

ORDINANCE NO. 2020-__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, CREATING THE NASSAU COUNTY WRECKER ORDINANCE; STATING INTENT, PROVIDING SCOPE; PROVIDING DEFINITIONS; PROVIDING FOR WRECKER REQUIRED EQUIPMENT; PROVIDING WRECKER OPERATOR REQUIREMENTS; PROVIDING MAXIMUM RATES; PROVIDING REQUIREMENTS FOR STORAGE FACILITIES; PROVIDING GENERAL REQUIREMENTS FOR WRECKER OPERATORS; PROVIDING FOR VENUE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the regulation of the rates for towing and storage charges and the allocation of the call system for wrecker operators, in Nassau County, have been pursuant to Chapter 15B-9, Florida Administrative Code; and

WHEREAS, wrecker operators have provided information to the Board of County Commissioners indicating a need for the County Commission to establish local rates and regulations; and

WHEREAS, the Board of County Commissioners has the authority to establish rates and regulations pursuant to Florida Statute, §125.0103; and

WHEREAS, the Board of County Commissioners have consulted with the Nassau County Sheriff's Office.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Nassau County, Florida, that the Nassau County Wrecker Ordinance shall state as follows:

SECTION 1. SHORT TITLE.

This ordinance shall be known as the Nassau County Wrecker Ordinance.

SECTION 2. INTENT.

This ordinance is intended to assist private and commercial users of the highways of Nassau County by insuring that only qualified, reputable wrecker operators and equipment are provided for the removal of wrecked, disabled, stolen or abandoned motor vehicles in the event

the owner or operator is incapacitated, unavailable, or leaves the procurements of wrecker service to the discretion of the law enforcement officer at the scene.

SECTION 3. SCOPE.

- A. This ordinance shall apply within both the unincorporated and incorporated areas of Nassau County, except where a municipality has enacted a similar ordinance regarding this subject matter.
- B. This ordinance shall not apply to a vehicle owner or operator's request for the utilization of a specific wrecker operator, whether or not such operator is qualified under this ordinance. In such event, the owner or operator's request will be honored without regard to this ordinance unless there will be an unreasonable time delay or a traffic, safety, or health problem exists.

SECTION 4. DEFINITIONS.

- A. Abandoned Vehicle means an unattended vehicle that is directed by law enforcement to be removed because it is improperly parked in violation of Nassau County Ordinances or of Sections 316.194, 316.1945, or 316.1951, Florida Statutes.
- B. Division means the Nassau County Sheriff's Office, or any other division or department designated by the Board of County Commissioners to implement this ordinance.
- C. Law Enforcement means any agency with jurisdiction in Nassau County whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the State.
- D. Loaded Mile means mileage driven by a wrecker operator after a vehicle has been loaded onto the tow truck.

- E. Nonconsensual Tow means the removal and storage of a wrecked or disabled vehicle from an accident scene or the removal or storage of a vehicle in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to law enforcement at the scene, or otherwise does not consent to the removal of the vehicle, as authorized by Section 125.0103, Florida Statutes.
- F. Trespass Tow means the towing or removal of a vehicle from private property without the consent of the vehicle's owner or operator, as authorized by Section 715.07, Florida Statutes.
- G. Wrecker Operator means an individual, partnership, corporation, or business entity engaged for hire in the recovery, towing, or removal of wrecked, disabled, stolen, or abandoned motor vehicles. For the purpose of this ordinance, a hired driver or employee shall be governed by this ordinance and, unless otherwise stated, shall be considered an agent of the wrecker operator.

SECTION 5. WRECKER REQUIRED EQUIPMENT.

- A. Each tow truck owned or maintained by a wrecker operator shall be commercially manufactured and shall conform to the requirements of this ordinance and Chapter 15B-9 of the Florida Administrative Code. The wrecker and equipment shall be operable.
- B. The tow truck and equipment shall be inspected by the Division before being placed on the rotation list. Thereafter, trucks and equipment shall be subject to periodic checks as necessary to ensure compliance with this ordinance.
- C. Sirens on wreckers are prohibited.

