

ORDINANCE NO. 2014-25

AN ORDINANCE BY THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE XI, BUSINESS REGULATIONS, BY RE-CREATING CHAPTER 116, WRECKER SERVICE; PROVIDING PROVISIONS FOR NON-CONSENSUAL IMMOBILIZATION, RECOVERY AND REMOVAL OF VEHICLES IN THE CITY; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY,

BREVARD COUNTY, FLORIDA:

SECTION 1. Title. This ordinance shall be known as the "Wrecker Service" ordinance, hereinafter referred to as "this ordinance."

SECTION 2. Scope. The provisions of this ordinance shall be the exclusive regulations applicable to the non-consensual immobilization, recovery, and removal of vehicles in the city and all storage provided therein. Except as provided by this section, the regulations established by this ordinance shall be applicable throughout the city. The provisions of this ordinance shall not apply to the immobilization of a vehicle by a government agency, or a person acting at the direction of a government agency, when such immobilization is authorized by a court order.

SECTION 3. Administration. The wrecker service program will be administered by the Palm Bay Police Department through Administrative Policy. The provisions of this ordinance shall be supplementary to and shall not in any way preclude the City from utilizing the procedures specified in Chapters 713 and 715, Florida Statutes, governing the towing, storage and liens for the removal and storage of motor vehicles when such vehicles are parked on real property without the property owner's consent.

SECTION 4. Fees. Fees and other charges for any towing service operating within the city shall be established pursuant to Section 106-5, Code of Ordinances of Brevard County, Florida, adopted by the Brevard County Board of County Commissioners.

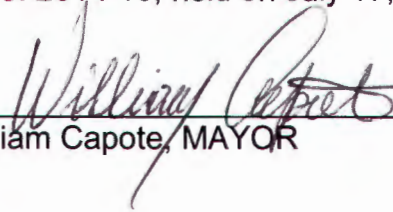
SECTION 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 6. It is the intention of the City Council of the City of Palm Bay that the provisions of this Ordinance shall be made a part of the City of Palm Bay Code of Ordinances and the sections may be renumbered to accomplish such intention.

SECTION 7. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.


SECTION 8. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting No. 2014-14, held on July 3, 2014; and read in title only and duly passed and enacted at Meeting No. 2014-16, held on July 17, 2014.




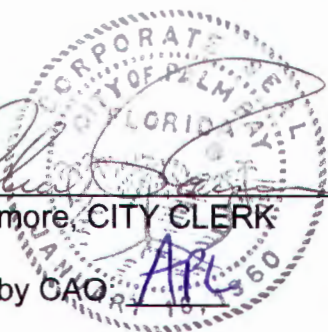
William Capote, MAYOR

ATTEST:



Alice Passmore, CITY CLERK

Reviewed by CAO: 



RESOLUTION No. 2008 – 150

A RESOLUTION SETTING FORTH A SCHEDULE ESTABLISHING MAXIMUM FEES WHICH MAY BE CHARGED ON THE TOWING OF VEHICLES FROM OR IMMOBILIZATION OF VEHICLES ON PRIVATE PROPERTY, REMOVAL AND STORAGE OF WRECKED OR DISABLED VEHICLE FROM ACCIDENT SCENES FOR THE REMOVAL AND STORAGE OF VEHICLES, IN THE EVENT THE OWNER OR OPERATOR IS INCAPACITATED, UNAVAILABLE, LEAVES THE PROCUREMENT OF WRECKER SERVICE TO THE LAW ENFORCEMENT OFFICER AT THE SCENE, OR OTHERWISE DOES NOT CONSENT TO THE REMOVAL OF THE VEHICLE.

WHEREAS, Section 106-5 of the Brevard County Code of Ordinances authorizes the establishment of fees to be charged by any Towing Service operating within the entire area of Brevard County; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida has determined that the fees set forth herein are reasonable, and

WHEREAS, this Resolution provides for an annual increase of 3% or the published Consumer Price Index (CPI), which ever is lower, and

WHEREAS, the current CPI as of February 20, 2008 is at 5.2%, a rate increase of 3% is hereby warranted.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that:

Section 1. Establishment of Schedule of Fees. The schedule of fees established and adopted maximum fees for towing of vehicles is set forth as follows:

CLASS "A" WRECKERS

For the removal of cars and light duty trucks and vehicles weighing 10,000 pounds gross vehicle weight or less.

