

LEE COUNTY ORDINANCE NO. 24-____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF LEE COUNTY, CHAPTER 28 (TRAFFIC AND VEHICLES), ARTICLE VI (VEHICLE TOWING AND IMMOBILIZATION), RELATING TO THE MODIFICATION OF CERTAIN DEFINITIONS AND THE MAXIMUM RATE SCHEDULE; IMPLEMENTING A FUEL SURCHARGE SCHEDULE; PROVIDING FOR MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, INCLUSION IN CODE AND SCRIVENER-S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida (the “Board”) is the governing body in and for Lee County, Florida; and

WHEREAS, on October 8, 2013, the Board of County Commissioners adopted Ordinance 13-19 to create the Lee County Towing and Immobilization Ordinance; and

WHEREAS, on January 24, 2017, the Board of County Commissioners adopted Ordinance 17-01, which amended certain provisions of the Lee County Towing and Immobilization Ordinance; and

WHEREAS, the Lee County Towing and Immobilization Ordinance does not allow Operators to impose a mileage charge for the first 10 miles of a towing assignment and the Board of County Commissioners seeks to amend the definition of *mileage charge* within the Ordinance; and

WHEREAS, the Lee County Towing and Immobilization Ordinance incorporates a Maximum Rate Schedule that has not been updated since 2013 and the Board of County Commissioners seeks to revise the Maximum Rate Schedule to address rising costs associated with towing services; and

WHEREAS, the Board of County Commissioners seeks to incorporate a Fuel Surcharge Schedule into the Lee County Towing and Immobilization Ordinance in order to address hardships imposed on Operators during periods of time in which the cost of diesel fuel is surging; and

WHEREAS, on August 1, 2023, the Board adopted the “Code of Ordinances of Lee County, Florida,” as the official codification of all ordinances of a general and permanent nature enacted on or before November 1, 2022; and

WHEREAS, the Board of County Commissioners seeks to amend the Code of Ordinances of Lee County, Chapter 28, Article VI to reflect the items noted above.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA THAT THE FOLLOWING ORDINANCE IS HEREBY ENACTED:

SECTION ONE: AMENDMENT TO CODE OF ORDINANCES, CHAPTER 28, ARTICLE VI

The Code of Ordinances of Lee County, Chapter 28, Article VI is amended as follows with strikethroughs identifying deleted text and underlines identifying new text.

CHAPTER 28 – TRAFFIC AND VEHICLES

ARTICLE VI. VEHICLE TOWING AND IMMOBILIZATION

Sec. 28-259. – Definitions.

Mileage charge means the allowable charge an Operator may charge for mileage for a nonconsent tow from the point of removal to the Storage Facility. ~~means allowable charge, consistent with F.S. § 715.07, for each mile:~~

- ~~(1) From the scene of a rotation call authorized by a jurisdictional law enforcement agent;~~
- ~~(2) From the private property impound/tow; or~~
- ~~(3) To the company storage yard.~~

Sec. 28-275. – Maximum rates for nonconsent services.

(b) The County may, ~~by resolution,~~ amend Section 28-278 and revise, decrease, increase or establish maximum rates for nonconsent immobilization, recovery, towing, removal and storage services.

(c) The criteria for establishing the maximum rates for nonconsent law enforcement towing, private property towing, storage, immobilization and related services are:

- (2) Mileage charges.
 - a. A mileage charge may only be imposed/charged ~~not be imposed/charged~~ for the first ten miles from the nonconsent tow location (point of removal) to the Storage Facility.
 - b. ~~A mileage charge for private property impound/tow must be consistent with F.S. § 715.07, which requires storage within a ten-mile radius of the removal site.~~
 - c. ~~A mileage charge for each mile over the initial ten miles as measured from the location of an accident scene or rotation call authorized by a jurisdictional law enforcement agency.~~
 - d. ~~Mileage is measured as the shortest distance ("as the crow flies"); between the location or scene of the tow's origination and the storage facility.~~

Sec. 28-278. – Maximum rate schedule.

(a) *Wrecker rates.*

(1) *Class A Wreckers, including roll-back or slide-back carriers.*

- a. Base rate (private property tow): ~~\$165.00.~~ \$125.00.
- b. Rotation tow (law enforcement tow): ~~\$200.00.~~ \$150.00.
- c. Mileage charge: ~~\$5.50.~~ \$4.00.
- d. ~~Per mile charge beyond initial ten miles for law enforcement tows from scene or location, consistent with F.S. § 715.07(2).~~
- e. Hourly rate (for waiting or working time on scene after first 30 minutes): ~~\$105.00.~~ \$80.00.

