

ORDINANCE 2019-12

AN ORDINANCE OF THE CITY OF LA FERIA, TEXAS AMENDING SECTION 4 OF THE LA FERIA CODE OF ORDINANCES ESTABLISHING REGULATIONS FOR WRECKER BUSINESSES, PROVIDING DEFINITIONS, ESTABLISHING A ROTATION AND SERVICE LISTS, ESTABLISHING GUIDELINES FOR WRECKER BUSINESSES, ESTABLISHING FEES FOR TOWING AND STORAGE OF VEHICLES, ESTABLISHING RESPONSE TIMES PROVIDING FOR A SAVINGS CLAUSE AND EFFECTIVE DATE.

ARTICLE 4.11 WRECKER BUSINESSES

Sec. 4.11.001 Definitions

For the purposes of this article, the following terms shall have the meanings respectively ascribed to them in this section:

Abandoned vehicle. A motor vehicle that has been left on private property without the consent of the property owner for a period in excess of five (5) calendar days or as defined in article 12.03, divisions 1 and 2 of the parking regulations of the city.

Accident or collision. An accident or collision means a situation where one or more motor vehicles have collided with any other motor vehicle or object.

Auto wrecker. A motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor or electric vehicle.

Chief of police or police chief. The chief of police of the city or his/her designated representative.

Consent tow. Any tow conducted with the permission of, or at the direction of, the towed vehicle's legal or registered owner, or such owner's authorized representative or vehicle operator. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle. Except as set forth in the definition of nonconsent tow, a tow will be considered a consent tow where the owner is able to give consent or authorization.

Nonconsent tow. The tow of a motor vehicle in every instance in which the vehicle's legal or registered owner, lienholder, or the owner's authorized representative or vehicle operator is unwilling or unable to designate a tow operator to remove the vehicle, including instances in which the vehicle is: (1) abandoned or stolen; (2) a wrecked vehicle that is unable to operate safely pursuant to the traffic laws of the state; or (3) being operated by a person who is the subject of a custodial arrest or who is physically or mentally unable or unwilling to request a wrecker company, tow operator, or destination, when a law enforcement officer determines that no other authorized person is present and able to remove the vehicle. Regardless of this definition, city police officers may control the scene of an accident in the manner they deem appropriate and order a nonconsent tow.

Pecuniary interest. Money, property or commercial interest, the primary significance of which is economic gain. Pecuniary interest does not include any agreement by which a wrecker registered to one permit holder may provide service to another permit holder, nor any monies paid pursuant to such an agreement.

Permit. Authorization granted by the chief of police under the provisions of this article to engage in towing from the wrecker rotation list in the city. A permit to operate as a vehicle storage facility lot shall only be valid for the location set out in the application.

Permit holder. Any wrecker company possessing a current, valid permit to engage in towing from the wrecker rotation list in the city. No person other than the person to whom a permit to operate a vehicle storage facility has been issued, or his agents or employees shall operate the vehicle storage facility.

Police scene. A police scene or scene of collision or accident is a place at which:

- (1) An accident has taken place that is subject to a field investigation conducted by a law enforcement officer;
- (2) A law enforcement officer has recovered a stolen vehicle;
- (3) A vehicle has been abandoned in a roadway;
- (4) A custodial arrest by a law enforcement officer has taken place; or
- (5) A vehicle is otherwise subject to removal or impoundment pursuant to law by a law enforcement officer.

Redtagged vehicles. A motor vehicle that has been identified for towing by the police department for parking, traffic, or code violations or a junked vehicle as defined in section 8.04.001 of this code.

Tow. The removal from public or private property of a vehicle, including a trailer towed by the vehicle, by means of an auto wrecker only.

Tow operator. Any individual who drives an auto wrecker.

