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REC BY: NORMA VASQUEZ

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

Ordinance

ORDINANCE NO. 202

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA AMENDING THE CITY CODE BY ADDING ARTICLE 10-7, TOWING FROM PRIVATE PROPERTY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, AS FOLLOWS:

SECTION ONE: That Article 10 of the City Code is hereby supplemented by the addition of Article 10-7, Towing from Private Property, as follows:

10-7-1 Definition.

For the purposes of this chapter, "private towing and recovery service" means any person who commercially offers services to tow, transport or impound motor vehicles from private property without the prior permission of the owner or operator of such vehicle by means or use of a truck or other vehicle designed for or adapted to that purpose.

10-7-2 Non-Consensual Towing From Private Property; Notice of Violation from Property Owners

A. The owner or agent of the owner of the private property shall be deemed to have given consent to unrestricted parking by the general public in any parking area of the private property unless such parking area is posted with signs no smaller than 15"x30" with letters at least 1" in height, readable from any point within the parking area and at each entrance, in both English and Spanish. Such signs shall contain, at a minimum, the following:

1. Restrictions on parking.
2. Disposition of vehicles found in violation of the parking restrictions.

3. Maximum cost to the violator, including storage fees and any other charges that could result from the disposition of a vehicle parked in violation of parking restrictions.
 4. Telephone numbers and addresses where the violator can locate the violator's vehicle.
- B. It is unlawful for a private towing and recovery service to tow or transport a motor vehicle from private property without the permission of the owner or operator of the motor vehicle unless such private towing and recovery service receives a request from a law enforcement agency or the express written permission from the owner or the agent of the owner of the property that has complied with the requirements of subsection B. The owner or owner's agent shall either sign each towing order or authorize the tow by a written contract which is valid for a specific length of time and has filed such contract at the San Luis Police Department. The private towing and recovery service may not act as the agent of the owner.
- C. This Ordinance shall apply only to services performed while parties are actually engaged in the activities of a private towing and recovery service.
- D. The provisions of this Ordinance do not apply to abandoned or junk vehicles disposed of pursuant to A.R.S. Title 28, Chapter 11.
- E. For the purposes of this Ordinance, "private towing and recovery service" means any person who commercially offers services to tow, transport or impound motor vehicles from private property without the permission of the owner or operator of the vehicle by use of a truck or other vehicle designed for or adapted to that purpose.

10-7-3

Allowable Fees for Permitted Towing Companies; Release of Vehicles

- A. No private towing and recovery service shall hold or attempt to hold any vehicle towed from any location within the City without the consent of the owner or operator thereof as security for accrued towing and storage charges. Any such vehicle shall be immediately released, regardless of impound location, to the owner or operator thereof upon the production of proof of ownership or agency, as hereinafter defined.
- B. For the purposes of Subsection A, proof of ownership or agency shall be deemed proven should any one or more of the following obtain:

1. The claimant of the vehicle is in possession of a key or keys which operate the door locks or ignition switch of the vehicle;
 2. The claimant of the vehicle displays a driver's license, whether current or not, issued by any state or other sovereign empowered to issue such a license, such license indicating the same last name as that in which the vehicle is registered;
 3. The claimant displays any piece of photographic identification showing the claimant's last name to be the same as that in which the vehicle is registered;
 4. The claimant displays a vehicle registration, whether current or not, to the impounded vehicle.
- C. A private towing and recovery service may require a claimant to provide a current address to assist such private towing and recovery service's billing and collection process. No private towing and recovery service may require as a condition precedent to the release of any vehicle documentation or proof in excess of, or different than that described in Subsection B of this Section.
- D. A private towing and recovery service may require any claimant to sign a receipt for the vehicle claimed; however, such receipt shall contain no language other than the following:
1. The name and address of the claimant;
 2. The date and time at which the vehicle was claimed;
 3. A description, including the license number, of the claimed vehicle;
 4. A statement of the unpaid balance, if any.
- E. Any private towing and recovery service that requires the claimant of a vehicle to execute a receipt shall provide claimant with a copy of the receipt, regardless of whether or not the receipt has been executed by that claimant.
- F. Notwithstanding any of the foregoing provisions, no private towing and recovery service shall release any vehicle after having been

advised by any law enforcement agency that such vehicle has been reported as stolen.

- G. Notwithstanding any of the provisions herein, no private towing and recovery service shall tow any vehicle which has displayed a valid placard or license plate showing the international symbol of access for disabled persons, as described in A.R.S. § 28-884.
- H. Private towing and recovery services permitted by the City may charge for non-consensual towing and recovery services only those amounts authorized in the most recent tariff approved by the City of San Luis. This shall include all no-preference and impounded vehicle calls originated through the San Luis Police Department or other authorized City agency.

A private towing and recovery service shall be deemed permitted by the City if it has a current City of San Luis business license.

- 1. The tariff shall be approved and enacted by resolution of the San Luis City Council and shall be made available by the City Administrator to all towing and recovery companies operating within City limits.
 - 2. The initial maximum fees shall be \$50 for towing and \$15 per day for storage. These fees may be changed by subsequent resolution of the San Luis City Council.
- J. No private towing and recovery service or its representatives shall charge more than the established tariff for non-consensual towing and recovery or no-preference towing originated by the San Luis Police Department.

10-7-4

Private Towing/Storage Facility Business Practices

- A. For the purpose of inspecting records, the business hours of the owner's place of business shall be 8:00 a.m. to 5:00 p.m., excluding weekends and holidays.
- B. The operator shall post a clearly visible sign at the place of business and the storage facility bearing the following:
 - 1. The trade name of the company;
 - 2. The telephone number of the company; and

3. A listing of the services charges and storage rates:
 - a. All billing invoices shall be consecutively numbered and shall be of a type specified by the City Administrator, and shall contain all information required by state law.
 - b. A copy of the invoice shall be filed by invoice number at the business location and a copy of any voided invoices shall be retained.
 - c. The address of the towing service listed on the initial application shall be the location where its business records are retained. The application shall also list the location of all storage areas for vehicle inspection and retrieval.
 - d. The owner of a storage facility is required to maintain a suitable place of business within the City of San Luis to transact business and accommodate the public. It shall be staffed from at least 8:00 a.m. to 5:00 p.m. Monday through Friday, except holidays, throughout the year. The storage facility is subject to inspection by the San Luis Chief of Police or his designee.
 - e. The private towing and recovery service must make business records and facilities available for inspection upon request by law enforcement officers.

10-7-5 Penalties for Violations

A person who violates any section of this Ordinance is guilty of a Class 2 misdemeanor.

SECTION TWO: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the remaining portions hereof.

SECTION THREE: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance of any part of this Ordinance are hereby repealed.

PASSED and ADOPTED by the Mayor and Council of the City of San Luis, Arizona
this 23 day of December, 2003.

APPROVED:



Guillermina Fuentes, Mayor

ATTEST:



Alex U. Ruiz, City Administrator/Clerk

APPROVED AS TO FORM:



Gerald W. Hunt, City Attorney