

AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA  
WITH RESPECT TO **TOWING OF VEHICLES FROM PUBLIC PROPERTY**; AND FOR  
OTHER PURPOSES

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. Section 1-10-18 entitled “*Parking*” of the Code of Athens-Clarke County, Georgia, is hereby amended by adding to subsection (a) thereof the words “or in any location other than that expressly allowed under the conditions of a permit as defined in this chapter” so that said subsection (a) is:

**Sec. 1-10-18. - Parking.**

(a) No person shall park a vehicle on park property at any place other than in the expressly designated space provided for that particular type of vehicle, or in any location other than that expressly allowed under the conditions of a permit as defined in this chapter, unless directed otherwise by a law enforcement officer or department employee, or by official signs or markings.

SECTION 2. Section 1-10-33 entitled “*Penalties*” of the Code of Athens-Clarke County, Georgia, is hereby amended by adding thereto the words “Vehicles parked in violation of this chapter may be towed and impounded pursuant to the provisions of chapter 3-3 of this code.” so that section 1-10-33 is:

**Sec. 1-10-33. - Penalties.**

Any violation of this chapter shall be subject to penalties pursuant to section 1-1-5 of the Code of Athens-Clarke County, Georgia. Additionally, any person who violates any provision of this chapter shall be subject to suspension of access to parks or being removed or ejected from parks without refund, as determined by the director. Vehicles parked in violation of this chapter may be towed and impounded pursuant to the provisions of chapter 3-3 of this code.

SECTION 3. Section 3-3-3 entitled “*Parking prohibited*” of the Code of Athens-Clarke County, Georgia, is hereby amended by adding to the title thereof the words “posted signs”, and by adding to said section the words “or on any other facility or property owned or leased by Athens-Clarke County” so that section 3-3-3 is:

**Sec. 3-3-3. - Parking prohibited—posted signs.**

It shall be unlawful for the owner or operator of any motor vehicle or other vehicle to park the vehicle or allow the vehicle to remain parked on any public street, highway or alley, or in an Athens-Clarke County parking deck, lot or garage, or on any other facility or property owned or leased by Athens-Clarke County in violation of any posted signs regulating or prohibiting parking in such location. The manager or manager's designee shall have authority to develop regulations governing parking, including establishing time limits and directing the posting of signs, for all Athens-Clarke County facilities.

SECTION 4. Section 3-3-20 entitled “*Parking for more than 48 hours in one place*” of the Code of Athens-Clarke County, Georgia, is hereby amended by deleting therefrom the words “right-of-way or other Athens-Clarke County-owned property”, and by adding thereto the words “In addition to and cumulative of any provision of this code”, “or alley” and “in an Athens-Clarke County parking deck, lot or garage, or on any other facility or property owned or leased by Athens-Clarke County” so that section 3-3-20 is:

**Sec. 3-3-20. - Parking for more than 48 hours in one place.**

In addition to and cumulative of any provision of this Code, it shall be unlawful for the operator of any vehicle to park the same continuously in one place for more than 48 hours on any public street, highway or alley, or in an Athens-Clarke County parking deck, lot or garage, or on any other facility or property owned or leased by Athens-Clarke County.

SECTION 5. Section 3-3-22 entitled “*Removal, storage and redemption of vehicles*” is hereby deleted in its entirety and the following substituted in lieu thereof:

**Sec. 3-3-22. - Enforcement by towing and impoundment or immobilization; procedures**

(a) *Designated officer defined.* As used in this chapter, “designated officer” shall mean any Athens-Clarke County police officer, any authorized representative of a governmental entity performing parking management services pursuant to a contract with the Unified Government, or any employee of the Unified Government authorized by the manager or manager’s designee.

