

ORDINANCE NO. 4608

AMENDING CHAPTER 6

**AN ORDINANCE AMENDING CHAPTER 6 OF THE CHARLOTTE CITY CODE
ENTITLED "BUSINESSES AND TRADES"**

WHEREAS, the City of Charlotte has a significant governmental interest in protecting the health, safety, and welfare of the general public and preserving the public order; and

WHEREAS, G.S. 160A-174 allows a city by ordinance to define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of the public, and the peace and dignity of the city; and

WHEREAS, some practices related to the trespass towing of motor vehicles from private property have resulted in the public and members of the towing industry being exposed to harm; and

WHEREAS, the owner and lessors of private parking lots depend on the availability of their parking spaces to conduct their businesses and activities, and should have the ability to remove motor vehicles parked in those lots without authorization; and

WHEREAS, the City Council desires to minimize and control the harmful and adverse effects that occur during the trespass towing of motor vehicles while not interfering with the ability of owners and lessors of private parking lots to conduct their businesses, including removal of unauthorized vehicles;

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that:

Section 1. Chapter 6, Article XI "Businesses and Trades" of the Charlotte City Code entitled "Towing and Booting Businesses" is amended in its entirety to read as follows:

"ARTICLE XI. Towing and Booting Business

Sec. 6-561. 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:

Completed trespass tow means a trespass tow resulting in the complete removal of the motor vehicle from a private parking lot or private property.

Motor Vehicle means a Class A, B, or C Motor Vehicle as defined in G.S. 20-4.01(23).

Private parking lot means any parking lot or area owned by a private entity or individual that provides parking spaces for a fee or requires the permission of the owner, lessee or agent before a person may park at that location. A private parking lot includes vehicle parking spaces in an apartment or condominium complex.

Tow means to haul, carry, pull along, or otherwise transport or remove a motor vehicle by means of another vehicle.

Towing or tow service includes any person or other 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 compensation.

Trespass towing or trespass tow means the towing or removal of a motor vehicle, without the consent of the motor vehicle's owner or operator, that is parked on a private parking lot without the property owner's or agent's consent.

Wheel lock means a boot, wheel lock or any other device that is attached to a motor vehicle that is designed to immobilize the motor vehicle.

Sec. 6-562. Towing of vehicles for compensation.

No towing service shall conduct a trespass tow of a motor vehicle from a private parking lot for compensation when the point of origin of the tow is within the jurisdictional limits of the city without complying with the provisions of this article.

Sec. 6-563. Trespass towing of vehicles from private parking lots; signs required.

(a) It shall be unlawful to tow or remove or immobilize by use of any wheel lock or other method, a motor vehicle that is parked on private property or private parking lot without the permission of the owner or lessee of the motor vehicle unless notice is posted in accordance with the provisions of this section on the private property from which the towing, removal, or immobilization occurs. The notice shall meet the following requirements:

- (1) The notice must be in the form of a sign structure and not less than 24 inches by 24 inches and not larger than 6 square feet and constructed of metal, plastic or other type of material that is enduring in nature. The notice shall be prominently posted on the private property at each access or curb cut allowing vehicle access to the property and within five feet of the street right of way line. If there are no curb or access barriers, notices shall be posted not less than every 50 feet facing the frontage of the public

street and facing the private parking lot. In addition, a sign not less than 12 inches by 18 inches in size may be posted with lettering on both sides at each parking space from which an unauthorized vehicle could be towed, removed, or immobilized.

(2) The notice shall clearly display the following:

a. In not less than one-and-one-half inch high letters red in color on a contrasting white background, the words "tow-away-zone" or "towing enforced."

b. In not less than one inch high letters red in color on a contrasting white background, a statement that parking is never authorized by stating "private property - no parking" or where parking is permitted under limited circumstances, by stating "authorized parking only" or "leased parking only", or "parking for _____ customers only", or "parking for residents only", or a similar phrase that specifically identifies the conditions under which someone may park on the property. If parking is only allowed for a specified time, then the sign shall specifically state the days and hours when parking is permitted.

c. In not less than one inch high letters red in color on a contrasting white background, the phone number that a person can call to retrieve the towed vehicle and the name and address of the storage facility where the vehicle is stored.

(3) The sign displaying the required notices shall be permanently installed with the bottom of the sign not less than 3 feet foot above ground level and the top of the sign not more than 8 feet above ground level.

