

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA APPROVING CHANGES MADE TO THE TOW RULES AND REGULATIONS BY THE FIRE AND POLICE COMMISSION PURSUANT TO SANTA BARBARA MUNICIPAL CODE CHAPTER 5.30

WHEREAS, on August 22, 2013, at a meeting of the Santa Barbara Fire and Police Commission, the Commission unanimously voted to approve prepared revisions to the Santa Barbara Police Department (SBPD) Tow Rotation List Rules and Regulations pursuant to Santa Barbara Municipal Code Chapter 5.30; and

WHEREAS, the rules for the SBPD Tow Service Rotation List apply in addition to the requirements of Santa Barbara Municipal Code rules governing all tow service operators. When towing a vehicle in the City of Santa Barbara the Police Department uses approved local tow service operators, who in turn agree to comply with the Tow Rotation List Rules and Regulations. Participation in the SBPD Tow Rotation Program is voluntary, however, compliance with the terms and conditions of the Rules and Regulations is mandatory for all participating operators; and

WHEREAS, the Fire and Police Commission approved changes on August 22, 2013, that include for all fees to be waived by a tow company for tows determined to be a mistake by the SBPD, and for the Tow Rotation List to contain a maximum of seven (7) tow operators with no requirement of a minimum number of tow operators. In addition, changes were made that establish a protocol for annual inspections by the California Highway Patrol of the tow trucks to enhance safety.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA THAT in accordance with Chapter 5.30 of the Santa Barbara Municipal Code, the City Council approves changes to the Santa Barbara Police Department Tow Rotation List Rules and Regulations attached hereto as Exhibit A and dated as of October 8, 2013.

City of Santa Barbara Board of Fire and Police Commissioners  
**SANTA BARBARA POLICE DEPARTMENT TOW ROTATION LIST**  
**Rules and Regulations**

## **1. GENERAL**

These rules for the Santa Barbara Police Department Tow Service Rotation List are *in addition* to the Santa Barbara Municipal Code and the Fire and Police Commission's rules governing all tow service operators. The Fire and Police Commission shall have complete authority to include a tow service operator (hereinafter called "operator") on the Tow Service Rotation List (hereinafter called "List")

Operators agree to comply with the Rules and Regulations as set forth in this document. Participation in the SBPD Tow Rotation Program is voluntary. However, compliance with the terms and conditions of the Rules and Regulations is **mandatory** for all participating companies. Furthermore, the operator agrees that failure by the operator or the operator's agent to comply with these terms and conditions shall be cause for written reprimand, suspension, or termination from the List.

## **2. BASIC REQUIREMENTS**

- A. Operators desiring inclusion on the List must first meet the requirements and standards contained herein.
- B. Any Operator applying for inclusion on the List shall have a minimum of three (3) verifiable years of for-hire towing experience, as an owner or principal, prior to the final filing date of an enrollment period to qualify. Verifiable years of for-hire experience shall be decided by the Chief of Police or the Chief's designee on behalf of the Santa Barbara Police Department. (Hereinafter, the Chief of Police, a Chief's designee, and the Santa Barbara Police Department shall all be referred to collectively as "SBPD").
- C. Pursuant to Santa Barbara Municipal Code section 5.30.020(a) all operators shall have had a valid business license and Tow Operator Permit issued by the City of Santa Barbara ("City") for a period of at least 3 years prior to application for inclusion.
- D. New operators (on the list) and their employees shall be fingerprinted for the purposes of conducting criminal history inquiries and they shall pay the standard fingerprinting fees associated with the fingerprinting and criminal history check process.
- E. Operators on the List shall have a sufficient number of tow trucks to provide service for the city and shall include at minimum (1) 25,500 GVW wrecker and (1) flat-bed. Additional equipment should be considered by the operator to ensure a specific equipment request by the SBPD can be fulfilled.
  - a. Should an operator be summoned to tow a vehicle that exceeds the capability of their equipment, the responding operator will have the opportunity to request service from another company currently approved to tow for the SBPD rotation. The assisting company will ultimately decide whether they will take possession of the vehicle or complete a tow to the storage facility of the original responding operator. Any charges incurred between companies must remain consistent with SBPD approved towing rates.
  - b. The SBPD will recognize the summoned operator as the company responsible for the impounded vehicle. Should the assisting company take possession, the SBPD must be notified within (1) hour from the time of the tow. Liability will be upheld among companies assisting one another in accordance with state and local laws. The SBPD shall not indemnify the companies against any claims made.

