

**ORDINANCE NUMBER 2558**

**ORDINANCE AMENDING CHAPTER 12 ARTICLE XIII OF THE CODE OF THE CITY OF AUBURN ENTITLED "WHEEL LOCKING AND/OR TOWING" PROVIDING REGULATIONS FOR THE NONCONSENSUAL WHEEL LOCKING AND/OR TOWING OF VEHICLES FROM PRIVATE PROPERTY WITHIN THE CITY LIMITS OF THE CITY OF AUBURN, ALABAMA.**

**BE IT ORDAINED** by the City Council of the City of Auburn, Alabama as follows:

**Section 1.** That Chapter 12 Article XIII of The Code of the City of Auburn shall read as follows:

**ARTICLE XIII.  
WHEEL LOCKING AND/OR TOWING**

**Sec. 12-271. Regulations for nonconsensual wheel locking and/or towing.**

In accordance with the provisions of Act No. 92-511 as amended by Act No. 97-603 of the Alabama Legislature, the city council hereby sets forth the manner and charges in which abandoned motor vehicles as herein defined in its jurisdiction may be wheel locked and/or towed from private property. Any motor vehicle left unattended on any private property within the city limits of the City of Auburn without the express or implied permission of the property owner as herein defined shall be considered an abandoned vehicle and may be towed or wheel locked, or both by the property owner in accordance with this article. The provisions of this article shall not apply to the towing of vehicles pursuant to Chapter 22 of the Code of the City of Auburn.

**Sec. 12-272. Definitions.**

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

*Abandoned vehicle:* Any motor vehicle left unattended on any private property within the city limits of the City of Auburn without the express or implied permission of the owner or lessee of the property or his or her agent.

*Universally-recognized credit card:* means a Visa or MasterCard.

*Property owner:* The owner of the private real property or the manager, agent, employee of the owner, or the person lawfully in possession or control of the private real property.

*Tow:* Relocating a motor vehicle by attaching the vehicle to an appropriate truck or wrecker designed and equipped for and used to push, tow, or draw vehicles by means of a crane, hoist, tow bar, tow line, or auxiliary axle.

*Towing lot:* Lot where towed vehicles are stored and can be retrieved by the owner.

*Wheel lock:* A device attached to a motor vehicle which temporarily disables the vehicle.

*Wheel locking/towing company:* Any person or entity duly licensed by the City of Auburn and engaged in the business of removing or disabling motor vehicles considered to be unattended or abandoned in accordance with Act No. 92-511 as amended by Act No. 97-603.

*Wheel locking and/or towing hours:* Hours that the company is authorized by the property owner to actively tow and/or wheel lock vehicles on private property.

**Sec. 12-273. Signs on private property.**

Private property, except property appurtenant to and obviously a part of a single-family residence, shall be posted with signs in accordance with this section prior to the towing or removal or wheel locking of any vehicles.

- (a) No motor vehicle may be wheel locked and/or towed from private property unless the property is posted with signs meeting the following specifications:
  - 1. The notice shall be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within five feet from the public right-of-way line. If there are no curbs or access barriers, the signs must be posted not less than one sign each 25 feet of lot frontage.
  - 2. The notice shall clearly indicate, in not less than two-inch high light-reflective letters on a contrasting background, that unauthorized vehicles will be towed or wheel locked, or both, at the owner's expense. The words "Tow Away Zone," "Wheel Lock Zone," or "Tow Away Zone and/or Wheel Lock Zone" shall be included on the sign in not less than four-inch high letters.
  - 3. The notice shall also include the following information: the wheel locking and/or towing hours, and the statement "Fees are Regulated by City Ordinance."
  - 4. The notice shall also provide the name and current telephone number of the person or firm towing or removing or wheel locking the vehicles, if the property owner, lessor, or person in control of the property has a written contract with a towing service or wheel lock service.
  - 5. The sign structure containing the required notices shall be permanently installed with the bottom of the sign not less than four feet above ground level, and be continuously maintained on the property for not less than 24 hours prior to the towing or removal or wheel locking of any vehicles.
- (b) Signs required by this section are the responsibility of the property owner.
- (c) The wheel locking/towing company may not wheel lock or tow any vehicle on private real property unless the signs fully comply with all applicable laws, ordinances and regulations.
- (d) It shall be a violation of this article for any person other than the property owner to move, remove or deface any tow away sign.