Vehicle. An electrical or motorized 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. A person:

- (1) Named as the purchaser or transferee in the certificate of title issued for the vehicle under chapter 501, Transportation Code;
- (2) In whose name the vehicle is registered under chapter 502, Transportation Code, 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. The site to which a permit holder shall tow and/or store vehicles picked up under the provisions of this article. The site shall accommodate parking for at least twenty (20) vehicles parked in an orderly manner. No vehicle may be stored or kept on any vehicle storage facility operating under a permit issued under this article unless it is kept inside the fenced area at all times. The site shall be located within the city limits, its extraterritorial jurisdiction, or within three (3) miles of these areas, and must be leased or owned by the permit holder. The site must be licensed by the state.

Wrecked vehicle. A vehicle that, due to a collision, is incapable of being driven or moved.

Wrecker company. A person or legal entity operating a tow truck registered under Tex. Transportation Code Ann. chapter 643 (Vernon 1999). The term includes the owner, operator, employee, or agent of a towing company, but does not include a political subdivision of the state.

Wrecker company office. A building located in the city limits, or its extraterritorial jurisdiction, and owned or leased by the permit holder, being the permit holder's primary business location and housing all of the permit holder's business records, phones and personnel with regular business hours Monday through Saturday and on Sundays and legal holidays with the same being posted in the building. This may be, but is not required to be, the same as the permit holder's vehicle storage facility.

Wrecker rotation list. A list of permit holders prepared in accordance with the provisions of this article.

Sec. 4.11.002 Scope

- (a) This article applies to all wrecker movements within the city, except for those performed by governmental entities.
- (b) Unless exempted by state law, it shall be unlawful for any person to operate a wrecker company, or to perform wrecker movements for nonconsent tows in the city without a permit issued in accordance with this article.
- (c) This article does not prohibit a wrecker company that has obtained a certificate of registration or permit from the state, from making a consent tow through the limits of the city.
- (d) All permit holders under this article shall comply with all applicable state laws. A failure to comply with state laws will be a violation of this article.

Sec. 4.11.003 General regulations

- (a) **Obedience to police at accident scene; interference with police.** All wrecker drivers at a police scene shall obey all lawful orders given them by any law enforcement officer investigating such scene and shall not in any manner knowingly or intentionally interfere with such law enforcement officer in the performance of his duty.
- (b) **Wrecker driven to police scene or scene of collision.** No person shall drive, or cause to be driven, a wrecker to or near the scene of a collision on a street in the city unless such

person has been called to the scene by the police department. In situations where a wrecker driver is a certified emergency medical technician, such driver may stop and render aid as required by law but such wrecker driver will not be able to tow at such collision except pursuant to the rotation list.

(c) Police transmitter inside wrecker unlawful. It shall be unlawful for any wrecker or wrecker service to have a police transmitter inside any wrecker operating within the city limits.

(d) Wrecker driver's relationship with police officers. All wrecker drivers arriving at the place where any accident has occurred shall obey all lawful orders given them by any police officer investigating such accident and shall not in any manner interfere with such officer in the performance of his duty.

(e) Parking of wrecker at scene of accident. Whenever a wrecker arrives at the place where a vehicle has been disabled, the wrecker driver shall park his wrecker as close to the street curb as possible and otherwise dispose of it in a manner that does not interfere with traffic. He shall not park his vehicle within a distance of twenty-five (25) feet from a wrecked or disabled vehicle.

(f) Duty of wrecker driver to clear debris. Where vehicles to be towed have been involved in an accident or is an otherwise damaged or disabled vehicle, it is the responsibility of the wrecker drivers to ensure that any glass or other debris or parts accumulated as the result of an accident or collision from the street are removed from the scene of the accident to the satisfaction of the officer investigating the accident. In the event two (2) or more wreckers pick up vehicles for towing, it shall be the duty of each driver to clear and remove debris, parts or glass from the street. The fees established in section [4.11.012](#) of this code for the nonconsent tows are inclusive of glass, parts, and debris cleanup and removal for services other than tows requiring heavy-duty wreckers. For consent tows, any additional service fees for those services shall be disclosed on the wrecker slip.

(g) Issuance and expiration of permits; renewal; fee.

