

**COUNCIL AGENDA STATEMENT**



**Meeting Date:** February 8, 2022  
**To:** Honorable Mayor and Council Members  
**From:** George Garrett, City Manager

**Agenda Items:** **Ordinance 2022-01**, Modifying Section 32-2 Of The City Code Of Ordinances, ‘Regulation Of Wrecker Operators Who Provide Towing And Storage Services At The Request Of Law Enforcement Officers;’ Providing For A Change In Who May Request Service Pursuant To Section 32-2 (D); Providing For The Removal Of Detailed Rate Provisions From The Ordinance; And Providing That Such Rates Be Established By Resolution From Time To Time Based On An Assessment Of Actual Cost Of Operations (Vehicles, Labor, Insurance, Cpi, Etc.); Providing For Severability; Providing For Incorporation Into The Code Of Ordinances; And Providing For An Effective Date.

**BACKGROUND**

Section 32-2 of the City’s Code of Ordinances was adopted on November 28, 2006 as Ordinance 2006-32. Said Ordinance established rates and fees for motor vehicle towing and storage services. Rates and fees associated with Section 32-2 of the Code of Ordinances have not changed in 15 years since the initial adoption date. The City is adopted 2022-05 which modifies Section 32-2, in part, removing rates and fees from the Ordinance providing that such rates and fees may be established by City Council Resolution. Based on discussion with existing tow operators in the City of Marathon, the rates and fees provided herein address towing and storage service costs currently associated with such business operations.

**CONSISTENCY CHECKLIST:**

	<b>Yes</b>	<b>No</b>
1. Comprehensive Plan	<u>  X  </u>	<u>      </u>
2. Other – 2010 Sewer Mandate	<u>      </u>	<u>  X  </u>

**FISCAL NOTE:**

**APPROVED BY FINANCE DIRECTOR:**

**RECOMMENDATION:** Approval

**Sponsored by:** Gonzalez  
**Introduction Date:** January 11, 2022  
**Public Hearing Dates:** January 11, 2022 / February 8, 2022  
**Enactment Date:** February 8, 2022

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2022-01**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA, MODIFYING SECTION 32-2 OF THE CITY CODE OF ORDINANCES, ‘REGULATION OF WRECKER OPERATORS WHO PROVIDE TOWING AND STORAGE SERVICES AT THE REQUEST OF LAW ENFORCEMENT OFFICERS;’ PROVIDING FOR A CHANGE IN WHO MAY REQUEST SERVICE PURSUANT TO SECTION 32-2 (d); PROVIDING FOR THE REMOVAL OF DETAILED RATE PROVISIONS FROM THE ORDINANCE; AND PROVIDING THAT SUCH RATES BE ESTABLISHED BY RESOLUTION FROM TIME TO TIME BASED ON AN ASSESSMENT OF ACTUAL COST OF OPERATIONS (VEHICLES, LABOR, INSURANCE, CPI, ETC.); PROVIDING FOR SEVERABILITY; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** Section 32-2 of the City’s Code of Ordinances was adopted on November 28, 2006 as Ordinance 2006-32; and

**WHEREAS,** said Ordinance established rates and fees for motor vehicle towing and storage services; and

**WHEREAS,** rates and fees associated with Section 32-2 of the Code of Ordinances have not changed in 15 years since the initial adoption date; and

**WHEREAS,** this Ordinance modifies Section 32-2, in part, removing rates and fees from the Ordinance providing that such rates and fees may be established by City Council Resolution; and

**WHEREAS,** based on discussion with existing tow operators in the City of Marathon, the rates and fees provided herein address towing and storage service costs currently associated with such business operation; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:**

**Section 1.** The above recitals are hereby confirmed and adopted.

**Section 2.** Section 32-2 (d) *Rates* is hereby modified to read:

(d) Rates.

(1) (d) Rates and Fees.

(1) ~~For the removal and storage of wrecked or disabled motor vehicles or for the removal and storage of abandoned motor vehicles at the request of a law enforcement officer, the maximum rate that may be charged by a wrecker operator is:~~ Rates and fees shall be established by Resolution of the City Council from time to time that may be charged by a wrecker operator for the removal and storage of wrecked or disabled motor vehicles, abandoned motor vehicles, or vehicles parked in prohibited or restricted areas pursuant to Section 32-31, at the request of a law enforcement officer or the City Manager (and his/her designee).

