

Chapter 23 WRECKERS AND WRECKING SERVICES

Sec. 23-1. Record to towing to be kept; when permitted at scene of accident or wreck.

- (a) All persons operating a wrecker or providing wrecker service in the city, and who respond to a request by the police department to tow in a motor vehicle, shall keep a record of such motor vehicle which shall include the make, style, motor number and license number and other identifying features. Such information shall be furnished to the police department so that a record of such vehicle may be maintained by the wrecker owner or operator and by the police department.
- (b) It shall be unlawful for the owner or operator of a wrecker to go to the scene of an accident or wreck unless he has been called or summoned by the owner, the operator of such motor vehicle or the police department. If a wrecker goes to the scene of an accident without being called by the owner, the operator of a motor vehicle or the police department, the owner or operator of such wrecker shall keep a record of the name and telephone number of the person calling for such service and furnish same to the police department upon request.
- (c) This section shall not apply to motor vehicles moved or towed in at the request of the owner thereof.

Sec. 23-2. Prerequisites to engaging in business.

No person shall engage in the wrecker or towing service business within the city and be listed on the rotating call list of the city unless:

- (1) A wrecker business on private property is maintained within the city limits;
- (2) A business license for the operation of a wrecker business is obtained from the city;

- (3) A permit as set forth in this chapter is issued by the wrecker inspector and the rules and regulations promulgated herein are followed.

Sec. 23-3. Wrecker inspector designated.

The taxi inspector of the city shall also serve as the wrecker inspector and shall perform such inspections and issue the permits required by this chapter.

Sec. 23-4. Permit application; information required.

Any person set forth in section 23-2 shall complete an application containing the basic information hereinafter set forth or as may be required from time to time by the city manager:

- (1) The name, home address and business address of the applicant;
- (2) The hours during which the business will be open for service;
- (3) The number and description of the wreckers or towing trucks owned by the applicant setting forth the serial number of each vehicle and if not owned, the name of the owner or lessor;
- (4) The number of available storage spaces which applicant will have available for storing wrecked or disabled motor vehicles, together with a description of the building or enclosure in which the vehicles will be stored;
- (5) The daily or weekly charge for the storage of a vehicle;
- (6) The names of the drivers and attendants who will operate the wrecker or towing vehicle. The drivers shall be of good character and the applicant shall list all state or city traffic violations in which the driver has been involved for the past three (3) years and the disposition thereof and shall list all criminal

charges against the drivers for the past five (5) years and the disposition thereof;

- (7) Such other information as the city manager may deem necessary to carry out the purposes of this chapter.

Sec. 23-5. Storage of wrecked or disabled vehicles.

All wrecked or disabled vehicles stored by companies listed on the rotating wrecker call list shall be stored within the city limits for a period of not more than twenty (20) days, unless the property on which storage is made is zoned and licensed for the storage of vehicles for a longer period of time.

Sec. 23-6. Business license and insurance required.

- (a) In addition to obtaining a business license in accordance with the business license ordinance, each applicant will furnish and file with the wrecker inspector a copy of an insurance policy or policies showing the following minimum coverage:
 - (1) A garage keeper's liability policy covering fire, theft or any damage which may result to a person's motor vehicle in the care or under the control or in storage with the applicant in the amount of at least fifteen thousand dollars (\$15,000.00), and with collision coverage subject to a deduction for not more than one hundred dollars (\$100.00);
 - (2) A garage liability insurance policy covering the operation of applicant's business equipment or vehicles in an amount not less than the minimum amount required by state law for a general automobile liability policy of an individual.
- (b) Such copy of insurance policy or certificate of insurance shall provide that the insurer will give to the city not less than thirty (30) days prior notice of any change or cancellation of such policy or policies.

Sec. 23-7. Charges for services.

All charges for wrecker or towing services and all storage charges shall be furnished to the wrecker inspector at the time of the filing of an application for a permit and such charges must be approved by the city manager. After approval by the city manager, such charges may not be increased without the prior written approval of the city manager.

Sec. 23-8. Maintenance, availability of vehicles.

Any person operating a wrecker or towing service in the city and desiring to be listed on the wrecker rotating call list shall maintain his vehicles in a good state of repair at all times and have such vehicles available to the public during the hours of operation set forth in the application.

Sec. 23-9. Inspection of vehicles; issuance, contents of permit sticker.

The wrecker inspector, upon approval of an application, shall inspect the wrecker vehicle to determine that the same is safe for operation in the city and shall issue a sticker indicating the issuance of a permit, which sticker will be numbered, show the date of issuance and the date of the expiration of the permit. Such sticker will be prominently displayed on the lower right-hand corner of the windshield of the towing vehicle.

