

Removed

2725 Judge Fran Jamieson
Way
Viera, FL 32940



Agenda Report

Unfinished Business

I.1.

10/25/2022

Subject:

Legislative intent and permission to advertise an amendment to the Brevard County Code of Ordinances modifying Chapter 106, Brevard County Code, setting maximum rates for towing services, providing for a customer bill of rights, and establishing a wrecker operator rotation system.

Fiscal Impact:

None.

Dept/Office:

District Commissioner 4 Office

Requested Action:

It is requested that the Board of County Commissioners authorize legislative intent and permission to advertise an ordinance amending Chapter 106 of the Brevard County Code. This amended ordinance sets new maximum rates for towing services and will replace Resolution No. 2008-150, the current Towing Rate resolution. The amended ordinance also provides for a customer bill of rights, and establishes a wrecker operator rotation system.

Summary Explanation and Background:

Section 106-5 of the Brevard County Code of Ordinances authorizes the establishment of fees to be charged by any towing company operating within the entire area of Brevard County. Previously, these maximum fees have been set via resolution. The last time the maximum fees were changed was in 2008 when the Board of County Commissioners adopted Resolution No. 2008-150. Although Resolution 2008-150 provided for a possible increase in rates as approved by the Board of County Commissioners, the rates have never been increased since 2008.

The amended ordinance sets new maximum rates for towing services and allows for transparency by making the rate schedule more easily accessible for public viewing. The amended ordinance provides for a customer bill of rights, and establishes a wrecker operator rotation system.

Clerk to the Board Instructions:

ORDINANCE NO. 2022-_____

AN ORDINANCE AMENDING BREVARD COUNTY CODE OF ORDINANCES CHAPTER 106 TRAFFIC AND VEHICLES; AMENDING ARTICLE I. IN GENERAL.; AMENDING SECTION 106-1. DEFINITIONS; AMENDING SECTION 106-5. WRECKER AND TOWING SERVICES, VEHICLE REDEMPTION, MAXIMUM FEES; FURTHER AMENDING ARTICLE I. IN GENERAL. IN ORDER TO RENUMBER PREEXISTING SECTION 106-6 TO SECTION 106-9, TO RENUMBER PREEXISTING SECTION 106-7 TO SECTION 106-10, TO ESTABLISH NEW SECTIONS 106-4 AND 106-6 THROUGH 106-9, AND TO ENHANCE ACCESSIBILITY; AND PROVIDING FOR SCOPE, AREA ENCOMPASSED, ENFORCEMENT, CONFLICTING PROVISIONS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, numerous firms and persons in Brevard 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, Brevard 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(c), Florida Statutes, if a municipality chooses to enact an ordinance establishing the maximum rates for the non-consensual towing or immobilization of vehicles or vessels, Brevard County's ordinance shall not apply within such municipality; and

WHEREAS, Brevard County last updated the maximum rates charged for non-consensual towing or immobilization of vehicles or vessels on July 29, 2008, by Resolution 2008-150; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, now desires to update and set forth the schedule of fees and regulations as set forth herein; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida seeks to codify the schedule of fees in the Brevard County Code of Ordinances so that they are more accessible to the public; and

WHEREAS, pursuant to section 323.002, Brevard County is authorized to establish a wrecker operator system for the towing or removal of wrecked, disabled, or abandoned vehicles within its jurisdiction; and

WHEREAS, the Board of County Commissioners desires to establish a wrecker operator system and designate the Brevard County Sheriff's Office to administer the wrecker operator system through contracts with authorized wrecker operators; and

WHEREAS, the Board of County Commissioners further desires to amend the Code of Ordinances to facilitate access to individuals with disabilities by spelling out abbreviations and acronyms such as "§" to section and "F.S." to Florida Statutes; and

WHEREAS, the Board of County Commissioners has determined that the proposed amendment serves the public health, safety and welfare of the citizens of Brevard County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Underline indicates additions.

~~Strike-through indicates deletions.~~

SECTION 1. RECITALS. The foregoing recitals are true and correct and are incorporated by reference into this Ordinance.

