

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues*	_____	_____	_____	_____	_____
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 _____
 POSITIONS (Cumulative) _____

Is Item Included In Current Budget? Yes _____ No _____

Budget Account No.: Fund _____ Agency _____ Org. _____ / Reporting Category _____

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

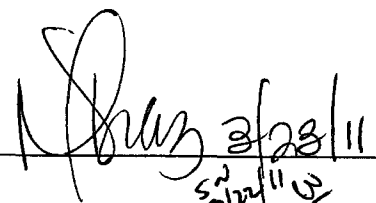
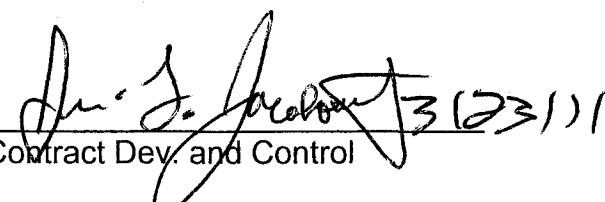
License and other fees enable this program to be self-funded with no ad valorem impact.

C. Departmental Fiscal Review:

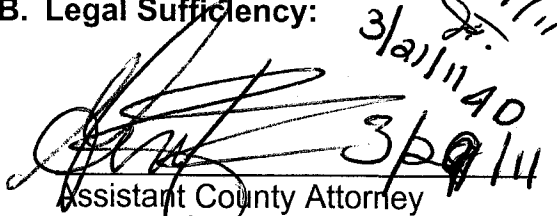
III. REVIEW COMMENTS

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

No additional fiscal impact from these changes.

 3/23/11
 OFMB _____
 3/23/11
 Contract Dev. and Control _____

B. Legal Sufficiency:

 3/29/11
 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)

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 Ordinance was rewritten and approved by the Board of County Commissioners in 2005. In 2010, the Board approved numerous adjustments to the Towing Ordinance including the licensing requirement for “consent-only” towing companies and all towtruck drivers.

Palm Beach County

TOWING ORDINANCE 2011-____
TABLE OF CONTENTS

<u>Section, Title</u>	<u>Page No.</u>
Section 1, Title.....	3
Section 2, Definitions	3
Section 3, Towtruck Class Specifications	7
Section 4, Operating Permit Required	8
Section 5, New Applications/Renewals and Issuance of Operating Permit; Fees	9
Section 6, Inspection of Storage Yards and Public Offices Required	11
Section 7, Insurance Requirements.....	12
Section 8, Towtruck Registration; Towtruck Standards; Decals	12
Section 9, Inspection Procedures and Requirements	14
Section 10, Non-Consent Manifest, Towing Invoice or Tow Sheet.....	15
Section 11, Advertisements	16
Section 12, Records Required.....	16
Section 13, Operating Permit Required to do Business with the County	16
Section 14, Non-Consent Towing With Prior Express Instruction of Real Property Owner or Authorized Agent and/or Law Enforcement Agency	16
Section 15, Notice Requirements for Providing Tow Services at Request of Real Property Owners	18
Section 16, Non-consent Towtruck Company Requirements.....	20
Section 17, Consent-Only Towtruck Company Requirements.....	22
Section 18, Maximum Non-Consent Towing and Storage Rates for Non-Consent Tow Services	22
Section 19, Towtruck Driver Requirements; Failure to Comply	24
Section 20, Fraudulent Transfer of Towtruck Company	29
Section 21, Deceptive and Unfair Trade Practices	29
Section 22, Cease and Desist Order.....	30
Section 23, Assurance of Voluntary Compliance	31
Section 24, Enforcement and Penalties; Civil and Criminal	31
Section 25, Administrative Enforcement, Denial, Revocation and Suspension of Operating Permits.....	32
Section 26, Additional Penalties.....	34
Section 27, Hearings and Appeals	34
Section 28, Scope of Ordinance.....	35
Section 29, Repeal of Laws in Conflict	36
Section 30, Savings Clause.....	36
Section 31, Inclusion in the Code of Laws & Ordinance.....	36
Section 32, Severability	36
Section 33, Effective Date	36

TOWTRUCK ORDINANCE NO. 2011-____

1 AN ORDINANCE OF THE BOARD OF COUNTY
2 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA,
3 AMENDING PALM BEACH COUNTY CODE CHAPTER 19,
4 ARTICLE VIII (ORDINANCE NO. 2010-001), PROVIDING FOR A
5 TITLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR TOW
6 TRUCK CLASS SPECIFICATIONS; PROVIDING FOR OPERATING
7 PERMIT REQUIRED; PROVIDING FOR NEW APPLICATIONS/
8 RENEWALS AND ISSUANCE OF AN OPERATING PERMIT AND
9 FEES; PROVIDING FOR INSPECTION OF STORAGE YARDS AND
10 PUBLIC OFFICES; PROVIDING FOR INSURANCE
11 REQUIREMENTS, PROVIDING FOR TOWTRUCK
12 REGISTRATION, STANDARDS AND DECALS; PROVIDING FOR
13 INSPECTION PROCEDURES AND REQUIREMENTS; PROVIDING
14 FOR NONCONSENT MANIFEST, TOWING INVOICE OR TOW
15 SHEET; PROVIDING FOR ADVERTISEMENTS; PROVIDING FOR
16 RECORDS REQUIREMENTS; PROVIDING FOR AN OPERATING
17 PERMIT REQUIRED TO DO BUSINESS WITH THE COUNTY;
18 PROVIDING FOR NON-CONSENT TOWING WITH PRIOR
19 EXPRESS INSTRUCTION OF REAL PROPERTY OWNER OR
20 AUTHORIZED AGENT AND/OR LAW ENFORCEMENT AGENCY;
21 PROVIDING FOR NOTICE REQUIREMENTS FOR PROVIDING
22 NON-CONSENT TOW SERVICES AT REQUEST OF REAL
23 PROPERTY OWNERS; PROVIDING FOR NONCONSENT
24 TOWTRUCK COMPANY REQUIREMENTS; PROVIDING FOR
25 CONSENT-ONLY TOWTRUCK COMPANY REQUIREMENTS;
26 PROVIDING FOR MAXIMUM NONCONSENT TOWING AND
27 STORAGE RATES FOR NON-CONSENT TOW SERVICES;
28 PROVIDING FOR TOWTRUCK DRIVER REQUIREMENTS AND
29 FAILURE TO COMPLY; PROVIDING FOR FRAUDULENT
30 TRANSFER OF TOWTRUCK COMPANIES; PROVIDING FOR
31 DECEPTIVE AND UNFAIR TRADE PRACTICES, PROVIDING FOR
32 CEASE AND DESIST ORDERS, PROVIDING FOR ASSURANCES
33 OF VOLUNTARY COMPLIANCE; PROVIDING FOR
34 ENFORCEMENT AND CIVIL/CRIMINAL PENALTIES; PROVIDING
35 FOR ADMINISTRATIVE ENFORCEMENT, DENIAL,
36 REVOCATION AND SUSPENSION OF OPERATING PERMITS/I.D.
37 BADGES; PROVIDING FOR ADDITIONAL PENALTIES;
38 PROVIDING FOR HEARINGS AND APPEALS; PROVIDING FOR
39 SCOPE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT;
40 PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR
41 INCLUSION IN THE CODE OF LAWS AND ORDINANCES;
42 PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN
43 EFFECTIVE DATE.

