

MONTGOMERY COUNTY, TEXAS

RULES AND REGULATIONS

FOR

NON-CONSENT TOWING AND STORAGE SERVICES

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I. GENERALLY APPLICABLE PROVISIONS

A. PURPOSE AND SCOPE

1. Montgomery County, Texas (hereinafter called “Montgomery County” or “County”), pursuant to Chapter 643 of the Texas Transportation Code, in order to protect the public, to protect the rights of persons whose vehicles may be Towed, to maintain safe and efficient operating rules, and to preserve the peace of the community, hereby establishes Rules and Regulations applicable to individuals and business enterprises engaged in Non-Consent Towing services and storage of Motor Vehicles moved in

connection with Non-Consent Towing originating in the unincorporated areas of Montgomery County, when such services are initiated by a Law Enforcement Officer.

2. The Montgomery County Sheriff (hereinafter referred to as the “Sheriff”) supports the provisions of these Rules. The Montgomery County Commissioners’ Court (hereinafter called “Commissioners’ Court”) hereby delegates to the Sheriff authority to administer and enforce the registration and operation requirements promulgated by these Rules through the Montgomery County Sheriff’s Office (hereinafter referred to as the “Department”).
3. No person shall operate a Tow Truck or Heavy-Duty Tow Truck in the performance of Non-Consent Towing services in the unincorporated areas of Montgomery County, unless the Tow Truck has been registered with and permitted by the Department. These Rules do not apply to a Consent Tow or to government-owned Tow Trucks.
4. 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 in Montgomery County without a valid and current license issued by the Texas Department of Transportation (hereinafter called “TxDOT”).
5. No Tow Truck Operator may remove any Motor Vehicle from a Law Enforcement Scene or attach a Tow Truck to any vehicle at the scene until a Law Enforcement Officer at the scene authorizes moving the vehicle.

B. JURISDICTION

These Rules apply to every removal or storage of Motor Vehicles initiated by a Law Enforcement Officer in the unincorporated areas of Montgomery County, unless a government-owned Tow Truck or facility is employed for the removal or storage.

C. CONSTRUCTION OF THESE RULES

The Code Construction Act (TEX. GOV’T CODE §§ 311.001, *et.seq.*) shall apply for the purpose of construing these Rules, unless an alternative instruction, definition or application is contained herein.

1. The word “shall” is mandatory and not discretionary as used in these Rules.
2. The words “policy” or “rule” include “regulation,” “policy,” “rule,” “ordinance” or “order;” and, all have the same meaning as applied in these Rules.
3. These Rules must be liberally construed to give affect to their purpose and intent.

D. DEFINITIONS

The following words and terms, when used in these Rules, shall have the following meanings, unless the context clearly indicates otherwise.

1. APPLICATION – The written application form, along with all required documentation and applicable fees, approved and prescribed by the Department for purposes of these Rules.
2. CHIP – A numbered metal tag that is issued by the Department for each Tow Truck, along with a Tow Truck Permit, to be used for Match at a Law Enforcement Scene; the number on the Chip corresponds with the Tow Truck Permit number.

3. CONSENT TOW – Any Tow of a Motor Vehicle initiated by the Vehicle Owner or operator of the vehicle or by a person who has possession, custody or control of the vehicle. This term does not include a Tow of a Motor Vehicle initiated by a Law Enforcement Officer.
4. CONVICTION – A finding of guilt by a judge or jury, or any plea of guilty or *nolo contendere*, unless such conviction has been held invalid by a court, or the proceedings against the defendant have been dismissed and the defendant discharged by a court.
5. DEPARTMENT – The Montgomery County Sheriff’s Office.
6. EMERGENCY LIGHTS – Flashing, rotating or strobe lights that are mounted above the roof of the Tow Truck.
7. EVIDENTIARY CRIME SCENE – A crime scene in unincorporated Montgomery County that requires the response of a law enforcement agency’s specialized investigative unit(s). Examples include, but are not limited to: a homicide scene or an auto theft “chop shop.”
8. HEAVY-DUTY TOW TRUCK — A Tow Truck having a chassis rated at five (5) tons or greater by the vehicle manufacturer and a winch capable of lifting a minimum of thirty thousand (30,000) pounds, as rated by the winch manufacturer. Except where a distinction is specifically made, the term “Tow Truck,” as used herein, includes “Heavy-Duty Tow Truck.”
9. HIGH-MOUNTED STOP LAMP – A lamp conforming to 49 CFR §571.108.
10. IDENTIFICATION (ID) CARD – Identification card issued to a Tow Truck Operator by the Department demonstrating eligibility of a person to conduct Non-Consent Tows and containing information to verify the identity of the Tow Truck Operator.
11. LAW ENFORCEMENT OFFICER – A Montgomery County Sheriff, a Montgomery County Constable, or their deputies, and any other Texas peace officer authorized to perform law enforcement duties in Montgomery County, Texas (See TEX. CODE OF CRIM. PROC. § 2.12).
12. LAW ENFORCEMENT SCENE –The scene of a crime, accident, or custodial arrest, or the location of a vehicle, which is a traffic hazard, a recovered stolen vehicle, or an abandoned vehicle.
13. MAGNETIC TOW LIGHTS – A set of red lamps, connected to the Tow Truck, which are attached to the rear of the Towed vehicle and, when lit, signal stop and turn movements of the Towed vehicle.
14. MATCH – The selection process used by a Law Enforcement Officer to determine which Tow Truck Operator will perform a Non-Consent Tow at a Law Enforcement Scene or, when appropriate, at an Evidentiary Crime Scene.
15. MOTOR VEHICLE – A vehicle, as defined in TEX. TRANSP. CODE §501.002, as hereafter amended, or any other device designed to be self-propelled or transported on any public highway, road, or street.

16. NON-CONSENT TOW – Any Tow initiated by a Law Enforcement Officer and conducted at a Law Enforcement Scene or Evidentiary Crime Scene in unincorporated areas of Montgomery County.
17. OPERATE – To drive or otherwise be in physical control of a Motor Vehicle.
18. OPERATOR – Any person operating a Tow Truck, regardless of whether the person owns the vehicle.
19. PERMITTED TOW TRUCK – A Tow Truck for which a valid permit has been issued by the Department authorizing an Operator of the Tow Truck to conduct Non-Consent Tows in Montgomery County.
20. PUBLIC ROAD – A road, street, or highway that has not been discontinued and is a publicly maintained road or highway opened to and used by the public.
21. STORAGE COMPANY – An individual, partnership, corporation, or any other entity or association that is engaged in the business of storing Motor Vehicles for compensation or the expectation of compensation. The term includes the owner, operator, employee, and/or agent of the Storage Company.
22. TOW - The recovery and movement of a Motor Vehicle using a Tow Truck.
23. TOWING COMPANY – An individual, partnership, corporation, or any other entity or association that is engaged in the business of Towing Motor Vehicles on a Public Road, for compensation or with the expectation of compensation, or who owns or operates a Tow Truck. This term includes an owner, Operator, employee, and/or agent of the Towing Company.
24. TOW TRUCK – A Motor Vehicle or other mechanical device adapted or used to Tow, carry, push, winch or otherwise move any Motor Vehicle.
25. TOW TRUCK INSPECTOR – A person designated by the Department to enforce these Rules and authorized to seize any Department property including, but not limited to, ID Cards, Chips and Tow Truck Permits.
26. TOW TRUCK PERMIT – A numbered tag issued by the Department authorizing a specific Tow Truck to be used to perform Non-Consent Tows, identified by a Tow Truck Permit number assigned by the Department.
27. TOW TRUCK SLIP – A triplicate form completed by a Law Enforcement Officer at the scene, duplicate copies of which are provided to the Department, Tow Truck Operator and the Vehicle Storage Facility for identification of the Motor Vehicle Towed.
28. VEHICLE OWNER - A Motor Vehicle's legal or registered owner, or such owner's authorized representative.
29. VEHICLE STORAGE FACILITY – An individual, partnership, corporation, or any other entity or association (other than a governmental entity) that is engaged in the business of operating a garage, parking lot, storage lot, or any type of facility to store Motor Vehicles that have been Towed.

30. WORKING DAY – Any day in which the Department conducts normal business, excluding Montgomery County holidays and weekends.
31. ZONE – The area corresponding to Patrol Districts established by the Department for radio dispatch control and other organizational purposes, in accordance with the following:

Zone 1	Districts 1 and 5
Zone 2	Districts 2 and 6
Zone 3	District 3
Zone 4	District 4

A map delineating Zones and Patrol Districts, with Key Map block overlay, is attached hereto as “Exhibit A” and incorporated herein for all purposes.
32. ZONE STICKER – A sticker issued by the Department in conjunction with a Tow Truck Permit authorizing an additional Zone in which a Tow Truck may be used for Non-Consent Towing services.

E. OWNERSHIP OF ID CARDS, CHIPS AND PERMITS

1. All ID Cards, Chips and permits are the property of the Department.
2. Upon determination by the Department that these Rules have been violated, a Department supervisor with the rank of Sergeant or above, or personnel designated as Tow Truck Inspectors, shall have the authority to confiscate, revoke or suspend an ID Card, Chip or permit and are hereby authorized to require any person in possession of Department property to immediately surrender such property. The Department shall retain possession of the ID Card, Chip or permit seized, pending any hearing or appeal process as provided by Article VII hereof.
3. A person or Towing Company required to surrender an ID Card, Chip or permit may lodge an appeal with the Department pursuant to Article VII hereof.
4. It is a violation of these Rules to refuse to surrender any Department property upon demand by proper authority.

F. FEES AND CHARGES, GENERALLY

1. All fees and maximum allowable charges relating to the Non-Consent Towing of Motor Vehicles and the issuance of any permits and ID Cards shall be determined by Commissioners’ Court. An initial schedule of registration fees and maximum allowable Towing charges is included herein as Article VIII; these fees and maximum allowable charges shall remain in effect from the effective date hereof until changed by Commissioners’ Court. Fees and maximum allowable charges set out in Article VIII may be changed at any time and from time-to-time by Commissioners’ Court, as it deems appropriate. The fees and charges listed in Article VIII shall be approved or amended by Commissioners’ Court in the manner authorized by law for the taking of official action by a political subdivision.
2. Allowable charges set out in Article VIII are “maximum” allowable amounts; Towing Companies may charge for Non-Consent Towing services rates at or below maximum allowable amounts.

