

MEMORANDUM

Agenda Item No. 7(A)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: October 6, 2022

FROM: Geri Bonzon-Keenan
County Attorney


SUBJECT: Ordinance relating to towing, recovery, storage and immobilization of vehicles without consent; amending sections 30-470, 30-473, and 30-476 of the Code; establishing procedures relating to complaints filed with the consumer services division; expanding the forms of payment that non-consent towers must accept for services performed to include debit cards and major credit cards; establishing the documentation required for the release of a towed or removed vehicle; establishing revised maximum rates for towing, recovery, and storage of vehicles at the request of private property owners; updating the codified maximum rates for towing, recovery, and storage of vehicles at the request of police agencies to reflect the existing maximum rates as adjusted annually for inflation since the adoption of Ordinance No. 16-59; amending section 8CC-10 of the Code; providing for enforcement by civil penalties; making technical changes

This item was amended at the 9-15-22 County Infrastructure, Operations and Innovations Committee to:

- require persons who provide towing services to begin to accept digital payment forms as of July 16, 2022, in addition to the other forms of payment specified in paragraph (k) of section 30-473 of the Code;
- include a directive to the County Mayor or designee to apply the annual inflation adjustment set forth in section 30-476(d)(6) of the Code to the rates for tows directed or performed by government agencies, upon the ordinance becoming effective; and
- make conforming amendments to section numbering.

Rule 5.06(h) of the Board's Rules of Procedure provides that differences between an original item and an amended item should be uniquely identified in the amendment by double underlining and double strike-through, or where such approach would not clearly show the difference or is not practical, by providing footnotes or comments on the item. Pursuant to this rule, the preceding comprehensive description of the differences between the original item and the amended item is provided in lieu of double underlining and double strike-through.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.



Geri Bonzon-Keenan
County Attorney

GBK/uw

Memorandum



Date: October 6, 2022

To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Fiscal Impact Statement for Ordinance to Towing, Recovery, Storage

The implementation of this ordinance will not have a fiscal impact to Miami-Dade County.

A handwritten signature in blue ink, appearing to read "Jimmy Morales".


Jimmy Morales
Chief Operations Officer

Memorandum



Date: October 6, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners


From: Daniella Levine Cava 
Mayor

Subject: Social Equity Statement for Ordinance Relating to Towing, Recovery, Storage and Immobilization of Vehicles Without Consent

The proposed ordinance amends Article III of Chapter 30 and Section 8CC-10 of the Code of Miami-Dade County, Florida relating to Towing, Recovery, Storage and Immobilization of Vehicles without Consent. The changes include a requirement that towing companies respond to consumer complaints in 10 days, that three forms of payment in releasing towed vehicles must be accepted to include major credit cards, and clarification of the types of documentation towing companies must accept in releasing towed vehicles. Also, the maximum rate for a Class A (passenger vehicle) tow is being raised to \$145.00 for both police directed and private property tows, and all other maximum tow rates for private property tows are being brought up to parity with the police directed rates. The proposed ordinance applies Countywide except within municipalities that have maintained a separate towing ordinance, or that establish maximum tow rates pursuant to Sections 125.0103 and 166.043, Florida Statutes within their jurisdictions.

The proposed amendments will benefit consumers that have a complaint against a towing company for a vehicle that may have been towed without their consent. Tow companies will have to respond to complaints in a timely manner and quicker resolution to disputes should result. Clearer documentation requirements for the release of a vehicle should simplify the recovery process for consumers and ensure that tow companies are accountable in their release procedures. This may be especially true where someone other than the registered owner is seeking release of a vehicle. Clarification that major credit cards, such as Mastercard or Visa, be included as a form of payment will alleviate any potential for a company to request an obscure card anticipating the consumers only alternative will be to pay in cash.

