

CITY OF LOGAN, UTAH
ORDINANCE NO. 16-23

AN ORDINANCE AMENDING SECTION 10.52.285 OF THE LOGAN MUNICIPAL CODE REGULATING PRIVATE BOOTING AND TOWING PRACTICES:

WHEREAS, the state legislature has granted general welfare power to the City Council, independent, apart from, and in addition to, its specific grants of legislative authority, which enables the City of Logan to pass ordinances as are necessary and proper to provide for the safety and preserve the health, promote the prosperity, improve the peace and good order, comfort, and convenience of the City and its inhabitants, and for the protection of property and the City; and

WHEREAS, the City Council has determined that certain amendments to the following ordinance is in the City's best interest;

NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN, UTAH, AS FOLLOWS:

SECTION 1: Section 10.52.285 of the Logan Municipal Code is hereby amended as follows:

10.52.285: REGULATION OF PRIVATE BOOTING AND TOWING PRACTICES:

A. Definitions:

ABANDONED VEHICLE: A vehicle that is left unattended on a highway for a period in excess of forty-eight (48) hours; or on any public or private property for a period in excess of seven (7) days without express or implied consent of the owner or person in lawful possession or control of the property.

AUTHORIZED VEHICLE: A motor vehicle parked on private property for which permission has been granted to park such vehicle.

BOOT: Any temporary immobilization device used for purposes of enforcing parking restrictions.

BOOTING: To place any immobilization device upon a motor vehicle not registered to the person placing the immobilization device for purposes of parking enforcement.

NONCONSENSUAL TOWING: The towing of a vehicle without the prior consent of the owner of the vehicle or at the request of law enforcement.

PARKING ENFORCEMENT COMPANY or ENFORCEMENT COMPANY: A person or business entity engaged in the practice of booting for the purpose of enforcing parking restrictions either on public streets, private property or public parking lots restricted as to use.

PARKING ENFORCEMENT OPERATIONS: The business of enforcing parking regulations for compensation within the corporate limits of Logan City by booting motor vehicles.

PARKING ENFORCEMENT VEHICLE: Any vehicle that is used by a parking enforcement company in the course of parking enforcement operations.

PERSON: an individual, firm, partnership, corporation, company, association, or any other type of business entity or association.

TOW or TOWING: To utilize any automotive vehicle to pull, load, carry or otherwise transport another automotive vehicle or vehicle trailer over a public highway or road. A tow begins when the tow operator exercises any control over the vehicle by means of a crane, hoist, tow bar, tow line, chain or dolly.

TOW TRUCK: A motor vehicle which has been altered or designed, equipped and primarily used for the purpose of towing or carrying vehicles by means of a crane, hoist, tow bar, tow line, chain, or dolly.

TOWING COMPANY: A person or business entity engaged in the practice of towing vehicles.

TOWING OPERATIONS: The business of towing motor vehicles for compensation within the corporate limits of Logan City, whether or not the towing extends beyond the City limits. Such business shall also include the storage of towed vehicles, pending their return to the owner of the vehicle by the towing company or parking enforcement company.

B. Exceptions: This section shall not apply to any parking regulations as established by a college or university pursuant to title 53B, chapter 3, Utah Code Annotated.

C. Certification and Licensing Requirements

1. Tow Truck Certification Requirements. It shall be unlawful for any person to engage in commercial towing operations within the corporate limits of Logan City unless the person has been certified by the Utah Department of Transportation as a towing company. The City may revoke or suspend the business license of any towing company that fails to obtain or maintain a valid state certification.

2. Business License Required. It shall be unlawful for any person to engage in commercial towing operations or parking enforcement operations within the corporate limits of Logan City unless the person operating such business has obtained a business license from Logan City.

3. Business License Application. In addition to applicable business license requirements in Title 5, towing companies and parking enforcement companies shall file an application for a business license with the following:

a. The name and address of the applicant and each officer, partner, member and registered agent of the applicant;

b. The name, address and telephone number of the applicant's principal place of business;

c. A copy of the current Utah Department of Transportation Certification issued to the towing company;

d. An original or copy, dated no more than one hundred eighty (180) days prior to the date of the application, of a Utah department of public safety bureau of criminal identification verified criminal history report personal to the applicant and all employees. The foregoing information must be submitted to Logan City before a new officer, agent or employee is permitted to engage in any towing or booting related activity. A tow or parking enforcement company may not employ individuals involved in the practice of booting or towing vehicles who have criminal convictions of, or have current pending charges for: (i) felony homicide; (ii) physically or sexually abusing or exploiting a minor; (iii) the sale or distribution of a controlled substance; or (iv) sexual assault of any kind. In addition, said officer, agent or employee shall not have been convicted of any crime within the past ten (10) years involving moral turpitude or violent or aggravated conduct against persons or property.

e. Evidence of compliance with the insurance requirements of this Section.

f. A current schedule of fees.

g. Copies of contracts with, or authorizations from, property owners/managers for parking enforcement operations.