(1) The chief of police shall issue an annual permit to engage in towing from the wrecker list to applicants complying with the provisions of this article, for a total of thirteen (13) wrecker companies to comprise the wrecker list. A permit may be evidenced by a windshield sticker.

(2) No permit shall be granted to any person who had a pecuniary interest in a wrecker business whose permit has been suspended within the preceding twelve (12) months. This shall include any stockholders, officers, directors, managers or partners.

(3) Each permit holder must present the wreckers for inspection annually by January 1 at the police department.

(4) Each company desiring to be on the wrecker list shall pay an annual nonrefundable inspection fee as provided for in section [A4.11.007](#) of the fee schedule found in appendix A of this code.

(5) A wrecker company or wrecker failing to pass inspection shall pay a nonrefundable reinspection fee, as provided for in section [A4.11.007](#) of the fee schedule found in appendix A of this code, per additional inspection.

(6) No permit shall be granted to any person or company whose name appears on

the current delinquent tax rolls of the city.

(h) Vehicle operator to designate wrecker company. When a police officer investigating a collision determines that any vehicle involved in a collision is unable to safely proceed under its own power, or when the police officer determines that the driver of any vehicle involved in a collision is physically unable to safely move the vehicle to a location where it will not create a traffic hazard, such officer shall request the driver to designate the permit holder he desires to remove the vehicle, and the police officer shall contact the driver's designee.

(i) Wrecker rotation list operation. In the event a police officer requires the removal of a vehicle and the vehicle operator does not designate the permit holder of his choice, due to the operator's arrest or incapacitation, the officer shall request the permit holder next to be called from the wrecker rotation list.

(j) Parking in residential areas. Except in the following situations, no person shall drive or park a permitted wrecker in a residential area within the corporate limits of the city:

(1) Where a consent tow has been requested;

(2) Where a wrecker has become inoperable and is waiting for transportation to a repair facility; or

(3) Where the police department has directed such activity.

(k) Business name; fences, paving, signs, etc. No name other than the name set out in the application as the name under which the business is conducted may be used for advertising, for telephone listing or for the conduct of the automobile storage business at a storage lot authorized to operate as a vehicle storage facility.

(1) If a vehicle storage facility permit holder desires to change the name under which it conducts business, the permit holder shall file a notice of such change with the police department on a form designated by the city at least ten days before the name of the vehicle storage facility is changed. Such notice shall show the license number issued under this chapter for the vehicle storage facility, the current name under which business is conducted, the name that will be used, and the date on which the change of name shall be made. Only one name may be used at any one time for the conduct of business at a vehicle storage facility.

(2) Each vehicle storage facility operating under a permit issued under this article:

(A) Shall be shielded from view from any public roadway, enclosed by a privacy fence at least six (6) feet in height constructed from materials approved by the city planning department, and a gate that is locked at all times while the permit holder or an agent or employee is not at the vehicle storage facility to insure twenty-four (24) hour security;

(B) Shall have an all-weather surface of concrete, asphalt, blacktop, stone, macadam, limestone, iron ore, gravel or shell;

(C) Shall have a sign clearly readable from the street setting out the name of the vehicle storage facility, the street address, the hours vehicles will be released to vehicle owners, and the city license number of the vehicle storage facility;

(D) Shall have a sign setting out the charges for towing vehicles, the per diem charge for storage and all other fees that may be charged by the vehicle storage facility. This sign shall be located so that it is clearly visible to a vehicle owner prior to payment of the fees;

(E) Shall have an operable telephone. If at any time, the number of the telephone located at the vehicle storage facility is changed from the number set out in the application for permit to operate as a vehicle storage facility, the permit holder shall give written notice of the change to the police department prior to the date the new number is used setting out in such notice the name of the storage facility, its location, its city license number, the old telephone number and the new telephone number.