The increase in the maximum rates for vehicles towed at the request of a private property owner will benefit companies that provide those services. Maximum rates for these services have not been adjusted since 2004, except for a gas surcharge authorized in 2008, that was later rescinded in 2016. While at the same time operating costs for these companies have steadily increased. To a lesser extent, companies that provide towing services at the request of government agencies will also benefit from the increase in the Class A maximum tow rate, as the remaining rates and charges are not being increased. Those fees were adjusted in 2016 and have received subsequent annual CPI adjustments. Consumers that park illegally or in an otherwise unauthorized location and have their vehicle towed will be negatively impacted as a result of the proposed higher maximum rates.



Jimmy Morales
Chief Operations Officer



MEMORANDUM (Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: October 6, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(A)

Please note any items checked.

- ☒ "3-Day Rule" for committees applicable if raised
- ☒ 6 weeks required between first reading and public hearing
- ☒ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(A)
10-6-22

ORDINANCE NO. _____

ORDINANCE RELATING TO TOWING, RECOVERY, STORAGE AND IMMOBILIZATION OF VEHICLES WITHOUT CONSENT; AMENDING SECTIONS 30-470, 30-473, AND 30-476 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; ESTABLISHING PROCEDURES RELATING TO COMPLAINTS FILED WITH THE CONSUMER SERVICES DIVISION; EXPANDING THE FORMS OF PAYMENT THAT NON-CONSENT TOWERS MUST ACCEPT FOR SERVICES PERFORMED TO INCLUDE DEBIT CARDS AND MAJOR CREDIT CARDS; ESTABLISHING THE DOCUMENTATION REQUIRED FOR THE RELEASE OF A TOWED OR REMOVED VEHICLE; ESTABLISHING REVISED MAXIMUM RATES FOR TOWING, RECOVERY, AND STORAGE OF VEHICLES AT THE REQUEST OF PRIVATE PROPERTY OWNERS; UPDATING THE CODIFIED MAXIMUM RATES FOR TOWING, RECOVERY, AND STORAGE OF VEHICLES AT THE REQUEST OF POLICE AGENCIES TO REFLECT THE EXISTING MAXIMUM RATES AS ADJUSTED ANNUALLY FOR INFLATION SINCE THE ADOPTION OF ORDINANCE NO. 16-59; AMENDING SECTION 8CC-10 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR ENFORCEMENT BY CIVIL PENALTIES; MAKING TECHNICAL CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, section 125.0103, Florida Statutes, authorizes counties to establish maximum rates that may be charged for the towing of vehicles from, or the immobilization of vehicles on, private property or as directed by law enforcement, without the consent of the vehicle owner or authorized operator; and

WHEREAS, article III of chapter 30 of the Code of Miami-Dade County (“Code”) sets forth the County’s towing regulations and provides that the Board of County Commissioners shall establish the maximum rates for towing, recovery, storage, and immobilization of vehicles at the direction of law enforcement or from private property at the request of the private property owner, without the consent of the vehicle owner or duly authorized driver (“non-consent tows”); and

WHEREAS, while maximum rates provide a rate ceiling for non-consent tows, individual towers may establish rates that are lower than the maximum permitted rates; and

WHEREAS, on June 7, 2016, this Board enacted Ordinance No. 16-59, which, among other things, established new maximum rates for non-consent police requested tows, but did not change the applicable maximum rates in effect at the time for other non-consent tows, including non-consent private property tows; and

WHEREAS, Ordinance No. 16-59 also provided for an automatic annual increase in the maximum rates for non-consent police requested tows by the lesser of the annual percentage increase in the Consumer Price Index (CPI) or three percent, but that automatic annual adjustment does not apply to non-consent private property tows; and

WHEREAS, several years have passed since this Board authorized any adjustment to the maximum rates for non-consent private property tows, and there have been substantial increases in industry costs over the same time period; and

WHEREAS, accordingly, this Board now desires to set new maximum rates for non-consent private property tows; and

WHEREAS, this Board also wishes to update the Code to reflect the existing rates for non-consent police tows as adjusted since the adoption of Ordinance No. 16-59 for the codified annual percentage increase in the Consumer Price Index (CPI) or three percent, whichever is lesser; and

WHEREAS, in addition, this Board wishes to amend the Code to establish procedures for towing-related complaints filed with the Consumer Services Division (CSD), expand the acceptable forms of payment for towing services, and enumerate the documentation required for the release of a towed or removed vehicle; and

WHEREAS, such amendments to the Code are in the public interest and will provide necessary benefits and protections to members of the public in towing-related matters,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. The foregoing recitals are approved and incorporated herein.