44
45
46
47
48 WHEREAS, numerous persons and firms in Palm Beach County engage in the
49 business of recovering, towing and storing of motor vehicles and vessels; and

50
51 WHEREAS, such towing services frequently must be provided without the prior
52 consent of the vehicle/vessel owner, or under circumstances which prevent negotiating
53 the charges, terms and conditions for the towing service, often resulting in disagreements
54 and complaints between vehicle/vessel owners and providers of towing services; and

55
56 WHEREAS, the vehicles and equipment used to tow vehicles/vessels across the
57 thoroughfares of Palm Beach County and the manner in which towing is conducted are of
58 considerable significance to the health, safety and welfare of the owners of towed
59 vehicles/vessels and of the residents and visitors in Palm Beach County; and

1
2 WHEREAS, Sections 125.0103(b), 166.043(c) and 715.07(2), Florida Statutes,
3 empowers the Board of County Commissioners to enact regulations pertaining to the
4 towing industry, including the authority to regulate maximum rates when vehicles are
5 towed or removed from private property; and
6

7 WHEREAS, the Ordinance is amended to clarify the licensing and enforcement
8 procedures for towing companies and towtruck drivers; and
9

10 WHEREAS, the United States Supreme Court decision in Ours Garage vs. City of
11 Columbus, 536 U.S. 424 (2002) held that states could delegate their authority to regulate
12 non-consent towing services as it relates to price and safety; and
13

14 WHEREAS, pursuant to Section 125.0103(b), Florida Statutes, counties have
15 been delegated the authority to regulate towing; and
16

17 WHEREAS, the Board of County Commissioners of Palm Beach County finds it
18 to be in the best interest of the County, its citizens and its visitors to license and regulate
19 non-consent and consent towing services and all drivers who perform towing services
20 within Palm Beach County, to assure that all who provide the services are fit and
21 competent to do so and that such services are delivered in a safe and efficient manner;
22 and
23

24 WHEREAS, the Board of County Commissioners of Palm Beach County hereby
25 amends Palm Beach County Code Chapter 19, Article VIII, (Ordinance No. 2005-009).
26

27 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
28 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:
29

30 **SECTION 1. Title.**

31 This Ordinance shall be known and cited as the Towtruck Ordinance of Palm Beach County,
32 Florida.
33

34 **SECTION 2. Definitions.**

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

- 36 1. **Administrative/Lien Fee** shall mean the fee that is charged for title and lien search,
37 advertising costs, and notification of lien holder and owner of the whereabouts and
38 charges against a vehicle or vessel.
- 39 2. **Advertisement** shall mean any written statement made in connection with the solicitation
40 of a towtruck company and includes without limitation, statements and representations
41 made in a newspaper, telephone directory or other publication, radio, television,
42 electronic medium or contained in any notice, handbill, business card, sign, catalog,
43 billboard, brochure, poster or letter.
- 44 3. **Applicant** shall mean any person who applies for an operating permit or with Palm
45 Beach County. In the case of partnerships, associations, corporations and other legal
46 entities, "applicant" shall also mean any member of a partnership and the corporate
47 officers and directors.
- 48 4. **Authorized Driver/Agent** shall mean any person who is empowered to act on behalf of
49 the vehicle/vessel owner or lien holder.
- 50 5. **Commission** shall mean the Board of County Commissioners of Palm Beach County,
51 Florida.
- 52 6. **Compensation** shall mean the exchange of goods or services for money, property, service
53 or anything else of value.
- 54 7. **Consent Tow** shall mean the recovery, towing and storage of a vehicle or vessel with the
55 authorization/consent of the vehicle/vessel owner or authorized driver.
- 56 8. **Consent Tow Company** shall mean a person(s) who tows a motor vehicle/vessel with
57 the authorization/consent of the vehicle/vessel owner or authorized driver/agent.
- 58 9. **Consent-Only Towing Operating Permit** shall mean the authority required by the
59 provisions of this Ordinance of any individual or towing company engaging in the
60 business of performing consent-only towing of vehicles/vessels.

- 1 10. **Commercial Towing Company** shall mean any person or business entity which tows or
2 recovers vehicles/vessels commercially which results in compensation from the sale or
3 resale of vehicles/vessels or salvaged parts.
- 4 11. **Director** shall mean the Division Director, or his or her designee.
- 5 12. **Division** shall mean the Consumer Affairs Division designated to implement, enforce and
6 monitor this Ordinance.
- 7 13. **Duly Authorized Agent** shall mean a person designated by and acting on behalf of a real
8 property owner per contractual agreement to request Private Property Impounds. The
9 duly authorized agent shall have no affiliation with the towtruck company providing the
10 towing service. The real property owner shall only appoint duly authorized agents which
11 have a direct connection to the property (i.e., board member, employee of the property
12 management company or home/condo owner's association, employee of the real property
13 owner or state of Florida licensed security agency contracted by the real property owner
14 or manager).
- 15 14. **Employee** shall mean a person who is compensated financially for a period of not less
16 than twenty (20) hours per week and who performs all of his/her employment functions
17 on the property of the employer or management company and is issued an annual federal
18 tax statement of earnings (W-2Form).
- 19 15. **Extra Time at Scene/Labor** shall mean any extra time beyond one-half hour, needed to
20 safely remove a vehicle or vessel and shall also include the amount of time spent at a
21 scene when a towtruck has been summoned and is on scene but unable to proceed through
22 no fault of the towtruck operator. All extra time/labor shall be documented by the
23 towtruck driver and shall include the name of the law enforcement agency and the law
24 enforcement agency case number or the officer's name and badge number. The
25 documentation shall also include a detailed explanation of the services rendered which
26 necessitated the charges and if possible photographs of the scene. Extra time/labor shall
27 be charged in 15-minute increments.
- 28 16. **Good Faith Effort** shall mean that required steps have been performed by the towtruck
29 company according to Florida Statute 713.78, Section (4) (d) to locate the vehicle/vessel
30 owner or lien holder.
- 31 17. **Gross weight** shall mean the weight of a towtruck in pounds plus the weight of the
32 vehicle(s)/vessel(s) and contents being towed.
- 33 18. **License** shall mean the Business Operating Permit, Certificate or document which allows
34 a person to engage in Palm Beach County in the activity of recovering, towing, removing,
35 and storing of vehicles and/or vessels for compensation. As used in this article, a license
36 shall not mean a municipal or county Business Tax Receipt.
- 37 19. **Light Reflective Sign** shall mean an 18 inch wide by 24 inch high sign made of
38 aluminum (at least .040 thickness) or fiber reinforced plastic (at least .090 thickness).
39 The entire background surface and all lettering must at a minimum be Type 1 Engineered
40 Grade Sheeting (ASTM D4956-01) or 3M Engineer Grade Prismatic Reflective Sheeting
41 Series 3430 (or equivalent). The letters may be screen printed on the Type 1 sheeting
42 using a compatible transparent ink so that the retroreflection is maintained and visible.
- 43 20. **Mechanical Connection** shall mean any type of physical connection between a vehicle or
44 vessel to be towed and the towtruck/flatbed truck/car carrier and includes the use of
45 devices for maneuvering unattended vehicles/vessels unable to be safely moved by
46 conventional winching or towing equipment.
- 47 21. **Non-consent Tow** shall mean the recovery, towing, removal and storage of a vehicle or
48 vessel without authorization of the vehicle/vessel owner or authorized driver and shall
49 include both "Police Directed Tows" and "Private Property Impounds" as defined herein.
- 50 22. **Non-Consent Towing Company** shall mean person(s) who perform "Police Directed
51 Tows" or "Private Property Impounds" as defined herein.
- 52 23. **Operate** shall mean providing the services of recovering, towing, or removing vehicles or
53 vessels and any vehicle/vessel storage services associated therewith.
- 54 24. **Operator** shall mean any person who provides the services of recovering, towing, or
55 removing vehicles and any vehicle storage services associated therewith and includes
56 without distinction the owning entity of a towing firm and the driver of a tow truck.
- 57 25. **Person** shall mean any natural person, firm, partnership, association, corporation or other
58 entity of any kind whatsoever.
- 59 26. **Place of business** shall mean the towtruck company that provides towing, removal,
60 recovery and storage services.

