

Ordinance No. 14-O-13

AN ORDINANCE OF THE CITY OF TALLAHASSEE, FLORIDA,
AMENDING THE TALLAHASSEE CODE OF GENERAL ORDINANCES,
CHAPTER 20, ARTICLE V, PERTAINING TO TRESPASS TOWING OF
VEHICLES; AUTHORIZING TRESPASS TOWING FROM CERTAIN
PUBLIC RIGHTS-OF-WAY; PROVIDING FOR CONFLICTS;
PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN
EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF TALLAHASSEE,

FLORIDA, AS FOLLOWS:

Section 1. Article V, Trespass Towing, Chapter 20 of the City of Tallahassee Code of
General Ordinances is hereby amended to read as follows:

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.

Reserved parking space adjacent to historic property means a parking space located in the Park
Avenue or Calhoun Street Special Character District which has been designated as reserved by

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28 the City pursuant to the City Commission Policy concerning Reserved On-Street Parking for
29 Historic Properties in Special Character Districts, and where signage has been installed adjacent
30 to the parking space notifying the public that the space is reserved.

31 *Trespass towing* means towing or removal of a vehicle that is parked on private real property, or
32 parked in a reserved parking space adjacent to historic property without authorization, at the
33 property owner's direction.

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

36

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

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

47

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48 (b) It shall be unlawful for the owner of any wrecker service to permit any person to be
49 employed as a wrecker operator within the city unless such person has been granted a written
50 permit to engage in towing as required by Chapter 11 of the Leon County Code of Laws.

51

52 **Sec. 20-163. Revocation; appeal.**

53 (a) The chief of police may revoke the privilege of any person to do trespass towing on any of
54 the following grounds:

55 (1) If the towing service owner fails to register as required by this article;

56 (2) If the registration contains false statement of a material fact;

57 (3) If the towing service owner or wrecker operator provides monetary or other
58 compensation to the ~~private~~ property owner for the privilege of towing vehicles from the
59 property under contract or from a reserved parking space adjacent to historic property;

60 (4) ~~If t~~The towing service owner or operator provides monetary compensation to the
61 ~~private~~ property owner for each individual vehicle towed from the property or from a
62 reserved parking space adjacent to historic property;

63 (5) If the towing service owner or wrecker operator charges fees in excess of those set out
64 in section 20-168

65 (6) If the towing service owner or wrecker operator violates any of the provisions of this
66 article; or

67 (7) If a wrecker operator fails to display on or about his person or on the dashboard of the
68 wrecker, easily visible to the public, the Leon County wrecker operator permit while
69 performing a trespass tow.

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70 (b) Three violations of the provisions of this article by any owner and/or operator of a towing
71 service or towing service vehicle shall result in the automatic suspension of the owner's or
72 operator's privilege to engage in the business of trespass towing. An owner shall not be
73 suspended for acts of an employee/operator in violation of this section unless the owner actively
74 participated in or had knowledge of the violation and took no corrective action against the
75 employee/operator.

76 (1) The owner or operator shall be informed in person or by certified or registered mail
77 within seven days prior to the effective date of the suspension.

78 (2) The owner or operator may make a written request for a due process hearing within
79 15 calendar days of the date of the suspension. Failure to request a hearing within the 15
80 calendar-day period shall constitute a waiver by the owner or operator of any right to a
81 hearing.

82 (3) The city manager shall establish rules governing the conduct of the hearing to ensure
83 the due process of law.

84 (4) Upon a review of the evidence presented at the hearing, the chief of police may
85 revoke the owner's or operator's privilege to engage in the business of trespass towing for
86 up to one year.

87 (c) Any towing service owner or operator whose privilege to engage in trespass towing has been
88 revoked shall not be eligible to again register with the police department for trespass towing for a
89 period of one year from the date of revocation.

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90 (d) Any towing service owner or operator whose privilege to engage in the business of trespass
91 towing has been revoked may file an appeal within 15 days of the date of revocation pursuant to
92 the appeals process specified in rules adopted by the city manager.

93

94 **[Secs. 20-164 and 20-165 not affected]**

95

96 **Sec. 20-166. Approval of trespass towing signs; prerequisites to towing vehicles parked on**
97 **private property; exceptions.**

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

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

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

- 109 a. The duration of the agreement.
- 110 b. The time of day that such towing or removal is authorized.
- 111 c. The days of the week that such towing or removal is authorized.

