

5F-1

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: December 15, 2009 Consent Regular
 Ordinance Public Hearing

Department: Public Safety

Submitted By: Public Safety Department

Submitted For: Consumer Affairs Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve on preliminary reading and advertise for public hearing on January 12, 2010 at 9:30 a.m. an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Chapter 19, Article VII (Ordinance No. 2005-009); to be known as the Palm Beach County Towtruck Ordinance; providing for a title; providing for definitions; providing for towtruck class specifications; providing for required operating permit; providing for new applications/renewals and issuance of towing operating permit and fees; providing for inspection of storage yards and public offices; providing for insurance requirements, providing for towtruck registration, standards and decals; providing for inspection procedures and requirements; providing for non-consent manifest, towing invoice or tow sheet; providing for advertisements; providing for records requirements; providing for an operating permit required to do business with the county; providing for non-consent towing with prior express instruction of real property owner or authorized agent and/or law enforcement agency; providing for notice requirements for non-consent tow services at request of real property owners; providing for non-consent towtruck company requirements; providing for consent-only towtruck company requirements; providing for maximum non-consent towing and storages rates for non-consent tow services; providing for towtruck driver requirements and failure to comply; providing for fraudulent transfer of towtruck companies; providing for deceptive and unfair trade practices, providing for cease and desist orders, providing for assurances of voluntary compliance; providing for enforcement and civil/criminal penalties; providing for administrative enforcement, denial, revocation and suspension of operating permits; providing for additional penalties; providing for hearings and appeals; providing for scope; providing for repeal of laws in conflict; providing for a savings clause; providing for inclusion in the code of laws and ordinances; providing for severability; and providing for an effective date.

Summary: The two main objectives of the proposed Ordinance revisions are: 1) Require all towing companies in Palm Beach County to be licensed and meet minimum safety, insurance and operating rules and 2) Require all towtruck drivers to secure an I.D. Badge and pass a basic criminal and driving background check (similar to the requirements for vehicle-for-hire drivers). The proposed revisions also improve issues related to the existing towing Ordinance. Currently, only towing companies performing non-consent tows (police involved accidents or illegally parked vehicles) are required to be licensed. The revised Ordinance would return Palm Beach County to licensing requirements that were in place from 1992 – 2002 when all towing companies were required to be licensed. Towtruck drivers have considerable interaction with the public and often provide transportation for individuals whose inoperable vehicles must be towed. All of the proposed revisions involve public safety issues. Staff and an industry advisory committee have worked together in developing this proposal. One additional part-time compliance officer position is needed to assist inspecting vehicles and providing follow-up to towing investigations during peak periods. A motion to include an additional part-time person to the towing budget will be included in the agenda at the public hearing for the Towing Ordinance. COUNTY-WIDE (GB).

Background and Policy Issues: See page 3.

Attachments:

- A. Proposed Ordinance revisions (With additions/deletions noted)
- B. Chart showing proposed fees, maximum rates, fines and minimum insurance that will be included in resolution for approval on December 15, 2009

Recommended by: *Vivian J. Bonvento* 12/3/09
 Department Director Date

Approved By: *Vivian J. Bonvento* 12/3/09
 Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	<u>121,264</u>	<u>125,000</u>	<u>129,000</u>	<u>133,000</u>	<u>137,000</u>
External Revenues*	<u>(121,264)</u>	<u>(125,000)</u>	<u>(129,000)</u>	<u>(133,000)</u>	<u>(137,000)</u>
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE	<u>.5</u>	_____	_____	_____	_____
POSITIONS (Cumulative)	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>

Is Item Included In Current Budget? Yes X No _____

Budget Account No.: Fund 1429 Agency 660 Org. 6240 Object VAC Reporting Category

B. Recommended Sources of Funds/Summary of Fiscal Impact:

License and other fees enable this program to be self-funded with no ad valorem impact.

The following chart is a comparison of collected revenue for FY2009 with projected total revenue for FY2010. It is anticipated that income will be coming from approximately 200 companies with 400 vehicles and 400 drivers.

	2009	Proj. 2010
Total Fee for Towing	42,785	164,049

The major fees for towing companies will include a \$400 application fee, \$150 vehicle/decals fee, and a \$100 storage inspection fee. The cost for towtruck drivers will include a \$60 fee for a two year I.D. Badge, plus the cost of the criminal background check (currently \$24). See attachment B for more details.

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

The \$164,049 Projected FY2010 revenue is considered total revenue collection; The \$121,264 is considered additional revenue as it pertains to the amended ordinance.

[Signature] 12.4.09
OFMB 8/24/09

[Signature] 12/17/09
Contract Dev. and Control

B. Legal Sufficiency:

[Signature] 12/10/09
Assistant County Attorney

C. Other Department Review:

Department Director

Revised 9/03
ADM FORM 01

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.)

Background and Policy Issues (Continued from page 1)

While the current Ordinance only regulates companies that perform non-consent tows (e.g. police directed tows at accident or crime scenes or removal of illegally parked vehicles on private property), it has become obvious that all towing companies operating in Palm Beach County should be regulated. The staff and industry observers have noted a considerable number of unlicensed towing companies that are operating with little or no insurance or are utilizing unsafe vehicles or equipment. The County Attorney's Office has issued an opinion that regulating all commercial towing companies/vehicles in Palm Beach County is consistent with state and federal regulations.

Similarly, the Sheriff's Office has shown that local towing companies have hired drivers with extensive criminal records including sex offenders. Towtruck drivers have considerable contact with the public and are often responsible for not only the expensive vehicles towed but for all of the contents in those vehicles. Additionally, towtruck drivers frequently provide transportation to stranded motorists who must have their vehicles towed, often from remote areas. The Ordinance proposes requiring towtruck drivers to meet certain minimum requirements for their criminal background and driving record.

The following are some of the other revisions addressed in this Ordinance:

1. Better defines vehicle owner so that impounded vehicles will be released in a timelier manner from the towing company.
2. Enables the Division to suspend the operating permit of companies that do not provide the required liability insurance for all vehicles.
3. Further clarifies the approval process required before a towing company can remove a vehicle from private property.
4. Enables vehicles impounded from an accident site to be towed to locations other than the storage yard of the towing company where there is a clear disclosure to the consumer concerning the location and costs.
5. Towing companies found to be in violation of the Ordinance are required to reimburse vehicle owners for any overcharges in towing charges.
6. Establishes a systematic procedure for suspending and revoking licenses for towing companies that continually violate the provisions of the Ordinance.

History: Palm Beach County has had a Towtruck Ordinance since 1992. In 1999 the U.S. Court of Appeals for the 11th Circuit severely limited the regulation of the towing industry by state/local governments. A subsequent class-action law suit by towing companies resulted in Palm Beach County not regulating the towing industry at all and agreeing to a "maximum rates only" ordinance. In 2002 the U.S. Supreme Court overruled the 11th Circuit's decision, making it possible for local jurisdictions to again regulate towing companies. The current Ordinance was developed by the Consumer Affairs staff in conjunction with an industry advisory committee and was approved by the Board of County Commissioners in 2005.

Draft As of 12/2/2009

Palm Beach County
TOWING ORDINANCE 2010-_____
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DRAFT – Proposed Palm Beach County Towtruck Ordinance as of 12/2/09

TOWTRUCK ORDINANCE NO. 2010-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE CHAPTER 19, ARTICLE VIII (ORDINANCE NO. 2005-009), PROVIDING FOR A TITLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR TOW TRUCK CLASS SPECIFICATIONS; PROVIDING FOR OPERATING PERMIT REQUIRED; PROVIDING FOR NEW APPLICATIONS/ RENEWALS AND ISSUANCE OF AN OPERATING PERMIT AND FEES; PROVIDING FOR INSPECTION OF STORAGE YARDS AND PUBLIC OFFICES; PROVIDING FOR INSURANCE REQUIREMENTS, PROVIDING FOR TOWTRUCK REGISTRATION, STANDARDS AND DECALS; PROVIDING FOR INSPECTION PROCEDURES AND REQUIREMENTS; PROVIDING FOR NONCONSENT MANIFEST, TOWING INVOICE OR TOW SHEET; PROVIDING FOR ADVERTISEMENTS; PROVIDING FOR RECORDS REQUIREMENTS; PROVIDING FOR AN OPERATING PERMIT REQUIRED TO DO BUSINESS WITH THE COUNTY; PROVIDING FOR NON-CONSENT TOWING WITH PRIOR EXPRESS INSTRUCTION OF REAL PROPERTY OWNER OR AUTHORIZED AGENT AND/OR LAW ENFORCEMENT AGENCY; PROVIDING FOR NOTICE REQUIREMENTS FOR PROVIDING NON-CONSENT TOW SERVICES AT REQUEST OF REAL PROPERTY OWNERS; PROVIDING FOR NONCONSENT TOWTRUCK COMPANY REQUIREMENTS; PROVIDING FOR CONSENT-ONLY TOWTRUCK COMPANY REQUIREMENTS; PROVIDING FOR MAXIMUM NONCONSENT TOWING AND STORAGES RATES FOR NON-CONSENT TOW SERVICES; PROVIDING FOR TOWTRUCK DRIVER REQUIREMENTS AND FAILURE TO COMPLY; PROVIDING FOR FRAUDULENT TRANSFER OF TOWTRUCK COMPANIES; PROVIDING FOR DECEPTIVE AND UNFAIR TRADE PRACTICES, PROVIDING FOR CEASE AND DESIST ORDERS, PROVIDING FOR ASSURANCES OF VOLUNTARY COMPLIANCE; PROVIDING FOR ENFORCEMENT AND CIVIL/CRIMINAL PENALTIES; PROVIDING FOR ADMINISTRATIVE ENFORCEMENT, DENIAL, REVOCATION AND SUSPENSION OF OPERATING PERMITS; PROVIDING FOR ADDITIONAL PENALTIES; PROVIDING FOR HEARINGS AND APPEALS; PROVIDING FOR SCOPE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, numerous persons and firms in Palm Beach County engage in the business of recovering, towing and storing of motor vehicles and vessels; and

WHEREAS, such towing services frequently must be provided without the prior consent of the vehicle/vessel owner, or under circumstances which prevent negotiating the charges, terms and conditions for the towing service, often resulting in disagreements and complaints between vehicle/vessel owners and providers of towing services; and

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WHEREAS, the vehicles and equipment used to tow vehicles/vessels across the thoroughfares of Palm Beach County and the manner in which towing is conducted are of considerable significance to the health, safety and welfare of the owners of towed vehicles/vessels and of the residents and visitors in Palm Beach County; and

WHEREAS, Sections 125.0103(b), 166.043(c) and 715.07(2), Florida Statutes, empowers the Board of County Commissioners to enact regulations pertaining to the towing industry, including the authority to regulate maximum rates when vehicles are towed or removed from private property; and

WHEREAS, the Ordinance is amended to clarify the licensing and enforcement procedures for towing companies and towtruck drivers; and

WHEREAS, the United States Supreme Court decision in Ours Garage vs. City of Columbus, 536 U.S. 424 (2002) held that states could delegate their authority to regulate non-consent towing services as it relates to price and safety; and

WHEREAS, pursuant to Section 125.0103(b), Florida Statutes, counties have been delegated the authority to regulate towing; and

WHEREAS, the Board of County Commissioners of Palm Beach County finds it to be in the best interest of the County, its citizens and its visitors to license and regulate non-consent and consent towing services and all drivers who perform towing services within Palm Beach County, to assure that all who provide the services are fit and competent to do so and that such services are delivered in a safe and efficient manner; and

WHEREAS, the Board of County Commissioners of Palm Beach County hereby amends Palm Beach County Code Chapter 19, Article VIII, (Ordinance No. 2005-009).

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NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

SECTION 1. Title.

This Ordinance shall be known and cited as the Towtruck Ordinance of Palm Beach County, Florida.

SECTION 2. Definitions.

For the purposes of this Ordinance, the following definitions shall apply:

1. **Administrative/Lien Fee** shall mean the fee that is charged for title and lien search, advertising costs, and notification of lien holder and owner of the whereabouts and charges against a vehicle or vessel.
2. **Advertisement** shall mean any written statement made in connection with the solicitation of a towtruck company and includes without limitation, statements and representations made in a newspaper, telephone directory or other publication, radio, television, electronic medium or contained in any notice, handbill, business card, sign, catalog, billboard, brochure, poster or letter.
3. **Applicant** shall mean any person who applies for an operating permit or with Palm Beach County. In the case of partnerships, associations, corporations and other legal entities, "applicant" shall also mean any member of a partnership and the corporate officers and directors.
4. **Authorized Driver/Agent shall mean any person who is empowered to act on behalf of the vehicle/vessel owner or lien holder.**
5. **Commission** shall mean the Board of County Commissioners of Palm Beach County, Florida.
6. **Compensation shall mean the exchange of goods or services for money, property, service or anything else of value.**
7. **Consent Tow shall mean the recovery, towing and storage of a vehicle or vessel with the authorization/consent of the vehicle/vessel owner or authorized driver.**

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- 1 8. Consent Tow Company shall mean person(s) who tows a motor vehicle/vessel
 2 with the authorization/consent of the vehicle/vessel owner or authorized
 3 driver/agent.
- 4 9. Consent-Only Towing Operating Permit shall mean the authority required
 5 by the provisions of this Ordinance of any individual or towing company
 6 engaging in the business of performing consent-only towing of
 7 vehicles/vessels.
- 8 10. Commercial Towing Company shall mean any person or business entity
 9 which tows or recovers vehicles/vessels commercially which results in
 10 compensation from the sale or resale of vehicles/vessels or salvaged parts.
- 11 11. Director shall mean the Division Director, or his or her designee.
- 12 12. Division shall mean the Consumer Affairs Division designated to implement,
 13 enforce and monitor this Ordinance.
- 14 13. Duly Authorized Agent shall mean a person designated by and acting on
 15 behalf of a real property owner per contractual agreement to request Private
 16 Property Impounds . The duly authorized agent shall have no affiliation
 17 with the towtruck company providing the towing service. The real property
 18 owner shall only appoint duly authorized agents which have a direct
 19 connection to the property (i.e., board member, employee of the property
 20 management company or home/condo owner’s association, employee of the
 21 real property owner or state of Florida licensed security agency contracted
 22 by the real property owner or manager).
- 23 14. Employees shall mean a person who is compensated financially for a period
 24 of not less than 20 hours per week and who performs all of his/her
 25 employment functions on the property of the employer or management
 26 company and is issued an annual federal tax statement of earnings (W-
 27 2Form).
- 28 15. Extra Time at Scene/Labor shall mean any extra time beyond one-half hour,
 29 needed to safely remove a vehicle or vessel and shall also include the amount of
 30 time spent at a scene when a towtruck has been summoned and is on scene but
 31 unable to proceed through no fault of the towtruck operator. All extra time/labor

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1 shall be documented by the towtruck driver and shall include the name of the law
 2 enforcement agency; **and the** law enforcement agency case number; **or the**
 3 officer’s name and badge number. The documentation shall also include a
 4 detailed explanation of the services rendered which necessitated the charges **and**
 5 **if possible photographs of the scene**. Extra time/**labor** shall be charged in 15-
 6 minute increments.

7 ~~8. **For Compensation** shall mean for money, property, service or anything else of~~
 8 ~~value.~~

9 16. **Good Faith Effort shall mean that required steps have been performed by**
 10 **the towtruck company according to Florida Statute 713.78, Section (4) (d) to**
 11 **locate the vehicle/vessel owner or lien holder.**

12 17. **Gross weight** shall mean the weight of a towtruck in pounds plus the weight of
 13 the vehicle(s)/vessel(s) and contents being towed.

14 18. **License shall mean the Business Operating Permit, Certificate or document**
 15 **which allows a person to engage in Palm Beach County in the activity of**
 16 **recovering, towing, removing, booting and storing of vehicles and/or vessels**
 17 **for compensation. As used in this article, a license shall not mean a**
 18 **municipal or county Business Tax Receipt (formerly Occupational License).**

19 19. **Light Reflective Sign** shall mean an 18 inch wide by 24 inch high sign made of
 20 aluminum (at least .040 thickness) or fiber reinforced plastic (at least .090
 21 thickness). The entire background surface and all lettering must at a minimum be
 22 Type 1 Engineered Grade Sheeting (ASTM D4956-01) **or 3M Engineer Grade**
 23 **Prismatic Reflective Sheeting Series 3430 (or equivalent)**. The letters may be
 24 screen printed on the Type 1 sheeting using a compatible transparent ink so that
 25 the retroreflection is maintained and visible.

26 20. **Mechanical Connection** shall mean any type of physical connection between a
 27 vehicle or vessel to be towed and the towtruck/flatbed truck/car carrier and
 28 includes the use of devices for maneuvering unattended vehicles/vessels unable to
 29 be safely moved by conventional winching or towing equipment.

30 21. **Non-consent Tow** shall mean the recovery, towing, removal and storage of a
 31 vehicle or vessel without authorization of the vehicle/vessel owner or authorized

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1 driver and shall include both "Police Directed Tows" and "Private Property
2 Impounds" as defined herein.

3 22. **Non-Consent Towing Company shall mean person(s) who perform "Police**
4 **Directed Tows" or "Private Property Impounds" as defined herein.**

5 23. **Operate** shall mean providing the services of recovering, towing, or removing
6 vehicles or vessels and any vehicle/vessel storage services associated therewith.

7 24. ~~**Operating Permit** shall mean the authority required by the provisions of this~~
8 ~~Ordinance of any individual or towing company engaging in the business of non-~~
9 ~~consent tows.~~

10 25. **Operator** shall mean any person who provides the services of recovering, towing,
11 or removing vehicles and any vehicle storage services associated therewith and
12 includes without distinction the owning entity of a towing firm and the driver of a
13 tow truck.

14 26. **Person** shall mean any natural person, firm, partnership, association, corporation
15 or other entity of any kind whatsoever.

16 27. **Place of business** shall mean the towtruck company that provides ~~non-consent~~
17 towing, removal, recovery and storage services.

18 28. **Police Directed Tow** shall mean the removal and storage of a wrecked or
19 disabled vehicles at the direction of police/law enforcement from an accident
20 scene or the removal and storage of a vehicles in the event the vehicle owner or
21 authorized driver is incapacitated, unavailable, or otherwise does not consent to
22 the removal of the vehicle, excepting, however, all incidents of "Private Property
23 Impounds" as herein defined below.

24 29. **Prior Express Instruction** shall mean a clear, definite and explicit request: a)
25 made by a police agency to recover, tow, remove, or store a specific and
26 individual vehicle or vessel which is disabled, abandoned, or parked without
27 authorization or whose vehicle/vessel owner or authorized driver is unable or
28 unwilling to remove the vehicle; or b) made in writing by a real property owner or
29 duly authorized agent of the real property owner, as specifically referenced on the
30 written contract between the real property owner and towtruck company, to
31 recover, tow, remove and store a specific and individual vehicle or vessel parked

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1 without permission of the real property owner. The towtruck company, an
2 employee or agent thereof shall not be the designated agent of the real property
3 owner for the purpose of providing prior express instruction to recover, tow,
4 remove or store the vehicle or vessel.

5 30. **Private Property Impound** shall mean towing or removal of a vehicle or vessel,
6 without the consent of the vehicle/vessel's owner or authorized driver when that
7 vehicle/vessel is parked on real property, as authorized by Section 715.07, Florida
8 Statutes, as may be amended.

