

AN ORDINANCE AMENDING SECTION 14-85(a) OF THE CODE OF ORDINANCES RELATED TO TOWING TO AMEND THE DEFINITION OF OPERATOR AND CREATE THE DEFINITIONS OF DROP FEE, PRIVATE IMPOUND COST SCHEDULE, STANDARD TOW, HEAVY DUTY TOW, AND VEHICLE; CREATING SECTION 14-87(3) OF THE CODE OF ORDINANCES RELATED TO TOWING REGARDING THE LICENSE HOLDER'S RESPONSIBILITY FOR IT'S EMPLOYEES; AMENDING SECTION 14-88(1) OF THE CODE OF ORDINANCES RELATED TO TOWING TO AMEND RELEASING OF VEHICLES TO OWNERS; AMENDING SECTION 14-88(2) OF THE CODE OF ORDINANCES RELATED TO TOWING TO REQUIRE A COPY OF THE PRIVATE IMPOUND COST SCHEDULE BE PROVIDED TO OWNERS; CREATING SECTION 14-88(3) OF THE CODE OF ORDINANCES RELATED TO TOWING TO REQUIRE ALL TOW DRIVERS TO CARRY COPIES OF THE PRIVATE IMPOUND COST SCHEDULE; CREATING SECTION 14-88(4) OF THE CODE OF ORDINANCES RELATED TO TOWING TO PROHIBIT ADDITIONAL FEES OTHER THAN STORAGE FEES; CREATING SECTION 14-89.1 RELATED TO TOWING REGARDING NOTIFICATION TO THE VEHICLE OWNER REQUIREMENTS; AMENDING SECTION 14-90(1) OF THE CODE OF ORDINANCES RELATED TO TOWING REGARDING A PRIVATE IMPOUND TOW TRUCK SERVICES RETENTION OF THE VEHICLE OWNER'S VEHICLE RECORDS; AMENDING SECTION 14-90(2) OF THE CODE OF ORDINANCES RELATED TO TOWING TO ADD THE LICENSE PLATE NUMBERS, STATE OF INSURANCE, MAKE, MODEL AND COLOR OF THE VEHICLE TO BE ADDED TO THE RECEIPT; AMENDING SECTION 14-90(4) OF THE CODE OF ORDINANCES RELATED TO TOWING TO AMEND THE RATE FOR THE MAXIMUM CHARGES FOR TOWS AND STORAGE; AMENDING SECTION 14-90(6) OF THE CODE OF ORDINANCES RELATED TO TOWING TO AMEND THE PERSONS AUTHORIZED TO REDEEM THE VEHICLE; CREATING SECTION 14-90(7) OF THE CODE OF ORDINANCES RELATED TO TOWING REGARDING A CREDIT CARD PROCESSING FEE; CREATING SECTION 14-91(7) OF THE CODE OF ORDINANCES RELATED TO TOWING TO PROHIBIT STORAGE OF VEHICLES FROM COUNTIES OTHER THAN FAYETTE COUNTY; AMENDING SECTION 14-92(1) OF THE CODE OF ORDINANCES RELATED TO TOWING TO DEFINE THE REQUIREMENTS FOR A TOW TRUCK SERVICES OPERATOR'S LOG; CREATING SECTION 14-92(3) OF THE CODE OF ORDINANCES RELATED TO TOWING REGARDING ELECTRONIC LOGS; CREATING SECTION 14-92(4) OF THE CODE OF ORDINANCES RELATED TO TOWING REGARDING RETENTION OF LOGS AND FILES; CREATING SECTION 14-92(5) OF THE CODE OF ORDINANCES RELATED TO TOWING REGARDING SUBCONTRACTING TOW SERVICES; CREATING SECTION 14-93(11) OF THE CODE OF ORDINANCES RELATED TO TOWING TO PROHIBIT TOW SERVICES FROM OPERATING ANY VEHICLE THAT HAS BEEN IMPOUNDED ON A PUBLIC ROADWAY WITHIN FAYETTE COUNTY; CREATING SECTION 14-93(12) OF THE CODE OF ORDINANCES RELATED TO TOWING REGARDING REQUIRED CONTACT FOR HOOKUP TO AN OCCUPIED VEHICLE.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Section 14-85 of the Code of Ordinances, Lexington-Fayette Urban County Government, be and hereby is amended to read as follows:

- (a) *Operator* means any person operating a tow truck for a private impound tow truck service or any employee of a private impound tow truck service.
- (b) *Private impound tow truck service* means a person engaged in any business which provides the services of one

(1) or more tow trucks to tow and privately impound motor vehicles.