3. All maximum allowable charges set out by Commissioners' Court in these Rules have been determined to provide fair remuneration to owners and Operators of Tow Trucks performing services related to Non-Consent Towing following considerable research by the County and its assessment of current Towing practices in Montgomery County, responses to County correspondence soliciting input from Towing Companies currently doing business in Montgomery County, comments from participants in three public hearings and research into industry practices elsewhere in the State. In addition, maximum allowable charges set out have been determined to compensate for all functions, duties and equipment necessary for the performance of Non-Consent Towing services.
4. Any application fee for Tow Truck Permit issued during a calendar year shall be calculated on a pro rata basis for the number of months remaining in the calendar year from the date of application. Any portion of a month shall be deemed an entire month. Application fees pertaining to ID Cards will not be prorated.
5. The application fee for ID Cards has been determined by the County to offset all of the County's costs of processing; there shall be no additional charge for notary acknowledgment obtained at the Department, nor for photographs or fingerprint impressions taken by the Department.
6. All payments of fees to the Department shall be non-refundable; payments must be made by cash, cashier's check or money order payable to "Montgomery County Sheriff's Office."
7. It is a violation of these Rules for any permit holder, Tow Truck Operator or Towing Company to charge any fees for services relating to Non-Consent Towing originating in Montgomery County that exceed the maximum allowable Towing charges set out in Article VIII.
8. Fees or charges for recovery services requiring the use of a back-up Tow Truck may be charged with approval of the Law Enforcement Officer at the scene and his/her acknowledgement on the Tow Truck Slip that an additional Tow Truck was necessary to complete recovery and loading of the vehicle. A back-up Tow Truck shall be selected by the Tow Truck Operator whose Chip is drawn in the Match from other eligible Tow Trucks at the scene at the time of the Match, or that Tow Truck Operator may agree to select a back-up Tow Truck by conducting a second Match. No fees or charges for services of a back-up Tow Truck may exceed the maximum allowable amounts set forth in Article VIII hereof; and, in no event shall any Towing Company charge for more than one (1) back-up Tow Truck. Back-up Tow Trucks and Tow Truck Operators of the back-up Tow Trucks must have current, valid Tow Truck Permits and ID Cards.
9. It is a violation of these Rules for any Permit holder, Tow Truck Operator or Tow Truck Company to charge any fee for Non-Consent Towing services not actually performed.
10. These Rules do not regulate or set fees for salvage of cargo spilled from large rigs or trailers. Services for such salvage services may be negotiated by and between the Tow Truck Operator recovering the cargo and the Motor Vehicle Owner.
11. Fees for Non-Consent Towing services apply to movement of a vehicle from a Law Enforcement Scene to an eligible Vehicle Storage Facility, or other location designated

by the Vehicle Owner and agreed to by the Tow Truck Operator [as required by TEX. TRANSP. CODE § 643.206(a), as amended]. Once the vehicle is claimed by the Vehicle Owner, necessary Towing from the Vehicle Storage Facility to another location shall be performed through Consent Towing services; and, therefore, maximum Towing fees set forth in Article VIII hereof do not apply to movement beyond the initial location. Moreover, a vehicle owner shall not be charged for Non-Consent Towing of a vehicle transported from the initial Vehicle Storage Facility to another, except where the movement is requested or approved by the Vehicle Owner; transfer between Vehicle Storage Facilities is subject to the provisions of Section A of Article VI of these Rules.

G. EFFECT OF OTHER LAWS

It is not intended, and no provision herein should be so construed, to contravene any applicable law or to pre-empt any Federal statute. To the extent any part or any provision in these Rules might otherwise be construed as invalid, illegal or unenforceable in any respect, it should be construed as being limited in its scope and applicable to only those circumstances to which it can legally apply. To the extent that any provision or part hereof is found to be invalid, illegal or unenforceable in any respect, it shall not affect any other provision.

II. TOW TRUCKS AND TOWING COMPANIES

A. TOW TRUCK PERMIT REQUIRED

1. It is a violation of these Rules for any Towing Company to perform Non-Consent Towing services, including loading, recovering and Towing, originating in the unincorporated areas of Montgomery County without a current and valid motor carrier registration with TxDOT under 43 TEX. ADMIN. CODE Subchapter B and a Tow Truck Permit issued by the Department, properly displayed in the Tow Truck, which demonstrates authority to Tow within the same Zone as the Law Enforcement Scene.
2. A Tow Truck Permit shall be required for each Tow Truck used for Non-Consent Towing services originating in the unincorporated areas of Montgomery County on or after the effective date of these Rules, as set out in Article XI herein. Each Tow Truck Permit issued to a Towing Company shall include authorization for one specific Tow Truck intended for use in Non-Consent Tows; separate permits must be issued for each Tow Truck to be used by any Towing Company for Non-Consent Tows. All Tow Truck Permits shall be prominently displayed on the upper left side (*i.e.*, driver's side) of the front windshield of the Tow Truck and clearly visible at all times.
3. A Tow Truck Permit shall provide authority to perform Non-Consent Towing services within one Zone, provided that the Towing Company has authority or privileges to use a Vehicle Storage Facility located within the Zone for which the Tow Truck Permit was issued. A Towing Company may obtain authority to perform Non-Consent Towing services in additional Zone(s) in which the Towing Company also has authority or privilege to use a Vehicle Storage Facility. Authorization to perform Non-Consent Towing services in additional Zones should be requested on an Application for Tow Truck Permit and will be indicated on the Tow Truck Permit by Zone Stickers.
4. On or after the effective date of these Rules, each Tow Truck used for any Non-Consent Towing services, including Tow Trucks used for back-up assistance, must have and

properly display a current and valid Tow Truck Permit issued by the Department for the same Zone as the Law Enforcement Scene.

5. Towing Companies are responsible for the Tow Truck Permits issued to them. If a Tow Truck Permit is lost or stolen, the Towing Company shall be responsible for replacement of the permit before a Tow Truck may be used in a subsequent Non-Consent Tow.
6. One Chip will be issued along with each Tow Truck Permit; that Chip will be unique to the specific Tow Truck covered by the Tow Truck Permit, and will display a number corresponding to the number assigned to the Tow Truck on the Tow Truck Permit.
7. A valid Tow Truck Permit and Chip issued by the Department that properly identifies the Towing Company is required for any Operator of a Tow Truck to participate in a Matching procedure at any Law Enforcement Scene or Evidentiary Crime Scene.
8. A missing, expired, altered or mutilated Tow Truck Permit, Zone Sticker and/or corresponding Chip shall automatically disqualify any Operator of a Tow Truck from participation in the Matching process at the scene. If, while conducting a Match, the Law Enforcement Officer determines a Tow Truck Permit or Zone Sticker is not displayed, has expired, or has been altered or mutilated beyond normal wear and tear, or is otherwise invalid, the Officer may deny participation in the Match by the Operator of that Tow Truck. In addition, failure to produce a valid Chip with a number corresponding to the Tow Truck Permit displayed on the Tow Truck in use by the Tow Truck Operator will disqualify an Operator of a Tow Truck from participation in the Matching process at the scene.
9. Should the Department suspend or revoke any or all Tow Truck Permits and Chips obtained by a Towing Company, pursuant to Article VII hereof, it shall be the responsibility of the Towing Company to obtain reinstatement of a Tow Truck Permit and/or Chip for any Tow Truck that may be used in subsequent Non-Consent Tows.
10. A list of Vehicle Storage Facilities to which the Towing Company has privileges to deliver a Motor Vehicle loaded and transported pursuant to a Non-Consent Tow must be visibly displayed on each Tow Truck. It is a violation for any person to transport a Motor Vehicle pursuant to a Non-Consent Tow to a Vehicle Storage Facility that is not identified in the Towing Company's Application on file with the Department.
11. **AN APPLICATION FOR TOW TRUCK PERMIT SHALL INCLUDE AN AGREEMENT BY THE TOWING COMPANY THAT PROPER EQUIPMENT WILL BE USED IN LOADING, RECOVERING AND TOWING MOTOR VEHICLES IN NON-CONSENT TOWING SERVICES, AND THAT SAID EQUIPMENT WILL BE CAPABLE OF LOADING, RECOVERING AND TOWING A MOTOR VEHICLE WITHOUT CAUSING DAMAGE TO THE MOTOR VEHICLE OVER AND ABOVE DAMAGE TO THE VEHICLE THAT OCCURRED PRIOR TO THE TOW. THE APPLICATION ALSO SHALL INCLUDE A PROVISION FOR INDEMNIFICATION AND HOLD HARMLESS OF MONTGOMERY COUNTY BY THE TOWING COMPANY AGAINST ANY CLAIMS OF DAMAGE TO A MOTOR VEHICLE, OR THE CONTENTS THEREOF, HANDLED BY THE TOWING COMPANY AND AGAINST ANY CLAIMS OF INJURY OR DAMAGE TO ANY PERSON OR OTHER PROPERTY RESULTING FROM NON-CONSENT TOWING SERVICES**

PERFORMED BY THE TOWING COMPANY OR USING ANY TOW TRUCK OWNED BY THE TOWING COMPANY.

12. Each Towing Company applicant or permit holder shall permit inspection of vehicles or books and records by Department personnel on any Working Day during normal business hours as necessary for the Department to ensure compliance with these Rules.

B. APPLICATION PROCESS

1. To obtain a Tow Truck Permit for the Towing Company and/or any Tow Truck, a Towing Company may request an Application form from the Department at the Information Booth located in the main lobby of the Sheriff's Office during normal business hours or download the Application form from the Department's internet website (www.mocosheriff.com), then file a completed Application with the Department. The Application form shall be prescribed by the Department. Application forms will be available beginning January 15, 2006. The Application shall include at least the following information:
 - a. Year and make of the Tow Truck to which the Tow Truck Permit will apply;
 - b. Vehicle Identification Number (VIN) of the Tow Truck;
 - c. Current Texas permit plate number for the Tow Truck;
 - d. Full name, physical address, mailing address and telephone number of the Towing Company and contact; if the Towing Company is a partnership or corporation, the full name, address and phone number for each partner or corporate officer;
 - e. **AGREEMENT TO INDEMNIFY AND HOLD HARMLESS MONTGOMERY COUNTY IN THE EVENT OF DAMAGE TO OR LOSS OF ANY MOTOR VEHICLE, OR THE CONTENTS THEREOF, HANDLED BY THE TOWING COMPANY OR INJURY OR DAMAGE TO ANY PERSON OR OTHER PROPERTY AS A RESULT OF NON-CONSENT TOWING SERVICES PERFORMED BY APPLICANT OR THE TOWING COMPANY;**
 - f. Zone(s) in which Non-Consent Towing services will be performed;
 - g. A list of storage lots by Zone the Operator uses for Non-Consent Towing purposes, for which a list is also displayed on the Tow Truck, identified by the Vehicle Storage Facility license number assigned by TxDOT;
 - h. Acknowledgement and agreement that each Vehicle Storage Facility to be used by the Towing Company for storage of vehicles moved in Non-Consent Towing services will have adequate space to store vehicles Towed and each Vehicle Storage Facility used is operated in compliance with the Texas Vehicle Storage Act, Chapter 2303 of the Texas Occupations Code, as hereafter amended or its successor statute, and TxDOT administrative rules and regulations in Subchapter G of Chapter 43 of the Texas Administrative Code, as hereafter amended or its successor administrative rules; and

