

LEGISLATIVE #

120063c

VOLUSIA COUNTY TOWING ORDINANCE

ARTICLE IV. WRECKERS

DIVISION 1. GENERAL PROVISIONS

Sec. 118-91. Definitions.

As used in this article, the following words and terms shall have the meaning respectively ascribed:

Immobilization shall mean the installation of a boot or similar device on a vehicle on private property for the purpose of making it unmovable.

Nonconsensual towing shall mean the removal and storage of wrecked or disabled vehicles from an accident scene or the removal and storage of a vehicle 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, excepting, however, all incidents of "trespass towing" as hereinbelow defined.

Property owner shall mean that person who exercises dominion and control over a parcel of real property, including but not limited to the legal title holder, lessee, a resident manager, a property manager or other agent who has legal authority to bind the owner. A person providing a towing service may not be appointed as an agent for a property owner.

Tow shall mean to haul, carry, pull along, or otherwise transport or remove a vehicle by means of another vehicle.

Trespass towing shall mean towing or removal of a vehicle, without the consent of the vehicle's owner or operator, as such is authorized by F.S. § 715.07, when that vehicle is parked on private real property.

Wrecker shall mean any truck or other vehicle which is used to carry, tow or otherwise transport vehicles and which is equipped for that purpose with a boom, winch, car carrier, or similar equipment. "Wrecker" shall include the person or firm owning, operating, and/or controlling the wrecker vehicles.

(Ord. No. 2002-20, § I, 10-17-02; Ord. No. 2009-06, § I, 3-5-09)

Sec. 118-92. Jurisdiction; persons authorized to enforce.

This article shall be applicable in both the incorporated and unincorporated areas of the county except in municipalities which have enacted similar ordinances regarding this subject matter.

(Ord. No. 2002-20, § I, 10-17-02)

Sec. 118-93. Towing of vehicles for compensation; compliance.

No towing service shall tow or otherwise transport a vehicle for compensation when the point of origin of the tow or transportation is within the boundaries of Volusia County unless such towing service complies with the requirements of F.S. chs. 713 and 715 and the applicable provisions of this article.

(Ord. No. 2002-20, § I, 10-17-02)

Sec. 118-94. Exemptions.

This article, including the rates specified in section 118-98 shall not apply to the towing of vehicles:

(1) With the consent of the vehicle owner or operator; or

(2) In municipalities which have enacted a similar ordinance regarding this subject matter.
(Ord. No. 2002-20, § I, 10-17-02)

Sec. 118-95. Equipment required.

Every wrecker towing a vehicle, when the tow originates within the county, shall be equipped with the following:

- (1) Minimum manufacturer's capacity of one ton.
- (2) Boom capacity not less than four tons.
- (3) Power winch not less than four tons.
- (4) One hundred feet or more of three-eighths inch cable per winch; except for flat beds which shall have 50 feet or more of three-eighths inch cable.
- (5) Name of concern on both sides of the vehicles.
- (6) The following equipment:
 - a. Fenders.
 - b. Heavy-duty push broom.
 - c. Floodlights on hoist.
 - d. One shovel.
 - e. One ax.
 - f. One pinch bar, prybar, or crowbar.
 - g. One four-pound CO2 fire extinguisher.
 - h. One set of bolt cutters.
 - i. Emergency rotating or flashing roof light (amber).
 - j. Four-way lug wrenches.
 - k. Jumper cables.
 - l. Five, 30-minute fuses.
 - m. Tow sling constructed so as not to damage towed vehicles.

(Ord. No. 2002-20, § I, 10-17-02)

Sec. 118-96. Cruising prohibited.

No driver of a wrecker shall cruise or park upon the streets of the county in search of vehicles to tow or for the purpose of soliciting business.

(Ord. No. 2002-20, § I, 10-17-02)

Sec. 118-97. Rebates prohibited.

No person or firm towing or removing vehicles from private property shall rebate, pay or otherwise transfer money or any valuable consideration to the owner or operator of the private property for the privilege of removing or towing vehicles. This section shall not prohibit a wrecker owner or operator from posting no parking signage on private property for the convenience of the property owner.