- 1 27. **Police Directed Tow** shall mean the removal and storage of a wrecked or disabled
2 vehicles at the direction of police/law enforcement from an accident scene or the removal
3 and storage of a vehicles in the event the vehicle owner or authorized driver is
4 incapacitated, unavailable, or otherwise does not consent to the removal of the vehicle,
5 excepting, however, all incidents of "Private Property Impounds" as herein defined
6 below.
- 7 28. **Prior Express Instruction** shall mean a clear, definite and explicit request: a) made by a
8 police agency to recover, tow, remove, or store a specific and individual vehicle or vessel
9 which is disabled, abandoned, or parked without authorization or whose vehicle/vessel
10 owner or authorized driver is unable or unwilling to remove the vehicle; or b) made in
11 writing by a real property owner or duly authorized agent of the real property owner, as
12 specifically referenced on the written contract between the real property owner and
13 towtruck company, to recover, tow, remove and store a specific and individual vehicle or
14 vessel parked without permission of the real property owner. The towtruck company, an
15 employee or agent thereof shall not be the designated agent of the real property owner for
16 the purpose of providing prior express instruction to recover, tow, remove or store the
17 vehicle or vessel.
- 18 29. **Private Property Impound** shall mean towing or removal of a vehicle or vessel, without
19 the consent of the vehicle/vessel's owner or authorized driver when that vehicle/vessel is
20 parked on real property, as authorized by Section 715.07, Florida Statutes, as may be
21 amended.
- 22 30. **Proof of Ownership for Vehicle/Vessel Release** shall mean that one or more of the
23 following documents are required along with a government issued photo identification:
24 a. Current vehicle registration;
25 b. Vehicle Title;
26 c. An authorized driver/agent with a notarized release from the vehicle/vessel owner
27 or lien holder. Vehicle/Vessel owners have the right to identify/approve
28 designated agents to claim vehicles on their behalf. A facsimile or electronic
29 transfer of a notarized release statement from the vehicle/vessel owner shall be
30 accepted;
31 d. Insurance Card with the vehicle/vessel owner's information, vehicle description
32 and Vehicle Identification Number;
33 e. Licensed Dealer in possession of an auction buyers sales invoice; and/or
34 f. A notarized bill of sale for non-titled vehicles or vessels.
- 35 If the owner of the vehicle has had his/her Florida driver's license confiscated by law
36 enforcement and has no other government issued photo identification then at least one of
37 the following forms of identification shall be accepted: an itemized voucher/property
38 receipt from an arresting law enforcement agency, a booking or arrest record, or original
39 citation from a law enforcement agency all issued within seven (7) days of the date the
40 vehicle was towed.
- 41 31. **Real Property Owner** shall mean that person who exercises dominion and control over
42 real property, including but not limited to, the legal titleholder, lessee, designated
43 representative of a condominium or homeowner's association or any person authorized to
44 exercise or share dominion and control over real property; provided, however, that "real
45 property owner" shall not mean or include a person providing towing services within the
46 purview of this Ordinance.
- 47 32. **Recover** shall mean to take possession of a vehicle or vessel and its contents and to
48 exercise control, supervision and responsibility over it.
- 49 33. **Recovery** shall mean the removal of a vehicle or vessel from an area not readily
50 accessible to a roadway (i.e., within a standard cable length).
- 51 34. **Remove** shall mean to change the location of a vehicle by towing it.
- 52 35. **Revoke** shall mean to annul and make void the operating permit of a towtruck company
53 engaged in providing towing services.
- 54 36. **Storage** shall mean to place and leave a towed vehicle or vessel at a location where the
55 person providing the towing services exercises control, supervision and the responsibility
56 over the vehicle.
- 57 37. **Storage facility** shall mean the location where towed vehicles or vessels are stored.
- 58 38. **Tow** shall mean to haul, draw or pull along a vehicle or vessel by means of a towtruck
59 equipped with booms, car carriers, winches or similar commercially manufactured
60 equipment.