SECTION 2. Brevard County Code of Ordinances Chapter 106, Article I, Section 106-1 entitled "Definitions" is hereby amended to read as follows:

Section 106-1. Definitions.

The definitions applicable to ~~F.S. ch. 316~~chapter 316, Florida Statutes apply to this chapter. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Arterial road has the same definition as found in ~~F.S. ch. 334~~chapter 334, Florida Statutes, as amended from time to time, but means a route providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. In addition, every United States numbered highway is an arterial road.

Authorized wrecker operator means any wrecker operator who has been designated by the Brevard County Sheriff's Office as part of the Brevard County wrecker operator system.

Board means the Board of County Commissioners of Brevard County, Florida.

County means Brevard County, Florida.

Collector road has the same definition as found in ~~F.S. ch. 334~~chapter 334, Florida Statutes as amended from time to time, but means a route providing service which is of

relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. Such a route also collects and distributes traffic between local roads or arterial roads and serves as a linkage between land access and mobility needs.

Crosswalk has the same definition as found in ~~F.S. ch. 334~~ chapter 334, Florida Statutes, as amended from time to time, but means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway, measured from the curbs or, in the absence of curbs from the edges of the traversable roadway. This includes any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface. This definition is as may be amended from time to time.

Designated parking space means any parking space posted with a sign bearing the international symbol of accessibility or the caption "PARKING BY DISABLED PERMIT ONLY," or bearing both such symbol and caption.

Disabled person means any person with severe physical disability and having temporary or permanent mobility problems that substantially impair their ability to ambulate and who has been issued either a parking permit under ~~F.S. § 316.1958 or § 320.0848~~ or a license plate under ~~F.S. § 320.084, § 320.0842, § 320.0843 or § 320.0845~~ sections 316.1958 or 320.0848, Florida Statutes or a license plate under sections 320.084, 320.0842, 320.0843, or 320.0845, Florida Statutes.

Median means paved or landscaped areas in the middle of roadways that separate motor vehicle traffic traveling in opposite directions.

Motor vehicle has the same definition as found in ~~F.S. ch. 316~~ chapter 316, Florida Statutes, as amended from time to time, but means a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistive device, personal delivery device, swamp buggy, or moped.

Obstruct traffic means to walk, stand, sit, lie, or place any object or oneself in such a manner as to block the normal passage of another person or a vehicle, or to require another person or driver of a vehicle to take evasive action to avoid physical contact.

Official signs means any sign which is placed or erected by the authority of a public body having jurisdiction for the purpose of regulating traffic or parking.

Off-ramp of Interstate 95 means the pavement constituting any marked exit from Interstate 95 by which vehicles leave the interstate, and includes a 150-foot setback buffer measured from the edge of pavement.

On-ramp of Interstate 95 means the pavement providing access to Interstate 95 and includes a 150-foot setback buffer as measured from the edge of pavement.

Pedestrian has the same definition as found in ~~F.S. ch. 316~~ chapter 316, Florida Statutes, as amended from time to time, but means any person afoot.

Person has the same definition as found in ~~F.S. ch. 316~~ chapter 316, Florida Statutes, as amended from time to time, but means any natural person, firm, co-partnership, association, corporation, or any other legal entity.

Public parking space means any parking space on private property which the owner, lessee, or person in control of such property provides for use by members of the public other than employees of such owner, lessee or person, including, but not limited to, parking spaces at shopping centers, stores, offices, motels, malls, restaurants and marinas.

Public street means all portions of any public roadway normally available for use by motor vehicles, including turn lanes, marked bicycle lanes, and emergency stopping lanes, as well as all crosswalks, medians or traffic islands within such roadways. Public street shall not include sidewalks or other areas adjacent to the roadway.

Sidewalk has the same definition as found in ~~F.S. ch. 316~~ chapter 316, Florida Statutes, as amended from time to time, but means the portion of a street between the curbline, or the lateral line, and the adjacent property lines, intended for use by pedestrians.

Street or highway has the same definition as found in ~~F.S. ch. 316~~ chapter 316, Florida Statutes, as amended from time to time, but means the entire width between the boundary lines of every way or place of whatever nature when any part thereof is open to the use of the public for purposes of vehicular traffic.

