



**Pineville Police
Department**



Memo

To: Ryan Spitzer, Town Manager
From: Michael Hudgins, Chief of Police
CC: Roxy McMahon, Senior Administrative Assistant
Date: 5/4/2023
Re: Towing Ordinance

Mr. Spitzer, if you recall, a gentleman spoke to Town Council at the February Town Council meeting about the unethical business practices of Tip Towing Company. His comments were corroborated in an email from Corporal Kimel to Sergeant Cook on February 14, 2023. Within her email, Corporal Kimel noted the following issues surrounding the business practices of Tip Towing Company:

Within the past few months, we have been dealing with this company (Tip Towing) practicing “shady” business to say the least. They began trying to tow vehicles that were occupied, which we were able to put a stop to based upon state law; however, recently they have been placing “boots” on occupied vehicles and charging a fee to the occupants to remove the boots (ranging upwards of \$200 to have the boot removed). The parking lot has no visible signage within the parking lot to warn subjects that they cannot be parked for more than a certain period or repercussions would occur. I believe there is only one entrance that has a sign in general, but another issue is that there are at least three other access points/ entrances to the parking lot that have no signs. I have spoken with two (2) tow truck drivers requesting that their company place more signs out as subjects have no warning or knowledge that if they park in the parking lot they are subject to tow/booting after a period of time. Another issue that has also been common with this is that most of the individuals who are being booted have a gym membership to Planet Fitness and thought that since they are a customer and pay dues that they could use the parking lot to nap during truck hauls or traveling trips.

In her email, Corporal Kimel also pointed out our Town does not have an ordinance to regulate towing practices, and based on my research, the state code only regulates private parking spaces, which does not apply to this issue. Moreover, Corporal Kimel also noted that other surrounding jurisdictions have towing ordinances on the books. Since the state and our Town lack regulatory authority over towing practices, the police department cannot change the behavior of the Tip Towing, outside of persuasion. I would like to change this position.

Respectfully, to address this issue, I would like to propose new towing and booting ordinances to our Town Council. Additionally, I recommend creating a new title in the Town’s ordinance called Title VIII – “Towing and Booting”.

We have reviewed Charlotte's ordinances, and we believe their ordinances substantially address the issues our officers have witnessed. Therefore, we respectfully submit the following ordinances for consideration by Town Council:

TITLE VIII. TOWING AND BOOTING

Sec. 80. 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 indicates a different meaning:

Boot means any device attached to a vehicle that prevents the vehicle from being driven.

Booting service means any person or entity that engages in or who owns or operates a business that engages in whole or in part in the booting of vehicles.

Class A vehicle means any vehicle with a gross weight up to and including 9,000 pounds.

A private parking lot means any parking lot or area owned by a private entity 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 complex or shopping center.

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

Towing service includes any person or other entity, whether licensed or not, that engages in or who owns or operates a business that engages, in whole or in part, in the towing or removal of motor vehicles for compensation.

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

Sec. 80 -1. Towing of vehicles for compensation.

No towing service shall conduct a trespass tow of a class A 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. 80-2. Trespass towing of vehicles from private parking lots; signs required.

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 six 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 three feet above ground level and the top of the sign not more than eight feet above ground level.

Sec. 80-3. Trespass towing of vehicles from private parking lots; practices

(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 20 miles of the Town limits.

(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 Pineville 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. 80-4. Return of class A vehicle to owner after a trespass tow.

The owner of a towing service shall have someone on call from 7:00 a.m. to 7:00 p.m. for the return of a class A vehicle to the owner trespass tow.

Sec. 80-5. Trespass towing notice to police required.

Any towing service operating within the city shall, within 30 minutes of the removal of the vehicle from a private parking lot, notify the nonemergency police service bureau of the Pineville Police Department of the towing; the storage site; the time the vehicle was towed or removed; and the make, model, year, color, vehicle identification number (VIN), and license plate number of the vehicle; and shall obtain and retain the Pineville Police Department's case number assigned to the call.

Sec. 80-6. Penalty.

A violation of §§ 80-1 through 80-5 shall not constitute a misdemeanor or infraction punishable under G.S. § 14-4, but instead shall be subject to the civil penalties fixed by § 10.99.

Sec. 81-1. Booting of a vehicle on a private lot.

No booting service shall boot a vehicle within the Town limits without complying with the provisions of this article. However, this section does not apply to any company that is acting on behalf of a governmental agency.

Sec. 81-2. Booting of vehicles on private parking lots; signs required.

(a) No booting service shall boot a vehicle, of any size or weight, on a private parking lot unless a sign is conspicuously posted and clearly visible from all vehicle and pedestrian entrances to the property. The sign must clearly provide the following information:

(1) The property is a private lot and a vehicle not authorized to park on the property will be booted at the owner's expense;

(2) The name, telephone number, and address of the person or company that is authorized to remove the boot;

(3) A statement that the boot may be removed at anytime, day or night, upon payment not to exceed the amount specified in section 81-3.

(b) When the booting service is contacted to remove the boot, a designated employee of the company will respond within one hour.

(c) An occupied vehicle may not be booted.

Sec. 81-3. Fee charged for removing boot.

(a) The fee to remove a boot shall not exceed \$50.00.

(b) It is unlawful for a private booting company, unless it is acting on behalf of a governmental agency, to place a boot on a motor vehicle parked on the public right-of-way.

Sec. 81-4. Penalty.

A violation of §§ 81-1 through 81-3 shall not constitute a misdemeanor or infraction punishable under G.S. § 14-4, but instead shall be subject to the civil penalties fixed by § 10.99.

I look forward to your feedback and direction concerning this matter.