twelve-month period preceding the occurrence of the conduct or three (3) times within the twenty-four-month period preceding the occurrence of the conduct;
- (4) Engaged in conduct that could reasonably be determined to be detrimental to the public safety; or
- (5) Was convicted of any felony offense while holding a tow service permit.

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- (g) Notwithstanding Section 23-90(d), if the licensee appeals the suspension or revocation under this Section, the licensee may continue to operate on private property tows pending the appeal unless:
- (1) The tow permit of the licensee is suspended pursuant to subsection (c) or revoked pursuant to subsection (f)(1) or (f)(5) of this Section; or
 - (2) The Director determines that continued operation by the licensee would impose a threat to public safety.
- (h) After suspension or revocation of a permit, a TCP holder may file an appeal in accordance with this Article. The Director shall inspect the operation of the suspended holder to determine if the deficiency causing the suspension or revocation has been corrected by the holder. After inspection, the Director shall submit their recommendation together with supporting facts and evidence to the City manager or their designee.
- (i) After revocation of a permit, a TOP holder may file an appeal in accordance with this Article.
- (i) A person whose TCP is revoked shall not:
- (1) Apply for another tow company permit before the expiration of twenty-four (24) 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) Drive a tow truck on a non-consent tow in the City.
- (j) **A person whose TOP is revoked, or whose application for a permit is denied, may not reapply for a permit for at least twelve (12) months after the date of revocation or denial.**

Sec. 23-91. - Appeal.

- (a) A person may appeal the following decisions of the Director if he requests an appeal in writing, delivers it to the City manager, and pays the **non-refundable appeal fee** not more than five (5) business days after receiving notice of the Director's action:
- (1) a suspension or revocation of a TCP or BP;
 - (2) a revocation of a TOP;
 - (2) a denial of renewal of a tow permit; or
 - (3) denial of a tow permit application.
- (b) The City manager or their 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 on their behalf. The formal rules of

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evidence do not apply to an appeal hearing under this Section and the hearing officer shall make their 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.
- (d) **If the permittee is not allowed to operate under Section 23-90(g) pending appeal, the City must offer to hold the hearing within ten (10) business days following the date of notice or the licensee may operate pending final resolution of the appeal.**
- (e) **Failure of the permittee to agree to the scheduled time of the hearing offered by the City results in the forfeiture of the right to have said hearing conducted within the ten (10) day period and the permittee forfeits any right to operate pending final resolution.**
- (f) **If the permittee is allowed to operate pending appeal, the City shall hold the appeal hearing within twenty (20) calendar days.**

Division 3. – Towing and Booting Regulations 23-92

– Tow Company Regulations

- (a) If an owner, authorized operator, or authorized agent of the owner of a motor vehicle is present before the removal from the property or parked location of a fully prepared for transport vehicle the tow operator shall advise the owner, authorized operator, or authorized agent of the owner of a motor vehicle that he or she may offer payment of the towing drop charge in lieu of the vehicle being towed.
- (b) If an owner, authorized operator, or authorized agent of the owner of a motor vehicle is present before fully prepared for transport the tow operator shall advise the owner, authorized operator, or authorized agent of the owner of a motor vehicle that the operator will release the vehicle without charge.
- (c) A tow company that removes a vehicle in accordance with V.T.C.A., Occupations Code Ch. 2308 or in executing a repossession shall notify the department not later than one (1) hour after the removal from the property or the parking facility.
- (d) The notification must include:
 - (1) The name of the tow company;
 - (2) The date, time, and location of the removal;

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- (3) The physical description, license plate number, and vehicle identification number of the vehicle removed;
- (4) The name of the tow truck operator who performed the removal; and
- (5) The location of the vehicle storage facility where the vehicle is being stored.
- (e) **The notification shall be submitted via electronic mail to the address provided by DPD.**
- (f) **A permit holder must remain in compliance with all applicable laws, rules, regulations, policies, and ordinances set forth by Federal, State, and local authorities.**
- (g) **A TCP permit does not allow a person to perform booting operations or operate a booting company.**
- (h) Tow companies shall possess and maintain towing equipment that is adequate to perform towing services in a reasonably workmanlike manner and proper equipment to tow vehicles in such a manner as to minimize any damage to towed vehicles.
- (i) Tow companies shall possess and maintain on each truck appropriate equipment to properly remove any glass or other injurious substance off the roadway resulting from the vehicle being towed or the crash in which the vehicle was involved. This equipment includes brooms, shovels, trash/debris receptacles, and absorbent.
- (j) All equipment, including any tilt bed/roll back car carriers, shall be equipment originally designed for towing or transporting vehicles and shall be in good working order.
- (k) All equipment shall be available for inspection upon request of any police department employee.
- (l) Operators shall make every reasonable effort to minimize damage to towed vehicles. Where appropriate, such reasonable effort shall include, but is not limited to the following:
 - (1) Use of a dolly or carriage for towing;
 - (2) Disconnection of the drive shaft;
 - (3) Release of brakes; and
 - (4) Towing at a reasonable speed.
- (m) Any tow company operating under this article must keep and maintain for three (3) years from the date of towing the following records:
 - (1) Make and model of the vehicle;
 - (2) License number of the vehicle;
 - (3) Date of the tow;
 - (4) Location of hook-up;

