

Title 10 - VEHICLES AND TRAFFIC\*  
Chapter 10.46 POLICE TOWING FRANCHISE SYSTEM

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## Chapter 10.46 POLICE TOWING FRANCHISE SYSTEM

### 10.46.010 Definitions.

For the purposes of this chapter, certain terms used herein are defined as follows:

"City" means the city of Pasadena.

"City council" means the city council of the city of Pasadena.

"City manager" means the city manager of the city or authorized representative.

"Franchisee" means any entity granted a franchise by the city pursuant to this chapter.

"Police chief" means the police chief of the city or authorized representative.

"Police towing" means towing of vehicles to impound or to other locations and the storage of such vehicles as ordered and designated by authorized members of the Pasadena police department.

(Ord. 6862 § 1, 2001; Ord. 6718 § 2 (part), 1997)

### 10.46.020 Police impound towing franchises—Purpose and declarations.

- A. It is declared and determined that the business of police towing affects the health, safety and public welfare of the residents of the city. The custody and control of vehicles owned by the public which are towed and/or stored at the order of the Pasadena police for purposes of impound or facilitation of traffic flow require a high degree of proficiency with the procedures established by the California Department of Motor Vehicles and a high level of trust and confidence by the public and the police department in the facilities used for storage and the personnel and equipment utilized for towing vehicles to impound, many of which may be of high value, may be or contain evidence of criminal activity, and which, if improperly towed or stored, may result in legal action against the city. The further responsibility of the police towing franchisee is to collect only the prescribed fee from owners of impounded vehicles and to release said vehicles promptly and efficiently, but only upon the evidence of proper documentation requires that only those towing contractors who have demonstrated that they possess the facilities, control systems and knowledgeable personnel to protect the interests of the city and vehicle owners. Therefore, it is a purpose of this chapter to regulate this service to the police department and to minimize any adverse effects upon the citizenry.
- B. It is recognized that the city is required to adopt and implement a mechanism to promote the safe and efficient towing to impound of vehicles and that city may impose fees to fund the cost of this effort and to augment the funds available for purposes of law enforcement.
- C. The city, by the adoption of Article XI of the City Charter, having elected to implement the home rule provisions of Article XI of the Constitution of the state of California as to municipal affairs and the granting of nonexclusive franchises of the nature referred to herein as being within the class of actions designated to "municipal affairs," declares that the provisions of the chapter, together with the provisions of the charter of the city, shall constitute the exclusive procedure for the grant of franchises for conducting police impound towing and storage services.

(Ord. 6718 § 2 (part), 1997)

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#### **10.46.030 Activities which are unlawful unless authorized—Activities not covered.**

Except as specified in this chapter, it is unlawful for any person to solicit or perform the business of police towing in the city unless:

- A. A franchise therefor has first been granted pursuant to the provisions of this chapter and such franchise is in full force and effect; and
- B. A written franchise agreement therefor has been executed between such person and the city and such agreement is in full force and effect; or
- C. This chapter shall not apply to towing, repair or storage services performed for or made available to members of the public by any person.

(Ord. 6718 § 2 (part), 1997)

#### **10.46.040 Nonexclusive franchise—City council authority to grant.**

The city council may and is empowered to grant by the affirmative vote of 6 members, to any qualified person, a nonexclusive franchise to engage in the business of towing vehicles in response to police requests for towing services for purposes of impoundment within the city.

(Ord. 6862 § 2, 2001: Ord. 6718 § 2 (part), 1997)

#### **10.46.050 Nonexclusive franchise—Terms and conditions.**

- A. All franchises granted to persons pursuant to this chapter shall be nonexclusive. No provisions of this chapter shall be deemed to require or to allow restricting the number of franchises to one or any particular number.
- B. All nonexclusive franchises shall be subject to the terms and conditions specified in the City Charter and in this chapter, in the resolutions and ordinances granting the franchise and in the terms and conditions of the franchise agreement.
- C. In granting any franchise, the city council may prescribe such other and additional terms and conditions, not in conflict with the City Charter or this chapter, as in the judgment of the city council are in the public interest.

