

ALACHUA COUNTY
BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 2023 -__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA; UPDATING A DEFINITION AND IMPOUNDMENT PROVISIONS TO BE CONSISTENT WITH STATE LAW; AMENDING AND CREATING A NEW SECTION 51.395 OF ALACHUA COUNTY CODE, PART II, TITLE 5, CHAPTER 51, ARTICLE II, TO ESTABLISH “MAXIMUM RATES FOR NON-CONSENT TOWING AND STORAGE”; PROVIDING FOR MODIFICATION AT PUBLIC HEARING; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Alachua County, Florida (“Board”) in Alachua County Code of Ordinances, Chapter 51, Article II adopted certain parking regulations and the Alachua County Comprehensive Parking Code; and

WHEREAS, Section 316.008(1), Florida Statutes, allows for a county to enact an ordinance providing fines for parking violations under Section 316.1955 and Section 316.1945, Florida Statutes; and

WHEREAS, Section 125.0103(1)(c), Florida Statutes, requires counties to establish maximum rates to be charged on the towing of vehicles from or immobilization of vehicles on private property, removal and storage of wrecked or disabled vehicles from an accident scene or 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; and

WHEREAS, it is further stated in Section 125.0103(1)(c), that the adoption and requirements of this Ordinance are not applicable in the limits of a municipality, if a municipality chooses to enact an ordinance establishing its own maximum rates for the towing or immobilization of vehicles or vessels; and

1 **WHEREAS**, this ordinance balances the towing business operations with the imposition
2 of towing and storage rates charged on the public; and

3 **WHEREAS**, this ordinance modifies the definition of a “vehicle” to be consistent with the
4 definition contained in Florida Uniform Traffic Control Law, Chapter 316, Florida Statutes; and

5 **WHEREAS**, the Board, after considering this ordinance at a duly noticed public meeting,
6 amends the reference Code sections and establishes the following maximum rates on the towing
7 of vehicles, as provided herein.

8 **NOW, THEREFORE, BE IT DULY ORDAINED BY THE BOARD OF COUNTY**
9 **COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AS FOLLOWS:**

10 SECTION 1. Amendment. Alachua County Code, Part II, Title 5, Chapter 51, Article II,
11 Division 2, Section 51.32 of the Alachua County Comprehensive Parking Code, titled
12 “Definitions” shall be amended to amend the following term. Unless referenced below, all other
13 provisions of and terms in Section 51.32 remain unchanged by this Ordinance.

14 *Vehicle* shall mean any device in, upon, or by which any person or property is or may
15 be transported or drawn upon a highway, ~~except devices moved by human power or~~
16 ~~except personal delivery devices, mobile carriers, and devices~~ used exclusively upon
17 stationary rails or tracks.

18 SECTION 2. Amendment. Alachua County Code, Part II, Title 5, Chapter 51, Article II,
19 Division 2, Section 51.39 of the Alachua County Comprehensive Parking Code, entitled
20 “Impoundment or immobilization of vehicles – Authorized; payment of costs” is amended and
21 retitled as follows:

22 **Sec. 51.39. - Impoundment or immobilization of vehicles—Authorized; payment of**
23 **costsfees and charges.**

24 (a) *Removal of illegally parked vehicles.*

25 (1) When any vehicle is parked or left standing in violation of this division on any
26 county or publicly owned property, including county streets, highways, roads,
27 right-of-ways, parks, alleys, parking lots, or any other premises of the county,
28 any law enforcement officer is authorized to cause ~~take possession of~~ such

1 vehicle ~~or vessel to be towed and to removed~~ such vehicle from such
2 property and to store and possess such vehicle in conformity with this section.

- 3 (2) The owner or lessee of real property, or any person authorized by the owner or
4 lessee, or any law enforcement officer after receiving a complaint from the
5 owner or lawful possessor of the real property, is authorized to cause any
6 vehicle or vessel parked on such property without her or his permission to be
7 towed or removed from the private property by a towing business, as provided
8 in F.S. 715.07. When any vehicle is parked or left standing in violation of this
9 division on any private property ("private property" meaning any commercial
10 property offering parking for the general public), any law enforcement officer
11 is authorized, after receiving a written complaint from the owner or lawful
12 possessor of such property, to store and possess such vehicle in conformity
13 with this section.

14 (b) *Immobilization of vehicles with three or more outstanding parking violations.*

- 15 (1) Any law enforcement officer who comes into contact with an unoccupied
16 parked ~~motor~~ vehicle, either on a public street or off-street parking facility,
17 which he or she reasonably believes to be a vehicle for which there are three
18 or more unpaid, recorded parking violations, is authorized to immobilize the
19 vehicle in the manner prescribed in subsection (b)(2).
20 (2) Immobilization of vehicles pursuant to subsection (b)(1) shall be
21 accomplished by means of a Denver boot or other nondestructive device
22 which prevents the vehicle from moving under its own power.

