

STATE OF TEXAS

AN ORDINANCE OF THE CITY COUNCIL OF SEGUIN, TEXAS, AMENDING THE SEGUIN CODE OF ORDINANCES CHAPTER 106, VEHICLES FOR HIRE SECTIONS 106-102, AND 106-111, TO ADDRESS ISSUES THAT HAVE OCCURED IN THE FIELD; DIRECTING STAFF TO SUBMIT THIS ORDINANCE AS A SUPPLEMENT TO THE SEGUIN CODE OF ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, as part of their operations in managing incidents involving motor vehicles the Seguin police department frequently needs the assistance of a tow truck; and

WHEREAS, the current Towing Ordinance states that city staff will meet with the towing companies every two years to determine whether or not any of the Towing Ordinance needs to be amended; and

WHEREAS, as a result of the last meeting with the companies, city staff recommends that the Towing Ordinance be amended as shown below.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Seguin, Texas:

SECTION ONE. The Seguin Code of Ordinances Chapter 106, Vehicles for Hire, Section 106-102, Definitions, is amended as follows (underlining indicates added text, ~~striketrough~~ indicates deleted text):

In this article:

Accident means a situation in which damage has occurred to a vehicle rendering it unsafe to operate or incapable of operation.

Category A wrecker means or refers to a wrecker having a rated towing capacity of at least one ton and less than four tons.

Category B & wrecker means or refers to a wrecker having a rated towing capacity of at least four tons.

Chief of police means the chief of police of the city.

Consent tow means the towing of a motor vehicle with the consent of the vehicle owner or lienholder.

Motor vehicle means a self-propelled vehicle.

Non-consent tow means the towing of a motor vehicle without the consent of the vehicle owner.

Parking facility has the meaning given that term in the Texas Occupations Code, Chapter 2308, as amended.

Parking facility owner has the meaning given that term in the Texas Occupations Code, Chapter 2308, as amended.

Participating storage facility means a private vehicle storage facility that accepts vehicles towed as police-authorized tows.

Police-authorized tow means a non-consent tow of a motor vehicle from a police scene with the authorization of a police officer.

Police scene means:

- (1) A place at which an accident has occurred that is subject to investigation by a police officer;
- (2) A place at which a police officer has discovered a stolen vehicle;
- (3) A place at which a vehicle has been abandoned in a roadway;
- (4) A place where a custodial arrest by a police officer has taken place; or
- (5) Any other place at which a vehicle is subject to removal or impoundment by a police officer pursuant to law.

Principal person, with respect to a wrecker service registration, means

- (1) The individual who owns the wrecker service, if the owner is an individual;
 - (2) Each partner owning an interest in the wrecker service, if the owner is a partnership;
 - (3) Each officer of the corporation that owns the wrecker service, if the owner is a corporation;
- and
- (4) The manager of the wrecker service.

Rotation system means the system established under division 2 of this article that provides for the summoning of wreckers to perform police-authorized tows.

Rotation wrecker service means a wrecker service that holds a current valid registration for placement in the rotation system.

Storage facility means a private vehicle storage facility that accepts vehicles towed as non-consent tows originating in the city limits.

Storage Facility Regulations means the state vehicle storage facility regulations, 43 T.A.C. Section 18.80 et seq., as amended.

Tow means the use of a wrecker to transport another vehicle, whether by pulling, carrying, pushing, or any other method.

Vehicle means a device that can be used to transport or draw persons or property on a highway.

Vehicle owner or *owner of the vehicle* means the owner of a vehicle or person listed on a valid policy of

insurance in covering the vehicle.

Vehicle Storage Facility Act means Texas Occupations Code Chapter 2303, as amended.

Wrecker means any motor vehicle used for the purpose of towing, carrying, pushing or otherwise transporting any other vehicle.

Wrecker driver means a person who operates a wrecker.