D. Requirements for Conducting Business. Persons conducting towing or parking enforcement services in the City shall do the following:

1. If the company has tow trucks, comply with the current Utah Department of Transportation rules and regulations for tow truck operators and maintain a Utah Department of Transportation certificate for each tow truck during the term of the license;

2. Provide a certificate of insurance showing proof of valid insurance which meets the following requirements:

a. issued by an insurance company authorized to do business in the state of Utah ;

b. a general liability insurance policy with a combined single limit for bodily injury and property damage for each occurrence of at least \$250,000;

c. an aggregate limit for all occurrences for each policy year of at least \$250,000;

d. an automobile liability insurance policy covering the applicant and the applicant's employees for vehicles owned, hired, or otherwise used in the applicant's business with a combined single limit for each occurrence of at least \$250,000.

e. The company shall notify Logan City of any termination or change in the policy. Failure to do so shall be grounds for suspension or revocation of the company's business license.

3. Affix readable signs on the doors of any tow truck vehicle listing the applicant's business name, address and telephone number;

4. Provide competent evidence that the towing company stores motor vehicles in a secured fenced area, enclosed yard or building.

5. Ensure that all personnel operating tow trucks are carrying within each vehicle a current certification card issued by the Utah Department of Transportation and a valid Utah driver's license which authorizes operating a tow truck. Parking enforcement companies which do not utilize towing services shall ensure that their personnel carry a valid Utah driver's license and a company identification card identifying the driver as an employee of the parking enforcement company.

6. On or before December 31st of each year, towing or parking enforcement companies shall file with Logan City the following:

a. A current copy of the towing company's Utah Department of Transportation certification;

b. A current list of names and birth dates of employees who will have access to vehicles;

c. Current proof of insurance;

d. A current schedule of fees; and

e. Copies of all written contracts with, or authorizations from, property owners or designees for parking enforcement operations.

7. Every parking enforcement company and towing company licensed or registered and providing services pursuant to this Section shall post in a conspicuous place upon its business premises a true copy of this Section.

8. Every parking enforcement company and towing company shall inform Logan City of any change in ownership, management, business name, address, telephone number, or fee schedule.

E. Booting or Towing Of Vehicles On Private Property: It shall be unlawful for any property owner or designee to boot or tow any motor vehicle that is trespassing or infringing upon the real property rights of that property owner without complying with this section[cjc1].

1. Property owners or designees which use booting or towing of vehicles for parking enforcement shall comply with the following requirements unless parking is prohibited by law at the location or it is reasonably apparent that the location is not open to parking~~Private parking lots which contain four (4) or more parking spaces and~~[cjc2].

a. Signage: At a minimum, signage shall[cjc3]:

(1) Provide sufficient information to inform vehicle owners of parking requirements and restrictions and to assist vehicle owners in the prompt recovery of any vehicle which has been towed or booted. Sign information shall include the following[cjc4]:

(A) Give warning, in large reflective lettering or reflective background, that unauthorized vehicles may be towed or booted;

(B) Give the name and telephone number(s) of the businesses authorized to conduct a towing or parking enforcement operation on the property; and

(2) Be at least twelve inches by eighteen inches (12" x 18") in size[cjc5] ~~and have a reflective background;~~

(3) Be placed in compliance with one of the following alternatives[cjc6]:

(A) For parking lots with entrance widths of twenty four feet (24') or less, within eight feet (8') of all entrances to the parking lot and be clearly readable from the entrances[cjc7];

(B) Between each individual parking stall and be clearly readable upon entering the parking stall[cjc8]; or

(C) If the entrance to the parking lot exceeds twenty four feet (24'), or if there is no designated entrance, at intervals or locations approved by the city of Logan designed to give reasonable notice to a person entering the parking lot[cjc9].

b. Identification: Persons involved in the towing or booting shall[cjc10]:

(1) Wear either a readily identifiable shirt, blouse or other top article of clothing with the name of the licensee and the first name of the employee contained thereon and readable from a distance of six feet (6') or a prominently visible identification badge on the front of his or her clothing with the name of the licensee and the first name of the employee contained thereon and readable from a distance of six feet (~~6~~[cjc11]).

