

2011/

**BEAUFORT COUNTY ORDINANCE FOR REGULATION OF
TOWING FROM PRIVATE PROPERTY IN BEAUFORT
COUNTY**

ARTICLE IV. TOWING AND WRECKER SERVICES

Sec. 70-70. Purpose.

The purpose of this article is to provide adequate control over wrecker service operations within the unincorporated private property sections of Beaufort County to ensure:

- (1) The general health, safety and welfare of the public.
- (2) That wrecker services are conducted in such a manner that is fair and equitable, which mutually protect the interests of residents of and visitors to Beaufort County.

Sec. 70-71. Definitions.

The following words or phrases, as used in this article, shall have the following respective meanings as set out in this section, unless a different meaning clearly appears from the context:

After normal business hours, with the exception of the wrecker service rotation program, means between the hours of 5:00 p.m. and 9:00 a.m., weekends, and state and national holidays, or those days and hours other than during which towing is made available by the wrecker business, whichever period is shorter. For purposes of the wrecker service rotation program, "after normal business hours" means between the hours of 5:30 p.m. and 9:00 a.m. seven (7) days a week.

Motor vehicle means any motorized device in, upon, or by which any person or property is, or may be transported or drawn upon any public highway, public right-of-way or public or private property. Motor vehicle shall not include any device propelled solely by human power to which is used exclusively upon stationary rails or tracks.

Operator/attendant means the person driving the wrecker or any person assisting with the operation of the wrecker or storage lot.

Operating zone shall mean the geographic limits of areas of Beaufort County, which are unincorporated within which a wrecker or towing service must meet criteria set forth herein to qualify to operate within that geographic area.

Owner means any person owning or having any financial interest in a wrecker business licensed by the county.

Wrecker means any vehicle built and equipped for the purpose of towing, lifting, pulling or otherwise transferring motor vehicles from place to place including, but not limited to, those vehicles that are commonly referred to as "roll-back" or "flatbed" type tow trucks.

Sec. 70-72. Business license required.

Business license. No person or business shall engage in the business of recovering, towing, removing and storing of vehicles from within unincorporated sections of Beaufort County without first obtaining a county business license by filing an application, upon a form provided by the county, with the county business license office, together with paying the appropriate license fee as set forth in this Code. Attached to the application shall be the following information:

- (1) *Business identity:* Indicate whether a sole-proprietorship, partnership or corporation. List all individuals or entities having a financial interest in the company including names, addresses and telephone numbers. If the business was in operation prior to application, provide the number of years in operation and each individual's or entity's years of affiliation or ownership.
- (2) *Business location:* Provide the street location, mailing address and telephone number of the wrecker service's primary business location and the hours of operation.
- (3) *Storage lot:* Provide the street location, address and telephone number of the wrecker service's storage lot and hours of operation. The capacity of storage shall be indicated together with the method employed to screen the stored motor vehicles from public view as well as security measures employed.
- (4) *Records and other services:* List all procedures and attach copies of forms used to keep records and any auxiliary services which will ensure delivery of a high level of service to the public.
- (5) *Vehicle identification:* Provide the year, make, model, vehicle identification number, gross vehicle weight class, type and South Carolina license plate number for each vehicle to be used in the towing company's business.
- (6) *Liability insurance:* Provide proof of automobile liability insurance in full compliance with South Carolina financial responsibility laws.

An Owner under this article shall procure and keep in full force and effect a policy of liability and property damage insurance issued by a casualty insurance company authorized to do business in South Carolina.

Sec. 70-73. Special requirements.

- (a) Each wrecker shall display the owner or company name and business telephone number in at minimum two-inch high letters on both vehicle doors. Temporary lettering, magnetic or otherwise, is strictly prohibited.
- (b) Each wrecker shall display a current South Carolina license plate to the extent required by South Carolina law.
- (c) Every operator shall have the appropriate level of driver's license for the vehicle that is being operated.
- (d) Each wrecker business which stores towed vehicles shall have a storage lot in close proximity to its principal place of business. It shall be the responsibility of the wrecker company for ensuring that stored vehicles and their contents are kept safe from pilferage and theft.
- (e) The tow truck company will permit the owner of personal property located within, but not attached to, the vehicle a one-time removal of such personal property from the vehicle without charge and without regard to any towing or storage charge owed on the vehicle. A reasonable timeframe shall be given of at least one hour to the tow truck company for removal of emergency items such as medicine or life affecting items. If the tow truck company has removed personal property from the vehicle, it will return it to the vehicle owner when requested without charge and without regard to any towing or storage charge owed on the vehicle. Should the tow truck operator or storage lot attendant have reasonable belief that such requested property constitutes contraband or other item(s), possession of which is unlawful, notification will be given to the appropriate law enforcement agency prior to release of the property.
- (f) Any loss, cost, damage or other expense occasioned by negligence of the wrecker company shall be the sole and entire responsibility of the wrecker company and not the county. All and total liability shall be upon the towing company from initial hook-up to a vehicle until release of said vehicle.