- F. Operators on the List shall have, at minimum, 20,000 square feet of storage space available which will allow for both indoor (Evidence) and outdoor storage. The minimum square footage can be achieved by the combination of a maximum of two non-contiguous storage facilities. However, pursuant to 5.30.030 (b) M.C. the office shall be located on, at least, one of the storage yard properties.
- G. The operator shall respond to calls 24 hours a day, 7 days a week, within the maximum response time limits specified in section 7(F) of these Rules and Regulations.
- H. The maximum rates to be charged for services while conducting tow operations for the SBPD shall not exceed those rates established by the Commission. Refer to the current schedule. Operators shall familiarize their employee(s) with these rates and have available a copy of the rate schedule in their tow unit. Operators shall adhere to the filing of rates and charges pursuant to Santa Barbara Municipal code Section 5.30.040 (b), which states "Applicants for towing operation permits shall file a schedule of maximum rates and charges for each service offered with their application. No charge more than the rates and charges specified in such schedule shall be made except as herein provided. Changes in maximum rates and charges shall be made by written notice containing the new schedule of rates and charges to the Board at least ten days prior to becoming effective. A duplicate copy of such notice shall be posted for a period of ten days in the office next to the posted schedule of the existing rates and charges. Upon the expiration of the ten-day period, the maximum rate and charge schedule shall be changed in accordance with such notice." Note, for Emergency and Involuntary requested maximum tow rates, Operators shall adhere to Santa Barbara Municipal code Section 5.30.040 (c), which states "Maximum rates and charges for any emergency or involuntary towing assignment shall be subject to the prior approval of the Board. The approval of said rates and charges shall become effective thirty (30) days after the action of the Board is final unless an appeal is perfected pursuant to §5.30.090."
- I. Operators who do business at the request of any City employee or official acting in his/her official capacity shall have liability insurance with minimum requirements established by the City and shall name the City, its officers, employees and agents as named or additional insured for the operations conducted pursuant to SBMC Chapter 5.30. A copy of the operators Certificate of insurance shall be filed with the City's Risk Manager and the Commission for approval. Furthermore, all Permittees under this chapter who do towing at the request of any City employee or official acting in his official capacity shall have the liability insurance with the minimum requirements established by the City and shall name the City, its officers, employees and agents as named or additional insured's for operations conducted pursuant to SBMC Section 5.30.130.
- J. As a condition of possessing a towing permit and being placed on the tow rotation list, operators shall agree to investigate, defend, indemnify and hold harmless the City, its officers, employees and agents from and against any and all losses, damages, liabilities, claims, demands, detriments, costs, charges, and expenses (including attorneys' fees) and causes of whatsoever character which the City may incur, sustain, or be subjected to on account of loss or damage to property and loss of use thereof or bodily injury or death to any persons arising out of Permittee's operations authorized pursuant to SBMC Section 5.30.140.
- K. Operators on the List shall be responsible for the acts of their employees while on duty. Operators shall be responsible and liable for any loss due to theft or damage to vehicles in their possession.
- L. Each operator on the list shall furnish, at the operator's expense, twelve (12) vehicles per calendar year for use by the Santa Barbara City Fire Department (SBFD) and the SBPD. Said vehicles shall be owned by the operator, shall have cleared the lien process, and have no detainer against them at the time of donation. Vehicles will be delivered and removed from the SBFD Training Facility located at 30 South Olive Street, Santa Barbara CA 93103, and/or other locations at the direction of authorized SBFD and SBPD personnel, at the sole expense of the operator.
- M. Each Operator on the List shall familiarize his employees with these rules and maintain a copy in each tow unit.