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- i. The applicant's original signature.
2. The Application shall be accompanied by:
 - a. A copy of the applicable "Vehicle Registration Listing" issued by TxDOT, and known as the "cab card;"
 - b. A copy of the receipt from the Montgomery County Tax Office showing current registration or, if the Tow Truck is registered outside Montgomery County, evidence of current registration from the county where the Tow Truck is registered;
 - c. Proof of passage of vehicle inspection;
 - d. A copy of the Towing Company's most recent Tow Truck invoice;
 - e. A schedule of the Towing Company's Non-Consent Tow fees posted on TxDOT website;
 - f. Current original business card for the Towing Company, which shall include the business name, business phone number and all addresses and phone numbers of storage lots to be used by the Towing Company;
 - g. A letter(s) of authorization or other documentation demonstrating authority to use each Vehicle Storage Facility identified in the Application;
 - h. Evidence of insurance coverage or financial responsibility for each Tow Truck and each potential Operator of the Tow Truck, in accordance with TEX. TRANSP. CODE §§ 601.051 and 643.101 and Section H of this Article II;
 - i. Payment of a fee, as provided in Article VII; and
 - j. An original "CERTIFICATE OF INSURANCE" for the Tow Truck being permitted as required by Section H of this Article II, naming Montgomery County as certificate holder, as follows:

MONTGOMERY COUNTY
#1 Criminal Justice Dr.
Conroe, Texas 77301
ATTN: SHERIFF'S OFFICE
TOW TRUCK ENFORCEMENT

3. Applications for Tow Truck Permits will be accepted by the Department on or after February 1, 2006.
4. Changes, corrections and updates to any information on file with the Department should be filed within twenty (20) days of learning that the information on file is incorrect, on a new Application form indicating that filing of the form is a change to an existing Application on file.

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5. Applications must be submitted to the Department by hand-delivery during normal business hours or by delivery through the United States Postal Service or any private courier service. No Application or supporting documentation, may be submitted by facsimile or electronic mail.
6. Zone Stickers may be requested after issuance of a Tow Truck Permit for additional Zones in which authority or privileges to use a Vehicle Storage Facility have been obtained. Applications for additional Zone Stickers must contain the same information required for the original permit Application.

C. APPLICATION FEE

An application for a Tow Truck Permit or Zone Sticker shall include payment of fee(s) provided in Article VIII.

D. ISSUANCE OF TOW TRUCK PERMIT

1. If the Department determines the applicant has satisfied all requirements under these Rules, it may issue the Towing Company a Tow Truck Permit for the identified Tow Truck, along with a corresponding Chip to that Tow Truck Permit.
2. Replacement of stolen, lost, expired or damaged Tow Truck Permits or Zone Stickers will necessitate filing an Application for replacement, containing the same information required for an original Application in Section B of this Article II. The Department shall not approve an Application for a replacement Tow Truck Permit or Zone Sticker unless a valid Tow Truck Permit or Zone Sticker previously issued for the particular Tow Truck has not been suspended or revoked prior to application for replacement.
3. Upon issuance of a Tow Truck Permit to a particular Towing Company, the Department will notify each Storage Company whose Vehicle Storage Facility is listed on the Application for Tow Truck Permit of their authority to accept vehicles at that facility that had been subjected to Non-Consent Tows by the respective Towing Company.
4. It is the responsibility of a Tow Truck Permit holder to have the Chip replaced if it is lost or marred or mutilated beyond normal wear and tear.

E. EXPIRATION OF TOW TRUCK PERMIT

1. All Tow Truck Permits and Zone Stickers expire annually at midnight on the 31st day of January, regardless of the issuance date. To renew a Tow Truck Permit, the Towing Company must file a renewal Application.
2. A Chip is valid only with its corresponding Tow Truck Permit and expires when its corresponding permit expires.

F. RENEWAL/REPLACEMENT OF TOW TRUCK PERMIT

1. Annual renewal Applications may be submitted to the Department after December 1 and no later than January 31.

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2. Renewal or Replacement Applications must contain the same information required for original Applications in Subsections 1 and 2, Section B of this Article II and must be accompanied by payment of the appropriate fee(s) set out in Article VIII hereof.
3. A Towing Company that fails to renew a Tow Truck Permit before it expires shall return the permit and corresponding Chip to the Department no later than February 1 following expiration; failure to surrender an expired Tow Truck Permit or Chip is a violation of these Rules.
4. Performing Non-Consent Towing services with an expired Tow Truck Permit constitutes a violation of these Rules.
5. If a Tow Truck Permit is lost or destroyed, a Towing Company may obtain a replacement by filing with the Department a sworn affidavit stating that the ID Card was lost or stolen and describing in detail how the ID Card was lost or stolen.

G. ASSIGNABILITY OF TOW TRUCK PERMITS

1. Permits are not assignable or transferable, except that a Tow Truck Permit and corresponding Chip may be transferred to a replacement or substitute Tow Truck if:
 - a. The replacement or substitute Tow Truck belongs to the same Towing Company, and a new Application is filed for the replacement or substitute vehicle;
 - b. The Towing Company provides the Department a copy of the applicable Vehicle Registration Listing, or “cab card,” issued by TxDOT for registration of the replacement or substitute Tow Truck;
 - c. The replacement or substitute Tow Truck passes inspection, displays all necessary identification markings required in Section I of this Article II and complies with safety requirements of Section A of Article IV herein;
 - d. The Towing Company obtains the Department’s written permission; and
 - e. Proof of insurance for the replacement or substitute Tow Truck is submitted to the Department.
2. A Towing Company may not use a replacement or substitute Tow Truck to perform Non-Consent Towing services unless a current, valid Tow Truck Permit has been issued by the Department for that Tow Truck. Failure to follow Application procedures for replacement of vehicles before using a replacement or substitute Tow Truck for Non-Consent Towing services is a violation of these Rules.

H. INSURANCE REQUIREMENTS

1. Prior to the issuance of any Tow Truck Permit, the applicant shall have filed with the Department proof of motor vehicle liability insurance coverage at or above the MINIMUM AMOUNTS set forth below.

2. Proof of insurance coverage or financial responsibility shall be carried in the Tow Truck at all times.
3. A Towing Company shall have and maintain in full force and effect, throughout the term of a Tow Truck Permit, liability coverage that is combined single limit liability for bodily injury to or death of an individual per occurrence and loss or damage to property (excluding cargo) per occurrence. Upon Application, and upon renewal of any Application, the applicant shall file a certificate of insurance with the Department. The certificate shall clarify the type and amount of insurance coverage and require thirty (30) days notice to the Department in the event of cancellation or material change in the policy, including reduction in coverage below minimum amounts.
4. Each liability insurance policy for vehicle, bodily injury or property damage shall be issued by a casualty insurance company authorized to do business in the State of Texas that complies with all applicable rules and regulations of the Texas State Board of Insurance and is listed as an authorized automobile liability lines carrier on the Texas Department of Insurance list of authorized insurance companies.
5. The Minimum amounts for liability coverage for each Tow Truck are as follows:
 - a. For any Tow Truck at or below twenty-six thousand (26,000) pounds gross vehicle weight, three hundred thousand dollars (\$300,000.⁰⁰).
 - b. For any Tow Truck over twenty-six thousand (26,000) pounds gross vehicle weight, five hundred thousand dollars (\$500,000.⁰⁰).
 - c. For each Tow Truck, an on-hook cargo insurance policy with at least fifty thousand dollars (\$50,000.⁰⁰) coverage.
6. TxDOT Forms E, H and I must be posted on the TxDOT website, as required by TxDOT rules and regulations.
7. All certificates of insurance shall:
 - a. Indicate that the policy covers the particular vehicle covered by the Tow Truck Permit;
 - b. Identify the vehicle by year, make and vehicle identification number; and
 - c. Indicate the policy coverage is consistent with the minimum liability limits established by these Rules.
8. A Towing Company must maintain insurance for each Tow Truck performing Non-Consent Tows consistent with the requirements of all other applicable statutes, in addition to the insurance requirements set forth in these Rules. A Law Enforcement Officer may inspect the Tow Truck and request the Operator or Towing Company provide evidence of proper insurance coverage.
9. In addition, a Towing Company shall provide workers compensation or accidental insurance coverage for all of its employees in applicable minimum amounts required by TEX. TRANSP. CODE § 643.106 and 43 TEX. ADMIN. CODE § 18.16(c).

10. A Towing Company shall not participate in any Non-Consent Tow if it fails to carry and provide evidence of the required insurance minimum coverage for any Tow Truck and Tow Truck Operator performing Non-Consent Towing services. Participation in a Non-Consent Tow without proper proof of insurance coverage is a violation of these Rules.

I. REQUIRED IDENTIFICATION MARKINGS

1. Each Towing Company that has been issued a Tow Truck Permit shall display the following identification markings affixed to each Tow Truck it owns or operates that may perform Non-Consent Tows:
 - a. The owner's (or Operator's) legal business name or legal assumed name as specified on the "Vehicle Registration Listing" issued by TxDOT;
 - b. The address, including city and state, at which the owner's or Operator's business office is located;
 - c. The Towing Company name and phone number, including area code, permanently inscribed or affixed outside the Tow Truck on the doors of each side of the Permitted Tow Truck in letters that are at least three (3) inches high and one-half (½) inch thickness, in contrasting colors, and clearly visible at fifty (50) feet during normal daylight (All other required markings shall be at least two (2) inches high and one-half (½) inch thickness.);
 - d. A permit plate and/or registration insignia issued by TxDOT pursuant to TEX. TRANSP. CODE CH. 502, and as hereafter amended or its successor statute; and
 - e. On the bed of the Tow Truck visible from the roadway, the address and Vehicle Storage Facility number assigned by TxDOT, preceded by the letters "TxDOT VSF Lic. No.," for the facilities to which the Operator of the Tow Truck delivers vehicles.
2. It is a violation of these Rules for a permitted Towing Company to:
 - a. Fail to satisfy any requirements for identification markings, as set out in this Section I of Article II; or
 - b. Use magnetic or removable signs in lieu of the markings required to be affixed to Tow Trucks.

