

LEE COUNTY ORDINANCE NO. 00-13

**AN ORDINANCE OF LEE COUNTY, FLORIDA, AMENDING LEE COUNTY ORDINANCE 94-27, PERTAINING TO THE TOWING OF VEHICLES PARKED ON PRIVATE PROPERTY AND THE REMOVAL OF STORAGE OF VEHICLES WITHOUT VEHICLE OWNER CONSENT; AMENDING LEE COUNTY ORDINANCE 94-27, TO INCLUDE AND TO ESTABLISH MAXIMUM RATES WHICH MAY 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 VEHICLE 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; PROVIDING FOR MAXIMUM SERVICES AND STORAGE RATES, AND MINIMUM INSURANCE REQUIREMENTS; RECORDS; PENALTIES, SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Lee County has adopted Lee County Ordinance 94-27 providing for maximum rates for the recovery, towing and storing of vehicles improperly parked on private property and regulated by F.S. Section 715.07, and

WHEREAS, F.S. 125.013(c) requires the county to establish maximum towing and storage rates to be charged for the removal and storage of vehicles from private property that are immobilized and from accident scenes or where the vehicle owner or operator is incapacitated, unavailable, leaves the acquiring of towing services to a law enforcement officer or otherwise does not consent to removal and towing, and

WHEREAS, it is in the public's safety and welfare that Lee County Ordinance 94-27 be amended hereby to include, set and establish the maximum rates for the towing and storage services authorized by F.S. 125.013 (b)and (c).

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA THAT:

SECTION ONE.

It is the intent of this ordinance to amend Lee County Ordinance 94-27, to establish, include and set the maximum rates which may be charged for the removal, towing and storage of vehicles per said towing services as required and stated in F.S. 125.013 (b) and (c), and said language is incorporated herein by reference.

SECTION TWO.

Lee County Ordinance 94-27 is hereby amended as follows with new language shown by underlining and omitted language shown with strike overs.

SECTION THREE.

Section One. Applicability of Lee County Ordinance 94-27 is hereby amended to read as follows:

Section One. Applicability.

This Ordinance shall apply within all of the unincorporated area of Lee County, Florida, and shall apply to the towing and storage of vehicles removed from properties without the vehicle owner's prior consent within unincorporated Lee County and the towing of vehicles from or immobilization of vehicles on private property, or for the removal and storage of wrecked or

disabled vehicles from an accident scene for the removal and storage of vehicles, in the event the vehicle 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.

#### SECTION FOUR.

Section Two. Definitions, Subsections D and H, of Lee County Ordinance 94-27 are hereby amended to read as follows:

- D. “Remove” shall mean to change the location of a motor vehicle by towing it from private property without the consent of the registered owner or other legally authorized person in control of the vehicle or as provided and regulated by F.S. Section 125.0103(b) and (c) and this ordinance.
- H. “Tow Truck Operator” or “Operator” shall mean any person who provides the services of recovering, towing or removing vehicles and any vehicle storage services associated therewith pursuant to F.S. Section 715.07 – “Vehicle Parked on Private Property; Towing” and as provided and regulated in F.S. Section 125.0103 (b) and (c) and this ordinance.
- J. This ordinance incorporates the definitions of “Base Rate”, “Hourly Rate”, “Mileage”, “Daily Outside Storage Rate”, and “Daily Inside Storage Rate” as contained in Section 15B-9.010, Florida Administrative Code.

#### SECTION FIVE.

Section Three. Intent of Lee County Ordinance 94-27 is hereby amended to read as follows:

Section Three. Intent.

This Ordinance is supplemental to the authority, conditions and restrictions set forth in Florida Statutes Section 715.07 – “Vehicles Parked on Private Property; Towing” and F.S. Section 125.0103 (b) and (c). The county is providing additional regulation for the protection of the public in the setting of maximum public service rates, solicitation restrictions and minimum insurance requirements to be maintained by the operators of tow trucks and storage facilities. The county is not legislating additional standards of operator qualifications, operational standards or safety criteria and assumes no legislative or regulatory responsibility therefor. Nothing herein should be construed to alleviate the need of operators to be familiar with and to comply with the Florida Uniform Traffic Control Laws and other applicable laws, rules and regulations. Nothing herein alleviates the need of operators to comply with towing and storage requirements as provided in F.S. Section 715.07 and Florida Highway Patrol requirements Florida Administrative Code Sections 15B-9.001 et.al. Except as to the setting of maximum rates, this ordinance does not supercede other Lee County Sheriff and Florida Highway Patrol call allocation rules and procedures.

