

## ARTICLE XXII. - NONCONSENSUAL (TRESPASS) TOWING

### Sec. 102-700. 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:

- (1) *Light-duty vehicle* means a motor vehicle with a gross vehicle weight rating of fifteen thousand (15,000) pounds or less.
- (2) *Light-duty towing* is defined as the towing, transport, and recovery of motor vehicles with a gross vehicle weight rating of fifteen thousand (15,000) pounds or less.
- (3) *Person* means any natural person, partnership, corporation, association, organization, trust or other entity.
- (4) *Private property* means all property privately owned regardless of whether the property is open to public access.
- (5) *Public property*, as used in this article, excludes property owned, maintained, or otherwise under the control of the City of Oxford, MS. In addition to a law enforcement officer, owner of a motor vehicle, and/or a duly authorized driver of said vehicle can provide explicit authorization to tow said vehicle by a towing service from such property.
- (6) *Tow* means to haul, carry, pull along, or otherwise transport or remove a motor vehicle by means of another vehicle.
- (7) *Towing 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.
- (8) *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's consent.
- (9) *Vehicle* includes but is not limited to, any motor vehicle, trailer, boat, golf cart, ATV, recreational vehicle, or other type of vessel.

### Sec. 102-701. Towing of trespass vehicles for compensation.

No towing service shall conduct a trespass tow of a light-duty vehicle from a private parking lot, for compensation, where the point of origin of the tow is within the jurisdictional limits of the City of Oxford without complying with the provisions of this article.

### Sec. 102-702. Authorization required.

1. No motor vehicle may be towed by a towing service from any public street or way, public alley or other public property, except pursuant to explicit authorization from a law enforcement officer, owner of said vehicle or duly authorized driver of said vehicle.
2. Before a towing service may remove an unauthorized (trespass) vehicle from private property, the towing service must first obtain a request/authorization from the property owner, the property owner's employee or the lessee of the property, to remove the vehicle in question. This prompted request, from the authorized person, shall be made on a certain date/time and is specific to an individual vehicle or vehicles in violation during that specific date/time. Any and all additional vehicle(s) parked in violation on a future date and/or time, requires a separate request/authorization by the property owner, the property owner's employee, or the lessee of the property.
3. In addition to the tow company maintaining a record of who authorized each tow, the property owner shall also maintain records of every vehicle towed from their property. The records, for the tow service and the private property owner, should include for each vehicle towed, the date/time, the vehicle information, to include year, make, model, color, license plate number, and vehicle identification number (VIN), the name of the person requesting/authorizing the tow, and the name of the tow company that performed the tow.

4. The tow service's records and the private property owner's records shall be made available for inspection and compliance by the Oxford Police Department upon request. The records shall be retained for at least three (3) years.
5. It shall be unlawful for any towing service to make a payment of any kind to any property owner, lessee, or owner's authorized employee in return for permission to tow any vehicle.
6. The provisions of this article shall not apply to law enforcement, firefighters, rescue squad, ambulance, or other emergency vehicles or equipment that are marked as such or to property owned by any governmental entity.

**Sec. 102-703. License required.**

1. It shall be unlawful for any person to engage in the business of removing trespass vehicles from private property by means of towing and storing such vehicles without a valid city license issued by the City Clerk of Oxford, MS, if the business is located within the city limits. The City of Oxford will also honor a license issued by Lafayette County, MS, for a business located in the county.
2. The towing company shall maintain any and all permits as required by the Mississippi Public Service Commission and the Mississippi Department of Transportation (D.O.T.). The permit numbers must be displayed on the tow vehicle per D.O.T. regulations. All drivers/operators must have a valid and appropriate commercial driver's license and Department of Transportation card.
3. Each towing company shall maintain a valid liability insurance policy with companies licensed to do business in the State of Mississippi.
  - (1) The required coverage is as follows:
    - a) Comprehensive Auto Liability Insurance with limits of not less than \$750,000;
    - b) \$25,000 on-hook coverage per vehicle;
    - c) Garage Keepers liability insurance of \$25,000 per location.
4. The name and telephone number of the tow service is to be permanently affixed and displayed in letters clearly visible from both sides of the vehicle. The letters for the name shall be at least four (4) inches in height and letters and numbers for the telephone shall be at least two (2) inches in height.