J. RECORD RETENTION

1. Each Towing Company that has been issued a Permit shall maintain a record of Non-Consent Tows for a minimum period of three (3) years. The Department may inspect all records on any Working Day at any time during normal business hours, including but not limited to, Tow Truck Slips from Law Enforcement Officers and records on charges to customers for vehicles moved in Non-Consent Tows.
2. A Towing Company's failure to provide the Department with access to records or failure to provide requested records is a violation of these Rules.

K. NONCOMPLIANCE WITH ARTICLE II

The Department shall deny, refuse to renew, suspend, or revoke a Tow Truck Permit or Chip requested or issued under this Article II, in accordance with the provisions of Article VII hereof.

III. TOW TRUCK OPERATORS

A. IDENTIFICATION CARD REQUIRED

1. The Operator of a Permitted Tow Truck must have his/her current, valid ID Card visible in order to perform Non-Consent Towing services originating in the unincorporated areas of Montgomery County.
2. No person shall drive or be in physical control of, or allow, permit, or cause any other person to drive or be in physical control of, any Permitted Tow Truck at a Law Enforcement Scene or Evidentiary Crime Scene, under the pretext of performing Non-Consent Towing services, unless the Operator of the Permitted Tow Truck has a current, valid ID Card visible.
3. An Operator of a Permitted Tow Truck shall wear his/her ID Card at all times while at a Law Enforcement Scene.
4. An ID Card worn by an Operator must be attached flush to the Tow Truck Operator's clothing using a badge clip or pin, or worn around the neck using a break-away lanyard.
5. **AN APPLICATION FOR ID CARD SHALL INCLUDE AN AGREEMENT BY THE APPLICANT THAT NO MOTOR VEHICLE WILL BE LOADED, RECOVERED AND TOWED USING ANY TOW TRUCK NOT PROPERLY EQUIPPED AND QUALIFIED TO HANDLE THAT VEHICLE, AND THAT ANY MOTOR VEHICLE LOADED, RECOVERED AND TOWED BY THE APPLICANT AS TOW TRUCK OPERATOR PURSUANT TO NON-CONSENT TOWING SERVICES WILL BE LOADED, RECOVERED AND TOWED PURSUANT TO SAFE PROCEDURES. THE APPLICATION FOR ID CARD SHALL ALSO INCLUDE A PROVISION FOR INDEMNIFICATION AND HOLD HARMLESS OF MONTGOMERY COUNTY BY THE INDIVIDUAL APPLICANT AGAINST ANY CLAIMS OF DAMAGE TO A MOTOR VEHICLE TOWED, OR THE CONTENTS THEREOF, AND AGAINST ANY INJURY OR DAMAGE TO ANY PERSON OR ANY OTHER VEHICLE AS A RESULT OF NON-CONSENT TOWING SERVICES PERFORMED BY APPLICANT.**
6. An ID Card is not required for any person assisting an Operator of a Tow Truck at a Law Enforcement Scene unless that person actually drives or is in physical control of the Tow Truck.
7. A Tow Truck Operator shall have the appropriate Texas driver's license to perform any Non-Consent Towing services.

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B. APPLICATION PROCESS

1. To obtain an ID Card, a person may request an Application form from the Department at the Information Booth located in the main lobby of the Sheriff's Office during normal business hours or download the Application form from the Department's internet website (www.mocosherriff.com), then file a completed Application with the Department. The form of the Application shall be prescribed by the Department. Application forms will be available beginning January 15, 2006. The Application shall include at least the following:
 - a. The full name and address of the applicant;
 - b. The applicant's date of birth;
 - c. The height, weight, hair color, eye color and gender of the applicant;
 - d. The full name of the applicant's employer (*i.e.*, Towing Company), with address and phone number;
 - e. Statement by the applicant that:
 - (1) the applicant was not convicted within the past three years of:
 - (i) a serious traffic violation;
 - (ii) a violation of law that regulates the operation of a Motor Vehicle at a railroad grade crossing;
 - (iii) driving a Motor Vehicle under the influence of alcohol or a controlled substance;
 - (iv) leaving the scene of an accident;
 - (v) using a Motor Vehicle in the commission of a felony;
 - (vi) causing the death of another person through the negligent or criminal operation of a Motor Vehicle;
 - (vii) driving a commercial Motor Vehicle while the commercial driver's license was revoked, suspended or cancelled or while otherwise disqualified from driving a commercial Motor Vehicle;
 - (2) the applicant is not addicted to the use of alcohol, a controlled substance or another drug that renders a person incapable of driving, and the applicant has not refused to submit to a test during the last year to determine alcohol concentration or the presence of a controlled substance or drug while operating a commercial Motor Vehicle;
 - (3) analysis during the last year of applicant's blood, breath or urine under TEX. TRANSP.CODE Ch. 522, 524 or 724 would not disqualify applicant from driving a commercial Motor Vehicle;
 - (4) the applicant does not hold a driver's license issued by this State or another state or country that has been revoked, cancelled or suspended;
 - (5) the applicant has not been determined by judgment of a court to be mentally incompetent, unless declared restored to competency by a court or certificate of competency issued by an attending hospital physician; and

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- (6) the applicant does not have any mental or physical disability that prevents the person from exercising reasonable and ordinary control over operation of a Tow Truck;
 - f. Statement whether the applicant is subject to the registration requirements of the Sex Offender Registration Program, as required by Chapter 62 of the Texas Code of Criminal Procedure;
 - g. The applicant's current, valid Texas driver's license number;
 - h. **AGREEMENT TO INDEMNIFY AND HOLD HARMLESS MONTGOMERY COUNTY IN THE EVENT OF DAMAGE TO OR LOSS OF ANY MOTOR VEHICLE, OR THE CONTENTS THEREOF, OR INJURY OR DAMAGE TO ANY PERSON OR OTHER PROPERTY CAUSED BY ANY NON-CONSENT TOWING SERVICES PERFORMED BY APPLICANT;** and
 - i. The applicant's original signature.
2. An Application for ID Card shall be accompanied by:
 - a. A copy of applicant's Texas commercial driver's license;
 - b. A colored photograph of the entire face of the applicant, which shall be obtained from the Department's Crime Lab at the time the Application for ID Card is submitted to the Department; and
 - c. Fingerprint impressions, which shall be obtained from the Department's Crime Lab at the time the Application for ID Card is submitted to the Department. [At the time the applicant requests fingerprint impressions from the Department's Crime Lab, applicant must also complete a Texas Department of Public Safety ("DPS") fingerprint card, which will be available at the Crime Lab, authorizing DPS to submit Texas background check information to the Department and must make payment by check or money order payable to DPS for the background check (as of the effective date hereof, the fee is \$15.⁰⁰).]
 3. Applications for ID Cards will be accepted by the Department on or after February 1, 2006.
 4. Changes, corrections and updates to any information on file with the Department should be filed within twenty (20) days of learning that the information on file is incorrect, on a new Application form indicating that filing of the form is a change to an existing Application on file.
 5. Applications must be submitted to the Department by hand-delivery or by delivery through the United States Postal Service or any private courier service. No Application, or supporting documentation, may be submitted by facsimile or electronic mail.

C. APPLICATION FEE

An Application for an ID Card shall include payment of a fee, as provided in Article VIII.

D. ISSUANCE OF ID CARD

The Department may issue an ID Card after the applicant satisfies the requirements of this Article III.

E. EXPIRATION AND RENEWAL /REPLACEMENT OF ID CARD

1. Each ID Card shall expire one (1) year from the date the ID Card was issued.

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2. To renew an ID Card, a Tow Truck Operator shall file an Application for renewal and pay the renewal fee set out in Article VIII.
3. Renewal and replacement applications shall contain the same information as required for an original application in Subsections 1 and 2, Section B of this Article III.
3. If an ID Card is lost or destroyed, a Tow Truck Operator may obtain a replacement ID Card by:
 - a. Filing with the Department a sworn affidavit stating that the ID Card was lost or stolen and describing in detail how the ID Card was lost or stolen; and
 - b. Paying a replacement fee as provided in Article VIII.

F. NONCOMPLIANCE WITH ARTICLE III

The Department shall deny, refuse to renew or replace, suspend, or revoke an ID Card requested or issued under these Rules, in accordance with the provisions of Article VII hereof.

IV. OPERATION OF TOW TRUCKS IN NON-CONSENT TOWING

A. EQUIPMENT REQUIREMENTS

1. No person shall perform a Non-Consent Tow originating in the unincorporated areas of Montgomery County unless the Tow Truck being used is equipped with all of the following equipment:
 - a. Brakes that meet braking performance requirements under all loading conditions, consistent with TEX. TRANSP. CODE § 547.408;
 - b. A power winch, winch line, and boom, with factory-rated lifting capacity of not less than eight thousand (8,000) pounds, single line capacity or a hydraulic and mechanical wheel lift with a lifting capacity of not less than two thousand five hundred (2,500) pounds;
 - c. A tow sling or hydraulic lift sufficient to prevent swinging of any equipment and/or vehicle being transported and/or Towed (This requirement does not apply to a vehicle carrier or rollback unless the wheels of a vehicle being Towed are in contact with the ground. A vehicle using a self-contained non-propelled towing device, or some other form of auxiliary device whereby the vehicle to which that device is attached is providing the motion and braking force, is not required to be equipped with this equipment.);
 - d. At least five-sixteenth (5/16)-inch link steel safety chains for Tow Trucks with a gross vehicle weight of ten thousand (10,000) pounds or less, and at least three-eighths (3/8)-inch highest steel chains, or their equivalent, for Tow Trucks with a gross vehicle weight over ten thousand (10,000) pounds (These link sizes are minimums, but shall not override manufacturer's requirements for maintaining warranty provisions applicable to the Tow Truck.);

- e. A ten (10)-pound BC fire extinguisher or two (2) five (5)-pound BC fire extinguishers (All fire extinguishers shall be properly filled, operable, and located so as to be readily accessible. Tow Truck Operators must be trained in use of fire extinguishers, and the extinguishers clearly labeled as to proper usage. Fire extinguishers shall meet the minimum requirements of the National Fire Protection Handbook, 2003 edition, and shall be labeled by a national testing laboratory.);
- f. One crowbar or wrecking bar that is not less than thirty-six (36) inches in length with a wedge head;
- g. One broom of a type designed for pushing with an eighteen (18) inch head, and a handle of not less than thirty-six (36) inches;
- h. One flat-edge shovel of at least nine (9) inches, with a handle of not less than thirty-six (36) inches;
- i. A box or bucket to carry glass and/or debris removed from accident scenes, that could be closed or sealed;
- j. Rope or wire suitable for securing doors, hoods, trunks, etc.;
- k. A functioning spotlight or flashlight;
- l. Outside rearview mirrors on both sides of the truck;
- m. Alternately flashing emergency lights, consistent with the requirements of TEX. TRANSP. CODE §§ 547.305 and 547.702 [The lights shall be mounted as high and as wide as possible with a light or combination of lights at least forty-six (46) inches in width and visible in all directions when activated. Emergency lights shall be only amber in color. A rearward facing directional arrow panel, mounted contiguous with the emergency lights, is permitted.];
- n. Three portable red emergency triangle reflectors, orange cones at least 18" tall, or flares;
- o. Magnetic Tow Lights, consistent with Subsection 4 of this Section A of Article IV;
- p. A High-Mounted Stop Lamp (This equipment shall be mounted on each Tow Truck with an overall width less than eighty (80) inches or certified gross vehicle weight of ten thousand (10,000) pounds or less that is manufactured on or after September 1, 1993.); and
- q. Work lights wired to a separate switch that are not illuminated when the Tow Truck is in motion (These lights must be steady burning white lights that project light to the rear of the Tow Truck.).