Traveled portion includes travel lanes, turn lanes, and other portions of the public streets that are generally used for motor vehicle travel.

Vehicle has the same definition as found in ~~F.S. ch. 316~~ chapter 316, Florida Statutes, as amended from time to time, but means every device in, upon, or by which any person or property is, or may be, transported upon a public street, bicycle path or lane, or entrance or exit ramp of interstate highways, including, but not limited to, cars, trucks, semi-trucks, vans, buses, motorcycles, mopeds, bicycles, and scooters.

Vessel has the same definition as found in chapter 715, Florida Statutes, as amended from time to time, but means every description of watercraft, barge, and airboat used or capable of being used as a means of transportation on water, other than a seaplane or a "documented vessel" as defined in section 327.02, Florida Statutes.

SECTION 3. A new section 106-4, Brevard County Code of Ordinances, is hereby created to read as follows:

Section 106-4 Scope of Article.

- (a) The provisions of this article and the relevant Florida Statutes shall be the exclusive regulations applicable to non-consensual towing, recovery, and removal of vehicles and vessels in Brevard County and all storage provided therewith. This article shall be applicable in both the unincorporated and incorporated areas, except that this article shall not apply in any municipality that has adopted and maintains in effect ordinances or regulations governing the same matters.
- (b) Nothing in this article shall be construed to prohibit the discharge or storage of a vehicle or vessel lawfully recovered, towed, or removed in another county and lawfully transported into Brevard County.

SECTION 4. Section 106-5 entitled "Wrecker and towing services, vehicles redemption, maximum fees" is hereby amended to read as follows:

Section 106-5. Wrecker and towing services, vehicle redemption, maximum feesrates.

- (a) ~~The board of county commissioners shall establish by resolution~~ hereby establishes the maximum fees rates as set forth below which may be charged on the non-consensual towing of vehicles or vessels from or immobilization of vehicles or vessels on public or private property, removal and storage of wrecked or disabled vehicles or vessels from an accident scene or for the removal and storage of vehicles or vessels, 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 or vessel. Such resolution may be amended from time to time, as required, to maintain maximum fees which are consistent with wrecking and towing services charged within the entire area of the county. For purposes of this section, non-consensual towing on public property means the (a) towing of vehicles from public property, (b) immobilization of vehicles on public property, (c) removal and storage of wrecked or disabled vehicles from an accident scene, and/or (d) 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. For purposes of this section, non-consensual towing of a vehicle on private property means the towing or immobilization of a vehicle on private property without consent of the vehicle owner where such vehicle is parked or left on private real property without authorization of the property owner.

(1) The established and adopted maximum rates for the non-consensual towing of vehicles and vessels on public or private property are set forth as follows:

CLASS "A" VEHICLES

The removal of a vehicle with a gross vehicle weight less than or equal to 10,000

pounds or the removal of a vehicle carrying a vessel 15 feet or less in length.

<u>Maximum base rate</u>	<u>\$150.23</u>
<u>Mileage rate, per mile charge upon hook-up</u>	<u>\$ 4.10</u>
<u>Fuel surcharge (per mile)</u>	<u>\$ 0.66</u>
<u>Hourly rate (for waiting or working time on scene after first thirty (30) minutes (billed by one-quarter hour)</u>	<u>\$ 99.05</u>
<u>Daily outside storage</u>	<u>\$ 29.98</u>
<u>Daily inside storage</u>	<u>\$ 37.52</u>
<u>Tarping (per tarp, size 8' x 10')</u>	<u>\$ 22.50</u>
<u>Extra manpower</u>	<u>\$ 67.53</u>
<u>Service call not involving an actual tow</u>	<u>\$ 67.53</u>

CLASS "B" VEHICLES

The removal of a vehicle with a gross vehicle weight of 10,001 pounds to 20,000 pounds or the removal of a vehicle carrying a vessel more than 15 feet but less than 22 feet in length.

