

ORDINANCE NO. 2043

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF EULESS, CHAPTER 90, "VEHICLES FOR HIRE," ARTICLE IV "TOW TRUCKS AND NONCONSENT TOWS," SECTION 90-94, "STATE REGULATION AND TOWING CHARGES FOR NONCONSENT TOWS," AND SECTION 90-96, "MAXIMUM DISTANCE OF NONCONSENT TOWS;" PROVIDING THAT THE AMOUNT OWED FOR A DROP FEE SHALL BE THE SAME AS STATE LAW; PROVIDING A MAXIMUM DISTANCE FOR NONCONSENT TOWS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Euless is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City of Euless has previously adopted regulations related to vehicle towing for the purpose of promoting safety within the City and finds that regulation of vehicle towing is necessary for the purpose of promoting safety by preventing the unexpected loss of the use of one's vehicle thereby leaving the vehicle owner stranded, except in those instances wherein the owner or operator of the vehicle has been put on notice through signs of the likelihood of the involuntary tow of the vehicle; and

WHEREAS, the City Council finds that regulation of vehicle towing is necessary for the purpose of promoting safety by expediting the recovery of nonconsensually towed vehicles to restore safe transportation to the owner or operator by limiting the distance that the vehicle owner or operator must travel to recover his or her vehicle after the unexpected loss of said vehicle and thus limiting the amount of time that the vehicle owner remains stranded; and

WHEREAS, the City Council believes that the safety-regulations governing persons performing nonconsensual tows promote public safety in the City by protecting vehicle owners from towing mistakes and the outright theft of vehicles and limiting the number of false auto theft reports processed by the police department, thereby allowing the police to devote more time to responding to more critical public safety situations; and

WHEREAS, the City Council finds that regulation of vehicle towing is necessary for the purpose of promoting safety by implementing regulations to limit the practice of "chasing" in the City and also to limit to the extent possible the likelihood of violent or confrontational encounters between tow-truck operators and vehicle owners or operators; and

WHEREAS, the City of Euless, Texas deems it necessary and proper and in the best interest of the health, safety, and general welfare of its citizenry to amend the provisions regulating towing services in the City that were previously adopted as set out herein, all of which are related to the goal of increasing public safety in the City of Euless.

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

SECTION 1.

Chapter 90 “Vehicles for Hire,” Article IV “Tow Trucks and Nonconsent Tows,” Section 90-94 “State Regulation and Towing Charges for Nonconsent Tows, ” subsection (c) is hereby amended to read as follows:

(c) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle that is subject to a nonconsent tow attempts to retrieve the motor vehicle before its removal from the property or parked location, the maximum amount that may be charged for a drop fee (if the motor vehicle is hooked up) is the maximum fee permitted by state regulation. Before its removal from the property the vehicle owner or operator has an absolute right to regain possession of the vehicle by payment of the drop fee. In the event the owner or operator arrives to move the vehicle before the vehicle is fully hooked up, no drop fee may be charged.

SECTION 2.

Chapter 90 “Vehicles for Hire,” Article IV “Tow Trucks and Nonconsent Tows,” Section 90-96 “Maximum Distance of Nonconsent Tows” is hereby amended to read as follows:

Vehicles involved in a nonconsent tow must be transported directly to a vehicle storage facility. A parking facility cannot be used as a temporary vehicle storage facility. Nonconsent towed vehicles shall not be taken to a vehicle storage facility that is more than fifteen (15) miles outside the City.

SECTION 3.

CUMULATIVE CLAUSE. This Ordinance shall be cumulative of all provisions of the City Code and other ordinances of the City of Eules, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

SECTION 4.

SEVERABILITY CLAUSE. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if a phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of the unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 5.

PENALTY CLAUSE. Any person, firm or corporation violating any of the terms and provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in accordance with Chapter 1, Section 1-12, Eules Code of Ordinances. Each such violation shall be deemed a separate offense and shall be punishable as such hereunder.

SECTION 6.

SAVINGS CLAUSE. All rights and remedies of the City of Eules are expressly saved as to any and all violations of the provisions of the City Code or any other ordinances regulating vehicle towing that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 7.

PUBLICATION CLAUSE. The City Secretary of the City of Eules is hereby directed to publish the caption, penalty clause and effective date of this ordinance in the official newspaper of the City of Eules, as required by Section 12 of Article II of the Charter of the City of Eules.

SECTION 8.

EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PRESENTED AND PASSED ON FIRST AND FINAL READING at a regular meeting of the Eules City Council on the 23rd day of September 2014, by a vote of ___ ayes, ___ nays and ___ abstentions.

APPROVED:

ATTEST:

Linda Martin, Mayor

Kim Sutter, TRMC, City Secretary

APPROVED AS TO FORM:

Wayne K. Olson, City Attorney