

## ORDINANCE NO. (2021) 272

### AN ORDINANCE TO AMEND THE CITY OF RALEIGH CODE OF ORDINANCES TO REVISE REGULATIONS ON THE TOWING OF VEHICLES FROM PRIVATE PARKING LOTS AND IMMOBILIZATION OF VEHICLES WITHIN PRIVATE PARKING LOTS IN THE CITY

**WHEREAS**, the City Council has requested recommendations from the City Attorney's Office on revisions to the City's ordinances regulating the towing of vehicles from private parking lots; and

**WHEREAS**, the City Attorney's Office has recommended revisions to the City Code to reflect changes in North Carolina law and to provide additional protections to owners of vehicles subject to towing from or immobilization within private parking lots in the City; and

**WHEREAS**, the City Council desires to revise the City Code to incorporate the suggested revisions.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:**

**SECTION 1.** City Code Section 12-7002 shall be amended to add the underlined language where noted below and to delete the language shown as stricken through:

#### **Sec. 12-7002. - DEFINITIONS.**

For purposes of this chapter, certain words and terms are defined as follows:

(a) Abandoned vehicle.

An *abandoned motor vehicle* is one that is:

- (1) Left upon a public *street* or highway in violation of a law or ordinance prohibiting parking; or
- (2) Left on a public *street* or highway for longer than seven (7) days; or
- (3) Left on *property* owned or operated by the *City* for longer than twenty-four (24) hours; or
- (4) Left on private *property* without the consent of the *owner*, occupant or lessee thereof, for longer than two (2) hours.

(b) Authorizing official.

The supervisory employee of the Police Department or the Inspections Department, respectively, designated to authorize the removal of vehicles under the provisions of this chapter.

**(c) Booting or Immobilization Service.**

**Any person or entity that engages in, or owns or operates a business that engages in, immobilizing or “booting” of motor vehicles for a fee by placing any device, including but not limited to a wheel lock, on the vehicle.**

**(ed) Motor vehicle or vehicle.**

A machine designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

**(de) Nuisance vehicle.**

A motor vehicle on public or private *property* that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes or other insects or a breeding ground or harbor for rats or other pests; or
- (2) A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height; or
- (3) A point of collection of pools or ponds of water; or
- (4) A point of concentration of combustible items such as gasoline, oil, other flammable or explosive materials including but not limited to boxes, paper, old clothes, rags, refuse, or any other combustible materials or objects of a like nature; or
- (5) One which has parts thereof which *may* fall and injure members of the public or one which *may* have parts which fall or be closed and become an area of confinement which *may* not be released for opening from the inside; or
- (6) One which is so situated and located that there is a danger of the vehicle falling, rolling, turning over, or creating an unsafe movement such as unattended, blocked or jacked vehicles; or
- (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; or
- (8) One which has parts thereof which are jagged or contain sharp edges of metal or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the *City Council*.

**(ef) Non-consensual towing.**

Non-consensual towing means *motor vehicle* towing performed by a tow truck if such transportation is performed without the prior consent or authorization of the *owner* or operator of the *motor vehicle*. This definition *shall* not include non-consensual tows that occur at the direction of a Raleigh Police Officer or other Raleigh *City Official* or as a result of a *vehicle* seizure or repossession by a lien holder.

**(g) Private parking lot.**

A privately-owned area created, designed, or used for the parking of *motor vehicles*.  
As used herein, a private parking lot does not include driveways, yards of residences, or areas owned or leased by the City or another government entity.

(h) Storage facility.

A place to which trespass vehicles are transported and stored in connection with *non-consensual towing of a vehicle*.

(i) Towing Service.

Any person or entity, whether licensed or not, that engages in, or who owns or operates a business which engages, in whole or in part, in the towing or removal of *motor vehicles* for a fee.

SECTION 2. City Code Section 12-7015 shall be amended to add the underlined language where noted below and to delete the language shown as stricken through:

**Sec. 12-7015. - IMPROPER TOWING FROM AND IMMOBILIZATION WITHIN PRIVATE PARKING LOTS.**

- (a) ~~It is a misdemeanor offense to tow a motor vehicle from a lot that is subject to the provisions of N.C.G.S 20-219.2 unless the lot and individual parking spaces are properly designated as mandated by that statute.~~ It is an offense of this ordinance to tow a *motor vehicle* from a parking space in a *private parking lot* unless the space and lot are clearly designated as such with signs no smaller than 24 inches by 24 inches prominently displayed at all entrances thereto, displaying the current name and current phone number of the *towing service* and *storage facility*, and, if individually owned or leased, the parking lot or spaces within the lot are clearly marked by signs of setting forth the name of each individual lessee or owner, as mandated by N.C.G.S. § 20-219.2. It is a further offense of this ordinance to place an immobilization device on a *motor vehicle* parked in a parking space in a private parking lot unless the space and lot are clearly designated as such with signs no smaller than 24 inches by 24 inches prominently displayed at all entrances thereto, displaying the current name and current phone number of the *towing service* and *storage facility*, and, if individually owned or leased, the parking lot or spaces within the lot are clearly marked by signs of setting forth the name of each individual lessee or owner. The civil penalties for an offense of this section are as prescribed in subsection (f).
- (b) ~~Any towing or storage firm engaged in the business of providing non-consensual motor vehicle towing services shall not charge the owner or operator of the towed vehicle in excess of one hundred dollars (\$100.00) for the non-consensual removal of the motor vehicle or in excess of twenty five dollars (\$25.00) per day for storage fees; however, no storage fees shall be charged for the first twenty four (24) hour time period from the time the vehicle is removed from the property. The fee of one hundred dollars (\$100.00) shall be all inclusive. The fees referred to in this section shall be payable by cash, debit card or major national credit card at no extra cost. Failure to accept credit or debit cards for payment is a violation of this section and is punishable as a misdemeanor. No additional fees may be charged for using dollies,~~

~~trailers, lifts, Slim jims or any other equipment or service. However, the maximum fees in this section shall not apply to the non-consensual towing of vehicles weighing in excess of two (2) tons. Non-consensual towing fees and storage rates shall be established biannually by the City Council.~~ **Any towing service or storage facility engaged in the business of providing non-consensual towing or immobilization services shall accept payment by cash, debit card or a major national credit card. The towing service or storage facility shall provide a receipt of payment to the owner or operator of the motor vehicle. Failure to accept credit or debit cards for payment is a violation of this section and is punishable as a misdemeanor.**

- (c) The operator of any ~~wrecker~~ **tow truck immobilizing or** removing a private vehicle at the request of any person, other than a police officer on duty shall report to the Raleigh Police Department the fact that the vehicle was towed and its **immobilized, or if removed, that it was towed. If the motor vehicle was towed, the operator shall provide the motor vehicle's** present storage space, together with a description of the vehicle and the tag number. The report shall be made by telephonic communication within one hour after the vehicle **is immobilized or** is deposited at the storage site. Any person, operating an ~~impound lot~~ **immobilization service or towing service, or storage facility** within the City shall maintain an attendant on call twenty-four (24) hours every day capable of acknowledging requests for vehicle release within fifteen (15) minutes of receiving a call and of releasing the vehicle within forty-five minutes (45) of receiving the call. The attendant shall be clothed with the authority to release any vehicle upon the legal conditions of release being fulfilled. Lighting in the lot shall be provided at a minimum average maintained footcandle value of two (2) at the surface level. Vehicles towed shall be secured in a fenced storage lot within ~~the City~~ **ten (10) miles of the location from which the vehicle was towed, in a location that is accessible by public transportation,** and in such a manner as to keep the vehicles safe from harm. All tow trucks performing non-consensual tows shall display the name and telephone number of the towing company on each side of the tow truck.
- (d) The operator of any tow truck summoned to tow away any vehicle in a non-consensual towing shall not tow the vehicle away and shall release the vehicle ~~for a charge not to exceed fifty (50) per cent of the non-consensual towing rate set out in paragraph (b) herein if the operator of the vehicle returns prior to the tow truck having left the location summoned and moves the vehicle immediately and prior to the tow truck having left the location to which it was summoned.~~ The tow truck operator shall permit the owner of a towed vehicle to remove personal property from a vehicle in the custody of the tow truck operator ~~without any charges or fees.~~ If the tow truck operator has removed personal property from the vehicle it shall be returned to the owner of the property at no charge upon request made to the tow truck operator. **The operator is not prohibited from charging a fee to release the vehicle, but if a fee is required, the operator shall provide a receipt of payment to the owner or operator of the motor vehicle. Failure to accept credit or debit cards for payment is a violation of this section and is punishable as a misdemeanor.**
- (e) **No towing service shall remove a motor vehicle from a private parking lot from the hours of 7:00 a.m. to 7:00 p.m. unless the owner or agent of the private parking lot signs a contemporaneous specific written authorization for such removal which is presented to the wrecker driver of the towing service. The agent must be someone other than an employee of the towing service. The written authorization shall contain the reason for**

**the tow, the vehicle make, model, year, color, vehicle identification number (VIN) and license plate number. Following a tow under this subsection, the towing service shall follow the same notification procedures required under subsection (c) of this section.**

**(f) Violations of this section shall carry civil penalties as follow:**

**First violation - \$200.00**

**Second violation within a two (2) year period of the first violation - \$300.00**

**Third violation within a two (2) year period of the first violation - \$400.00**

**Fourth violation within a two (2) year period of the first violation - \$750.00**

**Fifth violation within a two (2) year period of the first violation - \$1,000.00**

**SECTION 3.** This ordinance shall be effective ninety (90) days following adoption.

**Adopted:** September 7, 2021

**Effective:** December 9, 2021

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*Prepared by the City Attorney's Office*