**Sec. 102-704. Trespass towing of vehicles from private parking lots; signs required.**

1. No vehicle, of any size or weight, shall be towed from a private parking lot for designated parking violations unless proper notice, in the form of a metal sign, measuring not less than eighteen (18) inches wide by twenty-four (24) inches tall and not more than twenty-four (24) inches by twenty-four (24) inches in size, is conspicuously posted and clearly visible:
  - (1) At all vehicle entrances and exits to the property;
  - (2) At least one sign within twenty-five (25) feet of the property's on-site business office;
  - (3) At each access or curb cut allowing vehicular access to the property, within five (5) feet of the public right-of-way line. If there are no curb or access barriers, signs shall be posted not less than one sign for each fifty (50) feet of the frontage to the public street.
  - (4) In multi-unit residential areas:
    - a) At least one sign at the entrance to each restricted parking area;
    - b) At least one sign within each restricted parking area for every twenty (20) parking spaces.
2. The sign shall clearly display the following information with contrasting color for lettering and background:
  - (1) In not less than two-inch-high (2") letters, the words "tow-away zone" in all capital letters;
  - (2) In not less than three-fourth-inch-high (3/4") letters, the words "Unauthorized vehicles will be towed away at the owner's expense";
  - (3) In not less than one-inch-high (1") letters, if parking by unauthorized vehicles is not prohibited on a twenty-four-hour continuous basis, the days of the week and hours of the day during which unauthorized parking is prohibited shall be posted;
  - (4) In not less than one-inch-high (1") letters, the name, address, and current telephone number of the person or company towing or removing the vehicles.

- (5) The sign structure containing the required notices must be permanently installed not less than three (3) feet and not more than six (6) feet above ground level and must be continuously maintained on the property for not less than twenty-four (24) hours before the vehicle is towed or removed.
3. Posting and maintaining of the signs, as outlined in this article, are the responsibility of the property owner.
4. A business owner or lessee may authorize the removal of a vehicle by a towing company when the vehicle is parked in such a manner that restricts the normal operation of business.
5. No company will knowingly tow or prepare to tow a vehicle, while it is occupied by a person or animal.
6. Vehicle entry for the purpose of removing the vehicle shall be allowed with reasonable care on the part of the person or company towing the vehicle. Such person or company shall be liable for any damage occasioned to the vehicle if such entry is not in accordance with the standard of reasonable care.
7. For purposes of nonconsensual towing only, a property owner or lessee of a residential structure is not required to post a sign in advance of removing a vehicle from the driveway, lawn or what is commonly understood to be the yard. In addition, a sign is not required where the vehicle blocks a private entrance, exit, drive or loading area, or where a vehicle is abandoned on private property for at least twenty-four (24) hours or is disabled to such an extent that it is not capable of moving under its own power.
8. This section shall not apply to statutory parking violations such as handicap parking and fire lane parking violations; nor shall it apply to nonconsensual tows directed by a code and/or law enforcement officer.
9. Nothing in this article shall relieve an owner or lessee of property from complying with all safety and traffic codes, regulations, ordinances and laws.

### **Sec. 102-705. Impoundment or Storage**

In the event the owner or person in charge of private property has authority to seek removal of a motor vehicle from such private property, such owner or person in charge is authorized to secure a private wrecker service of his/her choice, provided that when such vehicle is removed from such private property for storage or impoundment, such storage or impoundment shall be in or upon an impoundment or storage lot within ten (10) miles of the city limits of the City of Oxford, MS, for a least ten (10) days. After the passage of ten (10) days, the vehicle may be moved to a storage yard outside of the city limits but within Lafayette County, MS, no relocation fees may be charged to the owner for this moving of the vehicle.

### **Sec. 102-706. Establishment of rates for trespass towing.**

1. The maximum rate for the trespass towing and storage for a light-duty vehicle from a private parking lot when the point of origin of the tow is within the city limits of Oxford, MS, shall be as follows:
  - a. For any light-duty vehicle two hundred fifty dollars (\$250.00).
  - b. The storage fee shall be forty-five dollars (\$45.00) a day.
    - i. The Company shall not charge a storage fee on a vehicle retrieved within the first 24 hours of the vehicle's tow. The owner, or his/her designee, shall have 24 hours to claim the vehicle without a storage fee. After this 24-hour grace period, the company can charge a storage fee for all days the vehicle is in storage.
    - ii. For purposes of this section a day is considered to be a twenty-four-hour period.
  - c. The maximum rates established above, shall be a flat fee which shall be inclusive of all towing charges. A towing charge includes any fees for:
    - i. Special equipment such as, but not limited to, a double hookup, vehicle entry when locked, dropping transmission linkage, axle or drive shaft removal, dollies,

skates, trailer or flatbed, lift, go jacks, removing bumpers, airing up brakes, and mileage.

- ii. Time spent on the scene of the tow.
  - iii. Time spent releasing the vehicle to the owner or his/her designee.
  - d. No fee other than the above enumerated fees for towing and storage shall be assessed as a condition for the release of a light-duty vehicle to the vehicle owner or his/her designee.
    - i. There shall be no additional charges for locating the vehicle in the storage facility, removal of items from the vehicle, or for any other similar activity which does not require towing or moving of the vehicle during business hours.
    - ii. There shall be no additional fees for weekends and holidays.
  - e. Vehicles (unpaid or not released) that remain in storage will only have an owner's personal effects released to the owner or his/her designee (prescriptions, eye glasses, medical equipment, tools, house keys, etc.). All property physically attached to the vehicle remains as part of the vehicle.
2. The towing service shall accept the following methods of payment for such fees and charges:
- (1) United States currency.
  - (2) A major credit or debit card(s).

