

R17-152

RESOLUTION

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RESOLUTION NO. R17-152

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY; PROVIDING FOR DEFINITIONS; PROVIDING FOR AN APPLICATION AND RENEWAL FEE STRUCTURE FOR TOWING AND/OR IMMOBILIZATION SERVICES; ESTABLISHING RATES; ESTABLISHING THE APPOINTMENT PROCESS FOR HEARING OFFICERS; ESTABLISHING THE JURISDICTION AND POWERS OF HEARING OFFICERS; PROVIDING AN EFFECTIVE DATE.

Upon motion by Commissioner Crist and seconded by Commissioner White the following resolution was adopted by a vote of 6 to 0 with Commissioner(s) _____ voting "No".

WHEREAS, the Hillsborough County Board of County Commissioners ("BOCC") has enacted the Hillsborough County Trespass Towing, Immobilization and Rates Ordinance (the "Ordinance") which requires any person who desires to engage in the business of providing towing and/or immobilization services as specified by the Ordinance to first obtain a certificate from the Agency in order to provide such services and a permit for each tow truck prior to operating as such; and

WHEREAS, the Ordinance also requires any person who desires to operate a tow truck to first obtain a public vehicle driver's license; and

WHEREAS, such certificates, permits and public vehicle driver's licenses must be renewed on an annual basis; and

WHEREAS, the Ordinance provides that applicants for new and renewal certificates, permits and public vehicle driver's licenses must pay a fee based on an application/renewal fee structure, which shall be established by and set forth in a resolution adopted by the BOCC; and

WHEREAS, the BOCC desires to establish application and renewal fees for certificates, permits and public vehicle driver's licenses; and

WHEREAS, the Ordinance requires towing and/or immobilization services to charge only those rates established by and set forth in a resolution adopted by the BOCC; and

WHEREAS, the BOCC desires to establish such rates that may be charged for the provision of towing and/or immobilization services; and

WHEREAS, the Ordinance provides that any applicant, whose application for a certificate, permit(s) and public vehicle driver's license has been denied or the certificate holder or public vehicle driver's licensee, whose certificate, permit(s) or public vehicle driver's license, has been suspended or revoked, has the opportunity to exercise his or her right to contest such denial, suspension or revocation before a Hearing Officer; and

WHEREAS, the Ordinance provides that such Hearing Officers shall be appointed pursuant to the provisions of, and shall have all of the powers ascribed to them, in a resolution adopted by the BOCC; and

WHEREAS, the BOCC desires to establish procedures applicable to the appointment of Hearing Officers and jurisdiction and powers of Hearing Officers.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, AT A REGULAR MEETING ASSEMBLED THIS 6TH DAY OF DECEMBER, 2017:

1. **DEFINITIONS.** Any term used in this Resolution which is defined in the Ordinance shall have the same meaning given to it in the Ordinance.
2. **FEES.**
 - A. The nonrefundable application and renewal fee for a certificate is \$300.00.
 - B. The nonrefundable application and renewal fee for a permit is \$150.00. The nonrefundable application fee for a temporary permit is \$50.00.
 - C. The nonrefundable application and renewal fee for a public vehicle driver's license is \$65.00.
 - D. The administrative fee for a replacement public vehicle driver's license is \$35.00.
 - E. The administrative fee for changes made to certificate, permit and public vehicle driver's license records is \$6.25.
 - F. A late fee of \$25.00 may be charged by the Agency for renewals of certificates, permits and public vehicle driver's licenses which are applied for more than thirty (30) days after the expiration date.
3. **RATES.** The maximum rates that may be charged for non-consensual and trespass towing and storage of a vehicle and for immobilizations shall be as follows:
 - A. For Class A vehicles, which are defined as vehicles, which are the subject of a tow or immobilization, whose gross weight is up to and including 10,000 pounds or for tows of vessels which are 15 feet or less in length:
 1. For a non-consensual or trespass tow, a maximum flat rate of \$125.00 may be charged.
 2. In addition to the flat rate specified above, the towing service may charge for mileage at a maximum rate of \$5.00 per mile, not to exceed ten miles, for towing from the point of removal to the storage facility, for a trespass tow.

