

ORDINANCE NO. 2157

**ORDINANCE AMENDING CHAPTER 70, ARTICLE VIII OF CITY CODE TO
INCLUDE REGULATION OF VEHICLE BOOTING/IMMOBILIZATION**

WHEREAS, it is the policy of the city to provide for the protection of the public safety as it relates to the parking of vehicles on private parking lots, and

WHEREAS, the City of Northport has received multiple complaints about the booting and immobilization of vehicles parked on private parking lots, and

WHEREAS, the City of Northport wishes to provide for the regulation of vehicle immobilization service to be administered in a manner that protects the public health and safety and promotes the public convenience and necessity.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHPORT, ALABAMA AS FOLLOWS:

1. The City of Northport amends Chapter 70, Article VIII of Northport Municipal Code , as set forth in Exhibit "A" which is attached hereto and incorporated by reference as if fully set out verbatim.
2. This Ordinance shall become effective immediately upon passage and publication.
2. The City Administrator is authorized to take all actions, execute all documents, and approve all expenditures required for the implementation of this Ordinance.
3. All Ordinances, Resolutions, or parts thereof conflicting in any manner herewith are hereby repealed.

ORDAINED this the 24th day of October, 2022.


**CITY COUNCIL OF THE
CITY OF NORTHPORT**

BY: 
Jeff Hogg, Its President

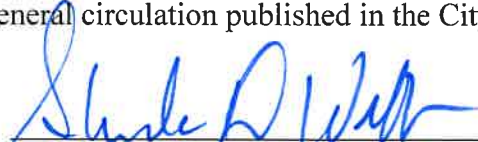
ATTEST:


Glenda D. Webb, City Administrator

APPROVED this the 24th day of October, 2022.


Bobby Herndon, Mayor

I hereby certify that the above and foregoing Ordinance was published on November 09, 2022, in the Northport Gazette, a newspaper of general circulation published in the City of Northport.


Glenda D. Webb, City Administrator

1st Reading: Rules Suspended
Motion By: Hinton
Second By: Washington
2nd Reading: October 24, 2022
Motion By: Dykes
Second By: Washington
Publication: November 9, 2022

EXHIBIT “A”

CHAPTER 70

TRAFFIC CONTROL

ARTICLE VIII. **BOOTING/IMMOBILIZATION AND TOWING AND STORAGE OF MOTOR VEHICLES (NONCONSENSUAL TOWING FROM PRIVATE PROPERTY)**

Sec. 70-375. Findings.

The city council has found that some members of the public and their property have been placed at risk in circumstances where their motor vehicles have been **booted/immobilized or** towed without their consent and placed in storage because of a variety of factors including, but not limited to, unfair and predatory towing and pricing practices, inadequate notice of when vehicles are subject to towing, unreasonable prices for towing and storage, and lack of adequate recourse in the event of improper towing or storage, among others. Since these activities involve commercial enterprises utilizing city streets and rights-of-way for private profit and based upon the foregoing, the city council has concluded that the regulations provided for by this chapter are required to protect the public health, safety and welfare generally, and particularly the safety of those members of the public whose motor vehicles have been towed without their consent and stored, as well as the public interest in ensuring that the prices charged for nonconsensual tows **and booting/immobilization** occurring in instances when motor vehicles are trespassing on private property are fair and reasonable. This ordinance is enacted and adopted pursuant to section 220 of the State of Alabama Constitution of 1901; Code of Ala. 1975 § 11-49-1 and the exemption provided to a political subdivision of the state as set forth in 49 USCA § 14501(c)(2)(C) which grants to such governing authority the right to regulate the price of for-hire motor vehicle transportation by a tow truck if such transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle.

(Ord. No. 1878, § 1, 10-5-15)

Sec. 70-376. Definitions.