Sec. 70-74. Booting.

No booting will be allowed under the terms of this Ordinance.

Sec. 70-75. Property Owner's Associations.

No property owners' association rules or private covenants filed in the Beaufort County Register of Deeds Office will apply to any private roads in a subdivision, which has been dedicated under appropriate legal requirements to authorize state or county law enforcement to enforce traffic statutes under Title 56 of the Code of Laws of South Carolina 1976, as amended.

Sec. 70-76. Non-consensual towing from private property.

(a) It shall be unlawful to remove any motor vehicle from private property without authorization from the owner of the motor vehicle, the county, or authorized law enforcement agencies, except under the following circumstances:

(1) The property owner has proprietary ownership and discretion as to who is authorized to be on said property; and

(2) If the property owner is a commercial entity or other like entity which has shared parking spaces, the following conditions have been met:

a. The property owner, or designated manager, has posted the property with signs clearly stating that parking is prohibited or restricted;

b. The posted signs were in place and clearly visible and legible to any driver approaching the property where parking is prohibited or restricted at the time the vehicle was parked; and

c. The posted signs contain a clear warning that violators' vehicles will be towed, at the vehicle owner's expense, and contain the telephone number to call to obtain release of the towed vehicle.

(b) If a vehicle has been requested to be towed from private property where security is maintained, security shall be required to accompany the towing company to the vehicle requested to be towed and remain until the vehicle has been removed from the property.

(c) The owner of the vehicle towed from private property shall be responsible for paying all applicable towing and storage charges provided that the private property owner has complied with all of the requirements contained in subsection (a) above. If a vehicle is towed as a result of a property owner's request and the property owner has not complied with the requirements of subsection (a) above, or if the vehicle towed is shown to have been legally parked, the property owner shall be guilty of a misdemeanor and may, in the discretion of the county magistrate as provided in S.C. Code, Section 14-25-75, be required to reimburse the owner of the vehicle for all towing and storage charges which the owner of the vehicle paid.

(d) (1) A wrecker service and private property owner may enter into a written agreement authorizing towing from that property, which agreement shall be filed with the Beaufort County Sheriff's Office. Before towing a vehicle from private property without authorization from the vehicle owner, the wrecker service operator shall obtain from the property owner, or designated manager, a written authorization which shall set forth the name and signature of the property owner or his/her agent or a statement that the tow occurred pursuant to an agreement filed with the Beaufort County Sheriff's Office, the address from which the motor

vehicle is being towed, the reason for the removal, and the year, make, model vehicle identification number, state and license plate number of the motor vehicle being towed.

(2) These authorization forms shall be provided by each wrecker service providing such towing services and will be kept on file by the wrecker service for inspection by the county for not less than three (3) years.

(3) In addition, any wrecker service removing a motor vehicle from private property without the consent of the owner of the vehicle shall, within One (1) hour of its removal, telephone the Beaufort County Sheriff to verbally report the tow by providing the information on the authorization form as well as the location where the motor vehicle may be claimed by its owner.

(e) At any time a vehicle is towed without the authorization of the vehicle owner or person lawfully in possession of the vehicle (hereinafter the "vehicle owner"), the fee schedule herein shall be the maximum to be charged by any wrecker operator or company and no other fees or charges of any kind shall be required to be paid by the vehicle owner in order to recover the vehicle.