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- (5) Itemized list of fees;
 - (6) **Name of the operator who performed the tow, and**
 - (7) Disposition of vehicle and name and address of the person who receives the vehicle, if not claimed by the owner or lien holder.
- (n) The permittee shall transport the vehicle directly to and store the vehicle in a TDLR licensed vehicle storage facility located within the City of Denton. The VSF must comply with this Article, applicable statutes, policies, ordinances, and regulations.
- (o) The operator will not be under the influence of, or consume an alcoholic beverage, drug, or other substance that could adversely affect the operator while conducting business regulated by this Article. The presence of a detectable amount of alcohol is sufficient to violate this provision.
- (p) **Any tow operator in contact with a member of the public or government while performing work under or related to a permit authorized by this Section or the Department shall not display behavior objectively derogatory, inflammatory, unsafe, illegal, or disorderly in any way. This includes failing to follow lawful and reasonable directions of the City. Such behavior constitutes an offense under this Article.**
- (q) The operator will be responsible for the disposal of unclaimed vehicles and will comply with the Vehicle Storage Facility Act, V.T.C.A. Occupations Code Ch. 2303, the Texas Department of Transportation's Motor Carrier Division regulations, any other statutes that affect the title transfer of a stored vehicle, and any other applicable City ordinances or state and federal laws.
- (r) **Towing operators must wear a reflective vest, shirt, or reflective jacket at all times while working outside the tow truck, including during the application of a boot or immobilization device. The reflective vest, shirt, or reflective jacket must meet the ANSI/ISEA requirements for high visibility safety apparel at all times when using or assisting in the use or operation of a licensed tow truck on a road or road related area.**
- (s) **When performing tow related or booting operations, all tow truck operators must carry and openly display the appropriate TDLR issued original towing operator license and the issued City of Denton photo ID.**
- (t) **Each tow company must display their Tow Permit certificate in a conspicuous place in the main customer area of their principal business location.**

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Sec. 23-93 - Sign Requirements

(a) Except as provided by V.T.C.A., Occupations Code Ch. 2308, an unauthorized vehicle may not be towed or booted unless a sign prohibiting unauthorized vehicles on a parking facility is:

- (1) facing and conspicuously visible to the driver of a vehicle that enters the facility;
- (2) located:
 - a. on the right or left side of each driveway or curb-cut through which a vehicle can enter the facility, including an entry from an alley abutting the facility; or
 - b. at intervals along the entrance so that no entrance is farther than 25 feet from a sign if:
 1. curbs, access barriers, landscaping, or driveways do not establish definite vehicle entrances onto a parking facility from a public roadway other than an alley; and
 2. the width of an entrance exceeds 35 feet;
- (3) permanently mounted on a pole, post, permanent wall, or permanent barrier;
- (4) installed on the parking facility; and
- (5) installed so that the bottom edge of the sign is no lower than five feet and no higher than eight feet above ground level.

(b) Except as provided by V.T.C.A., Occupations Code Sec. 2308.305, an unauthorized vehicle may be towed or booted only if each sign prohibiting unauthorized vehicles:

- (1) is made of weather-resistant material;
- (2) is at least 18 inches wide and 24 inches tall;
- (3) contains the international symbol for towing vehicles;
- (4) contains a statement describing who may park in the parking facility and prohibiting all others;
- (5) bears the words, as applicable:
 - (A) "Unauthorized Vehicles Will Be Towed or Booted at Owner's or Operator's Expense";
 - (B) "Unauthorized Vehicles Will Be Towed at Owner's or Operator's Expense"; or
 - (C) "Unauthorized Vehicles Will Be Booted at Owner's or Operator's Expense";
- (6) contains a statement of the days and hours of towing and booting enforcement; and

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- (7) contains a number, including the area code, of a telephone that is answered 24 hours a day to enable an owner or operator of a vehicle to locate a towed vehicle or to arrange for the removal of a boot from a vehicle.

Sec. 23-94 - Vehicle storage facility (VSF) required.

- (a) A tow company shall own, lease, or have a contract for the exclusive use of a licensed VSF to store a vehicle removed in an IM tow that is:
 - (1) Licensed by the State of Texas;
 - (2) Located within the City limits;
- (b) If a company utilizes a VSF of another under lease or contract for IM tows, the lessee must have exclusive use of the VSF. A copy of said lease or contract must be submitted to the City as part of the lessee's annual application for a TCP.
- (c) A tow company performing private property tows may tow to a VSF owned, leased, or operated by another TCP holder if:
 - (1) the VSF is licensed by the State;
 - (2) located within the City limits;
 - (3) the tow company utilizes a single VSF location; and
 - (4) the VSF maintains a designated, clearly marked portion of the facility for storing only vehicles delivered by the TCP.

