



City of Gainesville

Text File

City Hall
200 East University Avenue
Gainesville, Florida 32601

Introduced: 7/10/2006

File Number: 050749

Version: 6

Status: Committee Report Out

..Title

Review of Roam Tow Rate Information (B)

This item requests amendments to the Trespass (Roam) Tow Ordinance.

..Explanation

The Public Safety Committee has held ongoing discussions regarding the trespass tow rates and the ordinance in general. During these discussions, staff was asked to research files to determine how the decision to set the original \$70 maximum tow charge in 1992 was made. Staff found, that at the time of these discussions, Tallahassee's trespass tow ordinance was used as part of the Public Safety Committee's review, and Tallahassee set their maximum tow charge at \$70.

The Public Safety Committee additionally directed staff to review the City of Tallahassee's current towing ordinance. As a result, staff presented several recommendations for the City to consider to amend Trespass Tow Ordinance, Article III, Section 14-5. The recommendations include adding requirements for 1) registration of the tow company owner, operator and vehicle, 2) permitting of the wrecker operators and vehicles, 3) acceptance of credit cards as a form of payment, 4) photographing vehicles towed under the trespass tow contract, and 5) requirement to provide certain information to vehicle owners or authorized operators before picking up their towed vehicle.

The Public Safety Committee is recommending these amendments, intended to enhance the safety of the citizen retrieving their vehicle and providing for a safer, least conflicting resolve in trespass towing.

The Committee continues to gather information that will assist the full City Commission when/if the tow vendors request an increase in the rates, as is allowable per City Ordinance by September 30th of each year.

..Recommendation

The City Commission approve the Public Safety Committee's recommendation to 1) authorize the City Attorney to draft and the Clerk of the Commission to advertise, an ordinance amendment to the Trespass Tow Ordinance, Article III, Section 14-5, using staff's report included in this item, and 2) retain this item on the Public Safety Committee's pending referral list for continued ordinance and rate review.

Gainesville Police Department #050749

Inter-Office Communication
Chief Norman B. Botsford

To: Public Safety Committee **Date:** June 9, 2006
From: Chief Norman B. Botsford
Subject: Recommendation for amending the Trespass Tow Ordinance, Article III, Section 14-5

Question: What amendments are recommended to the City of Gainesville Trespass Tow Ordinance regarding further regulation of tow companies choosing to engage in trespass towing?

Background: A report was given by Lt. S.A. Scott at the May 18, 2006 meeting of the PSC in response to an assignment from the commissioners regarding what criteria were other law enforcement agencies, Tallahassee PD in particular, looking for when considering rate hikes for trespass towing.

Included in the May 18th report were certain other regulations found in the Tallahassee ordinance that are suggested for inclusion in the City of Gainesville Trespass Tow Ordinance.

Assignment: Commissioners Donovan and Mastrodicasa requested information on the following points;

1. Proposal from the Chief of Police for amendment of the trespass tow ordinance to include areas where there is interest in adding new or amending existing regulations. The suggested amendments comprise, but may not be limited to; permitting of tow company owners/operators, photographing vehicles to verify location and condition, acceptance of credit cards for payment and information tow companies are required to provide to persons retrieving vehicles as a result of trespass towing.
2. Whether Tallahassee received complaints from the tow companies regarding the mandatory acceptance of at least one major credit card?

3. Do the tow companies tack on additional fees for accepting a credit or debit card?
4. Provide more information on that portion of the Tallahassee ordinance that requires photographing vehicles as a result of trespass towing.

Tow companies that engage in trespass towing are authorized, under certain circumstances, to take a vehicle and its contents without the owner's or authorized operator's permission. Ordinances, in addition to State Statutes, that govern trespass towing provide guidelines to help ensure strict compliance with the laws regulating the practice of trespass towing.

Recommendations:

The recommendations made here, while preliminary and certainly subject to revision, are intended to further strengthen the city ordinance, help insure the safety of citizens retrieving vehicles, and minimize the possibility of unauthorized trespass towing.

1. Registration and permitting for the purpose of Trespass Towing:

- Owner, operator and vehicle registration

Any person, either as principal, agent or employee, or vehicle engaged in trespass towing must be registered with the police department using a format approved by the police department.