(f) No wrecker service operator shall tow a vehicle from private property without the consent of the vehicle owner unless the wrecker service shall have an operator/attendant on call at all times other than after normal business hours capable of responding to requests for release of the vehicle. The operator/attendant will be capable of and will respond to a request for release of a vehicle within forty-five (45) minutes of being called during any of these times, and shall release the vehicle upon payment of the fee as set forth in the fee schedule herein, and upon proper identification, unless the operator/attendant has reasonable belief that operation of the vehicle will be in violation of the law and in that instance will notify the appropriate law enforcement agency prior to release of the vehicle. No other fees or charges may be required, and no fees or charges shall be assessed or accrued after forty-five (45) minutes from the request for release of a vehicle.

(g) Each wrecker business shall have posted at its storage lot and at its principal place of business signs clearly indicating the procedure for release of vehicles, including the on-call number for release of vehicles, such posted signs to be in place and clearly visible and legible to any driver approaching the storage lot or place of business.

(h) If a vehicle owner returns to reclaim his or her vehicle while the tow truck is on the scene but before the vehicle is physically connected to the tow truck, the tow truck operator may charge no more than Seventy-five Dollars (\$75.00) to release the vehicle. If the owner refuses or is unable to pay, the vehicle may be towed.

(i) If the vehicle is connected to the tow truck when the vehicle owner returns to reclaim the vehicle, the tow truck operator shall disconnect the vehicle and return it to the

vehicle owner without further charge upon payment of One Hundred Dollars (\$100.00). If the owner refuses to or is unable to pay, the vehicle may be towed.

Sec. 70-77. Maximum towing charges.

(a) The attached (Appendix A) schedule of fees shall be adhered to in establishing the maximum that can be charged for a tow, except as otherwise provided by an authorized governmental agency having competent jurisdiction, and except when the owner/operator of a towed vehicle makes special arrangements with a wrecker service of his/her own choosing. These fees may be exclusive or cumulative in nature dependent upon the circumstances involved in the call for service.

(b) The schedule of fees shall be reviewed by the Beaufort County Governmental Committee, upon recommendation of the committee, the director of the division of public safety, or the program administrator. Adjustment of fees may be accomplished by simple resolution of County Council after public review in the event of any significant change in economic conditions affecting the towing industry, e.g., cost of fuel.

(c) Storage fees will not begin until twelve (12) hours after the motor vehicle has entered into the business' storage lot. Thereafter, storage fees shall accrue on a per day basis for any one (1) day or portion thereof.

(d) All entities engaged in a towing business shall adopt a fair business model which only utilizes and charges for the services and/or equipment necessary to accomplish the task under consideration. Those businesses that are found to unnecessarily utilize equipment in such a manner as to exaggerate towing charges will be found to be in violation of this article.

(e) Each business engaged in non-consensual (without the prior consent or authorization of the owner or operator of the vehicle) or wrecker service rotation program towing will post, in a prominent place, a placard which references this section and clearly identifies the current schedule of fees. Said placard will be no less than twelve (12) by eighteen (18) inches and clearly visible to vehicle owners who will be paying a towing bill.

(f) Each vehicle owner will be given an itemized invoice or receipt for the bill they have paid which details all charges that have been applied to the bill.

Sec. 70-78. Emergencies or special events.

Whenever the county determines that a state of emergency exists in Beaufort County, or during special events so designated by the county, the county administrator may request that all wrecker services engage in the towing of vehicles deemed as interfering with efforts to deal with the emergency or special event. Towing charges incurred during such times shall be in accordance with the established towing fee schedule and such charges shall remain the responsibility of the towed vehicle's owner.

Sec. 70-79. Penalties.

Unless otherwise provided herein, violation of any of the provisions of this article is a misdemeanor punishable in a court of competent jurisdiction of a fine of One Hundred Dollars (\$100) or thirty (30) days in jail.

Appendix A. Schedule of Fees

TABLE INSET:

Description	Fee
Carrier	\$200.00
Light-medium wrecker	\$200.00
No-tow (arrival only)	\$75.00
No-tow (attached)	\$100.00
Tow exceeding one hour	\$125.00 per hr.
Storage (per day) (after first 24 hours)	\$40.00

Adopted this _____ day of _____, 2011.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Wm. Weston J. Newton, Chairman

APPROVED AS TO FORM:

Ladson F. Howell, Staff Attorney

ATTEST:

Suzanne M. Rainey, Clerk to Council

First Reading:
Second Reading:
Public Hearing:
Third and Final Reading: