

ORDINANCE #06-09-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JEWETT, TEXAS, AMENDING CHAPTER, VEHICLES FOR HIRE, OF THE CODE OF ORDINANCES TO UPDATE DEFINITIONS, REGULATIONS, SPECIFICATIONS, AND PROCEDURES FOR TOW VEHICLES; AMENDING THE PERMITTING REQUIREMENTS; PROVIDING A SAVINGS CLAUSE; REPEALING INCONSISTENT ORDINANCES; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

WHEREAS, the City Council of the City of Jewett has determined that the following changes to the vehicles for hire regulations of the City of Jewett are needed to be consistent with state statutes;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JEWETT, TEXAS:

SECTION 1: That Chapter 94, Section 94-110 of the Code of Ordinances, City of Jewett, Texas, the following definitions are hereby amended to read as follows:

Sec. 94-101. Definitions.

For the purpose of the article, words set forth or defined in V.T.C.A., Transportation Code, Chapters 543 and 684, have the meanings assigned to them, unless the context clearly indicates otherwise. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in the section, except where the context clearly indicates a different meaning:

Consent tow means as defined in Transportation Code 643.201, any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include the tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

Nonconsent tow means any tow of a motor vehicle that is not a consent tow. Id. 643.201 (e)(4). Nonconsent tows include police-initiated tows from public property, see id. 643.201 (e)(2), (4) city-initiated tows from public property, see id. 684.054 (authorizing a towing company to remove a vehicle from a public roadway at the request of a municipal employee designated by the municipality to make such requests), and as described in Opinion No. GA-0315 . The following shall be considered for all purposes as nonconsent tows:

1. Any tow of a motor vehicle from the scene of an accident.
2. Any tow of a motor vehicle owned or driven by a person who has been taken into custody by a police officer.

3. Any tow or removal of unauthorized vehicles from parking facilities or public highways pursuant to V.T.C.A., Transportation Code Chapter 684.
4. Any tow or removal of unauthorized vehicles parked in fire lanes pursuant to V.T.C.A., Transportation code 684.012.
5. Any tow or removal of an abandoned motor vehicle pursuant to V.T.C.A., Transportation Code 684.
6. Any tow or removal of an illegally stopped or parked vehicle pursuant to V.T.C.A., Transportation Code 545.305.
7. Any tow or removal of any motor vehicle found to be in violation of the stopping, standing and parking regulations of the City of Webster; and
8. Any tow or removal of a motor vehicle that is specifically authorized by any federal, state or municipal law.

SECTION 2: That Chapter 94, Section 94-140 (b)(c) of the Code of Ordinances, City of Jewett, Texas is hereby amended as follows:

Sec. 94-140. Issuance; term; renewal.

(b) Fees; term. The maximum and minimum rates and charges for application fees, inspection fees, permit fees and renewal fees shall be as determined by the city council from time to time on file in the office of the city secretary and director. Any wrecker company found overcharging in towing fees is subject to having their permit suspended or terminated. Pursuant to V.T.C.A. Transportation Code, Sec. 643.204., a wrecker company may request that a towing fee study be performed to assure that the governing body amends the allowable fees for nonconsent tows at the amounts that represent a fair value of the services of a towing company and are reasonably related to any financial or accounting information provided to the governing body. All permits expire at 12:00 midnight on January 31 of each year. All fees required are nonrefundable. Fees for permits issued for less than a full year shall not be prorated.

(c) Renewal. Annual applications and renewals may be submitted between December 31 and January 31 of each year. Incomplete applications will not be accepted. Regardless of when a renewal application is submitted, the renewal permit will be valid from February 1 to January 31. A certificate of issuance and all required fees shall be submitted with the renewal application form furnished by the city. The director may request such additional information and documents on all renewal applications that are necessary for the approval or denial of all renewal applications.

SECTION 4 That Chapter 94, Section 94-141 of the Code of Ordinances, City of Jewett Texas, is hereby amended as follows:

Sec. 94-141. Appeals

After the Chief of Police has made findings and has declared such to the applicant for a permit under this division, the director or any opponent of such application shall have the right to appeal to the Mayor within ten days therefrom. The appeal shall be perfected by a letter addressed to the Mayor and delivered to the city secretary stating that an appeal from the decision of the Chief of Police is desired. The Mayor, as soon as practicable after receiving such notice of appeal from the findings of the Chief of Police and after a hearing on such appeal, shall sustain, modify or reverse the findings made by the Chief and shall so notify the Chief of its findings. All hearings on appeal before the Chief or Mayor shall be in accordance with all applicable rules and procedures of V.T.C.A., Government Code title 10, subtitle A (V.T.C.A. Government Code 2001.001 et seq.). The findings of the Mayor shall be final.

SECTION 5: That Chapter 94, Section 94-142 (a)(b) of the Code of Ordinances, City of Jewett, Texas is hereby amended as follows:

Sec. 94-142. Suspension or revocation.