Sec. 23-95 - Removal to a designated facility.

- (a) A tow company that performs a non-consent tow of a vehicle from private property:
 - (1) Shall immediately tow the vehicle to the tow company's designated vehicle storage facility; and
 - (2) May not unload the towed vehicle at a place other than the tow company's designated vehicle storage facility.

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Sec. 23-96 - Release of vehicle from storage; impoundment.

- (a) A vehicle storage facility may not refuse to release a vehicle in its possession to the vehicle owner, or the owner's agent, after the person pays the applicable fees, unless a law enforcement agency directed that vehicle not be released, or release of the vehicle is prohibited by a court order.
- (b) A person may not remove or attempt to remove a vehicle that is lawfully stored by a VSF unless the applicable charges are paid and accepted, or the person removing the vehicle has obtained permission from the vehicle storage facility.
- (c) A VSF must accept payment and release vehicles under this Article at any time of day with no restriction due to hour, holiday, or other impediment.

Sec. 23-97 - Booting of Unauthorized Vehicle.

- (a) A parking facility owner may, without the consent of the owner or operator of an unauthorized vehicle, cause a boot to be installed on the vehicle in the parking facility if signs that comply with V.T.C.A., Occupations Code, Chapter 2308, Subchapter G prohibiting unauthorized vehicles are located on the parking facility at the time of the booting and for the preceding 24 hours and remain installed at the time of the booting.
- (b) A boot operator that installs a boot on a vehicle must affix a conspicuous notice to the vehicle's front windshield or driver's side window stating:
 - (1) that the vehicle has been booted and damage may occur if the vehicle is moved;
 - (2) the date and time the boot was installed;
 - (3) the name, address, and telephone number of the booting company;
 - (4) a telephone number that is answered 24 hours a day to enable the owner or operator of the vehicle to arrange for removal of the boot;
 - (5) the amount of the fee for removal of the boot and any associated parking fees;
 - (6) notice of the right of a vehicle owner or vehicle operator to a hearing under V.T.C.A., Occupations Code, Chapter 2308, Subchapter J; and
 - (7) in the manner prescribed by the local authority, notice of the procedure to file a complaint with the local authority for violation of this chapter by a boot operator.

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Sec. 23-98 - BOOT REMOVAL.

- (a) A booting company responsible for the installation of a boot on a vehicle shall remove the boot not later than one hour after the time the owner or operator of the vehicle contacts the company to request removal of the boot unless
 - (1) the boot can be unlocked remotely; or
 - (2) the company provides an unlock code to the boot; and
 - (3) the owner, operator, or agent of the booted vehicle agrees to remove the unlocked boot and abide by the tow company's terms for removal.
- (b) A booting company shall waive the amount of the fee for removal of a boot, excluding any associated parking fees, if the company fails to have the boot removed within the time prescribed by Subsection (a).
- (c) A booting company responsible for the installation of more than one boot on a vehicle may not charge a total amount for the removal of the boots that is greater than the amount of the fee for the removal of a single boot unless the additional boot has been applied under Section 18-140. In this instance the regulations of Section 18 shall apply for removal, fines, fees, and payment.
- (d) On removal of a boot, the boot operator shall provide a receipt to the vehicle owner or operator stating:
 - (1) the name of the person who removed the boot;
 - (2) the date and time the boot was removed;
 - (3) the name of the person to whom the vehicle was released;
 - (4) the amount of fees paid for removal of the boot and any associated parking fees; and
 - (5) the right of the vehicle owner or operator to a hearing under V.T.C.A., Occupations Code, Chapter 2308, Subchapter J.
- (e) The booting company shall maintain a copy of the receipt at its place of business for a period of three years. A peace officer has the right, on request, to inspect and copy the records to determine compliance with the requirements of this Section.
- (f) A booting company shall accept payment by an electronic check, debit card, or credit card for any fee or charge associated with the removal of a boot. A booting company may not collect a fee for any charge associated with the removal of a boot from a person who offers

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to pay the charge with an electronic check, debit card, or credit card form of payment that the booting company is not equipped to accept.