(b) *Towing and impoundment directed by designated officer.*

1. Whenever any vehicle shall be parked on any public street, highway or alley, or in an Athens-Clarke County parking deck, lot or garage, or on any other facility or property owned or leased by Athens-Clarke County in violation of (i) any provision of this chapter, (ii) section 1-10-18 of this Code, (iii) section 6-5-19 of this Code, and when a designated officer shall determine that such a vehicle is an impediment to traffic, is a hazard to public safety, or is an impediment to the operation of any Athens-Clarke County facility, or when such vehicle is in violation of Section 3-3-20 or Section 3-3-45 of this chapter, such designated officer shall have the authority to direct the towing and impoundment of the vehicle at the expense of the owner or other person responsible for such vehicle in accordance with the provisions of chapter 6-15 of this code.

2. Vehicles towed and impounded under sub-paragraph 1. may be released from such impoundment only upon payment in full of all towing and impound fees due pursuant to chapter 6-15 of this code. After paying such fees, a registered owner or other responsible person may contest the validity of the towing and impoundment of his or her vehicle by submitting in writing a Request for Reimbursement of Towing and Impoundment Fees to the Athens-Clarke County Administrative Hearing Officer on a form available from the Clerk of the Athens-Clarke County Municipal Court. Such notice shall either be filed in person at the office of the Clerk of Athens-Clarke County Municipal Court, or sent by certified mail, return receipt requested, in either case no later

than 30 days following the release from impoundment of his or her vehicle. Only requests for reimbursement of towing and impoundment fees meeting the requirements of this section shall be adjudicated by the Administrative Hearing Officer. If the Administrative Hearing Officer finds in accordance with the procedures set forth in Section 1-5-1 of this Code that the towing and impoundment was not authorized or that the provisions of this Code were not followed, he or she shall issue an order for reimbursement. Such reimbursement shall be limited to the fees actually paid for release of the subject vehicle from impoundment, plus certified mailing fees, if any.

*(c) Immobilization by wheel lock device or towing and impoundment for accumulated parking violation notices or fines.*

(1) Any vehicle that either (i) accumulates six or more parking violation notices, the penalties for which remain unpaid after the court dates shown on such parking violation notices, or for which no demand for a trial contesting liability for such parking violation notices has been made by the registered owner or other responsible party on or before the court dates shown on such parking violation notices, or (ii) that accumulates \$200 or more in penalties for violations of this chapter that remain unpaid after the court dates shown on the parking violation notices alleging such violations, or for which no demand for a trial contesting liability for such parking violation notices has been made by the registered owner or other responsible party on or before the court dates shown on such parking violation notices may be subject to immobilization by wheel lock device or towing and impoundment in accordance with the provisions of this chapter. In addition to the penalties for parking violations specified in this chapter or under section 1-1-5 of this code, a wheel lock fee in the amount of \$50.00 shall be assessed whenever a vehicle is immobilized by wheel lock device.

(2) Once a vehicle has become subject to immobilization by wheel lock device or by towing or impoundment as provided in sub-paragraph (1), Athens-Clarke County or a designated officer shall make a good-faith attempt to determine the name and address of the registered owner of such vehicle by license tag number, vehicle identification number (VIN), or such other means as are reasonably ascertainable through inspection of the exterior of such vehicle. In those cases where the name and address of the registered owner of the subject vehicle are determined, written notice shall be sent to said owner by certified mail, return receipt requested, or by personal service acknowledged by signature of the registered owner or other responsible party. Notice by certified mail as described herein shall be deemed given as of the postmark date. Notice shall be given as prescribed in this code section no less than seven days prior to the immobilization or impoundment. In the event that such notice is not given, the vehicle shall be released to the owner without payment of towing fees or wheel lock fees, as applicable. The written notice required by this section shall contain the following:

- A. A description of the subject vehicle, including license tag number or vehicle identification number;
- B. The name and address of the registered owner of such vehicle

C. The dates and descriptions of the parking violations that establish the grounds for immobilization or towing and impoundment, and the unpaid amounts of the civil penalties for each violation. A copy of each parking ticket or other document providing the required information attached to the notice shall be sufficient to satisfy this requirement.

D. A date and time at least seven days from the postmark date of the notice in which the registered owner or other responsible party may appear in Athens-Clarke County Municipal Court to demand a bench trial to contest the pending immobilization or towing and impoundment.