(I) Inspection and report. When the permit holder, agent or employee of a vehicle storage facility accepts a vehicle towed without the consent of the vehicle owner, such person shall inspect the vehicle and note, as an addition on the wrecker slip, any differences from the information previously set out thereon, but shall not write over or deface in any manner any prior writing on the wrecker slip. If the license plate number or vehicle identification number on the wrecker slip was incorrect, the vehicle storage facility shall notify the police department of the correct number within 30 minutes of the time the vehicle was delivered to the vehicle storage facility if delivered during hours the vehicle storage facility must ensure that vehicles may be released or within two hours from the time the vehicle storage facility must ensure vehicles may be released if the vehicle was delivered during any other time.

(m) Inspection by police. The permit holder shall ensure that all automobiles and parts thereof located on a vehicle storage facility are available and accessible for inspection by any police officer during the hours the vehicle storage facility must ensure that vehicles may be released to vehicle owners.

(n) Right of owner of stored vehicle to inspect wrecker slip. Whenever a person claims ownership or right of possession to a motor vehicle located on a vehicle storage facility operated under a permit issued under this article, such person shall be entitled to inspect the wrecker slip for the motor vehicle, and shall not be required to pay any fees or charges prior to inspecting the wrecker slip.

(o) Duty to provide attendant, etc. The permit holder of a vehicle storage facility that has on its property vehicles that were towed without the consent of the vehicle owner shall be responsible to ensure that vehicles may be received at any time and that motor vehicles may be released to the vehicle owner twenty-four (24) [hours] a day, seven (7) days a week. Additionally, the permit holder of a vehicle storage facility that has on its property vehicles that were towed without the consent of the vehicle owner shall be responsible to ensure that the vehicle owner have access to their vehicle for retrieval of personal belongings twenty-four (24) [hours] a day, seven (7) days a week. During the hours the permit holder shall ensure that vehicles may be released, someone must be at the vehicle storage facility who has authority to release the vehicles to the vehicle owners or a phone must be provided so that a vehicle owner can contact someone who is able and will in fact be at the vehicle storage facility within 30 minutes of receiving such a call and who is able to release the vehicles.

Sec. 4.11.004 Duties of permit holders

(a) Insurance.

(1) All permit holders shall carry public liability and property damage insurance in the amount decided by the city commission.

(2) All permit holders shall maintain automobile liability insurance, \$1,000,000.00 combined single limit per occurrence.

(3) All permit holders shall maintain a certificate of cargo insurance to cover damage to a towed vehicle during hook-up and/or towing in the minimum amount of \$50,000.00; or a surety bond in the amount of \$50,000.00.

(4) Workers' compensation or occupational safety insurance.

(5) All drivers of auto wreckers shall be named insured on operator's liability insurance policy.

(b) Call response.

(1) All permit holders shall be allowed no more than twenty (20) minutes to respond to a call anywhere in the city limits. If the responding wrecker fails to meet this time requirement, whether in route or not, the call shall immediately be canceled and the next rotation wrecker called.

(2) Any permit holder unable to respond, for whatever reason, for five (5) times or three (3) consecutive times during any one (1) year [period], shall be subject to suspension and/or revocation pursuant to section [4.11.009](#) of this article.

(3) All permit holders shall store all vehicles picked up under the provisions of this article at their respective vehicle storage facility unless otherwise instructed by the owner of the vehicle.

(c) Service hours. A permit holder operating a wrecker, must maintain a twenty-four (24) hour wrecker service, seven (7) days a week, and have two (2) telephone numbers, one of which is answered twenty-four (24) hours a day, seven (7) days a week. The permit holder must be able to immediately advise the chief of the availability of a tow truck. The wrecker company must have two-way voice communication between the wreckers and the wrecker company's office.

(d) Solicitations by permit holders prohibited. No permit holder, or his employee, shall solicit, in any manner directly or indirectly, on the streets of this city, a wrecker's business involving any vehicle that has been wrecked or otherwise disabled on a public street. This prohibition applies regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading, selling, or purchasing such vehicle. Proof of the operation of a wrecker by any person engaged in a wrecker business by or near the scene or site of a wreck or collision on a public street in the city without having first complied with the provisions of section [4.11.003](#)(g) or (h) of this article shall be prima facie evidence of a solicitation in violation of this section.

