

FEDERAL STANDARD ABSTRACT

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Can I Tow Away a Car Parked on My Property?

A recurrent concern for many a property owner is how to deal with cars parked illegally on their property. Vehicles blocking curb cuts are one thing: by definition they are on public streets and therefore the property owner can ask the police for assistance. See, for example, New York City Administrative Code §19-169 for the removal of vehicles blocking driveways to residential properties.

But where the property owner maintains a parking lot to serve a private business and an individual abuses the parking privilege, the issue is entirely different: it is not an issue of police enforcement, but rather an issue of private law (i.e. between private parties) and regulated by consumer protection laws.

General Business Law §399-v sets the minimum requirements for the towing of vehicles parked in private parking lots having at least five parking spaces. The requirements are listed in Subdivision 2, which requires that a notice be conspicuously displayed in the parking lot indicating the name, address and telephone number of the operator of the lot and of the towing company. Subdivision 7, however, encourages local governments to pass their own stricter rules regarding towing and the posting of signs. As a matter of fact, it appears that many, if not most, municipalities of New York have indeed included in their respective codes rules regarding towing. The property owner should check applicable local rules.

GBL §399-v, by virtue of subdivision 5, does not apply to the City of New York.

The pertinent NYC law appears in §19-169.1 of its Admin. Code. We will expand on the law of NYC as an example of what may be required by other municipalities.

A tow operator can only remove vehicles from private property subject to: posting of signs in the property in compliance with NYC laws; the entering of a contract with the owner of the property for the towing of vehicles; and the written authorization by the property owner (or its contract designee) per vehicle to be removed specifying the date, time, location, make, model color and license plate.

A private parking lot must contain conspicuously posted signs showing the parking instructions (i.e. the conditions under which the property owner allows use of the parking lot), the name, address and telephone number of the tow operator, its hours of operation for vehicle redemption and the fees for the towing and storage of vehicles. See Admin. Code §19-169.1(b). It should be noted that the tow business is regulated at the City level and must, among other things, maintain storage facilities as part of its business. See Admin. Code §§20-496 through 20-528. Hence, the address of the tow operator would also be the address for the storage facility.

The NYC Department of Consumer Affairs has issued rules regulating the signs. Notably, the following wording, coloring and size must be complied with:

WARNING (in red letters at least 5 inches in size)

PRIVATE PARKING LOT (in letters at least 2.5 inches in size)

PARKING PERMITTED (if applicable)
FROM ____ TO ____ FOR
VEHICLES ARE SUBJECT TO
TOWING FROM ____ TO ____ FOR
(insert fees)

Where not indicated above, the text is to be 2 inches in size. Contact information and the tow operator's license number to be in at least 0.75 inches in size. See Rules of the City of New York, Title 6, §2-377.

The tow operator and the property owner must enter into a contract for the removal of vehicles. The contract should specify who may issue an authorization to the tow operator for the removal of a vehicle. The authorized party could be, for example, the commercial tenant whose business is served by the lot, or the property manager. The property owner should take the contract process as an opportunity to inform herself of NYC laws. The tow operator may provide advice as to the adequacy of the signs and the sufficiency of the written authorization. In addition, there are many regulations about towing

that would be familiar to the tow operator. For example, if the owner of the vehicle arrives before the vehicle is removed, the vehicle must be released, even if it is already hooked to the tow. See Admin. Code §19-169.1(g). The tow operator must notify the police of the tow within 30 minutes of the arrival of the vehicle to the storage facility. See Admin. Code §19-169.1(f).

According to the Administrative Code, the current fee for towing from private property is \$100 for the tow and the first three days of storage plus \$10 per day of storage thereafter. See Admin. Code §19-169.1(a). There is no provision for the imposition of private fines by the property owner on the owner of the illegally parked vehicle.

Lastly, we have only dealt with the towing away of vehicles. The reader should be aware that another option available to property owners is the placing of "boots" to immobilize vehicles, which is also regulated by GBL §399-v, and in the NYC Admin Code, by §19-169.2.

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