(Ord. 6718 § 2 (part), 1997)

#### **10.46.060 Application for franchise.**

At least one time per calendar year, the city manager shall cause publication, in the manner described in Section 4.08.060 of this code, of a notice of request for applications for police towing franchises. Any person who intends to operate as a franchisee shall apply to the city by filing with the police chief, upon forms supplied by city and in accordance with the request for applications, a verified application containing at a minimum the following information:

- A. Name and address of applicant;
- B. If the applicant is a partnership, the name and address of each partner shall be set forth in the application. If the applicant is a corporation, the application shall state the names and addresses of the corporation's directors, main offices, major stockholders and associates, and the names and addresses of the parent and subsidiary companies;

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- C. A list of all vehicles, including license plate numbers and vehicle identification numbers, to be used in connection with the franchise for which the application is filed;
  - D. A list of all personnel assigned to perform services pursuant to such franchise accompanied by the California driver's license number and license class of each such person;
  - E. Proof of insurance in a form acceptable to the city;
  - F. Such other and further information as the police chief may reasonably require to evaluate and process an application.

(Ord. 6862 § 3, 2001; Ord. 6718 § 2 (part), 1997)

#### **10.46.070 Public hearing.**

- A. Upon receiving an application for a franchise under the provisions of this chapter, the police chief shall present the application to the city council at a regularly scheduled meeting thereof.
- B. At such meeting, or within a reasonable time thereafter, the city council shall adopt a resolution giving notice of the application and setting a date and time for a public hearing on the application. The resolution shall give notice that an application has been filed for a franchise under this chapter, shall refer to and incorporate by reference the application on file with the police chief, and shall contain notice of the time and place the city council will hear persons desiring to be heard in favor of or in opposition to the granting of a franchise to the applicant.
- C. The hearing on the application for a franchise shall be held not earlier than the fourteenth day following the date of adoption of the resolution giving notice of the application. The city clerk shall cause the resolution giving notice of the application and of the time and place of hearing on the application to be published at least once in a newspaper of general circulation in the city at least ten (10) days prior to the date set for the hearing.
- D. At the hearing on an application for a franchise, the city council shall give all persons desiring to be heard a reasonable opportunity to present evidence or otherwise be heard in favor of or in opposition to the granting of a franchise to the applicant. At such hearing, the city council may require from the applicant such additional information as the city council may deem relevant and necessary. The hearing may be continued or adjourned to a stated time and place without the giving of further notice.

(Ord. 6718 § 2 (part), 1997)

#### **10.46.080 Criteria for granting nonexclusive franchise.**

- A. Upon conclusion of the hearing on the application for a franchise, or within a reasonable time thereafter, the city council shall render its decision on the application. The nonexclusive franchise shall be granted or denied, based upon compliance with this chapter. Any grant of a franchise by the city council may be subject to such terms, conditions, rules, regulations, restrictions and limitations as the city council deems necessary to protect the public health, safety or welfare.
- B. Should a franchise not be granted to an applicant, the city shall issue a notice to the applicant that its service will not be utilized for towing vehicles as described in this chapter.

(Ord. 6718 § 2 (part), 1997)



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#### **10.46.090 Requirements for franchise.**

No franchise granted pursuant to this chapter shall become effective unless and until all of the following requirements have been satisfied:

- A. The ordinance granting the franchise is effective.
- B. The applicant and the city have signed, by their duly authorized representatives, a franchise agreement.
- C. Applicant has provided an acceptable list of the vehicles to be used to perform the services herein by registration or license number and the personnel assigned thereto as required herein.
- D. The applicant has provided evidence of compliance with the insurance requirements and any other terms and conditions of this chapter and any other terms and conditions imposed by the police chief.

(Ord. 6718 § 2 (part), 1997)

#### **10.46.100 Indemnification of city.**

The franchise agreement shall provide that the franchisee shall indemnify, hold harmless, release and defend the city, its city council and each member thereof, and its officers, employees, commission members and representatives, from and against any and all liability, claims, suits, costs, expenses, fines, judgments, settlements, charges or penalties whatever, including reasonable attorneys fees, regardless of the merit or outcome of the same arising out of, or in any manner connected with, any or all of the operations or services authorized, conducted or permitted under a nonexclusive franchise agreement granted under this chapter.