9 31. **Proof of Ownership for Vehicle/Vessel Release shall mean that one or more**
10 **of the following documents are required along with a government issued**
11 **photo identification:**

12 a. **Current vehicle registration.**

13 b. **Vehicle Title.**

14 c. **An authorized driver/agent with a notarized release from the**
15 **vehicle/vessel owner or lien holder. Vehicle/Vessel owners have the**
16 **right to identify/approve designated agents to claim vehicles on their**
17 **behalf. A facsimile or electronic transfer of a notarized release**
18 **statement from the vehicle/vessel owner shall be accepted.**

19 d. **Insurance Card with the vehicle/vessel owner's information, vehicle**
20 **description and Vehicle Identification Number.**

21 e. **Licensed Dealer in possession of an auction buyers sales invoice.**

22 f. **A notarized bill of sale for non-titled vehicles or vessels.**

23 **If the owner of the vehicle had his/her Florida driver's license confiscated by**
24 **law enforcement and has no other government issued photo identification**
25 **then at least one of the following forms of identification would be accepted:**
26 **an itemized voucher/property receipt from an arresting law enforcement**
27 **agency, a booking or arrest record, or original citation from a law**
28 **enforcement agency all issued within 7 days of the date the vehicle was**
29 **towed.**

30 32. **Real Property Owner** shall mean that person who exercises dominion and
31 control over real property, including but not limited to, the legal titleholder,

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- 1 lessee, designated representative of a condominium or homeowner's association
 2 or any person authorized to exercise or share dominion and control over real
 3 property; provided, however, that "real property owner" shall not mean or include
 4 a person providing towing services within the purview of this Ordinance.
- 5 33. **Recover** shall mean to take possession of a vehicle or vessel and its contents and
 6 to exercise control, supervision and responsibility over it.
- 7 34. **Recovery** shall mean the removal of a vehicle or vessel from ~~a canal or other~~
 8 ~~body of water, a wooded~~ an area not readily accessible to a roadway (i.e., within
 9 a standard cable length) ~~or when a vehicle is buried~~.
- 10 35. **Remove** shall mean to change the location of a vehicle by towing it.
- 11 36. **Revoke** shall mean to annul and make void the operating permit of a towtruck
 12 company engaged in providing towing services.
- 13 37. **Storage** shall mean to place and leave a towed vehicle or vessel at a location
 14 where the person providing the towing services exercises control, supervision and
 15 the responsibility over the vehicle.
- 16 38. **Storage facility** shall mean the location where towed vehicles or vessels are
 17 stored.
- 18 39. **Tow** shall mean to haul, draw or pull along a vehicle or vessel by means of a
 19 towtruck equipped with booms, car carriers, winches or similar commercially
 20 manufactured equipment.
- 21 40. **Towing** shall mean the act of moving one vehicle or vessel from one point to
 22 another (including hook-up, lift, and transport) using what is commonly referred
 23 to as a tow truck or a car carrier.
- 24 41. **Towing Operating Permit shall mean the authority required by the**
 25 **provisions of this Ordinance of any individual or towing company engaging**
 26 **in the business of both non-consent and consent towing of vehicles/vessels.**
- 27 42. **Towtruck** shall mean any vehicle used to tow, haul, carry or to attempt to tow,
 28 haul or carry a vehicle or vessel.
- 29 43. **Towtruck Company** shall mean any person, company, corporation, or other
 30 entity, which engages in, owns or operates a business which provides ~~non-~~
 31 ~~consent~~ towing, recovery, removal and storage of vehicles or vessels for

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1 compensation.

2 44. **Towtruck Decal** shall mean a decal placed upon any towtruck granted approval
3 to provide non-consent towing services by the Division.

4 45. **Towtruck Driver** shall mean the individual who is driving or physically
5 operating a towtruck for a towtruck company engaged in non-consent tows.

6 46. **Unfair or deceptive trade acts or practices** shall mean unfair methods of
7 competition, unconscionable acts or practices and unfair deceptive acts or
8 practices in the conduct of any consumer transaction and shall include but are not
9 limited to the following:

10 a. Representations that goods or services have sponsorship, approval,
11 characteristics, ingredients, uses, benefits, or quantities which they do not
12 have;

13 b. Representations that a person or towtruck company has a sponsorship,
14 approval, status, affiliation or connection which he or she does not have;

15 c. Representations that goods are original or new if in fact they are not, or if
16 they are deteriorated, altered, reconditioned, reclaimed, or second-hand;

17 d. Representations that goods are of a particular standard, brand, quality,
18 style, or model, if they are of another;

19 e. Representations that goods or services are those of another, if they are not;

20 f. Using deceptive representations or designations of geographic origin in
21 connection with goods or services;

22 g. Advertising goods or services intending not to sell them as advertised;

23 h. Advertising goods or services with intent not to supply reasonable
24 expectable public demand, unless the advertisement discloses a limitation
25 of quantity;

26 i. Making false or misleading statements concerning the need for, or
27 necessity of, any goods, services, replacements, or repairs;

28 j. Disparaging the goods, services, or business of another by false or
29 misleading representations of fact;

30 k. Making false or misleading statements of fact concerning the reasons for
31 the existence of, or amounts of price reductions;

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- 1 l. Failing to return or refund deposits or advance payments for goods not
2 delivered or services not rendered, when no default or further obligation of
3 persons making such deposits or advance payments exists;
- 4 m. Taking consideration for goods or services intending not to deliver such
5 goods or perform such services, or intending to deliver goods or provide
6 service materially different from those contracted for, ordered or sold;
- 7 n. Offering gifts, prizes, free items, or other gratuities, intending not to
8 provide them as offered in connection with a sale of goods or services to a
9 consumer;
- 10 o. Making false or misleading statements concerning the existence, terms, or
11 probability of any rebate, additional goods or services, commission, or
12 discount offered as an inducement for the sale of goods or services;
- 13 p. Using physical force, threat of physical force, or coercion in dealing with
14 consumers;
- 15 q. Any violation of the Florida Deceptive and Unfair Trade Practices Act,
16 Section 501.201 et seq., Florida Statutes.
- 17 47. **Vehicle** shall mean an automobile, truck, bus, trailer, motorcycle, moped,
18 motorized scooters, recreational unit primarily designed as temporary living
19 quarters which either has its own motive power or is ~~mounted on or~~ drawn by
20 another vehicle, or any other mobile item using wheels and being operated on the
21 roads of Palm Beach County, which is used to transport persons or property and is
22 propelled by power other than muscular power; provided, however, that the term
23 does not include bicycles, traction engines, road rollers, ~~semitrailers, truck~~
24 ~~tractors, semitrailer combinations,~~ commercial heavy equipment or vehicles
25 which run only upon a track.
- 26 48. **Vessel** shall mean every description of watercraft, barge and air boat used or
27 capable of being used as a means of transportation on water, other than a seaplane
28 or a "documented vessel" as defined in s.327.02, Florida Statutes.
- 29 49. **Vehicle or Vessel Owner shall mean a person with the "Proof of Ownership"**
30 **described in this Ordinance.**
- 31

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SECTION 3. Towtruck Class Specifications.

All towing vehicles must meet the following requirements and be commercially manufactured and meet all federal transportation and towtruck requirements.

A. Class A Ratings

Towtruck

- 1. Minimum gross weight 14,500 lbs.
- 2. Minimum boom capacity 16,000 lbs.
- 3. Minimum winching capacity 8,000 lbs
- 4. Minimum cable size and length 3/8"X100'
- 5. Minimum wheel lift retracted rating 5,000 lbs.
- 6. Minimum wheel lift extended rating 4,000 lbs.
- 7. Minimum tow sling safe lift..... 3,500 lbs.
- 8. Minimum safety chains (2 each).....5/16" grade 70
- 9. Minimum cab to axle dimension.....60"

Car Carrier

- 1. Minimum gross weight 15,000 lbs.
- 2. Minimum deck capacity 10,000 lbs.
- 3. Minimum length..... 19'
- 4. Minimum winching capacity 8,000 lbs.
- 5. Minimum cable size and length 3/8"X50'
- 6. Minimum tie down chains (4 each)5/16" grade 80
- 7. Tie down straps (optional) (4 each) 2,000 lbs. each wheel
- 8. Minimum cab to axle dimension.....120"

Light Duty – Non-Police Towing

- 1. Minimum gross weight... ~~10,000 lbs.~~ **9,500 lbs.**
- 2. Minimum weight of towtruck 4,000 lbs.
- 3. Minimum wheel lift extended rating 2,500 lbs
- 4. Minimum cab to axle dimension..... 60"

B. Class B Ratings (Medium Duty)

Towtruck

- 1. Minimum gross weight 19,000 lbs.
- 2. Minimum boom capacity 24,000 lbs.
- 3. Minimum winching capacity dual 12,000
- 4. Minimum cable size and length 7/16" x 150'
- 5. Minimum wheel lift retracted rating 10,500 lbs.
- 6. Minimum wheel lift extended rating 6,500 lbs.
- 7. Minimum tow sling safe lift..... 3,500 lbs.
- 8. Minimum safety chains (2 each).....3/8" grade 80
- 9. Minimum cab to axle dimension..... 96"
- 10. Required State DOT Registration

Car Carrier

- 1. Minimum gross weight 22,500 lbs.
- 2. Minimum deck capacity..... 10,000 lbs.
- 3. Minimum wheel lift capacity for 2nd vehicle 4,000 lbs.
- 4. Minimum length..... 19'
- 5. Minimum winching capacity 8,000 lbs.
- 6. Minimum cable size and length 3/8"X50'
- 7. Minimum tie down chains (4 each)5/16" grade 80
- 8. Tie down straps (optional) (4 each) 2,000 lbs. Each wheel
- 9. Minimum cab to axle dimension.....120"
- 10. Required State DOT Registration

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- C. Class C Towtruck - Ratings (Heavy Duty)
 - 1. Minimum gross weight 33,000 lbs.
Air brakes, all tires H rated, capacity must equal axle rating. Device required to control disabled vehicle’s brakes.
 - 2. Minimum boom capacity 50,000 lbs.
 - 3. Minimum winching capacity 50,000 lbs.
 - 4. Minimum cable size and length 5/8"X150'
 - 5. Minimum wheel lift retracted rating 40,000 lbs.
 - 6. Minimum wheel lift extended rating 12,000 lbs.
 - 7. Minimum tow Bar..... 10,000 lbs.
 - 8. Minimum safety chains (2 each).....1/2" grade 80
 - 9. Minimum cab to axle dimension.....156"
 - 10. Required State DOT Registration
- D. Class D. Towtruck - Ratings (Ultra Heavy Duty)
 - 1. Minimum gross weight 58,000 lbs.
Air brakes, all tires H rated, capacity must equal axle rating. Device required to control disabled vehicle’s brakes. Tandem axles required.
 - 2. Minimum boom capacity. 100,000 lbs.
 - 3. Minimum winching capacity. 100,000 lbs.
 - 4. Minimum cable size and length 3/4"X250'
 - 5. Minimum wheel lift retracted rating 40,000 lbs.
 - 6. Minimum wheel lift extended rating 15,000
 - 7. Minimum heavy-duty towbar rating 10,000 lbs.
 - 8. Minimum safety chains (2 each).....1/2" grade 80
 - 9. Minimum cab to axle dimension..... 18'
 - 10. Required State DOT Registration

SECTION 4. Towing Operating Permit Required.

- A. **Towing:** It shall be unlawful for any person to recover, tow, remove or store a vehicle/vessel **for compensation** in Palm Beach County or to cause or permit any other person **for compensation** to recover, tow, remove or store a vehicle/vessel in Palm Beach County. **It shall also be unlawful** ~~or~~ to advertise said services without first obtaining and maintaining a current and valid ~~towing~~ operating permit pursuant to the provisions of this Ordinance, ~~providing, however, that a property owner requesting a “private property impound” may cause or permit the removal of a vehicle from his property in accordance with the provisions of this Ordinance.~~ A person conducting non-consent tows in Palm Beach County but having his/her primary place of business outside of Palm Beach County shall be required to obtain ~~an~~ **Towing Operating Permit** and shall be subject to all the provisions of this Ordinance.
- B. **Nothing in this ordinance shall be construed to prohibit the discharge or storage of a vehicle lawfully recovered, towed or removed in another county and lawfully**

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1 transported into Palm Beach County; nor shall anything in this ordinance be
2 construed to prohibit a vehicle owner or authorized agent from requesting the
3 services of a towing business not regularly doing business in Palm Beach County
4 (i.e., routinely, contracted, etc.) to tow or transport such vehicle out of Palm Beach
5 County.

6 C. The provisions of this Ordinance do not apply to governmental agencies, vehicle
7 rental companies which tow their own vehicles, to businesses utilizing trucks
8 capable of transporting five (5) or more vehicles at one time, or to persons who use
9 towing vehicles to transport their vehicles solely for personal, family, household or
10 recreational use.

11

12 **SECTION 5. New Applications/Renewals and Issuance of for Towing**
13 **Operating Permit; Fees.**

14

15 A. The Division shall issue either a Towing Operating Permit or a Consent-Only
16 Towing Operating Permit to towtruck companies which have met the standards and
17 requirements for an operating permit as provided for in this Ordinance.

18 B. Every application/renewal for an towing operating permit shall be in writing, signed and
19 verified by the applicant, and filed with the Division ~~together with the required fees~~
20 ~~established by resolution of the Commission. The fees shall be deposited in a separate~~
21 ~~County fund for the Division's operation.~~ The application/renewal shall be on a form
22 prescribed by the Division and shall contain information, including but not limited
23 to:

24 C. ~~Every application for a towing operating permit shall be on a form prescribed by the~~
25 ~~Division and shall contain information, including but not limited to:~~

26 1. Sufficient information to identify the applicant, including but not limited to, full
27 legal name, date of birth, telephone numbers, the place of business and residence
28 addresses, a copy of the applicant's Palm Beach County ~~Occupational License~~
29 Business Tax Receipt and Florida driver's license number. If the applicant is a
30 corporation, the foregoing information shall be provided for each corporate
31 officer, director, registered agent and shareholder. If the applicant is a
32 partnership, the foregoing information shall be provided for each general and

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- 1 limited partner. Post office box addresses shall not be accepted.
- 2 2. Documentation demonstrating that all corporate or partnership applicants are
- 3 qualified **under the laws of Florida** to do business under the **trade name or**
- 4 **names under which it has applied for an operating permit** ~~laws of Florida.~~
- 5 3. A list of all persons with any ownership interest in the company who have
- 6 previously been denied an operating permit from this or any other jurisdiction.
- 7 4. Verification of the business' current corporate status and Fictitious Name
- 8 Registration (if applicable) with the State of Florida.
- 9 5. Any trade name under which the business operates, intends to operate, or has
- 10 previously operated.
- 11 6. The location and physical addresses of all places of business including storage
- 12 facilities.
- 13 7. A description of services proposed to be provided, including, but not limited to,
- 14 days and hours of operation and types of towing and storage services to be
- 15 provided.
- 16 8. ~~A record of any felony within the last 10 years to which the applicant, not~~
- 17 ~~previously licensed with the Division, was convicted of, found guilty of, or pled~~
- 18 ~~guilty or nolo contendere to, regardless of the adjudication of guilt.~~
- 19 **9. Proof of insurance as required in Section 7 (Insurance Requirements) of this**
- 20 **Ordinance. As proof of insurance, a certificate of insurance must be**
- 21 **submitted on the company's behalf directly to the Division by the insurance**
- 22 **company or agent.**
- 23 **10. A signature of each individual applicant, president or vice-president of a**
- 24 **corporation and of all the general and limited partners of a partnership**
- 25 **having 25 percent or greater ownership in the company.**
- 26 **11. The submission of a statement assuring that each towtruck is commercially**
- 27 **manufactured, meets the specifications listed herein, is in safe operating**
- 28 **condition and receives routine service/maintenance.**
- 29 **12. An agreement on the part of the applicant to abide by the provisions of this**
- 30 **Ordinance and the laws of the State of Florida.**
- 31 **13. Such additional information needed by the Division to process the**

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application/renewal.

C. The Division shall review and investigate each application/renewal of an operating permit and shall deny any application/renewal that is incomplete or untrue in whole or in part, or which fails in any way to meet the requirements of this Ordinance including but not limited to the following:

~~9.1. A record of the following crimes of which the~~ **The** applicant, ~~not previously licensed with the Division,~~ has been convicted of, found guilty of, or pled guilty or nolo contendere to, regardless of the adjudication of guilt, within the last 10 years involving: repossession of a motor vehicle under Chapter 493, F.S., repair of a motor vehicle under ss. 559.901-559.9221, F.S., theft of a motor vehicle under s. 812.014, F.S., carjacking under s. 812.133, F.S., operation of a chop shop under s. 812.16, F.S., failure to maintain records of motor vehicle parts and accessories under s. 860.14, F.S., airbag theft or use of fake airbags under s. 860.145 or s. 860.146, overcharging for repairs and parts under 860.15, F.S., or violation of the towing or storage requirements for a motor vehicle under s. 321.051, F.S., Chapter 323, F.S., s. 713.78, F.S., s. 715.07, F.S., ~~or this Ordinance~~ **or any felony where use of a vehicle was involved in theft of property.** In the case of a corporate or partnership applicant, all corporate officers and directors, or partners shall provide all such information, as the case may be.

~~2. A record of any~~ **Any** unsatisfied civil fines or penalties arising out of an administrative or enforcement action brought by the Division (**including any Cease and Desist Orders and/or Assurances of Voluntary Compliance issued by the Division**); ~~or~~ another governmental agency; ~~or a private person~~ based upon conduct involving a violation of this Ordinance or other towing regulations.

~~3. A record of any~~ **Any** pending criminal, administrative, or enforcement proceeding in any jurisdiction based upon conduct involving a violation of this Ordinance or other towing regulations. **This paragraph shall apply to consent-only towing companies when such proceedings from other jurisdictions relate to public safety.**

~~4. A record of any~~ **Any unsatisfied** judgments entered in an action brought by the Division under this Ordinance.

