



**AMENDED ORDER  
REGULATING FEES FOR NON-CONSENT TOWS IN THE UNINCORPORATED  
AREA OF BRAZOS COUNTY**

**WHEREAS**, Brazos County has authority under Texas Occupations Code Sec. 2308.202 to regulate the fee to be charged for non-consent tows, including tows initiated by a law enforcement officer and non-consent tows from private property; and

**WHEREAS**, Texas Occupations Code Sec. 2308.203 requires local political subdivisions who exercise their authority in regulating all non-consent tows, to establish procedures by which a towing company may request that a towing fee study be performed and to establish or amend the allowable fees for nonconsent tows at amounts that represent the fair value of the services of a towing company and are reasonably related to any financial or accounting information provided to the governing body;

**WHEREAS**, on February 24, 2009 the Commissioners Court of Brazos County, Texas adopted Order 09-003 Regulating Fee for Non-consent Tows in the Unincorporated Area of Brazos County and Establishing Procedures for Request of Tow Study in Regard to Such Fees;

**WHEREAS**, on May 5, 2022 the Commissioners Court met in a workshop session to reevaluate Order 09-003, at which, the Court recognized a need to revise the procedures of the Towing Fee Study and update various provisions; and

**WHEREAS**, the Commissioners Court now wishes to amend Order 09-003 to establish new procedures for the Tow Fee Study and to update other provisions.

**NOW, THEREFORE, BE IT ORDERED** by the Commissioners Court of Brazos County, Texas as follows:

**ARTICLE I  
Definitions**

1. Consent Tow – means 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 a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involved the vehicle in the unincorporated area of the County.

2. Evidentiary Crime Scene – A crime scene in unincorporated Brazos County that requires a response of a law enforcement agency’s specialized investigative unit(s).
3. Heavy-Duty Tow – The vehicle being towed by the tow truck is twenty-five thousand (25,000) pounds or more.
4. 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”.
5. Law Enforcement Officer – A Brazos County Sheriff, a Brazos County Constable, or their deputies, and any other Texas peace officer authorized to perform law enforcement duties in Brazos County, Texas (See TEX. CODE OF CRIM. PROC. §2.12).
6. 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.
7. Light-Duty Tow - The vehicle being towed by the tow truck is between 10,001 pounds and 24,999 pounds.
8. Medium-Duty Tow - The vehicle being towed by the tow truck is ten thousand (10,000) pounds or more.
9. Motor Vehicle – A vehicle, as defined in TEX. TRANSP. CODE §501.002, or any other device designed to be self-propelled or transported on any public highway, road, or street.
10. 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 Brazos County.
11. Operate – To drive or otherwise be in physical control of a Motor Vehicle.
12. Operator – Any person operating a Tow Truck, regardless of whether the person owns the vehicle.
13. Public Road – A public street, alley, road, right-of-way, or other public way, including paved and unpaved portions of the right-of-way.
14. Tow – The recovery and movement of a Motor Vehicle using a Tow Truck.
15. Towing Company – An individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in this state, but does not include a political subdivision of the state.
16. Tow Truck – A motor vehicle, including a wrecker, equipped with a mechanical device used to tow, recover, winch, or otherwise move another motor vehicle.
17. Vehicle Owner – means a person:
  - a. named as the purchaser or transferee of the certificate of title issued for the vehicle under Texas Transportation Code, Chapter 501;
  - b. in whose name the vehicle is registered under Texas Transportation Code, Chapter 502, or a member of the person’s immediate family;
  - c. who holds the vehicle through lease agreement;
  - d. who is an unrecorded lienholder entitled to possess the vehicle under the terms of a chattel mortgage; or

- e. who is a lienholder holding an affidavit of repossession and entitled to repossess the vehicle.

15. Vehicle Storage Facility – a vehicle storage facility, as defined by Texas Occupations Code §2303.002, that is operated by a person who holds a license issued under Texas Occupations Code, Chapter 2303 to operate a facility.

## **ARTICLE II**

### **Fees**

1. All fees and maximum allowable charges relating to the Non-Consent Towing of a Motor Vehicle and the issuance of any permits and ID cards shall be determined by the Commissioners Court. The schedule of maximum allowable Towing fees is included herein as Exhibit “A”. These maximum allowable fees shall remain in effect from the effective date hereof until changed by Commissioners Court in the manner authorized by law for the taking of official action by a political subdivision.
2. Allowable charges set out herein are “maximum” allowable fees; Towing Companies may charge fees for Non-Consent Towing services at or below maximum allowable amounts.
3. All maximum allowable fees set out by Commissioners Court in this Order have been determined to provide fair remuneration to owners and Operators of Tow Trucks performing services related to Non-Consent Towing following study and research by the County and its assessment of current Towing fees in Brazos County, analysis of citizens complaints, consideration of the urban/rural locality, consideration of the median income of the population in Brazos County, and research and comparison of fees regulated by other neighboring or representative jurisdictions. 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. It is a violation of this Order for any tow truck operator or tow truck company to charge any fee for Non-Consent Towing services not actually performed.
5. This Order does 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.
6. Fees for non-consent towing services apply only 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. 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 herein 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.
7. No credit card convenience fees may be assessed in situations involving a non-consent tow from a location directly to a vehicle storage facility.