Applicants shall sign an affidavit in a form acceptable to the city attorney which confirms their understanding of and agreement to the obligations imposed under this section, as a part of the application for a franchise hereunder.

(Ord. 6718 § 2 (part), 1997)

#### **10.46.110 Liability insurance.**

The city council shall establish by resolution the minimum levels and standards of liability insurance which must be maintained in order to apply for, to receive and to operate a franchise under this chapter. The city council shall also establish by resolution the manner in which compliance with the minimum standards is demonstrated. The failure to maintain the minimum levels and standards of liability insurance for any period of time is a violation of this chapter and shall be sufficient grounds for temporary suspension or termination of a nonexclusive franchise.

(Ord. 6718 § 2 (part), 1997)

#### **10.46.120 Term of nonexclusive franchise.**

The term of any franchise granted under the provisions of this chapter shall be for one year with annual renewal options of up to 4 additional one-year terms, unless earlier terminated under the terms of this chapter.

(Ord. 6862 § 4, 2001; Ord. 6718 § 2 (part), 1997)

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#### **10.46.125 Renewal options.**

A renewal option granted a franchisee may be exercised by the franchisee's timely filing a renewal application, upon forms supplied by city. The renewal option shall be deemed granted unless, no later than 21 days from the date of filing the renewal application, the city manager has found said franchisee not in compliance with the terms of this chapter, the franchise, the franchise agreement or other provision of law applicable to the towing services provided pursuant to the franchise. Upon such findings, the city manager may deny the renewal option or grant it conditionally and, if denied, the franchise and all future options shall terminate.

(Ord. 6862 § 5, 2001)

#### **10.46.130 Termination of nonexclusive franchise by the city council.**

- A. The city council shall have the right to terminate or to suspend any franchise pursuant to this section.
- B. A notice of intent to terminate a nonexclusive franchise shall be personally delivered or mailed by certified mail, at the discretion of the police chief, to the party named and to the address given on the application pursuant to which such nonexclusive franchise was issued. The notice shall state the grounds for termination or suspension and shall give the franchisee notice of a hearing before the city council thereon, which shall be convened no more than 60 days after the date of notice unless the hearing cannot reasonably be set within such time, in which case the hearing shall be set as promptly as may be practical. The hearing shall be conducted and closed, and decision rendered thereon, within 60 days after the date of the notice unless it cannot then reasonably be completed, in which case it shall be completed as promptly as may be practical. The city council shall have the right to terminate any nonexclusive franchise granted pursuant to this chapter by ordinance by the affirmative vote of 5 members if the city council finds, based upon a preponderance of the evidence, after a public hearing, that:
  - 1. The franchisee has failed to comply with, or to do anything required of the franchisee by this chapter, or that franchisee has failed to pay the franchise fees required under this chapter or violated any provision of the ordinance granting the nonexclusive franchise, or any provision of the nonexclusive franchise agreement or any ordinance of the city or any law of the state or of the United States in connection with the performance of the nonexclusive franchise or that franchisee's conduct demonstrates that the franchisee is unable to unwilling to comply with the terms of the nonexclusive franchise.
  - 2. Should any provision of this chapter become or be declared to be invalid and the board expressly finds that such provision constitutes a material consideration to the grant or continuation of such nonexclusive franchise.

(Ord. 6718 § 2 (part), 1997)

#### **10.46.140 Temporary suspension by police chief.**

The city manager may temporarily suspend any nonexclusive franchise without a hearing under the following circumstances: Whenever the continued operation by the franchisee would constitute a danger to public health, safety, welfare or public morals, including, without limitation, where there is a failure to maintain the minimum levels and standards of liability insurance or claims reserve, whenever there is a failure to keep in full force and effect any applicable licenses or permits required by federal, state or local law or whenever the franchisee has failed to observe or has defaulted in any material term of the franchise or franchise agreement including, without limitation, timely payment of franchise fees. The notice of temporary suspension may be personally delivered to the party named and to the address given on the application pursuant to which such franchise was issued, or,

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mailed by certified mail to the party named at the address given on the application pursuant to which such franchise was issued. The temporary suspension is effective upon the earlier of either receipt of said notice or the expiration of 5 days from the date of mailing. The notice of temporary suspension shall include a notice of the date and time for a termination hearing and all other information required by Section 10.46.130. The temporary suspension shall remain effective until the decision on termination by the city council is made pursuant to Section 10.46.130 or unless the suspension is earlier lifted by written notice of the city manager.