#### **Sec. 102-707. Return of light-duty vehicle to owner prior to a trespass tow.**

1. No vehicle may be towed by any person from private property if the owner or other person entitled to possession of the vehicle is present, or arrives at the scene prior to the vehicle's removal from such private property, exhibits the ignition key of said vehicle, and offers to remove such vehicle voluntarily prior to the time such person attempting to tow actually removes such vehicle from the private property in question, provided that such other person removes the vehicle immediately. No fee may be charged to the vehicle owner or other person entitled to possession of the vehicle except where any piece of equipment involved in the towing process has been affixed to the vehicle prior to the arrival of the person, in which case a fee not to exceed one hundred twenty-five dollars (\$125.00) may be charged. If the owner or person in control of the vehicle does pay the required fee, a signed, detailed receipt must be given to the person redeeming the vehicle.
2. If the owner or person in control of the vehicle does not pay the required fee, the person/company may continue to tow or remove the vehicle.
3. The towing service may not block the requested vehicle to be towed upon arrival to the private property in an effort to keep the owner or other person entitled to possession of the vehicle from removing said vehicle before any piece of equipment involved in the towing process can be affixed to the vehicle.

#### **Sec. 102-708. Return of light-duty vehicle to owner after a trespass tow.**

1. The owner or his/her designee of the towed vehicle shall be identified by a valid driver's license and an ignition key which operates the vehicle towed; or, in the instance of rented vehicles, the renter may be identified by presentation of a rental contract or agreement and the driver's license of the renting party named in the rental contract or the rental company may be identified by presentation of the vehicle title or other documentation indicating the rental company is the owner of the vehicle.
2. The towing service shall release the vehicle upon tender of the lawfully authorized fee(s). Failure of the towing company to release a vehicle within forty-five (45) minutes of the payment of the fee(s) shall be a violation of this article.
  - (1) Any vehicle owner or his/her designee shall have the right to inspect the vehicle before accepting its return, and no release or waiver of any kind which would release the person or company towing the vehicle from liability for damages, noted by the owner or other legally

authorized person, at the time of the redemption may be required from any vehicle owner, custodian, or his/her designee as a condition of release of the vehicle to its owner.

- (2) A detailed, signed receipt showing the legal name of the company or person towing or removing the vehicle must be given to the person paying towing or storage charges at the time of payment, whether requested or not.
- (3) The towing service shall provide a reason for the vehicle being towed.
3. *Hours for release of vehicles.* The towing company office must be available for business (release of vehicles) seven (7) days per week and staffed by a company employee during normal business hours (8:00 a.m. to 5:00 p.m.) Monday through Friday. The office must be available so towed vehicles can be released and picked up from 11:00 a.m. to 4:00 p.m., on Saturday, Sunday, and all holidays.
  - (1) During a University of Mississippi home football game, the office must be staffed, on the day of the game, from 8:00 a.m. to 5:00 p.m.
4. Private trespass towing, storage rates, and hours shall be posted in a conspicuous place, visible to the customers, at the tow service / company location.

### **Sec. 102-709. Trespass towing notice to police required.**

1. Any towing service operating within the city limits of Oxford, MS, shall, within one (1) hour, report to the Oxford Police Department, any vehicle that has been towed unless the vehicle was towed at the request of the owner of the vehicle.
  - (1) The notification shall include the trespass location and person authorizing the tow, 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 towed.

### **Sec. 102-710. Enforcement.**

1. This article shall be enforced by the chief of police or an authorized designee.
2. The chief of police or his or her designee shall have the power and authority, subject to law, to enter upon the wrecker/storage premises to ascertain whether the premises are in compliance with this article.
3. Any person who desires to register a complaint under this article may initiate enforcement with the police department.

### **Sec. 102-711. Violations and penalties.**

1. Any violations of the provisions of this article or a failure to comply with any of its requirements shall subject the offender to a misdemeanor, which may be punishable by the following fines and penalties:
  - (1) A fine not less than two hundred fifty dollars (\$250.00), and not more than one thousand dollars (\$1,000.00) and/or sentenced to serve up to six (6) months in the county jail for a first violation.
  - (2) A fine not less than five hundred dollars (\$500.00), and not more than one thousand dollars (\$1,000.00) and/or sentenced to serve up to six (6) months in the county jail for a second violation within one (1) year.
  - (3) A fine not less than one thousand dollars (\$1,000.00) and/or sentenced to serve up to six (6) months in the county jail for the third and for each subsequent violation within one (1) year.
  - (4) Notwithstanding the above, the judge may order restitution to refund the owner of the towed vehicle for any and all costs/charges incurred, if applicable.
2. Any violation of this article shall be considered a separate and distinct violation.