- (g) It shall be unlawful for any person, other than an officer or employee of the tow company acting in the course and scope of their duties under this article, to remove or attempt to remove or to tamper in any manner with an immobilization device (boot) installed on any vehicle pursuant to this article.
- (h) It shall be unlawful for any person, except under the direction of a peace officer, to tow or move or to cause to be towed or moved any vehicle on which a boot is then installed pursuant to this article from the place where it was booted until twenty-four (24) hours have passed following the installation of the immobilization device (boot).
- (i) It shall be unlawful for any person, other than an officer or employee of the tow company acting in the course and scope of their duties or the owner or operator of the vehicle of a booted vehicle, to remove or relocate any notice placed upon a booted vehicle pursuant to this article.
- (j) If found guilty of an offense under this subsection, the punishment may be a not to exceed five hundred dollars (\$500.00).
- (k) A person causing damage to the property of another while tampering with or attempting to remove an immobilization device may be charged under this Section or another, but not both.
- (l) A person shall not place a replica, facsimile, or any other device resembling an immobilization device or boot a vehicle with the result of impeding, impairing, or interfering enforcement actions through immobilization or booting.
- (m) Intent is not required for an offense under this Section.

Division 4. – Enforcement

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Sec. 23-99 - Authority and Duties of the Police Department.

- (a) The City shall implement and enforce this article. Primary enforcement authority lies with the Denton Police Department.
- (b) In addition to the powers and duties elsewhere prescribed in this article, the department is authorized to:
- (1) Conduct random periodic investigations of tow companies and vehicle storage facilities licensed by the City concerning their compliance with this article and state law.
 - (2) Inspect tow trucks for compliance with vehicle and equipment safety standards established by this article.
 - (3) Conduct random inspections of tow truck records for compliance with state laws and public safety. Inspections should be performed in a reasonable manner so as to comply with the laws of the state.
 - (4) Conduct random inspections of vehicle storage facility records for compliance with state law and public safety. Inspections should be performed in a reasonable manner so as to comply with the laws of the state.
- (c) The Director is hereby authorized to establish a rotation list of tow services desiring to provide IM towing services upon request by the police department. The tow services which desire to be placed upon and remain on a rotation list shall comply with the requirements of this article, rules and regulations of the Director, provisions of the annual permit, regulations of the Texas Department of Transportation, and other applicable law. The Director is hereby authorized to establish rules and regulations to implement the provisions of this article.

Sec. 23-100 – Legal Compliance.

- (a) All tow companies, tow truck drivers, vehicle storage facilities, and property owners under this article shall comply with all applicable requirements of this article, rules and regulations of the Director, provisions of the annual permit, **TDLR rules** and regulations, FMCSA regulations, and other applicable law. A person commits an offense if the person:
- (1) Performs an act prohibited by this article;
 - (2) Fails to perform an act required by this article;
 - (3) **Operates a tow company in violation of this Article,**

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- (4) Operates a tow truck in violation of this article; or
- (5) Violates a rule adopted under this article.
- (b) Repeated violations (three (3) or more within a twenty-four (24) month period) by any employee or agent of a tow company of the terms and conditions of this article are sufficient to constitute a violation by an owner, part owner, or partner, silent or active, in addition to the violation by the employee or agent.
- (c) A violation of this article is subject to a fine or penalty as set forth in Section 23-101(n).
- (d) Proof of a mental state is not required for the prosecution of a violation of this article.
- (e) An exception to an offense under this article may be used as an affirmative defense.
- (f) If at any time the director determines that a permit holder, or an employee or agent of a permit holder, is not qualified under Section 23-84 of this article, or is under indictment or has charges pending for any offense listed in Section 23-84 of this article, or criminal attempt to commit any of those offenses, the director shall suspend the permit until such time as the director determines that the permit holder, employee, or agent, is qualified or that the charges have been fully adjudicated. A permit holder whose permit has been suspended under may not transfer or assign their permit to another person.

DIVISION 5. Schedule of Fees/Fines Sec

23-101 - Generally

- (a) The rates hereinafter described are to be utilized by tow companies for non-consent tows originating within the City limits of Denton and vehicle immobilization/booting pursuant to this article. This Section does not apply to a repossession.
- (b) A tow company may not charge more than one tow fee under this article for towing a single vehicle.
- (c) The towing fee schedule is established as part of this ordinance.
- (d) No towing fees may be charged other than those fees listed in this article, including charges for dollies, special equipment, fuel, or mileage.
- (e) Weight, for purposes of this article, shall be determined by the industry standard weight classes of the Federal highway Administration and FMCSA for specific vehicle types. In the event of a weight dispute, the registered curb weight of the vehicle(s) shall be added to the cargo/load manifest to determine the weight for billing purposes.