<u>Maximum base rate</u>	<u>\$262.64</u>
<u>Mileage rate, per mile charge upon hook-up</u>	<u>\$ 5.22</u>
<u>Fuel surcharge (per mile)</u>	<u>\$ 0.66</u>
<u>Hourly rate (for waiting or working time on scene after first thirty (30) minutes (billed by one-quarter hour)</u>	<u>\$225.13</u>
<u>Daily outside storage</u>	<u>\$ 42.00</u>
<u>Daily inside storage</u>	<u>\$ 44.99</u>
<u>Tarping (per tarp, size 8' x 10')</u>	<u>\$ 22.50</u>
<u>Extra manpower</u>	<u>\$ 112.57</u>
<u>Service call not involving an actual tow</u>	<u>\$ 97.54</u>

CLASS "C" VEHICLES

The removal of a vehicle with a gross vehicle weight of 20,001 pounds or more but less than or equal to 100,000 pounds or the removal of a vehicle carrying a vessel more than 22 feet in length.

<u>Maximum base rate</u>	<u>\$397.69</u>
<u>Mileage rate, per mile charge upon hook-up</u>	<u>\$ 7.06</u>
<u>Fuel surcharge (per mile)</u>	<u>\$ 0.66</u>
<u>Hourly rate (for waiting or working time on scene after first thirty (30) minutes (billed by one-quarter hour)</u>	<u>\$329.92</u>
<u>Daily outside storage</u>	<u>\$ 86.88</u>
<u>Daily inside storage</u>	<u>\$ 70.52</u>
<u>Tarping (per tarp, size 8' x 10')</u>	<u>\$ 22.50</u>

<u>Extra manpower</u>	<u>\$ 120.03</u>
<u>Service call not involving an actual tow</u>	<u>\$ 127.57</u>

CLASS "D" VEHICLES

The removal of a vehicle with a gross vehicle weight of 100,001 pounds or more (Truck tractor and semi-trailer considered one vehicle unless required to tow separately).

<u>Maximum base rate</u>	<u>\$600.36</u>
<u>Mileage rate, per mile charge upon hook-up</u>	<u>\$ 8.97</u>
<u>Fuel surcharge (per mile)</u>	<u>\$ 0.66</u>
<u>Hourly rate (for waiting or working time on scene after first thirty (30) minutes (billed by one-quarter hour)</u>	<u>\$519.31</u>
<u>Daily outside storage</u>	<u>\$ 90.02</u>
<u>Daily inside storage</u>	<u>\$ 90.02</u>
<u>Tarping (per tarp, size 8' x 10')</u>	<u>\$ 22.50</u>
<u>Extra manpower</u>	<u>\$ 120.04</u>
<u>Service call not involving an actual tow</u>	<u>\$ 127.57</u>

(2) Towing of public entity vehicles.

- a. A \$150.00 maximum rate shall be established for the towing of the following vehicles weighing 26,000 pounds or less: vehicles owned or operated by law enforcement on official business; vehicles seized, confiscated, or held for evidentiary purposes by law enforcement; and vehicles owned or operated by Brevard County or a municipality within Brevard County on official business. In these instances, no other charges shall apply.
- b. A \$300.00 maximum rate shall be established for the towing of the following vehicles weighing 26,001 pounds or more: vehicles owned or operated by law enforcement on official business; vehicles seized, confiscated, or held for evidentiary purposes by law enforcement; and vehicles owned or operated by Brevard County or a municipality within Brevard County on official business. In these instances, no other charges shall apply.

(3) Separate charges. The following separate charges may only be charged for Class B, C, and D vehicles.

<u>a. Removal of drive shaft</u>	<u>\$ 37.86</u>
<u>b. Air hook-up</u>	<u>\$ 37.86</u>
<u>c. Remove/pull axle</u>	<u>\$ 37.86</u>
<u>d. Remove bumper</u>	<u>\$ 37.86</u>

e. Remove air foils	\$ 37.86
f. Landoll trailer, semi, roll-back or drop back trailer or truck	\$262.64
g. Air bags (per hour – 4 hours minimum)	\$525.31