- D. The wrecker operator shall not represent or imply on any vehicle, building or correspondence an official relationship between the wrecker operator and any public agency.
- E. It is prohibited for a tow truck or the business establishment maintained by the wrecker operator to have any equipment capable of monitoring messages or signals or frequencies assigned to law enforcement.
- F. All trucks operated pursuant to this ordinance shall be equipped with a two-way communications device, such as a business-type communication radio or mobile telephone or cellular telephone. There shall be one such device for each truck. Such equipment shall be licensed and approved by the Federal Communications Commission. A citizen's band radio does not meet the requirements of this section.

SECTION 6. WRECKER OPERATOR REQUIREMENTS.

- A. All wrecker operators and drivers must have in their possession a valid Florida driver's license as required by Florida law for the operation of any vehicle to be driven. Prior to approval, the Division shall obtain background information on each driver, including the driver history record. The wrecker operator shall immediately notify the Division of any changes in wrecker drivers, wreckers, wrecker unit numbers, insurance coverage, or any other changes relating to ownership or management of the business.
- B. Wrecker operators and their drivers are required to comply and be familiar with the Florida Uniform Traffic Control Law, Chapter 316, Florida Statutes.
- C. Wrecker operators properly at the scene of an accident shall remove only the vehicle involved at the direction of the investigating officer.

- D. Wrecker operators shall sweep glass from the roadway and remove all debris or hazards from the scene, and comply with the requirements of Section 316.2044(2), Florida Statutes.
- E. Wrecker operators shall impound such vehicles as requested by a trooper or a division representative.
- F. Wrecker drivers shall be thoroughly familiar with the operation of the wrecker they are operating.
- G. Except as otherwise provided in this ordinance or the Florida Administrative Code, wrecker operators who are called shall not delegate or request assistance from another wrecker operator to perform the services necessary to accomplish the recovery or removal of vehicles in that class. This provision shall not prevent a wrecker operator from requesting assistance from another truck owned by that wrecker operator.
- H. The wrecker operator is responsible for any damage to a vehicle caused by the wrecker operator.
- I. The wrecker operator shall maintain the following policies of insurance according to the minimum limits set forth in Chapter 15B-9 of the Florida Administrative Code. The insurance coverage required shall include those classifications that are listed in standard liability manuals, which most nearly reflect the operations of wrecker operators. All insurance policies required above shall be issued by companies authorized to do business in the State of Florida.

SECTION 7. RATES.

- 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 Nassau 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 or nonconsensual tow - \$150.00 plus \$4.00 per full loaded mile
 - b. Nonconsensual tow, time beyond initial 30 minutes at scene, 15-minute block - \$37.50
 - c. Trespass or nonconsensual tow daily storage per day - \$30.00
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 or nonconsensual tow - \$250.00 plus \$5.00 per full-loaded mile
 - b. Nonconsensual tow, time beyond initial 30 minutes at scene, 15-minute block - \$62.50
 - c. Trespass or nonconsensual tow daily storage per day - \$45.00
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 or nonconsensual tow - \$375.00 plus \$6.00 per full-loaded mile

- b. Nonconsensual tow, time beyond initial 30 minutes at scene, 15-minute block - \$100.00
 - c. Trespass or nonconsensual tow daily storage per day - \$70.00
 - 4. Class D vehicles (gross vehicle weight rating at more than 25,000 pounds):
 - a. Trespass or nonconsensual tow - \$500.00 plus \$7.00 per full-loaded mile
 - b. Nonconsensual tow, time beyond initial 30 minutes at scene, 15-minute block - \$125.00
 - c. Trespass or nonconsensual tow daily storage per day - \$70.00
- 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 following additional fees may be charged:
 - 1. Air bags (at cost, not to exceed) - \$4,000.00
 - 2. Front end loader, bobcat, skid steer, fork lift (per hour – time on scene) - \$250.00
 - 3. Maintenance of Traffic setup - \$500.00
 - a. Rate (per hour) - \$75.00
 - b. Additional labor (per hour) - \$55.00
 - 4. Hazardous spill per kit - \$80.00
 - 5. Semi-Tractor (per hour) – \$300.00
 - 6. Semi-truck heavy duty tractor with specialty trailer (low boy) - \$500.00 plus \$10.00 per mile round trip