(Ord. 6862 § 6, 2001; Ord. 6718 § 2 (part), 1997)

#### **10.46.150 Nonexclusive franchise transfer or assignment.**

Any nonexclusive franchise granted pursuant to this chapter is a privilege to be held in trust by the original franchisee. Such nonexclusive franchise shall not be sold, leased, transferred, assigned, or otherwise disposed of, either in whole or in chapter, whether by forced sale, merger, consolidation, bankruptcy, reorganization under bankruptcy laws or otherwise, without the prior consent of the city council as expressed by an appropriate ordinance. The consent of the city council shall be subject to such terms and conditions as it may prescribe.

(Ord. 6718 § 2 (part), 1997)

#### **10.46.160 Nonexclusive franchise fees.**

- A. Each franchisee granted a franchise pursuant to this chapter shall pay a franchise fee to the city during the term of such franchise. The franchise fee shall be in an amount as set forth in a resolution adopted by the city council.
- B. Franchise fees shall be payable quarterly. The first payment of franchise fees shall be due and payable within sixty days from and after the end of the third calendar month after the month during which the ordinance granting the franchise becomes effective, and thereafter payments shall be due and payable within sixty days from and after the end of each three-month period. Each payment shall be calculated in accordance with the provisions of the resolution adopted by the city council pursuant to subsection A of this section.
- C. The franchisee shall pay the required franchise fee to the city's director of finance. Each payment shall be accompanied by a written statement, verified by the franchisee or a duly authorized representative of the franchisee, showing in such form and detail as the director of finance may prescribe the calculation of the franchise fee payable by the franchisee and such other information as the director of finance may determine is material to a determination of the amount due.
- D. No statement filed under this section shall be deemed conclusive as to the matters set forth in such statement, nor shall the filing of such statement preclude the city from demanding and collecting by appropriate action the sum that is actually due and payable.
- E. The payment to the city by the franchisee pursuant to this chapter shall be in addition to any license fee or business tax prescribed by the city for the same period.

(Ord. 6718 § 2 (part), 1997)

#### **10.46.170 City inspection authority.**

The franchisee shall at all times maintain accurate and complete accounts of all revenues and income arising out of its operations under the franchise granted pursuant to this chapter; a list of vehicles towed, transported, or stored in impound; and any complaints by vehicle owners regarding same arising out of the performance of this



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franchise. Franchisee's books, accounts and records pertaining to any income or expense shall at all times be open to inspection, examination and audit by authorized officers, employees and agents of the city.

(Ord. 6718 § 2 (part), 1997)

#### **10.46.180 Rights reserved to city.**

In addition to all other rights reserved to the city under this chapter, the following shall apply:

- A. There is reserved to the city every right and power, and the exercise thereof, which is reserved or authorized by any provision of any lawful ordinance or resolution of the city, whether enacted before or after the effective date of the ordinance codified in this chapter.
- B. Neither the granting of any nonexclusive franchise nor any provision of any nonexclusive franchise shall constitute a waiver of or a bar to the exercise of any governmental right or power of the city.
- C. The franchisee shall have no recourse whatsoever against the city, its officers, employees or agents, for any loss, cost, expense or damage arising out of any provision or requirement of this chapter or of any nonexclusive franchise issued under this chapter or because of the enforcement of this chapter.
- D. There is expressly reserved to the city the power and authority to amend any section of this chapter so as to require additional or greater standards on the part of the franchisee and the power and authority to increase the nonexclusive franchise fees to be paid by the franchisee pursuant to Section 10.46.160.

(Ord. 6718 § 2 (part), 1997)

#### **10.46.190 Violation—Penalty.**

Any person subject to this chapter and operating without a valid nonexclusive franchise is deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than \$1,000.00 or by imprisonment in the city jail for a period of not more than 6 months or by both such fine and imprisonment.

(Ord. 6718 § 2 (part), 1997)