### **3. APPLICATIONS FOR INCLUSION ON THE LIST**

- A. Operators wishing to be included on the List shall file a letter of request with the Commission with the following information:
  - a. Name of Company, address, and telephone number.
  - b. Address of storage yard(s), building, and lease or ownership documents.
  - c. Type, size, and number of trucks and equipment available, with photographs of each.
  - d. Amount of liability insurance and Workers Compensation insurance, name, and address of carriers.
  - e. Name, address, telephone number, and arrest history of all employees, and a completed Tow Driver Registration form for all drivers who will conduct business and towing services for the company.
  - f. Length of time in business.
- B. Prior to acceptance of an operator on the List, the equipment and storage areas will be inspected by the Chief of Police or his designee to determine if the applicant has adequate space for indoor and outdoor storage, and to ensure that the equipment conforms to the requirements of the California Vehicle Code and all of the requirements of these rules.

### **4. PERSONNEL**

- A. Training: The operator shall ensure tow truck drivers responding to calls initiated by the SBPD are competent and have completed a Tow Service Agreement Advisory Committee (TSAAC) approved tow truck driver training program prior to towing vehicles for the SBPD.
  - a. The TSAAC-approved tow truck driver training course list is contained in Attachment A of these rules. Acceptable tow truck driver training programs shall be approved by the TSAAC.
  - b. Documentation of a completed tow truck driver training program shall be submitted to the SBPD for each driver employed.
  - c. Tow truck driver training documentation should be for the appropriate class of tow truck (e.g., a Class D driver should have heavy duty tow truck driver's training documentation).
- B. Driver Registration: As a condition of employment by any company on the List, every driver offered employment by any Operator must complete a Tow Driver Registration form.
  - a. Information on the form will include, but is not limited to: name, current address, current contact phone number(s), CA Driver's License information, and any further information required by the Police Department, or for fingerprinting and/or background purposes.
  - b. This form must be submitted to the SBPD "**before**" a driver may begin work at any company on the List.
  - c. SBPD must be notified in writing within 7 days of any changes to any information provided on the Registration form for any driver by the driver and owner of the company.
- C. Age & Qualifications: Tow truck drivers shall be at least 18 years of age and shall possess the proper class of license and endorsements for the towed and towing vehicle.
- D. Uniforms: While on duty, drivers for any company on the List must wear an identifiable uniform, either a shirt or coveralls, branded with the company name that clearly displays the driver's name.
- E. Personal Appearance: All employees employed by a company on the List shall maintain a professional image at all times while on duty.
  - a. All employees hired by company on the list agree to practice good hygiene and grooming;
  - b. Drivers shall not wear an excessively dirty or torn uniform;

- c. Employees are prohibited from displaying inappropriate, offensive, profane, or gang-related body art;
  - d. Employees shall not wear, possess, or display any gang-related clothing or other items while on duty.
- F. Safety Garments: SBPD List tow truck drivers shall wear appropriate warning garments (e.g., vests, jackets, shirts, retro-reflective clothing) at all times in accordance with California Code of Regulations, Title 8, Section 1598. If the tow truck driver is working on a Federal-aid highway, the operator shall comply with the guidelines contained in the Federal Code of Regulations, Title 23, Highways, Chapter 1, Federal Highway Administration, Department of Transportation, Part 634, Worker Visibility, which requires high-visibility personal protective safety clothing to be worn that meets the Performance Class 2 or 3 requirements of the ANSI/ISEA 107-2004.
- G. Drivers List: The operator shall maintain a current list of drivers and shall provide said list to the SBPD at a minimum once annually in January. In addition, the operator must notify the SBPD upon any changes to the list, including the addition of any new driver, or the deletion of any driver. An updated list shall be provided to the SBPD within seven (7) calendar days of any change to the driver list.
- H. Employer Pull Notice program: The operator and all tow truck drivers shall be enrolled in the Employer Pull Notice (EPN) program.
- a. The operator shall provide a copy of the current EPN report, or in the case of a newly hired tow truck driver, proof of enrollment in the EPN program, for all drivers to the area office during enrollment. The operator's signed and dated EPN report shall be kept on file at the SBPD.
  - b. Upon the addition of new drivers, an operator shall be granted a maximum of 30 days to enroll drivers in the EPN.

