

✓

STATE OF TEXAS

COUNTY OF BEE

AN ORDER REGULATING NON-CONSENT TOWING IN BEE COUNTY

A county's authority to regulate non-consent towing fees applies to both incident management and private property non-consent tows. The setting of fees for incident management tows initiated by the Sheriff's department does not constitute "regulation of the local towing industry, but rather exercises a "proprietary function". A county has the authority to cap the fees charged by towing companies who perform incident management tows by adoption of an order setting the maximum towing rates that can be charged by those who wish to respond to the Sheriff's incident management towing needs. In the alternative, or in addition to the county order, a county sheriff can cap incident management towing fees by contracting with one or more towing companies for those services.

Definitions:

Consent tow: Any tow of a vehicle initiated by the vehicle owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle.

Heavy-duty tow truck: A tow truck having a chassis rated at five tons or greater by the vehicle manufacturer and a winch capable of lifting a minimum of thirty thousand pounds, as rated by the winch manufacturer.

Law Enforcement Scene: The scene of a crime, accident, incident, or custodial arrest, or the location of a vehicle that constitutes a traffic hazard, a recovered stolen vehicle, or an abandoned vehicle.

Non-consent tow: Any tow of a vehicle that is not a consent tow, and/or any tow initiated by a law enforcement officer and conducted at a law enforcement scene in the unincorporated area of Bee County. There are two types of non-consent tows: Incident management tows and private property tows.

- Incident management tows are initiated by law enforcement officers after a driver has been arrested, has been involved in an accident, or has an otherwise disabled vehicle and fails or refuses to designate a tow truck company to move the driver's vehicle from public property.
- Private property tows are initiated by parking facility owners for removal of unauthorized vehicles. (Towing companies performing private property tows **will not** be guided by the county's non-consent order).

EQUIPMENT REQUIREMENT FOR CONDUCTING NON-CONSENT TOWS

- No person or tow company shall perform a Non-Consent tow originating in the unincorporated area of Bee County unless the tow company, tow truck and person complies with all applicable Federal, State, and local laws, statutes, regulations, ordinances, orders or guidelines as set forth in the following: 29CFR, Texas Transportation Code, Texas Occupational Code, Section 2308, and the Texas Department of Licensing and Regulation.
- A power winch, winch line, and boom, with a factory rated capacity of not less than eight thousand pounds, single line capacity or hydraulic and mechanical wheel lift with a lifting capacity of not less than two thousand five hundred pounds.
- Tow Companies shall respond with only the equipment required to complete the task, and will not charge for equipment that is not necessary at the incident.

- Each tow truck must carry, as standard equipment:
 1. A tow sling, or hydraulic lift sufficient to prevent swinging of any equipment and/or vehicle being transported and/or towed.
 2. A sufficient number of steel safety chains with at least 5/8" links for tow trucks of less than 10,000 pounds GVW
 3. A sufficient number of high-test steel safety chains with at least 3/8" links or their equivalent for tow trucks with GVW of 10,000 or more.
 4. One five pound type ABC fire extinguisher, at least meeting current NEP standards, properly filled and readily available for tow trucks with GVW of 26,000 lbs or less.
 5. One ten pound and two five pound type ABC fire extinguishers, at least meeting NEP standards, properly filled and readily available for tow trucks with a GVW over 26,000 pounds.
 6. At least one wedge-head crowbar or wrecking bar, at least 36" in length.
 7. One broom of a type designed for pushing with an eighteen inch head.
 8. One flat edge shovel of at least nine inches width.
 9. A box or bucket for carrying glass or other debris removed from an accident scene or roadway.
 10. Sufficient rope or wire to secure loose doors, trunks, or hoods.
 11. Emergency lights, either rotator or strobe-type, amber in color, visible from all directions when in operation (no red, blue, green, or white colored flashing lights are permitted).
 12. Auxiliary tail and signal lamps with sufficient cable to attach said lamps to the rearmost vehicle in combination being towed.

