

ARTICLE V. TOWING OF MOTOR VEHICLES, TRESPASS TOWING AND ROTATION WRECKER TOWING

Sec. 20-161. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Class A vehicles means cars, motorcycles, light duty trucks, boats, campers, and other vehicles weighing 10,000 pounds (gross vehicle weight) or less.

Class B vehicles means medium duty trucks, motor homes, camper trailers, and other vehicles weighing between 10,001 and 20,000 pounds (gross vehicle weight).

Class C vehicles means heavy duty trucks, house trailers, buses, and other vehicles weighing more than 20,001 pounds (gross vehicle weight).

Major credit card means a Visa or MasterCard.

Rotation wrecker towing system means a system whereby a group of wrecker companies have agreed to take turns answering calls for towing and storage services when requested by a police officer at the scene of an accident or disabled vehicle. The wrecker companies are placed on a list, called consecutively as the need arises, and then rotated to the bottom of the list.

Trespass towing means towing or removal of a vehicle that is parked on private real property, at the property owner's direction.

Wrecker operator means any driver or other employee that has direct access to any towed vehicle.

(Ord. No. 03-O-26AA, § 2(15-75), 4-23-2003)

Cross references: Definitions generally, § 1-2.

Sec. 20-162. Owner, operator and vehicle registration provisions.

It shall be unlawful for any person, either as principal, agent or employee, to do any trespass or rotation towing without having first registered the owner, wrecker operators and towing service vehicles with the police department, using a format approved by the police department. The information for registration shall contain the make, model and manufacturer's serial number of the vehicle; date the vehicle was put into service; the driver's license number of the owner and of all towing service vehicles; the name of the insurance company or companies with which the owner and operators have liability insurance coverage for the operation of the vehicle as required by law; the name and driver's license number of all employees involved in the towing of vehicles from public and private property, and such other information as may be required.

(Ord. No. 03-O-26AA, § 2(15-76), 4-23-2003)

Sec. 20-163. Application for wrecker operator's permit; violations.

(a) No wrecker operator shall engage in trespass or rotation towing without first having obtained a written permit therefor from the owner of the company such operator is employee by or such owner's designee. Each permit will meet the following specifications:

- (1) Each card shall be not less than 2 1/8 inches by 3 3/8 inches.
- (2) Each card shall contain a photograph of the wrecker operator that is not less than one inch by 1 1/2 inches.
- (3) Each card shall contain the name of the wrecker service and wrecker operator's first name in letters that are not less than one-fourth inch by one-fourth inch.
- (4) Each card shall contain a control number that can be linked back to the driver's personal information.
- (5) Each card shall contain a place for the wrecker administrator to validate the card.
 - a. After the card is validated it shall be laminated to protect the information contained on the card.
 - b. If the permit is lost, damaged, stolen or becomes illegible the card will be replaced.
- (b) It shall be unlawful for the owner of any wrecker service to permit any person to be employed as a wrecker operator within the city unless such person has been granted a written permit to engage in trespass or rotation towing by the chief of police. Each permit shall be valid for two years from date of issuance.
- (c) In order to secure a wrecker operator permit, an applicant must provide the following information on a form provided by the city manager. The applicant must:
 - (1) Provide the wrecker administrator a certified copy from the Florida Department of Law Enforcement of his criminal history and a certified copy of his driving record from the Florida Department of Highway Safety and Motor Vehicles;
 - (2) Be at least 18 years of age;
 - (3) Possess a valid Florida Class D driver's license and provide a photocopy to the wrecker administrator;
 - (4) Not have been convicted of the following:
 - a. Any felony if his civil rights have not been restored;
 - b. Any felony or first degree misdemeanor directly related to the business of towing motor vehicles; or
 - c. Within the previous five years, of driving under the influence of alcohol, a controlled substance, or a chemical substance, to the extent that normal faculties are impaired; driving with an unlawful blood alcohol level; or any other criminal traffic offense.

Sec. 20-164. Revocation; appeal.

- (a) The chief of police may revoke the privilege of any person to do trespass towing on any of the following grounds:
 - (1) If the towing service owner or operator fails to register as required by this article;

