

CITY OF CANEY CITY
ORDINANCE NO. 2013-02
WRECKER/IMPOUND GOVERNMENT ENTITY FEE

An Ordinance of the City of Caney City, Texas, providing Definitions, Procedures, Authority of Police Officers, License Requirements, Obligations of Wrecker Company, Liabilities of Wrecker Company, Towing and Storage Charges, Audit Authority, Assessment and Collection of Fees, and Insurance.

NOW THEREFORE:

Be it ordained by the City Council of the City of Caney City, Texas:

1. **DEFINITIONS:** For the purpose of this Ordinance, the following definitions shall apply unless context clearly indicates or requires a different meaning.

A. **City** - The City of Caney City, Texas.

B. **Consent Tow** - Any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include the tow of a motor vehicle initiated by a police officer investigating a traffic accident or a traffic incident that involves the vehicle, or who arrests the operator of the vehicle for an alleged offense and is required by law to take the person into custody.

C. **License Holder** - Any person who holds a current valid license for a wrecker to provide non-consent towing services within the city and Henderson County.

D. **Motor Vehicle** - Any vehicle that is self-propelled.

E. **Non-Consent Tow** - Any tow of a vehicle that is not initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term includes a tow of a motor vehicle initiated by a police officer.

F. Owner - Any person who holds the legal title of a motor vehicle or who has the legal right possession thereof, or the legal rights of said vehicle.

G. Permit Holder - Any person who holds a current, valid permit to provide non-consent towing services within the city.

H. Person - An individual person, firm, corporation, or association.

I. Street - Any public street, alley, public place, square, or highway within the corporate limits of the city.

J. Tow Truck/Wrecker - A motor vehicle used for the purpose of towing or removing disabled or wrecked vehicles.

K. Towing/Wrecker Company - The business of towing, removing, storage/impound of disabled, wrecked and/or police designated vehicles off the streets of the city and engaging in providing towing services to the general public.

L. Vehicle - Every device in or by which any person or property is or may be transported or drawn upon a public highway, except devices moved only by human power or used exclusively upon stationary rails or tracks, and shall include trailers and semitrailers.

M. Wrecker Selection Form - The form for selection of wrecker companies, prepared and used as provided in number 6 below.

2. WRECKER LIST:

The Caney City Police Department shall use Holt Wrecker Company (Holt Wrecker) to provide non-consent towing or collision response towing, in response to a request for services from a police officer pursuant to the procedures set forth below. Holt Wrecker or their designated substitute, shall consist solely of permit holders holding a valid, current permit required by this Ordinance and who are in compliance with the terms of holding such permit at the time of the request for towing services.

3. PROCEDURE FOR CONTACTING WRECKER SERVICE:

A. When a police officer investigating an accident determines that any vehicle which has been involved in a collision or accident upon a public street is unable to proceed safely under its own power or when the owner thereof is physically unable to drive such vehicle such officer shall:

(1) Request the owner to designate on the Wrecker Selection Form the towing or wrecker company the owner desires to remove the vehicle. Such designation by the owner shall be indicated on said form by writing in the blank space provided, the name of the company selected, and the form when completed shall be signed by the owner. The police officer shall give a copy of the authorization thus made on the form to the owner, and the tow truck or wrecker driver, and shall retain for record the original thereof. Upon leaving duty on the same day, the police officer shall place such original in a well-bound book in the Police Department provided for that purpose.

(2) When the owner has designated the towing or wrecker company desired, the police officer shall communicate that fact immediately to the Police Department headquarters (Henderson County dispatch, Tool Police Department dispatch), and the officer receiving such information or other appropriate dispatcher shall then cause the designated towing or wrecker company to be called and directed to send to the scene of the accident a wrecker capable of removing the disabled vehicle.

(3) If the designated towing or wrecker company does not have a wrecker available of the type authorized by State and Federal law to move the vehicle or the Caney City Police Department is unable to contact the requested company, the owner will be requested to make another designation.

(4) In the event that the owner is unable or unwilling to designate another towing or wrecker company, and the Caney City Police Department is unable to contact the requested company, or the company does not respond in a timely manner, and it is necessary to remove the vehicle for public safety reasons, or to protect such vehicle in the event the owner is incapacitated, or the owner of the vehicle so requests, Holt Wrecker will be called to tow the vehicle to the location designated by the owner; provided that if in such event the owner does

not specify a designation to which the vehicle will be removed, the vehicle may be removed to Holt Wrecker storage site.

B. In the event the owner of a vehicle involved in an accident or collision is physically unable to designate the towing or wrecker company desired, or refuses to designate a towing or wrecker company, the police officer shall call Holt Wrecker and request Holt Wrecker tow the disabled vehicle to the Holt Wrecker storage/impound lot.

C. In the event that a vehicle is operated by a person whom a police officer arrests for an alleged offense and the officer is required by law to take the person into custody, the officer shall call Holt Wrecker for non-consent towing service. Failure of Holt Wrecker to deliver a licensed wrecker, of the type required, to the scene within 30 minutes of notification without justification acceptable to the police officer, shall cause Holt Wrecker to forfeit the call. The officer, at his discretion, may select an alternate license wrecker service from the list of wrecker companies provided by the Chief of Police.