23 (c) *Impoundment of vehicles with five or more outstanding parking violations.*

- 24 (1) Any law enforcement officer who comes into contact with an unoccupied,
25 parked ~~motor~~ vehicle, either on a public street or off-street parking facility,
26 which he or she reasonably believes to be a vehicle for which there are five or
27 more unpaid, recorded parking violations, is authorized to impound the
28 vehicle in the manner prescribed in subsection (c)(2).
29 (2) Impoundment of vehicles pursuant to subsection (c)(1) shall be accomplished
30 by means of removal of the vehicle to the nearest facility or other place of
31 safety, or to a facility designated or maintained by the county.

- 32 (d) *Owner's responsibility for payment of ~~costs~~ fees and charges.* The cost of towing,
33 booting, or removing a vehicle impounded or immobilized under this section, and
34 the cost of storing the same or removing the immobilization device, shall be
35 chargeable against the owner and shall be a lien upon the vehicle. The owner of
36 the vehicle shall pay these charges and any outstanding administrative
37 delinquency or collection fees owed, which shall include any applicable charges
38 for certified mail and/or service of process, before the vehicle will be released.
39 Any entity or person engaged in the business of towing and storage services shall
40 not charge the owner in excess of the rates, fees and charges set by this chapter,
41 including any of those that may be set by the Board by way of a resolution.

SECTION 3. Inclusion and Amendment. Alachua County Code, Part II, Title 5, Chapter 51, Article II, Division 2, known as the Alachua County Comprehensive Parking Code, is hereby amended to include a new Section 51.395 to be entitled “Maximum Rates for Non-Consent Towing and Storage”, to be inserted after Sec. 51.39, and stating as follows:

Sec. 51.395. Maximum rates for non-consent towing and storage.

(a) The following maximum rates, applicable until the same are changed by resolution of the Board, are to be charged for nonconsensual towing on property when the point of origin of the tow is within the unincorporated area of Alachua County, and shall be assessed by vehicle type as follows. For purposes of this section, nonconsensual towing is the towing or immobilization of a vehicle or vessels on property without the consent of the vehicle owner or operator when such vehicle or vessel is parked or left on private property without authorization of the property owner, or is wrecked or disabled at an accident scene, or the owner or operator is incapacitated, unavailable, or leaves the arrangement for removal and storage to the law enforcement officer on scene, or otherwise does not consent to the removal of the vehicle or vessel.

(1) Class A Vehicles (gross vehicle weight through ten thousand (10,000) pounds or vehicle carrying a vessel fifteen (15) feet or less in height):

- a. Rotation Tow Base Rate\$150
- b. Private Property/Trespass Tow Base Rate.....\$160
- c. Mileage Rate in additional to Base Rate, per mile, charge upon hook-up.....\$6
- d. Hourly Rate, when unusual circumstances such as overturned or unusually positioned vehicle requiring a special apparatus for removal, per hour.....\$125
- e. Storage Fee (inside), per day.....\$40
- f. Storage Fee (outside), per day.....\$30

(2) Class B Vehicles (gross vehicle weight ten thousand one (10,001) pounds or more, but less than nineteen thousand five hundred (19,500) pounds or vehicle carrying a vessel more than fifteen (15) feet, but less than twenty-two (22) feet in length):

- a. Base Rate.....\$250
- b. Mileage Rate in additional to Base Rate, per mile, charge upon hook-up.....\$7
- c. Hourly Rate, port to port, when unusual circumstances such as overturned or unusually positioned vehicle requiring a special apparatus for removal, per hour.....\$250