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- 1 **5.** **Has had its operating permit previously revoked by action of the Division or**
2 **any other jurisdiction within two (2) years of the date of application. This**
3 **paragraph shall apply to consent-only towing companies when such**
4 **proceedings relate to public safety.**
- 5 ~~13.~~ ~~Proof of insurance as required in Section 7 of this Ordinance.~~
- 6 ~~14.~~ ~~A notarized signature of each individual applicant, president or vice-president of a~~
7 ~~corporation and of all the general and limited partners of a partnership having 25~~
8 ~~percent or greater ownership in the company.~~
- 9 ~~15.~~ ~~The submission of a statement assuring that each towtruck is commercially~~
10 ~~manufactured, meets the specifications listed herein, is in safe operating condition~~
11 ~~and receives routine service/maintenance.~~
- 12 ~~16.~~ ~~An agreement on the part of the applicant to abide by the provisions of this~~
13 ~~Ordinance and the laws of the State of Florida.~~
- 14 ~~17.~~ ~~Such additional information as the Division may deem appropriate.~~
- 15 **18.D.** All towtruck companies which desire to operate in Palm Beach County must secure an
16 operating permit and follow the permitting procedures described in this section prior to
17 conducting business. If there are six months or less remaining before the annual renewal
18 period, the **non-refundable** fee for the operating permit shall be fifty (50) percent of the
19 approved fee, otherwise all other fees are applicable.
- 20 ~~19.E.~~ Each ~~towing~~ operating permit and towtruck decal issued pursuant to this section shall be
21 valid and effective for one (1) year, terminating on December 31 of each year. Failure to
22 submit ~~an towing~~ operating permit application and the required **non-refundable** fee for
23 renewal by September 30 of each year will result in the assessment of a non-refundable
24 late fee. ~~The late~~ **All fees** shall be established by a resolution of the Commission.
- 25 **F.** ~~Upon submission of an application, the Division may provide the towtruck company~~
26 ~~with a receipt which shall constitute a provisional towtruck operating permit and shall be~~
27 ~~valid for no longer than forty five (45) calendar days or until the issuance or denial of the~~
28 ~~towtruck operating permit, whichever comes first.~~
- 29 **G.** Towtruck companies failing to submit a complete and true application within thirty (30)
30 calendar days after the Division’s receipt of the application shall be denied ~~an towing~~
31 operating permit. Within ten (10) business days of receipt of the Division’s notice of

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1 denial, such towtruck companies may refile a complete and true application and pay a
 2 non-refundable **application** re-filing fee established by a resolution of the Commission.
 3 Failure to refile an application within this ten (10) day period will result in the towtruck
 4 company being required to submit a new application and repaying the non-refundable
 5 **application** permit fee and **applicable** towtruck decal fees. **The failure to refile and**
 6 **pay the required fees will result in the denial of the operating permit application for**
 7 **that licensing period.**

8 **H. After initial application and upon renewal, the applicant shall submit to a**
 9 **background investigation every other year.**

10 **I. Each operating permit shall be printed on a certificate containing, at a minimum,**
 11 **the name and address of the company, the name of the principal, the dates the**
 12 **operating permit is in effect, and the identifying number assigned by the Division to**
 13 **the company. The operating permit certificate issued by the Division shall remain**
 14 **the property of Palm Beach County and shall be used only under the authority of**
 15 **the Division.**

16 **J. All operating permits shall be renewed annually. As a part of the renewal process,**
 17 **the original application shall be updated and verified by the applicant. Each**
 18 **updated renewal application shall be accompanied by a non-refundable fee. All**
 19 **towing operating permits which are not renewed shall automatically expire upon the**
 20 **expiration date of the operating permit, as stated on the operating permit, and all**
 21 **recovery, towing, removing and storage services permitted shall cease immediately.**
 22 **The Division shall deny each renewal application that is not timely, is incomplete, is**
 23 **untrue in whole or in part, is unaccompanied by the required fees, or results in a**
 24 **determination by the Division that the applicant has failed to satisfy the**
 25 **requirements of this Ordinance.**

26 **K. An operating permit issued or renewed pursuant to the provisions of this section**
 27 **shall not be transferable, nor shall the ownership structure of the operating permit**
 28 **be so modified as to constitute a change in the control or ownership of the operating**
 29 **permit. If the business changes its name or ownership structure, a new business**
 30 **permit application and the business application permit fee shall be submitted to the**
 31 **Division within forty-five (45) days of said change. In cases where the name of the**

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1 business changes, the new business will be required to have each vehicle inspected
 2 and must also pay decal/vehicle fees.

3 L. Failure to comply with the provisions of this section may result in denial of an
 4 operating permit, revocation or suspension of the operating permit, a denial of
 5 renewal of such operating permit, issuance of a civil citation, a criminal conviction
 6 and/or other such remedies available to the Division herein.

7 M. All fees collected shall be deposited in a separate County fund for the Division's
 8 operation.

9 N. Start-Up: The Board of County Commissioners may adjust the operating permit
 10 fees, decal fees and the deadline for submitting applications if the initial licensing
 11 period is less than a full year after the effective date of this Ordinance. Towtruck
 12 companies which were issued 2010 operating permits prior to the effective date of
 13 this Ordinance shall not be required to pay any increase or additional fees
 14 implemented through the approval of this Ordinance for the start-up year.

15
 16 SECTION 6. Issuance of Operating Permits; Renewal Inspection of Storage
 17 Yards and Public Offices Required.

18
 19 ~~A. The Division shall issue operating permits to towtruck companies which have met the~~
 20 ~~standards and requirements for an operating permit, and shall promulgate administrative~~
 21 ~~procedures for the application for and issuance of such operating permits and for the~~
 22 ~~renewal, denial, revocation and suspension of such operating permits.~~

23 ~~B. The Division shall review and investigate each application for an operating permit and~~
 24 ~~shall reject any application that is incomplete or untrue in whole or in part, or which fails~~
 25 ~~in any way to meet the requirements of subsection C. of this section.~~

26 ~~C. No operating permit shall be issued or renewed unless the applicant has:~~

- 27 1. ~~Filed with the Division a true, correct and complete application on the form~~
 28 ~~prescribed by the Division, including all proofs of required insurance.~~
 29 2. ~~Paid the required fee; and~~
 30 3. ~~Submitted to a background investigation resulting in a determination by the~~
 31 ~~Division that:~~

32 a. ~~The applicant neither possesses a suspended or revoked driver's license,~~

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1 nor has had its operating permit previously revoked by action of the
 2 Division or any other jurisdiction within two (2) years of the date of
 3 application, or has outstanding and unsatisfied civil penalties imposed due
 4 to violations of this Ordinance as it has or may be amended.

5 ~~b. For a new applicant not previously licensed with the Division, the~~
 6 ~~applicant has a felony record within the last 10 years to which the~~
 7 ~~applicant was convicted of, found guilty of, or pled guilty or nolo~~
 8 ~~contendere to, regardless of the adjudication of guilt.~~

9 ~~e. For a new applicant not previously licensed with the Division, the~~
 10 ~~applicant has, within the last 10 years, been convicted of, found guilty of,~~
 11 ~~or pled guilty or nolo contendere to, regardless of the adjudication of guilt:~~
 12 ~~repossession of a motor vehicle under Chapter 493, repair of a motor~~
 13 ~~vehicle under ss. 559.901-559.9221, F.S., theft of a motor vehicle under s.~~
 14 ~~812.014, F.S., carjacking under s. 812.133, F.S., operation of a chop shop~~
 15 ~~under s. 812.16, F.S., motor vehicle parts and accessories under s. 860.14,~~
 16 ~~F. S., airbags under s. 860.145, F.S., or s. 860.146, F.S., overcharging for~~
 17 ~~repairs and parts under 860.15, F.S., or the towing or storage of a motor~~
 18 ~~vehicle under s. 321.051, F.S., Chapter 323, F.S., s. 713.78, F.S., or s.~~
 19 ~~715.07, F.S. In the case of a corporate or partnership applicant, all~~
 20 ~~corporate officers and directors, or partners shall provide all such~~
 21 ~~information, as the case may be.~~

22 ~~d. The applicant has a record of any unsatisfied civil fines or penalties~~
 23 ~~arising out of an administrative or enforcement action brought by the~~
 24 ~~Division, another governmental agency, or a private person based upon~~
 25 ~~conduct involving a violation of this Ordinance or other towing~~
 26 ~~regulations.~~

27 ~~e. The applicant has a record of any criminal, administrative, or enforcement~~
 28 ~~proceeding in any jurisdiction based upon conduct involving a violation of~~
 29 ~~this Ordinance or other towing regulations.~~

30 ~~f. The applicant has failed to abide by any Cease and Desist Order issued by~~
 31 ~~the Division.~~

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1 ~~g. The applicant has a record of any judgment entered in an action brought~~
2 ~~by the Division under this Ordinance.~~

3 ~~h. In the case of b. through f. delineated above, such person must have~~
4 ~~completed all terms or sentences of incarceration, required rehabilitation~~
5 ~~activities, and/or payment of all fines and penalties imposed including~~
6 ~~restitution.~~

7 ~~i. Each corporate or partnership applicant must be qualified under the laws~~
8 ~~of Florida to do business under the trade name or names under which it~~
9 ~~has applied for an operating permit.~~

10 ~~j. No fraud or willful or knowing misrepresentation or false statement was~~
11 ~~made in the application.~~

12 ~~k. No judgment against the applicant arising out of the activity of recovery,~~
13 ~~towing or removing a vehicle/vessel or providing storage in connection~~
14 ~~therewith remains unsatisfied, unless a stay or reversal of the judgment is~~
15 ~~procured through the courts.~~

16 ~~D. After initial application and upon renewal, the applicant shall submit to a background~~
17 ~~investigation every other year.~~

18 ~~E. Any applicant who fails to furnish to the Division a true and complete application,~~
19 ~~including all of the requested supporting documentation, within 30 days of the filing of~~
20 ~~the application shall be denied an operating permit. Such applicant may refile for the~~
21 ~~operating permit only one additional time by again paying the full and complete~~
22 ~~operating permit application and towtruck decal fees and immediately furnishing the~~
23 ~~requested information or documentation to complete the application. The failure to refile~~
24 ~~and pay the appropriate fees and/or to provide the requested information within the time~~
25 ~~specified herein will result in the denial of the operating permit application for that~~
26 ~~licensing period.~~

27 ~~F. Each towing operating permit shall be on a form printed with the requirements described~~
28 ~~herein and shall be signed by the Director. Each towing operating permit shall contain, at~~
29 ~~a minimum, the name and address of the applicant, the dates the operating permit remains~~
30 ~~in effect, and a statement of such additional terms and conditions, restrictions and~~
31 ~~limitations as were authorized in the application and approval process.~~

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1 ~~G. All towing operating permits shall be renewed annually. As a part of the renewal~~
2 ~~process, the original application shall be updated and verified by the applicant. Each~~
3 ~~updated renewal application shall be submitted at least sixty (60) days prior to expiration~~
4 ~~of the current operating permit and shall be accompanied by a fee, which shall be~~
5 ~~established by resolution of the Commission. All monies received shall be deposited in a~~
6 ~~separate Palm Beach County fund and shall be used exclusively to accomplish the~~
7 ~~purposes of this Ordinance. All towing operating permits which are not renewed shall~~
8 ~~automatically expire upon the expiration date of the operating permit, as stated on the~~
9 ~~operating permit, and all recovery, towing, removing and storage services permitted~~
10 ~~thereunder shall cease immediately. The Division shall deny each renewal application~~
11 ~~that is not timely, is incomplete, is untrue in whole or in part, is unaccompanied by the~~
12 ~~required fee, or results in a determination by the Division that the applicant has failed to~~
13 ~~satisfy the requirements of subsection C (3) of this section. Any applicant who fails to~~
14 ~~furnish to the Division a true and complete renewal application, including all of the~~
15 ~~requested supporting documentation, within 30 days of the filing of the renewal~~
16 ~~application shall be denied an operating permit.~~

17 ~~H. An operating permit issued or renewed pursuant to the provisions of this section shall not~~
18 ~~be transferable, nor shall the ownership structure of the operating permit be so modified~~
19 ~~as to constitute a change in the control or ownership of the operating permit, without the~~
20 ~~prior written approval of the Division. The towing operating permit issued by the~~
21 ~~Division shall remain the property of Palm Beach County and shall be used only under~~
22 ~~the authority of the Division.~~

23 ~~I. The applicant who files his renewal application after the filing deadline date established~~
24 ~~by the Division shall pay a renewal late fee as established by the Commission by~~
25 ~~resolution.~~

26 ~~J. There shall be no numerical limit on operating permits issued pursuant to the provisions~~
27 ~~of this Section.~~

28 ~~K. Failure to comply with the provisions of this Section may result in denial of an operating~~
29 ~~permit, revocation or suspension of the operating permit, a denial of renewal of such~~
30 ~~operating permit, issuance of a civil citation, a criminal conviction and/or other such~~
31 ~~remedies available to the Division herein.~~

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- 1 ~~L. All monies required pursuant to this Section shall be non-refundable.~~
- 2 M. Prior to the issuance of an operating permit, the Division shall inspect each ~~non-consent~~
 3 towtruck storage facility **and public office area** to assure compliance with this
 4 Ordinance and the following:
- 5 **A. Non-Consent Towing Storage facilities must meet the following requirements:**
- 6 **1.** Adequate chain-link or solid-wall fencing that has a minimum height of 6 feet
 7 with lockable and secure gates surrounding the storage facility. (713.78(7)(b)1),
 8 F.S.
- 9 **2.** At least 10 feet by 20 feet of outdoor storage space for each standard
 10 vehicle/vessel (more for larger vehicles). The facility must be able to
 11 accommodate a minimum of 10 standard size vehicles. **For towing companies**
 12 **unable to provide outdoor storage, an indoor facility must be provided with**
 13 **the same space for a minimum of 10 standard size vehicles and must use one**
 14 **or more of the security methods defined herein. Towing companies which**
 15 **provide only indoor storage shall not exceed the maximum allowable**
 16 **outdoor storage rates established by the Commission.**
- 17 **3.** At least 10 feet by 20 feet of indoor storage space for each standard
 18 vehicle/vessel. The indoor storage space must adequately protect the vehicle
 19 from natural (i.e., rain, hail, etc.) and man-made (i.e., paint, chemicals, etc.)
 20 elements, be isolated to prevent contact with unapproved personnel/public and be
 21 placed in such a manner to prevent damage by any other means. Indoor storage
 22 space shall be adequately vented to the outside to prevent accumulation of toxic
 23 fumes or gases that may pose a threat to human health. The indoor facility must
 24 be able to accommodate a minimum of at least ~~one~~ **two** standard size vehicle.
 25 ~~This subsection shall not apply to towtruck operators performing private property~~
 26 ~~impounds exclusively. In lieu of indoor storage, such private property impound~~
 27 ~~only operators shall insure that towed vehicles are adequately protected from the~~
 28 ~~elements by the use of tarps, commercial plastic wraps or other means.~~
- 29 **4.** Illuminate the storage facility with lighting of sufficient intensity to reveal
 30 persons and vehicles/vessels at a distance of 150 feet during nighttime.
 31 (713.78(7)(b)2), F.S.

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- 1 **5.** Each storage facility must use one or more of the following security methods to
- 2 discourage theft of vehicles/vessels or of any personal property contained in such
- 3 vehicles/vessels:
- 4 a. A night dispatcher or watchman remaining on duty at the storage facility
- 5 from sunset to sunrise;
- 6 b. A guard dog (as licensed and approved by the **Palm Beach County**
- 7 Animal Care & Control Division) which remains at the storage facility
- 8 from sunset to sunrise;
- 9 c. Security cameras or other similar electronic surveillance devices which
- 10 monitor **and record activities in** the storage facility **during the hours the**
- 11 **business is closed to the public;** or
- 12 d. A licensed security guard service which examines/patrols the storage
- 13 facility at least once each hour from sunset to sunrise. (713.78(7)(b)3),
- 14 F.S.
- 15 6. An appropriate office area protected from the weather and equipped with a wired
- 16 telephone system and approved sanitary facilities in accordance with the
- 17 requirements of Chapter 64E-10, FAC.

18 **C.** **By a resolution, the Commission may establish a storage yard inspection fee.**

19

20 **SECTION 7. Insurance Requirements.**

- 21 A. It shall be unlawful for any towtruck company ~~receiving compensation~~ to recover, tow, or
- 22 remove a vehicle/vessel or to provide vehicle/vessel storage services in connection
- 23 therewith until that company has filed with the Division and maintains in effect, ~~for each~~
- 24 ~~towtruck and towtruck company,~~ an **the following types of commercial insurance: auto**
- 25 **liability for each vehicle, general/garage liability, on-hook cargo liability and**
- 26 **worker’s compensation (as required by state law).** ~~policy or policies or certificates of~~
- 27 ~~insurance which shall indemnify/insure such company for its liability, at a minimum, as~~
- 28 follows: **The Board shall establish the minimum insurance limits by resolution for**
- 29 **each insurance type.**
- 30 1. ~~Auto liability for each towtruck:~~

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1 a. ~~—\$300,000 combined single limit for Class A Light Duty (Section 3.A.)~~
2 ~~towtrucks used exclusively for private property impounds.~~

3 b. ~~—\$500,000 combined single limit for all other towtrucks.~~

4 2. ~~General/garage liability:~~

5 a. ~~—\$300,000 combined single limit for towtruck operators performing only~~
6 ~~private property impounds.~~

7 b. ~~—\$500,000 combined single limit for all other towtruck operators.~~

8 3. ~~Garage keeper's liability, \$50,000 for any one vehicle and \$100,000 per~~
9 ~~occurrence.~~

10 4. ~~\$50,000 on hook cargo liability coverage for each vehicle.~~

11 5. ~~Worker's Compensation as required by state law.~~

12 B. All insurance policies required shall be issued by insurance companies ~~authorized and~~
13 ~~qualified to do business in the state of Florida. Such insurance companies must carry a~~

14 ~~"B+" rating or higher as determined by the A.M. Best Guide~~ **licensed and admitted to**

15 **write commercial liability insurance in the State of Florida.** No policy shall be

16 accepted which is less than a six (6) month duration. Each policy shall be endorsed to

17 provide for (30) thirty days **written** notice by U.S. mail to the Division of any material

18 ~~change, cancellation or expiration of the policy~~ **of any non-renewal of the policy or at**

19 **least ten (10) days written notice to the Division of any cancellation/non-payment of**

20 **the policy.**

21 C. A properly completed Certificate of Insurance evidencing all insurance coverages shall

22 be made available to the Division upon application for an operating permit. **Each vehicle**

23 **must be listed on the certificate(s) by its year, make and vehicle identification**

24 **number.** Certificates of Insurance must contain the following name and address as

25 Certificate Holder **and, as it applies to General Liability or Garage Liability only,**

26 **Additional Insured:**

27 Board of County Commissioners of Palm Beach County

28 c/o Division of Consumer Affairs

29 50 South Military Trail, Suite 201

30 West Palm Beach, FL 33415

31

32 Evidence of the renewal of the policy shall be filed with the Division prior to such

33 policy's expiration date. Failure to file such evidence of insurance, or failure to have

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1 same in full force and effect, may result in denial of a permit, revocation or suspension of
 2 the permit, a denial of renewal of such permit, issuance of a civil citation, a misdemeanor
 3 **charge conviction** or other such remedies available to the Division herein.

4 D. ~~Failure to provide current certificates of insurance or policies or failure to maintain the~~
 5 ~~required coverage for each towtruck/towtruck company shall result in suspension of the~~
 6 ~~towing operating permit, which shall remain in effect until proof of compliance with this~~
 7 ~~section is submitted to the Director and approved.~~ **The Division may deny, suspend or**
 8 **revoke the operating permit of any company for failure to obtain or maintain**
 9 **insurance as required by this Ordinance. Any company which submits false or**
 10 **fraudulent insurance documents shall be subject to immediate denial or revocation.**
 11 **Such companies shall not be eligible to reapply for a business permit for five (5)**
 12 **years. The Division shall notify the State Department of Financial Services/Division**
 13 **of Insurance Fraud for follow-up investigation and review. Upon denial, suspension**
 14 **or revocation of the business permit, the company shall be entitled to an appeal**
 15 **according to the provisions in Section 27 (Hearings and Appeals).**

16 E. **The Division shall suspend the operating permit of any company which fails to**
 17 **ensure that each and every registered vehicle associated with the company has:**

- 18 1. **A current certificate of insurance provided to the Division by the authorized**
 19 **agent or insurance company no later than the date of expiration of its**
 20 **previous policy, or**
- 21 2. **A reinstatement notice provided to the Division no later than the date of**
 22 **cancellation of said policy.**
- 23 3. **Any company which has had its business permit suspended more than 2**
 24 **times in any 12 month period may have such permit revoked for a period of**
 25 **1 year.**

26 F. **An "administrative insurance reactivation" fee established by resolution of the**
 27 **Board, shall be assessed all towtruck companies that are suspended pursuant to**
 28 **paragraph D above. The suspension shall not be withdrawn until the fee is paid to**
 29 **the Division.**

30

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1 **SECTION 8. Towtruck Registration; Towtruck Standards; Decals.**

2 A. It shall be unlawful to recover, tow or remove a vehicle/vessel or to store it in connection
3 therewith unless the towtruck used to provide such service displays in the lower left
4 corner (driver side) of the front window a current decal issued by the Division. The
5 towtruck decal remains the property of the Division and can be used only under the
6 authority of the Division.