(c) Privately impounded means that the vehicle has been towed and impounded from a private parking lot without the consent of the owner of the vehicle at the direction of a person having control or possession of the private property upon which the vehicle was located.

(d) Identifying tow number means a control number assigned by the division of police which will identify both the document file on the impoundment and the vehicle privately impounded.

(e) Department shall mean the department of public safety.

(f) Tow truck service storage yard means any property, including the premises of any service station, upon which vehicles that have been privately impounded are stored

(g) Drop Fee shall mean the fee paid by the owner or custodian of an improperly parked vehicle, for release of the vehicle prior to impoundment.

(h) Private impound cost schedule (PICS) means a pre-printed sheet with the name address and phone number of the private impound tow truck service at the top. The sheet shall include an itemized payment schedule to include the maximum towing charge, storage charge and drop fees. The sheet may include other fees for services offered by the private impound tow truck service. At the bottom of the sheet will be a line for the operator providing the sheet to write their name.

(i) Standard tow shall mean the impoundment of a vehicle with a gross vehicle weight rating (GVWR) of ten thousand (10,000) pounds or less.

(j) Heavy Duty tow shall mean the impoundment of a vehicle with a gross vehicle weight rating (GVWR) of ten thousand one (10,001) pounds or more.

(k) Vehicle means any motorized vehicle, any trailer or any container or moveable apparatus subject to impoundment under this section.

Section 2 - That Section 14-87 of the Code of Ordinances, Lexington-Fayette

Urban County Government, be and hereby is amended to read as follows:

(1) No tow truck service or operator shall privately impound any vehicle unless the private impound tow truck service possesses a valid private impound tow truck service license issued in accordance with chapter 13 and sections 14-85 through 14-94.2 of this Code.

(2) All private impound tow trucks operated by a private impound tow truck service shall display the name, address and telephone number of the owner thereof on both sides of the private impound tow truck on permanently mounted signs or painted directly on the body of the truck in letters large enough to be readily legible, but in no case less than two (2)

inches in height. It shall be unlawful to operate a private impound tow truck displaying an incorrect name or address, or a telephone number which is incorrect or not in service.

(3) The private impound tow truck service license holder shall ultimately be responsible for all actions of the private impound tow truck service and the employees thereof.

Section 3 - That Section 14-88 of the Code of Ordinances, Lexington-Fayette

Urban County Government, be and hereby is amended to read as follows:

(1) If the owner or custodian of any vehicle not authorized to be parked in a private lot returns after a tow truck service has arrived but before the vehicle has been fully hooked up to the tow truck, it shall be unlawful for the tow truck service or operator to refuse to release the vehicle; however, if the vehicle has been physically raised to normal transport height by a tow truck that is capable of towing the vehicle to be impounded and properly registered to accommodate the weight of the impounded vehicle; and/ or the vehicle is partially loaded onto a flat bed rollback truck, the tow truck operator may charge a fee not to exceed one-half of the maximum towing fee posted at the storage yard before releasing the vehicle or discontinuing the towing process. For tow vehicles utilizing a wheel lift apparatus, merely having tow pans affixed to the tow truck and violator vehicle shall constitute a hook up and be considered legal for a drop fee.

(2) No tow truck operator shall request payment of the charge authorized by this section, or tow any vehicle thereafter if the charge is not paid, unless he shall first provide to the owner or custodian a copy of this section and a copy of the private impound cost schedule. The operator, upon receiving such payment shall provide to the owner or custodian a legible receipt containing the name of the towing service, the date and time and place of vehicle release, and the name of the tow truck operator. A copy of the receipt shall be retained by the towing service for a period of one (1) year and shall be made available for inspection by the division of police or the commissioner of public safety during normal business hours of the tow truck service.