Sec. 23-10. Determination of persons listed on rotation list; rules and regulations; maintenance of list.

- (a) The city manager is authorized to issue rules and regulations setting forth the criteria to be considered in selecting operators subject to call from the city's rotation call list and shall approve or reject, subject to appeal to city council, persons submitting applications as provided in section 23-4, as approved, that shall be put on the wrecker rotation call list.
- (b) The wrecker inspector of the city will maintain a permanent list of names and addresses of companies or business who

have complied with this chapter and are located on the rotation call list.

Sec. 23-11. Right of vehicle owner to elect and obtain service of his choice.

Notwithstanding the provisions of this chapter, the owner of any wrecked or disabled vehicle may elect and obtain a wrecker service of his own choice, if he does not desire the wrecker company next on the rotating call list to handle his vehicle.

Sec. 23-12. Persons listed on rotation list not to respond to calls unless requested to do so.

No person holding a permit from the city and listed on the wrecker rotation call list shall answer any call or offer its services to the owner of any wrecked or disabled vehicle unless specifically requested by the owner.

Sec. 23-13. Solicitation of business at scene of wreck prohibited.

No person, whether listed on the city wrecker rotating call list or not, shall seek or solicit business at the scene of any wreck.

SEC. 23-14. NONCONSENSUAL BOOTING AND TOWING.

(SECTION ADDED BY ORDINANCE DATED 3/20/17 AND APPROVED BY CITY COUNCIL ON 4/10/17, AMENDED ON 7/24/17, AND AMENDED ON OCTOBER 23, 2017.)

- (a) **City recognizes the rights of real property owners to restrict or prohibit the parking of motor vehicles on their premises without their consent, or without appropriate payment when consent is given, and recognizes that parking on privately-owned commercial property without the property owner's consent is a misdemeanor under S.C. Code 1976, § 16-11-760 if the owner has posted notice at a conspicuous place.**
- (b) **City nonetheless finds as follows:**
 - (1) **When a lot owner consents to parking by the public but requires payment in all or some instances, state statutes do not fully address the balance between lot owners or managers and vehicle**

motorists.

- (2) Increasingly, there are instances of vehicles being towed from privately-owned commercial property, or instances of wheels being booted while the vehicles are on privately-owned commercial property, without the vehicle owners having been given sufficient notice that parking on the premises is not authorized, or without vehicle owners having been warned of the specific consequences.
- (3) There are no clear and objective standards under state statutes for what constitutes a conspicuously posted notice.
- (4) Restricting the use of spaces in private lots to paying monthly parkers or requiring other users to make payment on a basis of payment per occasion of use is not a predatory practice. However, the willful inducement to use a private lot with an expectation to levy additional charges beyond normal parking fees as a precondition of exiting the lot is a predatory practice.
- (5) Predatory towing practices involving vehicles parked on lots associated with residential properties, primarily apartment complexes, is also a problem which can disproportionately impact the working poor who face the choice between paying what in some instances are excessive towing-related fees and the loss of their vehicle.
- (6) Excessive charges for nonconsensual booting and towing, as well as the refusal of certain towing services to release vehicles prior to their being towed even when the vehicle owner is prepared to provide payment for the vehicle, constitute predatory practices, as do efforts to patrol and wait for offenders to park their vehicles in insufficiently posted parking lots.
- (7) Predatory booting and towing practices of businesses offering booting and towing services to real property owners can have a detrimental impact on the business climate of restaurants and other commercial establishments whose patrons sometimes park in lots with either no notices or inadequate notices posted.
- (8) Predatory booting and towing practices can impose excessive hardships on drivers who have not intentionally acted in bad faith in parking vehicles on privately-owned commercial property in many circumstances.

- (9) **Poorly marked and inadequately staffed parking lots lead to confrontations between motor vehicle drivers and providers of booting services and towing services to substantially the same extent as deliberately predatory entrapments, and the confrontations lead to calls for a police department response.**
- (10) **Establishing reasonable rules of conduct is a good means of balancing the bona fide interests of property owners, booting providers and towing providers, with the interests of the parking public and businesses whose patrons need parking.**
- (11) **The city can reconcile the rights of real property owners with the public interest of promoting commercial areas in the city as regional destinations by requiring certain warning signs to be posted at lots where booting and towing are used as enforcement tools by real property owners and by establishing reasonable measures to regulate privately-owned commercial lot owners and towing and booting service providers.**
- (12) **Booting inevitably results in a high instance of angry confrontations which disturb the peace and threaten public order.**

SEC. 23-15. DEFINITIONS.