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- 112 d. The fees to be paid for the towing or removal.
- 113 e. The signatures of both the property owner, or the authorized representative, and
- 114 the owner, or authorized representative, of the towing service, certifying that each
- 115 has read and is in compliance with all of the provisions of F.S. § 715.07.
- 116 f. The form for such agreement shall be provided by the police department, and
- 117 may not be amended or modified in any manner, which provides for terms or
- 118 activities, which violate the provisions of this article or F.S. § 715.07.
- 119 (2) A copy of the completed agreement is on file with the police department.
- 120 (3) Where the private real property is provided for residential parking other than for a
- 121 single-family residence, the agreement, except as provided in subsection ~~(be)~~(4) of this
- 122 section, shall not authorize the towing service to tow away or remove any vehicle without
- 123 a verified request to remove the specific vehicle by the property owner or an authorized
- 124 representative. A property owner's representative may include a resident manager, a
- 125 property manager or other agent who has the legal authority to bind the owner, but may
- 126 not be an officer, employee or agent of a towing service.
- 127 (4) Owners of properties used for residential purposes may elect to authorize the towing
- 128 service to tow away or remove vehicles without a verified request to remove a specific
- 129 vehicle between the hours of 12:00 midnight and 7:00 a.m. provided that the owner first
- 130 comply with the following requirements:
- 131 a. Signage shall be added to each of the existing tow away signs with letters of the
- 132 same size as the "tow away" language, which provides the following words:
- 133 "Roam Towing, 12:00 midnight — 7:00 a.m."

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

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

141 d. Lease, rental or property owners' association documents shall contain a notice
142 provision indicating that the residential property utilizes roam towing. In the case
143 of properties with existing leases, rental agreements or property owners'
144 association documents, it shall be sufficient to notify by regular mail, at the last
145 known address, each of the tenants/owners of the property prior to the initiation of
146 roam towing. All amendments to or new leases, rental agreements or property
147 owners' association documents shall contain the provision giving notice that the
148 property owner intends to utilize roam towing, and a complete and specifically
149 detailed list of all towing instructions and rules violations that will result in
150 towing. A copy these provisions must be posted in the rental office and the
151 common area. A copy must also be maintained on file in each tow vehicle
152 removing vehicles from the property. The towing administrator shall review and
153 approve the parking rules. At the entrance or entrances a sign shall be posted
154 stating where the parking rules can be read by residents and guests. The parking
155 rules shall be posted in a public area at the complex. The management, to ensure

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156 that they have not been altered, should regularly inspect them; any sign that is
157 removed or defaced shall be replaced within 30 days.

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

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

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

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

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

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

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

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

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

180 (3) The acceptable methods of payment.

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

182

183 **Sec. 20-167. Approval of trespass towing signs; prerequisites to towing vehicles parked in**
184 **reserved parking space adjacent to historic property.**

185 (a) It shall be unlawful for a person hired by the owner of a historic property with adjacent
186 reserved parking to do any trespass towing without having first obtained approval of the police
187 department of the signs posted on the property. The owner of a historic property with adjacent
188 reserved parking shall comply with the signage and notice provisions set out in F.S. § 715.07.

189 (b) It shall be unlawful for any person to tow or cause to be towed any vehicle parked in a
190 reserved parking space adjacent to historic property without compliance with the following
191 requirements:

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

195 a. The duration of the agreement.

196 b. The time of day that such towing or removal is authorized.

197 c. The days of the week that such towing or removal is authorized.

198 d. The fees to be paid for the towing or removal.

199 (2) A copy of the completed agreement shall be on file with the police department.

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200 (3) A vehicle shall not be towed from a reserved parking space adjacent to historic
201 property unless the historic property owner, or an authorized representative thereof, has
202 identified the vehicle as parked in the reserved space without authorization.

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

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

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

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

212 (3) The acceptable methods of payment.

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

214

215 **Sec. 20-1687. Fees charged.**

216 (a) Fees shall be charged as follows:

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

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

225 (3) The fee for removal shall be all-inclusive; and no additional fees may be charged for
226 using dollies, trailers, lifts, slim jims, or any other special equipment or services. If a
227 certified letter is sent to the owner/lien holder/insurance company pursuant to F.S. §
228 713.78, an administrative fee of \$33.00 plus postage plus any out-of-state charges, may
229 be charged three days after the tow but not before the receipt of a paid certified mail
230 receipt from the post office by the towing and storage firm. An after hours release fee of
231 \$30.00 may be charged by the towing and storage firm for releasing a stored vehicle
232 between the hours of 11:00 p.m. and 8:00 a.m.

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

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

239 (1) Cash; or

240 (2) Valid major credit card or debit card.

241 (c) Maximum trespass towing and storage fees shall be established annually by the city
242 commission after receiving recommendations based on financial information submitted by the
243 trespass towing companies as to their costs for the removal and storage of vehicles and personal

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244 property and on other information. The required information shall be submitted by the towing
245 company owners by October 31 of each year. The maximum fees shall be set by resolution to be
246 adopted by the city commission prior to December 31 of each year. Such maximum fees shall be
247 effective during the following calendar year and until changed by subsequent resolution.