7 B. The Division is authorized to issue current towtruck decals for each separate towtruck
8 upon application by the towtruck company and completion or satisfaction of the
9 following:

- 10 1. Inspection by personnel authorized by the Division to ensure that the towtruck
11 clearly displays the company name on the exterior of the driver and passenger
12 sides in permanently affixed letters in contrasting colors at least three (3) inches
13 high. The **business physical** address, telephone number and operating permit
14 number must be in at least one (1) inch permanently affixed letters in contrasting
15 colors on the exterior driver and passenger sides.
- 16 2. Submission of an affidavit to the Division assuring that each towtruck is
17 commercially manufactured and meets the specifications listed in Section 3
18 **(Towtruck Class Specification)** of this Ordinance and is in safe operating
19 condition.
- 20 3. An application form prepared by the Division and completed by the towtruck
21 company, which correctly indicates the year, make, model, vehicle identification
22 number, and the State of Florida motor vehicle license plate number and the
23 expiration date of the license plate of the towtruck. A copy of the State of Florida
24 Vehicle Registration shall be provided for each vehicle to be registered/permitted
25 with the Division.
- 26 4. Payment of a non-refundable decal fee established by resolution of the
27 Commission and deposited and used in the same manner as other fees and charges
28 under this Ordinance.
- 29 5. Inspection of the towtruck by personnel authorized by the Division to ensure that
30 the towtruck meets the minimum towtruck **signage requirements and** safety and

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1 equipment standards. The minimum safety requirements for all towtrucks shall
2 be:

- 3 a. Compliance with Section 3 (**Towtruck Class Specification**) of this
4 Ordinance;
- 5 b. Vehicle and towing apparatus in safe operating condition pursuant to
6 Chapter 316, F.S;
- 7 c. Tire conditions and tread;
- 8 d. Braking performance;
- 9 e. Lights – head, parking, rear, signal and flood;
- 10 f. Amber emergency lighting;
- 11 g. Fire extinguisher;
- 12 h. Safety Equipment – Flares, light reflective safety cones or red triangle
13 highway warning reflectors; and
- 14 i. Flashlight.

15 Towtrucks used exclusively for Police Directed tows shall be required to also
16 have the following:

- 17 a. "Oil Dry" or its equivalent; and
- 18 b. Equipment – crowbar/pryer, jumper cables, bolt cutters, 4-way lug
19 wrench, extra tow chain, **five** (5) gallon trash receptacle, fire axe, heavy
20 duty push broom and shovel.

21 C. It shall be unlawful for any towtruck company to alter or transfer ownership of any decal.
22 If a towtruck is destroyed or sold, the towtruck company must remove said decal and
23 surrender the remains to the Division.

24 D. Any additional towtrucks must comply with this Section prior to being used for recovery,
25 towing or removal of any vehicle/vessel. Upon compliance with this Section, additional
26 towtrucks acquired during the licensing year will receive a decal at a prorated fee. **The**
27 **prorated fee shall be fifty (50) percent of the regular decal fee if there are six**
28 **months or less remaining before the annual renewal period.**

29 E. Decals shall be issued in numerical order and each decal issued shall display its assigned
30 number. Decals shall be issued annually when the operating permit is renewed.

31 F. The decal for each towtruck shall be affixed by personnel authorized by the Division and

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1 shall at all times be displayed and available for inspection by any law enforcement officer
 2 or by personnel authorized by the Division to perform enforcement duties.

3 G. Replacement or duplicate decals may be authorized by the Division upon the completion
 4 of an application and notarized statement of the towtruck company stating that such
 5 replacement or duplicate decal is necessary and stating the reasons for such request,
 6 along with a nominal charge to be approved by resolution of the Commission.

7 H. A towing company which has towtrucks inspected by a municipality or law enforcement
 8 agency that meet the inspection requirements of this Ordinance, shall be exempt from the
 9 inspection requirements herein as long as the inspection took place within 90 days of the
 10 required Division inspection. However, all towtrucks operating pursuant to this
 11 Ordinance shall be registered with the Division and meet the vehicle safety requirements
 12 of this Ordinance. ~~By resolution, the Commission may assess a reduced decal fee for~~
 13 ~~towtrucks inspected by a municipality or law enforcement agency.~~

14

15 **Section 9. Inspection Procedures and Requirements.**

16 A. The Division shall conduct storage facility and individual towtruck inspections upon the
 17 completion and submittal of all application requirements by each towtruck company.
 18 The Division will provide written notification (fax or electronic notification acceptable)
 19 to the towtruck company of the need for inspection of storage facilities and all towtrucks.

20 1. Within 5 business days of notification, the towtruck company shall contact the
 21 Division to schedule an appointment for inspection. Said inspection shall be
 22 completed within 20 business days after the towtruck company contacts the
 23 Division to schedule the inspection. If the towtruck company does not schedule
 24 the inspection within 5 business days of notification, then prior to inspection, an
 25 inspection late fee established by resolution of the Commission must be paid to
 26 the Division. Failure to schedule the appointment following initial notification by
 27 the Division within the five day time period shall result in the denial of the
 28 operating permit and a requirement that the operating permit application be
 29 resubmitted along with applicable non-refundable **operating permit application**
 30 re-filing fees established by resolution of the Commission.

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- 1 2. If the towtruck company cancels the inspection, a cancellation fee must be paid to
2 the Division prior to inspection. Failure to reschedule the appointment within 11
3 business days of the initial notification by the Division or to complete said
4 inspection within 20 business days after the appointment has been rescheduled,
5 shall result in the denial of the operating permit and a requirement that prior to
6 inspection, the operating permit application be resubmitted along with applicable
7 non-refundable application re-filing fees established by resolution of the
8 Commission. The applicant shall only be permitted one opportunity to reschedule
9 the required inspections.
- 10 B. If a storage facility inspection reveals deficiencies (fails) and a reinspection is required,
11 then a storage facility reinspection fee must be paid to the Division. The fee is to be
12 established by the Commission by resolution. Within 5 business days of notification, the
13 towtruck company shall contact the Division to schedule an appointment for reinspection.
14 Said reinspection shall be completed within 20 business days after the towtruck company
15 contacts the Division to schedule the reinspection. Failure to complete said reinspection
16 within 20 business days after the appointment has been scheduled, shall result in the
17 denial of the operating permit and a requirement that the application be resubmitted along
18 with applicable non-refundable application re-filing fees established by resolution of the
19 Commission.
- 20 C. Upon the Division's inspection of the storage facility and towtruck(s), if all towtrucks are
21 not available/present, then the towtruck company shall bring the unavailable truck(s) to
22 the Division's designated inspection site within 5 business days by appointment. If the
23 towtruck(s) are not inspected within 5 business days, then a vehicle inspection late fee
24 must be paid to the Division. The fee is to be established by the Commission by
25 resolution.
- 26 D. If towtruck inspection reveals deficiencies (fails) and a reinspection is required, then the
27 failed truck(s) are to be brought to the Division's designated reinspection site within 5
28 business days by appointment. The vehicle reinspection fee shall be applied each time the
29 individual towtruck fails the inspection process. If the towtruck is not reinspected within
30 5 business days, then a late vehicle reinspection fee must be paid to the Division.
- 31 E. Towtrucks that are out of service at the time of a scheduled vehicle inspection and are

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1 expected to be out-of-service longer than 5 business days as well as towtrucks that have
 2 failed 2 inspections will be red-tagged by the Division. A red-tag "out of service" decal
 3 will be applied to the vehicle by a Division employee and the vehicle may not be used for
 4 any business or towing purposes until such time as the vehicle is brought to the
 5 Division's designated site, inspected and approved for operation. Only Division
 6 employees may remove the red-tag decal.

7 F. It shall be unlawful to operate a towtruck which has failed to pass any critical item
 8 specified on any towtruck inspection performed by personnel authorized by the Division
 9 or has failed to correct other inspection deficiencies within the time period specified by
 10 the Division or is operating with safety deficiencies or without the proper insurance
 11 coverage. When a towtruck has failed to pass inspection or the owner has failed to
 12 correct such inspection deficiencies or the vehicle is operating with safety deficiencies or
 13 without the proper insurance coverage, personnel authorized by the Division shall affix to
 14 the lower left corner of the towtruck windshield a red tag "out of service" decal/notice. It
 15 shall be unlawful for the towtruck company or any other person other than personnel
 16 authorized by the Division to remove this notice from the windshield of the towtruck.
 17 This notice shall remain the property of the Division and Palm Beach County.

18 G. It is a violation of this Ordinance not to have storage facilities and towtrucks inspected
 19 according to the above requirements. Failure to pay the required fees is a violation of
 20 this Ordinance.

21

22 **SECTION 10. Non-consent Manifest, Towing Invoice, or Tow Sheet.**

23 ~~A. In the event that prior express instruction (signed and dated) of the real property owner is~~
 24 ~~provided by facsimile (Section 14.D.), the towtruck driver is not required to be in~~
 25 ~~possession of said prior express instruction.~~

26 B. It shall be unlawful for any person providing nonconsent towing services to recover, tow
 27 or remove a vehicle/vessel or provide storage in connection therewith unless the person
 28 providing such service shall maintain in his possession a manifest, towing invoice, tow
 29 sheet or dispatch records which shall include, but not be limited to, the following
 30 information:

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- 1 1. Name of the towtruck company and of the towtruck operator physically providing
2 the service;
- 3 2. Palm Beach County Decal number of the towing vehicle used to provide the
4 service;
- 5 3. Name, address and telephone number of the person requesting the service, except
6 as provided in Section 14.E. **(Non-consent Towing With Prior Express**
7 **Instruction of Real Property Owner or Duly Authorized Agent and/or Law**
8 **Enforcement Agency)** of this Ordinance;
- 9 4. Prior express instruction (signed and dated) of the real property owner provided in
10 the presence of the towtruck driver recovering, towing or removing the
11 vehicle/vessel except as provided in paragraph A. above.
- 12 5. Date and time the towtruck arrived at the location where the service is to be
13 performed;
- 14 6. **Date and time of release to vehicle/vessel owner or authorized agent;**
- 15 7. Location at which the service originated;
- 16 8. Destination to which the vehicle/vessel being provided the service is taken and
17 the time of arrival at the destination;
- 18 9. Description of vehicle/vessel being provided the service, including make, model,
19 year (if known), color, vehicle/vessel identification number (if visible) and license
20 plate number, if any;
- 21 10. Description of services provided;
- 22 11. The total charges listed individually and specifically as well as the description of
23 the services rendered;
- 24 12. When an "extra time/**labor** at scene" charge is applied, the towtruck driver shall
25 obtain and provide the name of the law enforcement agency; **and agency** case
26 number ~~of the agency.~~ **In lieu of the case number, the** and badge number and
27 name of the investigating law enforcement officer on the scene **must be**
28 **provided.** A detailed explanation of the services rendered which necessitated the
29 charges shall also be recorded and provided to the vehicle/vessel owner or
30 representative upon demand.
- 31 13. The following disclosure in bold capitalized letters of at least 12-point type:

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1 IF YOU HAVE QUESTIONS OR COMPLAINTS ABOUT NON-
2 CONSENT TOWS UNABLE TO BE RESOLVED BY THE
3 TOWING COMPANY MANAGEMENT, CONTACT THE PALM
4 BEACH COUNTY CONSUMER AFFAIRS DIVISION, WEST
5 PALM BEACH, FLORIDA. TELEPHONE: (561) 712-6600 OR
6 BY INTERNET: www.pbcgov.com/consumer.
7

8 COMPANIES PERFORMING NON-CONSENT TOWS IN PALM
9 BEACH COUNTY ARE REQUIRED TO ACCEPT ALL OF THE
10 FOLLOWING FORMS OF PAYMENT:

- 11 1. CASH, MONEY ORDER OR VALID TRAVELER'S CHECK;
12 AND
- 13 2. VALID BANK DEBIT/CREDIT CARD, WHICH SHALL
14 INCLUDE, BUT NOT BE LIMITED TO, MASTERCARD OR
15 VISA, THAT IS IN THE NAME OF THE VEHICLE/VESSEL
16 OWNER OR AUTHORIZED DRIVER/AGENT; AND
- 17 3. VALID PERSONAL CHECK SHOWING ON ITS FACE
18 THE NAME AND FLORIDA ADDRESS OF THE
19 VEHICLE/VESSEL OWNER OR AUTHORIZED
20 DRIVER/AGENT.
21

22
23 C. Each **original** manifest, towing invoice, or tow sheet shall be available for inspection
24 **and a copy provided** upon demand by law enforcement officers, or by personnel
25 authorized by the Division to perform enforcement duties **or to the vehicle vessel owner**
26 **or his/her authorized driver/agent**, ~~at any time during the period of recovery, towing or~~
27 ~~removal of a vehicle/vessel.~~
28

29 **SECTION 11. Advertisements.**

30 In all advertisements, towtruck companies **performing non-consent towing services** shall
31 furnish the complete business address, telephone number and Palm Beach County Towing
32 Operating Permit Number of said towtruck company. The Permit Number is not required in
33 telephone directories where the publisher gratuitously provides a "business listing" with only the
34 company name, address and phone number.
35

36 **SECTION 12. Records Required.**

37 Each towtruck company shall maintain accurate and complete records ~~relating to the rates for~~
38 ~~non-consent tows~~, including but not limited to, manifests, towing invoices, or tow sheets for
39 services rendered, ~~and records of payments for services rendered~~. When photographs are taken
40 of vehicles/vessels, the vehicle/vessel owner and the Division shall have access to such photos
41 for the purpose of inspection and/or copying. Such records and photographs shall be maintained

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1 for at least three (3) years **for services related to non-consent towing services and for one (1)**
 2 **year for services related to consent-only towing services.** The Division shall be granted
 3 access to these records for inspection and/or copying, during regular business hours, upon ~~three~~
 4 ~~(3) calendar days~~ **24-hours** prior notice. In the event, the Division is denied the opportunity to
 5 inspect and copy such records; the Division shall have the right to remove the records for the
 6 purpose of copying and shall return any records removed within three (3) calendar days. All
 7 records and information inspected and not copied shall be confidential, except that records may
 8 be copied and made public for the purpose of complaint investigations, operating permit
 9 suspension and/or revocation proceedings.

10

11 **Section 13. Operating Permit Required to Do Business with the County.**

12 No person shall submit a bid, nor shall any contract be awarded, on any county contract or
 13 agreement to recover, tow, or remove vehicles/vessels or provide storage in connection with
 14 such services unless that person has a valid and current ~~towing~~ operating permit issued pursuant
 15 to this Ordinance. Nothing herein shall prevent the County from contracting for more stringent
 16 requirements than set forth in this Ordinance.

17

18 **SECTION 14. Non-consent Towing With Prior Express Instruction of Real**
 19 **Property Owner or Duly Authorized Agent and/or Law Enforcement Agency.**

20
 21 In addition to the other requirements of this Ordinance, no towtruck company shall, for
 22 compensation, recover, tow, or remove a vehicle/vessel or provide storage in connection
 23 therewith without the prior express instruction of the vehicle/vessel owner or authorized driver,
 24 except in accordance with the following:

25 A. Police Directed Tow: **Non-consent** Towtruck companies may for compensation recover,
 26 tow or remove a vehicle/vessel based upon a police directed tow without the prior
 27 express instruction of the vehicle/vessel owner or authorized driver upon the prior
 28 express instruction of a law enforcement agency and in accordance with the terms of any
 29 contracts or agreements between the towtruck company and a governmental entity and/or
 30 law enforcement agency.

31 B. Private/**Public** Property Impound: **Non-consent** Towtruck companies may for

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1 compensation recover, tow or remove a vehicle/vessel ~~based upon a private/public~~
 2 property impound without the prior express instruction of the vehicle/vessel owner or
 3 authorized driver, upon the prior express instruction of a the real property owner or his
 4 ~~authorized agent~~ duly authorized agent on whose property the vehicle/vessel is
 5 disabled, abandoned or parked without authorization or whose vehicle/ vessel owner or
 6 authorized agent is unwilling or unable to remove the vehicle/vessel, provided that the
 7 requirements of this Ordinance are satisfied. The non-consent towtruck company
 8 recovering, towing or removing a vehicle/vessel shall, within thirty (30) minutes of
 9 completion of such towing or removal, notify the appropriate law enforcement agency in
 10 which jurisdiction the vehicle/vessel was parked of the nature of the service rendered, the
 11 name and address of the storage facility where the vehicle/vessel will be stored, the time
 12 the vehicle was secured to the towing vehicle, and the make, model, color and
 13 vehicle/vessel license plate number (if any). The non-consent towtruck company shall
 14 obtain the name of the person at the law enforcement agency to whom such information
 15 was reported and note that name on the trip record.

16 C. Except as otherwise provided in this Ordinance, every prior express instruction made in
 17 writing or in person shall indicate the date and time of the instruction and shall be signed
 18 by the law enforcement officer, or the real property owner/duly authorized agent in the
 19 physical presence of the towtruck company providing the service at the time the towing
 20 services are performed. The law enforcement officer or the real property owner/the
 21 duly authorized agent shall also print his/her full name. Prior Express Instruction
 22 (signed/printed name and date) must be provided on the manifest, towing invoice or
 23 tow sheet in the presence of the driver. Pre-authorization or post-authorization for
 24 prior express instruction is a violation of this Ordinance and shall result in the
 25 issuance of a citation and/or suspension or revocation of the operating permit.

26 D. Signing in the presence of the non-consent towtruck company/driver shall not be
 27 required for a prior express instruction made by the real property owner or authorized
 28 agent forwarded by facsimile transmission on a form provided by the Division. All other
 29 requirements of this Ordinance shall apply and the real property owner or duly authorized
 30 agent shall provide in the facsimile instruction the specific location (i.e., address, parking
 31 space, etc.), color of the vehicle, make and/or model of the vehicle (if visible) and either

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1 the license tag number or the vehicle identification number (if available) prior to the
 2 vehicle/vessel being towed. Such facsimile instruction shall include the real property
 3 owner’s or authorized agent’s signature and printed or typed full name and title, as well
 4 as an electronic confirmation or electronic stamp of the date and time the instruction was
 5 sent to the towtruck company. The towtruck company, in compliance with Section 12
 6 **(Records Required)** of this Ordinance, shall maintain copies of facsimile instructions.