Boot, booting, vehicle immobilization, or immobilization herein means the act of placing on a parked motor vehicle a lockable vehicle wheel clamp or similar device that is designed to be placed on a parked vehicle to prevent the operation of the vehicle until the device is unlocked and removed. The term "boot" shall include the devices used for this purpose. Such devices shall be a high-visibility color, such as yellow, orange or red. No cables, chains, ropes, or other similar means of vehicle immobilization shall be allowed.

Motor vehicle. Every self-propelled vehicle which is designed for use upon a highway, including trailers and semitrailers designed for use with the vehicles.

Owner/operator. For the purposes of this section, an owner/operator is defined as a person other than the lienholder, possessing or holding title to a vehicle. The term includes a person entitled to the use and possession of a vehicle which can be subject to the business or

commercial interest of another, permission, rental, lease, or security interest in another person or entity.

Storage fee. The compensation payable for the storage of a towed motor vehicle that has been stored at or in a facility owned, operated, leased or used by a tow truck service or any other business entity which owns or operates a tow truck.

Towing fee. The compensation payable for the towing of a motor vehicle.

Tow, tows, or towing. The act of removing, by tow truck, a motor vehicle from privately-owned property within the city where it is parked. The preparation, maneuvering, attachment and or loading onto the towing and recovery operator's tow truck for removal does, for purposes of this chapter, constitute a "tow" or "towing."

Towing and recovery operator.

- (1) A person, business or any other entity engaged in the business of (a) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (b) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping (c) vehicles that have come to rest in places where they cannot be operated. The term includes any employee, authorized agent or legal representative of such individual or entity.
- (2) Any person, business or any other entity who in any way advertises, portrays, acts, claims or holds themselves out to be a towing and recovery operator or in any way conveys the impression that they are engaged in services of providing towing and recovery of vehicles shall be deemed to be engaged in towing and recovery services.
- (3) Any business, corporation, individual or any other person or entity who is not engaged in the primary business of towing vehicles but who either owns, rents or utilizes a tow truck, whether licensed by the city or not, for the purpose of removing or towing vehicles from private property, including their own and removing such vehicles to place or places owned, controlled, leased, rented by such individual, business or entity or by agreement with another.
- (4) The term does not, for purposes of this chapter, include a business, individual or any other entity that removes motor vehicles from public streets and other locations, pursuant to a contract with the city or the city's rotation wrecker program as set forth in article VII section 70-354 of the City Code.

Tow truck. A motor vehicle for hire (1) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (2) having a manufacturer's gross vehicle weight rating of at least 7,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollback." "Tow truck" also includes vehicles known as "snatch trucks" and/or "repo trucks."

Vehicle immobilization service or operator shall mean a person, including a sole proprietor, independent contractor, corporation, partnership or similar business entity, offering services anywhere in the territorial limits of the city whereby vehicles are immobilized by the installation of a vehicle immobilization device.

(Ord. No. 1878 , § 1, 10-5-15)

Sec. 70-377. Applicability.

This chapter [article] applies (1) to the immobilization or towing, by an immobilization or towing and recovery operator, of motor vehicles from privately-owned property within the city without the consent of the vehicle owner or driver, (2) to the fees that are charged for such immobilization or towing of vehicles, and (3) to the fees that are charged for the storage and retrieval of such towed vehicles. This chapter [article] does not apply to the consensual towing of motor vehicles nor from public streets and other locations that is performed pursuant to a contract with the city, or to the storage of such vehicles.

(Ord. No. 1878 , § 1, 10-5-15)

Sec. 70-378. Compliance with state and municipal licensing requirements.

- (a) All immobilization and/or towing and recovery operators and all tow trucks engaged in business in the city shall comply with state and the city licensing requirements imposed by the state and the city, and shall provide evidence of such upon request by any representative of the city authorized to enforce the provisions of this chapter.
- (b) The city representative responsible for the enforcement of the provisions of this article shall be the city police department.

(Ord. No. 1878 , § 1, 10-5-15)

Sec. 70-379. Removal of trespassing motor vehicles.

