



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas

www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Police

CMO: Sara Hensley

DATE: November 19, 2024

SUBJECT

Consider adoption of 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.

BACKGROUND

The towing and impoundment of vehicles in the City is regulated by the following provisions of the City Code of Ordinance:

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)

Chapter 23, Article V (Non-Consent Towing)

There have been no updates to Chapter 18, Section 18.104(a)(1-6) since 2015. To address numerous changes to State and Federal level regulations regarding towing fees and to the economic environment, the Police Department is recommending changes to Chapter 18, Section 18.104(a)(1-6).

There have been no updates to Chapter 23, Article IV, since 2006, and no updates to Chapter 23, Article V, since 2015. Due to concerns that some tow companies operating in the city have been taking advantage of regulatory loopholes to charge excessive fees, the Police Department is recommending amendments to Chapter 23, Article IV and Article V.

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. The Police Department is recommending changes to Chapter 18 and Chapter 23 to allow for enforcement, which includes a fine, upon conviction, not to exceed \$500 for each violation.

Texas Occupations Code Chapter 2308, Section 2308.2085 (Local Authority Regulation of Booting Activities) grants a local authority to right to regulate booting activities. Booting is less expensive, less time consuming, and less burdensome process for the owner/operator of a vehicle. The proposed amendments to Chapter 23 authorize booting and the regulations applicable thereto.

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) or is operating a vehicle without a valid driver's license. 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). 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. The amendments to Chapter 23 contain Article V, which allows for the impoundment of a vehicle if the operator cannot show proof of financial responsibility or does not possess a valid driver's license. Police Officers will be allowed to use their best judgment in deciding whether impoundment is appropriate in any given circumstance.

The Police Department is recommending the passage of these amendments as they serve 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.

Representatives from the Police Department met with tow company operators and tow truck drivers on several occasions to discuss the proposed amendments and after receiving feedback, incorporated some of those suggestions in the proposed amendments.

PRIOR ACTION/REVIEW

October 15 Council Work Session

FISCAL INFORMATION

The Police Department currently has four civilian employees that handle towing related issues, including processing applications and conducting criminal history checks on tow companies and tow truck drivers. The amendments provide for a \$15 administrative fee for each non-consent tow, which will be used to offset the cost of hiring a full-time employee dedicated to managing the administration of the towing ordinance.

RECOMMENDATION

Staff recommends the approval of this item.

EXHIBITS

Exhibit 1: Agenda Information Sheet

Exhibit 2: Proposed Code Amendments

Exhibit 3: Ordinance

Respectfully submitted:

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Chief of Police

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