TOW TRUCK SLIP

A tow truck slip shall be completed for each non-consent tow. The completed tow truck slip shall have, at least, the following information:

- A complete description of the vehicle to be towed, including the license plate number, the vehicle identification number (if available) and weight reported on the vehicle registration and lading documents.
- Any visible damage or missing parts to the inside or outside of the vehicle.
- The location from which the vehicle is being towed.
- The time the tow truck operator completes loading the vehicle.
- The reason the vehicle is being towed.
- The designated vehicle storage facility, or other location designated by the vehicle owner or law enforcement agency, to which the vehicle is being towed.
- The signature of the tow truck operator performing the tow.
- A brief description of towing services performed at the scene, including whether pack-up assistance was required for recovery of the vehicle.
- A total of charges for services performed at the scene.

FEES FOR SERVICES

Maximum Allowable Non-Consent Tow Fees

Light Duty (Regular/Flatbed Tow Truck)

1. Normal Police Initiated Non-Consent Tow.....\$175.00
2. Required use of Dollies or similar Equipment, (charges assessed only if tires are flat, locked, or otherwise not free-wheeling).....\$50.00
3. Tire change (in lieu of dollies).....(each tire)\$15.00
4. Additional or abnormal labor such as winching for removal from embankment, or water, righting overturned vehicle, or similar circumstances (all inclusive)(per hour).....\$250.00
5. Distance fees (cost per mile from yard).....\$4.00
6. Standard sweeping and debris removal (per ½ hour).....\$50.00
7. Waiting time/per hour(after 30 minutes).....\$65.00
8. Additional Labor (Per person/per hour).....\$50.00

Medium Duty (Regular/Flatbed Tow Truck)

1. Normal Police Initiated Non-Consent Tow.....\$275.00
2. Required use of Dollies or similar Equipment (Charges assessed only if tires are flat, locked, or otherwise not free-wheeling).....\$50.00
3. Tire change (In lieu of dollies).....\$25.00
4. Additional or abnormal labor such as winching for removal from embankment, or water, righting overturned vehicle, or similar circumstances (all inclusive).....\$325.00
5. Distance Fees (cost per mile from yard).....\$4.00
6. Standard Sweeping and Debris removal (per ½ hour).....\$75.00
7. Waiting time/per hour(after 30 minutes).....\$65.00
8. Additional Labor (Per person/hour).....\$50.00

Maximum Allowable Non-Consent Tow Fees

(Heavy-duty or Large Tow Truck)

1. Standard Police Initiated,(non-accident) Impound\$1000.00
2. Recovery/Rollover/Winching (per hour).....\$2500.00
3. Remove Driveline.....\$100.00
4. Remove Axle.....\$300.00
5. Distance fees (per mile, round-trip)..... \$10.00
6. Sweeping and Debris Removal (per hour).....\$275.00
7. Waiting time per hour (after 30 minutes).....\$225.00
8. Landoll Trailer and truck (per hour).....\$800.00
9. Additional labor (per person/per hour).....\$80.00
10. Recovery Supervisor (per hour).....\$100.00

Additional fees allowed regardless of Vehicle Class

1. Absorbent (per bag).....\$25.00
2. Fees for subcontracted equipment or assistance will not exceed 25% of invoiced cost to Tow Company.

"Cents per mile" recovery method will not be used to calculate fees under this order.

(Fees are subject to change as required by regulations established by the Texas Department of Licensing and Regulation)

STORAGE FACILITY REQUIREMENTS

Only those towing companies that have met the following requirements shall be placed in the wrecker rotation list.

