

ORDINANCE NO. 15-18

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 70 OF THE CODE OF ORDINANCES ENTITLED "TRAFFIC AND VEHICLES", ARTICLE XI "WRECKERS AND TOWING SERVICE", DIVISION 3 "NON-CONSENSUAL PRIVATE TOWING SERVICES", SECTIONS 70-707, 70-708, PROVIDING FOR THE SETTING OF RATES AND REQUIREMENTS FOR NON-CONSENSUAL TOWS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission finds it necessary for the protection of the public's health, safety and welfare to amend regulations governing nonconsensual tows; and

WHEREAS, the City Commission is expressly authorized to enact the provisions below in accordance with Florida Statute Sections 166.043(1) (b) and 715.07; and

WHEREAS, the City Commission desires to specify insurance requirements and permit a rate adjustment that is consistent with the charges for non-consensual tows provided by Monroe County.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That Section 70-707 is hereby amended as follows:

Sec. 70-707. - Maximum rates for nonconsensual towing services.

(a) The maximum rate for nonconsensual private towing services shall be as follows:

- (1) ~~\$100.00~~ \$135.00 for mopeds, motorcycles, cars and vehicles/vessels weighing 10,000 pounds or less ~~plus \$3.00 per mile.~~
- (2) ~~\$150.00~~ \$200.00 for vehicles/vessels weighing between 10,001 and 20,000 pounds ~~plus \$4.00 per mile.~~
- (3) ~~\$360.00~~ \$485.00 for vehicles/vessels weighing in excess of 20,000 pounds ~~plus \$5.00 per mile.~~
- (4) A labor rate of up to a maximum of \$135.00 per hour may be applied in circumstances where extraordinary effort, such as the use of multiple tow trucks, is required.

* Coding: Added language for 1st reading is underlined; deleted language for 1st reading is ~~struck through~~. Deleted language for 2nd reading is ~~double-struck through~~.

(b) Storage fees may be charged only after the vehicle has been in the storage facility for at least six hours. If the vehicle is not recovered by the vehicle/vessel owner after the six-hour time period has elapsed, then storage charges shall accrue in 24-hour increments from the time the vehicle/vessel arrived in the storage facility at the rate of ~~\$25.00 per day.~~ \$30.00 per day for outside storage plus \$2.00 per foot for motor vehicles over 20 feet long and \$40.00 per day for inside storage plus \$2.00 per foot for motor vehicles over 20 feet long.

(c) An administrative/lien fee in the maximum amount of \$25.00 shall be charged for all vehicles. A notification/lien fee of \$50.00 for the first notification and \$20.00 for each additional letter shall only be charged after the vehicle/vessel has been in the storage facility for at least 24 hours. ~~only be charged after the vehicle/vessel has been in the storage facility for at least 24 hours and, the~~ The non-consent tow truck company must show proof that lien letter(s) have been prepared with the appropriate names/addresses (i.e., U.S. Mail Certification Number, correspondence copies, etc.) and that actual fees for obtaining required ownership information

have been expended. Failure to document and provide all of the above required information will result in administrative/lien fee charges being removed from the total cost of the service/invoice and is a violation of this division. Prior to instituting such charge, the tow company must provide such documentation to the vehicle/vessel owner upon demand.

(d) After-hour gate fees may not be applied between the hours of 8:00 a.m. and ~~6~~ 5:00 p.m. Monday through Friday (excluding federal holidays) ~~and not for six hours after a vehicle has been impounded.~~ The maximum amount of such after-hours gate fee shall be \$75.00 ~~\$30.00~~. ~~An after-hours gate fee may also not be applied during such period of time that the business is open for towing purposes. A business shall be considered open for towing purposes if it has vehicles engaged in towing services at the time.~~

(e) Persons who provide services pursuant to this division shall not charge in excess of the maximum allowable rates established by the commission. No person providing services pursuant to this section shall charge any type of fee other than the rates the commission has

specifically established. Persons who provide non-consensual tow services from the city to a location outside the city shall abide by the terms of this division including all rates and charges adopted by the commission.

(f) Persons who provide non-consensual tow services pursuant to this division shall provide a City of Key West, Florida Maximum Non-Consent Towing Rates sheet to the vehicle or vessel owner upon request at the time of payment. ~~The non-consensual towing company shall obtain a signed acknowledgement that the vehicle/vessel owner has received such rate sheet.~~

Section 2: That section 70-708 is hereby amended as follows:

Sec. 70-708. Non-consent tow truck company requirements.

(k) No person shall engage in non-consent or non-consensual private towing services unless that person maintains in effect an insurance policy which shall insure it for its liability at a minimum, as follows:

(1) For each tow truck, combined single limit of \$500,000.00; and

(2) For garage keeper's liability, not less than \$50,000.00 for each loss covering perils of fire and explosion, theft of a motor vehicle and parts or contents, riot and civil commotion, vandalism, malicious mischief, and for on-hook protection; and

(3) Workers compensation and employer's liability insurance as required by statute.

Section 3: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 4: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 5: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a meeting held this 2nd day of December, 2015.

Read and passed on final reading at a meeting held this 16th day of December, 2015.

Authenticated by the presiding officer and Clerk of the Commission on 17th day of December, 2015.

Filed with the Clerk December 17, 2015.

Mayor Craig Cates	<u>Yes</u>
Commissioner Sam Kaufman	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Richard Payne	<u>Yes</u>
Commissioner Margaret Romero	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>

ATTEST:

Cheryl Smith
CHERYL SMITH, CITY CLERK

Craig Cates
CRAIG CATES, MAYOR