7. Removal of drive shaft - \$55.00
8. Air Hook Up - \$55.00
9. Removal/pull axle - \$55.00
10. Call box response, base fee - \$50.00
11. Miscellaneous services – per hour (tire change, gas, etc.) - \$35.00 plus actual expenses
12. Notice of lien charge - \$125.00
13. Crash Wrap - \$45.00 per window

D. 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. Time spent at the scene of the tow, other than those specified in the rate schedule;
2. Release fees during normal business hours (Monday – Friday, 8:00 a.m. – 5:00 p.m.);
3. Access fees to allow the owner or the owner’s representative to remove personal property or examine the vehicle, except as otherwise provided in this ordinance;
4. 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;
5. Fuel surcharge fees; or
6. Storage for the first six hours.

E. No other fees may be charged for services rendered during the first twelve (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 Section 713.78, Florida Statutes, 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.

- F. An after-hours (Monday – Friday, 5:00 p.m. – 8:00 a.m., Saturday and Sunday and national holidays) release fee not to exceed \$50.00 may be charged.
- G. The maximum fees set forth herein may be changed from time to time by a resolution adopted by the Board of County Commissioners.

SECTION 8. STORAGE FACILITIES.

- A. Wrecker operators shall provide storage facilities which shall be maintained at the operator’s place of business and located within their assigned zone. These facilities must be fenced and locked for the protection of vehicles and property.
- B. The wrecker operator shall provide storage for all impounded/towed vehicles in the outside storage area unless specific written instructions are given for inside storage by the impounding trooper or the driver or owner. If required for investigative purposes, the wrecker operator shall move the vehicle(s) to a designated area for processing prior

- to storage. In such instance, law enforcement will not authorize release of the vehicle until all outstanding charges by the operator, as authorized by law enforcement, have been satisfied.
- C. The wrecker operator shall not change the type of storage facility (inside or outside) afforded a vehicle without written permission from law enforcement. The wrecker operator shall not change the storage facility location without first obtaining written permission from law enforcement.
 - D. The registered owner of a vehicle or the owner's representatives or owner's insurance adjusters, upon proper identification, shall be permitted to inspect or photograph stored vehicles during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. The wrecker operator shall not require the owner, adjuster or representative to pay any fee in order to inspect or photograph the stored vehicle.
 - E. All fencing shall be chain-link or solid-wall type, at least 6 feet high, to discourage theft of any vehicle or any property being stored inside. All storage facilities shall be illuminated with lighting of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet during nighttime.
 - F. Permanent inside storage facilities must be available for 24-hour storage when weather or other conditions require inside storage for the protection of the vehicle or personal property. A lean-to, tent or shed does not meet the requirements of this section. Inside storage must be within a weather-tight building.
 - G. A minimum of 25 storage spaces with 3 inside storage spaces must be available.
 - H. Wrecker operators shall comply with hold orders placed by law enforcement, including any instructions for inside or outside storage. Vehicles involved in a fatality and sealed

by the traffic homicide investigator shall remain intact until the seals are removed by the investigator. No property of any kind shall be released to anyone without authority of the homicide investigator. If no fatality occurred, then the vehicle and the property may be released by the wrecker operator upon valid proof of ownership once the hold is released.

- I. A copy of an inventory prepared by law enforcement, of all personal property found in a wrecked, disabled or abandoned vehicle shall be provided to the wrecker operator. The wrecker operator shall permit the removal of such property by the vehicle owner or his agent from a stored vehicle during normal business hours without charge. The agent's authority shall be evidenced by a writing acknowledged by the owner before a notary public or other person empowered by law to administer oaths. A signed receipt for each article removed by the owner or his agent shall be obtained. Personal property shall be defined as any item not affixed to the vehicle which was in the vehicle at the time of the tow. In the case of vehicles stored where no "hold order" has been placed, the wrecker operator will directly release any vehicle upon presentation of proper proof of identification and ownership. If these conditions cannot be met due to unusual or extraordinary circumstances, the vehicle will be released only upon authorization obtained from law enforcement.
- J. Wrecker operators handling the initial tow shall exercise reasonable care and control of parts and contents located in vehicles while under their protection or while in storage.
- K. During the hours from 8:00 a.m. to 5:00 p.m., Monday through Friday, wrecker operators will provide adequate staffing at the storage facility so that personal property may be removed from the vehicle or the vehicle itself may be released without undue

delay. This requirement shall not prevent a wrecker operator from closing its office for 45 minutes for the purpose of allowing its employees to take a lunch break, provided that the time that the office will be closed is conspicuously posted.