SECTION TWO. The Seguin Code of Ordinances Chapter 106, Vehicles for Hire, Section 106-111, Rotation system registration, is amended as follows (underlining indicates added text, ~~strike through~~ indicates deleted text):

- (a) The police department shall create two rotation systems for police-authorized tows:
 - (1) The general duty system shall be limited to six wrecker companies operating Class A tow vehicles.
 - (2) Heavy duty commercial vehicle system shall be limited to three wrecker companies operating at least one Class **B 8** tow vehicle.
- (b) Each wrecker service that meets the qualifications under subsection (b) may elect to participate in the police department rotation system for performing police-authorized tows by submitting a fully completed rotation system registration form to the chief of police. The registration form must contain, at a minimum, all of the following information regarding the wrecker service:
 - (1) The business name, address, telephone number, fax number, e-mail address and website (if one exists).
 - (2) The name, address, and phone number of each principal person of the service.
 - (3) The normal business hours.
 - (4) The name and telephone number of the person designated by the service for taking after-hours calls.
 - (5) The name of the operator and the address and phone number of the storage facility to which the service will tow vehicles.

The registration form must be accompanied by a current certificate of insurance for the wrecker service. The certificate must list the city as an additional insured, and must provide that that the insurance carrier will give notice to the police department at least 30 days prior to any cancellation or expiration of the coverage.

- (c) To be eligible for registration on the police department rotation system, a wrecker service must meet all of the following requirements:
 - (1) The wrecker service must have a properly operating wrecker available for service at all times,

fully equipped in accordance with section 106-113.

(2) The wrecker service must comply at all times with the insurance requirements in section 106-114.

(d) The City Council may establish a fee to cover the costs of registration and vehicle inspections. Such fee, if established, shall be set out in Exhibit C, Fee Schedule, of the Seguin Code of Ordinances.

(d) Participation in the police department rotation system by a wrecker service is a privilege and does not constitute any form of property right of a wrecker service.

(f) Two separate rotation lists and activity logs will be maintained by the police department. The first list will consist of Category A rotation wrecker services having at least one Category A wrecker. The second list will consist of Category **B 8** rotation wrecker services having at least one Category **B 8** wrecker.

(f) A new rotation wrecker service registration may be submitted any time during the year. A registration is valid only for the calendar year for which it is issued. Each rotation wrecker service registration must be renewed each year by submission of a new registration form and supporting information on or after December 1st, and no later than December 31st, for the following year.

SECTION THREE. The Seguin Code of Ordinances Chapter 106, Vehicles for Hire, Section 106-139, Fees; forms of payment, is amended as follows (underlining indicates added text, ~~strikethrough~~ indicates deleted text):

(a) It is unlawful for an operator of a participating storage facility to charge any fee that is prohibited or not authorized by, or which exceeds a maximum fee set under, the Storage Facility Act or the vehicle storage facility regulations, in connection with the storage of a vehicle towed as a police-authorized tow to the facility.

(b) An operator of a participating storage facility must accept all of the following forms of payment for vehicle storage charges for a vehicle towed as a police-authorized tow:

- (1) Cash.
- (2) Credit or debit card.

(c) It is unlawful for a person who makes payment for vehicle storage charges for a vehicle towed as a police-authorized tow by ~~money order or~~ credit card or debit card to stop payment on the money order ~~or~~ rescind a credit or debit card charge.

SECTION FOUR. The Seguin Code of Ordinances Chapter 106, Vehicles for Hire, Section 106-140, Invoices; forms of payment, is amended as follows (underlining indicates added text, ~~strikethrough~~ indicates deleted text):

(a) A vehicle storage facility must provide each vehicle owner who reclaims a towed vehicle with an invoice in accordance with this section at the time a towed vehicle is reclaimed.

(b) Each invoice must include the vehicle storage facility name, business address and phone number, facility's state vehicle storage facility number, the date and time the vehicle was impounded, the date and

time the vehicle was reclaimed, and an itemized statement of the charges. Each invoice must have all of the following information printed on the front or back of the invoice, or printed on a separate sheet that is physically attached to the invoice:

(1) A schedule listing the maximum vehicle storage fees set by the state.