- (4) Storage fees. Pursuant to section 713.78, Florida Statutes, as amended from time to time, a storage fee shall not be charged if the vehicle is stored for fewer than six (6) hours. Storage fees shall be charged in twenty-four (24) hour increments and not in calendar days.
- (5) Service call-out. When a law enforcement agency requests a wrecker for a non-consensual tow and the tow truck operator is able to make repairs at the scene, making the vehicle drivable and not requiring the vehicle to be towed, the tow truck operator shall be entitled to charge the applicable service fee, plus labor and parts, if any.
- (6) Hourly rate for bona-fide extra equipment/labor time. When special circumstances have arisen, the amount of time that is reasonably needed above and beyond the initial thirty (30) minutes at the scene to safely effect the removal of a vehicle or its load from the scene of an accident or other incident requiring a tow. All special circumstances requiring additional equipment or time must be approved by the officer at the scene. Travel time shall not be included. Hourly rates may not be assessed for non-consensual towing of vehicles on private property.
- (7) Bona-fide waiting time. The actual time at the site of the vehicle to be towed consistent with the directions received to arrive at the scene and during which time the presence of the towing service has been requested, but, due to circumstances beyond the control of the towing service, work can not diligently commence to the vehicle. Travel time shall not be included. Waiting time may not be assessed for non-consensual towing of vehicles on private property.
- (8) Mileage rates. Mileage rates apply to miles traveled to and from the point of pickup. Mileage rates may not be assessed for non-consensual towing of vehicles on private property.
- (9) Access fee. An access fee, gate fee, or yard fee in the amount of \$69.75 may be charged for requests made by an owner or owner's legal representative to have access to the vehicle, other than during normal business hours, for the purpose of removing necessary personal property.
- (10) Administrative fee. A maximum of \$30.00 may be charged to the owner/driver of a vehicle towed or stored for the preparation, filing, or mailing of any forms required by Florida Statutes or local ordinance, if a vehicle is in storage for more than 24 hours. This paragraph does not apply to any action initiated by a wrecker operator to foreclose a lien recognized by Florida law. An additional \$37.13 only may be charged

if the wrecker operator has actually complied fully with all of the requirements of section 713.78, Florida Statutes, and shall apply only after 48 hours.

(11)Automatic rate adjustments. Effective January 1, 2023 and on January 1 of each subsequent year thereafter, the maximum rates established herein shall be automatically 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 twelve (12) months (December to December) or 3%, whichever is lower.

- (b) ~~Any vehicle removed and stored as a result of a nonconsensual tow from private property or where the owner or operator is incapacitated, unavailable or otherwise does not consent to the removal of the vehicle shall be released within one hour of a request to redeem the vehicle by the vehicle owner or authorized driver/agent per F.S. § 713.78. Tow truck companies who provide services pursuant to this section shall have posted prominently on the exterior of the storage facility and place of business, if different, a notice indicating a telephone number where the tow company can be reached at all times. This paragraph does not apply to removal and storage of wrecked or disabled vehicles from an accident scene. Pursuant to section 715.07, Florida Statutes, any vehicle or vessel towed or removed from private property without the consent of the registered owner or other legally authorized person in control of that vehicle or vessel, must be stored at a site within a 10-mile radius of the point of removal. In the event no towing business providing such service is located within the 10-mile radius, then any towed or removed vehicle or vessel must be stored at a site within a 20-mile radius of the point of removal. The storage site must be open for the purpose of redemption of vehicles on any day that the person or firm towing such is open for towing purposes, from 8:00 a.m. to 6:00 p.m., and when closed, shall have prominently posted a sign indicating a telephone number where the operator of the site can be reached for vehicle redemption at all times. Upon receipt of a telephoned request to open the site to redeem a vehicle or vessel, the towing business shall have personnel return to the site within one hour.~~
- (c) ~~It shall be unlawful for any person to charge more than the maximum rate established by the county. Any person or tow company firm that charges more than the maximum rate established by resolution or fails to release the vehicle within one hour of a request pursuant to paragraph (2) of this section violates this section and is guilty of a violation, to be prosecuted in the same manner as misdemeanors are prosecuted and punishable as provided in F.S. § 125.69. Such violations shall be prosecuted in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction shall be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail not to exceed 60 days or by both such fine and imprisonment. Appropriate state, county or municipal law enforcement officers shall have authority to enforce the provisions of this section. Any person or firm providing towing services shall remove and clean up from~~

any street or highway any glass, debris, or other injurious substance deposited upon the street or highway from any wrecked, damaged, or disabled vehicle. Upon notification from a law enforcement agency that a site was not adequately cleaned up, the person or firm that performed the subject towing service shall promptly dispatch to clean the site.