## **5. FACILITIES**

- A. An operator's primary place of business shall have an exterior sign which clearly identifies the premise as a tow service to the public.
- B. An operator's office must comply with the following:
- a. The office must be clearly identified as such with exterior signage, located on or in close proximity to the door or service counter, in compliance with all local ordinances, listing the company name, phone number, and regular hours of business.
  - b. Normal business hours shall not be less than 8 a.m. to 5 p.m., Monday through Friday.
  - c. The office may be closed or have modified hours on any of the following state-recognized holidays: New Year's Day, Martin Luther King Day, President's Day, Cesar Chavez Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, day after Thanksgiving Day, and Christmas Day.
  - d. The designated office area must be used for the sole purpose of tow operations and customer service for the business, and must be separated from other business, storage, and residential areas by walls and/or partitions.
- C. An operator's place of business shall have posted in plain view to the public the "Towing Fees and Access Notice" and have copies of the notice readily available to the public pursuant to Section 22651.07(a)(1)(A) CVC.
- a. Pursuant to SBMC Section 5.30.040(a) each operator shall maintain a sign listing the rates and charges of all services offered. Such sign shall be conspicuously placed in the office or other place where customer financial transactions take place. The letters on such signs shall be a minimum of one inch high with one quarter inch stroke. The letters shall be a contrasting color from the background.

- b. The "Towing Fees and Access Notice" shall be a standardized document plainly printed in no less than 10-point type and shall contain the required language pursuant to Section 22651.07(d) CVC.
- D. An operator's place of business shall be sufficiently staffed to allow customers to talk face-to-face with a tow company's owner, manager, or employee during normal business hours without the need for an appointment.
- E. An operator's impound/storage yard(s) shall not be comingled with any other business or entity and shall remain locked and secure 24 hours a day.

## **6. TOW TRUCK CLASSIFICATIONS**

- A. An operator shall equip and maintain tow trucks covered under the List in accordance with the provisions set forth in the California Vehicle Code (CVC), Title 13 of the California Code of Regulations (CCR), the specifications contained in this List, and in a manner consistent with industry standards and practices.
- B. All tow trucks shall have recovery, wheel lift, and boom capabilities meeting the specifications contained in this List and the most recent electronic version of the CHP 234B, Tow Truck Inspection Guide.
  - a. An operator who has a car carrier is exempted from the recovery, wheel lift, and boom capability requirements. However, the car carrier must be an additional unit and shall not be used for recovery.
- C. A substantiated violation of the gross vehicle weight rating (GVWR) and/or safe loading requirements of a tow truck may result in immediate expulsion from the List.
  - a. This includes exceeding the tow truck's GVWR, front axle weight rating, rear axle weight rating, maximum tire weight ratings, or not maintaining 50 percent of the tow truck's unladen front axle weight on the front axle when towing.
  - b. A suspension for a violation described in this section is "immediate" and shall remain in effect until the next regularly-scheduled Commission meeting, at which time the Commission will determine whether to impose additional penalties. Possible additional penalties include, but are not limited to, continued suspension and/or removal from the List.

## **7. OPERATIONAL REQUIREMENTS**

- A. The operator shall maintain records at the primary business office of all tow services furnished by the operator. (Note: printable electronic records are acceptable).
  - a. Invoices shall contain the required itemized information pursuant to Section 22651.07(e) CVC.
  - b. Itemized invoices shall contain a distinct notice upon the invoice stating "Upon request, you are entitled to receive a copy of the Towing Fees and Access Notice." This notice shall be contained within a bordered text box, printed in no less than 10-point type pursuant to Section 22651.07(a)(1)(B)(3) CVC.
- B. The operator's primary business office shall also maintain business records relating to personnel, insurance, personnel taxes, payroll, applicable operating authorities, local operating authorities, lien sale actions, drivers' records of duty status (intrastate and/or interstate), Federal Communication Commission licensing (if applicable), and non-SBPD tows.
- C. The SBPD may inspect the records of any operator on the List during normal business hours without prior notice.