- 1 39. **Towing** shall mean the act of moving one vehicle or vessel from one point to another
2 (including hook-up, lift, and transport) using what is commonly referred to as a tow truck
3 or a car carrier.
- 4 40. **Towing Operating Permit** shall mean the authority required by the provisions of this
5 Ordinance of any individual or towing company engaging in the business of both non-
6 consent and consent towing of vehicles/vessels.
- 7 41. **Towtruck** shall mean any vehicle used to tow, haul, carry or to attempt to tow, haul or
8 carry a vehicle or vessel.
- 9 42. **Towtruck Company** shall mean any person, company, corporation, or other entity,
10 which engages in, owns or operates a business which provides towing, recovery, removal
11 and storage of vehicles or vessels for compensation.
- 12 43. **Towtruck Decal** shall mean a decal placed upon any towtruck granted approval to
13 provide non-consent towing services by the Division.
- 14 44. **Towtruck Driver** shall mean the individual who is driving or physically operating a
15 towtruck for a towtruck company engaged in non-consent tows.
- 16 45. **Unfair or deceptive trade acts or practices** shall mean unfair methods of competition,
17 unconscionable acts or practices and unfair deceptive acts or practices in the conduct of
18 any consumer transaction and shall include but are not limited to the following:
19 a. Representations that goods or services have sponsorship, approval, characteristics,
20 ingredients, uses, benefits, or quantities which they do not have;
21 b. Representations that a person or towtruck company has a sponsorship, approval,
22 status, affiliation or connection which he or she does not have;
23 c. Representations that goods are original or new if in fact they are not, or if they are
24 deteriorated, altered, reconditioned, reclaimed, or second-hand;
25 d. Representations that goods are of a particular standard, brand, quality, style, or
26 model, if they are of another;
27 e. Representations that goods or services are those of another, if they are not;
28 f. Using deceptive representations or designations of geographic origin in
29 connection with goods or services;
30 g. Advertising goods or services intending not to sell them as advertised;
31 h. Advertising goods or services with intent not to supply reasonable expectable
32 public demand, unless the advertisement discloses a limitation of quantity;
33 i. Making false or misleading statements concerning the need for, or necessity of,
34 any goods, services, replacements, or repairs;
35 j. Disparaging the goods, services, or business of another by false or misleading
36 representations of fact;
37 k. Making false or misleading statements of fact concerning the reasons for the
38 existence of, or amounts of price reductions;
39 l. Failing to return or refund deposits or advance payments for goods not delivered
40 or services not rendered, when no default or further obligation of persons making
41 such deposits or advance payments exists;
42 m. Taking consideration for goods or services intending not to deliver such goods or
43 perform such services, or intending to deliver goods or provide service materially
44 different from those contracted for, ordered or sold;
45 n. Offering gifts, prizes, free items, or other gratuities, intending not to provide them
46 as offered in connection with a sale of goods or services to a consumer;
47 o. Making false or misleading statements concerning the existence, terms, or
48 probability of any rebate, additional goods or services, commission, or discount
49 offered as an inducement for the sale of goods or services;
50 p. Using physical force, threat of physical force, or coercion in dealing with
51 consumers;
52 q. Any violation of the Florida Deceptive and Unfair Trade Practices Act, Section
53 501.201 et seq., Florida Statutes.
- 54 46. **Vehicle** shall mean an automobile, truck, bus, trailer, motorcycle, moped, motorized
55 scooters, recreational unit primarily designed as temporary living quarters which either
56 has its own motive power or is drawn by another vehicle, or any other mobile item using
57 wheels and being operated on the roads of Palm Beach County, which is used to transport
58 persons or property and is propelled by power other than muscular power; provided,
59 however, that the term does not include bicycles, traction engines, road rollers,
60 commercial heavy equipment or vehicles which run only upon a track.

- 1 47. **Vessel** shall mean every description of watercraft, barge and air boat used or capable of
- 2 being used as a means of transportation on water, other than a seaplane or a “documented
- 3 vessel” as defined in s.327.02, Florida Statutes.
- 4 48. **Vehicle or Vessel Owner** shall mean a person with the “Proof of Ownership” described
- 5 in this Ordinance.

7 **SECTION 3. Towtruck Class Specifications.**

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

10 A. **Class A Ratings**

11 **Towtruck**

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

22 **Car Carrier**

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

32 **Light Duty – Non-Police Towing**

- 33 1. Minimum gross weight... 9,500 lbs.
- 34 2. Minimum weight of towtruck 4,000 lbs.
- 35 3. Minimum wheel lift extended rating 2,500 lbs
- 36 4. Minimum cab to axle dimension 60"

38 B. **Class B Ratings (Medium Duty)**

40 **Towtruck**

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

52 **Car Carrier**

- 53 1. Minimum gross weight 22,500 lbs.
- 54 2. Minimum deck capacity 10,000 lbs.
- 55 3. Minimum wheel lift capacity for 2nd vehicle 4,000 lbs.
- 56 4. Minimum length 19'
- 57 5. Minimum winching capacity 8,000 lbs.
- 58 6. Minimum cable size and length 3/8"X50'
- 59 7. Minimum tie down chains (4 each) 5/16" grade 80
- 60 8. Tie down straps (optional) (4 each) 2,000 lbs. Each wheel

- 1 9. Minimum cab to axle dimension 120"
- 2 10. Required State DOT Registration
- 3
- 4 C. Class C Towtruck - Ratings (Heavy Duty)
- 5 1. Minimum gross weight33,000 lbs.
- 6 Air brakes, all tires H rated, capacity must
- 7 equal axle rating. Device required to control
- 8 disabled vehicle's brakes.
- 9 2. Minimum boom capacity 50,000 lbs.
- 10 3. Minimum winching capacity50,000 lbs.
- 11 4. Minimum cable size and length 5/8"X150'
- 12 5. Minimum wheel lift retracted rating40,000 lbs.
- 13 6. Minimum wheel lift extended rating 12,000 lbs.
- 14 7. Minimum tow Bar..... 10,000 lbs.
- 15 8. Minimum safety chains (2 each)..... 1/2" grade 80
- 16 9. Minimum cab to axle dimension 156"
- 17 10. Required State DOT Registration
- 18
- 19 D. Class D. Towtruck - Ratings (Ultra Heavy Duty)
- 20 1. Minimum gross weight58,000 lbs.
- 21 Air brakes, all tires H rated, capacity must
- 22 equal axle rating. Device required to control
- 23 disabled vehicle's brakes. Tandem axles required.
- 24 2. Minimum boom capacity. 100,000 lbs.
- 25 3. Minimum winching capacity. 100,000 lbs.
- 26 4. Minimum cable size and length 3/4"X250'
- 27 5. Minimum wheel lift retracted rating40,000 lbs.
- 28 6. Minimum wheel lift extended rating 15,000
- 29 7. Minimum heavy-duty towbar rating 10,000 lbs.
- 30 8. Minimum safety chains (2 each)..... 1/2" grade 80
- 31 9. Minimum cab to axle dimension 18'
- 32 10. Required State DOT Registration
- 33

SECTION 4. Operating Permit Required.

- 35 A. Towing: It shall be unlawful for any person to recover, tow, remove or store a
- 36 vehicle/vessel for compensation in Palm Beach County or to cause or permit any other
- 37 person for compensation to recover, tow, remove or store a vehicle/vessel in Palm Beach
- 38 County **without first obtaining and maintaining a current and valid operating**
- 39 **permit pursuant to the provisions of this Ordinance.** It shall also be unlawful to
- 40 advertise said services without first obtaining and maintaining a current and valid
- 41 operating permit pursuant to the provisions of this Ordinance. A person conducting non-
- 42 consent tows in Palm Beach County but having his/her primary place of business outside
- 43 of Palm Beach County shall be required to obtain an Operating Permit and shall be
- 44 subject to all the provisions of this Ordinance.
- 45 B. ~~Nothing in this Ordinance shall be construed to prohibit the discharge or storage of a~~
- 46 ~~vehicle lawfully recovered, towed or removed in another county and lawfully transported~~
- 47 ~~into Palm Beach County; nor shall anything in this Ordinance be construed to prohibit a~~
- 48 ~~vehicle owner or authorized agent from requesting the services of a towing business not~~
- 49 ~~regularly doing business in Palm Beach County (i.e., routinely, contracted, etc.) to tow or~~
- 50 ~~transport such vehicle out of Palm Beach County.~~ **Towing companies whose principal**
- 51 **place of business is located outside Palm Beach County that provide consent-**
- 52 **only towing services in Palm Beach County shall be exempt from the**
- 53 **licensing/permitting provisions of this Ordinance, except that such towing**
- 54 **companies are required to be licensed if the company picks-up and drops-off a**
- 55 **vehicle or vessel solely within Palm Beach County as one complete service.**
- 56 C. The provisions of this Ordinance shall not apply to governmental agencies, vehicle rental
- 57 companies which tow their own vehicles, to businesses utilizing trucks capable of
- 58 transporting five (5) or more vehicles at one time, or to persons who use towing vehicles
- 59 to transport their vehicles solely for personal, family, household or recreational use.
- 60

SECTION 5. New Applications/Renewals and Issuance of Operating Permit; Fees.