(2) Have in their possession on the site where the vehicle is immobilized either a copy of the current valid written contract with the property owner authorizing the immobilization or impounding of vehicles parked upon the property without permission or a statement of authorization from the property owner. The agreement contract or authorization shall be shown upon demand by a City official or the person redeeming the vehicle[cjc12].

c. Operational Restrictions: Persons involved in booting or towing shall not[cjc13]:

(1) Place an immobilization device on a vehicle without placing a secured notice on the driver's door window using words and/or symbols that reasonably inform the driver that the vehicle has been immobilized[cjc14].

(2) Place the immobilization device on the vehicle or tow the vehicle if the owner of the vehicle arrives prior to the placement of the immobilization device or tow of the vehicle[cjc15].

(3) Place the immobilization device on the passenger side of the vehicle, unless it is not reasonably possible to place said device on the driver side[cjc16].

2. After a boot is placed on any vehicle, the parking enforcement company shall[cjc17]:

a. Provide a notice affixed to ~~the boot or~~ the vehicle containing the name and telephone number of the firm that placed the boot on the vehicle, as well as the amount of the fee required to remove the boot[cjc18].

b. Have personnel authorized to remove the boot at the location of the booted vehicle within one (1) hour of a request made to the enforcement company by the owner or authorized agent of the booted vehicle. The parking enforcement company's obligation to have personnel authorized to remove a boot at the location of the booted vehicle within one (1) hour of a request made may be excused if personnel are reasonably prevented by severe weather, severe traffic congestion, war, hostility, riot, or other act of God.

c. Accept a charge placed upon valid major credit or debit cards as payment for the fee if the person who is redeeming the vehicle prefers to pay with a card instead of cash. The parking enforcement company shall maintain sufficient cash on hand to make change necessary to complete the transaction[cjc19].

d. Once payment is made, offer to provide a receipt to the individual making payment for removal of the boot[cjc20].

F. License Requirements; Fees: Any parking enforcement company desiring to boot vehicles within Logan City shall comply with and is subject to the following requirements[cjc21].

1. A parking enforcement company shall not charge a fee in excess of any fee listed in the fee schedule for booting a vehicle. A vehicle shall be released immediately upon payment of any required fees authorized by this section. No other parking enforcement fee shall be charged as a condition of releasing a booted vehicle[cjc22].

2. The total maximum fees and charges for booting or otherwise immobilizing a vehicle is the maximum amount permitted by Utah Code, § 41-6a-1409, as amended[cjc23]. The total maximum fees and charges for towing a vehicle is the maximum amount permitted by Utah Administrative Code (subsequent days of storage may be charged in accordance with the rules and rates set forth in Utah Administrative Code R. 909-19-1 et seq). If an immobilized vehicle is towed, no fee of any kind relating to the booting may be charged in addition to towing, storage or other applicable fees. If a vehicle is towed or booted unlawfully, no fees shall be payable.

3. Charges for damages to booting equipment shall not be governed by this section and shall not prevent the vehicle's release if scheduled fees are satisfied[cjc24].

4. Failure to comply with any provision of this section shall constitute grounds for suspension or revocation of the business license of any company licensed under this section to conduct parking enforcement service in Logan City[cjc25].

G. Private Parking Enforcement: Landlords or property owners who engage a private parking enforcement or tow company to boot or tow illegally parked vehicles on their property shall inform their tenants of the booting or towing practice and make available instructions on how to comply with the law[cjc26].

1. When parking permits are used, a parking permit shall be provided to each tenant, for a charge or for no charge, at the discretion of the landlord or property owner, with instructions as to where that permit should be displayed in the automobile[cjc27];

2. Tenants shall be provided with a written schedule of fees charged by the parking enforcement company and/or towing company[cjc28];

3. Tenants shall be provided with instructions regarding visitor parking or will be informed if no visitor parking is available[cjc29];

4. Tenants shall be provided with a method for replacing a lost permit; landlords or property owners/managers may charge a fee for such replacement; the replacement fee must be made known to tenants at the time they receive their parking permits.

H. Violation: Violation of any provision of this section is a class C misdemeanor[cjc30].

SECTION 2: Effective Date. This ordinance shall become effective upon publication.

ADOPTED BY THE LOGAN MUNICIPAL COUNCIL THIS _____ DAY OF SEPTEMBER/OCTOBER _____ 2016, BY THE FOLLOWING VOTE:

AYES:
NAYS:
ABSENT:

/s/ Herm Olsen, Chair

ATTEST:
/s/ Teresa Harris, City Recorder

PRESENTATION TO MAYOR

The foregoing ordinance was presented by the Logan Municipal Council to the Mayor for approval or disapproval this _____ day of _____, 2016.

/s/ Herm Olsen, Chair

MAYOR'S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this _____ day of _____, 2016.

/s/ H. Craig Peterson, Mayor