MAXIMUM BASE RATE	\$ 114.23
MILEAGE RATE	\$ 3.12
FUEL SUR-CHARGE – per mile	\$.50
HOURLY RATE – for waiting or working time on scene after first thirty (30) minutes (Billed by ¼ hr.)	\$ 75.32
DAILY OUTSIDE STORAGE	\$ 22.80

INSIDE STORAGE	\$ 28.53
TARPING (per tarp, size 8'x10')	\$ 17.11
EXTRA MANPOWER	\$ 51.35
SERVICE CALL NOT INVOLVING AN ACTUAL TOW	\$ 51.35
ADMINISTRATIVE FEE/NOTICE (Set by State Statute)	\$ 30.00

CLASS "B" WRECKERS

For removal of medium duty trucks or vehicles weighing 10,000 to 20,000 pounds gross vehicle weight.

MAXIMUM BASE RATE	\$ 199.71
MILEAGE RATE	\$ 3.97
FUEL SUR-CHARGE – per mile	\$.50
HOUR RATE – for waiting or working time on scene after first thirty (30) minutes (Billed by ¼ hr.)	\$ 171.19
DAILY OUTSIDE STORAGE	\$ 31.94
INSIDE STORAGE	\$ 34.21
TARPING (per tarp, size 8'x10')	\$ 17.11
EXTRA MANPOWER	\$ 85.60
SERVICE CALL NOT INVOLVING ACTUAL TOW	\$ 74.17
ADMINISTRATIVE FEE/NOTICE (Set by State Statute)	\$ 30.00

CLASS "C" WRECKERS

For the removal of heavy-duty trucks, house trailers, buses, etc., weighing over 20,000 pounds gross vehicle weight.

MAXIMUM BASE RATE	\$ 302.40
MILEAGE RATE	\$ 5.37
FUEL SUR-CHARGE – per mile	\$.50

HOURLY RATE – for waiting or working time on scene After first thirty (30) minutes (billed by ¼ hr.)	\$ 250.87
DAILY OUTSIDE STORAGE	\$ 66.06
INSIDE STORAGE	\$ 53.62
TARPING (per tarp, size 8'x10')	\$ 17.11
EXTRA MANPOWER	\$ 91.27
SERVICE CALL NOT INVOLVING AN ACTUAL TOW	\$ 97.00
ADMINISTRATIVE FEE/NOTICE (Set by State Statute)	\$ 30.00

CLASS "D" WRECKERS

For removal of heavy-duty trucks, buses, house trailers, etc., weighing 100,000 pounds gross vehicle weight.

MAXIMUM BASE RATE	\$ 456.51
MILEAGE RATE	\$ 6.82
FUEL SUR-CHARGE – per mile	\$.50
HOURLY RATE – for waiting or working time on scene	\$ 394.88
DAILY OUTSIDE STORAGE	\$ 68.45
INSIDE STORAGE	\$ 68.45
TARPING (per tarp, size 8'x10')	\$ 17.11
EXTRA MANPOWER	\$ 91.28
ADMINISTRATIVE FEE/NOTICE (Set by State Statute)	\$ 30.00

Section 2. SEPARATE CHARGES: (May only be charged for Class B, C, & D Wreckers)

A. REMOVAL OF DRIVE SHAFT	\$ 28.79
B. AIR HOOK-UP	\$ 28.79
C. REMOVE/PULL AXLE	\$ 28.79
D. REMOVE BUMPER	\$ 28.79
E. REMOVE AIR FOILS	\$ 28.79

F.	LAN DOLL TRAILER – Semi roll back or drop-back trailer or truck.	\$199.71
G.	AIR BAGS (per hour - 4 hrs.minimum)	\$399.44

Section 3. Storage fees. No storage fees shall be charged if such vehicle is stored for less than six (6) hours (713.78 F.S.). Storage fees shall be charged on twenty-four (24) hour increments and not on calendar days.