- A. The Division shall issue either a Towing Operating Permit or a Consent-Only Towing Operating Permit to towtruck companies which have met the standards and requirements for an operating permit as provided for in this Ordinance.
- B. Every application/renewal for an operating permit shall be in writing, signed and verified by the applicant, and filed with the Division. The application/renewal shall be on a form prescribed by the Division and shall contain information, including but not limited to:
 - 1. Sufficient information to identify the applicant, including but not limited to, full legal name, date of birth, telephone numbers, the place of business and residence addresses, a copy of the applicant's Palm Beach County Business Tax Receipt and Florida driver's license number. If the applicant is a corporation, the foregoing information shall be provided for each corporate officer, director, registered agent and shareholder. If the applicant is a partnership, the foregoing information shall be provided for each general and limited partner. Post office box addresses shall not be accepted.
 - 2. Documentation demonstrating that all corporate or partnership applicants are qualified under the laws of Florida to do business under the trade name or names under which it has applied for an operating permit.
 - 3. A list of all persons with any ownership interest in the company who have previously been denied an operating permit from this or any other jurisdiction.
 - 4. Verification of the business' current corporate status and Fictitious Name Registration (if applicable) with the State of Florida.
 - 5. Any trade name under which the business operates, intends to operate, or has previously operated.
 - 6. The location and physical addresses of all places of business including storage facilities.
 - 7. A description of services proposed to be provided, including, but not limited to, days and hours of operation and types of towing and storage services to be provided.
 - 8. Proof of insurance as required in Section 7 (Insurance Requirements) of this Ordinance. As proof of insurance, a certificate of insurance must be submitted on the company's behalf directly to the Division by the insurance company or agent.
 - 9. A signature of each individual applicant, president or vice-president of a corporation and of all the general and limited partners of a partnership having 25 percent or greater ownership in the company.
 - 10. The submission of a statement assuring that each towtruck is commercially manufactured, meets the specifications listed herein, is in safe operating condition and receives routine service/maintenance.
 - 11. An agreement on the part of the applicant to abide by the provisions of this Ordinance and the laws of the State of Florida.
 - 12. Such additional information required by the Division to process the 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:
 - 1. The applicant has been convicted of, found guilty of, or pled guilty or nolo contendere to, regardless of the adjudication of guilt, within the last ten (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 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,

- 1 as the case may be.
- 2 2. Any unsatisfied civil fines or penalties arising out of an administrative or
3 enforcement action brought by the Division (including any Cease and Desist
4 Orders and/or Assurances of Voluntary Compliance issued by the Division) or
5 another governmental agency based upon conduct involving a violation of this
6 Ordinance or other towing regulations.
- 7 3. Any criminal, administrative, or enforcement proceeding in any jurisdiction based
8 upon conduct involving a violation of this Ordinance or other towing regulations.
9 This paragraph shall apply to consent-only towing companies when such
10 proceedings from other jurisdictions relate to public safety.
- 11 4. Any unsatisfied judgments entered in an action brought by the Division under this
12 Ordinance.
- 13 5. Has had its operating permit previously revoked by action of the Division or any
14 other jurisdiction within two (2) years of the date of application. This paragraph
15 shall apply to consent-only towing companies when such proceedings relate to
16 public safety.
- 17 D. All towtruck companies which desire to operate in Palm Beach County must secure an
18 operating permit and follow the permitting procedures described in this section prior to
19 conducting business. If there are six months or less remaining before the annual renewal
20 period, the non-refundable fee for the operating permit shall be fifty (50) percent of the
21 approved fee, otherwise all other fees are applicable.
- 22 E. Each operating permit and towtruck decal issued pursuant to this section shall be valid
23 and effective for one (1) year, terminating on December 31 of each year. Failure to
24 submit an operating permit application and the required non-refundable fee for renewal
25 by September 30 of each year will result in the assessment of a non-refundable late fee.
26 All fees shall be established by a resolution of the Commission.
- 27 F. Towtruck companies failing to submit a complete and true application within thirty (30)
28 calendar days after the Division's receipt of the application shall be denied an operating
29 permit. Within ten (10) business days of receipt of the Division's notice of denial, such
30 towtruck companies may refile a complete and true application and pay a non-refundable
31 application re-filing fee established by a resolution of the Commission. Failure to refile
32 an application within this ten (10) day period will result in the towtruck company being
33 required to submit a new application and repaying the non-refundable application permit
34 fee and applicable towtruck decal fees. The failure to refile and pay the required fees will
35 result in the denial of the operating permit application for that licensing period.
- 36 G. After initial application and upon renewal, the applicant shall submit to a background
37 investigation every other year.
- 38 H. Each operating permit shall be printed on a certificate containing, at a minimum, the
39 name and address of the company, the name of the principal, the dates the operating
40 permit is in effect, and the identifying number assigned by the Division to the company.
41 The operating permit certificate issued by the Division shall remain the property of Palm
42 Beach County and shall be used only under the authority of the Division.
- 43 I. All operating permits shall be renewed annually. As a part of the renewal process, the
44 original application shall be updated and verified by the applicant. Each updated renewal
45 application shall be accompanied by a non-refundable fee. All operating permits which
46 are not renewed shall automatically expire upon the expiration date of the operating
47 permit, as stated on the operating permit, and all recovery, towing, removing and storage
48 services permitted shall cease immediately. The Division shall deny each renewal
49 application that is not timely, is incomplete, is untrue in whole or in part, is
50 unaccompanied by the required fees, or results in a determination by the Division that the
51 applicant has failed to satisfy the requirements of this Ordinance.
- 52 J. An operating permit issued or renewed pursuant to the provisions of this section shall not
53 be transferable, nor shall the ownership structure of the operating permit be so modified
54 as to constitute a change in the control or ownership of the operating permit. If the
55 business changes its name or ownership structure, a new business permit application and
56 the business application permit fee shall be submitted to the Division within forty-five
57 (45) days of said change. In cases where the name of the business changes, the new
58 business will be required to have each vehicle inspected and must also pay decal/vehicle
59 fees.
- 60 K. Failure to comply with the provisions of this section may result in denial of an operating

1 permit, revocation or suspension of the operating permit, a denial of renewal of such
2 operating permit, issuance of a civil citation, a criminal conviction and/or other such
3 remedies available to the Division herein.