Section 2. Section 30-470 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

**Sec. 30-470. - Records>>; inspection; complaint handling<<
[[required]].**

>>(a)<< Each person regulated under this article who performs non-consent tows shall maintain accurate and complete records of all financial and operating information as the CSD may require, including but not limited to manifests or trip records, invoices and statements for services rendered, and records of payments for services rendered. Such records shall be maintained in Miami-Dade County for at least three (3) years. The CSD shall be granted access to these records for inspection or copying, during regular business hours. All records and information inspected and not copied shall be confidential, except that records may be copied or made public for the purpose of license suspension or revocation proceedings.

>>(b) For any complaint filed with the CSD against a person regulated under this article, the person shall promptly and thoroughly investigate the complaint upon notice and receipt of the same

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

from the CSD. No later than 10 days after receipt of the complaint, the regulated person must object to or satisfy the complaint. The CSD may grant additional time to satisfy a complaint if, prior to the expiration of the 10-day period, the regulated person demonstrates that it is working to satisfy the complaint and good cause exists for additional time. The regulated person shall provide the CSD with a written response that includes the disposition of the complaint or, if applicable, the specific reasons for any objection, as well as a copy of any record requested by the CSD that the person is required to retain under this article, and the names of the persons involved with the tow, removal, or provision of storage of the vehicle referenced in the complaint.<<

Section 3. Section 30-473 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 30-473. - Nonconsent towing without prior consent of vehicle owner or duly authorized driver of vehicle.

In addition to the other requirements of this article, no nonconsent tower shall recover, tow or remove a vehicle or provide storage in connection therewith without the prior express instruction of the vehicle owner or authorized driver, except in accordance with the following:

* * *

(k) Persons who provide services pursuant to this section shall accept payment for charges from the vehicle owner or authorized representative in ~~[[any of at least two (2)]]~~ >>all<< of the following listed >>forms<< ~~[[categories]]~~:

- (1) Cash, money order>>, << or ~~[[valid]]~~ traveler's check;
- (2) ~~[[Valid bank]]~~ >>Bank, debit, or major<< credit card>>, such as Mastercard and Visa<<; ~~[[or]]~~
- (3) ~~[[Valid personal]]~~ >>Personal<< check showing on its face the name and address of the vehicle owner or authorized representative>>; and
- (4) As of July 16, 2023, digital payment forms, such as Zelle, PayPal, Venmo, Apple Pay, or Cash App<<.

A vehicle owner or authorized representative shall not be required to furnish more than one ~~[[4]]~~ form of >>current government photo<< [[picture]] identification when payment is made >>in any of the forms listed above<< [[by valid bank credit card or personal check]], and said presentation shall constitute sufficient identity verification.

* * *

- (n) >>Persons who provide services pursuant to this section shall release a towed or removed vehicle to the vehicle owner or authorized driver or agent upon proof of ownership or authorization to possess and operate the vehicle. Such documentation shall include a current government issued photo identification and one of the following documents:

- (1) Current vehicle registration;
- (2) Vehicle title or properly endorsed title transferring ownership pursuant to the requirements of section 319.22, Florida Statutes;
- (3) A notarized release from the vehicle owner or lien holder designating an authorized driver to pick up the vehicle accompanied by a photocopy of the vehicle owner's driver's license or a document signed by an officer or director of the lien holder. The notarized release form with the driver's license or lien holder letter can be presented via facsimile or electronically, provided that it can be printed and saved;
- (4) Insurance card with the vehicle owner's information and vehicle description;
- (5) Licensed dealer in possession of an auction buyer's sales invoice; or
- (6) Notarized bill of sale for a non-titled vehicle.