(3) All drivers must carry current copies of the private impound cost schedule. A copy of the PICS shall be provided to the owner or custodian of a released vehicle. The name of the operator providing the private impound cost schedule shall be legibly written at the bottom of the PICS sheet.

(4) No additional fees, other than storage fees, may be assessed by the private impound tow truck service on a private impound, to include but not limited to: separating vehicles (truck and trailer) to be towed, the use of wheel dollies, caging of brakes, etc.

Section 4 - That Section 14-89(1) of the Code of Ordinances, Lexington-Fayette

Urban County Government, be and hereby is created to read as follows:

It is the responsibility of the private impound tow truck license holder to ensure that the private impound tow truck service is in compliance with KRS 376.275 Lien on motor vehicles for storage or towing charges -- Attempt to notify registered owner.

(1) A copy of the letter sent in accordance with KRS 376.275 shall be retained in a file by the private impound tow truck service for a period of not less than one (1) year.

(2) The file required by subsection one (1) of this section must be made available for inspection by the division of police or the commissioner of public safety during normal business hours.

Section 5 - That Section 14-90 of the Code of Ordinances, Lexington-Fayette

Urban County Government, be and hereby is amended to read as follows:

(1) Only the registered owner, the lessee, the vehicle's insurer, or a person authorized in writing by one of the above persons, or a person who has purchased the vehicle from the registered owner who produces proof of ownership or written authorization and signs a receipt therefore, may redeem a privately impounded vehicle.

(a) A private impound tow truck service may request and retain a photocopy of the drivers license of the redeeming party.

(b) A private impound tow truck service may retain any written notice from an impounded vehicle's registered owner, lessee, or insurer providing permission for a third party to redeem the impounded vehicle. A photocopy of the written notice shall be provided to the person redeeming the vehicle.

(c) A private impound tow truck service shall not require photocopies of the impounded vehicle's title, registration, proof of sale or insurance card, to be retained by the private impound tow truck service, prior to release of the impounded vehicle.

(d) A private impound tow truck service shall not photocopy or retain a photocopy of any credit or debit card used to redeem an impounded vehicle; nor shall the tow operator require a social security number for the release of a vehicle.

(2) For each and every tow, a receipt bearing the identifying tow number must be given to each person who redeems a vehicle which has been towed by the private impound tow truck service upon release of the vehicle. The information on the receipt must be clearly legible and include the date and place of the tow, the license plate number and state of issuance, the make, model and color of the vehicle, the private impound tow truck service operator's employee number or name, and the name of the private impound tow truck service said operator works for. The receipt must also list the amount of money paid for the release of the vehicle. Any receipt provided to the redeemer of the vehicle must be itemized so that the individual fees are clearly discernible. All receipts shall include a statement of the right to make a written complaint to the Division of Police, Traffic Section, at 150 E. Main Street, Lexington, KY 40507. A copy of the receipt must be retained by the private impound tow truck service for a period of one (1) year and shall be made available for inspection by the division of police or the commissioner of public safety during normal business hours of the private impound tow truck service.

(3) A private impound tow truck service shall file a private impoundment fee schedule with the department. Fees charged for private impoundment may not exceed those filed with the department. At least ten days before the effective date of any change in a tow truck service's fee schedule, the registered service shall file the revised fee schedule with the department.

(4) The maximum charge which may be collected by a private impound tow truck service for towing a vehicle with a gross vehicle weight rating (GVWR) of ten thousand (10,000) pounds or less (a standard tow) shall be one hundred eighteen dollars (\$118.00). The maximum charge which may be collected by a private impound tow truck service for towing a vehicle with a gross vehicle weight rating (GVWR) of ten thousand one (10,001) pounds or more (a heavy duty tow) shall be three hundred eight dollars (\$308.00). The maximum daily storage charge for single unit vehicles with a GVWR of ten thousand (10,000) pounds or less shall not exceed 1/3 the cost of a standard tow per day (Level 1 Storage). The maximum daily storage charge for single unit vehicles with a gross vehicle weight rating (GVWR) of ten thousand one (10,001) pounds or more or any combination unit other than a semi-tractor trailer combination, shall not exceed half the cost of a standard tow per day (Level 2 Storage). The maximum daily storage charge for semi-tractor trailer combinations shall not exceed 2/3 the cost of a standard tow per day (Level 3 Storage). Such maximum charge will be adjusted annually by the commissioner of public safety for inflation commencing on January 1, 2004, according to the increase in the Consumer Price Index for all Urban Consumers for the most recent twelve-month period as published by the U.S. Department of Labor, such charge to be adjusted to the nearest dollar. There shall be no additional charges for accessory equipment.