<b>Class "A" wrecker service</b>	
<b>Base rate (any time a wrecker is called to a site)</b>	<b>\$135.00</b>
<b>Mileage rate from wrecker station to site and return (per mile)</b>	<b>3.00</b>
<b>Per hour charge beginning upon arrival of wrecker</b>	<b>135.00</b>
<b>Inside storage (per day)</b>	<b>40.00</b>
<b>Outside storage (per day)</b>	
<b>Under 20 feet</b>	<b>30.00</b>
<b>Price by foot over 20 feet (per foot)</b>	<b>2.00</b>
<b>Administration fee</b>	<b>25.00</b>
<b>Notification fee</b>	<b>50.00</b>
<b>Each additional letter</b>	<b>20.00</b>
<b>Service calls</b>	<b>75.00</b>
<b>After hours gate fee</b>	<b>75.00</b>
<b>Class "B" wrecker service</b>	
<b>Base rate (any time a wrecker is called to a site)</b>	<b>\$200.00</b>
<b>Mileage rate from wrecker station to site and return (per mile)</b>	<b>4.00</b>
<b>Per hour charge beginning upon arrival of wrecker</b>	<b>180.00</b>
<b>Inside storage (per day)</b>	<b>40.00</b>
<b>Outside storage (per day)</b>	
<b>Under 20 feet</b>	<b>30.00</b>

<del>Price by foot over 20 feet (per foot)</del>	<del>2.00</del>
<del>Administration fee</del>	<del>25.00</del>
<del>Notification fee</del>	<del>50.00</del>
<del>Each additional letter</del>	<del>20.00</del>
<del>Service calls</del>	<del>75.00</del>
<del>After hours gate fee</del>	<del>75.00</del>
<b>Class "C" wrecker service</b>	
<del>Base rate (any time a wrecker is called to a site)</del>	<del>\$485.00</del>
<del>Mileage rate from wrecker station to site and return (per mile)</del>	<del>5.00</del>
<del>Per hour charge beginning upon arrival of wrecker</del>	<del>300.00</del>
<del>Inside storage (per day)</del>	<del>40.00</del>
<del>Outside storage (per day)</del>	
<del>Under 20 feet</del>	<del>30.00</del>
<del>Price by foot over 20 feet (per foot)</del>	<del>2.00</del>
<del>Administration fee</del>	<del>25.00</del>
<del>Notification fee</del>	<del>50.00</del>
<del>Each additional letter</del>	<del>20.00</del>
<del>Service calls</del>	<del>75.00</del>
<del>After hours gate fee</del>	<del>75.00</del>

The daily storage rate must be prorated in six (6) hour increments when the vehicle is retrieved by the owner or his agent. The notification fee may only be charged when notice is sent by the wrecker operator to the motor vehicle owner and any lienholder. In the event a law enforcement officer needs a tow truck for a towable violation, and once the towing service has been requested by the officer at the violation site and the operator has advised the officer that he is in route to the request, should the owner or driver of the motor vehicle in violation return to the vehicle site before the wrecker operator has arrived at the motor vehicle, or before the wrecker operator has departed with the vehicle, and upon the officer's authorization to release the vehicle to the owner or driver then the owner or driver of the vehicle shall pay a charge of not more than one-half (½) of the maximum rate for the class of towing service called for.

(2) The provisions of ~~this Subsection~~ **Section 32-2 (d) and 32-31** only apply to the rates charged for towing and storage service called for at the request of a law enforcement officer **or City Manager (and his/her designee)**. In all other situations the provisions of this Subsection

(d) do not apply and the parties may negotiate prices and rates as in other ordinary service contracts.

(3) Every wrecker operator shall conspicuously display at his place of business the maximum charges which he may impose for the towing and storage services covered by this subsection.

**(4) No wrecker operator may charge any rate or fee for the towing of a vehicle in excess of those established by Resolution of the Marathon City Council for wrecker services. Notwithstanding the foregoing, the rates and fee shall be determined by the class of the vehicle towed not the size of the wrecker utilized to tow the vehicle.**

**(5) In no event shall a wrecker operator charge the owner of a vehicle for waiting time or labor.**

**Section 3.** Section 32-2 (k) *Fees* is hereby eliminated and following subsections renumbered:

~~(k) — Fees.~~

~~(1) — No wrecker operator may charge any fee for the towing of a vehicle in excess of the fees established by resolution of the Marathon City Council for wrecker services. Notwithstanding the foregoing, the fee shall be determined by the class of the vehicle towed not the size of the wrecker utilized to tow the vehicle.~~

~~(2) — In no event shall a wrecker operator charge the owner of a vehicle for waiting time or labor.~~

**Section 4.** The Provisions of the Marathon Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**Section 5.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 6.** It is the intention of the City Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Marathon Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 7.** This Ordinance shall become effective immediately upon adoption on second reading.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 22<sup>nd</sup> DAY OF FEBRUARY, 2022.**

**THE CITY OF MARATHON, FLORIDA**

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**John Bartus, Mayor**

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk

(CITY SEAL)

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE  
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

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Steven T. Williams, City Attorney