- D. Operators shall permit the SBPD to make copies of business records, pertaining to SBPD tows, at the operator's place of business, or to remove business records for the purpose of reproduction.
- E. A tow "call" to an operator by SBPD shall constitute one turn on the List, after which the operator shall be moved to the bottom of the List. For purposes of this section, a "call" includes when the operator fails to answer the phone, is unable to respond, is unable to perform the required service, refuses to respond or provide service, or is canceled due to excessive response time.
- F. An operator, when called by the Police Department, must respond within the following Commission-approved maximum response times. If it becomes evident that the operator cannot respond within the required time, the operator shall immediately advise the SBPD of the delay, in which case the SBPD may utilize the services of another tow company from the List.
  - a. Operators must respond within twenty (20) minutes when contacted for a rotation call during the operator's normal business hours, at the minimum of which will be between 8:00 am and 5:00 pm Monday through Friday.
  - b. Operators must respond within thirty (30) minutes when contacted for a rotation call outside of normal business hours, which include approved holidays.
  - c. Failure to respond and/or repeated failure to meet the maximum response time requirements shall constitute failure to comply with the terms and conditions of these Rules and Regulations and will result in disciplinary action which may include suspension or removal from the List.
- G. The operator or operator's employee responding to any SBPD call shall perform the towing or service request required for which they were called. The requirement may be waived by the SBPD if the requested equipment is inadequate for the service to be performed.
  - a. Refusal to respond or to perform the required towing service will subject the operator to suspension.
  - b. There may be times where an operator's tow trucks or related equipment experience mechanical failure. In the event this occurs and the equipment is unavailable due to servicing needs, the operator must notify the SBPD immediately. Failure to do so may result in suspension from the List.
- H. No operator shall take Police calls for another operator unless authorized to do so by the Police Department. Operators will not respond to SBPD calls or an accident scene unless requested to do so by the SBPD.
- I. Only authorized tow truck personnel and equipment requested shall respond to a SBPD call (e.g., drivers are prohibited from bringing friends, spouses, children, or dogs to SBPD calls).
  - a. Exception: a tow truck driver trainee may accompany an approved rotation tow truck driver if documentation for the trainee, including an approved CHP 234F, Tow Operator/Driver Information, and proof of tow truck driver training, has already been submitted to the SBPD.
- J. When a tow truck has been dispatched to a scene of an accident or to a vehicle that has been impounded by the SBPD, the operator shall cooperate with the Police officer in removing hazards and illegally parked vehicles from the street. It shall be the duty of the Police officer(s) on scene to direct the necessary actions with which the operator shall comply. Operators shall be responsible for removing **all** glass, associated debris, and fluids (i.e. coolant and oils) from the street and scene. Fluids will be removed with approved absorbents and disposed of in an appropriate manner.
- K. Vehicles towed and stored or impounded at the request of the SBPD that have a detainer placed against them shall not be released by the operator until release is authorized in writing by the division of the Police Department detaining the vehicle.

- a. Improper sale or disposal of said vehicles may result in disciplinary action, including, but not limited to, suspension or removal from the List.
  - b. Any vehicle impounded by the SBPD under CVC 22655.5(b) "Impound for Evidence" shall incur costs of equal to 1/2 of the rates established by the Commission's current fee schedule. These costs shall be capped at eighty nine (89) days of storage plus the original tow bill only.
- L. Vehicles impounded by the SBPD shall be stored as follows:
- a. Vehicles held for special investigation and/or evidence shall be stored in a building approved by the SBPD. Storage area shall be enclosed and roofed, secured under lock and key at the direction of the investigating officer. Special investigation vehicles shall not be removed from the designated storage area until written approval has been obtained by the Police Department.
  - b. Contents of vehicles with a Police Department detainer placed against them **shall** not be removed from the vehicle.
  - c. Vehicles not being held for evidence or investigation may be stored in the open area of the approved storage yard with a locked gate in such a manner as to provide 24 hour security for the stored vehicle.
- M. The release of personal property or contents from a vehicle shall only be authorized when in writing from the SBPD. Acceptable authorization includes facsimile copy or electronic mail from an appropriate agent of the SBPD and shall be kept on file with the operator. The release of personal property, pursuant to 22851 (2)(b) V.C., shall not include items attached to, or connected to, or bolted to the vehicle such as vehicular body parts, or engine parts, etc.
- N. The improper removal of items from a stored vehicle, theft from a stored vehicle, or vandalism to stored vehicles will result in disciplinary action which may include, but is not limited to, suspension or revocation from the List, as well as criminal charges where applicable.
- O. Drivers shall complete every List call as safely and expediently as possible.