(5) No fee shall be charged by a private impound tow truck service for the storage of a vehicle for the first twenty-four (24) hours from the time the vehicle arrived at the secure storage area. If the vehicle has not been redeemed by the end of that initial twenty-four hour period, any fee charged by a private impound tow truck service for storage will then begin to accrue but must be calculated on a twenty-four hour basis and must be charged to the nearest half day from the time the vehicle arrived at the secure storage area.

(6) The vehicle shall be released upon the presentation by a person authorized to redeem the vehicle pursuant to subsection (1) to any person having custody of the vehicle of commercially reasonable tender sufficient to cover the costs of drop fees, towing, storage, or other services requested by the vehicle owner or custodian during the course of towing, removing, impounding, or storing any such vehicle. Commercially reasonable tender shall include, without limitation, cash or major bank credit cards.

(7) In instances where major bank credit cards are used as tender for payment upon redemption of a vehicle, it shall be lawful for the tow operator to collect an additional \$5.00 fee in order to cover service charges for processing by the major credit card issuing bank. This cost shall be specifically itemized on the customer receipt.

Section 6 - That Section 14-91 of the Code of Ordinances, Lexington-Fayette

Urban County Government, be and hereby is amended to read as follows:

- (1) Any storage yard receiving and privately impounding vehicles from private property located in Fayette County must also be located within the county.
- (2) At the storage yard of each private impound tow truck service, there shall be a sign prominently displayed specifying tow and storage rates.
- (3) Either an attendant must be on site at the storage yard twenty-four (24) hours a day, seven (7) days a week, to return vehicles upon the payment of towing and storage charges, or the sign provided for in subsection (2) hereof shall also contain a telephone number where the owner, manager or attendant of the private impound tow truck service storage yard may be reached at any time twenty-four (24) hours a day, seven (7) days a week so that a towed vehicle may be reclaimed by its owner in a minimum amount of time, not to exceed one (1) hour. If a private impound tow truck service which does not retain a twenty-four hour attendant is the subject of three (3) or more complaints in a six-month period for failing to return a vehicle within one (1) hour of the time the vehicle owner has attempted to contact the service, such private impound tow truck service shall be required to provide a twenty four hour on site attendant. Upon receipt of notice that a twenty-four hour on site attendant is required pursuant to this section, the private impound tow truck service shall have the right pursuant to section 14-94.2 to provide a written response within ten (10) days and request a hearing.
- (4) Each private impound tow truck service storage yard shall provide reasonable security and protection for all vehicles towed, including illumination of the storage area during hours of darkness, an eight-foot chain link fence with a three-strand barbed wire cap enclosing the storage yard if an attendant or security guard is not on duty twenty-four (24) hours a day, seven (7) days a week.
- (5) During the hours of darkness, the operator shall provide an area sufficiently illuminated to enable an owner to inspect a vehicle prior to removing it from the storage yard.
- (6) It shall be unlawful to operate any private impound tow truck service storage yard or to deposit, impound or store any towed vehicle therein, unless said yard is in full compliance with the sign, security and lighting requirements of this section and with all applicable zoning regulations, licensing requirements and use permits, established by law.
- (7) It shall also be unlawful for Tow Truck Services to store privately impounded vehicles from counties other than Fayette County on their premises.