Sec. 6-564. Trespass towing of vehicles from private parking lots; fees

(a) It shall be unlawful to engage in trespass towing of motor vehicles except in accordance with the following provisions:

(1) Fees

a. The fees for a completed trespass tow shall be \$120.00 or less for any motor vehicle weighing less than 9,000 pounds. For motor vehicles weighing 9,000 pounds or more the fee shall be \$500.00 or less. If the motor vehicle weighing 9,000 pounds or more is required by law to be towed separately, then the fees shall be \$500.00 or less for each portion of that motor vehicle that is towed. The weight of a motor vehicle shall be determined by its Gross Vehicle Weight Rating as defined in G.S. 20-4.01(12b).

b. The fee for each tow shall be all inclusive. There shall not be any additional fees assessed by the towing service for booting or for a private parking violation. No additional fees may be charged for using dollies, trailers, lifts, slim jims or any other equipment or service. Subject to the express limitations described above, towing services and owners, lessees and agents of private parking lots shall be entitled to pursue all rights and remedies available at law regarding the enforcement and collection of past due charges, for parking violations.

c. The fee for storing a towed motor vehicle shall be \$15.00 a day and shall not begin for 24 hours from the time the motor vehicle enters the lot.

d. The fee for booting a vehicle shall not exceed \$50.00. A fee for booting shall not be charged if a completed trespass tow has occurred.

e. A booting service must accept cash and at least two major credit and debit cards.

Sec. 6-565. Trespass towing of vehicles from private parking lots; Practices.

(a) Any towing service that has initiated a trespass tow by, securing the motor vehicle to the tow truck by a hook, chain, cable or similar device, but has not completely removed the trespass motor vehicle from the private parking lot, shall upon the request of the vehicle owner or operator, release said vehicle without a charge.

(b) Any towing service that is engaged in a trespass tow shall, upon request of the owner or operator of the motor vehicle, permit the owner or operator access to the trespass vehicle for the purpose of retrieving personal property from the vehicle without paying a fee. If personal items are removed from the motor vehicle by the towing service, then upon request those items will be returned to the owner or operator at no cost.

(c) Any towing service that engages in a trespass tow or any storage facility that receives motor vehicles that have been towed as a result of a non-consensual tow from private property shall accept cash and at least two major credit cards and any debit card for any fee established by this Article. Upon request, the employee for the towing service or storage facility will provide a receipt to the owner or operator of the towed motor vehicle.

(d) Any towing service that engages in a trespass tow or any storage yard that receives motor vehicles that have been towed as a result of a non-consensual tow from private property shall have a person on call 24 hours every day who acknowledges requests to retrieve a towed motor vehicle within 15 minutes of receiving an inquiry from the owner or operator of the towed motor vehicle. If the owner or operator wishes to retrieve the motor vehicle, then the towing service or storage facility must make the vehicle available within 45 minutes of the request.

(e) The lot or facility to which a trespass towed vehicle is removed shall be located within the city limits of the City of Charlotte.

(f) No towing service shall remove a motor vehicle from a private lot from the hours of 7:00 a.m. to 7:00 p.m. unless the owner or agent of the private 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 make, model, year, color, vehicle identification number (VIN) and license plate number. The wrecker driver shall contact the non-emergency number for the Charlotte-Mecklenburg Police Department and provide the above information. The motor vehicle will not be removed from the private lot until the driver has been advised of a complaint number.

Sec. 6-566. Interference with a towing service.

(a) It shall be unlawful for anyone to obstruct or interfere with a towing service that is carrying out a trespass tow on private property or a tow conducted pursuant to a contract with the City of Charlotte except:

- (1) When the owner or operator verbally requests the towing service to release the motor vehicle pursuant to this Article; or
- (2) When the owner or operator verbally requests the towing service to release the motor vehicle pursuant to the provisions of a towing contract with the City of Charlotte; or
- (3) When the owner or operator verbally requests the towing service to retrieve personal property from their motor vehicle.

Sec. 6-567. Penalty.

Any person who violates a provision of this article shall be guilty of a misdemeanor as provided by G. S. 14-4."

Section 2 This Ordinance shall become effective on April 1, 2011.

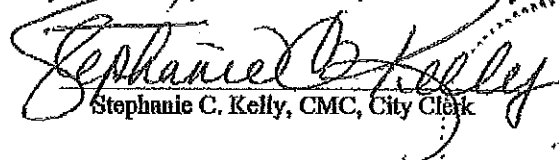
Approved as to Form:


City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the city of Charlotte, North Carolina, in regular session convened on the 28th day of February, 2011 the reference having been made in Minute Book 131, and recorded in full in Ordinance Book 57, Pages (1-6).

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 2nd day of March, 2011.


Stephanie C. Kelly, CMC, City Clerk