- (2) If the registration contains false statement of a material fact;
 - (3) If the towing service owner or wrecker operator provides monetary or other compensation to the private property owner for the privilege of towing vehicles from the property under contract;
 - (4) The towing service owner or operator provides monetary compensation to the private property owner for each individual vehicle towed from the property;
 - (5) If the towing service owner or wrecker operator charges fees in excess of those set out in section 20-168;
 - (6) If the towing service owner or wrecker operator violates any of the provisions of this article;
or
 - (7) If a wrecker operator fails to display on or about his person or on the dashboard of the wrecker, easily visible to the public, the wrecker operator permit while performing a trespass or rotation tow.
- (b) Three violations of the provisions of this article by any owner and/or operator of a towing service or towing service vehicle shall result in the automatic suspension of the owner's or operator's privilege to engage in the business of trespass towing. An owner shall not be suspended for acts of an employee/operator in violation of this section unless the owner actively participated in or had knowledge of the violation and took no corrective action against the employee/operator.
- (1) The owner or operator shall be informed in person or by certified or registered mail within seven days prior to the effective date of the suspension.
 - (2) The owner or operator may make a written request for a due process hearing within 15 calendar days of the date of the suspension. Failure to request a hearing within the 15 calendar-day period shall constitute a waiver by the owner or operator of any right to a hearing.
 - (3) The city manager shall establish rules governing the conduct of the hearing to ensure the due process of law.
 - (4) Upon a review of the evidence presented at the hearing, the chief of police may revoke the owner's or operator's privilege to engage in the business of trespass towing for up to one year.
- (c) Any towing service owner or operator whose privilege to engage in the rotation or trespass towing has been revoked shall not be eligible to again register with the police department for trespass towing for a period of one year from the date of revocation.
- (d) Any towing service owner or operator whose privilege to engage in the business of rotation or trespass towing has been revoked may file an appeal within 15 days of the date of revocation pursuant to the appeals process specified in rules adopted by the city manager.

(Ord. No. 03-O-26AA, § 2(15-78), 4-23-2003)

Sec. 20-165. Authorization.

- (a) The chief of police is authorized to establish a rotation wrecker towing system utilizing qualified, reputable wrecker operators for the removal and storage of wrecked or disabled vehicles when the owner or operator of the vehicle leaves the procurement of a wrecker service

to the investigating police officer. Rules and regulations for the administration of a rotation system shall be promulgated by the chief of police.

(b) The chief of police shall be authorized to promulgate rules and regulations for the administration of trespass towing.

(Ord. No. 03-O-26AA, § 2(15-79), 4-23-2003)

Sec. 20-166. Storage area requirements.

In addition to the requirements of F.S. § 715.07, storage sites utilized by wrecker owners for the storage of motor vehicles towed pursuant to trespass or rotation towing must:

- (1) Be capable of being securely locked;
- (2) Be not less than 7,500 square feet;
- (3) Be surrounded by a chainlink or solid wall type fence at least six feet in height; and
- (4) Be illuminated with lighting of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet during nighttime.

(Ord. No. 03-O-26AA, § 2(15-80), 4-23-2003)

Sec. 20-167. Approval of trespass towing signs; prerequisites to towing vehicles parked on private property; exceptions.

(a) It shall be unlawful for a person hired by the owner of private property within the city to do any trespass towing without having first obtained approval of the police department of the signs posted on the property. In addition to the requirements of F.S. § 715.07, the wording on the sign shall indicate if towing is conducted other than normal business hours by the posting of a sign indicating "24 hours per day."

(b) It shall be unlawful for any person to tow or cause to be towed any vehicle parked on private real property unless the provisions of F.S. § 715.07 have been complied with together with the following requirements:

(1) The owners of the real property and the towing service shall have executed, at least 24 hours prior to the towing or removal of any vehicle, a written agreement for trespass towing, which agreement shall contain the following provisions:

- a. The duration of the agreement.
- b. The time of day that such towing or removal is authorized.
- c. The days of the week that such towing or removal is authorized.
- d. The fees to be paid for the towing or removal.
- e. The signatures of both the property owner, or the authorized representative, and the owner, or authorized representative, of the towing service, certifying that each has read and is in compliance with all of the provisions of F.S. § 715.07.

f. The form for such agreement shall be provided by the police department, and may not be amended or modified in any manner, which provides for terms or activities, which violate the provisions of this article or F.S. § 715.07.

(2) A copy of the completed agreement is on file with the police department.

(3) Where the private real property is provided for residential parking other than for a single-family residence, the agreement, except as provided in subsection (c)(4) of this section, shall not authorize the towing service to tow away or remove any vehicle without a verified request to remove the specific vehicle by the property owner or an authorized representative. A property owner's representative may include a resident manager, a property manager or other agent who has the legal authority to bind the owner, but may not be an officer, employee or agent of a towing service.