- (a) The owner, operator, or lessee, or authorized agent thereof, of any property, may have any vehicle occupying the property without the permission of its owner, operator, lessee, or authorized agent thereof, removed by towing to a storage facility until reclaimed by the owner or his agent provided the provisions of this chapter are complied with, as well as the following:
 - (1) Signs shall be posted and affixed on the property and located in prominent and conspicuous locations so as to provide clear and legible notification that vehicles parked without permission will be towed.
 - a. For parking areas connected to a public street, signs shall be placed prominently and conspicuously at such entrance within five feet of the public right-of-way line. If more than one entrance or curb cut exists from the same street frontage, signs may be posted at the farthest distance between the street entrance or curb cut.
 - b. For parking areas that are connected to the public right-of-way without intervening curbs or other access barriers and directly in front of or abutting one

or more buildings, signs shall be placed at both ends of the parking area and either attached to the building or posted at intervals in the parking area at a distance of 50 feet or less.

- c. For parking areas which do not conform nor meet the configurations described in subsections a. and b., property owners may consult with the city police department to determine appropriate locations for signage as described herein.
 - d. Signs shall be posted and affixed to buildings on the property and at such locations thereon which clearly, conspicuously and legibly disclose and identify that any such vehicle parked without permission on said property will be towed.
 - e. The notice shall also provide the name and current telephone number of the person or firm towing or removing the vehicles, if the property owner, lessor, or person in control of the property has a written contract with a wrecker service.
 - f. The sign shall not exceed four square feet in area and must be light reflective. The notice shall clearly indicate, in not less than two-inch-high letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. The words "tow away zone" shall be included on the sign in not less than four-inch-high letters. For a commercial or business (including shopping center and retail) parking lot or facility, in addition to the words "tow away zone," the words "no overnight parking" shall be added to the sign in not less than two-inch-high reflective letters.
 - g. 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 of any vehicles.
 - h. Where parking for residential or multifamily properties are immediately adjacent to parking for commercial or retail properties where no distinguishing barriers or identification for the respective parking exists, the property owners shall take such reasonable measure to identify each such adjoining parking space as restricted parking for their tenants or clientele.
- (2) The foregoing requirement for signs shall not apply on any parcel of property used at the time of removal for one single-family residence or one two-family residence; and provided further, however, that parking spaces parallel to or at an angle to a public street and entered directly from a public street shall be deemed to be providing signs properly when the signs are placed along the sidewalk (or in a similar location when there is no sidewalk) adjacent to the space or row of spaces and there is at least one of the signs required by this chapter within forty feet of each such space.
- (3) The towing and recovery operator performing the tow shall comply with the following:
- a. Authorization of the owner, operator, or lessee of the property from which the vehicle is towed, or the authorized agent thereof. For the purposes of this subsection, "authorized agent" shall not include a representative of the towing and recovery operator.

- b. The tow operator shall receive a signed authorization from the property owner or their agent prior to the towing of the vehicle and the property owner or their agent must also be present when the vehicle is towed.
 - c. Prior to performing the tow, the tow operator shall contact the city police department and inform the department of the removal of the vehicle providing the department with the following information if visible and present on the vehicle, vehicle identification number (VIN), license plate number, decal number and year. In addition, the make, model, year, color and location from where the vehicle is towed and the location of where the vehicle is to be towed is also to be provided.
 - d. The towing and recovery operator, and the owner, operator, or lessee of the property, shall maintain for public inspection at its business offices, and at the property, respectively, copies of all documents which authorized the operator to tow any motor vehicle from the property.
- (4) The owner, operator, lessee or authorized agent of the property shall obtain and retain the following:
- a. Photographs or videos of the vehicle in the location from which the vehicle is being towed;
 - b. Photographs or videos of the condition of the vehicle prior to the tow; and
 - c. To the extent available, other documentary evidence substantiating the reason for the removal.
- (5) The tow truck used to perform the tow shall include the name, street address, and telephone number of the towing and recovery operator in a conspicuous location on the exterior of the truck.
- (b) This section shall not apply to public safety and public health vehicles or where a vehicle, because of a wreck or other emergency, is parked or left temporarily on the property of another.
- (c) Nothing herein shall be interpreted as authorizing immobilization of vehicles on private property but merely a regulation of persons and corporations who elect to engage in booting on private property to prevent or discourage unauthorized cars from parking where prohibited.