(Ord. No. 2002-20, § I, 10-17-02)

Sec. 118-98. Establishment of rates; trespass and nonconsensual tows and immobilizations.

(a) The maximum rates for towing a vehicle, for the storage of a towed vehicle or for the rendition of other services involving the use of a wrecker or other customary towing services when the point of origin of the tow or such services is within the boundaries of Volusia County shall be as follows:

(1) *Class A vehicles (gross vehicle weight rating at 9,999 pounds or less or a vehicle carrying a vessel 15 feet or less in length):*

- a. Trespass tow (flat rate) . . . \$125.00

- b. Nonconsensual tow . . . 125.00
 - c. Nonconsensual tow, per mile over initial ten miles, per full extra mile . . . 3.00
 - d. Nonconsensual tow, time beyond initial 30 minutes at scene, 15-minute block . . . 25.00
 - e. Trespass or nonconsensual tow daily storage per day, inside storage . . . 25.00
 - f. Immobilization . . . 75.00
 - g. Outside storage, per day . . . 20.00
- (2) *Class B vehicles (gross vehicle weight rating at 10,000 pounds or more, but less than 19,500 pounds or vehicle carrying a vessel more than 15 feet, but less than 22 feet in length):*
- a. Trespass tow (flat rate) . . . \$250.00
 - b. Nonconsensual tow . . . 250.00
 - c. Nonconsensual tow, per mile over initial ten miles, per full extra mile . . . 4.00
 - d. Nonconsensual tow, time beyond initial 30 minutes at scene, per 15-minute block . . . 50.00
 - e. Trespass or nonconsensual tow daily storage per day, inside storage . . . 30.00
 - f. Immobilization . . . 75.00
 - g. Outside storage, per day . . . 25.00
- (3) *Class C vehicles (gross vehicle weight rating at 19,500 or more pounds, but less than 25,000 pounds or vehicle carrying a vessel more than 22 feet in length):*
- a. Trespass tow (flat rate) . . . \$375.00
 - b. Nonconsensual tow . . . 375.00
 - c. Nonconsensual tow, per mile over initial ten miles, per full extra mile . . . 5.00
 - d. Nonconsensual tow, time beyond initial 30 minutes at scene, per 15-minute block . . . 75.00
 - e. Trespass or nonconsensual tow daily storage per day, inside storage . . . 60.00
 - f. Outside storage, per day . . . 55.00
- (4) *Class D vehicles (gross vehicle weight rating at more than 25,000 pounds):*
- a. Trespass tow (flat rate) . . . \$500.00
 - b. Nonconsensual tow . . . 500.00
 - c. Nonconsensual tow, per mile over initial ten miles, per full extra mile . . . 6.00
 - d. Nonconsensual tow, time beyond initial 30 minutes at scene, per 15-minute block . . . 100.00
 - e. Trespass or nonconsensual tow daily storage per day, inside storage . . . 60.00
 - f. Outside storage, per day . . . 55.00
- (b) An additional daily storage fee, as set forth above, may be charged for any vessel, trailer or other mobile item, whether motorized or not, which is mounted on wheels and attached to a towed vehicle.
- (c) The maximum rates established in subsection (a) above shall be a flat fee which shall be all-inclusive and, by way of illustration, no additional charges shall be made for:
- (1) Any fees for special equipment or services such as double hook-up, vehicle entry when locked, dropping transmission linkage, axle or drive shaft removal, dollies, trailer or flat bed, lifts, slim jims, go jacks, removing bumpers, airing up brakes, and mileage, other than those specified in the rate schedule;
 - (2) Time spent at the scene of the tow, other than those specified in the rate schedule;
 - (3) Release fees during normal business hours (Monday--Friday, 8:00 a.m.--6:00 p.m.);
 - (4) Access fees to allow the owner or the owner's representative to remove personal property or examine the vehicle;
 - (5) Yard fees, set-out fees, or gate fees for allowing the owner or any tow company designated by the owner or his insurance company to take custody of and remove the vehicle from the impound area;
 - (6) Fuel surcharge fees;
 - (7) Storage for the first six hours.
- (d) No other fees of whatever kind may be charged for services rendered during the first 12 hours that the vehicle is in the possession of the wrecker, beginning from the time the vehicle is delivered to the storage facility, except as specifically provided herein. Storage fees as set forth