4 L. All fees collected shall be deposited in a separate County fund for the Division's
5 operation.

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

12
13 **SECTION 6. Inspection of Storage Yards and Public Offices Required.**

14
15 A. Prior to the issuance of an operating permit, the Division shall inspect each storage
16 facility and public office area to assure compliance with this Ordinance and the
17 following:

18 B. Non-Consent Towing Storage facilities must meet the following requirements:

- 19 1. Adequate chain-link or solid-wall fencing that has a minimum height of six (6)
20 feet with lockable and secure gates surrounding the storage facility.
21 (713.78(7)(b)1), F.S.
- 22 2. At least ten (10) feet by twenty (20) feet of outdoor storage space for each
23 standard vehicle/vessel (more for larger vehicles). The facility must be able to
24 accommodate a minimum of ten (10) standard size vehicles. For towing
25 companies unable to provide outdoor storage, an indoor facility must be provided
26 with the same space for a minimum of ten (10) standard size vehicles and must
27 use one or more of the security methods defined herein. Towing companies
28 which provide only indoor storage shall not exceed the maximum allowable
29 outdoor storage rates established by the Commission.
- 30 3. At least ten (10) feet by twenty (20) feet of indoor storage space for each standard
31 vehicle/vessel. The indoor storage space must adequately protect the vehicle from
32 natural (i.e., rain, hail, etc.) and man-made (i.e., paint, chemicals, etc.) elements,
33 be isolated to prevent contact with unapproved personnel/public and be placed in
34 such a manner to prevent damage by any other means. Indoor storage space shall
35 be adequately vented to the outside to prevent accumulation of toxic fumes or
36 gases that may pose a threat to human health. The indoor facility must be able to
37 accommodate a minimum of at least two standard size vehicles.
- 38 4. Illuminate the storage facility with lighting of sufficient intensity to reveal persons
39 and vehicles/vessels at a distance of 150 feet during nighttime. (713.78(7)(b)2),
40 F.S.
- 41 5. Each storage facility must use one or more of the following security methods to
42 discourage theft of vehicles/vessels or of any personal property contained in such
43 vehicles/vessels:
 - 44 **a.** A night dispatcher or watchman remaining on duty at the storage facility
45 from sunset to sunrise;
 - 46 **b.** A guard dog (as licensed and approved by the Palm Beach County Animal
47 Care & Control Division) which remains at the storage facility from sunset
48 to sunrise;
 - 49 **c.** Security cameras or other similar electronic surveillance devices which
50 monitor and record activities in the storage facility during the hours the
51 business is closed to the public; or
 - 52 **d.** A licensed security guard service which examines/patrols the storage
53 facility at least once each hour from sunset to sunrise. (713.78(7)(b)3),
54 F.S.
- 55 6. An appropriate office area protected from the weather and equipped with a wired
56 telephone system and approved sanitary facilities in accordance with the
57 requirements of Chapter 64E-10, FAC.

58 C. By resolution, the Commission may establish a storage yard inspection fee.
59

1 **SECTION 7. Insurance Requirements.**

2 A. It shall be unlawful for any towtruck company to recover, tow, or remove a vehicle/vessel
3 or to provide vehicle/vessel storage services in connection therewith until that company
4 has filed with the Division and maintains in effect, the following types of commercial
5 insurance: auto liability for each vehicle, general/garage liability, on-hook cargo liability
6 and worker's compensation (as required by state law). The Board shall establish the
7 minimum insurance limits by resolution for each insurance type.

8 B. All insurance policies required shall be issued by insurance companies licensed and
9 admitted to write commercial liability insurance in the State of Florida. No policy shall
10 be accepted which is less than a six (6) month duration. Each policy shall be endorsed to
11 provide for thirty (30) days written notice to the Division of any non-renewal of the
12 policy or at least ten (10) days written notice to the Division of any cancellation/non-
13 payment of the policy.

14 C. A properly completed Certificate of Insurance evidencing all insurance coverages shall be
15 made available to the Division upon application for an operating permit. Each vehicle
16 must be listed on the certificate(s) by its year, make and vehicle identification number.
17 Certificates of Insurance must contain the following name and address as Certificate
18 Holder:

19 Board of County Commissioners of Palm Beach County
20 c/o Division of Consumer Affairs
21 50 South Military Trail
22 West Palm Beach, FL 33415
23

24 Evidence of the renewal of the policy shall be filed with the Division prior to such
25 policy's expiration date. Failure to file such evidence of insurance, or failure to have same
26 in full force and effect, may result in denial of a permit, revocation or suspension of the
27 permit, a denial of renewal of such permit, issuance of a civil citation, a misdemeanor
28 charge or other such remedies available to the Division herein.

29 D. The Division may deny, suspend or revoke the operating permit of any company for
30 failure to obtain or maintain insurance as required by this Ordinance. Any company
31 which submits false or fraudulent insurance documents shall be subject to immediate
32 denial or revocation. Such companies shall not be eligible to reapply for a business
33 permit for five (5) years. The Division shall notify the State Department of Financial
34 Services/Division of Insurance Fraud for follow-up investigation and review. Upon
35 denial, suspension or revocation of the business permit, the company shall be entitled to
36 an appeal according to the provisions in Section 27 (Hearings and Appeals).

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

- 39 1. A current certificate of insurance provided to the Division by the authorized agent
40 or insurance company no later than the date of expiration of its previous policy, or
- 41 2. A reinstatement notice provided to the Division no later than the date of
42 cancellation of said policy.
- 43 3. Any company which has had its business permit suspended more than two (2)
44 times in any twelve (12) month period may have such permit revoked for a period
45 of 1 year.

46 F. An "administrative insurance reactivation" fee established by resolution of the Board,
47 shall be assessed all towtruck companies that are suspended pursuant to paragraph D
48 above. The suspension shall not be withdrawn until the fee is paid to the Division.
49

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

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

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

- 59 1. Inspection by personnel authorized by the Division to ensure that the towtruck
60 clearly displays the company name on the exterior of the driver and passenger