E. A statement that the subject vehicle is subject to immobilization by wheel lock device or by towing and impoundment for accumulated unpaid parking violation notices unless (i) the registered owner or other responsible party pays in full the unpaid amounts for all of the civil penalties described in the notice on or before the specified court appearance date, or (ii) the registered owner or other responsible party appears personally in Athens-Clarke County Municipal Court to demand a bench trial in which to contest such immobilization or towing and impoundment.

(3) If the registered owner or other responsible party fails to: (i) pay in full all unpaid penalties associated with the violations described in the notice of pending immobilization or towing and impoundment no later than the court date specified in the notice, or (ii) appear personally in Athens-Clarke County Municipal Court on the date and time specified in the notice to contest such immobilization or towing and impoundment, the vehicle subject to the notice may thereafter without further notice be immobilized by wheel lock device or towed and impounded.

(4) Any vehicle immobilized or towed and impounded under the provisions of this paragraph shall be released upon payment in full of all unpaid penalties and fees for parking violations as specified in this chapter, and the \$50 wheel lock fee plus all towing and impound fees due pursuant to chapter 6-15 of this code, as applicable. After paying such fees, a registered owner or other responsible person may contest the validity of the immobilization or the towing and impoundment of his or her vehicle by submitting in writing a Request for Reimbursement of Immobilization or Towing and Impoundment Fees to the Athens-Clarke County Administrative Hearing Officer on a form available from the Clerk of the Athens-Clarke County Municipal Court. Such notice shall either be filed in person at the office of the Clerk of Athens-Clarke County Municipal Court, or sent by certified mail, return receipt requested, in either case no later than 30 days following the release from impoundment of his or her vehicle. Only requests for reimbursement of immobilization or towing and impoundment fees meeting the requirements of this section shall be adjudicated by the Administrative Hearing Officer. If the Administrative Hearing Officer finds in accordance with the procedures set forth in Section 1-5-1 of this Code that the immobilization or the towing and impoundment was not authorized or that the provisions of this Code were not followed, he or she shall issue

an order for reimbursement. Such reimbursement shall be limited to the fees actually paid for release of the subject vehicle from impoundment, plus certified mailing fees, if any.

(5) *Towing and impoundment after 48 hours.* Any vehicle immobilized under this chapter that has not been released under the provisions herein within 48 hours of such immobilization may be ordered towed and impounded by a designated officer under the provisions of chapter 6-15 of this code.

(6) *Illegal to remove wheel lock device.* It shall be a violation of this code for any unauthorized person to remove any wheel lock device placed upon a vehicle under the provisions of this section. Such violations shall be punished as provided for in section 1-1-5 of this code.

SECTION 6. Section 3-3-45 entitled “*Construction permit parking fees in the downtown area; penalty for violation*” of the Code of Athens-Clarke County, Georgia, subsection (b) thereof is hereby amended by deleting therefrom the words “unlawful”, “the operator of” and “park the same” and by adding thereto the words “a violation of this chapter”, “be located” and “Parking spaces temporarily designated for use by construction personnel under the provisions of this section shall be clearly marked as such, and such marking shall contain the statement, “No parking after (date & time). Unauthorized vehicles present after that time are subject to towing and impoundment.” so that subsection (b) is:

(b) It shall be a violation of this chapter for any motor vehicle to be located in any space which has been designated under subsection (a) for construction parking. Parking spaces temporarily designated for use by construction personnel under the provisions of this section shall be clearly marked as such, and such marking shall contain the statement, “No parking after (date & time). Unauthorized vehicles present after that time are subject to towing and impoundment.” The fine for violation of this section shall be \$50.00.

SECTION 7. Section 6-5-19 entitled “*Street closing*” of the Code of Athens-Clarke County, Georgia, is hereby amended by adding to the title thereof the words “and parking restrictions”, and by adding thereto new subsection (b) so that section 6-5-19 is:

**Sec. 6-5-19. - Street closing and parking restrictions.**

(a) The complete or partial closure of any street, sidewalk or other public way as a part of a special event shall be approved by the traffic engineer in consultation with the chief of police.