(Ord. No. 1878 , § 1, 10-5-15)

Sec. 70-380. Notice.

- (a) Immediately subsequent to a trespassing vehicle being removed or towed as permitted by this chapter [article], notice of this action shall be provided in person or by facsimile by the towing and recovery operator to the city police department desk officer or such other officer as may be designated by the city police department. Such notice shall include the following information:

- (1) The name of the towing and recovery operator removing vehicle;
 - (2) A description of the vehicle towed including year, make, model, color and if visible and present on the vehicle the vehicle identification number (VIN), license plate number, decal number and year;
 - (3) The location of trespassing vehicle and the date and time of the tow;
 - (4) The location of the storage facility to which the vehicle was towed; and
 - (5) The name and address of the individual and/or entity who authorized the tow.
- (b) Failure by a towing and recovery operator to report such tow as required by this section shall constitute a traffic infraction punishable by a fine of not more than \$100.00. Such failure to report shall limit the amount which may be charged for the storage and safekeeping of the towed vehicle to an amount no greater than that charged for one day of storage and safekeeping.

(Ord. No. 1878 , § 1, 10-5-15)

Sec. 70-381. Storage facilities.

- (a) All towing and recovery operators engaged in towing vehicles without the consent of their owners shall conspicuously display at their main place of business and at any other storage facilities where towed vehicles may be reclaimed, in locations readily visible to those reclaiming vehicles, signs that clearly and legibly provide the following information:
- (1) A comprehensive list of all their fees for towing, recovery, and storage services as related to the charges allowed by this section. Charges in excess of those posted shall not be collectable from any motor vehicle owner whose vehicle is towed or stored without his consent;
 - (2) The maximum fees permitted to be charged by this chapter [article];
 - (3) That payment may be made by cash, traveler's check, money order, insurance company check, or debit, credit or charge card;
 - (4) That a receipt shall be provided;
 - (5) That the vehicle owner shall have the opportunity to inspect the vehicle for damage prior to payment and a tow company or tow truck operator shall not require a vehicle owner to sign any waiver of the owner's right to receive compensation for damages to the owner's vehicle as a condition of the vehicle's release.
 - (6) The non-emergency telephone number of the police; and
 - (7) The business telephone number of the city official responsible for handling consumer complaints.
- (b) The fees authorized by this chapter [article] shall be the maximum allowed and an additional fee for use of a debit, credit or charge card, or other form of payment, shall not be permitted.

- (c) Towing and recovery operators shall make change, up to \$100.00, for those who pay in cash for towing and storage charges applicable to vehicles towed under the provisions of this chapter [article].
 - (d) Storage facilities to which vehicles towed under the provisions of this chapter [article] are towed shall provide for the release of any vehicle towed to said facility 24 hours a day.
 - (e) In the event that a vehicle is towed from the city and stored in or released from a location in another locality, the provisions of this chapter [article] shall apply.
- (Ord. No. 1878 , § 1, 10-5-15)

Sec. 70-382. Receipt required.

At the time a vehicle owner or agent reclaims an immobilized or towed vehicle, the immobilization or towing and recovery operator shall provide a written receipt that contains the following information:

- (1) The name and address of the immobilization or towing and recovery operator;
- (2) The address from which the vehicle was towed or at which it was immobilized;
- (3) The date and time that the vehicle was towed or immobilized;
- (4) The date and time that the vehicle entered the facility at which it was placed for storage, if applicable;
- (5) An itemized list of all the fees that are being charged; and
- (6) A signature of an authorized representative of the immobilization or towing and recovery operator.