3. In addition to the flat rate specified above, the towing service may charge for mileage at a maximum rate of \$5.00 per mile for towing from the point of removal to the storage facility, for a non-consensual tow.
 4. For non-consensual tows that extend beyond the initial thirty (30) minutes at the scene, in addition to the flat rate, the towing service may charge the maximum rate of \$20.00 per fifteen (15) minute block thereafter.
 5. A towing service may charge a maximum daily storage rate of \$25.00 for non-consensual and trespass tows.
 6. For tows that required inordinate labor, winching and recovery, when necessary, for extrication of passenger vehicles from ditches, half-submerged vehicles or off road, the towing service may charge the maximum rate of \$100.00 per hour, calculated in one-half (1/2) hour increments, provided that a fee not to exceed \$50.00 may be imposed for the first one-half (1/2) hour or portion thereof.
 7. For an immobilization, a maximum flat rate of \$35.00 may be charged.
- B. For Class B vehicles, which are defined as vehicles which are the subject of a tow or immobilization, whose gross weight is 10,001 pounds to and including 16,000 pounds or for tows of vessels more than 15 feet but less than 22 feet in length:
1. For a non-consensual or trespass tow, a maximum flat rate of \$160.00 may be charged.
 2. In addition to the flat rate specified above, the towing service may charge for mileage at a maximum rate of \$5.00 per mile, not to exceed ten miles, for towing from the point of removal to the storage facility, for a trespass tow.
 3. In addition to the flat rate specified above, the towing service may charge for mileage at a maximum rate of \$5.00 per mile for towing from the point of removal to the storage facility, for a non-consensual tow.
 4. For non-consensual tows that extend beyond the initial thirty (30) minutes at the scene, in addition to the flat rate, the towing service may charge the maximum rate of \$31.25 per fifteen (15) minute block thereafter.
 5. For tows that required inordinate labor, winching and recovery, when necessary, for extrication of passenger vehicles from ditches, half-submerged vehicles or off road, the towing service may charge the maximum rate of \$125.00 per hour, calculated in one-half (1/2) hour increments, provided that a fee not to exceed \$62.50 may be imposed for the first one-half (1/2) hour or portion thereof.
 6. A towing service may charge a maximum daily storage rate of \$35.00 for non-consensual and trespass tows.

7. For an immobilization, a maximum flat rate of \$35.00 may be charged.
- C. For Class C vehicles, which are defined as vehicles, which are the subject of a tow, whose gross weight is 16,001 or more pounds or for tows of vessels more than 22 feet in length:
1. For a non-consensual or trespass tow, a maximum flat rate of \$350.00 may be charged.
 2. In addition to the flat rate specified above, the towing service may charge for mileage at a maximum rate of \$6.00 per mile, not to exceed ten miles, for towing from the point of removal to the storage facility, for a trespass tow.
 3. In addition to the flat rate specified above, the towing service may charge for mileage at a maximum rate of \$6.00 per mile for towing from the point of removal to the storage facility, for a non-consensual tow.
 4. For non-consensual tows that extend beyond the initial thirty (30) minutes at the scene, in addition to the flat rate, the towing service may charge the maximum rate of \$50.00 per fifteen (15) minute block thereafter.
 5. A towing service may charge a maximum daily storage rate of \$55.00 for non-consensual and trespass tows.
 6. For tows that required inordinate labor, winching and recovery, when necessary, for extrication of passenger vehicles from ditches, half-submerged vehicles or off road, the towing service may charge the maximum rate of \$275.00 per hour, calculated in one-half (1/2) hour increments, provided that a fee not to exceed \$137.50 may be imposed for the first one-half (1/2) hour or portion thereof.
 7. For immobilization, a maximum flat rate of \$35.00 may be charged.
- D. There shall be no additional charges or fees for use of a Go-Jak or dollies utilized to tow vehicles.
- E. Storage fees specified above shall only be assessed after the first six hours, beginning from the time the vehicle is delivered to the storage facility and will accrue at a rate of a fee for each calendar day thereafter.
- F. The filing and processing of a lien notice, pursuant to Section 713.78, Florida Statutes, shall not exceed \$75.00 per vehicle towed. A filing and processing fee shall only be charged if the towing service has complied with the requirements of Section 713.78, Florida Statutes.
- G. A towing service may charge a fee not to exceed \$15.00 when the towing service reasonably finds it necessary to install and maintain a tarpaulin coverage on any

stored vehicle in order to protect the interior accessories or upholstery of such vehicle from damage by inclement weather.

