

ORDINANCE 2024-25

AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE COUNTY OF VOLUSIA, BY AMENDING CHAPTER 118, ARTICLE IV, WRECKERS, BY AMENDING DIVISION 1, SECTION 118-95 – “EQUIPMENT REQUIREMENTS”; BY AMENDING SECTION 118-98 – “ESTABLISHMENT OF RATES, TRESPASS AND NON-CONSENSUAL TOWS AND IMMOBILIZATION”; BY AMENDING CHAPTER 118, ARTICLE IV, DIVISION 2, SECTION 118-103 – “TRESPASS TOW, NOTIFICATION;” BY AMENDING SECTION 118-105 – “PENALTIES;” PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 1(g) of the Florida Constitution and Section 125.01, Florida Statutes, the Volusia County Council has broad home rule powers to govern the County, including the power to adopt ordinances as may be necessary to carry out both county and municipal powers and purposes; and

WHEREAS, numerous firms and persons in Volusia County engage in the business of performing towing and recovery of motor vehicles; and

WHEREAS, towing companies have substantial interaction with the public and play an important role in clearing the County’s roadways of wrecked vehicles and debris; and

WHEREAS, pursuant to section 125.0103(c) Florida Statutes, Volusia County must establish the maximum rates which may be charged for the non-consensual towing or immobilization of vehicles or vessels; and

WHEREAS, pursuant to section 125.0103(d), Florida Statutes, Volusia County must establish a process for investigating and resolving complaints regarding fees charged in excess of the maximum rates established; and

WHEREAS, the County Council of Volusia County, Florida now desires to update and set forth the schedule of fees and regulations as set forth herein; and

WHEREAS, the County Council of Volusia County, Florida has determined that the proposed amendment serves the public health, safety and welfare of the citizens of Volusia County.

BE IT ORDAINED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY,
FLORIDA, AS FOLLOWS:

(Words in ~~strike-through~~ type are deletions; words in underscore type are
additions.)

SECTION I: Incorporation of Recitals. The above recitals represent the legislative
findings of the Volusia County Council supporting the need for this ordinance.

SECTION II: That Chapter 118, Wreckers, of the Code of Ordinances, County of
Volusia, is amended as follows:

...

Sec. 118-95. Equipment required.

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

...

- (5) Name, address, and telephone number of the company of concern on both
sides of the vehicles.

...

**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~~ 5,999 pounds or less or
a vehicle carrying a vessel 15 feet or less in length) as adopted by resolution.

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

~~b. Nonconsensual tow \$150~~

~~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, 15-minute block \$25.00~~
- e. ~~Trespass or nonconsensual tow daily storage per day, inside storage \$45.00~~
- f. ~~Immobilization \$75.00~~
- g. ~~Outside storage, per day \$20.00~~
- (2) Class B vehicles (gross vehicle weight rating at ~~40,000~~ 6,000 pounds or more, but less than ~~49,500~~ 15,000 pounds or vehicle carrying a vessel more than 15 feet, but less than 22 feet in length) as adopted by resolution.
- 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 ~~49,500~~ 15,001 or more pounds, but less than ~~25,000~~ 25,999 pounds or vehicle carrying a vessel more than 22 feet in length) as adopted by resolution.
- 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~~ 26,000
pounds) as adopted by resolution.

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 by resolution, 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 rate for a subsequent class may be charged if the recovery activity
performed involves a vehicle that is loaded or modified, therefore altering the
vehicle's original weight, dimensions, or ground clearance such that the vehicle is
determined to be within that subsequent class or involves additional equipment not
contemplated for the class indicated in the initial tow request, upon the written
authorization and approval of the investigating law enforcement agency or officer on
the scene.

(d) The maximum rates established by resolution 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:

...

(d) (e) 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)(f) 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)(g) The maximum fees set forth herein may be changed from time to time by a resolution adopted by the county council.~~ Rate adjustment review. Effective January 1, 2029, and on January 1 of each subsequent 5 year period thereafter, the maximum rates established herein shall be reviewed for adjusted based on the actual percentage change in the Consumer Price Index as measured in accordance with section 193.155(1)(b), Florida Statutes, based on the average of the index from the previous five (5) years (December to December) or 3%, whichever is lower.

...

Sec. 118-101. Miscellaneous provisions.

...

(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~~ Volusia County Code Enforcement.

(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 prior to arriving at the storage site of the following:

...

DIVISION 2. - TRESPASS TOWING...

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: the storage site; the time the vehicle was towed or removed; and the make, model, year, color, vehicle identification number (VIN), and license plate number of the vehicle.

...

Sec. 118-105. Penalties.

Volusia County Code Enforcement shall have jurisdiction to enforce this article as provided by law and ordinance. For that purpose, violation of division I and division II of this article is deemed to be an irreparable or irreversible violation punishable by the civil penalties herein and is subject to immediate citation. Each violation of this section shall constitute a separate offense punishable as provided in section 1-7 and chapter 2, article VII of this Code.

(a) Volusia County Code Enforcement is hereby authorized to issue citations with a civil penalty of \$450 to a person or firm when, based upon an investigation, Volusia County Code Enforcement has reasonable cause to believe that a person or firm has committed a civil infraction in violation of a county code or ordinance, including but not limited to, charging more than the maximum rates for towing services established by Volusia County.

...

SECTION III: Authorizing Inclusion in Code. The provisions of this ordinance shall be included and incorporated into the Code of Ordinances of the County of Volusia, as additions or amendments thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the code.

SECTION IV: Severability. Should any word, phrase, sentence, subsection, or section be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then that word, phrase, sentence, subsection, or section so held shall be severed from this ordinance and all other words, phrases, sentences, subsections, or sections shall remain in full force and effect.

SECTION V: Conflicting Ordinances. All ordinances, or part thereof, in conflict herewith are, to the extent of such conflict, repealed.

SECTION VI: Effective Date. This ordinance shall take effect upon filing of a certified copy by e-mail with the Department of State.

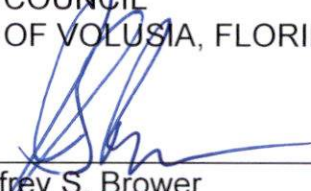
ADOPTED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE COUNTY COUNCIL CHAMBERS AT THE THOMAS C. KELLY ADMINISTRATION CENTER, 123 WEST INDIANA AVENUE, DELAND, FLORIDA, THIS 1ST DAY OF OCTOBER 2024 A.D.

ATTEST:

COUNTY COUNCIL
COUNTY OF VOLUSIA, FLORIDA



George Recktenwald
County Manager



Jeffrey S. Brower
County Chair