7 **Failure of the non-consent towtruck company to act on a faxed instruction within 24**
 8 **hours of an expressed instruction from the property owner or designee shall require**
 9 **the issuance of a new facsimile or express authorization. Acting on an incomplete**
 10 **facsimile from the property owner is a violation of this Ordinance.**

11 ~~E. If specifically approved in the contract for service, signing in the presence of the~~
 12 ~~towtruck company/driver shall not be required when a vehicle/vessel is parked and~~
 13 ~~blocking public egress/ingress to the business/residential area. In such cases the towtruck~~
 14 ~~company is required to photograph the car and its location prior to removal and said~~
 15 ~~photograph shall conclusively shows that the vehicle is clearly in violation this sub-~~
 16 ~~section. The photograph must include a date and time stamp.~~

17 E. No **non-consent** towtruck company/driver shall pay or rebate money, or solicit or offer
 18 the rebate of money, or other valuable consideration in order to obtain the privilege of
 19 rendering towing services. The only exceptions are: **is**
 20 ~~1. Governmental~~ **governmental** franchise fees; and,
 21 ~~2. Towtruck companies providing fax machines to facilitate the requirements of this~~
 22 ~~section.~~

23 F. Except as otherwise provided in this Ordinance, no such prior express instruction shall be
 24 considered to have been given: 1) by the mere posting of signage as required by Sections
 25 **15 (Notice Requirements for Providing Non-Consent Tow Services at Request of**
 26 **Real Property Owners) and 18 (Maximum Non-Consent Towing and Storage Rates**
 27 **for Non-Consent Tow Services)** of this Ordinance; 2) by virtue of the terms of any
 28 contract or agreement between a towtruck company and a real property owner; 3) when
 29 the prior express instruction occurs in advance of the actual unauthorized parking of the
 30 vehicle/vessel; or 4) where the prior express instruction is general in nature and unrelated
 31 to specific, individual and identifiable vehicles/vessels which are already parked without

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1 authorization.

2 G. Each **non-consent** towtruck company shall enter into a written contract with every owner

3 **or duly authorized agent (as defined herein)** of private property that authorizes the

4 **non-consent** towtruck company to tow vehicles/vessels **on or** from its property. This

5 written contract shall include the beginning date of said contract, the names ~~and titles~~ of

6 all persons (i.e., owner, property manager, condominium president, etc.) who have the

7 ~~authority to appoint persons (i.e., security guard, night watchman, on-site manager,~~

8 ~~parking monitors, etc.)~~ **who can authorize** prior express instruction to the towtruck

9 company to remove, recover or tow any vehicle/vessel **on or** from its property. The

10 written contract shall also include the name and current telephone number of the

11 towtruck company performing the towing service, **and the name, address and**

12 **telephone number for any duly authorized agents acting on behalf of the real**

13 **property owner. The written contract for non-consent towing shall also include a**

14 **clear understanding of liability for the real property owner as stated in s.715.07 (4)**

15 **and shall include the following wording, "When a person improperly causes a**

16 **vehicle or vessel to be removed, such person shall be liable to the owner or lessee of**

17 **the vehicle or vessel for the cost of removal, transportation, and storage; any**

18 **damages resulting from the removal, transportation, or storage of the vehicle or**

19 **vessel; attorney's fees; and court costs."** ~~Any addendum to the contract shall include~~

20 ~~additional names and titles as necessary.~~ No such contract shall state that the **non-**

21 **consent** towtruck company assumes the liability for improperly towed vehicles/vessel,

22 contrary to s. 715.07(4), F.S. **Any addendum to the contract shall include additional**

23 **names and titles as necessary.** The **non-consent** towtruck company must keep on file

24 each contract and addendum (if applicable) with the property owner. Such contract shall

25 be maintained for at least 12 months after termination. The Division and law enforcement

26 officers may inspect and request a copy of any and all such contracts from the **non-**

27 **consent** towtruck company during normal business hours. The **non-consent** towtruck

28 company may not withhold production of the contract upon demand by the Division or

29 law enforcement. Failure to enter into or keep on file a contract with the property owner

30 shall be a violation of this Ordinance. All contracts which were entered into prior to the

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1 effective date of this Ordinance, shall accomplish the requirements of this subsection by
 2 entering into an addendum to the current contract within ~~one year~~ **three (3) months**
 3 following the enactment of this Ordinance.

4 **Non-consent** towtruck companies may not enter into a written contract with the owner of
 5 private property that authorizes the towtruck company to tow vehicles/vessels from the
 6 real property owner’s property to the storage yard where the mileage restrictions have
 7 been exceeded contrary to s. 715.07 (2)(a)1, F.S., as may be amended from time to time.

8 H. Real property owners or authorized representatives shall not request the recovery, tow or
 9 the removal of vehicles/vessels that are reasonably identifiable from markings or
 10 equipment as law enforcement, fire fighting, rescue squad, ambulance, or other
 11 emergency vehicles/vessels which are marked as such ~~or to property owned by any~~
 12 ~~governmental entity.~~

13 I. **Real property owners or authorized agents shall not request the recovery, tow or**
 14 **the removal of vehicles/vessels parked in a designated handicapped parking space.**
 15 **Such instances must be handled by local law enforcement.**

16 J. Any person who improperly causes a vehicle/vessel to be recovered, towed, removed or
 17 stored shall be liable to the vehicle owner or authorized representative for the costs of the
 18 services provided, any damages resulting from the recovery, towing, removal or storage
 19 and attorney's fees and court costs.

20

21 **SECTION 15. Notice Requirements for Providing Non-consent Tow Services**
 22 **at Request of Real Property Owners.**

23
 24 A. In addition to the requirements of Section 14 (**Non-consent Towing With Prior Express**
 25 **Instruction of Real Property Owner or Duly Authorized Agent and/or Law**
 26 **Enforcement Agency)** of this Ordinance, **non-consent** towtruck companies duly
 27 permitted under this Ordinance may recover, tow or remove a vehicle/vessel or provide
 28 storage in connection therewith upon the prior express instruction of a real property
 29 owner or authorized agent, on whose property the vehicle/vessel is abandoned or parked
 30 without authorization, provided that the following requirements are satisfied:

31 1. Notice shall be prominently posted on the real property from which the
 32 vehicle/vessel is proposed to be removed and shall fulfill the following

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1 requirements:

2 a. A light reflective sign shall be prominently placed at each driveway
3 access/entrance or curb cut allowing vehicular access to the real property,
4 within five (5) feet from the public right-of-way line. If there are no curbs
5 or access barriers, signs shall be posted not less than one (1) sign each
6 twenty-five (25) feet of lot frontage. The sign shall be permanently
7 installed not less than three (3) feet and not more than six (6) feet above
8 ground level and shall be continuously maintained on the real property for
9 not less than twenty-four (24) hours prior to the towing or removal of any
10 vehicle/vessel(s).

11 b. The light reflective sign shall clearly display in not less than 2-inch high
12 letters on a contrasting background, the words: "UNAUTHORIZED
13 VEHICLES/VESSELS WILL BE TOWED AWAY AT THE OWNER'S
14 EXPENSE." The words "TOW-AWAY ZONE" must be included on the
15 light reflective sign in not less than 4-inch high letters on a contrasting
16 background;

17 c. The light reflective sign shall clearly indicate, in not less than 2-inch high
18 letters on a contrasting background, the days of the week, and hours of the
19 day during which vehicles/vessels will be towed away at the owner's
20 expense; and the name and current telephone number of the towtruck
21 company performing the towing service.

22 2. Light reflective signs must be maintained or replaced so that they are clearly
23 visible, legible and light reflective at all times. The towing company is
24 responsible for maintaining and replacing signs. In the event the towtruck
25 company goes out of business or is no longer performing tow services for the real
26 property owner, the real property owner is responsible for removal of signs.
27 Failing to provide, maintain, replace and/or remove the signs in accordance with
28 this section is a violation of this Ordinance.

29 ~~3. Startup: All new private property towing contracts must comply with the light~~
30 ~~reflective sign requirements beginning 3 months after the effective date of this~~
31 ~~Ordinance. All other "Tow Away" signs for previously existing contracts must~~

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1 ~~comply with these requirements, as signs are replaced, but no later than 5 years~~
2 ~~after enactment of this Ordinance.~~

3 4. The posting of notice requirements of this section shall not be required where:

4 a. The real property on which a vehicle/vessel is parked is property
5 appurtenant to and obviously part of a single-family type residence; or

6 b. Written notice is personally given to the vehicle/vessel owner or
7 authorized driver/agent that the real property on which the vehicle/vessel
8 is or will be parked is reserved or otherwise not available for unauthorized
9 vehicles/vessels and is subject to being removed at the vehicle/vessel
10 owner's expense.

11 B. Except as otherwise provided in Section 14, D. ~~and E.~~, when any real property owner
12 instructs **that** a vehicle/vessel to be recovered, towed, removed from his or her property
13 and stored, s/he or a designated representative shall sign the tow ticket authorizing the
14 tow. Immediately upon request, and without demanding compensation, the real property
15 owner shall inform the vehicle/vessel owner or other authorized person in control of the
16 vehicle/vessel of the name and address of the **non-consent** towtruck company that has
17 recovered, towed or removed the vehicle/vessel.

18 C. If the vehicle/vessel owner or authorized driver/agent arrives at the scene prior to the
19 vehicle/vessel being removed or towed from the property, the vehicle/vessel shall be
20 disconnected from the towtruck and the vehicle/vessel owner or authorized driver/agent
21 shall be allowed to remove the vehicle/vessel without interference upon the payment of a
22 reasonable service fee of not more than one-half of the posted rate for such towing
23 service (drop charge), for which a receipt shall be given, unless that person refuses to
24 remove the vehicle/vessel which is unlawfully parked. The bill/invoice must be
25 presented to the vehicle/vessel owner authorized/driver/agent prior to request for the
26 payment. **Non-consent towtruck companies are not authorized to apply a fee in**
27 **cases where the owner of the vehicle/vessel arrives on the scene prior to a complete**
28 **mechanical hook-up (road-worthy) between the towtruck and the vehicle/vessel.** In
29 the event the owner/driver of the vehicle/vessel is occupying the vehicle/vessel and
30 refuses to vacate same, in addition to the drop charge, the towtruck company/driver is
31 permitted to charge extra time at the scene where law enforcement involvement is

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1 necessary and the towtruck driver obtains the name of the law enforcement agency, case
 2 number of the law enforcement agency and **if possible** the name and badge number of the
 3 investigating law enforcement officer. The towtruck driver shall also prepare detailed
 4 documentation/ explanation as to why "extra time at scene" charges were required. All
 5 documentation shall be provided to the vehicle/vessel owner or representative upon
 6 demand. Such fee shall be approved by resolution of the Commission.

7

8 **Section 16. Non-consent Towtruck Company Requirements.**

9 A. **Non-consent** towtruck companies providing services pursuant to this Ordinance shall not
 10 do so when there is a person occupying the vehicle/vessel.

11 B. **Non-consent** towtruck companies providing services pursuant to this Ordinance shall
 12 transport the vehicle/vessel directly to the storage facility of the towtruck company
 13 providing the service, ~~or~~ to such other location as a law enforcement officer authorizing
 14 the tow may expressly direct, **or to a location expressly directed by the vehicle owner**
 15 **or authorized driver/agent. When the vehicle owner or authorized driver/agent**
 16 **expressly authorizes the vehicle to be towed to a location other than the towtruck**
 17 **company storage facility, the towtruck driver must:**

18 4. **Provide a "not to exceed" estimate in writing of all the rates and fees that**
 19 **will be assessed for the tow or negotiate a consent-only towing agreement;**
 20 **and**

21 5. **Disclose in writing the three methods of payment and come to a mutually**
 22 **agreed time as to how and when the towing company will be compensated.**

23 C. ~~and shall not keep the vehicle/vessel in any temporary holding area~~ **It is a violation of**
 24 **this Ordinance for a non-consent towtruck company to keep or stage impounded**
 25 **vehicles/vessels in any temporary area or holding facility prior to the transportation**
 26 **of the vehicle to its approved storage facility.**

27 D. **Non-consent** towtruck companies ~~who~~ **which** provide services pursuant to this
 28 Ordinance shall file and keep on record with the Division a complete copy of all current
 29 rates charged for the recovery, towing or removal of vehicles/vessels and storage
 30 provided in connection therewith. Such persons shall also display prominently at each

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1 storage facility the following information: signage which identifies the name of the
 2 towing company, a schedule of all charges and rates for removal of vehicles/vessels for
 3 private property impounds; a statement that these rates do not exceed those rates filed
 4 with the Division and are in accordance with the provisions of this Ordinance and the
 5 rights afforded to a vehicle owner or authorized driver/agent pursuant to Florida Statutes.
 6 The above information shall be posted prominently in the area designated for the
 7 vehicle/vessel owner or authorized driver/agent to transact business. Such area shall
 8 provide shelter, safety and lighting adequate for the vehicle/vessel owner or authorized
 9 driver/agent to read the posted rate schedule. Further, notice shall be posted advising the
 10 vehicle/vessel owner or authorized driver/agent of the right to request and review a
 11 complete schedule of charges and rates for towing services for the jurisdiction in which
 12 the law enforcement order to tow was made, and that the towtruck company is permitted
 13 by the Division noting the Division's telephone number, address and business hours.

14 E. **Non-consent** towtruck companies shall provide signage on the property clearly visible
 15 from the street, (unless otherwise prohibited by local zoning laws) with at least 3 inch
 16 letters on a contrasting background with the name and phone number of the towtruck
 17 company.

18 F. **Non-consent** towtruck companies ~~who~~ **which** provide services pursuant to this
 19 Ordinance shall advise any vehicle/vessel owner or authorized driver/agent who calls by
 20 telephone prior to arriving at the storage facility of the following:

- 21 1. Each and every document or other item which must be produced to
- 22 retrieve the vehicle/vessel;
- 23 2. The exact charges as of the time of the telephone call, and the rate at
- 24 which charges accumulate after the call;
- 25 3. The acceptable methods of payment; and
- 26 4. The hours and days the storage facility is open for regular business.

27 G. **Non-consent** towtruck companies ~~who~~ **which** provide services pursuant to this
 28 Ordinance shall allow every vehicle/vessel owner or authorized driver/agent to inspect
 29 the interior and exterior of the towed vehicle upon his or her arrival at the storage facility
 30 before payment of any charges (except for "~~Late-Hour~~ **After-Hour** Gate or Personal
 31 Property Retrieval Fee"). With the exception of vehicles being **held** pursuant to the

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1 specific request or "hold order" of a law enforcement agency, the vehicle/vessel owner or
 2 authorized driver/agent shall be permitted to remove the vehicle license tag and any and
 3 all personal property inside but not affixed to the vehicle/vessel. A vehicle/vessel
 4 owner who shows government issued photo identification shall be given access to
 5 view ownership documents stored in the vehicle/vessel. The vehicle/vessel and/or
 6 personal property shall be released to the vehicle/vessel owner if the ownership
 7 documents are consistent (name and address) with the photo identification. When a
 8 vehicle/vessel owner's government issued identification and ownership documents
 9 are stored inside the impounded vehicle due to unforeseen circumstances, the
 10 towtruck company shall be required to recover the ownership documents stored in
 11 the impounded vehicle (i.e., glove compartment, sun visors, etc.) upon receipt of a
 12 vehicle/vessel key, vehicle access code, or electronic device from the vehicle/vessel
 13 owner that would allow entry. The vehicle/vessel and/or personal property shall be
 14 released to the vehicle/vessel owner if the ownership documents are consistent with
 15 the photo identification.

- 16 H. Non-consent towtruck companies ~~who~~ which provide services pursuant to this
 17 Ordinance shall accept payment for charges from the vehicle/vessel owner or authorized
 18 driver/agent in all the following forms:
- 19 1. Cash, money order or valid traveler's check; and
 - 20 2. Valid bank debit/credit card, which shall include, but not be limited to,
 21 MasterCard or VISA, that is in the name of the vehicle/vessel owner or authorized
 22 driver/agent; and
 - 23 3. Valid personal check showing on its face the name and ~~Florida~~ Palm Beach
 24 County address of the vehicle/vessel owner or authorized driver/agent.

25 A towtruck company/driver shall not reject any of the above forms of payment. A
 26 vehicle/vessel owner or authorized driver/agent shall not be required to furnish
 27 more than one government issued (1) form of picture identification when payment
 28 is made by valid bank debit/credit card or personal check, and said presentation
 29 shall constitute sufficient identity verification.

- 30 I. Non-consent towtruck companies ~~who~~ which provide services pursuant to this
 31 Ordinance shall not store or impound a towed vehicle/vessel at a distance which exceeds

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1 a ten (10) mile radius of the location from which the vehicle/vessel was recovered, towed
 2 or removed unless no towing company providing services under this section is located
 3 within a ten (10) mile radius, in which case a towed or removed vehicle/vessel must be
 4 stored at a site within twenty (20) miles of the point of removal.

5 J. **Non-consent** towtruck companies ~~who~~ **which** provide services pursuant to this
 6 Ordinance shall maintain one or more storage facilities, each of which shall maintain a
 7 current Palm Beach County Occupational License **Business Tax Receipt** and **when**
 8 **applicable a** municipal occupational or business license **Business Tax Receipt** (~~when~~
 9 ~~applicable~~), and **The business** shall be open for the purpose of redemption of
 10 vehicles/vessels by owners or authorized drivers/agents on any day that the towtruck
 11 company is open for towing purposes from at least 8:00 A.M. to 6:00 P.M., Monday
 12 through Friday and, when closed, shall have posted prominently on the exterior of the
 13 storage facility and place of business, if different, a notice indicating a telephone number
 14 where the towtruck company can be reached at all times. Upon request of the
 15 vehicle/vessel owner or authorized driver/agent, the towtruck company shall release the
 16 vehicle/vessel to the vehicle/vessel owner or authorized driver/agent within one (1) hour.

17 K. **Non-consent** towtruck companies shall not, as a condition of release of the
 18 vehicle/vessel, require a vehicle/vessel owner or authorized driver/agent to sign any
 19 release or waiver of any kind which would release the towtruck company from liability
 20 for damages noted by the vehicle/vessel owner or authorized driver/agent at the time of
 21 the vehicle's/vessel's release. A detailed, signed receipt showing the legal name of the
 22 towtruck company removing the vehicle/vessel shall be given to the vehicle/vessel owner
 23 or authorized driver/agent at the time of payment, whether requested or not.

24 L. Nothing in this Ordinance shall prevent the Sheriff or any municipality within the county
 25 from providing additional or more restrictive requirements in contracts or arrangements
 26 which authorize the recovery, towing or removal of vehicles/vessels or storage provided
 27 in connection therewith.