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- (f) If the owner, authorized operator, or authorized agent of the owner of a vehicle that is parked in violation of this Code or state law arrives before the vehicle is fully prepared for transport, the tow truck operator shall release the vehicle without charge.
- (g) If an owner, authorized operator, or authorized agent of the owner attempts to retrieve the motor vehicle before its removal from the property or parked location, a tow company may charge a fully prepared for transport fee (drop fee) when a vehicle has been fully prepared for transport but has not been removed from the property.
- (h) A tow company may charge the standard non-consent fee once it removes a fully prepared for transport vehicle from the property.
- (i) If the owner, authorized operator, or authorized agent of the owner of a vehicle that is parked in violation of this Code or state law arrives before an immobilization device and the required notice is completely installed on a vehicle, the operator shall release the vehicle without charge.
- (j) For payment of any fee under this article, except as prescribed in Section 23-105, a tow company or vehicle storage facility shall accept payment by cash, debit card, and credit card for any charge associated with the tow or storage of a vehicle. However, payment by credit or debit card may be refused if the named cardholder is not present.
- (k) Release of a vehicle may not be denied based on the inability of the tow company or vehicle storage facility to accept payment by electronic check, debit card, and credit card of any charge associated with delivery or storage of a vehicle, unless through no fault of the towing company or vehicle storage facility, it is unable to accept the debit card or credit card because of a power outage or a machine malfunction. In such case, payment due shall be frozen until a twenty-four-hour period of time has elapsed following notice of restoration to the retrieving party of the tow company's ability to accept such payment. The notice shall be documented by the tow company on the tow ticket.
- (l) In no way is this Section to be construed to mean that a tow company or vehicle storage facility may not charge less than the fees stated in the towing fee schedule. The fees in this Article are the maximum that can be charged for any tow, drop, boot, labor, or other fee related to the tow of a vehicle per this article.
- (m) A tow company or vehicle storage facility must provide a copy of the City of Denton Towing Customer Bill of Rights with each receipt for any non-consent tow performed within

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the City limits of Denton. This obligation may be satisfied by conspicuously posting a copy of the City of Denton Towing Customer Bill of Rights at the tow company or vehicle storage facility pay window and posting a copy on the company and/or facility publicly **accessible website**.

- (n) **Under V.T.C.A., Local Government Code, Ch. 54, The City may enforce each rule, ordinance, or police regulation of the municipality and may punish a violation of this ordinance with a fine or penalty. The maximum fine is listed in V.T.C.A., Local Government Code, Ch. 54.001 (not to exceed \$500). Each violation is a separate offense. A person violating a provision of this Article is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted.**

Sec. 23-102 - Tow Fees

- (a) The maximum amount that may be charged if the owner, authorized operator, or authorized agent of the owner of a motor vehicle that is parked without the authorization of the property owner attempts to retrieve the motor vehicle before the vehicle is fully prepared for transport shall be equal to that allowable under TX Administrative Code 86.455 (c). (Drop Fee).
- (b) The maximum amount that may be charged for non-consent tows shall be equal to that allowable under TX Administrative Code 86.455 (b).
- (c) **In addition to the tow fee, each non-consent tow subsequently released for payment shall incur a fifteen-dollar (\$15) administrative fee to offset the implementation and enforcement of this Article.**
- (1) **The fee shall be listed on all tow tickets as "Local Regulation Fee" and is payable to the City monthly.**
 - (2) **The due date for this payment shall be the last business day of each month for the preceding month.**
 - (3) **The process to remit payment to the City shall be established by DPD and shall be posted on the DPD website.**
 - (4) **Failure to remit payment to the City timely may result in immediate suspension of any permit issued by the City to the tow company under this article.**
 - (5) **The balance due will incur a late fee calculated on an annual basis to the maximum extent allowed by law.**

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(d) The above fees are the only fees that may be charged for the tow of a vehicle except: (1) For IM tows, additional labor necessary to complete the on-scene requirements of a tow may be charged only after the first hour has elapsed from the arrival of the tow truck on the scene as documented by DPD. The rate is inclusive of any additional personnel, equipment, and/or apparatus utilized.

(2) The time should be billed in ¼ hour (15-minute) intervals. Any part of the interval constitutes the entirety of the interval. The maximum allowable fee is:

- a. Light/Medium Duty: \$150.00/hour
- b. Heavy Duty (Tow): \$500.00/hour
- c. A fee prescribed in Section (f) below

(e) Any charge for additional labor shall require the tow operator on scene to obtain a signature on the tow ticket from the primary officer on the scene approving the time spent on scene in excess of the one (1) hour included in the base charge. A copy of this tow ticket must be emailed to the Director within 3 hours of leaving the scene of the incident.

(f) Additionally, for IM tows, the following fees might be charged in addition to the base fee and any additional labor:

- (1) Submerged Fee (Fully - Water is above the bottom sill of all door windows, the vehicle is on its roof or side in 12 inches or more of water, or in mud at least 6 inches deep). \$250+any additional labor charges
- (2) Submerged Fee (Partial – Water is above the center of all 4 wheels, 2 or more wheels are completely submerged, or in at last 3 inches of mud). \$100+any additional labor charges
- (3) Burned Fee (when any vehicle has experienced a fire which has compromised the structure of the vehicle or causes discharge of debris or fluid related to the fire that necessitates additional clean-up or transport preparation). \$100+any additional labor charges
- (4) Out-of-City Mileage – At the request of the driver/owner of, and upon approval of the officer in charge of the incident, a vehicle removed as an IM tow may be taken to a location outside the City. The fee for this service shall

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be no more than five dollars per mile (\$5.00) with no charge for the first 10 miles. Mileage shall be calculated from point of vehicle hook-up to point of vehicle drop-off as calculated by a publicly available mapping application and a copy of this routing shall be maintained in the records of the tow company with the tow ticket.