**Sec. 12-274. Towing lot.**

- (a) All vehicles towed shall be towed directly to the towing lot owned or leased by the towing service and the vehicle shall not be kept in any temporary holding area.
- (b) The towing lot must be:
  - 1. capable of being securely locked;
  - 2. surrounded by a chainlink or solid wall type fence at least six (6) feet in height;
  - 3. illuminated with lighting of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet during nighttime, notwithstanding the provisions of Section 511 of the Zoning Ordinance.
  - 4. located within the city limits of the City of Auburn.
- (c) Name of towing company, towing fees, address, phone number, and office hours must be posted in a visible location at the entrance to the towing lot. Such informational sign shall not exceed six (6) square feet and is exempt from Article V1 (signs) of the Zoning Ordinance.

**Sec. 12-275. Receipts.**

Receipts will be given by the wheel locking/towing company to each vehicle owner or authorized operator upon return of the vehicle. Receipts shall include:

- (a) itemization of all services rendered with charges identified in accordance with this article;
- (b) the identification of the person issuing the receipt;
- (c) the name, address, and telephone number of the wheel lock/towing company;
- (d) the date and time of the services including the time the vehicle was towed from private property and the time the vehicle was returned to the owner or authorized operator;
- (e) the name of the property owner who authorized the towing;
- (f) the following language: "Notice: Towing from private property is regulated by the provisions of Chapter 12 Article 8 of the Code of the City of Auburn."

**Sec. 12-276. Business license and insurance requirements.**

Every person or entity desiring to engage in the business of towing or wheel locking within the city limits of the City of Auburn shall be subject to the provisions of City Ordinance Number 1842 (the business license ordinance) as amended and as may be amended. No business license for a towing company shall be issued to any person who has not first submitted to the city manager satisfactory evidence that (s)he has obtained insurance as provided herein.

No person shall operate a wheel locking/towing company without carrying a public liability insurance policy issued by an incorporated insurance company rated B+ or better by A.M. Best Insurance Company and authorized to write automobile liability insurance in the state, protecting private property, pedestrians, and other persons against injury, subject to the following minimum limits.

- (a) *Garage liability and automobile liability:* Policies in amounts not less than seven hundred fifty thousand dollars (\$750,000.00) combined single limit (CSL).
- (b) *Garage keepers legal liability:* Written on a comprehensive basis (including therein damage as the result of fire, theft, vandalism, and collision) with no greater than one thousand dollars (\$1,000.00) deductible and limits of no less than fifty thousand dollars (\$50,000.00) for vehicles damaged when stored, parked, serviced, or attended. The garage keepers coverage should have a tow truck liability endorsement covering damage (including mechanical damage) to a vehicle in the process of being towed, with no greater than a one thousand dollar (\$1,000.00) deductible and limits of no less than fifty thousand dollars (\$50,000.00).

Such policies shall include an endorsement to the effect that the policy shall not be canceled without notice of cancellation being served upon the city manager at least thirty (30) days prior to the date of the cancellation. Such policy shall have a term of at least one year. A certificate of insurance evidencing the above coverage amounts shall be filed with the city manager.

In the event that such insurance policies should expire or be canceled, the business license for which said insurance was submitted shall immediately become null and void and it shall be unlawful for any person to do any wheel locking and/or towing after the expiration or cancellation of such insurance policy.