Sec. 4.11.005 Wrecker requirements

(a) General.

(1) All permit holders shall maintain wreckers meeting the requirements of this article.

(2) All wreckers shall be in such condition that they can safely and readily be used as a wrecker.

- (3) All permit holders shall provide wreckers with qualified and capable drivers, and/or operators with the knowledge and experience satisfactory to the chief of police.
- (b) Wrecker lifting capacity. Each wrecker shall be equipped with a power operated winch with a lifting capacity of not less than eight thousand (8,000) pounds single line capacity, as reflected by a manufacturer's certificate.
- (c) Standard equipment.
- (1) Each wrecker shall carry as standard equipment: two (2) safety chains, one (1) 2.5 pound A.B.C. fire extinguisher, wrecker bar, broom and dust pan.
- (2) Each wrecker with a rated capacity of three (3) tons or greater shall be equipped with booster brakes.
- (3) Each wrecker must be equipped with dual rear tires.
- (4) Upon request of a police officer or vehicle owner, the permit holder must make available a wrecker with a specially designed wheel lift attachment. This need not be a requirement for every wrecker unit, but each permit holder must own at least one (1) so equipped.
- (5) Each wrecker shall carry a trash receptacle capable of holding all debris from a vehicle accident scene.
- (d) Carrying capacity. Each wrecker's carrying capacity shall not be less than one (1) ton as reflected on the manufacturer's certificate for the vehicle.
- (e) Name. Each wrecker must have the permit holder's name permanently displayed on each side of the wrecker at least three (3) inches in size.

Sec. 4.11.006 Wrecker rotation list operation

- (a) The chief of police shall establish and cause to be maintained one (1) wrecker list of wrecker companies domiciled within the city limits, its extraterritorial jurisdiction, or within three (3) miles of these areas, and must be leased or owned by the permit holder, as follows:
- (1) A rotation list that indicates all validly permitted wrecker companies and shall only be used for nonconsent tows of vehicles involved in traffic accidents, arrests or traffic hazards; and
- (2) A service list that shall be the same as the rotation list, but shall only be used for nonconsent tows involving abandoned and/or redtagged vehicles or city vehicles.
- (b) Such list shall be made available for inspection during regular business hours. The list shall contain a designation of each permit holder qualified to be on the list in order of rotation list number. The list shall be reviewed every two (2) years at the discretion of the police chief. As each new permit holder becomes qualified, it shall be placed at the end of the list. Each permit holder shall make his or her records available to the chief of police or his designee during regular business hours at the primary office of the permit holder within the city or its extraterritorial jurisdiction. In the event no permit holder agrees to be placed on the service list, then all permit holders will be automatically assigned to the service list by the police chief and subject to the provisions of section 4.11.009 of this article.

(c) Nothing in this article shall be construed to either create rotation and/or service lists or set maximum towing fees for consent tows.

Sec. 4.11.007 Fees

Each permit holder shall charge fees according to the classification for the service provided. Fees shall be as provided for in the fee schedule found in sections [A4.11.007](#) and [A4.11.012](#) of appendix A of this code.

Sec. 4.11.008 Contractual agreement between wrecker owner and permit holder

No permit holder may engage in more than one (1) contractual agreement to provide wreckers to another permit holder.

Sec. 4.11.009 Violation procedures; enforcement; penalties

- (a) The police chief, or his designee, shall enforce the terms and provisions of this article.
- (b) The police chief, or his designee, may promulgate procedures to carry out and enforce the provisions of this article.
- (c) The police chief, or his designee, may immediately revoke the permit if he finds either of the following to be true:
 - (1) The permit was procured by fraudulent conduct or false statement of a material fact or that any fact concerning the applicant was not disclosed at the time of application and such fact would have constituted just cause for refusal to issue the permit; or
 - (2) The permit holder's insurance has been cancelled, is no longer in force for whatever reason, the amounts of insurance have been reduced, or the permit holder does not furnish proof of financial responsibility upon demand by the police chief, or his designee.
- (d) The police chief, or his designee, may revoke the permit or suspend the permit holder from the rotation and/or service list if he finds any of the following to be true:
 - (1) The permit holder illegally solicited tow or repair services at a police investigation;
 - (2) The permit holder on a rotation or service list refuses to tow a vehicle when requested by the police department;
 - (3) The permit holder exceeded the fee schedule;
 - (4) The permit holder has violated any of the requirements or provisions of this chapter, any of the rules and regulations established by the police chief, or his designee, or the city or any state or federal law or regulation;
 - (5) The amount of towed or stored vehicles exceed the permissible capacity of the vehicle storage facility as defined in section [4.11.001](#) of this article;
 - (6) The permit holder parks towed or stored vehicles outside of the vehicle storage