### **ARTICLE III**

#### **Application to Unincorporated Area of Brazos County**

The fees for non-consent tows set by this Order shall apply to tows initiated by law enforcement officers originating in the unincorporated areas of the County.

### **ARTICLE IV**

#### **Towing Fee Studies**

1. Towing rate studies are to be conducted no more than once every four (4) years in response to a request by the industry representatives of businesses that have performed non-consent tows within the unincorporated areas of Brazos County within the previous year.
  - a. Request must be made in writing and sent by certified or regular United States Postal Service mail, hand delivered or emailed to the Brazos County Judge's Office with attention to the General Counsel at 200 S. Texas Avenue, Ste. 329, Bryan, TX 77803.
  - b. The written request must be co-signed by at least thirty percent (30%) or five (5), whichever is greater, of the Towing Companies that are registered with the Brazos County Sheriff's Office (or with the entity or jurisdiction to which the Sheriff may delegate registration) for law enforcement tows.
2. County reserves the authority to undertake a rate study at any time it deems necessary, without an industry request.
3. Brazos County Towing Fee Study shall be performed as follows:
  - a. Brazos County shall send out survey forms and/or a letter requiring submission of non-consent tow statements for the preceding twelve (12) months. Letter and forms shall be sent to each company registered with the Sheriff's Office (or with the entity or jurisdiction to which the Sheriff may delegate registration) by hand delivery, United States Postal Service mail or email.
  - b. Towing companies must respond to the survey and/or letter within thirty (30) days to be included in the study.
  - c. County must timely receive a complete response from at least fifty percent (50%) of the total number of surveys sent out. Otherwise, the County, at its sole discretion, may decide not to undertake the study and/or update the tow fees and/or related fees.
  - d. The County reserves the right to suspend a towing company from the list registered with the Sheriff's Office (or with the entity or jurisdiction to which the Sheriff may delegate registration), that fails to return the requested records and/or survey form, until the towing company delivers a full and complete response.
  - e. The County shall not be required to consider a subsequent rate adjustment request made within one year from the date the County makes such decision to not undertake the rate study.
4. County, at its sole discretion, may use collected data or adopted non-consent tow fee schedules of other comparable jurisdictions in place of performing its own towing rate study.

5. At such times as the City of Bryan or the City of College Station modifies maximum tow fees applicable in its jurisdiction based upon tow studies or based on consumer price indices, County will review, to the extent available, the information that either city used to make its determination along with such other relevant information. Information will be presented to Commissioners Court for a determination whether such information justifies a modification to the fees applicable to the unincorporated area of Brazos County.

## ARTICLE V

### No Pre-Emption of State or Federal Law

It is not intended, and no provision of this order should be so construed, to contravene any applicable law or to pre-empt any federal statute. Notwithstanding the use of terminology that might be construed to include matters not within the legal scope of this Order, it is intended that such terms be construed as limited to such legal scope. To the extent that any part or provision in this Order might otherwise be construed as invalid, illegal, or unenforceable in any respect, it should be construed as being limited in its scope and application to only those circumstances to which it can legally apply. To the extent that any provision or part of this order is still found to be invalid, illegal or unenforceable in any respect, it shall not affect any other provision.

## ARTICLE VI

### Enforcement

Operators, owners, and companies shall not charge any fees for law enforcement tows and storage of vehicles towed without consent and subject to this Order other than those fees provided under this Order. A person commits an offense if the person violates any provision of this Order. An offense under this Order is a misdemeanor punishable by a fine of not less than two hundred dollars (\$200.00) and not more than one thousand dollars (\$1,000.00) per violation. TEX. OCCUP. CODE ANN. §2308.505. A law enforcement officer may issue a citation for any violation.

**ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

\_\_\_\_\_  
Duane Peters, County Judge

\_\_\_\_\_  
Steve Aldrich  
County Commissioner, Precinct 1

\_\_\_\_\_  
Russ Ford  
County Commissioner, Precinct 2

\_\_\_\_\_  
Nancy Berry  
County Commissioner, Precinct 3

\_\_\_\_\_  
Irma Cauley  
County Commissioner, Precinct 4

ATTEST:

\_\_\_\_\_  
Karen McQueen, County Clerk

**EXHIBIT "A"**

**BRAZOS COUNTY TOW FEE SCHEDULE**

The Towing Fee Schedule established in Order 09-003 will remain in effect until such time as another Towing Fee Study is completed by Brazos County, and it is determined by the Commissioners Court that an adjustment of the fees is justified. The maximum allowable fees for basic tows and heavy duty tows are listed below.

<p><b>BASIC TOW</b></p>	<p><b>\$175.00</b></p>
<p><b>HEAVY DUTY TOW</b></p>	<p><b>\$436.00 for up to two hours of such tow, plus \$218.00 for each additional hour or part thereof, if such tow requires and is performed by a Heavy-Duty Tow Truck. The rate shall commence upon the tow truck and tow truck operator's arrival on location.</b></p>

**\*Note: Upon approval of this Amended Order, Brazos County will perform a tow fee study to determine if an adjustment of fees is justified and to set a Medium Duty Tow Fee.**