- 1 sides in permanently affixed letters in contrasting colors at least three (3) inches
2 high. The physical address of the business, telephone number and operating
3 permit number must be in at least one (1) inch permanently affixed letters in
4 contrasting colors on the exterior driver and passenger sides. **Magnetic signage,
5 of any type, is not permitted.**
- 6 2. Submission of an affidavit to the Division assuring that each towtruck is
7 commercially manufactured and meets the specifications listed in Section 3
8 (Towtruck Class Specification) of this Ordinance and is in safe operating
9 condition.
- 10 3. An application form prepared by the Division and completed by the towtruck
11 company, which correctly indicates the year, make, model, vehicle identification
12 number, and the State of Florida motor vehicle license plate number and the
13 expiration date of the license plate of the towtruck. A copy of the State of Florida
14 Vehicle Registration shall be provided for each vehicle to be registered/permitted
15 with the Division.
- 16 4. Payment of a non-refundable decal fee established by resolution of the
17 Commission and deposited and used in the same manner as other fees and charges
18 under this Ordinance.
- 19 5. Inspection of the towtruck by personnel authorized by the Division to ensure that
20 the towtruck meets the minimum towtruck signage requirements and safety and
21 equipment standards. The minimum safety requirements for all towtrucks shall
22 be:
- 23 a. Compliance with Section 3 (Towtruck Class Specification) of this
24 Ordinance;
- 25 b. Vehicle and towing apparatus in safe operating condition pursuant to
26 Chapter 316, F.S;
- 27 c. Tire conditions and tread;
- 28 d. Braking performance;
- 29 e. Lights – head, parking, rear, signal and flood;
- 30 f. Amber emergency lighting;
- 31 g. Fire extinguisher;
- 32 h. Safety Equipment – Flares, light reflective safety cones or red triangle
33 highway warning reflectors; and
- 34 i. Flashlight.
- 35 Towtrucks used exclusively for Police Directed tows shall be required to also
36 have the following:
- 37 a. “Oil Dry” or its equivalent; and
- 38 b. Equipment – crowbar/pryer, jumper cables, bolt cutters, 4-way lug wrench,
39 extra tow chain, five (5) gallon trash receptacle, fire axe, heavy duty push
40 broom and shovel.
- 41 C. It shall be unlawful for any towtruck company to alter or transfer ownership of any decal.
42 If a towtruck is destroyed or sold, the towtruck company must remove said decal and
43 surrender the remains to the Division.
- 44 D. Any additional towtrucks must comply with this Section prior to being used for recovery,
45 towing or removal of any vehicle/vessel. Upon compliance with this Section, additional
46 towtrucks acquired during the licensing year will receive a decal at a prorated fee. The
47 prorated fee shall be fifty (50) percent of the regular decal fee if there are six months or
48 less remaining before the annual renewal period.
- 49 E. Decals shall be issued in numerical order and each decal issued shall display its assigned
50 number. Decals shall be issued annually when the operating permit is renewed.
- 51 F. The decal for each towtruck shall be affixed by personnel authorized by the Division and
52 shall at all times be displayed and available for inspection by any law enforcement officer
53 or by personnel authorized by the Division to perform enforcement duties.
- 54 G. Replacement or duplicate decals may be authorized by the Division upon the completion
55 of an application and notarized statement of the towtruck company stating that such
56 replacement or duplicate decal is necessary and stating the reasons for such request, along
57 with a nominal charge to be approved by resolution of the Commission.
- 58 H. A towing company which has towtrucks inspected by a municipality or law enforcement
59 agency that meet the inspection requirements of this Ordinance, shall be exempt from the
60 inspection requirements herein as long as the inspection took place within ninety (90)

1 days of the required Division inspection. However, all towtrucks operating pursuant to
2 this Ordinance shall be registered with the Division and meet the vehicle safety
3 requirements of this Ordinance.
4

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

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

10 1. Within five (5) business days of notification, the towtruck company shall contact
11 the Division to schedule an appointment for inspection. Said inspection shall be
12 completed within twenty (20) business days after the towtruck company contacts
13 the Division to schedule the inspection. If the towtruck company does not
14 schedule the inspection within five (5) business days of notification, then prior to
15 inspection, an inspection late fee established by resolution of the Commission
16 must be paid to the Division. Failure to schedule the appointment following
17 initial notification by the Division within the five (5) day time period shall result
18 in the denial of the operating permit and a requirement that the operating permit
19 application be resubmitted along with applicable non-refundable operating permit
20 application re-filing fees established by resolution of the Commission.

21 2. If the towtruck company cancels the inspection, a cancellation fee must be paid to
22 the Division prior to inspection. Failure to reschedule the appointment within
23 eleven (11) business days of the initial notification by the Division or to complete
24 said inspection within twenty (20) business days after the appointment has been
25 rescheduled, shall result in the denial of the operating permit and a requirement
26 that prior to inspection, the operating permit application be resubmitted along
27 with applicable non-refundable application re-filing fees established by resolution
28 of the Commission. The applicant shall only be permitted one opportunity to
29 reschedule the required inspections.

30 B. If a storage facility inspection reveals deficiencies (fails) and a reinspection is required,
31 then a storage facility reinspection fee must be paid to the Division. The fee is to be
32 established by the Commission by resolution. Within five (5) business days of
33 notification, the towtruck company shall contact the Division to schedule an appointment
34 for reinspection. Said reinspection shall be completed within twenty (20) business days
35 after the towtruck company contacts the Division to schedule the reinspection. Failure to
36 complete said reinspection within twenty (20) business days after the appointment has
37 been scheduled, shall result in the denial of the operating permit and a requirement that
38 the application be resubmitted along with applicable non-refundable application re-filing
39 fees established by resolution of the Commission.

40 C. Upon the Division's inspection of the storage facility and towtruck(s), if all towtrucks are
41 not available/present, then the towtruck company shall bring the unavailable truck(s) to
42 the Division's designated inspection site within five (5) business days by appointment. If
43 the towtruck(s) are not inspected within five (5) business days, then a vehicle inspection
44 late fee must be paid to the Division. The fee is to be established by the Commission by
45 resolution.

46 D. If towtruck inspection reveals deficiencies (fails) and a reinspection is required, then the
47 failed truck(s) are to be brought to the Division's designated reinspection site within 5
48 business days by appointment. The vehicle reinspection fee shall be applied each time the
49 individual towtruck fails the inspection process. If the towtruck is not reinspected within
50 five (5) business days, then a late vehicle reinspection fee must be paid to the Division.

51 E. Towtrucks that are out of service at the time of a scheduled vehicle inspection and are
52 expected to be out-of-service longer than five (5) business days as well as towtrucks that
53 have failed two (2) inspections will be red-tagged by the Division. A red-tag "out of
54 service" decal will be applied to the vehicle by a Division employee and the vehicle may
55 not be used for any business or towing purposes until such time as the vehicle is brought
56 to the Division's designated site, inspected and approved for operation. Only Division
57 employees may remove the red-tag decal.

58 F. It shall be unlawful to operate a towtruck which has failed to pass any critical item
59 specified on any towtruck inspection performed by personnel authorized by the Division
60 or has failed to correct other inspection deficiencies within the time period specified by

1 the Division or is operating with safety deficiencies or without the proper insurance
2 coverage. When a towtruck has failed to pass inspection or the owner has failed to
3 correct such inspection deficiencies or the vehicle is operating with safety deficiencies or
4 without the proper insurance coverage, personnel authorized by the Division shall affix to
5 the lower left corner of the towtruck windshield a red tag "out of service" decal/notice. It
6 shall be unlawful for the towtruck company or any other person other than personnel
7 authorized by the Division to remove this notice from the windshield of the towtruck.
8 This notice shall remain the property of the Division and Palm Beach County.