SECTION SIX.

Section Four. Maximum Rates of Lee County Ordinance 94-27 is hereby amended to read as follows:

#### Section Four. Maximum Rates.

All removal, towing and storage services provided by operators, their employees and agents pursuant to Florida Statutes Sec. 715.07, and as provided and regulated by F.S. Section 125.0103 (b) and (c), and this ordinance shall be subject to and be regulated by the towing and storage maximum service rates or charges as established hereby. The maximum rates established and set herein further include and are those maximum rates which may be charged on the removal, towing and storage of vehicles from or immobilization of vehicles on private property, removal and storage of wrecked or disabled vehicles from an accident scene or the removal and storage of vehicles, in the event the vehicle 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, towing or storage of the vehicle.

For the purposes of this ordinance, Florida Administrative Code Rule 15B-9.010, the definitions therein and the maximum towing and storage rates set pursuant to this ordinance, as duly established hereby, and as attached hereto as Exhibit A, are hereby adopted and incorporated herein. Towing and storage services conducted pursuant to F.S. Sec. 715.07, or regulated per F.S. 125.0103 (b) and (c), and this ordinance shall be further regulated and controlled by and subject to said provisions and maximum rates authorized by and set forth in Exhibit A, attached hereto, and as same may be amended from time to time, or as said rates and charges may be

specifically amended by resolution of the Board of County Commissioners of Lee County, Florida.

It shall be unlawful for any tow truck operator, employee or agent to demand, request or charge any rate, fee or compensation exceeding those service and storage rates as duly established and set for the towing and storage of vehicles removed from properties without the vehicle's owners prior consent within unincorporated Lee County, as attached hereto as Exhibit A and incorporated herein, and or as said rates, fees or charges may be specifically amended by resolution of the Board of County Commissioners of Lee County, Florida. Exhibit A attached to this amendment shall replace the towing and storage rates provided in Exhibit A to Ordinance 94.27.

Operators shall be prohibited from charging rates or performing towing services in excess of those prescribed for the class of tow truck necessary for the services provided, regardless of the class of tow truck actually utilized for providing the tow.

Nothing herein shall preclude the operator from charging less than the maximum rates as adopted and incorporated therein.

## SECTION SEVEN.

Section Five. Insurance of Lee County Ordinance 94-27 is hereby amended to read as follows:

Section Five. Insurance.

All operators shall maintain and comply with the minimum insurance standards established by Florida Administrative Code Rule 15B-9.006(9) as it now exists or as duly amended and as further incorporated herein. Each insurance policy required to meet the established minimum limits shall be in the name of the operator and shall include coverage for towing and storage.

All such insurance shall be maintained with a duly qualified insurance company authorized to do business within the State of Florida. Said insurance coverage shall remain in effect throughout the period that the operator performs towing and/or storage services pursuant to F.S. 715.07 and those services authorized and stated by F.S. Section 125.0103 (b) and (c).

SECTION EIGHT.

Section Six. Records of Lee County Ordinance 94-27 is hereby amended to read as follows:

Section Six. Records.

Each operator shall keep, maintain and retain records of its business reflecting the dates of services rendered pursuant to this ordinance, F.S. Section 715.07 and Section 125.0103 (b) and (c), the nature of said services, the names and addresses of the parties involved, the charges related to the tow and/or storage and the identification of such vehicle as may come under the custody and control of the operator for a period of three (3) years following the occurrence of the transaction and services rendered by the

operator incidental thereto. The operator shall maintain and keep at his business of operations documents which reflect the insurance coverages as currently in effect at any given time.

All such records as provided herein shall be made available for inspection and copying by a duly designated representative of Lee County and/or any law enforcement officer in Lee County upon reasonable notice thereof.