(4) Owners of properties used for residential purposes may elect to authorize the towing service to tow away or remove vehicles without a verified request to remove a specific vehicle between the hours of 12:00 midnight and 7:00 a.m. provided that the owner first comply with the following requirements:

a. The towing contract on file with the police department as required by subsection (c)(1) of this section shall be amended to provide for roam towing between the hours of 12:00 midnight and 7:00 a.m.

b. A photograph of the "offending" vehicle shall be taken prior to its removal and should be maintained by the wrecker company for a minimum period of two years. The photograph shall demonstrate the violation of law, rule or regulation for which the vehicle is being towed.

c. Lease, rental or property owners' association documents shall contain a notice provision indicating that the residential property utilizes roam towing. In the case of properties with existing leases, rental agreements or property owners' association documents, it shall be sufficient to notify by regular mail, at the last known address, each of the tenants/owners of the property prior to the initiation of roam towing. All amendments to or new leases, rental agreements or property owners' association documents shall contain the provision giving notice that the property owner intends to utilize roam towing, and a complete and specifically detailed list of all towing instructions and rules violations that will result in towing. A copy these provisions must be posted in the rental office and the common area. A copy must also be maintained on file in each tow vehicle removing vehicles from the property. The towing administrator shall review and approve the parking rules. At the entrance or entrances a sign shall be posted stating where the parking rules can be read by residents and guests. The parking rules shall be posted in a public area at the complex. The management, to ensure that they have not been altered, should regularly inspect them; any sign that is removed or defaced shall be replaced within 30 day.

(5) The provisions of this article shall not apply to:

a. The towing of vehicles pursuant to other provisions in this chapter.

b. The towing of vehicles from property appurtenant to and obviously a part of a single-family residence.

c. When notice is personally given to the owner or other legally authorized person in control of the vehicle that the area in which that vehicle is parked is reserved or otherwise unavailable and that the unauthorized vehicle will be removed at the owner's or operator's expense.

(c) The 24-hour notice requirement of this section shall not apply where the tow is of an emergency nature and the owner has notified the police department prior to removing the vehicle. The term "emergency" in this section shall only include circumstances where the usual operation of a business is impeded by the blocking of entrances, exits or access to operational equipment, but specifically shall not include tows for the purpose of clearing parking areas.

(d) All vehicles towed shall be towed directly to the storage site owned or leased by the towing service and the vehicle shall not be kept in any temporary holding area.

(e) Each towing service shall staff or monitor its telephones at all times (pager only does not satisfy this requirement) and immediately advise any vehicle owner or authorized representative who calls by telephone of the following:

(1) Each and every document or other item which must be produced to retrieve the vehicle.

(2) The exact charges as of the time of the telephone call, and the rate at which charges will accumulate thereafter.

(3) The acceptable methods of payment.

(4) That the vehicle can be picked up within one hour of request.

(Ord. No. 03-O-26AA, § 2(15-81), 4-23-2003)

Sec. 20-168. Fees charged.

(a) Fees shall be charged as follows:

(1) Any towing and storage firm engaged in the business of trespass towing shall not charge the owner of any towed vehicle or personal property in excess of \$88.00 for the removal of a Class A vehicle, \$145.00 for the removal of a Class B vehicle, and \$300.00 for the removal of a Class C vehicle. Fees shall be paid according to the gross vehicle weight of the vehicle they are attempting to tow.

(2) No more than \$15.00 per day for storage fees may be charged; however, no storage fee shall be charged for the first 24-hour period from the time the vehicle or personal property is towed or removed.

(3) The fee for removal shall be all-inclusive; and no additional fees may be charged for using dollies, trailers, lifts, slim jims, or any other special equipment or services. If a certified letter is sent to the owner/lien holder/insurance company pursuant to F.S. § 713.78, an administrative fee of \$33.00 plus postage plus any out-of-state charges, may be charged three days after the tow but not before the receipt of a paid certified mail receipt from the post office by the towing and storage firm.

An after hours release fee of \$30.00 may be charged by the towing and storage firm for releasing a stored vehicle between the hours of 11 p.m. and 8:00 a.m.

(4) Motor vehicles carrying other vehicles (boats, cars, trucks, aircraft, tractors, heavy equipment ATVs and motorcycles) that are securely attached shall be considered part of that vehicle's load and no additional fee shall be charged.

(b) A person, firm or corporation which provides trespass towing and storage services pursuant to this section shall accept payment for charges from the vehicle owner or authorized representative in any of the following forms:

(1) Cash; or

(2) Valid major credit card or debit card.

(c) Maximum trespass towing and storage fees shall be established annually by the city commission after receiving recommendations based on financial information submitted by the trespass towing companies as to their costs for the removal and storage of vehicles and personal property and on other information. The required information shall be submitted by the towing company owners by October 31 of each year. The maximum fees shall be set by resolution to be adopted by the city commission prior to December 31 of each year. Such maximum fees shall be effective during the following calendar year and until changed by subsequent resolution.

(Ord. No. 03-O-26AA, § 2(15-82), 4-23-2003; Ord. No. 05-O-45AA, § 1, 5-25-2005)

Sec. 20-169. Vehicle not towed upon operator returning; receipt to be furnished when vehicle claimed.