H. When vehicles or vessels are requested to be released after hours or on days in which operations of a towing and/or immobilization service are closed as allowed by the Trespass Towing, Immobilization and Rates Ordinance, a towing and/or immobilization service may charge a service charge not to exceed \$50.00 to open for purposes of releasing the vehicle or vessel. If a towing and/or immobilization service is open for normal business hours on a Sunday or holiday, the \$50.00 fee shall not be assessed, except in the case of nonconsensual towing. In the case of non-consensual towing, a towing and/or immobilization service may charge the \$50.00 fee but only if three (3) hours have passed since the towing and/or immobilization service notified local law enforcement **and** the owner or agent of the vehicle or vessel had contacted the towing and/or immobilization service before 8:00 a.m. Upon agreement of the towing and/or immobilization service and the vehicle owner or agent, the time for release may be extended for up to eighteen (18) hours from the time the request is made with no additional fee charged. No additional storage or lien notice charges shall be assessed under the eighteen (18) hour extension provision once agreement has been reached. The only charges due shall be those that were actually due at the time the eighteen (18) hour extension was requested. All storage and recovery charges shall be payable prior to release of the vehicle or vessel.

4. **APPOINTMENT OF HEARING OFFICERS.** The appointment of Hearing Officers to hear and decide administrative reviews pursuant to the Vehicle for Hire Ordinance shall be made in accordance with the following procedures:

- A. The appointment of Hearing Officers shall be made by the County Administrator. The County Administrator shall determine the requisite number of Hearing Officers.
- B. The County Administrator may appoint any existing Hearing Officer to consider matters related to this Ordinance if he or she was previously chosen by County Administrator appointment to serve as Hearing Officer during proceedings pursuant to one or more other County ordinances.
- C. To be eligible for appointment as a Hearing Officer, applicants must be members in good standing with The Florida Bar who are not employees of the County.
- D. Each Hearing Officer shall be appointed for an initial three-year term and may be reappointed for one additional consecutive renewal term. The first year of a Hearing Officer's term shall commence on the date of the initial appointment by the County Administrator and each subsequent term year shall commence on the anniversary of the initial appointment date. If a Hearing Officer is re-appointed, the renewal term shall also commence on the anniversary of the initial appointment date, irrespective, of the date of re-appointment by the County Administrator. Notwithstanding the foregoing, a Hearing Officer shall continue to serve in such capacity beyond the expiration date of such Hearing Officer's initial term or renewal term until such time as the Hearing Officer resigns, the Hearing Officer is removed by the County Administrator, the County Administrator appoints a

replacement, or the Hearing Officer is re-appointed by the County Administrator for a renewal term as provided above, whichever occurs first.

- E. Hearing Officers may be removed by the County Administrator for: suspension or loss of the Hearing Officer's license to practice law issued by The Florida Bar; failure to appear at a hearing, unless such failure is due to an emergency; excessive conflicts; or excessive unavailability. The Department shall advise the County Administrator if any of the circumstances giving rise to removal of a Hearing Officer have occurred.
- F. Hearing Officers appointed pursuant to the Ordinance and this Resolution may be reasonably compensated as authorized by the County Administrator in an Administrative Directive.

5. **JURISDICTION AND POWERS OF HEARING OFFICERS.**

- A. Hearing Officers shall have jurisdiction to hear and decide administrative reviews pursuant to the Ordinance.
- B. Hearing Officers shall have the power to:
 - 1. Issue subpoenas to witnesses to appear at hearings;
 - 2. Subpoena written documents in connection with hearings;
 - 3. Take testimony under oath;
 - 4. Question witnesses at a hearing;
 - 5. Continue, reschedule and/or stay hearings;
 - 6. Conduct a hearing despite a party's absence, if the party has been noticed as provided for in the Ordinance; and
 - 7. Issue findings of fact and conclusions of law.

6. **EFFECTIVE DATE.** This Resolution shall become effective on the date of adoption.

PASSED AND ADOPTED this 6th day of December, 2017.

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)

I, Pat Frank, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioner of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct of a Resolution adopted by the Board at its regular meeting December 6, 2017 as the same appears of record in Minute Book 499 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 12th day of December, 2017.

ATTEST: PAT FRANK
Clerk of Circuit Court

BY: Micah K. Dit
Deputy Clerk



APPROVED BY COUNTY ATTORNEY
AS TO FORM AND LEGAL SUFFICIENCY

BY: Cynthia S. Oster
Cynthia S. Oster, Sr. Assistant County Attorney