- d. Storage Fee (outside or inside), per day.....\$50
- (3) Class C Vehicles (gross vehicle weight nineteen thousand five hundred (19,500) or more pounds, but less than twenty-five thousand (25,000) pounds or vehicle carrying a vessel more than twenty-two (22) feet in length):
- a. Base Rate.....\$650
- b. Hourly Rate, port to port, when unusual circumstances such as overturned or unusually positioned vehicle requiring a special apparatus for removal, per hour.....\$650
- c. Storage Fee (outside or inside), per day and per VIN number.....\$110
- (4) Class D Vehicles (gross weight more than twenty-five thousand (25,000) pounds):
- a. Base Rate.....\$500
- b. Hourly Rate, port to port, when unusual circumstances such as overturned or unusually positioned vehicle a requiring special apparatus for removal, per hour.....\$500
- c. Storage Fee (outside or inside), per day.....\$75
- (5) Rotator/50 Ton: Base Rate.....\$1,237.86; Hourly Rate, per hour.....\$1,237.86
- (c) Storage fees as set forth above may only be assessed after the initial six (6) hour period, beginning with the time the vehicle is delivered to the storage facility. Storage is based on a 24-hour day, each day starting at 12:01 a.m. After the initial six (6) hour period, the daily rate will apply and any fraction of a day will count as a full day.
- (d) An administrative fee in the amount of \$75 may be charged after the first forty-eight (48) hours of storage as long there is compliance with the requirements of F.S. § 713.78, as amended, plus the cost of lien notices, mailings and processing. An additional daily storage rate, as set forth above, may be charged for any vessel, trailer, or mobile item, whether motorized or not, which is mounted on wheels and attached to a towed vehicle.
- (e) The following maximum rates for the rendition of other wrecker services apply when the service is performed within an unincorporated area of Alachua County:
- (1) Removal of drive shaft.....hourly rate as set forth above on Class C.
- (2) Air hook-up.....hourly rate as set forth above.
- (3) Removal/pull axle.....hourly rate as set forth above.
- (4) Remove bumper.....hourly rate as set forth above.
- (5) Remove air foils.....hourly rate as set forth above.
- (6) Landoll trailer, semi, roll-back or drop back trailer or truck.....hourly rate as set forth above.
- (7) Air bags.....\$1,000 per hour, not to exceed \$10,000.
- (8) Crash wrap/tarpaulin coverage.....\$75 per window.

1 (9) A re-hook fee in the amount base rate for the class as set forth above may be
2 charged in the event a re-hook is requested by law enforcement or, in the event
3 of surrender of a vehicle or vessel to the owner or owner's representative, if
4 the towing company must use an apparatus or equipment. This re-hook fee will
5 not be charged if the vehicle can be driven or delivered under vehicle's own
6 power.

7 (10) An access fee, gate fee, or yard fee in the amount of \$100 per vehicle may be
8 charged for requests made by a vehicle's owner or the owner's legal
9 representative to have access to the vehicle, other than during normal business
10 hours, for the purposes of removing necessary personal property.

11 (11) The following fees may be charged for extra labor or manpower, per person:
12 if on scene: \$125/hour or if in the yard \$50/hour.

13 (12) Disposal Fee for hazardous waste, debris, and oil dry....prevailing rate.

14 (13) Any other rates not addressed herein may be modified or added from time to
15 time by a resolution adopted by the board of county commissioners.

16 (g) *Enforcement and Jurisdiction.* It shall be unlawful and a violation of this ordinance
17 for any operator, individual, company, or entity to impose rates, fees or charges in
18 excess of the maximum allowable rates established under this chapter. Law
19 enforcement officers and code enforcement officers may issue citations for
20 violations of any section of this division. The provision and fees set forth in Code
21 Section 51.47 are not applicable in the limits of a municipality, if such
22 municipality has chosen or later chooses to enact its own ordinance establishing
23 the maximum rates for the towing or immobilization of vehicles or vessels.

24 SECTION 4. Modification. It is the intent of the Board of County Commissioners that
25 the provisions of this ordinance may be modified as a result of considerations that may arise
26 during public hearings. Such modifications shall be incorporated into the final version of the
27 ordinance adopted by the Board and filed by the Clerk to the Board.

28 SECTION 5. Inclusion in the Code. It is the intent of the Board of County Commissioners
29 of Alachua County, Florida, and it is hereby provided that the provisions of this ordinance shall
30 become and be made a part of the Code of Ordinances of Alachua County, Florida; that the section
31 of this ordinance may be renumbered or re-lettered to accomplish such intent and that the word
32 "ordinance" may be changed to "section", "article", or other appropriate designation.

33 SECTION 6. Severability. If any word, phrase, clause, paragraph, section or provision of
34 this ordinance or the application hereof to any person or circumstance is held invalid or

1 unconstitutional, such finding shall not affect the other provisions or applications of the ordinance
2 which can be given effect without the invalid or unconstitutional provisions or application, and to
3 this end the provisions of this ordinance are declared severable.

4 SECTION 7. Effective Date. A certified copy of this ordinance shall be filed with the
5 Department of State by the Clerk of the Board within ten (10) days after enactment by the Board
6 and shall take effect upon filing with the Department of State.

7
8 **DULY ADOPTED** in regular session, this ____ day of _____, 2023.

9
10 **BOARD OF COUNTY COMMISSIONERS OF**
11 **ALACHUA COUNTY, FLORIDA**

12 ATTEST:

13
14
15 _____
16 J.K. "Jess" Irby, Esq.
17 Clerk
18

BY: _____
Anna Prizzia, Chair
Board of County Commissioners

APPROVED AS TO FORM

19 _____
20 County Attorney
21 (SEAL)