(a) The owner or operator of any towing service vehicle which is summoned to tow away any vehicle, whether on a public street, public property, or private property, shall not remove or tow the vehicle away and shall not charge any fee if the vehicle operator returns to the vehicle prior to the towing service operator having physically connected the vehicle to the towing apparatus. The term "physically connected" means one half of the wheel lift apparatus surrounding a tire or the winch hook being properly hooked to the vehicle in an appropriate place on the vehicle where it can safely be towed or winched. If the vehicle is physically connected but not towed away, the towing company may charge up to one-half of the allowable fees as set forth in this article. If the registered owner or other legally authorized person arrives at the scene prior to the removal or towing of the vehicle, the vehicle shall be disconnected from the towing or removal apparatus, and that person shall be allowed to remove the vehicle without interference upon payment of a reasonable service fee of not more than one-half of the posted rate, for which a receipt shall be given, unless that person refuses to remove the vehicle which is otherwise unlawfully parked. Removal or towing of the vehicle shall be defined as removing the vehicle off of the physical premises that the towing contract encompasses.

(b) When a towed vehicle is claimed, the towing service shall furnish the owner or other legally authorized person with a receipt, which shall include the name of the person who authorized the towing. The receipt shall also include the following language:

"Notice: Towing from private property is regulated by the provisions of Section 715.07, Florida Statutes, and City of Tallahassee Ordinance."

(Ord. No. 03-O-26AA, § 2(15-83), 4-23-2003)

Sec. 20-170. Prohibitions; penalties.

- (a) It shall be a violation of this article to charge any fee which is based on police response to a call by the owner of a vehicle.
- (b) It shall be a violation of this article to charge a release fee for towed vehicles that are released from storage facilities during normal business hours. Normal business hours shall be from 7:00 a.m. to 11:00 p.m.
- (c) It shall be a violation of this article for any person other than the real property owner or an authorized representative of the owner to move, remove or deface any tow away sign.
- (d) It shall be a violation of this article for any owner or wrecker employee of a towing or wrecker service to compensate, by cash or in-kind services, a property owner or their agents in exchange for any agreement to tow vehicles from the property owner's property.
- (e) It shall be a violation of this article to exceed the fees set forth in this article.
- (f) Except for towing in the normal course of its business, it shall be a violation of this article for a towing or wrecker service to tow vehicles from its property or the property of its agents, unless the property is the towing service owner's primary place of business.
- (g) It shall be a violation of this article to operate a wrecker without maintaining insurance coverage in the following minimum amounts:
- (1) Garage liability insurance in an amount of not less than \$300,000.00 combined single limit liability.
 - (2) Garage keeper's legal liability in an amount of not less than \$50,000.00, covering perils of fire and explosion; theft of a vehicle, its parts, or contents; riot and civil commotion; vandalism, and malicious mischief.
 - (3) On-hook coverage in an amount of not less than \$50,000.00 covering damage to a vehicle or vehicles in tow.
 - (4) Bodily injury liability insurance and property damage liability insurance in amounts of:
 - a. Not less than \$50,000.00 per occurrence for a wrecker with a gross vehicle weight of less than 35,000 pounds.
 - b. Not less than \$100,000.00 per occurrence for a wrecker with a gross vehicle weight of less than 35,000 pounds or more but less than 44,000 pounds.
 - c. Not less than \$300,000.00 per occurrence for a wrecker with a gross vehicle weight of more than 44,000 pounds.
- (h) It shall be a violation of this article for any owner or wrecker employee of a towing or wrecker service to attach a towed vehicle in such a manner that it is not traveling in a straight line behind the wrecker (otherwise known as "crabbing"), so that both vehicles fail to remain in a single lane of travel, in violation of F.S. § 316.089(1).
- (i) It shall be a violation of this article for any owner or wrecker employee of a towing or wrecker service to demand a "no tow" fee if the vehicle they are physically connected to exceeds the gross vehicle weight of the wrecker. For example, a Class A wrecker is not capable of towing a Class C vehicle because the combined weight of the two vehicles exceeds the gross vehicle weight capability of the wrecker.

(j) In addition to those penalties imposed by F.S. § 715.07, violation of any provision of this article, including any of the requirements of F.S. § 715.07, shall be subject to the following civil and criminal penalties:

(1) Any person who violates this article shall be liable to the owner or lessee of the vehicle for all costs of recovery (including all towing and storage fees) plus attorney's fees and court costs, and shall in addition be liable to the owner or lessee of any towed or removed vehicle for damages resulting directly or indirectly from the removal, transportation or storage of the vehicle.

(2) Any person who violates any of the provisions of this article shall upon conviction be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment.

(Ord. No. 03-O-26AA, § 2(15-84), 4-23-2003)