(2) *Class B Wreckers.*

- a. Base rate (private property tow): ~~\$200.00.~~ \$150.00.
- b. Rotation tow (law enforcement tow): ~~\$265.00.~~ \$200.00.
- c. Mileage charge: ~~\$6.50.~~ \$5.00.
- d. ~~Per mile charge beyond initial ten miles for law enforcement tows from scene or location, consistent with F.S. § 715.07(2).~~
- e. Hourly rate: ~~\$140.00.~~ \$105.00.

(3) *Class C Wreckers.*

- a. Base rate (private property tow): ~~\$400.00.~~ \$300.00.
- b. Rotation tow (law enforcement tow): ~~\$535.00.~~ \$400.00.
- c. Mileage charge: ~~\$8.00.~~ \$6.00.
- d. ~~Per mile charge beyond initial ten miles for private property tows, if permitted by F.S. § 715.07(2).~~
- e. ~~Per mile charge beyond initial ten miles for law enforcement tows from scene or location, consistent with F.S. § 715.07(2).~~
- f. Hourly rate: ~~\$265.00.~~ \$200.00.

(4) *Class D Wreckers.*

- a. Base rate (private property tow): ~~\$535.00.~~ \$400.00.
- b. Rotation tow (law enforcement tow): ~~\$535.00.~~ \$400.00.
- c. Mileage charge: ~~\$9.50.~~ \$7.00.
- d. ~~Per mile charge beyond initial ten miles for private property tows, if permitted by F.S. § 715.07(2).~~
- e. ~~Per mile charge beyond initial ten miles for law enforcement tows from scene or location, consistent with F.S. § 715.07(2).~~
- f. Hourly rate: ~~\$375.00.~~ \$280.00.

(b) *Separate Charges.*

- (1) Removal of drive shaft, minimum one-fourth-hour applicable rate or actual time-worked at applicable hourly rate.
- (2) Air hook-up, minimum one-fourth-hour applicable rate or actual time-worked

at applicable hourly rate.

- (3) Remove/pull axle, minimum one-fourth-hour applicable rate or actual time-worked at applicable hourly rate.
- (4) Remove bumper, minimum one-fourth-hour applicable rate or actual time-worked at applicable hourly rate.
- (5) Removal air foils, minimum one-fourth-hour applicable rate or actual time-worked at applicable hourly rate.
- (6) Landoll trailer; semi roll-back or drop-back trail or truck: ~~\$265.00.~~ \$200.00.
- (7) Air bags: ~~\$2,940.00.~~ \$2,200.00.
- (8) Extra manpower, per man-hour charge: ~~\$85.00.~~ \$65.00.

(c) *Storage rates.*

(1) Generally.

a. Daily maximum urban storage to 25 feet in length:

1. Inside: ~~\$55.00.~~ \$40.00.
2. Outside: ~~\$45.00.~~ \$35.00.

b. Daily maximum urban storage over 25 feet in length:

1. Inside: ~~\$75.00.~~ \$55.00.
2. Outside: ~~\$65.00.~~ \$50.00.

- (2) Storage charges must be based upon a 24-hour calendar day, beginning at 12:01 a.m. and ending at 12:00 midnight. A vehicle/vessel in storage for six hours or longer, in any 24-hour calendar day, will accrue storage charges for that 24-hour calendar day. A vehicle/vessel in storage for less than six hours, in any 24-hour calendar day, will not accrue storage charges for that 24-hour calendar day. (e.g., vehicle arrives in storage at 6:30 p.m., Monday, and is picked up 6:30 a.m., Tuesday. No charges accrue for storage on Monday because storage on Monday was only 5½ hours; storage charges do accrue for Tuesday, as storage on Tuesday was for 6½ hours.)