above may be assessed after the initial six-hour period based on calendar day increments. An administrative fee for compliance with statutory notice requirements may be charged after the first 48 hours so long as the wrecker service has actually complied with the requirements of F.S. § 713.78, including execution and mailing of the lien notice. The fee must be based on actual costs for such compliance. Further, a "tarpaulin fee" in the amount of \$15.00 may be assessed when the towing service reasonably finds it necessary to install and maintain tarpaulin coverage on any class A stored vehicle in order to protect the interior accessories or upholstery of such vehicle from damage by inclement weather. Tarpaulin fees for coverage of any other class vehicle must be reasonable and based on actual costs .

(e) An after-hours (Monday--Friday, 6:00 p.m.--8:00 a.m., Saturday and Sunday and national holidays) release fee not to exceed \$35.00 may be charged.

(f) The maximum fees set forth herein may be changed from time to time by a resolution adopted by the county council.

(Ord. No. 2002-20, § I, 1 0-17-02; Ord. No. 2009-06, § I, 3-5-09)

Sec. 118-99. Insurance required.

(a) *Types.* Any person or firm owning or operating a wrecker which tows or removes a vehicle from a point of origin within the county shall carry insurance in the following types and amounts and shall provide a copy of same upon demand:

(1) *Garagekeeper's policy.* A garagekeeper's legal liability policy covering fire, theft, collision, and other insurable perils with a minimum limit of \$50,000.00 and a deductible not exceeding \$1,000.00. Evidence of on-hook liability coverage must also be provided with a minimum limit of \$50,000.00 and a deductible not exceeding \$1,000.00.

(2) *Garage liability policy.* A garage liability policy covering the operation of the wrecker company's business, equipment, or vehicles for bodily injury or property damage liability. The limits of liability of this policy shall be no less than \$250,000.00 for injury or death to any one person and no less than \$500,000.00 for injury or death to two or more persons as a result of any one occurrence and no less than \$100,000.00 for property damage as a result of any one occurrence or, in lieu thereof, a combined single limit for bodily injury and property damage of no less than \$500,000.00.

(3) *Worker's compensation.* Coverage as set forth in F.S. ch. 440.

(b) *Certificate of liability insurance.* The certificate of liability insurance shall specifically identify each vehicle for which coverage is provided therein, including year, make, model and vehicle identification number.

(c) *Notice of change or cancellation.* The evidence of insurance required herein must contain a provision providing for a minimum of 15 days notice to the Volusia County Sheriff's Office of any change in coverage or cancellation of the required coverage.

(Ord. No. 2002-20, § I, 1 0-17-02)

Sec. 118-100. Requirements; billing and record keeping.

(a) Towing services shall provide a written bill at the request of the owner or operator of a vehicle detailing the charges to date.

(b) Towing services shall provide, at the time of payment, a written receipt for all charges imposed and received from the owner or operator of a vehicle resulting from the towing or immobilization of a vehicle. Said receipt shall include at a minimum:

(1) The date, time and location of the tow;

(2) The total charges listed individually and specifically; and

(3) The date and time of payment of the charges.

(c) The towing services shall prepare and maintain a tow or immobilization data sheet which shall include, but not be limited to the following information:

- (1) The name of the towing service and the person providing the service;
 - (2) The location from which the vehicle was towed or immobilized;
 - (3) Date and time the tow or immobilization was initiated;
 - (4) If a tow, the destination to which the vehicle was taken;
 - (5) The description of the vehicle including the make, model, year, color, vehicle identification number and license plate number;
 - (6) As to trespass tows, the time and date the Volusia County Sheriff's Office was contacted by the towing service and Volusia County Sheriff's Office case number assigned;
 - (7) The description of the service rendered including an itemized list of all charges; and
 - (8) The date and time the vehicle was returned to the owner or the immobilization device removed and the identity of that owner.
- (d) All towing services shall keep all such tow sheets on file for a period of three years and shall make them available to any law enforcement officer during normal business hours.
(Ord. No. 2002-20, § I, 10-17-02; Ord. No. 2009-06, § I, 3-5-09)

Sec. 118-101. Miscellaneous provisions.