**Sec. 12-277. Fees.**

No additional fees shall be charged for wheel locking/towing which are not identified herein. All wheel locking/towing companies licensed by the city and operating under the provisions of this article shall adhere to the following schedule of maximum service fees:

*Wheel locking maximum fee:*

0--2 hours .....	\$25.00
2--4 hours .....	\$35.00
4--6 hours .....	\$50.00
More than 6 hours.....	\$65.00

*Maximum towing fee.* ..... \$100.00

*Vehicle storage time fee:*

First 24 hours following the tow..... No charge

After the first 24 hours, per day for any part of a day..... \$10.00

The wheel lock/towing company must accept payment for all fees outlined herein both in cash and at least one universally-recognized credit card and must issue a receipt for each payment of fees received at the time the payment is accepted in accordance with Section 12-275. When a credit card is used for payment, the wheel lock/towing company may require that the credit card be presented in person.

**Sec. 12-278. Wheel locking.**

No wheel lock may be attached to any vehicle within the Auburn city limits between the hours of 6:00 p.m. and 6:00 a.m. After a wheel lock has been attached, no vehicle may be towed until the wheel lock has been attached to the vehicle for at least four (4) hours or at 6:00 p.m., whichever comes first. If a vehicle is towed, the wheel lock fee will be waived and only the tow fee will be charged.

**Sec. 12-279. Notification.**

The wheel lock/towing company must report all tows to the Auburn Public Safety Department Communications Division within one hour from the time of the tow.

**Sec. 12-280. Release of vehicle.**

The towing company must release a vehicle that has been towed from private property within one (1) hour of receiving a request to retrieve said vehicle. Each towing service shall staff or monitor its telephones at all times (pager only does not satisfy this requirement) and immediately advise any vehicle owner or authorized representative who calls by telephone of the following:

- (a) Each and every document or other item which must be produced to retrieve the vehicle.
- (b) Estimated charges based on the fees itemized in Section 12-277 as of the time of the telephone call, and the rate at which charges will accumulate thereafter.
- (c) The acceptable methods of payment.
- (d) That the vehicle can be picked up within one hour of a request received to retrieve said vehicle.

**Sec. 12-281. Blocking vehicles.**

It shall be a violation of this article for any person to block a vehicle by any means while waiting for a wheel lock/towing company to arrive on the premises to wheel lock or tow the vehicle.

**Sec. 12-282. Vehicle not connected upon operator returning.**

The owner or operator of any towing service vehicle which is summoned to tow away any vehicle on private property shall not remove or tow the vehicle away and shall not charge any fee if the vehicle owner or authorized operator returns to the vehicle prior to the towing service operator having physically connected the vehicle to the towing apparatus.

**Sec. 12-283. Vehicle not towed upon operator returning.**

If the registered owner or other authorized operator of the vehicle arrives at the scene prior to removal or towing of the vehicle from private property, the vehicle shall be disconnected from the towing or removal apparatus, and that person shall be allowed to remove the vehicle without interference upon the immediate payment of a reasonable service fee of not more than one-half of the fee for such towing service for which a

receipt shall be given, unless that person refuses to remove the vehicle which is otherwise unlawfully parked.

**Sec. 12-284. Compensation in exchange for towing agreement.**

It shall be a violation of this article for any owner or employee of a towing service to compensate, by cash or in-kind services, a property owner in exchange for any agreement to tow vehicles from the property owner's property.

**Sec. 12-285. Crabbing.**

It shall be a violation of this article for any owner or employee of a towing service to attach a towed vehicle in such a manner that it is not traveling in a straight line behind the tow truck (otherwise known as "crabbing"), so that both vehicles fail to remain in a single lane of travel.

**Sec. 12-286. Penalties.**

Any person who violates any provision of this article shall be guilty of an offense against the city and upon conviction shall be punished as provided in section 1-9 of this Code.

**Section 2.** Should any provision or section of this Ordinance be declared invalid, such declaration shall not affect any other provisions or sections of this Ordinance, which provisions or sections shall remain in full force and effect.

**Section 3.** This Ordinance shall become effective upon its passage or upon its publication as required by law, whichever shall last occur.

**Adopted and approved** by the City Council of the City of Auburn, Alabama, on this the 15<sup>th</sup> day of July, 2008.

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/s/ BILL HAM, JR., Mayor

ATTEST:

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/s/ CHARLES M. DUGGAN, JR.  
City Manager