facility for more than 30 minutes, whether situated on private or public property.

(e) Upon complaint being filed by any person with the chief of police of a violation of any of the terms or provisions of this article, or the violation of any of the applicable laws of the state, federal government, or city, the chief of police shall, after fifteen (15) days' written notice, to the holder of a permit under this article, on the grounds of such complaint, or upon the chief's motion, conduct a hearing to hear evidence with reference to such complaint or motion. Should such hearing reveal a violation of any of the terms of this article or the laws of this state or federal government, or ordinances of the city, the police chief, or his designee, may suspend, cancel, or revoke the permit of such permit holder as set forth below.

(f) After the police chief has held the hearing and investigation upon the complaint or motion for the suspension, cancellation, or revocation of a permit of any permit holder, he shall make his findings and declare the same in writing to the permit holder within fifteen (15) days after such hearing.

(g) The permit holder, in cases of revocation, shall have the right to appeal to the city commission. The request for appeal must be made, in writing, to the city secretary within ten (10) days of notification. Upon receiving such request for appeal, the city commission, as soon as practicable thereafter, shall notify the appellant as to whether or not such an appeal will be heard and if the council approves such an appeal, it then may hear such and shall either sustain or reverse the revocation of the police chief.

(h) If no appeal is taken from the police chief's action within ten (10) days of notification, as set out herein, then the decision of the police chief shall be final.

(i) The period of administrative action per calendar year shall be as follows:

(1) For the first violation, not more than thirty (30) days;

(2) For the second violation, not more than ninety (90) days; and

(3) For the third or subsequent violation, such period of suspension, cancellation or revocation as the police chief may determine, including permanent revocation.

(j) Unless otherwise provided, a person who violates any provision of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$200.00 nor more than \$500.00; provided, however, if the person is convicted of an offense under this article that is also a violation of the penal laws of the state, the person shall be subject to the penalties set out in the state penal laws for the offense. Each day that any violation continues shall constitute and be punishable as a separate offense.

(k) The administrative penalty set forth in this section shall be independent of and may be in addition to any other penalties assessed pursuant to any violation of any ordinance of the city or statute or administrative code of the state. The determination of whether the violation is significant shall be within the sole discretion of the police chief.

Sec. 4.11.010 Actions to be taken after vehicle storage facility permit lapses or is suspended or revoked

If a permit to operate a vehicle storage facility is not renewed or is suspended or revoked, or if a vehicle storage facility surrenders its permit for any reason, the former holder shall continue to comply with section [4.11.003\(o\)](#) and all provisions of this article relating to the care of

vehicles on the vehicle storage facility, the moving of such vehicles from the vehicle storage facility and the release of such vehicles to vehicle owners until all vehicles that have been brought to the lot without the vehicle owner's consent have been released to the vehicle owner or moved from the vehicle storage facility.

Sec. 4.11.011 Surrender of permit after suspension; no refund of fees after revocation

(a) In the event a vehicle storage facility permit is suspended for a definite period of time, the permit shall be surrendered to the city immediately upon demand of the police department and shall be void and of no effect during the period of such suspension.

(b) In the event a vehicle storage facility permit is revoked, the city shall not be liable to the holder for any refund or any part of the fee paid for the permit.