(b) It shall be a violation of this chapter for any motor vehicle to be located on any street or other area that has been closed to parking for a special event. Designated parking spaces in such areas closed shall be clearly marked as such, and such marking shall be posted not less than 12 hours prior to the effective date and time of such closure and shall contain the statement, “No parking after (date & time). Unauthorized vehicles present after that time are subject to towing and impoundment.” The manager or the manager’s designee may have vehicles

illegally parked in violation of this section immediately towed and impounded at the expense of the owner or other person responsible for such vehicle pursuant to the provisions of chapter 3-3 of this code. The fine for violation of this section shall be \$50.00.

SECTION 8. Chapter 6-15 entitled "*Wrecker Services for Police-Initiated Tows*" of the Code of Athens-Clarke County, Georgia, is hereby amended by deleting from the title thereof the word "Police" and by substituting in lieu thereof the words "Athens-Clarke County" so that the title of Chapter 6-15 is:

#### CHAPTER 6-15. – WRECKER SERVICES FOR ATHENS-CLARKE COUNTY-INITIATED TOWS

SECTION 9. Section 6-15-1 entitled "*Wrecker services for police-initiated tows*" of the Code of Athens-Clarke County, Georgia is hereby amended by deleting therefrom the word "police" in six locations, including the title thereof, and by substituting in lieu thereof in five such locations the words "Athens-Clarke County", by deleting therefrom the words "by police personnel" and "a police call" and by adding thereto the words "or person", "this chapter" and "or the Athens-Clarke County manager or the manager's designee" so that section 6-15-1 is:

##### **Sec. 6-15-1. - Wrecker services for Athens-Clarke County-initiated tows.**

For purposes of this chapter, "wrecker service" means any legal entity, corporation, partnership, or individual person, either as principal, agent, or employee, in the business of removing, towing, and/or storing wrecked, disabled, or abandoned automobiles or other vehicles by the use of a wrecker or other towing device. For purposes of this chapter, "Athens-Clarke County-initiated tows" shall mean all situations in which a vehicle is abandoned or illegally parked, where motorists are unconscious, trapped or unable to make a call for wrecker services, or in which the stranded vehicle is in the roadway. On and after April 1, 2005, all wrecker services for Athens-Clarke County-initiated tows shall be furnished only by providers who have contracted with Athens-Clarke County in accordance with this chapter. It shall be unlawful for any provider to provide wrecker service for an Athens-Clarke County-initiated tow except in accordance with this chapter. There are hereby established two categories of wrecker services for contracts with Athens-Clarke County to provide wrecker services for Athens-Clarke County -initiated tows to be awarded and administered in accordance with this chapter. The wrecker service categories are defined as follows:

- (a) *Standard duty wrecker service* A standard duty wrecker service shall operate one or more "standard duty wreckers" which shall be defined as wreckers having at least 10,000 pounds minimum gross weight rating equipped with an 8,000-pound P.T.O. mechanically driven power winch, crane and boom having dual wheels or an equivalent vehicle having the same minimum capabilities. A standard duty wrecker

service shall be capable of towing automobiles, light trucks and similar-sized vehicles. A rollback may be used to satisfy the requirements of this section.

- (b) *Heavy duty wrecker service* A heavy duty wrecker service shall operate one or more "heavy duty wreckers" which shall be defined as wreckers having at least 25,000 pounds minimum gross weight rating equipped with a 16-ton or larger P.T.O. mechanically driven power winch, crane and boom having dual wheels or an equivalent vehicle having the same minimum capabilities.

A heavy duty wrecker service shall be capable of moving all types of vehicles, including large trucks, buses and loaded and unloaded tractor trailers.

- (c) *Logs.* For documentation purposes, the police dispatcher shall maintain two call logs: A standard duty log and a heavy duty log. Each log shall include wrecker call, time, date and location, officer or person making the request, and police dispatcher on duty.

- (d) *Wrecker service request procedure.* All requests for wrecker service shall be made to the police dispatcher. The police dispatcher shall maintain the call lists as authorized. In the event of multiple contractors in a category the dispatcher shall make calls for wrecker service on a rotation basis as provided for by individual contract with the wrecker services. The police dispatcher shall enter such calls on the proper log.