2. **In addition to the equipment listed in Subsection 1 of this Section A, all Tow Trucks used in performing Non-Consent Towing services originating in unincorporated areas of Montgomery County shall be dual-wheeled vehicles; provided, however, a Towing Company may obtain a Tow Truck Permit for Tow**

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Trucks that are not dual-wheeled vehicles and use them to perform Non-Consent Towing services prior to February 1, 2007, if: (i) the vehicle was owned by that Towing Company prior to issuance of these Rules; (ii) an Application for Tow Truck Permit is filed prior to February 1, 2006; (iii) the particular recovery and Towing services can be performed safely without damage to the vehicle being Towed; and, (iv) the Towing Company agrees to convert the vehicle to dual wheels before it files any Application for renewal of the Tow Truck Permit. A Tow Truck Permit shall not be renewed for any such vehicle, unless the Towing Company provides proof that the truck was brought into compliance with higher lift capacity. Renewal of a Tow Truck Permit shall be denied for any vehicle that is not dual-wheeled or properly converted to dual wheel. Applications for Tow Truck Permits or renewals of Tow Truck Permits to be effective on or after February 1, 2007, will be denied for vehicles that were not factory-equipped with dual-wheels or properly converted to dual-wheels.

3. **In addition to the equipment listed in Subsection 1 of this Section A, all Tow Trucks used in performing Non-Consent Towing services originating in unincorporated areas of Montgomery County shall have and use wheel-lift or flatbed equipment; provided, however, a Towing Company may obtain a Tow Truck Permit for Tow Trucks with only sling Towing equipment and use them to perform Non-Consent Towing services prior to February 1, 2007, if: (i) the vehicle with that equipment was owned by the Towing Company prior to issuance of these Rules; (ii) an Application for Tow Truck Permit is filed prior to February 1, 2006; (iii) the particular Towing and recovery services can be performed safely without damaging the vehicle being Towed; and, (iv) the Towing Company agrees to convert the vehicle to add or replace the sling equipment with wheel-lift or flatbed equipment before any Application is submitted for renewal of the Tow Truck Permit for that vehicle. A Tow Truck Permit shall not be renewed or issued for any Tow Truck equipped solely with sling equipment on or after February 1, 2007.**
4. No person shall use or operate a Tow Truck for a Non-Consent Tow without using Magnetic Tow Lights, unless the Towed vehicle is loaded on a rollback Tow Truck.
5. No person shall equip a Permitted Tow Truck with any two-way radio capable of transmitting on any law enforcement frequency or Tow using a Tow Truck equipped with any such device. Any Operator or Towing Company found transmitting on any law enforcement frequency shall be subject to suspension or revocation of their Tow Truck Permit(s) or ID Card, in accordance with the provisions of Article VII.
6. No person shall equip a Permitted Tow Truck with any device designed to detect or monitor radar, laser, or any other speed-measuring instrument or perform a Non-Consent Tow using a Tow Truck so equipped.
7. No person shall perform a Non-Consent Tow without using safety chains.
8. No person shall operate a Permitted Tow Truck with a slip-in bed unless the bed is properly secured to the body of the truck by a minimum of eight (8) one-half (½)-inch diameter bolts; nor shall any person use any Permitted Tow Truck with a slip-in bed to Tow any Motor Vehicle when not secured as required herein. At least four (4) of these bolts shall be in front of the slip-in bed.

9. No person shall use a Permitted Tow Truck to lift more than its factory-rated lifting capacity allows, or its revised gross vehicle weight carrying capacity if properly converted.
10. A Towing Company operating Permitted Tow Trucks and Operators of such Tow Trucks shall maintain and keep in good working order all safety mechanisms of the Tow Truck, including, but not limited to, all headlights, tail lights, turn signals, brakes, brake lights, hazard lights, flashing warning lights, windshield wipers, wiper blades, handles opening doors and windows, and tires and all other equipment referenced in Subsection 1 of this Section A of Article IV.
11. All Permitted Tow Trucks shall be operated in compliance with the applicable vehicle manufacturer's recommended safety policies and procedures for Towing vehicles.
12. No Tow Truck Operator performing a Non-Consent Tow may use a tow bar with pins of any kind, or any other tow pin method of attachment typically used for repossession or rapid recovery.
13. Each Permitted Tow Truck must be in compliance with the safety requirements of all other applicable State and Federal statutes in addition to meeting the safety requirements of these Rules.

B. LAW ENFORCEMENT SCENES

The following Rules apply to Law Enforcement Scenes:

1. Except in an emergency or at the direction of a Law Enforcement Officer, an Operator shall park the Tow Truck at least **one hundred (100) feet from a Law Enforcement Scene**. An Operator may use only beacon lights as required by State law.
2. An Operator shall park the Tow Truck on the same side of the road as the Motor Vehicle to be Towed, unless a Law Enforcement Officer directs the Operator to park elsewhere.
3. The Operator(s) selected to Tow shall remove all debris, except large volumes of cargo spilled from rigs or trailers and requiring separate removal, from the Law Enforcement Scene and shall properly dispose of all debris collected.
4. Any Tow Truck Operator soliciting an Operator of a Motor Vehicle involved in an injury accident or any injured party involved in the Law Enforcement Scene shall not be allowed to perform a Non-Consent Tow. An injured party is defined as a person who has visible injuries or who claims injuries and/or is waiting for a dispatched ambulance to administer first aid. Tow Truck Operators shall not enter a Law Enforcement Scene, and shall return to their vehicles after arrival of a Law Enforcement Officer or other emergency personnel, unless requested to remain on the scene by that officer or emergency personnel.
5. A Motor Vehicle Towed pursuant to a Non-Consent Tow must be taken to a permitted Vehicle Storage Facility located in the specific Zone in which the vehicle was loaded, unless the Tow Truck Operator agrees to deliver the vehicle loaded to a different location at the request of the Vehicle Owner.

6. Each Tow Truck Operator responding to a Call and participating in a Match must be able to demonstrate privileges in a licensed Vehicle Storage Facility located within the same Zone as the Law Enforcement Scene.
7. All Tow Truck Operators shall wear appropriate dress while at a Law Enforcement Scene and performing Non-Consent Towing services. Tow Truck Operators shall wear enclosed shoes or boots when performing Non-Consent Towing services.
8. Tow Truck Operators shall obey all Federal, State, and County laws and policies. Violators may be subject to citation and/or arrest, as well as the suspension or revocation of any Permit and/or ID Card.
9. If a Vehicle Owner or operator present at the Law Enforcement Scene contacts a Tow Truck Company before arrival of the Law Enforcement Officer, the Law Enforcement Officer may proceed with removal and Towing services by the Tow Truck Company contacted by that owner or operator, if the Towing Company has indicated it can timely respond and the Law Enforcement Officer determines the Vehicle Owner or operator had the ability and mental capacity at the time to initiate Towing services. Such Towing services initiated by the Vehicle Owner or operator are Consent Tows, and the maximum Towing fees set forth in Article VIII hereof do not apply. However, if the Tow Truck Company contacted cannot or does not respond within thirty (30) minutes, or the Law Enforcement Officer on the scene determines that the vehicle is an obvious safety hazard requiring immediate removal, that officer may make a general call through dispatch or may use the Match procedure for eligible Tow Trucks already on the scene without making a call. **Once the officer initiates the Towing services, the services become a Non-Consent Tow and the maximum Towing fees set forth in Article VIII hereof do apply.**
10. If a Vehicle Owner or operator present at the Law Enforcement Scene expresses a preference for a particular Towing Company or Tow Truck to Tow his/her vehicle at any time before the officer makes a general call through dispatch, the Law Enforcement Officer investigating the scene may air a call for that named Towing Company or Tow Truck and forego making a general call through dispatch. The Law Enforcement Officer has discretion to wait for that Tow Truck designated or air a general call through dispatch. Should the Vehicle Owner or operator be allowed to designate a Towing Company to move their vehicle, the Towing services will be performed as a Consent Tow. If the Vehicle Owner arrives at the Law Enforcement Scene after the Law Enforcement Officer at the scene has made a general dispatch call for Tow Truck service, the officer will proceed with the Match procedure for Tow Trucks responding to the call. **Once a general call has been dispatched, a Tow Truck will be chosen through Match of Tow Trucks responding to the call, and services will continue as a Non-Consent Tow.**
11. Once a Tow Truck has been completely hooked up to a Motor Vehicle, the Tow Truck Company may charge the Vehicle Owner as authorized by these Rules.
12. Tow Truck Operators must wear their current, valid ID Cards while at a Law Enforcement Scene so that ID Cards are clearly visible to the Law Enforcement Officer at the scene. Law Enforcement Officers may inspect the ID Card of any Tow Truck Operator and the Tow Truck Permit for their vehicle at any Law Enforcement Scene.