Mileage is one-way only.

Sec. 23-103 - Recovery Fees

- (a) Recovery fees may be charged, in place of the fees for a heavy-duty tow, on a per-pound basis to ensure the safe and efficient removal of vehicles and/or cargo from a scene to minimize the risk to responding personnel and expedite the reopening of impacted roadways.
- (b) A schedule of fees for per-pound recovery fees will be set by and maintained by DPD.
- (c) The fee schedule shall be posted on the DPD website.
- (d) This schedule of fees may be reviewed and may be adjusted once per calendar year at the written request of two (2) or more permitted tow companies providing heavy-duty IM tow services within the City or if deemed necessary by the Director.
- (e) The review shall be conducted within ninety (90) days of receipt of a formal request.
- (f) Any revisions shall be issued and take effect within thirty (30) days of the review, unless controlled by another part of this article.
- (g) The review shall consist of a meeting of the City and any permitted tow company conducting heavy-duty IM tow services within the City.
- (h) It is the responsibility of the requesting permitted tow companies to present argument and evidence to support any adjustment to the per-pound recovery schedule of fees.
- (i) No increase of fees shall exceed the greater of one-half (1/2) cent annually without authorization of the City Council in which case any adjustment would take effect after approval.
- (j) Weight shall be determined as described in this article.
- (k) This Article does not address services and/or charges related to scene mitigation.

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Sec. 23-104 - **Extraordinary Situations**

- (a) In the event of an extraordinary situation where the tow company believes this Article does not adequately and fairly provide for the billing of services rendered, the company may contact the Director within three (3) hours of leaving the scene of the incident and request consideration of additional charges.
- (b) If the incident occurs outside of normal business hours, on a weekend, or on a holiday, the company may contact dispatch, within three (3) hours of leaving the scene, through the non-emergency number and request contact from the on-duty traffic supervisor for approval.
- (c) Failure to submit the request within the allotted timeframe will result in the denial of charges.
- (d) Excessive denied requests will be reviewed for misconduct.

Sec. 23-105 - **Immobilization/Booting Fees**

- (a) The fee for the removal of a boot or immobilization device shall not exceed eighty-five dollars (\$85).
- (b) A booting company shall accept payment by electronic check, debit card, or credit card for any fee or charge associated with the removal of a boot (Occ. Code 2308.257(e)). (c) In addition to the boot fee, each boot shall incur a fifteen-dollar (\$15) administrative fee to offset the implementation and enforcement of this Article. The fee shall be listed on all boot receipts as "Local Regulation Fee" and is payable to the City monthly. The due date for this payment shall be the last business day of each month. The process to remit payment to the City shall be established by DPD and shall be posted on the DPD website. Failure to remit payment to the City timely may result in immediate suspension of all permits issued by the City to the booting company under this article. The balance due will incur a late fee of ten (10) percent on the first of each month until paid in full.
- (d) If an immobilized or booted vehicle is subsequently towed after the twenty-four (24) hour waiting period prescribed by this Article, the maximum allowable fee for the boot is twenty-five dollars (\$25).
- (e) If an immobilized or booted vehicle is subsequently towed after the twenty-four (24) hour waiting period prescribed by this Article, the maximum allowable "Local Regulation Fee" is fifteen dollars (\$15).

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Sec. 23-106 - Permit Application Fees

- (a) The Application fee for an initial permit or renewal of an Incident Management Permit (IMP) shall be three hundred (\$300) dollars. The application fee shall include the fee for up to:
- (1) Five (5) Tow Operator Permits (TOP);
 - (2) Five (5) Tow Truck Permits (TTP); and
 - (3) One tow permit certificate
- (b) The Application fee for an initial permit or renewal of a Private Property Permit (P3) shall be three hundred (\$300) dollars.
- (1) Five (5) Tow Operator Permits (TOP);
 - (2) Five (5) Tow Truck Permits (TTP); and
 - (3) One tow permit certificate
- (c) The Application fee for an initial permit or renewal of a Combined Tow Permit (CTP) shall be five hundred (\$500) dollars. The application fee shall include the fee for up to:
- (1) Ten (10) Tow Operator Permits (TOP);
 - (2) Eight (8) Tow Truck Permits (TTP); and
 - (3) One tow permit certificate
- (d) The Application fee for any additional initial permit or renewal of a Tow Truck Permit (TTP) shall be one hundred (\$100) dollars. The application fee shall include the fee for:
- (1) Initial compliance inspection of the vehicle or apparatus.
 - (2) One (1) reinspection of the vehicle or apparatus inspection in the event of failure of the initial inspection.
 - (3) One (1) permit sticker to affix to the vehicle or apparatus as prescribed by this Article.
- (e) If additional tow truck inspections are required due to vehicle or apparatus failure of any reinspection, the fee for each additional inspection shall be one hundred (\$100) dollars.
- (f) Inspection fees must be paid prior to the inspection and a receipt presented to the inspector for verification.
- (g) The fees for any additional initial permit or renewal of a Tow Operator Permit (TOP) shall be thirty (\$30) dollars. This fee includes:
- (1) application fee (\$15).
 - (2) photo ID badge (\$15).