(2) The following statement, in at least ten-point type:

Seguin City Ordinance limits, but does not set, the amounts that can be charged for wrecker services, and requires wrecker services and vehicle storage facilities to accept cash, ~~one-party personal checks, money orders, traveler's checks~~ and credit or debit cards for payment of fees. The ordinance also prohibits a person who pays with a check or credit card from stopping or canceling the payment. Persons who wish to contest the propriety of a tow or to contest charges claimed to be excessive may request a hearing at a justice court. Persons who wish to contest charges on police-authorized tows claimed to be excessive may file a complaint with the Seguin Chief of Police.

(c) If a single invoice is used for wrecker service charges and vehicle storage facility charges, a combined schedule of the maximum wrecker service and vehicle storage fees may be used on the invoice, together with the statement in [subsection] (b)(2).

SECTION FIVE. The Seguin Code of Ordinances Chapter 106, Vehicles for Hire, Section 106-150, Towing charges limited; summoning of Category B wrecker; forms of payment; forms of payment, is amended as follows (underlining indicates added text, ~~strike through~~ indicates deleted text):

(a) It is unlawful for a wrecker service to charge any amount for a police authorized tow that exceeds the maximum fee amounts set in section 106-151. This limitation on charges applies when a vehicle is towed from public or private property. A wrecker service is expressly authorized to charge any amount for a non-consent tow less than the maximum fee amounts set by the city council.

(b) If the owner of a vehicle undergoing a non-consent tow from private property makes a request for the release of the vehicle to the wrecker driver before the wrecker leaves the property, or if the tow is from public property and the vehicle owner makes the request before the wrecker leaves the scene, the driver must stop and release the vehicle. If the request is made after the wrecker is in position and ready to connect to the vehicle, but before the wrecker has lifted two or more of the vehicle's tires off of the ground, the wrecker driver must release the vehicle to the vehicle owner upon payment of a "show-up" fee, if authorized, or upon request of the owner if charging a show up fee is prohibited. If the request is made after the wrecker has lifted two or more of the vehicle's tires off of the ground, the driver must release the vehicle to the vehicle owner upon payment of a drop fee, if authorized, or upon the request of the owner if charging a drop fee is prohibited. It shall be unlawful for a wrecker service or wrecker driver to charge a vehicle owner a show up fee unless the wrecker was dispatched from a remote location for the purpose of towing a specific vehicle. This subsection does not apply if the vehicle is disabled or is being impounded by a peace officer, or if the vehicle owner is disabled, has been arrested, or for any other reason is unable to operate the vehicle.

(c) Multiple vehicles. When more than one vehicle, such as a truck and trailer or an automobile and motorcycle, are both towed by a single wrecker, the wrecker service will charge not more than the amount set by the city council for towing the second vehicle with a single wrecker.

(d) It is unlawful for any driver, employee or agent of a wrecker service to make any verbal or written representation to the owner of a towed vehicle that the amounts of wrecker fees are set by the city, or

that the city requires the wrecker service to charge certain amounts for its services. An employee, agent or wrecker driver of a wrecker service is expressly authorized to state to the owner of a towed vehicle that the city limits the amount a wrecker service can charge for its services.

(e) A wrecker service must accept all of the following forms of payment for wrecker service charges for a non-consent tow, show up fee or drop fee:

- (1) Cash.
- (2) Credit or debit card.

(f) It is unlawful for a person who makes payment for wrecker service charges by ~~personal check or credit or debit~~ card to ~~stop payment on the check or~~ rescind a credit ~~or debit~~ card charge. Persons who wish to contest the propriety of a non-consent tow must request a hearing with the justice court under the Texas Occupations Code, Chapter 2308.