13. Passengers of a Permitted Tow Truck that have not been issued a current, valid ID Card by the Department may not be permitted to exit the vehicle within one hundred (100) feet of a Law Enforcement Scene, unless instructed by a Law Enforcement Officer or unless and until assisting a Tow Truck Operator who holds a current, valid ID Card in performing Towing services and, then, only under strict supervision of the Tow Truck Operator. It is a violation of these Rules for the Operator of a Permitted Tow Truck responding to a call from a Law Enforcement Scene to permit a passenger to exit his/her Tow Truck within one hundred (100) feet of the scene unless and until that passenger is assisting the Tow Truck Operator in performing Towing services. Prior to award of a Match, no passenger should be allowed within one hundred (100) feet of the scene.
14. It is a violation of these Rules for any Operator of a Permitted Tow Truck to permit children to exit the vehicle within one hundred (100) feet of a Law Enforcement Scene unless and until assisting the Tow Truck Operator in performing Towing services as permitted in the previous Subsection 13 of this Section B.
15. No Operator having an ID Card shall possess or allow any prohibited weapon, firearm, alcoholic beverage or illegal/controlled drug or other substance in or around a Permitted Tow Truck when operating the Tow Truck. This provision does not prohibit a Peace Officer as defined by TEX. CODE OF CRIM. PROC. § 2.12, or a person possessing a valid concealed handgun permit issued by the Texas Department of Public Safety from carrying a firearm while operating or riding in a Tow Truck.
16. A Tow Truck Operator shall ensure that, while lifting a Motor Vehicle in preparation for a Non-Consent Tow, all nonessential persons are a safe distance from the Tow Truck and Motor Vehicle. A safe distance is at least twice the distance between the end of the boom and the point of hook-up on the Motor Vehicle being winched or twice the distance the Motor Vehicle is being lifted, whichever is greater. If a hydraulic lift is being used, a safe distance is twice the distance to which the lift arm is extended. An Operator is responsible for maintaining safe conditions around the Tow Truck during any Towing and winching of a Motor Vehicle.
17. If a Tow Truck or Motor Vehicle to be Towed is in a lane of traffic, an Operator shall not place or operate a Tow Truck cable across a lane or lanes of traffic unless the traffic is stopped or diverted by a Law Enforcement Officer to permit safe winching or lifting of the Motor Vehicle to be Towed.
18. It shall be unlawful for any person to ignite a match, lighter or any other flammable object within a distance of fifty (50) feet in any direction from the location of a vehicle accident or where emergency flares (except safety flares) are in use. In addition, it shall be unlawful for any person to enter into such area with a lighted cigarette, cigar, pipe or other burning material.
19. Non-Consent Towed vehicles picked up at any Law Enforcement Scene shall be taken to a licensed Vehicle Storage Facility or other location designated by the Vehicle Owner, prior to the Tow Truck Operator participating in a subsequent Match or loading another vehicle in Non-Consent Towing services; and, Towed vehicles shall be delivered and accepted by the Vehicle Storage Facility or delivered to the location designated by the Vehicle Owner within two (2) hours from the time the Tow Truck Operator completed loading the vehicle.

20. All Tow Trucks are subject to an inspection on any Working Day during normal business hours at the discretion of a Department supervisor with the rank of Sergeant or above, or by Department personnel designated as Tow Truck Inspectors, and at any time by a Law Enforcement Officer while on a Law Enforcement Scene.
21. A Towing Company or Tow Truck Operator may not break into or enter a vehicle, or any part thereof, for purposes of performing a Non-Consent Tow without consent of the Vehicle Owner.

C. EVIDENTIARY CRIME SCENES

Non-Consent Tows from Evidentiary Crime Scenes shall be subject to the same Rules stated herein for Law Enforcement Scenes in addition to the following provisions, which shall prevail over any conflicting provisions respecting Law Enforcement Scenes:

1. Should additional evidentiary processing beyond the Evidentiary Crime Scene be necessary and the Law Enforcement Agency requires assistance in Towing a vehicle, the Law Enforcement Officer investigating a scene will make a call to dispatch for Towing from the scene by a Contract Tow Truck (*i.e.*, a Towing Company that has contracted to perform Towing services on behalf of a law enforcement agency or political subdivision) to a special location designated for evidentiary processing. If a Contract Tow Truck is not available for timely response, the Law Enforcement Officer has discretion to determine whether to make a general call for Towing services by a Permitted Tow Truck to be selected through a Match.
2. Once the additional evidentiary processing has been completed and the vehicle released by the Department, the Vehicle Owner may choose a Tow Truck Company to move his/her vehicle by Consent Towing services. Should the Department initiate movement of the vehicle from the evidentiary processing location, the Department will make a call to a Contract Tow Truck for Towing services.
3. Any Towing Company that performs Non-Consent Tows under this Subsection and is selected through a Match must possess a current, valid Permit and individual Operators must have current, valid ID Cards.
4. Fees and charges for Non-Consent Tows from an Evidentiary Crime Scene not exceed the maximum allowable fees set out in Article VIII hereof.

D. MATCHING PROCESS

The following Rules apply to the selection of a Permitted Tow Truck at Law Enforcement and Evidentiary Crime Scenes:

1. A Law Enforcement Officer investigating a Law Enforcement or Evidentiary Crime Scene in the unincorporated areas of Montgomery County shall allow one eligible Operator of each Permitted Tow Truck that arrives on the scene within fifteen (15) minutes after general dispatch call to participate in a Match process. Only one Operator per Tow Truck timely arriving at the scene is eligible to be present for Matching.
2. When conducting a Match, the Law Enforcement Officer will collect the Chip corresponding to the Tow Truck Permit from each eligible Tow Truck Operator at the scene within fifteen (15) minutes of the general dispatch call and deposit the Chips in a hat or other similar container. The Law Enforcement Officer, or other person

designated by the Law Enforcement Officer, will then draw a Chip from the container. If a Tow Truck Operator's Chip is drawn, he/she may then load the Motor Vehicle. If a Tow Truck Operator's Chip is selected but that Tow Truck Operator refuses to Tow, cannot perform the Tow or cannot designate another eligible Tow Truck Operator at the scene to perform the Tow on his/her behalf, the Law Enforcement Officer may repeat the procedure to select another Tow Truck.

3. The Tow Truck Operator whose Chip is drawn in a Match must be able to promptly load the vehicle and complete the Tow. Should back-up assistance be required for that Tow Truck Operator to complete the recovery and Tow, and compensation for back-up assistance is expected, the Tow Truck Operator must be able to demonstrate to the Law Enforcement Officer on the scene that back-up assistance is available from eligible Tow Trucks on the scene, as provided in Subsection 7 of Section F in Article I herein. Should that Tow Truck Operator be unable to complete the Tow and back-up assistance is not available, the Law Enforcement Officer on the scene may conduct another Match, or dispatch another general call, as appropriate.
4. If only one Tow Truck arrives at a Law Enforcement Scene within fifteen (15) minutes after the Law Enforcement Officer's general dispatch call, a Match is not required; that Tow Truck Operator, if eligible and able to conduct the Tow, may proceed to load the vehicle.
5. If a Law Enforcement Officer arrives on a scene and the vehicle to be Towed is an obvious safety hazard requiring immediate removal, as determined by the officer, that officer may use the Match procedure for eligible Tow Trucks already on the scene without making a call. If the scene is secure when the officer arrives, a standard (15) fifteen minute general call will be dispatched before conducting a Match.
6. Only Tow Truck Operators possessing a current, valid ID Card, and using Tow Trucks with a current, valid Tow Truck Permit and Chip, will be allowed to participate in a Match.
7. Any Tow Truck Operator or Towing Company that interferes with the loading of a Motor Vehicle by another Operator or Towing Company or retaliates against a Tow Truck Operator or Towing Company for participating in a Match and Non-Consent Tow commits a violation of these Rules.
8. A Vehicle Owner or operator whose vehicle could be moved without Towing, may request that a passenger of the vehicle or another person be called to drive the vehicle to a location of the Vehicle Owner or operator's choice. The Law Enforcement Officer at the scene has discretion to determine whether the person designated has capacity to drive the vehicle, wait for that person designated or air a general call through dispatch. Once a call has been dispatched, the vehicle shall be Towed by use of a Tow Truck chosen through Match.

E. TOW TRUCK SLIP

1. Once a determination is made as to which Tow Truck Operator will perform the Tow, the Law Enforcement Officer on the scene will provide the Tow Truck Operator with duplicate copies of a Tow Truck Slip in a form designated by the Department. The Tow Truck Slip shall contain the following information:

- a. A complete description of the Motor Vehicle to be Towed, including the license plate number, the vehicle identification number and weight reported on vehicle registration and lading documents;
 - b. Any visible damage to the inside or outside of the Motor Vehicle;
 - c. Any personal property contained within the Motor Vehicle that is visible from outside the vehicle;
 - d. Any visible missing parts or paraphernalia;
 - e. The location from which the vehicle is being Towed;
 - f. The time the Tow Truck Operator completes loading the vehicle;
 - g. The reason the Motor Vehicle is being Towed;
 - h. The designated Vehicle Storage Facility, or other location designated by the Vehicle Owner or Law Enforcement Agency, to which the Motor Vehicle is to be Towed;
 - i. The State license plate number of the Tow Truck being used for the Tow;
 - j. The signature and employee number or badge number of the Law Enforcement Officer authorizing the Tow;
 - k. The signature of the Tow Truck Operator performing the Tow; and
 - l. A brief description of Towing services performed at the scene, including whether back-up assistance was required for recovery of the vehicle.
2. The Tow Truck Operator signing the Tow Truck Slip shall be responsible to account for the Motor Vehicle from the time it is loaded until it is accepted by a permitted Vehicle Storage Facility or another location designated by the Vehicle Owner. The Tow Truck Operator shall provide the Vehicle Storage Facility or other location where the Motor Vehicle is taken with a copy of the Tow Truck Slip.

F. NOTICE TO MOTOR VEHICLE OWNERS

Once a Motor Vehicle has been Towed upon authorization of a Law Enforcement Officer and delivered to a Vehicle Storage Facility, the Vehicle Storage Facility shall give notice to the registered owner of the Motor Vehicle as required by Chapter 2303, Subchapter D of the Texas Occupations Code.

G. NONCOMPLIANCE WITH ARTICLE IV

The Department shall deny, refuse to renew, suspend, or revoke an ID Card or Tow Truck Permit for violations under this Article IV, in accordance with the provisions of Article VII hereof.