Section 7 - That Section 14-92 of the Code of Ordinances, Lexington-Fayette

Urban County Government, be and hereby is amended to read as follows:

- (1) Private impound tow truck service operators shall keep a current and accurate log and/or file (written or electronic) containing the following information on all vehicles towed: the

identifying tow number; the make, model, year and vehicle identification number of the vehicle; its license number and state of issuance; the time, date and place of removal; the reason for removal; the name of the private impound tow truck service operator who made the tow; the date and time the vehicle arrived on the lot; the name and address of the person released to; the date and time of release; the name of employee releasing the vehicle; the total charges paid to include any additional charges made at the request of the vehicle owner or custodian; the method of payment; and the date and time police was notified of the tow. For each entry of tow, the signature of the owner of the private parking lot, or his representative, requesting and authorizing the tow shall be required. A letter of authorization in advance from the owner of the private parking lot or his representative shall be sufficient to meet the latter requirement. Such log and/or file (written or electronic), along with all receipts pertaining to private impounds shall be retained for not less than one (1) year, and shall be immediately available for inspection by the division of police during normal business hours. Failure to keep and retain such a log and/or file, or omitting to make a true and complete entry for each vehicle towed, or failure to surrender such log and/or file to any police officer upon request shall be unlawful and may be cause for revoking a private impound tow truck service license.

(2) Private impound tow truck service operators must provide an opportunity for persons to file written complaints which must be answered in writing within one (1) week of receipt of the complaint. Such written response shall include a statement of the person's right to file a written complaint with the department. A file of such complaints, together with the written responses, must be made available for inspection by the division of police during normal business hours.

(3) If utilizing electronic logs, the private impound tow truck service shall provide these logs to the Division of Police, upon request, along with any necessary software to view these logs.

(4) All logs and files kept in compliance with this section must remain current and accurate.

(5) If another tow service is subcontracted to complete an impound of a vehicle over 10,001 pounds, the name and current phone number of the subcontracted tow service and the name of the operator from the subcontracted tow service, shall be listed in the private impound tow truck service operator's log of the contracting private impound tow truck service. The name of the subcontracted tow service, the name of the operator from the contracted tow service and a current phone number for the subcontracted tow service shall be listed on the customer receipt.

Section 8 - That Section 14-93 of the Code of Ordinances, Lexington-Fayette

Urban County Government, be and hereby is amended to read as follows:

Except when acting as an agent in the legal repossession of a vehicle, it shall be unlawful for any private impound tow truck service or operator to:

(1) Rebate or pay money or any other valuable consideration to the owners or operators of the premises from which the vehicles are towed or removed, for the privilege of removing or towing those vehicles.

- (2) Tow or otherwise move a vehicle from any area or portion of a public street, without either the consent of the owner or custodian of the vehicle or authorization from a police officer or other designated official of the county.
- (3) Tow or otherwise move a vehicle from any private road, driveway or any other privately owned land or property, except when requested to do so by the owner or custodian of the vehicle or as authorized by the property owner or representative.
- (4) Block the movement of any vehicle, other than when on the property of the tow truck service, to prevent the movement thereof by its owner or custodian who is occupying the vehicle or has appeared and desires to move the vehicle. However, if the private impound tow truck operator has fully hooked up and physically raised the vehicle to normal transport height in accordance with section 14-88, then this subsection shall not apply.
- (5) Provide false information to any division of police personnel concerning any vehicle towed.
- (6) Require the owner of any towed vehicle to wait for a period exceeding one (1) hour from the time of contact or attempted contact by the owner with the private impound tow truck service or operator for release of a vehicle. Any delay over one (1) hour caused by failure to monitor or respond to calls placed to the operator's designated telephone number shall constitute a violation of this section any may be cause for revoking a private impound tow truck service license.
- (7) Move any vehicle to any intermediate place of storage, or to any location other than to the registered secure storage yard of a private impound tow truck service, unless specifically requested by the owner or custodian of said vehicle.
- (8) Upon request by any owner or custodian of a currently licensed vehicle, deny or prevent access to said vehicle for the purpose of removing personal items, whether or not the owner or custodian is then able to reclaim the vehicle.
- (9) Prohibit any person authorized to retrieve a vehicle pursuant to section 14-90(1) from redeeming such vehicle.
- (10) Refuse to release a privately impounded vehicle to an authorized person upon demand and offer of reasonable tender, as set forth in section 14-90(7), sufficient to cover the costs of towing, and storage.
- (11) Operate any vehicle that is being, or has been, impounded on a public roadway within Fayette County.
- (12) No operator shall attempt to hook up to an occupied vehicle without first contacting the division of police or the property owner.

Section 9 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK, URBAN COUNTY COUNCIL

PUBLISHED:
MRS.X:\Cases\POLICE\12-CC0328\LEG\00345603.DOC