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

***Boot or locking wheel boot* means a mechanical clamp or device that is professionally manufactured and designed to lock the wheel on a motor vehicle thus immobilizing the vehicle and preventing anyone but the key holder of the device from removing it.**

***Deliver* means placing a towed motor vehicle in the actual possession of the owner, authorized operation or authorized agent of the owner.**

***Lot or parking lot* means any privately owned place which is used for parking motor vehicles while leaving them unattended. The term “lot” or “parking lot” includes places which customarily make per use charges or require lease payments from users, and it also includes places where no charges or payments are ordinarily assessed, whether the places are associated with a particular building or stand alone.**

***Motor vehicle* means any car, truck, motorcycle, or similar equipment which has wheels and is propelled by an engine and which is capable of moving on**

the public ways of the city.

Nonconsensual booting means the booting of a vehicle which is authorized or directed by a person other than the vehicle owner, authorized operator or authorized agent of the owner.

Nonconsensual towing means the towing of a vehicle from property other than the public right-of-way which is authorized or directed by a person other than the vehicle owner, its authorized operator or an authorized agent of the owner. The term “nonconsensual towing” shall not apply to nonconsensual tows that occur as a result of vehicle repossession by a lien holder having title to the vehicle.

Privately-owned commercial property booting means the booting of a motor vehicle from private real property at the request of the property owner or the agent of the privately-owned commercial property owner.

Privately-owned commercial property towing means the towing of a motor vehicle from private real property at the request of the property owner.

Property owner means the person or business entity which owns and occupies real property. For real property which is leased, the term “property owner” shall mean the lawful lessee with occupancy and control of the premises. Control of the premises with the authority to refuse admittance to the property is the factor which determines the status of “owner” under the sections which follow.

Towing operator means any person, company or partnership, engaged in the business of towing or storing towed vehicles, and the term includes the employees of the individual or business entity engaged in such business.

SEC. 23-16. WARNING SIGN FOR NONCONSENSUAL BOOTING AND TOWING.

(a) It shall be unlawful to charge for the nonconsensual towing of any motor vehicle from any parking lot located upon privately-owned commercial property without authorization from the owner of the motor vehicle or of the city, or to request the provider of booting or towing services to engage in such actions, except under the following circumstances:

(1) The property owner has posted the property at each vehicular entrance to the property with a sign approved by the city manager, or his designee, and having been determined to be conspicuous for the property and entrance concerned so as to be clearly visible by the person of ordinary sensibilities upon entrance to the property. The

name and telephone number of the towing service provider must appear on or immediately below the sign.

(2) All signage must be approved by the city manager as complying with the provisions of this section. The city manager may direct the traffic services division to develop a standard sign in compliance with the criteria of this section. The standard sign shall be made reasonably available to lot owners and their representatives in an electronic format which can be utilized by private sign vendors for the manufacture of the standard sign. The traffic services division shall develop standard signs at cost to requesting lot owners or their representatives.

(3) Signs shall be placed at the entrance of each parking lot of privately-owned commercial property or in a position that is clearly and unmistakably visible to a driver upon entering the lot. The exact placement must be approved by the city manager or the city manager's designee in order to ensure that the sign can be seen by drivers of motor vehicles upon entering the parking lot. Additional signs may be placed elsewhere in the lot at the owner's discretion.

(4) The city manager, or the city manager's designee, may require that the required signage be placed on a sandwich board sign frame, or comparable temporary frame, at ground level of all entrances whenever a lot begins operation as a pay per use lot on a temporary basis, or whenever other circumstances such as physical configuration of the lot or its relation to the right-of-way or other properties reasonably require in order to meet the purposes of this section.

(b) The requirements of subsection (a) of this section are in addition to, and not in lieu of, the provisions of S.C. Code 1976, § 16-11-760(A) requiring the posting of privately-owned commercial property before an unauthorized vehicle can be towed without the vehicle owner's consent.

SEC. 23-17. PAYMENT AND PROCEDURES FOR NONCONSENSUAL BOOTING AND TOWING.

(a) Subject to Section 23-19 which sets forth all allowable nonconsensual towing-related charges, the owner of the vehicle which is towed in accordance with this section shall be responsible for paying all applicable towing-related charges provided that the real property owner has complied with all of the requirements contained in Section 23-16.

(b) No provider of towing services shall tow a motor vehicle from a parking lot located upon privately-owned commercial property without the owner's consent without first having obtained a written authorization for such

action from the property owner, and without the authorization showing the name and bearing the signature of the property owner. The authorization may be in the form of a written agreement to cover all nonconsensual towing for a particular lot for a specific term.