- (e) *Monitoring police radio calls, etc.* No wrecker service shall proceed to an accident scene by reason of any information received by any means other than being dispatched by the Athens-Clarke County police communications center.

- (f) *Where vehicles to be towed.* All vehicles towed pursuant to this chapter shall be towed to the wrecker service yard unless otherwise directed by the police officer on the scene, or the Athens-Clarke County manager or the manager's designee.

SECTION 10. Section 6-15-2 entitled "*Provision of services for towing and removal of motor vehicles which have been wrecked, impounded, abandoned or improperly parked on public streets or other public places within Athens-Clarke County; violations; removal.*" is hereby amended by deleting therefrom the word "police" in four locations and substituting in lieu thereof the words "Athens-Clarke County", by deleting therefrom the words "the police department" and substituting in lieu thereof the words "Athens-Clarke County", and by adding thereto the word "dispatcher" so that section 6-15-2 is:

**Sec. 6-15-2. - Provision of services for towing and removal of motor vehicles which have been wrecked, impounded, abandoned or improperly parked on public streets or other public places within Athens-Clarke County; violations; removal.**

(a) Beginning on April 1, 2005 and for two-year periods thereafter Athens-Clarke County shall, after public bid, contract with one or more standard duty wrecker services and one or more heavy duty wrecker services for all Athens-Clarke County-initiated tows. The contracts shall provide that the parties may renew the agreements by mutual consent for one additional two-year period with any adjustments to the rate structure being made only in accordance with the applicable U.S. Department of Labor Consumer Price Index. Prior to initiation of each public bid process, the mayor and commission shall approve the process and methodology of the contract award proposed by the manager. In the event that the mayor and commission shall contract with more than one wrecker service provider in a wrecker service category, the contract award procedure shall require that each bidder disclose detailed information about the ownership and management of the entity seeking a contract, and the mayor and commission shall have the authority to decline to award contracts to entities that have common ownership or management. Any contract awarded pursuant to this chapter shall not be assigned to any other person, firm or corporation or other entity. Each wrecker service contracting with Athens-Clarke County shall satisfy the minimum requirements set forth below and any other requirements as provided for by the contract.

(b) The wrecker service shall be available for Athens-Clarke County-initiated tows via listed telephone numbers 24 hours a day, seven days a week, with adequate personnel available to respond to calls immediately. No pagers or answering machines shall be allowed to answer said calls.

(c) The wrecker service shall respond to the police dispatcher call within a maximum of 30 minutes for standard duty and within a maximum of 45 minutes for heavy duty.

(d) The wrecker service shall have the capability of moving all types of motor vehicles as required by the applicable category of contract. All towing will be performed with the wrecker service's equipment (or leased equipment) and the wrecker service's employees, and the wrecker service will not contract out any work received from an Athens-Clarke County-initiated call within the limits of Athens-Clarke County. Each wrecker service shall display in a conspicuous manner, either painted or permanently affixed thereto on each side of its vehicles, the name, address and phone number of its business establishment. Wrecker service vehicles of all types shall be commercially manufactured, shall have an adequate chassis, and be in safe operating condition at all times.

(e) The wrecker service shall maintain a place of business within Athens-Clarke County with its name, phone number and street number readily visible to the public. Said business shall also be easily visible from a public street to the passing public. The business shall be in compliance with all applicable zoning ordinances. The business must be staffed and operated from 8:00 a.m. to 5:00 p.m., Monday through Friday, and from 8:00 a.m. to 1:00 p.m. on Saturdays except on days on which the University of Georgia has a home football game scheduled, the wrecker service shall

remain open and staffed from 8:00 a.m. to at least three hours after the time that the football game is completed. During the hours of operation required by this paragraph, the wrecker service shall allow access to impounded vehicles by any officer of the Athens-Clarke County Police Department, any individual accompanied by an officer of the department, or an owner or lessee of the vehicle as established by proof of a valid state motor vehicle registration, current motor vehicle insurance card or policy on an impounded vehicle and state driver's license, and the purpose of such access shall be for investigative purposes or to retrieve personal property of the driver and/or passengers. There shall be no charge for this access.