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- (h) A replacement TTP permit sticker or TOP photo ID badge shall incur a fee of fifteen (\$15) dollars.
- (i) The fee to add a Booting Permit to a P3 or CTP shall be two hundred (\$200) dollars.
- (j) The fee required to secure an appeal hearing shall be:
 - (1) One Hundred (\$100) dollars for an appeal regarding a TCP or BP appeal; and
 - (2) Fifty (\$50) dollars for an appeal regarding a TOP appeal.
- (k) All fees are due upon application.
- (l) All fees are nonrefundable.

Sec. 23-107 - EFFECTIVE DATE

- (a) This Article repeals and replaces in its entirety Article IV (Police-Initiated Towing Services), codified in Sections 23-81 through 23-103, and Article V (Non-Consent Towing), codified in Sections 23-110 through 23-175, of the City Code or Ordinances.
- (b) Upon approval of this ordinance, permits that were previously issued pursuant to Sections 23-96 and 23-97 of Article IV, and Sections 23-137 through 23-145 of Article V, and which are not currently suspended or revoked, shall remain in effect and each applicant for a permit (renewal or initial) under this Article will then have thirty (30) calendar days to submit their application. No application will be accepted after thirty (30) calendar days.
- (c) Applications will be processed as they are received.
- (d) All applications submitted under paragraph (c) will be processed within sixty (60) calendar days. During this processing period, permits that were previously issued as set forth in paragraph (c), and which are not currently suspended or revoked, shall remain in effect.
- (e) Once the sixty (60) day processing period referenced in paragraph (e) has ended, new applications may be filed in accordance with the permitting process set forth in this Article.
- (f) If a permit application is denied under the provisions of this Article, a permit issued under paragraph (c) is immediately revoked.
- (g) Tow truck inspections must be completed within forty-five (45) days of the effective date of this ordinance.

Article V. – Impoundment of Vehicles for No Insurance or No Valid Driver’s License

Sec. 23-108 - Definitions

- (a) *Driver's license* has the meaning assigned by V.T.C.A., Transportation Code Sec. 521.001.
- (b) *Financial responsibility* means a current motor vehicle insurance policy meeting at least the state minimum amounts of liability as described in V.T.C.A., Transportation Code, sections 601.071 through 601.088, or other forms of financial responsibility as described in V.T.C.A., Transportation Code, sections 601.121 through 601.124.
- (c) *Insurance/insured* means motor vehicle insurance coverage on a specific motor vehicle at the level of liability insurance meeting at least the state minimum amounts as described in V.T.C.A., Transportation Code, sections 601.071 through 601.088, or other means of coverage as described in V.T.C.A., Transportation Code, sections 601.121 through 601.124.
- (d) *Operator* means, as used in reference to a vehicle, a person who drives or has physical control of a vehicle
- (e) *Police Department* means the City of Denton Police Department (Police Department or DPD), its officers, professional staff, and employees.
- (f) *Proof of financial responsibility* means a valid automobile insurance policy or policy card that lists the name of the insured or authorized drivers, the insured vehicle, the name of the insurance company, the company telephone number, the policy number, the beginning and expiration dates of coverage, and/or other information as required by law, or, in lieu of this information, any other document that proves financial responsibility as described in V.T.C.A., Transportation Code, sections 601.121 through 601.124.
- (g) *Valid* means, in reference to a driver’s license, that the license meets the terms and conditions of V.T.C.A., Transportation Code, Ch. 521. A license must also, as indicated by the class of license, authorize the operator to operate the class and type of vehicle in order to be valid.