[Rev. 1/20/06]

V. HEAVY-DUTY TOW TRUCKS

A. PERMIT REQUIRED

1. No person shall drive or be in physical control of a Heavy-Duty Tow Truck to perform a Non-Consent Tow originating in the unincorporated areas of Montgomery County without the appropriate Tow Truck Permit issued pursuant to these Rules.
2. It is a violation of these Rules for a Towing Company to perform any Non-Consent Tow originating in the unincorporated areas of Montgomery County using a Heavy-Duty Tow Truck without a current, valid Tow Truck Permit properly displayed in the Tow Truck performing the Non-Consent Tow. A separate Tow Truck Permit shall be required for each Heavy-Duty Tow Truck used for Non-Consent Towing services originating in the unincorporated areas of Montgomery County.
3. The Heavy-Duty Tow Truck Permit shall be a sticker properly displayed on the upper left driver's side of the front windshield of the Tow Truck and clearly visible at all times.
4. Towing Companies are responsible for the Tow Truck Permits issued to them. If a Permit is lost or stolen, the Towing Company shall be responsible for its replacement before participating in a subsequent Non-Consent Tow originating in Montgomery County.
5. An ID Card issued by the Department pursuant to the procedure prescribed in Article III hereof is required for driving or physically controlling any Heavy-Duty Tow Truck in a Non-Consent Tow originating from any Law Enforcement Scene or Evidentiary Crime Scene in Montgomery County.
6. A missing, lost, altered or mutilated ID Card or Tow Truck Permit shall disqualify any Tow Truck from performing Non-Consent Towing services originating in Montgomery County.
7. Heavy-Duty Tow Trucks will be dispatched by the Department upon call by the Law Enforcement Officer at the scene requesting dispatch call for a Heavy-Duty Tow Truck; there is no necessity for a Matching process. The determination of whether a Heavy-Duty Tow Truck is required shall be at the discretion of the Law Enforcement Officer at the scene.
8. Vehicles Towed by a Heavy-Duty Tow Truck in a Non-Consent Tow originating in Montgomery County shall deliver the vehicle loaded to a licensed Vehicle Storage Facility located within Montgomery County and with the capability and capacity to store the vehicle Towed, or to another location designated by the Vehicle Owner or by the Law Enforcement Agency, should additional evidentiary processing be deemed necessary.
9. Maximum allowable charges for Non-Consent Towing services requiring the use of Heavy-Duty Tow Trucks shall be calculated as provided in Article VIII hereof and supported information recorded by the Law Enforcement Officer on the Tow Truck Slip.

B. APPLICATION PROCESS

Each person or Towing Company that desires authorization to operate a Heavy-Duty Tow Truck to perform Non-Consent Tows originating in Montgomery County shall file an Application for Tow Truck Permit with the Department including the same information as required in Section B of Article II hereof.

C. APPLICATION FEE

An applicant for a Heavy-Duty Tow Truck Permit shall pay the applicable fee provided in Article VIII hereof.

D. DEPARTMENT DISPATCH OF HEAVY-DUTY TOW TRUCKS

1. The Department will maintain an official list of Towing Companies with Heavy-Duty Tow Trucks; the list will be expanded as additional Tow Truck Permits are issued and inspections completed for Heavy-Duty Tow Trucks. Upon determination by a Law Enforcement Officer investigating a Law Enforcement Scene that a Heavy-Duty Tow Truck is required, the Officer will advise Department dispatch; the Department will then dispatch a call to the Towing Company for that Zone closest to the Law Enforcement Scene.
2. If a Law Enforcement Officer at a Law Enforcement Scene determines the Towing Company receiving the dispatch call does not have a Heavy-Duty Tow Truck that can arrive within thirty (30) minutes, the Officer may request the Department send a dispatch call to the next Towing Company on the rotation list for that Zone, or the closest in an adjacent Zone.
3. A Towing Company that responds to a dispatch call and performs a Tow, refuses the dispatch or does not timely respond to a dispatch call is rotated to the bottom of the rotation list.
4. The Department may send a dispatch call for Heavy-Duty Tow Truck to only those Towing Companies with permitted Heavy-Duty Tow Trucks on the Department's official list. Once a Towing Company has responded to a dispatch call and notified the Department that its Heavy-Duty Tow Truck is en route, no other Tow Trucks will be allowed to load at the Law Enforcement or Evidentiary Crime Scene.
5. Failure to arrive at the scene within thirty (30) minutes of notifying the Department's Communications Division that a Heavy-Duty Tow Truck is en route, absent exigent circumstances, is a violation of these Rules.

E. EQUIPMENT REQUIREMENTS

No person shall operate a Heavy-Duty Tow Truck to perform Non-Consent Tows originating in Montgomery County unless the Tow Truck meets all of the equipment requirements required in Section A of Article IV hereof, as well as the following requirements:

1. A Heavy-Duty Tow Truck shall be at least a five (5)-ton vehicle or more and shall be equipped with air brakes and tandem axles; and
2. Heavy-Duty Tow Trucks shall have a twenty-four (24)-hour telephone service and be equipped with two-way radio communication with a twenty-four (24)-hour dispatch service.

F. INSURANCE REQUIREMENTS

A Towing Company shall obtain insurance coverage for Heavy-Duty Tow Trucks consistent with coverage required in Section H of Article II herein.

G. NONCOMPLIANCE WITH ARTICLE V

The Department shall deny, refuse to renew, suspend or revoke a Heavy-Duty Tow Truck Permit requested or issued under this Article V, in accordance with the provisions of Article VII hereof.

VI. VEHICLE STORAGE FACILITIES

A. ELIGIBLE FACILITIES

1. No person shall store or permit a Motor Vehicle subject to a Non-Consent Tow originating in Montgomery County to be stored in any facility that does not have a current, valid license granted by TxDOT (See 43 TEX. ADMIN. CODE §18.80, *et seq.*).
2. Vehicle Storage Facilities used for storage of Motor Vehicles transported through the use of Non-Consent Towing services must be located within the specific Zone in which the vehicle was loaded, except in the case of Non-Consent Tows by Heavy-Duty Tow Trucks which are subject to Subsection 8 of Section A of Article V herein.
3. Once a vehicle is transported by Non-Consent Towing services to a Vehicle Storage Facility, it may not be moved to a different facility if that movement results in charging the Vehicle Owner more for transporting and storage services had it not been moved beyond the initial storage facility.
4. If a vehicle Towed pursuant to Non-Consent Towing services is moved between Vehicle Storage Facilities, the location of each facility storing the vehicle must be in compliance with Subsection 2 of this Section A. In addition, each Storage Company must comply with notification provisions of Subsection 3 of Section C of this Article VI.

B. OPERATION OF VEHICLE STORAGE FACILITY

1. Each Storage Company shall operate its Vehicle Storage Facility in compliance with all requirements of the Texas Vehicle Storage Facility Act, Chapter 2303 of the Texas Occupations Code, as hereafter amended or its successor statute, and shall be licensed by TxDOT in order to store Motor Vehicles that have been subjected to Non-Consent Towing.
2. Motor Vehicles stored after Non-Consent Towing services shall be disposed of pursuant to applicable provisions of Section 2303.157 of the Texas Occupations Code and Chapter 683 of the Texas Transportation Code.
3. No person shall allow a Motor Vehicle subject to a Non-Consent Tow to be stored at a Vehicle Storage Facility not identified on the Tow Truck that conducted the Tow and approved as a part of the Tow Truck Application, except where the vehicle was taken to a location designated by the Vehicle Owner or an evidentiary processing location designated by the Law Enforcement Agency.

4. Each Storage Company shall post, at each Vehicle Storage Facility it owns or operates and at which it accepts vehicles Towed by Non-Consent, a sign plainly visible to the public clearly displaying the Vehicle Storage Facility Permit number, hours of operation, maximum charges allowed and whom to contact with complaints, consistent with the requirements of 43 TEX. ADMIN. CODE §§ 18.89 and 18.91.

C. DUTIES AND RESPONSIBILITIES OF STORAGE COMPANY

1. Vehicle Storage Facility operators shall comply with 43 TEX. ADMIN. CODE §§ 18.80, *et seq.*, and as hereafter amended.
2. Storage Companies shall keep and maintain records of all Motor Vehicles received through Non-Consent Tows in a manner and form required by TxDOT, pursuant to 43 TEX. ADMIN. CODE § 18.88.
3. All Vehicle Storage Facilities shall make notifications to Vehicle Owners regarding the storage and disposal of vehicles moved through Non-Consent Tows in accordance with applicable provisions of Chapter 2303 of the Texas Occupations Code and Chapter 43 of the Texas Administrative Code, and as either may be hereafter amended.
4. All Vehicle Storage Facility operators designated for storage of vehicles moved in Non-Consent Tows shall permit inspection of premises or books and records by Department personnel on any Working Day during normal business hours, as necessary to ensure compliance with these Rules.

D. NONCOMPLIANCE WITH ARTICLE VI

Pursuant to TEX. OCC. CODE § 2303.303, a Law Enforcement Officer may make an arrest for violation of a rule adopted under the Vehicle Storage Facility Act found in Chapter 2303 of the Texas Occupations Code, and rules and regulations implementing the Act found in 43 TEX. ADMIN. CODE Subch. G; in addition, the Department or another Law Enforcement Agency may refer the matter to TxDOT for disciplinary action.

VII. VIOLATIONS OR INSUFFICIENT APPLICATIONS

A. DENIAL, REFUSAL TO RENEW, SUSPENSION, OR REVOCATION OF PERMIT AND/OR ID CARD

1. The Department, may deny, refuse to renew, suspend or revoke any Tow Truck Permit or ID Card issued under these Rules for any of the following reasons:
 - a. Knowingly supplying false or incomplete information on the Application;
 - b. Noncompliance with or violation of any of these Rules;
 - c. Applicability of any provisions of Subsection 1.e. of Section B of Article III applies disqualification by the Texas Department of Public Safety as a commercial driver's license holder or suspension or revocation of his/her commercial driver's license;

- d. Noncompliance of the Vehicle Storage Facility used by the permit or ID Card holder with these Rules;
 - e. Falsifying records;
 - f. Charging an amount that exceeds the amounts authorized under Article VIII;
 - g. Performing or attempting to perform a Non-Consent Tow without authorization; or
 - h. Knowingly Towing a Motor Vehicle that is reported stolen without first contacting a Law Enforcement Agency and receiving specific authority from a Law Enforcement Agency to Tow said vehicle reported stolen.
2. A Violation of any part of these Rules may subject a Towing Company or Tow Truck Operator to immediate suspension or revocation of a Permit or ID Card.
 3. Upon determination by the Department that any condition of Subsection 1 of this Section A of Article VII applies, a Department supervisor with the rank of Sergeant or above, or personnel designated as Tow Truck Inspectors shall have the authority to deny, refuse to renew, suspend or revoke, and/or demand surrender of any ID Card or Permit issued pursuant to these Rules. The Towing Company or Tow Truck Operator shall be required to comply with any order to surrender any ID Card or permit.

B. COMPLAINT PROCEDURE

A Tow Truck Operator or any Vehicle Owner complaining of a Tow Truck Operator, permit holder or Law Enforcement Officer involved in a Non-Consent Tow originating in Montgomery County may file a written complaint with the Department's Tow Truck Enforcement Division. Complaints against Law Enforcement Officers will be referred to the appropriate Law Enforcement Agency for their investigation and disposition; other complaints shall be investigated and action shall be taken as the Department deems appropriate and as authorized under these Rules.