(f) The wrecker service shall maintain a fenced-off impoundment lot within the boundaries of Athens Clarke County for storage of impounded vehicles. Such impounded area must be separate from any other impoundment facility of the wrecker service. Such impoundment lot shall be enclosed by a fence not less than six feet high with a gate which can be securely fastened and locked. The fence shall have six-strand barbed wire Y-bracket top. The impound lot must be sufficiently lighted so that the surface of the lot is illuminated to the intensity of at least two footcandles. The impound lot must comply with all applicable Athens-Clarke County ordinances. The impoundment lot shall be capable of storing the number of vehicles required by the contract. The wrecker service shall provide adequate security for all vehicles they place in storage and shall be held responsible for such vehicles and contents thereof. The wrecker service shall maintain at least one protected inside storage area (garage) within Athens-Clarke County for vehicles under police investigation.

(g) An attendant, who shall be a full time employee of the wrecker service, shall be available to receive and dispatch wrecker calls for 24 hours a day, seven days a week.

(h) The wrecker service shall post towing fees reflecting the prices to be charged to the public. Fees shall be posted in open view to the public in the wrecker service's lobby. In addition, the wrecker service shall deliver to each owner or representative of every towed vehicle present at the scene of the tow a pre-printed disclosure form drafted by Athens-Clarke County that states the fees to be charged by the wrecker service, location of storage lots, times of vehicle release, and phone number(s) of the wrecker service. The wrecker service must accept credit cards or bank debit cards at its place of business for payment of the fees. The wrecker service shall furnish the person who pays for wrecker services a written receipt on a pre-printed form drafted by Athens-Clarke County which contains the same information as the within-described disclosure form and which provides an itemization of all charges, the name of the person on the scene who recovered the vehicle, and the telephone number of a representative of Athens-Clarke County designated to receive comments about wrecker service.

(i) The wrecker service must maintain a valid Athens-Clarke County occupation tax certificate.

(j) The wrecker service must maintain registration with the Georgia Public Service Commission and possess all state-required permits. In addition, the wrecker service shall maintain a daily list of vehicles towed and/or stored for Athens-Clarke County-initiated towing and storage services. The list shall contain details as to the make, year, model, color, vehicle I.D. number, license plate number, name of owner, and the purpose of removing and/or storing vehicle. The records shall be retained for a period of 12 months and shall be made available to Athens-Clarke County at any reasonable hour.

(k) The wrecker service must own and maintain at all times the equipment and accessories as required by the contract (or the right to use the same under a written lease agreement for the period covered by the contract).

(l) The wrecker service shall maintain in the wrecker service's name at a minimum the following insurance policies: (i) an automobile liability insurance policy having a combined single limit of not less than \$500,000.00, (ii) a comprehensive general liability policy providing bodily injury coverage limits of \$1,000,000 per person and \$1,000,000 per occurrence and property damage coverage limits of \$500,000.00 per person and \$500,000.00 annual aggregate, (iii) cargo and garage keepers liability insurance with a limit of \$100,000.00, and (iv) workers' compensation insurance in the minimum coverage required by Georgia law. Said insurance shall name Athens-Clarke County as an additional insured under the policy and shall provide for written notification within 15 days of policy modification, expiration or cancellation. The wrecker service shall provide to the chief of police a full copy of the insurance policy no later than five days from date of execution of agreement or extension thereof or any modification of the policy and upon renewal of the policy.

(m) It shall be the duty of every driver of a wrecker service vehicle to tow vehicles in a professional manner in accordance with standards in the contract and to deal with the public in a professional and courteous manner. Operating personnel of wrecker units shall be technically qualified and physically capable of responding immediately to all calls received. Reasonable care shall be taken by wrecker service personnel to ensure no further damage will occur to the vehicle towed either through carelessness or from natural elements, and the wrecker service shall use the proper equipment of whatever nature necessary (i.e. dollies, wheel lifts) in order to prevent further damage to the vehicles towed.

SECTION 11. All ordinances or parts of ordinance in conflict herewith are hereby repealed.