4. AUTHORITY OF POLICE OFFICER AT SCENE OF DISABLED VEHICLE:

The officer in charge at the collision scene or at the location of a disabled vehicle on a public roadway may, if the safety of the public requires it or if otherwise authorized under Texas Transportation Code 545.305, as amended, take steps as needed to insure public safety, including but not limited to:

A. Directing that any vehicle be taken to impound lots owned or used by the city;

B. Directing that any vehicle be delivered to a specific location authorized by Texas transportation code 545.305, as amended; or

C. Excluding any person from the investigation area who in the opinion of the officer may hinder an investigation.

5. POLICE OFFICER NOT PERMITTED TO RECOMMEND WRECKER COMPANY:

No police officer investigating or present at the scene or site of any wreck, accident, or collision on a public street shall, directly or indirectly, either by word, gesture, sign or otherwise, recommend to any person the name of any particular person engaged in the towing or wrecker service or repair business; nor shall any such police officer influence or attempt to influence in any manner the decision of any person in choosing or selecting a towing, wrecker or repair service. Provided, that any police officer, in the exercise of his discretion as a police officer, may direct that any vehicle (whether towed by a company selected by the owner of the vehicle or from Holt Wrecker) shall be taken by the driver of the tow truck or wrecker towing the vehicle directly to Holt Wrecker storage lot. The Officer may inform the owner of a vehicle to be towed that Holt Wrecker is the official towing company for the City.

6. WRECKER SELECTION:

The City of Caney City posted a notice at City Hall and advertised in the official City newspaper for providers of Towing and Impound Services. Holt Wrecker was the only company that responded. Holt Wrecker is the only wrecker company that Caney City Police Department shall use for non-consent tows. In the event Holt Wrecker is unable to respond, Holt Wrecker shall designate a wrecker service which will act on behalf of Holt Wrecker in performing all its responsibilities as if Holt Wrecker had performed the tow. Holt Wrecker is responsible and liable in every way for all acts under this Ordinance for the wrecker company they choose including payment to their substitute wrecker company and payment of fees to the City. Holt Wrecker is responsible for assuring all non-consent tows are delivered to the Holt Wrecker impound/storage facility per this Ordinance.

7. INSPECTION OF STORAGE FACILITIES:

The Caney City Chief of Police may inspect storage/impound facilities at any time. The Police Chief has the responsibility to approve/disapprove a facility.

8. LICENSE REQUIREMENTS:

Holt Wrecker shall comply with Texas Department of Licensing and Regulations (TDLR).

9. OBLIGATIONS OF WRECKER COMPANY:

Holt Wrecker shall comply with each of the following obligations as a condition under this Ordinance:

A. Holt Wrecker shall remove all wreckage and debris from a collision scene, except for vehicle cargo or hazardous waste, as part of the services rendered in response to a call from the city.

B. Holt Wrecker shall exercise reasonable care and caution to avoid destruction or contamination of any item that a police officer may determine to be of evidentiary value.

C. Holt Wrecker shall perform services provided pursuant to this Ordinance in a professional manner and in compliance with all applicable local, State, and Federal laws and regulations, and shall comply with the provisions of Texas Civil Statute Article 6687-9a, the Vehicle Storage Facility Act, as amended from time to time.

D. Holt Wrecker shall be available to release the vehicles on which there are no investigative holds seven days a week, 24 hours a day with one hour notice. When a vehicle is under investigative hold by the Caney City Police Department, the police officer in charge of the investigation shall inform Holt Wrecker that the vehicle is under an investigative hold. Holt Wrecker shall obtain the name and badge number of the officer charged with authorizing the release of any vehicle which has been impounded under the direction of the Caney City Police Department and shall hold such vehicle until its release is authorized by such officer.

10. NOTIFICATION OF IMPOUNDMENT:

Holt Wrecker shall notify the operator or owner of any towed vehicle of the location of their facility.

11. SOLICITATION AT ACCIDENT SCENE:

No person shall solicit business at the scene of any traffic accident or collision on a public street in a manner to disrupt, impede or otherwise interfere with the flow of traffic or the provision or conduct of police, fire or emergency medical services. Proof of the presence of any person engaged in the towing for hire or wrecker business, or the presence of any wrecker or motor vehicle owned or operated by any person engaged in the towing for hire or wrecker business, at or near the scene or site of a wreck, accident, or collision on any public street in the city, within one hour after the happening of such wreck, accident, or collision, shall, absent such person or wrecker being called to the scene of such accident or collision by the Police Department or owner of a vehicle involved in the accident, be prima facie evidence of a solicitation in violation of this Ordinance.

12. TOWING CHARGES AND STORAGE:

Holt Wrecker shall comply with all Texas Department of Licensing and Regulations (TDLR).

13. AUDIT OF BOOKS:

The Chief of Police may audit the books of Holt Wrecker to ensure compliance with governing permissible towing charges and fees. Upon request, Holt Wrecker shall allow the Chief of Police access to all documentation demonstrating towing and storage fees for non-consent tows.

14. CIVIL LIABILITIES:

Holt Wrecker assumes all responsibilities for the vehicle when Holt Wrecker takes custody of the vehicle and its contents, including but not limited to, damage of any kind or theft during their custody of the vehicle.

15. GOVERNMENT ENTITY FEE:

Holt Wrecker shall collect a fifty dollar (\$50) Government Entity Fee as provided for in the Texas Department of Licensing and Regulations (TDLR). The Government Entity Fee shall be paid to the City of Caney City, no later than the 15th day of each month following the previous month's collection period.


16. INSURANCE:

Holt Wrecker must provide and maintain at a minimum, insurance policies as required by the State of Texas, TDLR liability requirements and cargo insurance which covers all potential liabilities for their actions and obligations under this Ordinance. Proof of insurance must be provided to the City of Caney City initially and at the beginning of each renewal period. Holt Wrecker, by accepting a towing contract from the City of Caney City, agrees to defend itself and the City against all claims and law suits pertaining to Holt's custody of a towed vehicle.

The City, hereby adopts this Ordinance No. 2013-02:


PASSED AND APPROVED THIS THE 8 day of August, 2013.

APPROVED:


Joe Barron
Mayor, Caney City



ATTEST:


Jamey Locke
City Secretary, Caney City