Sec. 4.11.012 Maximum charges

Maximum charges for nonconsent tows and storage fees arising out of tows originating within the city limits or extraterritorial jurisdiction of the city shall not exceed those as provided for in section [A4.11.012](#) of the fee schedule found in appendix A of this code.

Sec. 4.11.013 Miscellaneous requirements

(a) Conflict of interests by city officials. No member of the police department shall have any ownership interest in any vehicle storage facility that is required to be authorized under the provisions of this article or in any towing company that holds a police-authorized tow service agreement. No other appointed or elected official or employee of the city shall have any ownership interest in any vehicle storage facility where there may be a conflict of interest due to the person's position or duties. This section shall not be applicable to members of the automotive board.

(b) Permits and licenses.

(1) Permits enumerated in this subsection shall be denied if the applicant (1) has been convicted of any of the designated offenses within the seven-year period immediately preceding the date of the filing of the application or has spent time in jail or prison during the seven-year period immediately preceding the date of filing of the application for such a conviction; or (2) is subject to deferred adjudication in connection with any of the above offenses. The seven-year limitation shall not apply to any felony conviction for any sexual offense or offense involving violence, including, but not limited to, murder. Additionally, the permit shall be subject to denial, revocation, or refusal for renewal, as applicable, if the permittee has been convicted of any of the designated offenses since the application was filed. Provided, however, no such permit shall be denied, revoked, or refused for renewal if the conviction was set aside as invalid or if it is found that the permit should not be denied, revoked or refused for renewal under chapter 53 of the Texas Occupations Code.

(2) The following shall be grounds for denial, revocation, or refusal if the applicant or permittee has been convicted of the following:

(A) Any violation of the ordinances or statutes regulating the sale, trade, servicing, storage, handling, dismantling, or destruction of any motor vehicle or motor vehicle parts, accessories, or supplies.

- (B) Any offense involving fraud or misrepresentation.
- (C) Any offense involving felony theft, robbery, or burglary.
- (D) Any offense involving bribery or perjury.
- (E) Any offense involving violence to any person except for conduct that is classified as no greater than a class C misdemeanor under state laws.
- (F) Any felony conviction for any violation of any state or federal laws regulating firearms.
- (G) Any offense involving forgery.
- (H) Any offense involving the theft or unauthorized use of a motor vehicle.
- (I) Any offense involving prostitution, the promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution.
- (J) Obscenity.
- (K) Any offense involving rape, sexual abuse, sexual assault, enticing of a child, rape of a child, sexual abuse of a child, indecency with a child, or sexual performance by a child.
- (L) Harboring a runaway child as described in chapter 25 of the Texas Penal Code.
- (M) Possession or promotion of child pornography.
- (N) Sale, distribution or display of harmful material to a minor.
- (O) Employment harmful to children.
- (P) Any offense involving the felony possession or delivery of drugs.
- (Q) Any offense involving driving a motor vehicle while intoxicated, whether under the influence of alcohol or drugs, or both.
- (R) Any offense involving gambling or possession of gambling paraphernalia.
- (S) Four or more moving violations of the traffic laws of the state or any other state, each of which arises from a separate incident, occurring within any 12-month period during the three years immediately preceding the application for a license or of the notice of a hearing for revocation of a license.
- (T) Any violation of state laws relating to the operation of motor vehicle storage lots.

(3) This section shall not limit the right of the city to deny, revoke or refuse to renew any license or permit on any grounds set out in the ordinance relating to such permit except insofar as such license or permit is denied or revoked on the basis of a criminal conviction.

(Ordinance 2009-08 adopted 7/14/09)

PASSED AND APPROVED THIS THE 3rd DAY OF DECEMBER 2019.

APPROVED:



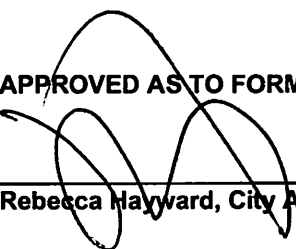
Olga H. Maldonado, Mayor

ATTEST:



Amanda Morales, City Secretary

APPROVED AS TO FORM:



Rebecca Hayward, City Attorney