(a) Upon complaint being filed by any person with the Chief of a violation of any of the terms of this article or the violation of any of the applicable laws of the state, federal government or city or upon motion of the Chief, the Chief shall, after ten days' written notice to the holder of a permit under this division of the grounds of such complaint or upon his motion, conduct a hearing to hear evidence with reference to such complaint or motion. All hearings on appeal before the Chief shall be in accordance with all applicable rules and procedures of the V.T.C.A. Government Code title 10, Subtitle a (VTCA, Government Code 2001.001 et seq.). If such hearing reveals a violation of any of the terms of this article or laws of the state or federal government or ordinances of the city, the Chief may suspend, cancel or revoke the permit of such permit holder for such period and under such terms and conditions as the Chief may determine.

(b) The owner of such tow vehicle shall have the right to appeal to the Mayor within 10 days from the receipt of the written decision of the director only for revocation of the permit of the owner by the Chief of Police. Such appeal shall be perfected by a letter to the Mayor and delivered to the city secretary stating that an appeal is desired from the revocation by the Chief. Upon receiving such appeal, the Mayor, as soon as practicable thereafter, shall notify the appellant as to whether or not such appeal will be heard. If the Mayor approves such an appeal, it then may hear such appeal and shall either sustain or reverse the revocation of the Chief and shall so notify the Chief if its findings. All hearings on the appeal before the Chief or Mayor shall be in accordance with all applicable rules and procedures of the V.T.C.A., Government Code title 10, subtitle A (VTCA Government Code 2001.001 et seq.). The findings of the Mayor shall be final. If no appeal is taken from the Chief's action within ten days, as set out in this section, the decision of the Chief shall be final.

SECTION 6: That Chapter 94, Section 94-171 of the Code of Ordinances, City of Webster, Texas is hereby amended as follows:

Sec. 94-171. Towing agreements.

Any tow truck owner who desires to perform tows initiated by the city or to be on the movement rotation list must enter into a towing agreement with the city.

1. For each rotation slot there must be a minimum of one certified tow trucks for that one permit rotation slot.
2. There will be no more than one (1) permit issued to any towing company or association consisting of multiple towing companies. In determining whether a towing company is considered to be included within an association of multiple towing companies, among the factors which may be considered are: Telephone numbers used by the business, office location, storage lot location, articles of incorporation, partnership agreements, tax records and other records suggesting common ownership interest. These factors are an example and should not be construed to limit the city's inquiry. This section does not impede the city's right not to issue a permit to any towing company. Final approval for permit will be on the approval of the Jewett Chief of Police.

SECTION 7: That Chapter 94, Section 94-200 (6) of the Code of Ordinances, City of Jewett, Texas is hereby amended as follows:

Sec. 94-200. Specifications and required equipment

- (6) Permit holders will have the name of holder (company name, & storage location) permanently attached to both doors. This shall be in letters no less than three inches in height. Each tow vehicle company will display the permit number on the front left and right fender. These numbers will be at least three inches in height and one inch wide.

SECTION 8: That Chapter 94-201 (e) of the Code of Ordinances, City of Jewett, Texas is hereby amended as follows:

Sec. 94-201. Dispatching of tow vehicles.

- (e) Failure to respond. If the city police department via Leon County Sheriff's Dispatch attempts to contact the tow vehicle company at the top of the list, once, at its primary number, on file at the city police department to no avail, then such tow vehicle company will be placed at the bottom of the rotation list and the next tow vehicle company at the top of the rotation list will be

called. A failure of the company to respond to five calls from the city within a six-month period will result in termination of the towing company's permit.

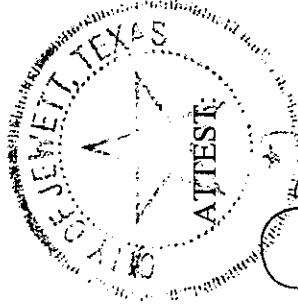
SECTION 9: If any provisions, sections, exception, subsection, paragraph, sentence, clause, or phrase of this ordinance or the application of the same to any person or set of circumstances, shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances and to this end all provisions of this ordinance are declared to be severable.

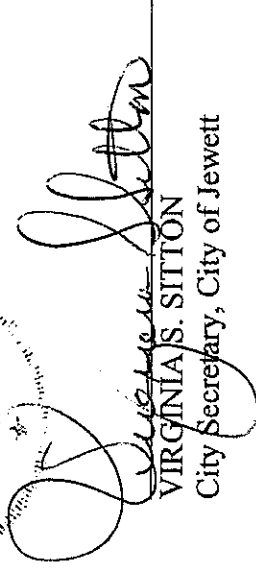
SECTION 10: All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

SECTION 11. This ordinance shall become effective after its approval and adoption.

PASSED AND APPROVED this the 11th day of September 2006.

APPROVED:




VIRGINIA S. SITTON
City Secretary, City of Jewett


JUDI KIRKPATRICK
Mayor, City of Jewett