28 M. **Non-consent towtruck companies which provide services pursuant to this Ordinance**
 29 **shall release vehicles/vessels towed or removed to the vehicle/vessel owner or**
 30 **authorized driver/agent provides Proof of Ownership documents. Proof of**
 31 **Ownership documents shall include:**

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- 1 1. Current vehicle registration.
- 2 2. Vehicle Title.
- 3 3. An authorized driver/agent with a notarized release from the vehicle/vessel
4 owner or lien holder. Vehicle/Vessel owners have the right to
5 identify/approve designated agents to claim vehicles on their behalf. A
6 facsimile or electronic transfer of a notarized release statement from the
7 vehicle/vessel owner shall be accepted.
- 8 4. Insurance Card with the vehicle/vessel owner's information and vehicle
9 description.
- 10 5. Licensed Dealer in possession of an auction buyers sales invoice.
- 11 6. A notarized bill of sale for non-titled vehicles or vessels.
- 12 N. Non-consent towtruck companies which provide services pursuant to this Ordinance
13 shall make a "good faith effort" to locate the vehicle/vessel owner or lien holder.
14 For the purposes of this paragraph and subsection, a "good faith effort" means that
15 the required steps have been performed by the towtruck company according to
16 Section (4)(d) of the Florida Statutes 713.78. Failure to make a "good faith effort"
17 to comply with the notification requirements of this section shall preclude the
18 imposition of any storage charges against such vehicle or vessel.
- 19 O. Non-consent towtruck companies which provide services pursuant to this Ordinance
20 and found to be in violation of this Ordinance relating to a specific non-consent tow
21 shall be required to reimburse the vehicle/vessel owner of all illegal or over charges
22 related to that towing incident. Failure to reimburse the owner of the vehicle/vessel
23 in such cases is a violation of this Ordinance.
- 24 P. Any non-consent towing company that has an unusable storage yard or has been
25 evicted from its storage yard is subject to having its operating permit suspended.
- 26 Q. Any towtruck driver in the process of transporting a junked vehicle (as defined in s.
27 319.30, F.S.) to a licensed salvage motor vehicle dealer and who is employed by,
28 working for or operates a nonconsent towing company, must have physical
29 possession of a derelict motor vehicle certificate, transferred title or certificate of
30 destruction for such vehicle.
- 31 R. It shall be a violation of this Ordinance for any non-consent towing company to fail

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1 to respond in writing within ten (10) business days to any written inquiry or request
2 for information from the Division or any law enforcement agency.

3
4 **Section 17. Consent-Only Towtruck Company Requirements.**

5 **A. It shall be a violation of this Ordinance for any towtruck company that has been**
6 **issued a Consent-Only Towing Operating Permit to perform non-consent towing**
7 **services.**

8 **B. Consent-Only towtruck companies providing services pursuant to this Ordinance**
9 **shall not do so when there is a person occupying the vehicle/vessel.**

10 **C. Consent-Only towtruck companies providing services pursuant to this Ordinance**
11 **shall transport the vehicle/vessel directly to the location specified by the vehicle**
12 **owner or duly authorized agent.**

13 **D. It shall be a violation of this Ordinance for any consent-only towing company to fail**
14 **to respond in writing within ten (10) business days to any written inquiry**
15 **concerning public safety from the Division or any law enforcement agency.**

16
17 **SECTION 17. 18. Maximum Non-Consent Towing and Storage Rates for**
18 **Non-Consent Tow Services.**

19
20 A. The Commission shall, by Resolution establish maximum rates, as may be amended from
21 time to time, for nonconsent towing services as follows:

22 1. Towing service per call, which shall include the first 30 minutes that the towtruck
23 is actually on the scene engaged in the safe removal of a vehicle/vessel.

24 2. Mileage (per towed mile) according to Section 715.07, Florida Statutes.

25 3. Storage may be charged only after the vehicle has been in the storage facility for
26 at least 6 hours. If the vehicle was not recovered by the vehicle/vessel owner or
27 authorized driver/agent after the 6-hour time period has elapsed, then storage
28 charges shall accrue in 24-hour increments from the time the vehicle/vessel
29 arrived in the storage facility and:

30 a. The police agency has authorized the vehicle/vessel to be impounded, or

31 b. The appropriate police agency has been notified by the towtruck company
32 that the towtruck company is in possession of a vehicle/vessel as a result

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- 1 of a private property impound.
- 2 4. Indoor storage rates may only be charged upon the express direction and written
3 authorization of the owner/authorized driver/agent, lien holder, insurance
4 company representative or investigating police agency. The only exceptions to
5 this rule are:
- 6 a. When the condition of the vehicle requires indoor storage due to inclement
7 weather conditions or the vehicle's window(s) and/or convertible top is
8 down and cannot be raised and indoor storage is necessary to protect the
9 vehicle and its contents, or
- 10 b. When a municipal or county jurisdiction require indoor storage for towed
11 vehicles.
- 12 5. An Administrative/Lien Fee shall only be charged after the vehicle/vessel has
13 been in the storage facility for at least 24 hours and:
- 14 a. The police agency has authorized the vehicle/vessel to be impounded, or
15 b. The police agency has been notified by the towtruck company that the
16 towtruck company is in possession of a vehicle/vessel as a result of a
17 private property impound.
- 18 c. ~~The towtruck company must show proof that lien letter(s) have been~~
19 ~~prepared with the appropriate names/addresses (i.e., U.S. Mail~~
20 ~~Certification Number, correspondence copies, etc.).~~ **The non-consent**
21 **towtruck company must show proof that lien letter(s) have been**
22 **prepared with the appropriate names/addresses (i.e., U.S. Mail**
23 **Certification Number, correspondence copies, etc.) and that actual**
24 **fees for obtaining required ownership information have been**
25 **expended. Failure to document and provide all of the above required**
26 **information will result in administrative/lien fee charges being**
27 **removed from the total cost of the service/invoice and is a violation of**
28 **this Ordinance.**
- 29 6. Underwater recovery performed by a certified/professional diver with the written
30 documentation and approval of the investigating law enforcement agency/officer.
- 31 7. Hazardous material clean-up and disposal as required, mandated and/or licensed

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- 1 through federal, state or local laws and approved by the investigating law
2 enforcement agency/officer.
- 3 8. ~~Late-hour~~ **After-hour** Gate fees may **not** be applied between the hours of 8 p.m.
4 **a.m. and 8 a.m. 6 p.m. Monday through Friday (excluding federal holidays)**
5 **and not for 6 hours after a vehicle has been impounded all other times** when:
- 6 a. Impounded vehicles/vessels are recovered by the owner or authorized
7 driver/agent; or
- 8 b. The owner or authorized driver/agent wishes to recover property from an
9 impounded vehicle/vessel.
- 10 **10. Extra Time at Scene/Labor Charge may be applied when any extra time**
11 **beyond one-half hour, is needed to safely remove a vehicle or vessel and**
12 **includes the amount of time spent at a scene when a towtruck has been**
13 **summoned and is on scene but unable to proceed through no fault of the**
14 **towtruck operator. All extra time/labor shall be documented by the**
15 **towtruck driver and shall include the name of the law enforcement agency**
16 **and the law enforcement agency case number or the officer's name and**
17 **badge number. The documentation shall also include a detailed explanation**
18 **of the services rendered which necessitated the charges and if possible**
19 **photographs of the scene. Extra time shall be charged in 15-minute**
20 **increments. Failure to document and provide all of the above required**
21 **information will result in the extra time/labor charges being removed from**
22 **the total cost of the service/invoice and is a violation of this Ordinance.**
- 23 B. ~~The~~ All rates established shall be uniform throughout Palm Beach County both in the
24 incorporated and unincorporated areas, except where municipalities have established
25 differing maximum rates for their jurisdictions. From time to time, the rates established
26 by the Commission may be revised in accordance with a rate study.
- 27 C. Persons who provide services pursuant to this section shall not charge in excess of the
28 maximum allowable rates established by the Commission. No person providing services
29 pursuant to this section shall charge any type of fee other than the rates for which the
30 Commission has specifically established. Towtruck companies which tow
31 vehicles/vessels from Palm Beach County into another county shall abide by the terms of

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1 this Ordinance including all rates and charges adopted by the Commission.
2 D. Towtruck companies which provide services pursuant to this section shall display on the
3 same sign as the rate schedule required by this Ordinance the following statement:

4 To The Vehicle/Vessel Owner
5 If you believe that you have been overcharged for the services rendered, you do
6 not have to pay your bill to get your vehicle/vessel. Instead, you have the right to
7 post a bond in the Circuit Court, payable to (name of Towtruck Company), in the
8 amount of the final bill for services rendered, and to file a complaint within ten
9 (10) days of the time you have knowledge of the location of the vehicle/vessel.
10 The Court will decide later who is correct. If you show (name of Towtruck
11 Company) a valid Clerk’s certificate showing you have posted a bond, (name of
12 Towtruck Company) must release your vehicle/vessel to you immediately. This
13 remedy is in addition to other legal remedies you may have. Section 713.76 and
14 Section 713.78, Florida Statutes.

15
16 If you have a complaint about the way services were provided, you may call the
17 Palm Beach County Consumer Affairs Division, (561) 712-6600.

18
19 E. Each towtruck company shall maintain, on a form approved by the Division, a rate sheet
20 specifying all rates and charges, which shall be given by the towtruck driver to the
21 requesting vehicle/vessel owner or his authorized driver/agent prior to commencing the
22 service.

23

24 **Section 18 19. Towtruck Driver Requirements; Failure to Comply**

25 **A. It shall be unlawful for any person to operate any towtruck within and upon the**
26 **streets of Palm Beach County without having first obtained a Palm Beach County**
27 **Towtruck Driver’s identification badge (Tow Driver’s I.D. Badge). All applicants**
28 **for a Tow Driver’s I.D. Badge shall conform to the following:**

- 29 **1. Be at least eighteen (18) years of age;**
30 **2. Possess a valid State of Florida Driver License as required by the Florida**
31 **Department of Highway Safety and Motor Vehicles and must show proof**
32 **that he/she has possessed a valid driver’s license from any state within the**
33 **United States for three (3) years (2 years for drivers younger than 21 years**
34 **old) prior to applying for a Tow Driver’s I.D. Badge. If a person has not**
35 **driven for 3 years in the United States, he/she must obtain the driving record**
36 **from any other jurisdictions where he/she did drive or if he/she is unable to**
37 **obtain the driving record, must sign an affidavit under penalty of perjury**
38 **that he/she has no driving record which would prevent him/her from driving**

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- 1 **a towtruck in Palm Beach County, Florida;**
- 2 **3. The driver must provide the original form of his/her lifetime State of Florida**
- 3 **Department of Highway Safety and Motor Vehicles traffic/driving record**
- 4 **report to the Division which was secured no more than (thirty) 30 days**
- 5 **before the application/renewal was submitted, only if the Division is unable**
- 6 **to secure this required information. Upon initial application, if a driver has**
- 7 **resided in Florida less than five (5) consecutive years, a traffic/driving**
- 8 **record/history from each state where he/she previously resided must be**
- 9 **provided for at least a five year period;**
- 10 **4. Has not had more than three (3) or more separate incidents involving moving**
- 11 **violations in any twelve (12) month period in the previous three (3) years**
- 12 **prior to the initial application or renewal of a Tow Driver's I.D. Badge in**
- 13 **which the applicant pled guilty, was found guilty or adjudication was**
- 14 **withheld.**
- 15 **5. Has not been classified as a habitual traffic offender (as defined by Florida**
- 16 **Statutes) or as defined by the state where he/she previously resided within**
- 17 **five (5) years of applying for a Tow Driver's I.D. badge and was not**
- 18 **previously issued a Tow Driver's I.D. Badge by the Division;**
- 19 **6. Upon initial application or renewal, the driver must provide the original**
- 20 **request form for his/her Florida Department of Law Enforcement (FDLE)**
- 21 **criminal history/records report to the Division, as well as payment for the**
- 22 **amount required to secure the criminal history/records report. The Division**
- 23 **shall then be responsible for processing the request and payment to the**
- 24 **FDLE. The Division may conduct additional criminal history/records**
- 25 **reports of other states/jurisdictions as deemed appropriate. The Division**
- 26 **may require an applicant to submit to a finger print analysis if there is a**
- 27 **question of identity. The Commission may approve a different means of**
- 28 **securing the required criminal history/records should an alternative**
- 29 **agency/system be discovered that provides more complete information than**
- 30 **that provided by the FDLE.**
- 31 **7. Have no conviction or plea of guilty or nolo contendere, regardless of**

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1 adjudication of guilt, within the preceding 5 years from the date of
2 application for any offense related to driving a motor vehicle under the
3 influence or while intoxicated.

4 8. Have not more than one conviction or plea of guilty or nolo contendere,
5 regardless of adjudication of guilt, within the preceding 10 years from the
6 date of application for any offense related to driving a motor vehicle under
7 the influence or while intoxicated.

8 9. Have no more than two (2) traffic citations resulting from accidents in the
9 three (3) years preceding the date of the current permit year wherein the
10 driver has been found guilty.

11 10. Has not been required to register as a sexual offender in any government
12 jurisdiction.

13 11. Have no conviction or plea of guilty or nolo contendere, regardless of
14 adjudication or guilt, within the preceding three (3) years from the date of
15 conviction or release from incarceration (whichever is later) if the
16 applicant's civil rights have not been restored, including but not limited to
17 the following first-degree misdemeanors determined by the Board to be
18 necessary for the protection of public safety: stalking, battery, driving while
19 license is suspended or revoked, exposure of sexual organs, carrying a
20 concealed weapon, reckless driving which causes damage to property, racing
21 on highway, criminal possession of a controlled substance/paraphernalia,
22 luring or enticing a child under 12, or obscenity (selling/distributing sexual
23 material to minor). In the event the applicant's civil rights have been
24 restored, the I.D. Badge may be denied or revoked if the crime committed is
25 deemed to be directly related to operating a towtruck or towing business.

26 12. Have no conviction or plea of guilty or nolo contendere, regardless of
27 adjudication or guilt, within the preceding five (5) years from the date of
28 conviction or release from incarceration (whichever is later) if the
29 applicant's civil rights have not been restored, including but not limited to
30 the following felonies determined by the Board to be necessary for the
31 protection of public safety: battery, carrying a concealed weapon, robbery

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1 (not armed), burglary (not 1st degree), repossession of a motor vehicle under
 2 Chapter 493, repair of a motor vehicle under ss. 559.901-559.9221, F.S., theft
 3 of a motor vehicle under s. 812.014, F.S., carjacking under s. 812.133, F.S.,
 4 operation of a chop shop under s. 812.16, F.S., overcharging for repairs and
 5 parts for insurance purposes under 860.15, F.S., criminal sale of a controlled
 6 substance, criminal possession of controlled substance/paraphernalia,
 7 obscenity (selling/distributing sexual material to a minor or exchanging
 8 computer pornography with a minor), a habitual felony offender, aggravated
 9 assault, child abuse/neglect, reckless driving with serious bodily injury,
 10 fleeing/attempting to elude a law enforcement officer, aggravated fleeing or
 11 eluding a law enforcement officer causing serious body injury, luring or
 12 enticing a child under 12 (2nd conviction), resisting an officer with violence,
 13 procuring a person under 18 for prostitution, selling or buying minors for
 14 sex trafficking/prostitution, forcing/compelling/coercing a person for
 15 prostitution, or abuse/aggravated abuse/neglect of an elderly person or a
 16 disabled adult. The Division may require applicants to provide the final
 17 disposition for felony criminal cases on background checks received by the
 18 Division from any source. Failure to provide the disposition of such cases
 19 shall result in the denial of a Tow Driver's I.D. badge. In the event the
 20 applicant's civil rights have been restored, the I.D. Badge may be denied or
 21 revoked if the crime committed is deemed to be directly related to operating
 22 a towtruck or towing business.

23 13. Have no conviction, plea of guilty, nolo contendere or adjudication withheld
 24 of any of the following offenses determined by the Board to be necessary for
 25 the protection of public safety, if the applicant's civil rights have not been
 26 restored. In the event the applicant's civil rights have been restored, the I.D.
 27 Badge may be denied or revoked if any of the following crimes committed
 28 are deemed to be directly related to operating a towtruck or towing business:

- 29 (a) Murder, attempted murder, attempted felony murder, manslaughter,
- 30 (F.S. Chapter 782)
- 31 (b) DUI manslaughter (F.S. 316.193(3));

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- 1 (c) Sexual battery, attempted sexual battery (F.S. 794.011);
- 2 (d) Lewd or lascivious battery, attempted lewd or lascivious battery, lewd
- 3 or lascivious molestation, lewd or lascivious conduct, or lewd or
- 4 lascivious exhibition (F.S. Chapter 800);
- 5 (e) Lewd or lascivious offense upon or in the presence or an elderly or
- 6 disabled person, attempted lewd or lascivious offense upon or in the
- 7 presence of an elderly or disabled person (F.S. 825.1025);
- 8 (f) Sexual performance by a child, attempted sexual performance by a
- 9 child (F.S. 827.071);
- 10 (g) Aggravated child abuse (F.S. 827.03);
- 11 (h) Failure to register as a sexual predator (F.S. 775) or sexual offender
- 12 (F.S. 943.0435);
- 13 (i) Computer pornography, transmission of computer pornography,
- 14 buying or selling of minors (F.S. Chapter 847);
- 15 (j) Kidnapping, attempted kidnapping, false imprisonment, or luring and
- 16 enticing a child (F.S. Chapter 787);
- 17 (k) Aggravated battery, attempted aggravated battery (F.S. 784);
- 18 (l) Armed robbery, attempted armed robbery, carjacking, attempted
- 19 carjacking, home invasion, attempted home invasion (F.S. Chapter
- 20 812);
- 21 (m) Poisoning of food or water (F.S. 859.01);
- 22 (n) First degree burglary or attempted first degree burglary (F.S.
- 23 810.02);
- 24 (o) Arson or attempted arson (F.S. 806.01);
- 25 (p) Aggravated stalking (F.S. 784.048);
- 26 (q) Aggravated battery or aggravated assault on a law enforcement
- 27 officer or other specified officer (F.S. 784.07);
- 28 (r) Aircraft piracy (F.S. 860.16);
- 29 (s) Unlawful throwing, projecting, placing, or discharging of any
- 30 destructive device or bomb or attempting to do so (F.S. 790.161);
- 31 (t) Facilitating or furthering terrorism (F.S. 775.31);

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- (u) Treason (F.S. 876.32);
- (v) Any offense committed in another jurisdiction that would be an offense listed in this paragraph if that offense had been committed in the State of Florida.

14. In addition, the person has not been declared to be one of the following:

- (a) A Habitual Violent Felony Offender under F.S. 775.084(1)(b);
- (b) A Three-time Violent Felony Offender under F.S. 775.084(1)(c);
- (c) A Violent Career Criminal under F.S. 775.084;
- (d) A Prison Releasee Reoffender under F.S. 775.082(9)(a);
- (e) A Sexual Predator under F.S. 775.21;

15. A towtruck driver with a current I.D. badge is required to notify the Division within ten (10) business days upon being convicted of any crime.

16. Applicants shall have no unsatisfied civil penalties, judgments or administrative orders pertaining to this Ordinance.

17. Every application or renewal application for a Tow Driver’s I.D. badge and application for amendment of a Tow Driver’s I.D. badge, shall be in writing and signed by the applicant and shall be filed with the Palm Beach County Division of Consumer Affairs on a form provided by the Division together with the non-refundable Tow Driver’s I.D. badge fees which shall not be subject to proration.

Each Tow Driver’s I.D. badge shall be valid for a two-year period and shall be renewed every other year on the applicant’s date of birth. The DCA may deny or revoke a Tow Driver’s I.D. badge if it is determined that the applicant has misrepresented, omitted, or concealed a fact on the application, renewal application or replacement application. If the Tow Driver’s I.D. badge is denied, the DCA shall not accept an application for said Tow Driver’s I.D. badge for one (1) year from the date the badge is denied, unless there is less than one (1) year to satisfy the time restrictions in paragraph (1) above related to the following subparagraphs: (d), (e), (g), (h), (i), (j), or (k).