- (c) Any towing operator performing a nonconsensual tow, shall within 60 minutes of the removal of the vehicle from the private lot, telephone the police department to make an oral report of the tow by providing the applicable information on the tow record/invoice form described in Section 23-18. Any towing operator which fails to give such notice within one hour of the time the vehicle was towed shall not be entitled to any compensation for the towing and storing operation and shall deliver the vehicle to the owner upon request.
- (d) If a driver of a vehicle to be towed arrives prior to removal of the vehicle from the posted property, then the towing operator must accept payment tendered at the scene and release the vehicle immediately. For payment tendered at the scene, the required payment can be no more than one-half the maximum authorized for nonconsensual towing in section 23-19.
- (e) So as to allow for reasonable owner or driver access to any towed and stored vehicle, the towing operator must maintain and store any vehicle subject to nonconsensual towing at a storage facility, previously designated in writing to the City Manager, that is located either in the City or not more than two (2) miles outside of the City as measured along the most direct route via public streets. No towed or stored vehicle shall be parked, stored or staged, temporarily or otherwise, at any location other than the designated storage facility.
- (f) A towing operator must maintain storage facility hours of operation, and provide on-site storage facility personnel who are authorized to accept payment and release towed vehicles, for not less than four (4) hours per day between the hours of 8:00 a.m. and 5:00 p.m. for not less than six (6) days a week. Such hours shall be posted at the storage location (along with a listing of acceptable means of payment), with a copy of each previously provided to the City Manager, and immediately provided by the towing operator upon request to an owner, an authorized agent of an owner, or an authorized driver of a towed vehicle.
- (g) A towing operator must release any towed or stored vehicle upon payment of applicable tow and storage charges, as authorized by Section 23-19, by the owner, any of the owners if the vehicle is

jointly owned, an authorized agent of an owner, or an authorized driver of the vehicle.

- (h) Towing operators shall allow any owner, authorized agent of an owner, or authorized driver of the vehicle to remove, without cost or payment of towing or storage or other fees, any personal belongings from the towed vehicle while in storage.**
- (i) For purposes of this Section, an authorized agent of an owner or an authorized driver of a vehicle is a person in possession of a vehicle key who presents an authorization in writing signed by any owner of the vehicle (including a photocopy, fax or electronic copy).**
- (j) It shall be unlawful for a person or business to take or receive any benefit or advantage, including a pecuniary benefit, kickback, or reward from a wrecker service for providing information about motor vehicles parked for unauthorized purposes on privately owned property or otherwise in connection with towing from privately owned property of vehicles parked without authorization. This prohibition does prevent property owners and wrecker services from contracting for towing services.**
- (k) If a vehicle is towed and the wrecker service has not complied with the requirements provided in this section, the wrecker service operator shall be guilty of a misdemeanor and may, in the discretion of the municipal judge as provided in S.C. Code 1976, § 14-25-75, be subject to reimburse the vehicle owner for all towing and storage charges which the vehicle the vehicle owner paid.**

SEC. 23-18. PERMIT REQUIRED.

- (a) No provider of services for towing vehicles from privately-owned commercial property shall operate within the corporate limits of the city without obtaining a permit for that purpose from the city manager or the city manager's designee. The permit shall be in addition to, and not in lieu of, any business license permit otherwise required under this Code.**
- (b) The city manager or the city manager's designee shall develop such forms as may be appropriate for the application for the permit, which shall be approved as to form by the city attorney, and may refrain from issuing a permit without the information on the form being complete. The information required shall include, as may be relevant to the service, the principal operating the business, the street and mailing address of the business, the street address of where towed vehicles will be stored, the state of incorporation of the business, persons having an ownership of five**

percent or greater in the business, telephone numbers where persons operating the business can be reached at any time of the day or evening, a description of all equipment to be used, the name and address of other businesses from whom equipment will be leased or borrowed, a list of properties where the business is authorized by the property owners to boot vehicles or to have them towed, a certification that changes in the information will be updated in writing prior to the changes taking effect, an acknowledgement that a violation of this chapter is a basis for the revocation of the permit or of the business license, or both.

- (c) No permit shall be issued absent copies of certificates of insurance, from an insurance carrier authorized to do business in this state, evidencing general liability insurance, and such additional lines of coverage as the city manager determines to be relevant to the business, in such uniform and standard amounts as the city manager or the city manager's designee determines to be reasonable, considering the exposure to harm by the general public.
- (d) The books and records of all providers of towing services shall be subject to inspections and audits, and must be kept at the office location identified on the permit application. Failure to keep such books and failure to make all books kept available for inspection and audit by the city when access is requested is a basis for suspension or revocation of permits under this section and a basis for suspension or revocation of the provider's business license.