Section 4. Law enforcement. Law Enforcement officials making calls to Towing Services to arrange for towing are encouraged to make such request in a manner that will minimize costs to consumers and to ensure that inordinate waiting times do not occur while Towing Service personnel are awaiting to perform their services at a scene at which such services are necessary.

Section 5. Bona-Fide Extra Equipment/Labor Time. When special circumstances have arisen, the amount of time that is reasonably needed above and beyond the initial thirty (30) minutes at the scene to safely effect the removal of a vehicle or its load from the scene of an accident or other incident requiring a tow. All special circumstances requiring additional equipment/time must be approved by the officer at the scene. Travel time shall not be included.

Section 6. Bona-Fide Waiting Time. The actual time at the site of the vehicle to be towed consistent with the directions received to arrive at the scene and during which time the presence of the Towing Service has been requested, but, due to circumstances beyond the control of the Towing Service, work can not diligently commence to the vehicle. Travel time shall not be included.

Section 7. Mileage rates. Mileage rates apply to miles traveled to and from point of pickup.

Section 8. Collection of Fees and Charges.

- A. The Towing Company providing service shall collect all fees.
- B. A detailed receipt shall be issued the payer at the time of the payment of fees, which shall specify the type of wrecker utilized (Class) and which shall itemize all separate charges, to include storage fees, mileage charges and additional hourly cost. A maximum of \$30.00 may be charged to owner/driver of a vehicle towed or stored for preparation, filing or mailing of any forms required by Florida Statutes, local ordinance or the Division, if a vehicle is in storage for more than 24 hours. This paragraph does not apply to any action initiated by a wrecker operator to foreclose a lien recognized by Florida law (321.02 F.S.). An additional \$37.13 only may be charged if the towing company has actually complied fully with all of the requirements of F.S. § 713.78, and shall apply only after 48 hours.

Section 9. Access fee. After hours, weekend or holiday, an access fee of \$53.04 may be charged should it become necessary for the Towing Service personnel to respond to open the business to allow personal property to be removed from the vehicle or a vehicle to be released outside normal business hours. Normal business hours are considered to be Monday through Friday, 8:00 a.m. to

5:00 p.m.; excluding State legal holidays. Per Florida Statute 715.07 (2) (a) 1.a., towing companies engaged in private property towing must be open for the purpose of redemption of vehicles on any day that the person or firm towing such vehicle or vessel is open for towing purposes, from 8:00 a.m. to 6:00 p.m. Upon receipt of a phone request to open the site to redeem a vehicle or vessel, the operator shall return to the site within 1 hour as required by Section 106-5, Code of Ordinances of Brevard County, Florida. Appropriate state, county or municipal law enforcement officers shall have authority to enforce the provisions of this section

Section 10. Consumer complaints. All consumer complaints directed to Brevard County concerning excessive charges or violations of this resolution or Chapter 106-5 of the Brevard County Code of Ordinances shall be referred for investigation and resolution by the law enforcement agency having jurisdiction.

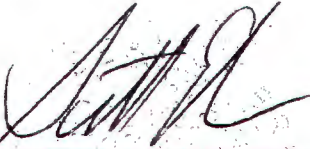
Section 11. Increase in Rates. All towing companies working under this resolution may be entitled to an annual increase of 3% or the published Consumer Price Index (CPI), whichever is lower, with the approval of the Board of County Commissioners.

Section 12. Service call-out. When a law enforcement officer requests a wrecker for a non-consensual tow and the tow truck operator is able to make repairs at the scene, making the vehicle drivable and not requiring the vehicle to be towed, the tow truck operator shall be entitled to the applicable service fee, plus labor and parts, if any.

Section 13. Schedule of Fees. The schedule of fees as established herein may be amended or repealed, in whole or in part, by resolution of the Board of County Commissioners of Brevard County, Florida, when required to support the adequate rendition of the services provided for Chapter (106), Article (1), Code of Brevard County, Florida.

Section 14. Effective Date. This Resolution shall take effect on July 29, 2008.


ATTEST:



Scott Ellis, Clerk

(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



Truman Scarborough., Chairman

As approved by the Board of County
Commissioners on July 29 2008, 2008