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Sec. 23-109 - Conditions of Towing

- (a) During the course of a traffic stop and/or any other incident wherein a peace officer for the City makes contact with the operator of a motor vehicle, upon request by the peace officer, the operator must provide proof of financial responsibility to the peace officer.
- (b) In the event that the operator is without proof of financial responsibility, a citation should be administered to the operator.
- (c) An officer has the discretion to arrest an operator of a vehicle if, in the exercise of his/her discretion, the officer determines it is appropriate to arrest the driver based upon the circumstances as presented to the peace officer at the time.
- (d) If the officer determines that the operator is without proof of financial responsibility, the officer may have the vehicle(s) impounded. An officer has discretion regarding the impoundment of such vehicle and may not impound the vehicle if he/she believes it is not in the best interest of the public or the operator.
- (e) Prior to impoundment of the motor vehicle for failure to show evidence of financial responsibility, the officer shall verify the status of financial responsibility by utilizing or obtaining the utilization of a verification program established pursuant to V.T.C.A., Transportation Code, Ch. 601, Subchapter N.
- (f) An officer may take additional steps to verify proof of financial responsibility. The officer may take, but is not limited to taking or obligated to take, the following actions:
 - (1) Contacting the operator's purported insurance company or insurance agent to confirm whether coverage is in effect;
 - (2) Contacting a parent or guardian (if the operator is a minor) to confirm whether coverage is in effect; and/or
 - (3) Contacting the lienholder, if any, indicated on the vehicle's title record to confirm whether coverage is in effect.
- (g) Prior to impoundment of the motor vehicle for failure to show a valid driver's license appropriate for the type of vehicle operated by the operator of the motor vehicle, the police officer shall verify the status of licensure by utilizing or obtaining the utilization of a database of valid motor vehicle licenses.

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(h) As noted previously within this article, an officer may not impound a vehicle if it is shown not to be in the best interest of the public or the operator. Factors which may play a part in an officer making such a decision are, but not limited to, the following:

- (1) Whether the operator and occupants appear to have an alternate means of safely leaving the location;
- (2) The age of the operator and occupants of the vehicle;
- (3) The physical and/or mental condition of the operator and occupants of the vehicle;
- (4) The present demand for the resources of the officer(s) who would be involved in the impoundment; and
- (5) Other general mitigating circumstances.

Sec. 23-110 - Procedurally

- (a) Motor vehicles impounded for failure to maintain financial responsibility **or no valid driver's license** will be towed at the owner's expense.
- (b) The tow company on call for the Police Department will be responsible for the impoundment. Requests for private tows or for a specific wrecker company made by the operator will not be honored.
- (c) When an officer decides that a vehicle will be impounded for violating the provisions of this article, the officer shall complete a vehicle inventory, regardless of whether the operator was arrested or only issued a citation.
- (d) Motor vehicles for which proof of financial responsibility has not been provided shall not be released to another driver at the scene.
- (e) **Motor vehicles will only be released at the scene to another person that has a valid driver's license.**
- (f) An officer shall make reasonable efforts to provide for the safety of the operator and any occupants once their vehicle has been impounded.

CHAPTER 18 – MOTOR VEHICLES AND TRAFFIC

Article IV – Stopping, Standing and Parking

Division I – Generally

Sec. 18-104. - Impoundment of standing or parked vehicles.

(a) A vehicle removed and towed under the authority of V.T.C.A. Transportation Code § 545.305 shall be kept at the place designated by the police department until application for redemption is made by the owner or his authorized agent or other person legally entitled to possession of the vehicle. The police department shall require adequate proof of ownership or proof of the right to possession of the vehicle. The fees and conditions set forth in chapter 23, article IV, of this Code of Ordinances shall apply to this Section.

(b) It shall be unlawful for any person to remove or attempt to remove a vehicle from a city pound location without first paying the towing and storage fees which have accrued on the vehicle.

(c) Upon payment of all towing and storage fees, a vehicle impounded by the police department pursuant to the enforcement of the provisions of this Code may be released to the lienholder or his authorized agent holding a valid and existing mortgage lien on the vehicle impounded, provided the mortgage lienholder complies with the following requirements:

(1) Furnish the police department, for its inspection:

- a. The mortgage lien contract or a certified copy thereof specifying that upon default of the mortgagor the mortgagee is entitled to possession of such vehicle;
- b. The certificate of title with the lien appearing thereon.

(2) Furnish to the police department an affidavit stating that he holds a lien on the vehicle impounded, that the mortgagor has defaulted, that the mortgage lienholder desires possession and is entitled to possession of such vehicle under a valid court order and agrees to indemnify and hold harmless the city, its police department and its employees or agents upon delivery to him of the vehicle.

(d) The city shall refund all towing and storage fees to the registered owner or lienholder or other person legally entitled to possession of the vehicle if the municipal court or other court of

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competent jurisdiction determines that the impoundment of the vehicle was improper. Application for a refund shall be on forms prepared by the city attorney's office.

(e) When a vehicle is authorized to be towed away, the police department shall keep and maintain a record of the vehicle towed, listing the color, year, make, model, vehicle identification number and license plate number and year displayed on the vehicle. The record shall also include the date of tow, by what commercial towing service, location towed from, location towed to, reason for towing, the name of the officer authorizing the tow and copies of all notices to owners or lienholders.