In addition, the towing and recovery operator shall provide to the vehicle owner or agent an information sheet or card supplied by the city regarding information about how to file a complaint with the city.

(Ord. No. 1878 , § 1, 10-5-15)

Sec. 70-383. Fees.

- (a) Charges imposed for the booting/immobilization, towing, storage, and safekeeping of any vehicle removed, towed, or stored without the consent of its owner shall not be in excess of the maximum charges provided for in this section.
- (b) The maximum fees that may be charged for the booting/immobilization, towing of motor vehicles and for the storage of such towed vehicles are as follows:
 - (1) For the booting/immobilization of a motor vehicle weighing less than 26,000) pounds, the maximum fee shall be \$80.00.
 - (2) For the booting/immobilization of a motor vehicle weighing more than 26,000 pounds, the maximum fee shall be \$162.50.

- (3) For the towing of a motor vehicle weighing less than 26,000) pounds, the maximum fee shall be \$160.00.
 - (4) For the towing of a motor vehicle weighing more than 26,000 pounds, the maximum fee shall be \$325.00.
 - (5) For the storage of a towed motor vehicle, the maximum fee for each twenty-four-hour period of storage or portion thereof shall be \$20.00; provided, that no storage fee may be charged for the first 24 hours of storage, or any portion thereof, following the arrival of a towed vehicle at the tow operator's storage facility storage yard. The storage fee shall only apply if the vehicle has been located on the tow operator's storage yard at the address and location that is subject to the annual inspection by the police department and likewise listed on the tow operator's business license at its principal place of business for more than 24 hours.
 - (6) If in the opinion of the tow operator and/or its agent, the driver or the operator of the vehicle, whether the owner or agent thereof, appears to be impaired or potentially intoxicated to the extent that they may not be able to safely operate a vehicle, the tow operator and or its agent shall contact the city police department and the responding officers shall, upon investigation and observation of the driver, owner, agent of the owner or party seeking the release of the vehicle, determine if the vehicle is to be released to the driver, owner, agent of the owner or party seeking its release. In the event that the officer shall determine in their opinion that the driver, owner, agent of the owner or party seeking the vehicle's release is impaired to such an extent that they cannot safely operate a vehicle, the vehicle shall not be released and the officer shall document that the tow operator and or its agent complied with the requirements of this article. If this occurs, the tow operator may charge an additional fee of \$50.00 if the tow operator had to travel to the storage facility to release the vehicle. This charge shall not apply if the tow operator was already at the storage facility at the time the impaired driver contacted the tow operator to release the vehicle. In such event the tow operator and or its agent may charge the \$20.00 storage fee provided that the vehicle has been stored for longer than 24 hours at the storage yard at the address and location that is subject to the annual inspection by the police department and likewise listed on the tow operator's business license as its principal place of business.
- (c) Except for fees authorized by this chapter [article], no other fees or charges shall be imposed during the first twenty-four-hour period.
 - (d) If the owner of a motor vehicle or agent thereof is present and capable of removing the vehicle before the **booting/immobilization** or towing of said vehicle has transpired, the vehicle shall not be **immobilized** or towed and no fee shall be charged. However, if the owner of a motor vehicle or agent thereof is present after the owner's motor vehicle has been:
 - (1) **The operator of any vehicle immobilization service shall not immobilize a vehicle and shall not charge a fee if the driver of the vehicle returns before the installation of the vehicle immobilization device is complete. The operator shall immediately notify the city police department of the immobilization of any vehicle occupied by an incapacitated person or a live animal.**

- (2) Actually and physically moved and or maneuvered from its parking place by placing a vehicle or vehicles on two or more go jacks, provided that the tow operator has a wrecker or tow truck located and present on scene that can immediately tow each such vehicle or vehicles. It shall be unlawful to place any vehicle or multiple vehicles on go jacks and hold or withhold the vehicle or vehicles from their owner or agent if each vehicle cannot be immediately towed by a tow truck or wrecker present on scene or until a tow truck or wrecker is available to tow them;
- (3) Lifted by tow line or cable;
- (4) Loaded onto the towing and recovery operator's tow truck;