- (o)<< Nothing in this section shall prevent the County or any jurisdiction in it from providing additional or more restrictive requirements in contracts or arrangements under which police officers direct and authorize the recovery, towing or removal of vehicles or storage provided in connection therewith.

Section 4. Section 30-476 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 30-476. - Maximum immobilization, nonconsent towing and storage rates for providing immobilization or tow services at the request of property owners or police agencies.

* * *

(d) The maximum rates for providing immobilization, recovery, nonconsent towing, removal and storage services at the request of a police agency, or a property owner or authorized representative, without the prior consent of the vehicle owner or other authorized person in control of the vehicle are as follows:

1. Private Property Trespass Tows – Set forth below are the maximum rates for providing recovery, towing and removal services at the request of a property owner or his or her authorized representative without the prior consent of the vehicle owner or other authorized person in control of the vehicle:

a. Class “A” Vehicle Tow:

i. Maximum Rate..... >>\$145.00<< [~~[\$101.00]~~]

ii. Rate if released on scene..... >>\$72.50<< [~~[\$50.50]~~]

iii. No ancillary fees are authorized.

b. Class “B” Vehicle Towed:

i. Maximum Rate..... >>\$208.65<< [~~[\$165.00]~~]

ii. Per towed mile after 5 miles\$3.50

iii. Extra Labor/Waiting time at scene (after first ½ hour)
per ¼ hour thereafter.....\$41.25

c. Class “C” Vehicle Towed:

i. Maximum Rate..... >>\$296.50<< [~~[\$235.00]~~]

ii. Per towed mile after 5 miles\$4.50

iii. Extra Labor/Waiting time at scene (after first ½ hour)
per ¼ hour thereafter.....\$58.75

d. Class “D” Vehicle Towed:

i. Maximum Rate.....>>\$377.50<< [~~[\$300.00]~~]

ii. Per towed mile after 5 miles\$5.50

iii. Extra Labor/Waiting time at scene (after first ½ hour)
per ¼ hour thereafter.....\$75.00

e. Administrative Fee

i. After first 24 hours.....
.....>>\$38.20<< [~~[\$30.00]~~] Per Vehicle

ii. All actual fees imposed by a state for obtaining
pertinent ownership information, actual postage fees,
and advertising fees will be in addition to the
preceding paragraph.

f. Storage Rates: The following rates shall be set for the
storage of vehicles. However, pursuant to Section
713.78(2), Florida Statutes, no storage fee shall be
charged if the vehicle is stored for less than six (6) hours.

a. Inside Storage

i. Cars and vehicle/trailer 0—20
feet.....
.....>>\$33.90<< [~~[\$25.00]~~] Per Day

ii. Any vehicle/trailer over 20
feet.....
.....>>\$54.65<< [~~[\$40.00]~~] Per Day

iii. Motorcycles and
scooters
.....>>\$16.20<< [~~[\$12.00]~~] Per Day

b. Outside Storage

i. Cars and vehicle/trailer 0—20
feet.....
..... >>\$27.60<< [~~[\$20]~~] Per Day

ii. Any vehicle/trailer over 20
feet.....
..... >>\$48.40<< [~~[\$35.00]~~] Per Day

iii. Motorcycles and
scooters
..... >>\$13.65<< [~~[\$10.00]~~] Per Day

2. Tows Directed or Performed by Government Agencies – Set forth below are the maximum rates for providing recovery, towing and removal services for all government agency tows without the prior consent of the vehicle owner or a duly authorized driver of the vehicle including, but not limited to, those performed at the request of a police agency:

a. Class A Vehicle Towed:

i. Tow Rate (hook up and 1st ½ hour at
scene)
..... >>\$145.00<< [~~[\$116.00]~~]

ii. Per Towed Mile after first 5
miles.....
..... >>\$3.80<< [~~[\$3.45]~~]