SECTION NINE. ENFORCEMENT AND PENALTY.

It shall be the duty and responsibility of all law enforcement officials to assist in the enforcement of and compliance with this ordinance and resolutions adopted pursuant thereto, to the extent that it is within their jurisdiction to do so.

Any person or persons, firm or corporation, or any agent thereof who violates any of the provisions of this ordinance shall, upon conviction, be guilty of a second degree misdemeanor and subject to a fine not exceeding the sum of Five Hundred Dollars (\$500.00) or imprisonment in the County Jail for a period not exceeding sixty (60) days, or by both such fine and imprisonment. Each separate occurrence of a violation of this ordinance shall constitute a separate offense and shall be punishable as such hereunder.

In addition to the criminal penalties provided, the Board of County Commissioners is hereby authorized to institute any appropriate action or proceeding including suit for injunctive relief in order to prevent or abate violations of this ordinance.



SECTION TEN.      INCLUSION IN 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 Lee County Code; and that the sections of this ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Section", "Article", or such other appropriate word or phrase in order to accomplish such intentions.

SECTION ELEVEN.CONFLICTS.

Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements shall apply.

SECTION TWELVE.      SEVERABILITY.

The provisions of this ordinance are severable, and it is the intention of the Board of County Commissioners of Lee County, Florida to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board of County Commissioners that this ordinance would have been adopted had such unconstitutional provision not been included herein.

SECTION THIRTEEN.      EFFECTIVE DATE.

This ordinance shall become effective immediately upon receipt of official acknowledgment from the office of the Secretary of State of Florida that the ordinance has been filed.

THE FOREGOING ordinance was offered by Commissioner John Manning, who moved its adoption. The motion was seconded by Commissioner Ray Judah and upon being put to a vote, the vote was as follows:

JOHN MANNING	<u>AYE</u>
DOUGLAS ST. CERNY	<u>AYE</u>
RAY JUDAH	<u>AYE</u>
ANDREW COY	<u>AYE</u>
JOHN ALBION	<u>AYE</u>

DULY PASSED AND ADOPTED this 27th day of June, 2000.

ATTEST:

CHARLIE GREEN  
CLERK OF THE COURT

By:  \_\_\_\_\_

Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By:  \_\_\_\_\_

Chairman

LEE COUNTY ATTORNEY'S OFFICE  
APPROVED AS TO FORM:

By:  \_\_\_\_\_

County Attorney

**“EXHIBIT A”**  
**JUNE 2000 - MAXIMUM RATE SCHEDULE**  
**LEE COUNTY, FLORIDA**

<u>CLASS A WRECKERS:</u> <u>(INCLUDING ROLL-BACK OR SLIDE-BACK CARRIES)</u>	<u>RATE</u>
Base Rate	\$100.00
Mileage Rate (per mile charge beyond 10 mile radius)	\$3.00
Hourly Rate (for waiting or working time on scene after first 30 minutes)	\$65.00
<u>CLASS B WRECKERS:</u>	
Base Rate	\$135.00
Mileage Rate (per mile charge beyond 10 mile radius)	\$4.00
Hourly Rate	\$80.00
<u>CLASS C WRECKERS:</u>	
Base Rate	\$200.00
Mileage Rate (per mile charge beyond 10 mile radius)	\$5.00
Hourly Rate	\$175.00
<u>SEPARATE CHARGES:</u>	
1. Removal of Drive Shaft	
2. Air Hook-up	<u>1/4 hour</u>
3. Remove/Pull Axle	<u>Worked</u>
4. Remove Bumper	<u>All</u>
5. Removal Air Foils	
6. Landoll Trailer - Semi roll back or drop back trail or truck	\$150.00
7. Air Bags	\$2,000.00
8. Extra Manpower - Per man hour charge	\$50.00
<u>DAILY MAXIMUM URBAN STORAGE TO 20 FEET IN LENGTH:</u>	
Inside \$30.00	
Outside \$25.00	
<u>DAILY MAXIMUM URBAN STORAGE OVER 20 FEET IN LENGTH:</u>	
Inside \$45.00	
Outside \$40.00	