Registration of vehicles may include the make, model and manufacturer's serial number; date the vehicle was put into service, the driver's license number of the owner and the name of the insurance company or companies with which the owner and operators have liability insurance coverage for the operation of the vehicle as required by law; the name and driver's license number of all employees involved in the towing of vehicles as defined in the trespass tow ordinance.

- Permitting of wrecker operators

Wrecker operators engaged in trespass towing shall first obtain a written permit from the owner of the wrecker company or the owner's designee. Permits will meet certain specifications, for example: a laminated card with the holder's photo attached, similar to a driving permit that also contains a control number that is linked to the driver's personal information, and is validated by signature of the Chief of Police.

Permits must be renewed periodically, such as every two years. In order to be permitted, the applicant must (1) submit a certified copy of his/her driving record from the Florida Department of Highway

Safety and Motor Vehicles, (2) possess a valid Florida Class D driver's license and (3) not have been convicted of any felony where civil rights have not been restored, or, any felony or 1st degree misdemeanor related to the business of towing motor vehicles, or within the previous 5 years been convicted of driving under the influence of alcohol, a controlled substance or a chemical substance, to the extent that normal faculties are impaired or driving with an unlawful blood alcohol level, or any other criminal traffic offense.

- Permit Revocation

The Chief of Police, or his designee, may revoke the privilege of any person to do trespass towing for violating any of the provisions of registering or permitting, or if the registration or permit contain false information, or, if the owner or operator provide monetary or other compensation to the private property owner for the privilege of towing vehicles under contract, or, if the towing service charges fees in excess of those set in Section 14.5-27, or, if the wrecker operator fails to carry or readily display the wrecker operator permit while performing a trespass tow.

A system for determining the period of revocation and process of appeal shall be established.

2. Acceptance of credit card(s):

- A person, firm or corporation which provides trespass towing pursuant to City of Gainesville Ordinance, Article III, Section 14-5, Towing from Certain Private Property, shall accept payment for charges from the vehicle owner or authorized representative in any of the following forms:
 1. Cash, or
 2. Valid major credit card or debit card*

Tallahassee Legal Advisor Rick Croutemuche stated they have received few if any complaints from the tow companies regarding the requirement to accept credit card payment. Tow companies routinely required a picture ID for those paying with a credit card.

Locally, only one company, Superior Towing, accepts major credit cards for trespass towing. Methods of accepted payment vary among the other companies doing trespass towing. One accepts credit cards for tow charges other than trespass towing, and only cash or debit card requiring a pin number for vehicles towed under a trespass contract.

Two local companies charge a \$4 fee for use of a check cashing or debit card.

3. Photographing Vehicles Towed Under a Trespass Tow Contract

- Photographs* of the vehicle to be towed shall be taken prior to its removal and shall include the condition and the location of the vehicle before it is removed. The photo(s) shall be maintained for a minimum period of 1 year by the tow company.

* Photographs can resolve a dispute at its lowest level. It can eliminate disagreement over whether the vehicle was parked illegally, and confirm whether or not there was preexisting damage prior to towing.

4. Information Required to Owners or Authorized Drivers of Vehicles Towed as Result of the Trespass Tow Ordinance.

- Each towing service, for the purpose of responding to release of vehicles towed for violation of the trespass tow ordinance, shall staff or monitor its telephones at all times (a pager only does not satisfy this requirement) and immediately advise any vehicle owner or authorized representative who calls of the following:
 1. Each and every document or other item that must be produced to retrieve the vehicle.
 2. The exact charges as of the time of the telephone call and the rate at which charges will accumulate thereafter.
 3. The acceptable methods of payment. If a company will not or cannot provide change to a customer, the company shall advise this information and inform the customer to bring payment to cover the exact charges.
 4. That the vehicle can be retrieved within one hour of request.

These recommended changes to the existing ordinance are intended to enhance the safety of individual retrieving vehicles during late night or early morning hours, provide more checks and balances in the system that should minimize the number of complaints and provide a method of verifying only the most qualified individuals are involved in a type of towing done without the permission of the owner/operator of the vehicle.