248

249 **Sec. 20-1698. Vehicle not towed upon operator returning; receipt to be furnished when**
250 **vehicle claimed.**

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

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

269 "Notice: Towing from private property is regulated by the provisions of Section 715.07, Florida
270 Statutes, and City of Tallahassee Ordinance."
271

272 **Sec. 20-~~17069~~. Prohibitions; penalties.**

273 (a) It shall be a violation of this article to charge any fee which is based on police response to a
274 call by the owner of a vehicle.

275 (b) It shall be a violation of this article to charge a release fee for towed vehicles that are released
276 from storage facilities during normal business hours. Normal business hours shall be from 7:00
277 a.m. to 11:00 p.m.

278 (c) It shall be a violation of this article for any person other than the real property owner or an
279 authorized representative of the owner to move, remove or deface any tow away sign.

280 (d) It shall be a violation of this article for any owner or wrecker employee of a towing or
281 wrecker service to compensate, by cash or in-kind services, a property owner or their agents in
282 exchange for any agreement to tow vehicles from the property owner's property.

283 (e) It shall be a violation of this article to exceed the fees set forth in this article.

284 (f) Except for towing in the normal course of its business, it shall be a violation of this article for
285 a towing or wrecker service to tow vehicles from its property or the property of its agents, unless
286 the property is the towing service owner's primary place of business.

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287 (g) It shall be a violation of this article to operate a wrecker without maintaining insurance
288 coverage in the following minimum amounts:

289 (1) Garage liability insurance in an amount of not less than \$300,000.00 combined single
290 limit liability.

291 (2) Garage keeper's legal liability in an amount of not less than \$50,000.00, covering
292 perils of fire and explosion; theft of a vehicle, its parts, or contents; riot and civil
293 commotion; vandalism, and malicious mischief.

294 (3) On-hook coverage in an amount of not less than \$50,000.00 covering damage to a
295 vehicle or vehicles in tow.

296 (4) Bodily injury liability insurance and property damage liability insurance in amounts
297 of:

298 a. Not less than \$50,000.00 per occurrence for a wrecker with a gross vehicle
299 weight of less than 35,000 pounds.

300 b. Not less than \$100,000.00 per occurrence for a wrecker with a gross vehicle
301 weight of less than 35,000 pounds or more but less than 44,000 pounds.

302 c. Not less than \$300,000.00 per occurrence for a wrecker with a gross vehicle
303 weight of more than 44,000 pounds.

304 (h) It shall be a violation of this article for any owner or wrecker employee of a towing or
305 wrecker service to attach a towed vehicle in such a manner that it is not traveling in a straight
306 line behind the wrecker (otherwise known as "crabbing"), so that both vehicles fail to remain in a
307 single lane of travel, in violation of F.S. § 316.089(1).

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308 (i) It shall be a violation of this article for any owner or wrecker employee of a towing or
309 wrecker service to demand a "no tow" fee if the vehicle they are physically connected to exceeds
310 the gross vehicle weight of the wrecker. For example, a Class A wrecker is not capable of towing
311 a Class C vehicle because the combined weight of the two vehicles exceeds the gross vehicle
312 weight capability of the wrecker.

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

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

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

324

325 **Sec. 20-1710. Liens for recovering, towing, or storing vehicles; publication of notice.**

326 (a) Any person regularly engaged in the business of recovering, towing or storing vehicles who
327 comes into possession of a vehicle pursuant to F.S. § 713.78(2), and who claims a lien for
328 recovery, towing, or storage services, shall give notice to the registered owner and to all persons
329 claiming a lien thereon, as disclosed by the records in the Florida Department of Highway Safety

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330 and Motor Vehicles or of a corresponding agency in any other state. The notice shall be as
331 provided in F.S. § 713.78(4).

332 (b) In addition to the notice provisions of F.S. § 713.78(4), the notice shall provide a date, time
333 and place for the sale authorized pursuant to F.S. § 713.78.

334 (c) If publication of notice is required, such notice shall be published in a newspaper of general
335 circulation in the county which is published at least one day a week and of general interest and
336 readership in the county pursuant to F.S. ch. 50, not one of limited subject matter.

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337 **Section 2. Conflicts.** All ordinances and parts of ordinances of the City of Tallahassee
338 Code in conflict with the provisions of this ordinance are hereby repealed to the extent of such
339 conflict.

340 **Section 3. Severability.** If any provision or portion of this ordinance is declared by any
341 court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining
342 provisions and portions of this ordinance shall remain in full force and effect.

343 **Section 4. Effective Date.** This ordinance shall become effective immediately upon
344 passage.

345 INTRODUCED in the City Commission on the 12th day of February, 2014.

346 PASSED by the City Commission on the _____ day of _____, 2014.

347

348

CITY OF TALLAHASSEE

349

350

351

By: _____

352

John R. Marks, III

353

Mayor

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355

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ATTEST:

APPROVED AS TO FORM:

357

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359

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By: _____

By: _____

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James O. Cooke, IV
City Treasurer-Clerk

Lewis E. Shelley
City Attorney

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