SEC. 23-19. MAXIMUM CHARGES FOR TOWING, BOOTING AND FEES RELATED THERETO; METHODS OF PAYMENT AND INVOICE/RECEIPTS.

- (a) Charges made to vehicle owners or operators for nonconsensual towing of motor vehicles on privately-owned commercial property shall be limited to the following:

Booting & Towing Fees

Fees relative to booting and towing of motor vehicles parked without permission on privately-owned commercial property within the city

Booting and towing permit fee	\$ 25.00
Maximum booting charge from private lot	50% of tow cost
Maximum towing charge from private lot	\$100.00
<i>Vehicles less than 26,000 pounds</i>	
City-provided sign (each)	\$ 25.00
Maximum Storage charges for impoundment	\$ 20.00
<i>(Applicable only after 24 hours of storage)</i>	\$ 20.00 per day
Maximum disconnect fee	50% of tow cost
DMV Processing Fee	\$ 35.00

Authorized processing fee for any vehicle retained for five (5) or more days, as a tow company incurs direct costs with DMV after retention of five (5) or more days.

Dolly Fee Authorization <i>Authorized fee when all four-wheel drive vehicles must be dollied to safely move</i>	\$40.00
Weather Wrap Fee - Per window/sunroof wrapped <i>Authorized fee for open windows and sunroofs that require weatherproof wrapping</i>	\$10.00
Vehicles Exceeding 26,000 pounds – Maximum Fee <i>Authorized fee for vehicles exceeding 26,000 pounds in weight</i>	\$300.00

- (b) The maximum fees set forth above in subsection (a) shall be set by the city manager from time to time. All other fees and charges are prohibited.
- (c) The city manager shall set the fee in an amount that is high enough that property owners can reasonably expect to receive timely service from competent providers when a request for service is placed. However, the fee shall not be so high that it is punitive. The removal or immobilization of the vehicle having been found to be sufficiently punitive that an additional monetary penalty is unwarranted.
- (d) Every provider of nonconsensual towing services must provide to a motor vehicle owner or operator an invoice and receipt, or a combination form serving as an invoice which can become a receipt upon payment from the motor vehicle owner or operator. The invoice/receipt must be capable of being prepared in duplicate, with an original provided to the vehicle owner, and the duplicate to be retained by the service provider for not less than three years. The form shall show the name and telephone number of the service provider. It shall reflect the time, date and place of booting or towing, and the time and date of accepted payment. It must bear the signature or initials of the person accepting payment. The city manager may develop additional information requirements which are reasonably related to the purposes of this chapter.
- (e) Any violation of this Ordinance may subject the offender to fines of up to \$500 per violation and/or 30 days in prison or a revocation of its business license.

SEC. 23-20 VIOLATIONS.

- (a) Any violation of any of Sections 23-14 through 23-19 may subject the offender to fines of up to \$500 and/or 30 days in jail, per

violation, as determined by the City Court. Any violation of any of Sections 23-14 through 23-19 also shall be a ground for suspension and revocation of a business license and for suspension and revocation of a permit issued pursuant to Section 23-18.

- (b) **When a ground exists to revoke a permit issued pursuant to Section 23-18, the City Manager may suspend the permit and provide written notice of the suspension to the permit holder. The suspension shall remain in effect pending the final decision of the City Manager following a hearing before a hearing officer appointed by the City Manager for the purpose of findings and recommendations as to whether the permit should be revoked. The hearing officer shall be a supervisory employee designated by the City Manager. The notice of suspension shall contain a brief statement of the reasons for suspension and proposed revocation and a copy of the applicable provisions of this ordinance. The notice also shall state the date, time and place of the hearing before the hearing officer, which shall be within fifteen (15) days of the notice unless additional time is allowed by the hearing officer. At the hearing, all parties shall have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The hearing shall be recorded and transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by the hearing officer shall govern the hearing. The hearing officer within ten (10) days shall prepare a summarized report of the hearing, to include his or her findings and recommendations, which shall be submitted to the City Manager, who shall issue within ten (10) days a written final decision and notify the permit holder. The written final decision of the City Manager shall be the final administrative action on behalf of the City. Appeal from the written final decision of the City Manager shall be to the circuit court.**

- (c) **Any suspension and revocation of the business license may be appealed pursuant to the provisions of the business license ordinance.**