## **8. ANNUAL MEETINGS**

- A. The Commission shall conduct, at minimum, one (1) annual meeting to discuss the forthcoming term and issues concerning the tow rotation program.
- a. The SBPD shall provide written notification of the meeting to all tow operators currently licensed in the City of Santa Barbara. Said notification shall be sent via standard mail or electronic mail at least 14 days prior to the scheduled meeting.
  - b. All meetings shall be mandatory for all operators currently on the List, as well as any operator interested in being considered for placement on the List. An operator may designate a representative to appear on his/her behalf.
  - c. Unless otherwise specified by the Commission, the annual tow meeting shall be held in conjunction with the regularly-scheduled Commission meeting each January.
  - d. The tow fee schedule shall be reviewed each year at the annual meeting.
- B. A minimum of 30 days prior to the annual tow meeting, the SBPD shall conduct an annual compliance check of each operator on the List.
- a. These checks will take place during normal hours of operation for each tow company, but operators may not receive notice prior to the compliance check by SBPD personnel.
  - b. The compliance check may include a review of the operator's records as well as an inspection of the operator's office and/or tow yard(s).
  - c. The annual compliance check is intended to ensure ongoing compliance with these Rules and Regulations. Should an operator be found to be out of compliance, they shall have 30 days to remedy the problem. The failure of an operator to comply and/or take necessary corrective measures to comply prior to the annual meeting will result in review of the company's



qualifications for the List and possible disciplinary action by the Commission at the annual tow meeting.

## **9. VEHICLE INSPECTIONS**

- A. Tow operators on the List shall participate in an annual inspection conducted by the CHP.
  - a. Operators are required to have all tow trucks inspected annually. Operators shall not dispatch a tow truck to a SBPD call that has not been inspected, approved by the CHP, and issued a Commercial Vehicle Safety Alliance (CVSA) decal.  
A copy of the Tow Truck Inspection Guide (CHP 234B and Safetynet Driver/Vehicle Inspection Report (CHP 407F) completed by the CHP upon inspection shall be kept in the vehicle at all times. An additional copy shall be submitted to the SBPD to be kept on file.

## **10. DEMEANOR AND CONDUCT**

- A. While involved in SBPD tow operations or related business, the tow operator and/or employee(s) shall refrain from any acts of misconduct including, but not limited to, any of the following:
  - a. Rude or discourteous behavior.
  - b. Lack of service, selective service, or refusal to provide service which the operator is capable of performing.
  - c. Any act of sexual harassment or sexual impropriety.
  - d. Unsafe driving practices.
  - e. Exhibiting any objective symptoms of alcohol or drug use.
- B. Every tow truck driver employed by a company on the List shall submit to a preliminary alcohol screening test at the request of an SBPD officer upon reasonable suspicion by the officer that the driver has consumed alcohol. Failure to comply immediately with such a request may result in disciplinary action including, but not limited to, the operator's suspension or removal from the List, as well as any applicable criminal charges.