C. NOTICE TO APPLICANT OF ADVERSE ACTION BY THE DEPARTMENT

1. If the Department denies or refuses to renew any ID Card or permit, a written notice shall be forwarded to the applicant setting forth the following:
 - a. The specific grounds for the Department's adverse action; and/or
 - b. Any specific noncompliance or violations of these Rules and/or any Federal or State laws that the Department relied on in its adverse action.
2. The Department shall send written notices to applicants by First Class Mail, via the United States Postal Service.
3. The Department's denial or refusal to renew any ID Card or permit disqualifies the person or business from participating in a subsequent Non-Consent Tow until an ID Card or permit is reinstated.
4. Upon a refusal to renew, suspension or revocation, a Department supervisor with the rank of Sergeant or above, or personnel designated as Tow Truck Inspector, shall

request return of the permit and/or ID Card pending any investigation or appeal and will provide the permit or ID Card holder a "Report of Circumstances." The person or company possessing the permit and/or ID Card shall surrender them to the Department Tow Truck Inspector or Department supervisor no later than the NEXT Working Day following request.

5. Law Enforcement Officers from agencies other than the Department, upon determination of a violation of these Rules, shall have the authority to deny a Tow Truck Operator participation in a Non-Consent Tow and may refer violations or suspected violations to the Department for investigation and further action under these Rules.

D. HEARING PROCESS

1. A person or company may appeal adverse action by the Department by delivering a written notice of appeal to the Department within five (5) Working Days from the date of receipt of the written notice of the Department's adverse action.
2. Delivery of a notice of appeal to the Department is effective if hand-delivered, or forwarded by United States, return receipt requested, to the Department, to the attention of the Sheriff's Office, Supervisor of Tow Truck Enforcement (hereinafter referred to as "Supervisor").
3. Upon receipt of a written notice of appeal, the Supervisor shall convene a Disciplinary Hearing Committee to hear the appeal; the Committee shall be comprised of the following individuals:
 - (a) Department Lieutenant of Administration;
 - (b) Lieutenant of the Department's Patrol District or the district of the law enforcement agency in which the violation occurred; and
 - (c) Another Patrol Supervising Officer designated by the Sheriff, or the Supervisor acting on behalf of the Sheriff.
4. The Disciplinary Hearing Committee shall give the person or company making the appeal a written notice stating the date, time and place of an appeal hearing to be conducted by the Committee. Both the person or company that made the appeal and the Department are entitled to offer evidence and argument at the appeal hearing. Following that hearing, the Committee shall render a decision and provide written notice of their decision no later than fifteen (15) Working Days from the hearing date. A decision of the Committee shall become final, if not appealed to the Patrol Division Captain, within five (5) Working Days after receipt of notice of the Committee's decision.
5. An adverse decision of the Disciplinary Hearing Committee may be appealed to the Patrol Division Captain by delivering a written notice of second appeal within five (5) Working Days from receipt of notice of the Disciplinary Hearing Committee's decision. The Patrol Division Captain's decision shall be based upon a review of the Committee's decision, written materials submitted at the hearing and any additional written information (limited to five (5) pages, double-spaced) that either party submits. The Patrol Division Captain will render a written decision within fifteen (15) Working Days

from the date written notice of a second appeal is received. A decision of the Patrol Division Captain shall be final if not appealed to the Sheriff within five (5) Working Days from receipt of notice of the Patrol Division Captain's decision.

6. An adverse decision of the Patrol Division Captain may be appealed to the Sheriff by delivering a written notice of final appeal within five (5) Working Days of receipt of notice of the Patrol Division Captain's decision. Additional information may not be submitted in a final appeal to the Sheriff. Rather, the Sheriff's decision shall be based only on a review of the written information previously submitted to the Disciplinary Hearing Committee and to the Patrol Division Captain. The Sheriff may render a written decision within fifteen (15) Working Days from the receipt of the final notice of appeal. The County shall consider decisions of the Sheriff final resolution.
7. A person or company forfeits its right to any appeal available under the provisions hereof by failing to timely file an appeal under this Article.
8. All notices of appeal shall be sent to:

MONTGOMERY COUNTY SHERIFF
ATTN: SUPERVISOR OF TOW TRUCK ENFORCEMENT
#1 Criminal Justice Dr
Conroe, Texas 77301

E. SANCTIONS

1. The Disciplinary Hearing Committee, Patrol Division Captain or the Sheriff may continue the suspension of an ID Card or any permit for an additional period not less than seven (7) Working Days nor more than ninety (90) Working Days from the date the decision on an appeal is rendered and require the payment of the appropriate fee as provided in Article VIII for a new Application to reinstate a permit or ID Card.
2. A person or company subject to a denial of a new Application, refusal to renew or revocation of a permit or ID Card issued under these Rules may submit a new application with the Department, together with payment of the appropriate fees as provided in Article VIII, as follows:
 - a. No earlier than one hundred eighty (180) Working Days from the date of the Disciplinary Hearing Committee's final decision, if no appeal was made to the Patrol Division Captain or the Sheriff; or
 - b. No earlier than ninety (90) Working Days from the date of a final decision by either the Disciplinary Hearing Committee, Patrol Division Captain or the Sheriff, whichever rendered the decision that is latest in time.
3. As a further condition of extension or cancellation of a suspension or revocation, the Disciplinary Hearing Committee, Patrol Division Captain or the Sheriff may require the submission of a new Application and payment of the appropriate reinstatement fees under Article VIII in order to perform a subsequent Non-Consent Tow.

F. AFFIRMATIVE DEFENSES TO SUSPENSION OR REVOCATION

It is an affirmative defense to Suspension or Revocation that:

1. The Tow Truck used to Tow the vehicle was owned by the owner of the vehicle being Towed, carried or otherwise transported by the Tow Truck;
2. The vehicle Towed, carried, or otherwise transported was originally picked up or loaded onto the Tow Truck at a specific location not within the unincorporated areas of Montgomery County, that was not a Law Enforcement Scene, or that was not a Public Road;
3. The Towing was incidental to a lawful repossession of the Towed Motor Vehicle;
4. The Tow Truck Operator complied with all requirements of these Rules that would be applicable if the lienholder were the owner of the vehicle being Towed; or
5. The Operator, Tow Truck Company, or Vehicle Storage Facility involved was not at the time of the offense required to be permitted or licensed under these Rules or other applicable laws, statutes, rules or regulations.

VIII. FEES AND MAXIMUM ALLOWABLE CHARGES

A. APPLICATION FEES

- | | | |
|----|------------------------|----------------------|
| 1. | Tow Truck Permit | \$175. ⁰⁰ |
| 2. | ID Card | 15. ⁰⁰ |
| 3. | Zone Sticker..... | 50. ⁰⁰ |

B. RENEWAL AND REPLACEMENT APPLICATION FEES

- | | | | |
|----|---|--------------------|--|
| 1. | Tow Truck Permit: | | |
| | Renewal | 175. ⁰⁰ | |
| | Replacement or Amendment of Permit | 75. ⁰⁰ | |
| | Replacement or Substitute Tow Truck | 100. ⁰⁰ | |
| | Replacement of Zone Sticker..... | 25. ⁰⁰ | |
| 3. | ID Card: | | |
| | Renewal | 15. ⁰⁰ | |
| | Replacement | 15. ⁰⁰ | |

C. MAXIMUM ALLOWABLE TOW TRUCK TOWING CHARGES

- | | | |
|----|--|--------------------|
| 1. | Maximum Towing Charge ¹ | 175. ⁰⁰ |
| 2. | Maximum Towing Charge for Back-up Assistance | 75. ⁰⁰ |

¹ Includes compensation for all equipment and services associated with a basic Towing service, including but not limited to, hooking up, winching, loading, Towing, debris clean-up, wait time and rollover.

D. MAXIMUM ALLOWABLE HEAVY-DUTY TOW TRUCK TOWING CHARGES

- 1. Maximum Towing Charge – Driver Arrest, and/or No Damage..... 400.⁰⁰
- 2. Maximum Towing Charge – Abandoned Vehicle with No Cargo
or Weight to be Loaded is 15,000 lbs or Less. 400.⁰⁰
- 3. Maximum Towing Charge – Weight to be Loaded is more than
15,000 lbs, Computed as Cents per Pound for one of the following categories:
 - Contained Recovery, including Winching..... 3.5
 - Total Loss Recovery..... 5.0
 - Rollover..... 4.0
 - Embankment or Incline..... 4.5

E. TOWING FEE STUDIES

Any person may file with the Department, at any time but not more often than once annually, a request for Towing Fee Study to be performed by the Department. In that event, the Department will make a determination whether it believes a Towing Fee Study is warranted and advise the Commissioners’ Court of the request with a recommendation whether to conduct a Towing Fee Study. The Commissioners’ Court may accept the recommendation of the Department or order a Towing Fee Study despite a recommendation otherwise. The Commissioners’ Court is not absolutely obligated to order a Towing Fee Study. If so ordered, the Department shall review the maximum allowable fees for Non-Consent Towing services and present to the Commissioners’ Court a recommendation whether the maximum allowable fees then in effect represent the fair value of the services of a Towing Company and are reasonably related to any financial or accounting information collected by the Department during the course of its Towing Fee Study. The Commissioners’ Court shall determine whether the maximum allowable fees should be amended, and proceed accordingly.

IX. ENFORCEMENT

A person commits an offense if the person violates any provision of these Rules and Regulations. An offense under these Rules and Regulations is a misdemeanor punishable by a fine of not less than two hundred dollars (\$200.⁰⁰) or more than one thousand dollars (\$1,000.⁰⁰) per violation. See TEX. TRANSP. CODE § 643.253 (e). A Law Enforcement Officer may issue a citation for any violation. Citation may be issued in addition to any action taken by the County in accordance with Article VII of these Rules and Regulations. Each day that a violation continues shall be punishable as a separate offense.

X. COMMUNICATIONS AND COUNTY CONTACT

Questions concerning these Rules may be submitted by e-mail to the Department’s designated e-mail address (tow.truck@mctx.org) or by letter delivered to the Department’s Information Booth in the main lobby of the Sheriff’s Office, or communications may be directed as follows:

Montgomery County Sheriff’s Office
Attn: Tow Truck Enforcement
#1 Criminal Justice Dr.
Conroe, Texas 77301

Phone: 936-760-5871
Fax: 936-538-7797
Tow Truck Info. No.:
936-760-5801

[Rev. 1/20/06]

XI. EFFECTIVE DATE

These Rules and Regulations, with approval of Montgomery County Commissioners' Court, shall become effective on March 1, 2006. Consequently, on and after March 1, 2006, all Towing Companies and persons operating a Tow Truck in the performance of Non-Consent Towing services originating in the unincorporated areas of Montgomery County shall be subject to the provisions herein.