- L. Should it become necessary that personal property be removed from a vehicle or a vehicle be released when the storage facility is not staffed, the wrecker operator will be required to do so and allowed to charge a reasonable fee.

SECTION 9. GENERAL REQUIREMENTS.

- A. When a vehicle is released at the scene by the investigating law enforcement officer or representative of the Division, the wrecker operator shall tow it to any location the owner requests within the limits of the County and may charge scheduled rates.
- B. Any complaints received by the Division concerning misconduct on the part of the wrecker operator, such as excessive charges, poor business practices, or damage to vehicles may be investigated by the Division for appropriate action, including the withdrawal of the operator's ability to operate as a qualified wrecker operator and prosecution pursuant to Section 11 of this ordinance.
- C. The wrecker operator shall maintain the following items at its place of business:
 - 1. Vehicle storage receipts for each impounded/stored vehicle on the premises towed under the provisions of this ordinance;
 - 2. A notification log indicating the date, time and method of notification to the registered owner of an impounded/stored vehicle; and
 - 3. An ongoing log by month of all vehicles which have remained unclaimed for 30 days or more, a copy of which shall be forwarded to the nearest office of the

Auto Theft Investigation Section of the Florida Highway Patrol on the 5th day of each month.

All files and logs required to be kept pursuant to this subsection shall be available for inspection by the Division at all times during normal working hours.

- D. Any ancillary services, such as the use of dolly or dropping and hooking up linkage are to be performed only if required and appropriate.
- E. The motor vehicle owner or operator is responsible for payment of charges imposed by the wrecker operator in accordance with the rate schedule on file with the Division.

SECTION 10. QUALIFIED WRECKER OPERATORS.

- A. In order to operate as a wrecker operator in Nassau County, a person, partnership, corporation, or business entity must first be identified as a qualified wrecker operator by application to the Division. For the purposes of this ordinance, a qualified wrecker operator is a wrecker operator that meets the requirements of this ordinance and that possesses an occupational license authorizing it to do business in Nassau County.
- B. A qualified wrecker operator shall renew its qualified status on or before September 30th of each year. Failure of a qualified wrecker operator to renew its status shall terminate the operator's ability to operate within the County. A wrecker operator that fails to renew its status as a qualified wrecker operator shall be required to submit a new application for approval by the Division and shall not be permitted to operate with the County until such approval is granted by the Division.
- C. It shall be unlawful for any person, partnership, corporation, or business entity that is not a qualified wrecker operator to tow or more a wrecked, disabled, stolen, or abandoned motor vehicle for hire within the County.

D. It shall be unlawful for any person, partnership, corporation, or business entity to tow or move a wrecked, disabled, stolen, or abandoned motor vehicle for hire within Nassau County when such person or entity:

1. Uses vehicles or equipment that does not meet the classifications and criteria specified in this ordinance and Chapter 15B-9 of the Florida Administrative Code when towing or moving such motor vehicles; or
2. Does not otherwise first comply with all requirements of this ordinance.

SECTION 11. VENUE.

Venue for any legal or administrative action arising under this ordinance shall lie exclusively in Nassau County, Florida

SECTION 12. SEVERABILITY.

If any part of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render the remainder of this ordinance invalid or unconstitutional.

SECTION 13. EFFECTIVE DATE.

This ordinance shall be effective upon a certified copy being filed with the Florida Department of State.

DULY ADOPTED by the Board of County Commissioners of Nassau County, Florida this _____ day of _____, 2020.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA

DANIEL B. LEEPER
Its: Chairman

ATTEST AS TO CHAIRMAN'S SIGNATURE:

JOHN A. CRAWFORD
Its: Ex-Officio Clerk

Approved as to form by the Nassau County Attorney:

MICHAEL S. MULLIN