## **11. COMPLIANCE WITH LAW**

- A. The tow operator and employees shall, at all times, comply with federal, state, and local laws and ordinances, and with these Rules and Regulations.
- B. Operators SHALL NOT employ any driver who falls into any of the below categories:
  - a. Currently on Probation or Parole;
  - b. Currently a sex registrant pursuant to 290 P.C.;
  - c. Has had one or more felony convictions;
  - d. Has been convicted of a crime of moral turpitude;
  - e. Has been convicted of theft, fraud or embezzlement;
  - f. Has been convicted of hit and run;
  - g. Has been convicted of misdemeanor or felony evading of police;
  - h. Has been convicted of a Narcotics or dangerous drug offense;
  - i. Has been convicted of a DUI, or "Wet Reckless", within 1 year of application to be a tow driver; or two offenses of DUI and/or "Wet Reckless" w/in 10 years of applying;
  - j. Has 4 or more points on their driving record;
  - k. Has been convicted for Participation in a Criminal Street Gang pursuant to P.C. § 186.22.
  - l. Any other grounds as described in SBMC Section 5.30.100.
- C. Santa Barbara City personnel, as well as tow operators and their employees, shall not be offered nor accept gratuities pursuant to Section 12110(a) CVC.
- D. No tow operator or their employees shall accept any gratuities from a repair shop for the delivery of a vehicle, for the purpose of storage or repair pursuant to Section 12110(c) CVC.

- E. An operator shall satisfy a court order mandating reimbursement to the vehicle or property owner for the damage or loss which occurred while the vehicle was in the operator's custody.

## **12. TOW COMPLAINTS**

Any and all tow-related complaints received or initiated by the SBPD against a tow operator and/or tow operator's employees, or allegations of non-compliance with these Rules and Regulations, shall be accepted and investigated in a fair and impartial manner. As a result of the investigation, the SBPD may request disciplinary action as deemed appropriate. Disciplinary action may include, but is not limited to, suspension or removal of the company from the List, as well as any criminal charges that may be applicable.

- a. The operator will be informed of any such investigation as long as the notification will not jeopardize a criminal inquiry.
- b. Should a violation be of a severe nature, the SBPD has the authority to immediately suspend a tow operator's participation on the List until the next, regularly scheduled, Fire and Police Commission meeting at which the Commission shall review the allegation in order to render judgment.
- c. The tow operator and their employees shall cooperate with SBPD investigators during the course of an investigation.
- d. Should the filing of criminal charges be a possibility, the SBPD shall conduct the investigation to conclusion or assist the lead investigating agency and request prosecution if warranted. The operator may not be notified that a criminal investigation is being conducted should notification jeopardize the integrity of the criminal investigation.
- e. Complaints for violations of the law not normally investigated by SBPD shall be referred to the agency with jurisdiction.
- f. The operator shall be notified in writing of the findings of an allegation of failure to comply with these Rules and Regulations within 30 days of the conclusion of any compliance investigation. Notifications of findings in a criminal matter shall follow standard criminal investigation protocol.

## **13. MISTAKEN TOW**

When a vehicle is towed pursuant to a police pull (a police-initiated non-consent tow), and the police pull was made in error, operators shall not charge the vehicle owner or the SBPD for the cost of the tow.

## **14. DISCIPLINARY ACTION**

- A. The SBPD shall request that the Board of Fire and Police Commissioners take disciplinary action against operators for any investigated and confirmed or sustained violations of these Rules and Regulations, and/or of any federal, state, or local laws.
- B. Following is a recommended guideline for disciplinary action against an operator as a result of any violations or findings of non-compliance. However, the Commission retains the authority to impose lesser or greater penalties against a company based on the severity, flagrancy, and frequency of the violation(s) and/or issues of non-compliance.
  - a. First violation within a 12-month period – letter of written reprimand.
  - b. Second violation within a 12-month period – one to 30-day suspension.
  - c. Third violation within a 12-month period – 60 to 90-day suspension.
  - d. Fourth violation within a 12-month period – termination from the list

- C. Despite the above disciplinary guidelines, the Commission, upon the recommendation of the Police Department, may remove an operator from the List for the following reasons without gradual or prior disciplinary action:
  - a. If the management, conduct, and carrying on of such tow company is not conducive to the public interest, welfare, and/or safety.
  - b. If the service has been conducted in an illegal manner.
- D. Notice and hearing for removal of an operator from the List shall be conducted in the same manner as outlined in section 5.30.110 for suspension or revocation of a towing operators permit.