The appropriate maximum fee as allowed pursuant to subsection (b) shall apply. However the mere arrival of the booting/immobilization or tow operator's truck or vehicle and or employee(s) shall not be considered as acts, circumstances or justification to immobilize or tow the vehicle. The placement of obstacles either in front or the rear of the vehicle and or blocking the removal of the vehicle with the operator's tow truck or any other vehicle or blocking the removal of the vehicle by the tow operator, its officers, agents, servants or employees, shall not be considered as acts, circumstances or justification to tow the vehicle and the engagement or use of any such acts shall be unlawful. It shall be unlawful for any tow operator its officers, agents, servants or employees to disable or immobilize any vehicle prior to towing the vehicle.

- (e) No storage fees shall be charged if the tow operator its officers, agents, servants or employees have entered into any agreement with any party to lease or to otherwise use any parcel of property or land for the purpose of towing vehicles to places or locations other than the tow operator's storage yard as identified in section (b)(5) in order to temporarily store or park vehicles regardless of the hour of day or night. A tow operator may not use any public right-of-way for the purpose of temporarily storing or parking towed vehicles for the purpose of removing multiple vehicles from locations in an attempt to save time from towing vehicles to the tow operator's storage yard.
- (f) Any vehicle towed pursuant to this article shall be released by the tow operator within one hour or less when contacted by the owner of any such vehicle towed and payment of the charges due pursuant to this section subject however to the provisions of section (b)(6).

(Ord. No. 1878 , § 1, 10-5-15)

Sec. 70-384. Manner of payment.

Immobilization and towing and recovery operators shall accept payment for immobilization fees, towing fees, storage fees, retrieval fees, and the "in lieu of towing" fee provided for in this chapter in each of the following ways:

- (1) Cash in United States currency;
- (2) Insurance company check;
- (3) Travelers' checks or money orders payable in United States currency; and

- (4) Any debit, credit or charge card that the towing and recovery operator is authorized by the issuing credit or charge card company to accept, and that is accepted by the towing and recovery operator in the ordinary course of business.

(Ord. No. 1878 , § 1, 10-5-15)

Sec. 70-385. Records.

- (a) Every towing and recovery operator shall maintain a record of the following information for each motor vehicle that it has towed from a location within the city:
 - (1) The date and time that the vehicle was towed;
 - (2) The date and time that the vehicle entered the facility at which it was placed for storage;
 - (3) The make, model, year, VIN number, and license plate number of the vehicle;
 - (4) The address of the property from which the vehicle was removed;
 - (5) The name and address of the person and or entity who authorized the tow;
 - (6) Video or photographs taken at the time of the tow if provided by the property owner;
 - (7) The towing and storage fees actually charged;
 - (8) The date and time the vehicle was reclaimed, and by whom; and
 - (9) A copy of the receipt provided to the vehicle owner or agent.
- (b) Such record shall be maintained for a period of at least two years from the date of each tow, and shall be made available, during normal business hours, for inspection and copying by any representative of the city authorized to enforce the provisions of this chapter [article]. In addition, the portion of such log or record pertaining to a particular motor vehicle shall be made available, during normal business hours, for inspection and copying by the owner of the vehicle or the owner's authorized representative.

(Ord. No. 1878 , § 1, 10-5-15)

Sec. 70-386. Violations.

Except as otherwise specifically provided, any violation of this chapter [article] is unlawful and punishable pursuant to section 1-6 of the Northport City Code.

(Ord. No. 1878 , § 1, 10-5-15)

Sec. 70-387. Conflict with state law.

In the event any provisions of this article shall be in conflict with the codified laws of the state, the codified laws of the state shall be given precedent [precedence].

(Ord. No. 1878 , § 1, 10-5-15)

Secs. 70-388 – 70-424. – Reserved.