iii. Extra Labor/Waiting time at scene (after first ½ hour)
per ¼ hour thereafter..... >>\$31.90<< [~~[\$29.00]~~]

b. Class B Vehicle Towed:

i. Tow Rate (hook up and 1st ½ hour at
scene)
..... >>\$208.65<< [~~[\$190.00]~~]

ii. Per Towed Mile after first 5
miles.....
..... >>\$4.40<< [~~[\$4.00]~~]

iii. Extra Labor/Waiting time at scene (after first ½ hour)
per ¼ hour thereafter..... >>\$52.40<< [~~[\$47.50]~~]

c. Class C Vehicle Towed:

i. Tow Rate (hook up and 1st ½ hour at scene)
..... >>\$296.50<< [[~~\$270.00~~]]

ii. Per Towed Mile after first 5 miles>>\$5.90<< [[~~\$5.18~~]]

iii. Extra Labor/Waiting time at scene (after first ½ hour) per ¼ hour thereafter..... >>\$73.90<< [[~~\$67.50~~]]

d. Class D Vehicle Towed:

i. Tow Rate (hook up and 1st ½ hour at scene)
..... >>\$377.50<< [[~~\$345.00~~]]

ii. Per Towed Mile after first 5 miles>>\$7.00<< [[~~\$6.33~~]]

iii. Extra Labor/Waiting time at scene (after first ½ hour) per ¼ hour thereafter..... >>\$94.60<< [[~~\$86.25~~]]

e. Administrative Fee:

i. After first 24 hours.....
..... >>\$38.20<< [[~~\$35.00~~]] Per Vehicle

ii. All actual fees imposed by a state for obtaining pertinent ownership information, actual postage fees, and advertising fees will be in addition to the preceding paragraph.

f. Storage Rates: The following rates shall be set for the storage of vehicles. However, pursuant to Section 713.78(2), Florida Statutes, no storage fee shall be charged if the vehicle is stored for less than six (6) hours.

a. Inside Storage

i. Cars and vehicle/trailer 0—20 feet.....
..... >>\$33.90<< [[~~\$31.00~~]] Per Day

ii. Any vehicle/trailer over 20 feet.....
 >>\$54.65<< [~~[\$50.00]~~] Per Day

iii. Motorcycles and scooters
 >>\$16.20<< [~~[\$15.00]~~] Per Day

b. Outside Storage

i. Cars and vehicle/trailer 0—20 feet.....
 >>\$27.60<< [~~[\$25.00]~~] Per Day

ii. Any vehicle/trailer over 20 feet.....
 >>\$48.40<< [~~[\$44.00]~~] Per Day

iii. Motorcycles and scooters
 >>\$13.65<< [~~[\$12.50]~~] Per Day

* * *

Section 5. Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8CC-10. - Schedule of civil penalties.

The following table shows the sections of this code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

* * *

<i>Code Section</i>	<i>Description of Violation</i>	<i>Civil Penalty</i>
	* * *	

30-469	Failure to comply with towing safety standards or to remove notice from windshield	500.00
30-470>>(a)<<	Failure to maintain financial >> <u>and operating</u> << records	200.00
>>30-470(b)	<u>Failure to follow complaint procedures</u>	<u>200.00</u> <<
30-470.1	Advertising tow services without including license number in such advertisement	500.00
	* * *	

Section 6. >>Upon this ordinance becoming effective, the County Mayor or County Mayor's designee shall increase the fees referenced in section 30-476(d)(2) of the Code by the annual percentage change in the Consumer Price Index (CPI) or three percent, whichever is less. Such increase shall remain in effect until the annual inflation adjustment is next provided in October 2023, pursuant to section 30-476(d)(6) of the Code.

Section 7.<< If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section ~~[[7.]]~~>>**8.**<< It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section ~~[[8.]]~~>>**9.**<< This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Keoki M. Baron
James Eddie Kirtley

Prime Sponsor: Commissioner Sally A. Heyman