SECTION SIX. The Seguin Code of Ordinances Chapter 106, Vehicles for Hire, Section 106-251, Limits on fee amounts, is amended as follows (underlining indicates added text, ~~strikethrough~~ indicates deleted text):

Category A wreckers:

Service Description		Max. <u>Permissible fees</u>
1.	Police-authorized tow from accident scene - a <u>flat base</u> fee of \$200.00 unless a police officer determines that any of the following services are needed:	\$200.00
a.	Waiting time - each additional ½ hour after the first ½ hour - \$50.00	
b.	Winching fee - \$100.00 plus \$75.00 per each additional ½ hour	
c.	Additional labor for clean-up - \$75.00 plus \$50.00 per each additional ½ hour	
d.	Dollies or rollback trucks where required - \$100.00	

e.	Drive shaft removal - \$75.00	
f.	Fuel surcharge for any tows over four miles - \$25.00	
g.	<u>Any applicable toll charge – Actual toll charges incurred during response and tow of vehicle</u>	
2.	Police-authorized tow - Impound/non-accident a base fee of \$200.00 (all inclusive) [dollies, winching, flatbed, waiting time, cleanup etc.]	\$200.00
a.	Fuel surcharge \$1.00/mile for any tows over 4 miles <u>Waiting time – each additional ½ hour after the first ½ hour \$50.00</u>	
b.	<u>Winching fee - \$100.00 plus \$75.00 for each additional ½ hour</u>	
c.	<u>Additional labor for clean-up \$75.00 plus \$50.00 per each additional ½ hour</u>	
d.	<u>Dollies or rollback trucks where required - \$100.00</u>	
e.	<u>Drive shaft removal - \$75.00</u>	
f.	<u>Fuel surcharge for any tows over four miles - \$25.00</u>	
3.	Roadside assists - when requested by police officer - fee not to exceed <u>\$100.00</u> within a 5 mile radius of city limits:	\$100.00

a.	<u>Any applicable toll charge – Actual toll charges incurred during response and tow/assist of vehicle</u>	
b.	<u>All vehicles towed outside the city limits must be quoted for distance</u>	

(b)

Category **B &** wreckers:

Service Description	Max. <u>Permissible fees</u>
1. Police-authorized tow from accident scene	Not regulated
2. Police-authorized tow - impound/non-accident (all inclusive [double hookup, dollies, winching, flatbed, waiting time, cleanup etc.]) Per hour with two hour minimum	\$500.00 <u>\$350.00</u>
3 <u>Any applicable toll charge – Actual toll charges incurred during response and tow of vehicle</u>	

SECTION SEVEN. The Seguin Code of Ordinances Chapter 106, Vehicles for Hire, Section 106-152, Invoices, is amended as follows (underlining indicates added text, ~~striketrough~~ indicates deleted text):

(a) A wrecker service must provide each vehicle owner who reclaims a towed vehicle with an invoice in accordance with this section at the time a towed vehicle is reclaimed.

(b) Each invoice must include the wrecker service name, business address and phone number, the name of the wrecker driver who performed the tow, the date and time of the tow, the date and time the vehicle was reclaimed, and an itemized statement of the charges. Each invoice must have all of the following information printed on the front or back of the invoice, or printed on a separate sheet that is physically attached to the invoice:

The following statement, in at least ten-point type:

Seguin City Ordinance limits, but does not set, the amounts that can be charged for towing vehicles, and requires wrecker services and vehicle storage facilities to accept cash, ~~one-party personal checks, money orders, traveler's checks~~ and credit or debit cards for payment of fees. The ordinance also prohibits a person who pays with a ~~check~~ or credit or debit card from stopping or canceling the payment. Persons who wish to contest the propriety of a tow or to contest charges claimed to be excessive may request a hearing at a justice court. Persons who wish to contest charges claimed to be excessive for police-authorized tows may file a written complaint with the Seguin Chief of Police.

(c) If a single invoice is used for wrecker service charges and vehicle storage facility charges, a combined schedule of the maximum wrecker service and vehicle storage fees may be used on the invoice, together with the statement in subsection (b).

(d) A schedule listing the maximum wrecker fees must be available on request and shall be posted at the point of payment.

SECTION EIGHT. If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portions of the Ordinance, which shall continue to have full force and effect.

SECTION NINE. City Staff is hereby authorized to submit this Ordinance as a supplement to the Seguin Code of Ordinances.

SECTION TEN. This Ordinance becomes effective December 1, 2019.

Passed and approved on the first reading on the 3rd day of December 2019.

Passed and approved the second reading on the 17th day of December, 2019.

DON KEIL, MAYOR

Attest:

Naomi Manski, City Secretary