1. Must use storage facilities registered with the Texas Department of Licensing and Regulation.
2. Each towing company shall maintain twenty-four hour wrecker service and shall have an employee available to take telephone calls and release stored vehicles twenty-four hours per day, seven days per week.
3. All owner operators of tow companies will abide by all State and local laws or ordinances, including but not limited to traffic and non-traffic, while acting as an independent contractor, as defined in item #9 below, while answering a call for the Bee County Sheriff's Department.
4. When the owner operator is given a rotation call by the Bee County Sheriff's Office and cannot make the call, the owner operator will go to the bottom of the rotation list. **One company shall not substitute for another.**
5. If a person or company has more than one Tow Company on rotation, the tow companies will not be placed back-to-back on the rotation list.
6. If a pickup is made on an abandoned vehicle and it is not salvageable, it is still a rotation call. If a wrecker service answers a rotation call, but is disregarded by the Sheriff's Office, that company will be put back on the top of the rotation list.
7. Failure of the wrecker service called to respond with the appropriate wrecker with all the required equipment to make a pickup at the scene, within a reasonable length of time, and without justification acceptable to the Bee County Sheriff's Office will result in a forfeiture of that call to the next tow company on the rotation list. **Reasonable time: Defined as the time necessary to allow the company to safely arrive at the scene without violation of any Federal, State, or Local laws or ordinances.** Failure to respond to two successive rotation list duty calls, without justification that is acceptable to the Bee County Sheriff's Office during a six (6) month period, shall be cause for a 30 day suspension of the tow company's rotation status. A tow company that has been suspended two (2) times in one (1) year shall be removed from the rotation list for a period of six (6) months.
8. The owner of a vehicle impounded as a result of a police initiated tow may obtain the immediate release of the vehicle by paying the amount of towing and storage charges against the vehicle to the appropriate towing service. Upon receipt of payment for service by the tow company or storage facility, the Bee County Sheriff's Department shall require the tow company or storage facility holding the vehicle to release it to the owner. The Bee County Sheriff's Office and Bee County shall not be responsible for damages to the towed vehicle or loss of property from such vehicle. Such claims shall be the responsibility of the tow or storage facility businesses conducting the tow and storage of the vehicle.
9. All acts of a Towing Company, or Storage Facility, their agents, officers, employees subcontractors, and all others acting on behalf of the tow company or storage facility relating to the performance of the Rules and Regulations shall be performed as independent contractor and not as agents, officers, employees, or subcontractors of Bee County. A tow company or storage facility, by virtue of the Rules and Regulations has no authority or responsibility to exercise any rights or powers vested in Bee County. It is understood, by both Bee County and tow company and storage facility operator,

that these Rules and Regulations shall not, under any circumstances, be construed or considered to create an employer/employee relationship or joint venture.

10. Tow company and storage facility operators, their agents, officers, subcontractors and employees, at all times during the terms of these Rules and Regulations, shall represent and conduct themselves as independent Contractors and not as employees of Bee County.
11. The tow company will determine the method, details, and means of performing the work and services to be provided by the tow company under these Rules and Regulations. Tow Company shall be responsible to Bee County only for the requirements and results specified in these rules and Regulations, and shall not be subject to Bee County control with respect to tow company's activities or actions in fulfillment of these Rules and Regulations.
12. As an Independent Contractor, Tow Company or Storage Facility hereby indemnifies and holds Bee County harmless from any and all claims that may be made against Bee County based on any contention of a third party that an employer/employee relationship exists by reason of these Rules and Regulations.

APPLICATION

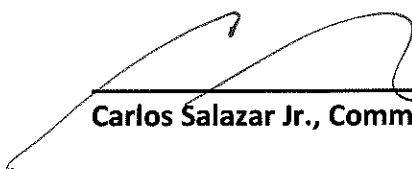
Every Tow Company wishing to be placed on the rotation roster for non-consent towing privileges shall make application, on the prescribed form, to the Bee County Sheriff's Office, and must comply with all current Texas Department of Licensing and Regulation rules and requirements.

Order adopted effective October 1, 2011.

Passed and approved this 26th day of September 2011.



David Silva, Bee County Judge



Carlos Salazar Jr., Commissioner Pct. 1



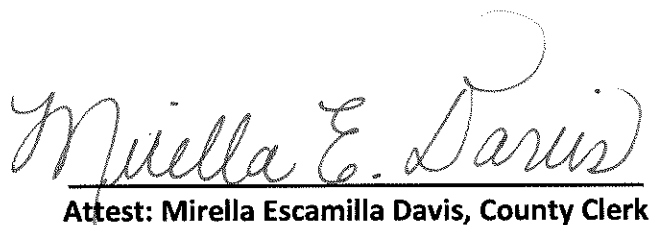
Dennis DeWitt, Commissioner Pct. 2



Eloy Rodriguez, Commissioner Pct. 3



Kenneth Haggard, Commissioner Pct. 4



Attest: Mirella Escamilla Davis, County Clerk