In such situations, the applicant will be permitted to reapply for a Tow

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1 **Driver's I.D. badge after the time requirements have been satisfied. If the**
 2 **Tow Driver's I.D. badge is revoked, the DCA shall not accept an application**
 3 **for said Tow Driver's I.D. badge for one (1) year from the date the badge is**
 4 **revoked. Any person renewing a Tow Driver's I.D. badge must file a renewal**
 5 **application, furnish the documentation requested by the Division, and**
 6 **submit payment for the required non-refundable renewal fee(s) not more**
 7 **than ninety (90) days before the expiration date of a Tow Driver's I.D. badge.**
 8 **Persons who fail to reapply for their Tow Driver's I.D. badge 30 days prior**
 9 **to expiration, risk having a gap in their authorization to drive a towtruck.**
 10 **Persons who fail to submit their renewal application, required**
 11 **documentation and fees by the expiration date of the Tow Driver's I.D.**
 12 **badge must pay a non-refundable late fee, over and above the Tow Driver's**
 13 **I.D. Badge fee. Any applicant who fails to submit a renewal application**
 14 **within 1 year of the expiration of a current badge will be considered a new**
 15 **applicant when reapplying and no grandfathered provisions will apply. Said**
 16 **fees shall be established by resolution of the Board;**

17 18. **Shall submit to photographing (full face exposure/without sunglasses or head**
 18 **coverings) prior to the issuance of the Tow Driver I.D. badge by the Division;**

19 19. **Complete the Tow Driver's I.D. badge registration affidavits provided by the**
 20 **Division;**

21 20. **Not possess a suspended or revoked driver's license as a result of a moving**
 22 **violation or have any outstanding and unsatisfied civil penalties, citations or**
 23 **judgments imposed due to violations of this Ordinance;**

24 21. **Not violate the terms of a cease and desist order, assurance of voluntary**
 25 **compliance, notice to correct a violation or any other lawful order of the**
 26 **director;**

27 22. **Not be enjoined by a court of competent jurisdiction from engaging in the**
 28 **towing business or was enjoined by a court of competent jurisdiction with**
 29 **respect to any of the requirements of this Ordinance;**

30 23. **Have no conviction or plea of guilty or nolo contendere regardless of**
 31 **adjudication of guilt in any military or foreign jurisdiction, federal, state,**

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- 1 county or municipal jurisdiction within the United States for violations
2 analogous or parallel to those violations enumerated in all sections herein.
- 3 B. The driver of a tow truck shall conspicuously display on the driver's person through
4 the use of a neck lanyard, or above the waist on the outermost garment, the Tow
5 Driver's I.D. badge issued pursuant to this Ordinance so that it is visible and
6 available for inspection to the public, Division personnel and all law enforcement
7 officials while engaged and on duty for a towtruck company.
- 8 C. Each Tow Driver's I.D. badge shall be developed by the Division. Each driver's I.D.
9 badge shall, at a minimum, contain the name of the driver, date of expiration, photo
10 of the driver, and such additional terms, conditions, provisions and limitations as
11 were imposed during the approval process. Each company for which a driver will
12 be driving must submit an affidavit (on a form prepared by the Division) or
13 documentation from the insurance company (fax acceptable) that the driver is
14 eligible to be insured under the company's insurance policy.
- 15 D. The Division may issue a replacement Tow Driver's I.D. badge to any driver upon
16 payment of a non-refundable replacement fee, presentation of proof or a sworn
17 affidavit that the I.D. badge has been lost, stolen or for any other valid reason, and
18 any other documentation or requirement requested by the Division. The
19 replacement fee shall be established by resolution of the Board.
- 20 E. It shall be unlawful for any person to drive a towtruck unless such person has a
21 valid Tow Driver's I.D. badge issued pursuant to this Section.
- 22 F. It shall be unlawful for any person to drive a towtruck for any towtruck company
23 which has not been granted an operating permit pursuant to Section 4 (Operating
24 Permit Required) of this Ordinance.
- 25 G. It shall be unlawful for any applicant for a Tow Driver's I.D. badge to misrepresent,
26 omit or conceal a fact on the application, renewal application or replacement
27 application.
- 28 H. Upon submission of the application, the Division shall provide the driver with a
29 receipt. No applicant shall be permitted to drive a towtruck in Palm Beach County
30 until the Division has issued to him/her a Tow Driver's I.D. badge. The Division
31 shall provide the Tow Driver's I.D. badge within ten (10) business days following the

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1 submittal of the application and all required documents. In the event the official
 2 criminal background records furnished to the Division are insufficient and
 3 additional information is necessary, the Division shall be permitted an additional
 4 twenty (20) business days to issue the driver's I.D. badge. The Division will process
 5 applications on a more timely basis when the required certified/original criminal
 6 and driving background records are submitted with the initial application and an
 7 additional rush fee is paid to the Division. Such fee must be approved by the Board
 8 of County Commissioners.

9 I. Non-consent towtruck drivers must be hygienically clean, well groomed and neat.
 10 Drivers are not permitted to wear open toed shoes and must comply with all state
 11 and federal (e.g., O.S.H.A.) safety regulations. Non-consent towtruck drivers are
 12 not permitted to wear uniforms purporting to be from a different company or
 13 business than the one they actually work or drive for. Failure to abide by these
 14 requirements is a violation of this Ordinance.

15 J. Non-consent towtruck drivers shall not use abusive language or be discourteous to
 16 consumers or Division personnel.

17 K. Non-consent towtruck drivers must be able speak and understand English to the
 18 extent they can take instruction from law enforcement officers and consumers and
 19 complete manifests or invoices.

20 L. Drivers shall cooperate fully at all times with the Division in the furnishing of
 21 information required in connection with requests for proof of driver's license,
 22 vehicle insurance and/or Tow Driver's I.D. badge, during the process of applying to
 23 renew a Tow Driver's I.D. badge, and during investigations of consumer complaints.
 24 Further, drivers shall not obstruct, hamper or interfere with an investigation of
 25 violations of this Ordinance conducted by Division personnel, any law enforcement
 26 officer or employee of any other agency enforcing this Ordinance.

27 M. No person maintaining, owning, or operating a towing company shall suffer or
 28 permit any person or employee to drive a towtruck unless such person has a valid
 29 towtruck driver's I.D. badge issued pursuant to this Ordinance. This paragraph
 30 shall not apply to a towing company which is training a prospective driver. Such
 31 prospective driver must be accompanied by and working under the direct

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1 supervision of a company employee who is in possession of a valid towtruck driver
2 I.D. badge.

3 N. Failure to comply with the provisions of this Section may result in the Division
4 denying a Tow Driver I. D. badge/placard, revoking or suspending the Tow Driver's
5 I.D. badge/placard, denying a renewal of such Tow Driver's I.D. badge, issuing a
6 civil citation, a misdemeanor conviction or other such remedies available to the
7 Division herein.

8 N. Start-Up - Any person acting, on the effective date of this Ordinance as a towtruck
9 driver defined under the terms of this Ordinance, shall be subject to the terms of
10 this Ordinance as of the effective date of this Ordinance. Any such person must
11 submit an initial application for a tow driver's I.D. Badge up to 30 days prior to
12 his/her birthday but in any case no later than his/her birthday. Any person who has
13 submitted an initial application for a driver's I.D. Badge by his/her birthday shall
14 be permitted to continue acting as a towtruck driver as described in Paragraph I
15 above.

16
17 **Section 18. 20. Fraudulent Transfer of Towtruck Company.**

18 A transfer of a towtruck company to a successor company shall be deemed a fraudulent transfer
19 if said transfer is made by the towtruck company for the purpose of evading permit fees or civil
20 penalties issued pursuant to this Ordinance. In determining intent to defraud, consideration may
21 be given among other factors to, whether:

- 22 A. The transfer was to an insider;
23 B. The towtruck company retained possession or control of the property transferred after the
24 transfer;
25 C. The transfer was disclosed or concealed;
26 D. Before the transfer was made or obligation was incurred, the towtruck company had been
27 sued or threatened with suit;
28 E. The transfer was of substantially all the towtruck company's assets;
29 F. The value of the consideration received by the towtruck company was reasonably
30 equivalent to the value of the asset transferred or the amount of the obligation incurred;

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- 1 G. The towtruck company was insolvent or became insolvent shortly after the transfer was
2 made or the obligation was incurred;
- 3 H. The transfer occurred shortly before or shortly after substantial permit fees or civil
4 penalties were incurred; and
- 5 I. The towtruck company transferred the essential assets of the business to a lienor who
6 transferred the assets to an insider of the towtruck company.
- 7 J. It shall be a violation of this Ordinance for a towtruck company to fraudulently transfer a
8 towtruck company.
9

10 **Section 19. 21. Deceptive and Unfair Trade Practices.**

11 No person shall engage in any unfair method of competition, unconscionable acts or practices or
12 unfair or deceptive acts or practices in the conduct of towing services. A towtruck company
13 engages in an unfair method of competition or unfair or unconscionable acts or deceptive
14 practices when in the course of his or her business, vocation or occupation, he or she knows or in
15 the exercise of care should know, that he or she in the past engaged or is now engaging in any
16 unfair method of competition or unconscionable acts or practices or unfair or deceptive acts or
17 practices in the conduct of any towing services.
18

19 **Section 20. 22. Cease and Desist Order.**

- 20 A. If the Division, after due investigation, has reason to believe that a towtruck company has
21 been or is violating any of the provisions of this Ordinance, then the Division may cause
22 to be served by personal service, certified mail or posting in a conspicuous place at the
23 towtruck company's place of business, a demand to cease and desist, stating the charges
24 and shall incorporate and set out the following:
- 25 1. The name of the complainant;
 - 26 2. The alleged charge and approximate date of the commission of the act;
 - 27 3. The section of the ordinance alleged to be involved.
- 28 B. Any towtruck company which has been issued a cease and desist order by the Division
29 may appeal such order to the Consumer Affairs Hearing Board/Hearing Officer within
30 twenty (20) days of receipt of the order. A nonrefundable filing fee must accompany the

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1 written request for appeal. The filing fee shall be established by resolution of the
 2 Commission. The appeal shall be reviewed at a hearing of the Consumer Affairs Hearing
 3 Board/Hearing Officer within sixty (60) days of receipt by the Division of the request for
 4 appeal.

5 C. The Board shall keep a full record of the hearing, which record shall be public and open
 6 to inspection by any person, and upon request, the Board shall furnish such party a copy
 7 of the hearing record, at such cost as the Commission deems appropriate.

8 D. Procedure at hearings: At the hearing, the towtruck company may be represented by
 9 counsel and may bring all original documents and other data pertinent to the case; and
 10 will be given an opportunity to present witnesses and evidence he or she may deem
 11 appropriate.

12 E. The Consumer Affairs Hearing Board/Hearing Officer shall hear the cases on the agenda.
 13 All testimony shall be under oath or by affirmation and shall be recorded. Each case
 14 before the Consumer Affairs Hearing Board/Hearing Officer shall be presented by the
 15 Division. The Consumer Affairs Hearing Board/Hearing Officer shall take testimony
 16 from County staff, if relevant, the alleged violator, and other relevant testimony. Formal
 17 rules of evidence shall not apply, but fundamental due process shall be observed and
 18 govern the proceedings. Upon determination of the chairperson, irrelevant, immaterial or
 19 unduly repetitious evidence may be excluded, but all other evidence of a type commonly
 20 relied upon by reasonably prudent persons in the conduct of their affairs shall be
 21 admissible, including hearsay evidence, whether or not such evidence would be
 22 admissible in a trial in the courts of Florida. Due regard shall be given to the competent,
 23 reliable and technical evidence which will aid the Consumer Affairs Hearing
 24 Board/Hearing Officer in making a fair determination of the matter, regardless of the
 25 existence of any common law or statutory rule which might otherwise make improper the
 26 admission of such evidence.

27 F. Any member of the Consumer Affairs Hearing Board/Hearing Officer or the attorney
 28 representing the Division may inquire of or question any witness before the Consumer
 29 Affairs Hearing Board/Hearing Officer. The alleged violator, or his/her attorney, shall be
 30 permitted to inquire of any witness before the Consumer Affairs Hearing Board/Hearing
 31 Officer. The right to cross examine witnesses shall be preserved.

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1 G. At the conclusion of the hearing, the Consumer Affairs Hearing Board/Hearing Officer
2 shall orally render its decision (order) based on evidence entered into the record. The
3 decision shall be by motion approved by the affirmative vote of those members present
4 and voting. The Consumer Affairs Hearing Board/Hearing Officer's decision shall be
5 transmitted to the towtruck company in the form of a written order including finding of
6 facts, and conclusion of law consistent with the record. The order shall be transmitted by
7 certified mail/hand delivery/posting to the towtruck company within ten (10) days after
8 the hearing. The order may include a notice that it must be complied with by a specified
9 date.

10 H. Any person may appeal a final determination of the Consumer Affairs Hearing
11 Board/Hearing Officer within thirty (30) days of the rendition of the decision by filing a
12 petition for writ of certiorari in the Circuit Court of the Fifteenth Judicial Circuit in and
13 for Palm Beach County, Florida.

14
15 **Section 21. 23. Assurance of Voluntary Compliance.**

16 A. In the enforcement of this Ordinance, the Division may accept an assurance of voluntary
17 compliance with respect to any method, act, or practice deemed to be violative of law
18 from any person who has engaged, or was about to engage in, such method, act, or
19 practice. Any such assurance shall be a formal written agreement between the Division
20 and the towtruck company, approved as to form and legal sufficiency by the County
21 Attorney's Office, and filed with the Clerk of the Circuit Court of the Fifteenth Judicial
22 Circuit. Such assurances of voluntary compliance may be conditioned on a commitment
23 to reimburse consumers or any other appropriate corrective action such as the payment
24 by the towtruck company of the costs of the investigation by the Division. An assurance
25 of voluntary compliance is not evidence of prior violation of this part, however, unless an
26 assurance of voluntary compliance has been rescinded by agreement of the parties or
27 voided by the Court for good cause, subsequent failure to comply with the terms of an
28 assurance of voluntary compliance shall be deemed prima facie evidence of a violation of
29 this Ordinance. No such assurance of voluntary compliance shall act as a limitation upon
30 any action or remedy available to a person aggrieved by a violation of this Ordinance.

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- 1 B. Every towtruck company desiring to negotiate an assurance of voluntary compliance
 2 shall be apprised of his or her right to have his or her case heard by the Consumer Affairs
 3 Hearing Board/Hearing Officer in the event he or she does not wish to enter into such
 4 assurance of voluntary compliance.

5
 6 **SECTION 22. 24. Enforcement and Penalties: Civil and Criminal.**

- 7 A. It shall be unlawful for any person to violate any of the provisions of this Ordinance. This
 8 Ordinance shall be enforced by personnel authorized by the Division, county code
 9 enforcement officials, the police agencies of the various municipalities in Palm Beach
 10 County and by the Palm Beach County Sheriff's Office. When specifically authorized by
 11 the Director, this Ordinance may be enforced by other Palm Beach County personnel.
- 12 B. Persons who provide services pursuant to this Ordinance shall not use physical force or
 13 violence or threats of physical force or violence in dealing with the individuals
 14 responsible for administering this Ordinance or individuals who have had or are about to
 15 have their vehicles/vessels recovered, towed or removed or stored in connection
 16 therewith.
- 17 C. The County Court shall have jurisdiction over all violations of this Ordinance.
- 18 D. The Division shall maintain a system by which violators are given citations or written
 19 notice of all violations. The County Clerk shall accept designated fines and issue receipts
 20 therefore.
- 21 E. The Division is authorized to enforce the provisions of this Ordinance by administrative
 22 fines not to exceed five hundred dollars (\$500.00) for each violation. Any person who
 23 has violated any provision of this Ordinance shall be fined an amount as established by
 24 the Commission by Resolution. Each day of a continuing violation shall be deemed a
 25 separate violation.
- 26 F. Payment shall be made, either by mail or in person, to the Violations Bureau within the
 27 time specified upon the citation. If a person follows these procedures, he shall be deemed
 28 to have admitted to the infraction and to have waived his/her right to a hearing on the
 29 issue of the commission of the infraction.
- 30 G. All fines collected as a result of said citations (except those fines collected as a result of

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1 citations issued by municipal law enforcement officers, which shall be remitted by the
 2 Clerk of the Court directly to the municipality issuing the citation) shall be paid into the
 3 County Treasury and deposited into the designated fund for the Division. All mandatory
 4 costs as required by statute shall be assessed against every person convicted of a
 5 violation of this Ordinance.

6 H. Any person who fails to make payments within the time period specified on the citation
 7 shall be deemed to have waived his/her right to pay the civil penalty as set forth in the
 8 citation and shall appear before the County Court.

9 I. Any person who elects to appear before the court to contest the citation shall be deemed
 10 to waive his/her right to pay the civil penalty. The court, after a hearing, shall make a
 11 finding as to whether a violation has occurred and may impose a civil penalty not to
 12 exceed \$500.00 plus court costs.

13 J. If a person fails to pay the civil penalty or fails to appear in court to contest the citation,
 14 s/he shall be deemed to have waived his/her right to contest the citation and, in such case,
 15 a default judgment shall be entered and the judge shall impose a fine at that time an order
 16 to show cause may be issued. If the fine is paid, the case shall be dismissed. If the fine is
 17 not paid, judgment may be entered up to the maximum civil penalty of \$500.00 plus court
 18 costs.

19 K. Any person who refuses to sign and accept a citation issued pursuant to this Ordinance
 20 shall be guilty of a misdemeanor of the second degree, punishable as provided by
 21 sections 775.082, 775.083 or 775.084, Florida Statutes.

22 L. The Division may require mandatory court appearances for violations resulting in the
 23 issuance of a third or subsequent citation to a person. The citation shall clearly inform
 24 the person of the mandatory court appearance. The Division shall maintain records to
 25 prove the number of citations issued to the person. Persons required to appear in court do
 26 not have the option of paying the fine instead of appearing in court.

27
 28 **SECTION 23. 25. Administrative Enforcement, Denial, Revocation and**
 29 **Suspension of Operating Permits.**

30
 31 **A.** The Director is authorized to deny, suspend or revoke operating permits, towtruck decals,
 32 upon written notice. Towtruck companies are subject to denial, suspension or revocation

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1 when it appears that:

- 2 1. The towtruck company and/or driver has failed to comply with or has violated the
3 provisions of this Ordinance;
- 4 2. The towtruck company has failed to comply with or has violated the provisions of
5 Chapter 323 F.S., s. 713.78 and 715.07, F.S.;
- 6 3. The operating permit was obtained by an application in which any material fact
7 was omitted or falsely stated;
- 8 4. Any towtruck or equipment owned or operated by the towtruck company and
9 issued a decal pursuant to the Ordinance has been operating in violation of this
10 Ordinance or any provision of law.
- 11 5. In addition, ~~an towing~~ operating permit issued pursuant to this Ordinance may be
12 suspended or revoked when the Director receives written notification that
13 towtruck company, towtruck operator's officer, director or partner pled nolo
14 contendere, pled guilty or has been convicted of any crime designated as a felony
15 (as referenced in Section 5.C.1. [New Applications/Renewals and Issuance of
16 Towing Operating Permit; Fees] of this Ordinance); any crime relating to motor
17 vehicles; or any crime involving the sale or possession of controlled substances as
18 defined by the Florida Rico Act, section 893.03, Florida Statutes, regardless of
19 whether adjudication has been withheld. The only exception to this rule is where
20 the civil rights of such individual has been restored.