SECTION 5. Preexisting Section 106-6, Brevard County Code of Ordinances, entitled "Emergency services limited access roadway obstructions at railway crossings" is hereby renumbered to Section 106-8.

Section 106-69. Emergency services limited access roadway obstructions at railway crossings.

[The remainder of this Section shall remain as previously adopted.]

SECTION 6. Preexisting Section 106-7, Brevard County Code of Ordinances, entitled "Operation of an ATV on certain roadways" is hereby renumbered to Section 106-10.

Section 106-710. Operation of an ATV on certain roadways

(a) *Definition.*

ATV means any motorized off-highway or all-terrain vehicle 50 inches or less in width, having a dry weight of 900 pounds or less, designed to travel on three or more low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control, and intended for use by a single operator and with no passenger, as provided by F.S. § section 317.0003(1), Florida Statutes.

(b) *Exemption.* Pursuant to F.S. § section 316.2123(2), Florida Statutes, the county hereby exempts itself from F.S. § section 316.2123(1), Florida Statutes, which otherwise allows the operation of ATVs during the daytime on certain unpaved roadways where the posted speed limit is less than 35 miles per hour.

SECTION 7. A new section 106-6, Brevard County Code of Ordinances, is hereby created to read as follows:

Section 106-6. Display of rate schedule and Customer Bill of Rights.

(a) Persons or firms that provide towing services pursuant to this article shall display prominently at each storage facility their rate schedule. The rate schedule shall be posted prominently in the area designated for the vehicle or vessel owner or authorized driver or agent to redeem vehicles and transact business. Such area shall provide shelter, safety, and lighting adequate for the vehicle or vessel owner or authorized driver or agent to read the posted rate schedule. Further, notice shall be posted advising the vehicle or vessel owner or authorized driver or agent of the right to request and review a complete copy of the maximum rate schedule as established in section 106-5, Brevard County Code of Ordinances.

- (b) Customer Bill of Rights. Persons or firms that provide towing services pursuant to this article shall display prominently both indoors and outside the entrance at each storage facility a Customer Bill of Rights which shall include the following:
1. The current schedule of maximum rates as established in section 106-5, Brevard County Code of Ordinances.
 2. The normal business hours of the storage facility.
 3. The customer's right to retrieve a towed vehicle, even outside of normal business hours, within 1 hour of a telephone request to the towing company to open the site for retrieval pursuant to section 715.07, Florida Statutes, as may be amended, along with a telephone number at which the towing operator can be reached for such purpose at any time.
 4. A detailed receipt shall be issued to the payer at the time of the payment of fees, which shall specify the class of the vehicle towed and which shall itemize all separate charges, to include storage fees, mileage charges, and additional hourly costs.
- (c) If a towing company has a web site and/or social media presence, the Customer Bill of Rights including the current Schedule of Fees shall be published on the web site and/or social media in a location that is accessible for public view.

SECTION 8. A new section 106-7, Brevard County Code of Ordinances, is hereby created to read as follows:

Section 106-7. – Enforcement.

- (a) All consumer complaints directed to Brevard County concerning charges which exceed the maximum rates, failure to release a vehicle within one hour of a request, or other violations of this article or applicable state law governing towing services shall be referred to the law enforcement agency having jurisdiction for investigation and resolution.
- (b) The failure of a storage site operator to return to the site within one hour of receiving a telephoned request to redeem a vehicle or vessel constitutes a violation of section 715.07, Florida Statutes, as may be amended, and a felony of the third degree, punishable as provided in sections 775.082, 775.083, or 775.084, Florida Statutes.
- (c) It shall be unlawful for any person or firm to charge more than the maximum rates for towing services established by the county. Any person or firm that charges more than the maximum rate established in section 106-5(a), Brevard County Code of Ordinances, is guilty of a violation, to be prosecuted in the same manner as misdemeanors are prosecuted and punishable as provided in section 125.69, Florida Statutes. Such violations shall be prosecuted in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction shall be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail not to exceed 60

days or by both such fine and imprisonment.