- (a) All vehicles towed shall be towed directly to the storage site owned or leased by the towing service and the vehicle shall not be kept in any temporary holding area.
 - (b) No towing service shall tow a vehicle when there is a natural living person occupying the vehicle.
 - (c) All consumer complaints directed to Volusia County concerning excessive charges or alleged bad practices committed contrary to the provisions of this article shall be referred for investigation and resolution to the Volusia County Sheriff's Office.
 - (d) Each towing service shall staff or monitor its telephone at all times and immediately advise any vehicle owner or authorized representative who calls by telephone of the following:
 - (1) Each and every document or other item which 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;
 - (4) That the vehicle can be picked up within one hour of request, except for nonconsensual tows initiated by law enforcement when the owner or person in control of the vehicle has been arrested. In such cases, the towing service shall notify the owner that the vehicle can be picked up between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday; and
 - (5) In the case of immobilization, a representative of the tow company which installed the device shall respond to the vehicle within one hour after contact by the owner and remove the immobilization device upon payment of the \$75.00 removal fee. No additional charges shall be assessed by the tow company for response after hours or on weekends and holidays.
- (Ord. No. 2002-20, § I, 10-17-02; Ord. No. 2009-06, § I, 3-5-09)

DIVISION 2. TRESPASS TOWING

Sec. 118-102. Application.

The provisions of division 2 shall apply to any trespass tow which originates within the boundaries of Volusia County. The provisions of division 1 shall also apply to trespass tows unless otherwise specifically provided.

(Ord. No. 2002-20, § I, 10-17-02)

Sec. 118-103. Notification.

- (a) Any towing service initiating a trespass tow within the boundaries of Volusia County shall notify the Volusia County Sheriff's Office within 30 minutes of the completion of any such

trespass tow. Such notification to the Volusia County Sheriff's Office shall relate, at a minimum, the following information concerning the subject trespass tow.

(b) Any towing service initiating an immobilization of a vehicle within the boundaries of Volusia County shall, at a minimum, clearly post on the immobilized vehicle the following information:

(1) An immobilization device has been affixed to the wheel of the vehicle;

(2) No attempt should be made to move the vehicle or damage to the vehicle may result;

(3) Contact information, including the name of the tow company which affixed the immobilization device, the address and telephone contact information of the tow company, and notification of a fee, not exceeding \$75.00, for removal of the immobilization device.

(Ord. No. 2002-20, § 1, 10-17-02; Ord. No. 2009-06, § 1, 3-5-09)

Sec. 118-104. Return of owner prior to tow or immobilization.

No towing service operating within the boundaries of Volusia County shall tow or immobilize a vehicle or charge for its services where the registered owner or other legally authorized person in control of the vehicle arrives at the scene prior to the towing or immobilization, unless:

(1) The registered owner or other legally authorized person in control of the vehicle refuses to remove the vehicle; or

(2) The vehicle has already been connected to the towing or removal apparatus or the immobilization device has been attached to the vehicle and the registered owner or other person in control of the vehicle refuses to pay a service fee of not more than one-half of the rate contained herein for such wrecker service. The tow truck or wrecker operator shall wait a minimum of ten minutes to allow the vehicle's owner or operator to secure cash for the payment of the fees enumerated herein, if cash is required by the tow truck or wrecker driver. For purposes of this section, a tow commences when a vehicle has been removed from the tow site and is en route to a storage site. An immobilization occurs when the immobilization device has been completely affixed to the vehicle and the tow company employee has exited the property where the owner or operator is illegally parked.

(Ord. No. 2002-20, § 1, 10-17-02; Ord. No. 2009-06, § 1, 3-5-09)

Sec. 118-105. Penalties.

Each violation of this section shall constitute a separate offense punishable as provided in section 1-7 of this Code.

(Ord. No. 2002-20, § 1, 10-17-02)