(d) *Gate fees.* Except as otherwise provided in the article, the maximum rate chargeable for late hour gate fees is as follows:

- (1) *Monday—Friday late hour gate fee rate.* If an owner or authorized agent seeks to recover a towed/impounded vehicle/vessel or property within such vehicle/vessel during the weekdays of Monday through Friday between the hours of 6:00 p.m. and 8:00 a.m., the late hour gate fee of ~~\$45.00~~ \$35.00 will apply.
- (2) *Saturday, Sunday late hour gate fee rate.* If an owner or authorized agent seeks to recover a towed/impounded vehicle/vessel or property within such vehicle/vessel after 6:00 p.m., Friday through 8:00 a.m., Monday, the late hour gate fee of ~~\$45.00~~ \$35.00 will apply.
- (3) *County government observed holidays.* If an owner or authorized agent seeks to recover a towed/impounded vehicle/vessel or property within such vehicle/vessel after 12:01 a.m. and before 12:00 midnight on a County government observed holiday, a gate fee of ~~\$45.00~~ \$35.00 will apply.
- (4) *Additional gate fees.* Additional gate fees may be charged if the owner/agent arrives at the storage facility without the appropriate

documentation and payment, as identified by the storage entity contacted to allow recovery within the time frame late hour gate fees are applicable, and the owner/agent leaves and returns with the appropriate documentation and payment during the time in which late hour gate fees are applicable.

- (e) *Administrative lien fee.* The maximum rate chargeable as an administrative lien fee. An administrative lien fee may be charged only after the vehicle has been in the storage facility or immobilized for at least three calendar days and after all other requirements as provided in the County Towing and Immobilization Ordinance have been met. The maximum rate that may be charged as an administrative lien fee is the sum of \$100.00, ~~\$75.00~~, plus recovery of the costs and fees imposed by the State of registration for obtaining ownership information.
- (f) *Underwater recovery fee.* An underwater recovery fee of \$135.00, ~~\$100.00~~, plus actual costs may be charged when performed by a certified/professional diver if supported by written documentation approved by the investigating law enforcement officer.
- (g) *Hazardous material clean-up and disposal fee.* The prevailing rate for cleaning up and disposing of hazardous materials when mandated or required through State or local laws will be permitted upon written approval by the investigating law enforcement officer.
- (h) *Immobilization.* Maximum rate chargeable for releasing an immobilized vehicle on private property shall be \$100.00 ~~\$75.00~~ for each immobilization properly conducted in accordance with the County Towing and Immobilization Ordinance and State law.

Sec. 28-279. – Fuel surcharge.

Anytime the average price of diesel fuel meets or exceeds \$4.00 per gallon as reported by the Federal Government for the Lower Atlantic states (PADD 1C) the mileage rates that are the subject of this Article may be increased by a fixed percentage in accordance with the schedule below. At times when the price of diesel fuel is below \$4.00 per gallon there shall be no fuel surcharge applied to the mileage rates.

<u>Average Price Per Gallon - Diesel</u>	<u>% of Charge to be Added to Mileage Rate</u>
<u>\$4.00</u>	<u>4%</u>
<u>\$4.25</u>	<u>5%</u>
<u>\$4.50</u>	<u>6%</u>
<u>\$4.75</u>	<u>7%</u>
<u>\$5.00</u>	<u>8%</u>
<u>\$5.25</u>	<u>9%</u>
<u>\$5.50</u>	<u>10%</u>

<u>\$5.75</u>	<u>11%</u>
<u>\$6.00</u>	<u>12%</u>
<u>\$6.25</u>	<u>13%</u>
<u>\$6.50</u>	<u>14%</u>
<u>\$6.75+</u>	<u>15%</u>

SECTION TWO: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION THREE: SEVERABILITY

It is the Board of County Commissioner’s intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION FOUR: CODIFICATION AND SCRIVENER’S ERRORS

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code of Ordinances. Sections of this ordinance can be renumbered or relettered and the word “ordinance” can be changed to “section”, “article,” or other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Attorney, or the County Manager or his designee, without the need for a public hearing.

SECTION FIVE: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION SIX: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

Commissioner ____ made a motion to adopt the foregoing ordinance, seconded by Commissioner _____. The vote was as follows:

Kevin Ruane	_____
Cecil L Pendergrass	_____
Raymond Sandelli	_____
Brian Hamman	_____
Mike Greenwell	_____

DULY PASSED AND ADOPTED this ____ day of ____, 2024.

ATTEST:
KEVIN C. KARNES
CLERK OF CIRCUIT COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Mike Greenwell, Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

By: _____
Office of the County Attorney