- (d) Any person or firm providing towing services who fails to post the rate schedule or Customer Bill of Rights as required by section 106-6, Brevard County Code of Ordinances, is guilty of a violation, to be prosecuted in the same manner as misdemeanors are prosecuted and punishable as provided in section 125.69, Florida Statutes. Such violations shall be prosecuted in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction shall be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail not to exceed 60 days or by both such fine and imprisonment.

SECTION 9. A new section 106-8, Brevard County Code of Ordinances, is hereby created to read as follows:

Section 106-8. – Wrecker operator system.

- (a) Pursuant to section 323.002, Florida Statutes, the Brevard County wrecker operator system, a system for the towing or removal of wrecked, disabled, or abandoned vehicles from accident scenes, streets, or highways, is hereby established.
- (b) The Brevard County Sheriff's Office shall administer the Brevard County wrecker operator system for the unincorporated areas of Brevard County and any municipalities in which the Brevard County Sheriff's Office provides law enforcement services.
- (c) The Sheriff's Office shall establish a method for apportioning the towing assignments among the authorized wrecker operators through the creation of geographic zones, a rotation schedule, or a combination of those methods and is authorized to limit the number of wrecker operators participating in the wrecker operator system.
- (d) Each wrecker operator must make application to the Brevard County Sheriff's Office for inclusion in the wrecker operator system and demonstrate that their vehicles and drivers meet recognized safety qualifications and mechanical standards set by rules of the Division of Florida Highway Patrol for the size of the vehicle it is designed to handle.
- (e) A Brevard County Sheriff's Office representative shall investigate each application. The investigation will include the following: background checks; criminal history checks; driver's license status/record checks; and inspection of the applicant's wrecker(s), equipment and facilities. The investigator will, at the conclusion of his or her investigation, make a recommendation to the Sheriff or his designee in writing. The Sheriff or his designee will decide whether the wrecker operator is approved or denied inclusion on the wrecker rotation list.
- (f) Wrecker operators will be listed only once on each zone list and only in the name under which they are qualified under the provision of this rule and conducting business in this state. It is prohibited for a wrecker operator conducting business at one location to receive multiple listings or classifications by utilizing a different or fictitious name for trucks operating out of the same location or out of different locations within the same

zone. When two or more corporations are owned by the same individual, partnership or parent corporation, each may have a separate listing only when each has a separate location and different corporate officers. It is prohibited for two or more wrecker operators owned in whole or in part by the same individual, partnership or parent corporation to be qualified to operate in the same zone.

(g) The Brevard County Sheriff's Office may remove wrecker operators from the authorized wrecker operator system based on failure to comply with this article, all Florida Statutes that govern towing, or upon material breach of the operator's contract with the Brevard County Sheriff's Office.

SECTION 10. The reserved sections which formerly began with Section 106-8 are amended as follows:

Sections ~~106-811~~ --106-30. - Reserved.

SECTION 11. Area encompassed. This article shall be applicable in both the unincorporated and incorporated areas, except that this article shall not apply in any municipality that has adopted and maintains in effect ordinances or regulations governing the same matters.

SECTION 12. Conflicting provisions. In the case of direct conflict between any provision of this Ordinance and a portion or provision of any other appropriate federal, state, or county law, rule, code or regulation, the more restrictive shall apply.

SECTION 13. Severability. The provisions of this Ordinance are declared to be severable. If any section, paragraph, sentence, clause, or phrase herein, is, for any reason, held to be invalid or unconstitutional, by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, paragraphs, sentences, clauses, or phrases. Such remaining sections shall remain in effect, it being the intent that this ordinance shall remain in effect notwithstanding the invalidity of any part.

SECTION 14. Inclusion in the Code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Brevard County Code of Ordinances; and that the sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 15. Effective date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. Unless specified otherwise, this ordinance shall take effect immediately upon adoption and filing as provided by law.

DONE, ORDERED AND ADOPTED, in regular session, this _____ day of _____ 2022.