21 ~~6. Two or more violations of this Ordinance which result in civil fines/penalties,~~
22 ~~judgments or administrative orders entered by the Division and/or a conviction or~~
23 ~~plea of guilty or nolo contendere may result in the revocation, suspension or~~
24 ~~denial of the towtruck operating permit.~~

25 **6. Notwithstanding other suspension, revocation or denial procedures included**
26 **in this Ordinance, three (3) or more violations of this Ordinance which**
27 **resulted in civil fines/penalties, judgments or administrative orders entered**
28 **by the Division and/or a conviction or plea of guilty or nolo contendere**
29 **resulting from three separate incidents/complaints within a twelve (12)**
30 **month period shall result in the revocation, suspension or denial of an**
31 **operating permit for a period of three to five business days. The company is**

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1 required to pay an administrative reactivation fee established by resolution
2 of the Board of County Commissioners before any towing services can
3 resume in Palm Beach County. Any company found operating during a
4 period of suspension, revocation or denial shall have its operating period
5 revoked for a period of one (1) year.

6 7. Notwithstanding other suspension, revocation or denial procedures included
7 in this Ordinance, four (4) or more violations of this Ordinance which
8 resulted in civil fines/penalties, judgments or administrative orders entered
9 by the Division and/or a conviction or plea of guilty or nolo contendere
10 resulting from four separate incidents/complaints within a twelve (12) month
11 period shall result in the revocation, suspension or denial of an operating
12 permit for a period of six to 10 business days. The company is required to
13 pay an administrative reactivation fee established by resolution of the Board
14 of County Commissioners before any towing services can resume in Palm
15 Beach County. Any company found operating during a period of suspension,
16 revocation or denial shall have its operating period revoked for a period of
17 one (1) year.

18 8. Failed to comply with the terms of a cease and desist order, notice to correct a
19 violation, written assurance of voluntary compliance, or any other lawful order of
20 the Director, the Division, or the Consumer Affairs Hearing Board and/or Hearing
21 Officer.

22 9. Failed to obtain or maintain insurance as required by this Ordinance.

23 10. Misrepresented or concealed a fact on the application, renewal application,
24 or replacement application for a license.

25 11. Engaged in any conduct as a part of the performance of any contract for
26 service which constitutes a deceptive and unfair trade practice or fraud.

27 B. Any company which has violated this Ordinance as provided for in this section, may
28 have its operating permit suspended by action of the Division Director for a period
29 not to exceed 30 days. In such cases the Director shall provide written notice to the
30 company at least 10 days prior to the effective date of the suspension. Any company
31 which decides to appeal the suspension by direction, must submit the written

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1 **request for an appeal and applicable appeal fee to the Consumer Affairs Division**
 2 **within that 10 day period. The written appeal will then effect a “stay” on the**
 3 **suspension until the Consumer Affairs Hearing Board/Special Master makes a final**
 4 **determination as to the merits of the suspension. The appeal hearing shall be**
 5 **conducted as provided for in Section 27 (Hearings and Appeals). If the Hearing**
 6 **Board/Special Master affirms the action of the director, the suspension becomes**
 7 **effective the day following the decision of the Hearing Board/Special Master.**

8 **C. Any company which has had its operating permit suspended for a specific**
 9 **Ordinance deficiency but fails to correct that deficiency after 30 days shall have**
 10 **such operating permit revoked for a period of one (1) year from the date of the**
 11 **revocation notice. Such revocation may be appealed as provided for in Section 27.**

12
 13 **Section 24. 26. Additional Penalties.**

14 Failure to comply with the requirements of this Ordinance shall also constitute a violation of this
 15 Ordinance, and the Consumer Affairs Ordinance of Palm Beach County (No. 77-10, as
 16 amended). Violations of this Ordinance may be punishable, upon conviction, pursuant to Section
 17 125.69(1), Florida Statutes, by a fine not to exceed \$500.00 per violation or imprisonment not
 18 exceeding sixty (60) days, or both such fine or imprisonment, or may subject the violator to civil
 19 fines based on the issuance of a civil citation. Each day of continuing violation shall be
 20 considered a separate offense. In addition to the sanctions contained herein, the County shall
 21 take any other appropriate legal action, including but not limited to, cease and desist orders,
 22 other administrative action and requests for temporary and permanent injunctions to enforce the
 23 provisions of this Ordinance. It is the purpose of this Ordinance to provide additional
 24 cumulative remedies.

25
 26 **SECTION 25. 27. Hearings and Appeals.**
 27

28 Upon receipt of the notice of denial, revocation, or suspension of an operating permit, which
 29 notice shall specify the grounds for the denial, suspension or revocation, the towtruck company
 30 shall be entitled to an appeal according to the following:

31 A. Administrative Appeal: Any towtruck company, which has had an operating permit,
 32 denied, revoked, or suspended by the Division, may appeal such decision to the

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1 Consumer Affairs Hearing Board/~~Hearing Officer~~ **Special Master** within twenty (20)
2 days of receipt of the decision. A non-refundable filing fee must accompany the written
3 request for appeal. The company or attorney shall file a written notice of appeal signed
4 by the company or attorney requesting a hearing and setting forth a brief statement of the
5 reasons thereof. The filing fee shall be established by resolution of the Commission. The
6 appeal shall be reviewed at a hearing of the Consumer Affairs Hearing Board/Hearing
7 Officer within sixty (60) days of receipt by the Division of the notice of appeal. The
8 towtruck company may be represented by an attorney and shall be entitled to present a
9 defense.

10 B. Orders: At the conclusion of any hearing set forth in this section, the Consumer Affairs
11 Hearing Board/Hearing Officer shall orally render its decision (order) based on evidence
12 entered into the record. The decision shall be by motion approved by the affirmative vote
13 of those members present and voting. The decision shall be stated in a written order and
14 mailed to the towtruck company not later than ten (10) days after the hearing, and shall
15 be deemed final agency action with regard to the matter appealed.

16 C. Court Appeal: Any person may appeal a final determination of the Consumer Affairs
17 Hearing Board/Hearing Officer within thirty (30) days of the rendition of the decision by
18 filing a petition for writ of certiorari in the Circuit Court of the Fifteenth Judicial Circuit
19 in and for Palm Beach County, Florida.

20 D. For purposes of appeal, the FDLE Criminal History/Records Reports and the State of
21 Florida Department of Highway Safety and Motor Vehicles traffic/driving record report
22 shall be deemed prima facie evidence and admitted into evidence before the Consumer
23 Affairs Hearing Board/Hearing Officer.

24 E. Upon receipt of such notice of appeal, the Division shall set a time and place for such
25 hearing and shall give the violator or attorney and the Consumer Affairs Hearing
26 Board/Hearing Officer reasonable notice thereof. All hearings and appeals shall be
27 scheduled and determined as promptly as practicable and in no event more than sixty (60)
28 days from the date of the notice of the written notice of appeal was filed. Written notice
29 of the time, date, and place of the hearing of the appeal by the Division shall be served
30 upon the appellant no later than twenty (20) days prior to the date of the hearing. Said
31 notice of hearing, shall be by personal service, certified mail or posting in a conspicuous

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1 place at the towtruck company’s place of business. Failure of the company to respond
 2 within the time frames specified herein or failure to appear at a duly noticed hearing shall
 3 be deemed a waiver of the right to hearing and an admission of the acts specified in the
 4 notice.

5 F. The Consumer Affairs Hearing Board/Hearing Officer shall consider the case record as
 6 well as the statement offered by any interested party and shall consider the matter de
 7 novo and shall, upon the basis of the record before it, affirm, modify or reverse the
 8 decision of the Director.

9 G. If the Consumer Affairs Hearing Board/Hearing Officer affirms the decision of the
 10 Director to deny, suspend or revoke ~~an towing~~ operating permit, the suspension or
 11 revocation shall be effective from the date of the Consumer Affairs Hearing
 12 Board's/Hearing Officer’s order. A decision to affirm the action of the Director shall
 13 constitute final agency action for purposes of further appeal.

14 H. Suspension of the Operating Permit: If, at the conclusion of the hearing, the Consumer
 15 Affairs Hearing Board/Hearing Officer decides to suspend the operating permit, a time
 16 certain shall be set as the period of suspension. Prior to the end of such time certain,
 17 those violations for which the suspension was imposed shall be corrected; otherwise, the
 18 suspended permit(s) will be automatically revoked. **An Administrative Reactivation**
 19 ~~fee of fifty percent (50%) of the operating permit fee~~ shall be collected to reinstate the
 20 suspended permit(s). **The Administrative Reactivation fee shall be established by**
 21 **resolution of the Commission.**

22 I. Revocation of Permit/I. D Badge: If, at the conclusion of the hearing, the Consumer
 23 Affairs Hearing Board /Hearing Officer decides to revoke an operating permit the
 24 individual, driver or towtruck company shall remove and/or return the operating permit
 25 to the Division. A towtruck company whose operating permit has been revoked shall not
 26 be eligible to reapply as a new applicant for a period of six (6) months from the date of
 27 revocation.

28 J. If the Consumer Affairs Hearing Board/Hearing Officer reverses the decision of the
 29 Director, it shall direct the Director to issue or restore the towtruck operating permit.

30 K. In the event a written notice of appeal and accompanying filing fees are not submitted
 31 within the times frames outlined in this Ordinance, the decision of the Director shall

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1 prevail.

2 L. Effect of Appeal: The appeal of the decision of the Director to suspend or revoke an
3 ~~towing~~ operating permit shall stay the effective date of the suspension or revocation.

4
5 **SECTION 26. 28. Scope of Ordinance.**

6 A. The provisions of this Ordinance and the relevant Florida Statutes shall be the exclusive
7 regulations applicable to towing, recovery and removal of vehicles/vessels in Palm Beach
8 County and all storage provided therewith. This Ordinance shall be applicable in both the
9 unincorporated and incorporated areas, except that this Ordinance shall not apply in any
10 municipality that has adopted and maintains in effect Ordinances or regulations
11 governing the same matters.

12 B. This Ordinance shall not apply to the towing of a vehicle/vessel which occurs with the
13 consent of the vehicle/vessel's owner or operator.

14 C. Nothing in this Ordinance shall be construed to prohibit the discharge or storage of a
15 vehicle or vessel lawfully recovered, towed or removed in another county and lawfully
16 transported into Palm Beach County.

17
18 **SECTION 27. 29. Repeal of Laws in Conflict.**

19 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby
20 repealed as it relates to the enforcement of this Ordinance only.

21
22 **SECTION 28. 30. Savings Clause.**

23 Notwithstanding Section ~~28~~ 30, Repeal of Laws in Conflict, all administrative and court orders,
24 fines and pending enforcement issued pursuant to the authority and procedures established by
25 Ordinance ~~2002-007~~ 2005-009 shall remain in full force and effect.

26
27 **SECTION 29. 31. Inclusion in the Code of Laws & Ordinances.**

28 The provisions of this Ordinance shall become and be made a part of the Code of Laws and
29 Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered
30 or relettered to accomplish such, and the words "ordinance," "article," "section," "subsection," or

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1 "paragraph" may be changed to any other appropriate word to accomplish codification.

2

3 **SECTION 30, 32. Severability.**

4 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason
5 held by a court of competent jurisdiction to be unconstitutional, inoperative or void, such holding
6 shall not affect the remainder of this Ordinance.

7

8 **SECTION 31, 33. Effective Date.**

9 The provisions of this Ordinance shall be effective immediately upon filing with the Department
10 of State.

APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach
County, on the _____ day of _____,
2010.

Sharon R. Bock, Clerk & Comptroller PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Chair

Approved as to form and legal
sufficiency

Effective Date:

Filed with the Florida Department of State on the _____ day of _____, 2010, at
_____. m.

Draft updated
11/24/09

Palm Beach County
Current vs. Proposed
Maximum Non-Consent Towing Rates
and
Towing Fees, Fines, Minimum Liability Insurance

Type	Current	Proposed
Operating Permit/Driver Fees		
Application Fee – for each towtruck company *Establish lower cost Consent-only towing license/permit. Consent-only companies would not be permitted to conduct non-consent tows without the non-consent towing license.	\$400	Non-Consent \$600 Consent-only \$300* First year reduce application fees by \$50
Vehicle Decal Fee – for each towtruck	\$150	No change
Storage Yard Inspection Fee – for each towtruck company with a storage yard	N/A	\$100
Towing business permit application late fee Late up to 30 days Late 31 – 60 days Late 61 days and up to 1 year from date of expiration First year applications due February 28, 2010.	\$200 Only 1 fee	\$200 \$300 \$400
Operating Permit Refiling Fee	\$200	No change
Towing Vehicle Decal Replacement Fee	\$25	No change
Inspection Late Fee	\$50	No change
Inspection Cancellation Fee	\$75	No change
Storage Facility Reinspection Fee	\$75	No change
Administrative Appeal Filing Fee	\$50	\$100
Administrative Reactivation Fee (including Administrative Insurance Reactivation Fee) First occurrence All other occurrences	N/A	\$250 \$500
Towtruck Driver I.D. Badge Fee – for each person who drives a commercial towtruck. Two year fee.	N/A	\$60 Two year fee
Towtruck Driver I.D. Badge Late Fee	N/A	\$30
Towtruck Driver I.D. Badge Replacement Fee	N/A	\$30
Towtruck Driver I.D. Badge Rush Fee	N/A	\$30
Criminal Background Fee – completed every 2 years for towtruck drivers and company owners.	Actual cost Currently \$24	No change

Type	Current	Proposed
Maximum Rates – Non-Consent Tows		
<p>Private Property Impound Tow Class A Class B Class C Class D No other fees may be imposed for the first 24 hours the vehicle is in the care, custody and control of the towing operator, except: a) applicable storage fees may be charged after the proper police authority has been notified and the vehicle has been in the possession of the towing operator for at least 6 hours and b) "extra time at scene" when a law enforcement agency is called/involved and when the officer's name and badge number and detailed explanation is provided.</p>	Flat Rate \$114 Flat Rate \$201 Flat Rate \$286 Flat Rate \$286	No change
<p>Police Directed Tow Class A Class B Class C – applies to non-commercial vehicles only Class D – applies to non-commercial vehicles only</p>	\$155 \$229 \$343 \$492	No change
<p>Per mile fee for Police Directed Tow Class A Class B Class C Class D</p>	\$7.00 \$8.00 \$9.50 \$11.50	No Change
<p>Daily outdoor storage - vehicles 25' or less <u>after first 6 hours</u></p>	\$25	No Change
<p>Daily outdoor storage – vehicles longer than 25' <u>after first 6 hours</u></p>	\$35	No Change
<p>Daily outdoor storage - motorcycles, ATV=s, scooters, other small personal vehicles <u>after first 6 hours.</u></p>	\$15	No Change
<p>*Daily indoor storage - vehicles 25' or less <u>after first 6 hours.</u></p>	\$35	No Change
<p>*Daily indoor storage - vehicles longer than 25' <u>after first 6 hours.</u> Applies to non-commercial vehicles only.</p>	\$50	No Change
<p>*Daily indoor storage - motorcycles, ATVs, scooters, other small personal vehicles <u>after first 6 hours.</u></p>	\$20	No change
<p>Drop Charge – When the vehicle/vessel owner or authorized driver/agent arrives at the scene prior to the vehicle/vessel being removed or towed from the property, the vehicle/vessel shall be disconnected from the towtruck and the vehicle/vessel owner or authorized driver/agent shall be allowed to remove the vehicle/vessel without interference upon payment of a reasonable service fee of not more than one-half of the posted rate for such towing service.</p>	One-half of the posted rate for such towing service	No change

Type	Current	Proposed
Administrative/Lien Fee - after 24-hours, from time of police report. Must show proof that lien letter(s) have been prepared with appropriate names/addresses included and that fees have been expended.	\$35 Plus all actual fees imposed by the State of Florida for obtaining required ownership information (i.e., actual postage fees, actual advertising fee and actual cost of title search for out-of-state vehicles) Itemization required	\$50 Maximum flat fee
After-hour Gate fees - may not be applied between the hours of 8 a.m. and 6 p.m. Monday through Friday (excluding federal holidays) and not for 6 hours after a vehicle has been impounded all other times when: a. Impounded vehicles/vessels are recovered by the owner or authorized driver/agent; or b. The owner or authorized driver/agent wishes to recover property from an impounded vehicle/vessel.	\$35	No change
Extra Time at Scene Labor Charge - First one-half hour to be included in the initial cost per call. Charges are 15 minute intervals. All extra time/labor shall be documented by the towtruck driver and shall include the name of the law enforcement agency and the law enforcement agency case number or the officer's name and badge number. The documentation shall also include a detailed explanation of the services rendered which necessitated the charges and if possible photographs of the scene.	25% of applicable towing fee in 15 minute intervals.	No change
Underwater Recovery - Performed by a certified/professional diver with the written documentation and approval by the investigating law enforcement agency/officer.	\$100 plus cost per hour (port-to-port)	No Change
Hazardous material clean-up and disposal as required, mandated and/or licensed through state or local laws and approved by the investigating law enforcement agency/officer.	Towing Company prevailing rates	No Change
Ordinance Citation Fines		
"A" Offenses 1. Section 4. (Operating without a Permit) 2. Section 7. (Insurance Requirements) 3. Section 9.F. (Operating a towtruck that has failed a critical inspection) 4. Section 15.C. (Failure to disconnect vehicle from towtruck when owner arrives on the scene before his/her vehicle is removed) 5. Section 20 (Fraudulent transfer of a towtruck company) 6. Section 24.B. (Using physical force against ordinance enforcement officer) First Offense Second Offense Third Offense	\$500 \$500 \$500	No Change No Change No Change

Type	Current	Proposed
"B" Offenses 1. Section 8.A. (Display vehicle decal) 2. Section 8.B.1. (Vehicle signage) 3. Section 19 (Driver Requirements) First Offense Second Offense Third Offense	 \$100 \$250 \$500	 No Change No Change No Change
"C" Offenses - for all other sections of the Ordinance not identified in A and B above First Offense Second Offense Third Offense	 \$250 \$500 \$500	 No Change No Change No Change
Minimum Insurance Requirements		
Auto liability for each – Consent-Only towtruck Combined single limit for Class A or Light Duty towtrucks used for exclusively for Consent-Only Towing Combined single limit for all other Consent-Only towtrucks	 N/A \$500,000	 \$100,000 \$500,000
Auto liability for each non-consent towtruck Combined single limit for Class A – Light Duty towtrucks Combined single limit for all other towtrucks	 \$300,000 \$500,000	 No Change No Change
General/Garage liability Combined single limit for towtruck operators performing only consent tows Combined single limit for towtruck operators performing only private property impounds Combined single limit for all other towtruck operators	 N/A \$300,000 \$500,000	 \$100,000 No Change No Change
Garage keeper's liability For any one vehicle Per occurrence	 \$50,000 \$100,000	 No Change No Change
On-Hook cargo liability coverage for each vehicle	 \$50,000	 No Change
Worker's Compensation	 According to state law	 No Change