**15. OWNERSHIP CHANGES**

A Tow Operator Permit is not transferable thus, if a current owner ceases his/her ownership of a tow company then the company will be removed from the SBPD tow rotation. Should the new owner of a tow company, which had been on the List prior to their purchase of the company, desire inclusion on the list then the new owner must qualify for, apply for, and compete with any other tow companies who have also applied for inclusion on the List when an opening exists.

**16. MAXIMUM SIZE OF THE LIST**

The SBPD tow rotation list shall contain a maximum of 7 tow operators and a minimum of 5. There is no requirement for the list to contain the maximum number of tow operators at all times. When an opening exists on the List, all qualified tow operators may apply for the List. The SBPD may investigate all applicants pertaining to their eligibility for inclusion on the List. Pursuant to this investigation, the SBPD may make a recommendation to the Commission as to which operator to choose to fill the open position. The Commission has the ultimate authority to choose, from the group of qualified candidates, which operator will fill the vacant position on the List.

**OPERATOR APPROVAL**

I certify that I have read and understand these Rules and Regulations, and agree to abide by all the provisions herein. I further certify that employment with my company is contingent upon compliance by each driver and employee with all Rules and Regulations herein.

By signing below, I agree to indemnify, defend, and hold harmless the City of Santa Barbara, its officers, agents, and employees from any and all claims and losses resulting from participation in the City's Tow Rotation program, in connection with adherence to the Rules and Regulations as set forth herein, and/or from any and all claims and/or losses by any person, firm, or corporation who may be injured or damaged by the operator in the performance of these Rules and Regulations. I agree that as an operator on the City's Tow Rotation List, my company, and all agents and employees thereof, including myself, shall act in an independent capacity. Participation on the City's List shall in no way indicate that anyone hired by or affiliated with my company is acting as an officer, employee, representative, or agent of the City of Santa Barbara. My company has neither affiliation with, nor any authorization to act on behalf of, the City of Santa Barbara and/or the Santa Barbara Police Department.

Date: \_\_\_\_\_

Operator Signature: \_\_\_\_\_

Operator Name Printed: \_\_\_\_\_

Company Name (dba): \_\_\_\_\_

Office Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Contact Phone Numbers: (work): \_\_\_\_\_

(cell): \_\_\_\_\_

Motor Carrier Permit Number: \_\_\_\_\_

**ATTACHMENT A**Fire and Police Commission Rules  
APPROVED TOW TRUCK DRIVER TRAINING COURSES

Automobile Club of Southern California  
3333 Fairview Road  
Costa Mesa, CA 92626  
Contact: Rob Wade at (714) 885-1333  
E-mail: [wade.robert@caaa-calif.com](mailto:wade.robert@caaa-calif.com)

California Tow Truck Association  
3050 Beacon Blvd.  
West Sacramento, CA 95691  
Contact: Jack Morris at (800) 874-2860 or (760) 325-5840, Extension 116  
E-mail: [jmorris@ctta.com](mailto:jmorris@ctta.com)

California State Automobile Association  
Automotive Services  
3055 Oak Road  
Walnut Creek, CA 94597  
Contact: Geoff Rice at (415) 308-5442  
E-mail: [geoff.rice@goaaa.com](mailto:geoff.rice@goaaa.com)

International Institute of Towing & Recovery (Instructor Led / Self Study Course)  
c/o CSAA ERS Communications  
3055 Oak Road  
Walnut Creek, CA 94597  
Contact: Geoff Rice at (415) 308-5442  
E-mail: [geoff.rice@goaaa.com](mailto:geoff.rice@goaaa.com)

Randy Resch  
Manager, C & D Towing  
8332 Case Street  
La Mesa, CA 91942  
Telephone: (619) 463-8697  
E-mail: [reschran@aol.com](mailto:reschran@aol.com)

Tow Pros, LLC  
4615 East Brundage Lane  
Bakersfield, CA 93307  
Contact: Ken Kay at (661) 979-0747  
E-mail: [kktowman@towpros](mailto:kktowman@towpros)

WreckMaster Incorporated  
P.O. Box 473  
Lewiston, NY 14092  
Telephone: (800) 267-2266  
E-mail: [www.WreckMaster.com](http://www.WreckMaster.com)