- 9 G. It is a violation of this Ordinance not to have storage facilities and towtrucks inspected
10 according to the above requirements. Failure to pay the required fees is a violation of this
11 Ordinance.
12

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

- 14 A. It shall be unlawful for any person providing nonconsent towing services to recover, tow
15 or remove a vehicle/vessel or provide storage in connection therewith unless the person
16 providing such service shall maintain in his possession a manifest, towing invoice, tow
17 sheet or dispatch records which shall include, but not be limited to, the following
18 information:

- 19 1. Name of the towtruck company, ~~and of the~~ **name of** towtruck operator physically
20 providing the service **and the Tow Driver's I.D. Badge number;**
- 21 2. Palm Beach County **Towing Permit Number (TP#) and Decal decal** number of
22 the towing vehicle used to provide the service;
- 23 3. Name, address and telephone number of the person requesting the service, except
24 as provided in Section 14.E. (Non-consent Towing With Prior Express Instruction
25 of Real Property Owner or Duly Authorized Agent and/or Law Enforcement
26 Agency) of this Ordinance;
- 27 4. Prior express instruction (signed and dated) of the real property owner provided in
28 the presence of the towtruck driver recovering, towing or removing the
29 vehicle/vessel except as provided in paragraph A. above.
- 30 5. Date and time the towtruck arrived at the location where the service is to be
31 performed;
- 32 6. Date and time of release to vehicle/vessel owner or authorized agent;
- 33 7. Location at which the service originated;
- 34 8. Destination to which the vehicle/vessel being provided the service is taken and the
35 time of arrival at the destination;
- 36 9. Description of vehicle/vessel being provided the service, including make, model,
37 year (if known), color, vehicle/vessel identification number (if visible) and license
38 plate number, if any;
- 39 10. Description of services provided;
- 40 11. The total charges listed individually and specifically as well as the description of
41 the services rendered;
- 42 12. When an "extra time/labor at scene" charge is applied, the towtruck driver shall
43 obtain and provide the name of the law enforcement agency and agency case
44 number. In lieu of the case number, the badge number and name of the
45 investigating law enforcement officer on the scene must be provided. A detailed
46 explanation of the services rendered which necessitated the charges shall also be
47 recorded and provided to the vehicle/vessel owner or representative upon demand.
- 48 13. The following disclosure in bold capitalized letters of at least 12-point type:
49 **IF YOU HAVE QUESTIONS OR COMPLAINTS ABOUT NON-**
50 **CONSENT TOWS UNABLE TO BE RESOLVED BY THE**
51 **TOWING COMPANY MANAGEMENT, CONTACT THE PALM**
52 **BEACH COUNTY CONSUMER AFFAIRS DIVISION, WEST**
53 **PALM BEACH, FLORIDA. TELEPHONE: (561) 712-6600 OR**
54 **BY INTERNET: www.pbcgov.com/consumer.**

55
56 **COMPANIES PERFORMING NON-CONSENT TOWS IN PALM**
57 **BEACH COUNTY ARE REQUIRED TO ACCEPT ALL OF THE**
58 **FOLLOWING FORMS OF PAYMENT:**

- 59 1. **CASH, MONEY ORDER OR VALID TRAVELER'S**
60

- 1 CHECK; AND
2 2. VALID BANK DEBIT/CREDIT CARD, WHICH SHALL
3 INCLUDE, BUT NOT BE LIMITED TO, MASTERCARD OR
4 VISA, THAT IS IN THE NAME OF THE VEHICLE/VESSEL
5 OWNER OR AUTHORIZED DRIVER/AGENT; AND
6 3. VALID PERSONAL CHECK SHOWING ON ITS FACE
7 THE NAME AND FLORIDA ADDRESS OF THE
8 VEHICLE/VESSEL OWNER OR AUTHORIZED
9 DRIVER/AGENT.
10

- 11 B. Each original manifest, towing invoice, or tow sheet shall be available for inspection and
12 a copy provided upon demand by law enforcement officers, by personnel authorized by
13 the Division to perform enforcement duties or to the vehicle vessel owner or his/her
14 authorized driver/agent.
15

16 **SECTION 11. Advertisements.**

17 In all advertisements, towtruck companies performing non-consent towing services shall furnish
18 the complete business address, telephone number and Palm Beach County Towing Operating
19 Permit Number of said towtruck company. The Permit Number is not required in telephone
20 directories where the publisher gratuitously provides a "business listing" with only the company
21 name, address and phone number.
22

23 **SECTION 12. Records Required.**

24 Each towtruck company shall maintain accurate and complete records including but not limited
25 to, manifests, towing invoices, or tow sheets for services rendered. When photographs are taken
26 of vehicles/vessels, the vehicle/vessel owner and the Division shall have access to such photos
27 for the purpose of inspection and/or copying. Such records and photographs shall be maintained
28 for at least three (3) years for services related to non-consent towing services and for one (1) year
29 for services related to consent-only towing services. The Division shall be granted access to
30 these records for inspection and/or copying, during regular business hours, upon 24-hours prior
31 notice. In the event, the Division is denied the opportunity to inspect and copy such records; the
32 Division shall have the right to remove the records for the purpose of copying and shall return
33 any records removed within three (3) calendar days. All records and information inspected and
34 not copied shall be confidential, except that records may be copied and made public for the
35 purpose of complaint investigations, operating permit suspension and/or revocation proceedings.
36

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

38 No person shall submit a bid, nor shall any contract be awarded, on any county contract or
39 agreement to recover, tow, or remove vehicles/vessels or provide storage in connection with such
40 services unless that person has a valid and current operating permit issued pursuant to this
41 Ordinance. Nothing herein shall prevent the County from contracting for more stringent
42 requirements than set forth in this Ordinance.
43

44 **SECTION 14. Non-consent Towing With Prior Express Instruction of Real
45 Property Owner or Duly Authorized Agent and/or Law Enforcement Agency.**
46

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

- 51 A. Police Directed Tow: Non-consent towtruck companies may for compensation recover,
52 tow or remove a vehicle/vessel based upon a police directed tow without the prior express
53 instruction of the vehicle/vessel owner or authorized driver upon the prior express
54 instruction of a law enforcement agency and in accordance with the terms of any contracts
55 or agreements between the towtruck company and a governmental entity and/or law
56 enforcement agency.
57 B. Private/Public Property Impound: Non-consent towtruck companies may for
58 compensation recover, tow or remove a vehicle/vessel on a private/public property
59 impound without the prior express instruction of the vehicle/vessel owner or authorized

1 driver, upon the prior express instruction of the real property owner or his duly authorized
2 agent on whose property the vehicle/vessel is disabled, abandoned or parked without
3 authorization or whose vehicle/ vessel owner or authorized agent is unwilling or unable to
4 remove the vehicle/vessel, provided that the requirements of this Ordinance are satisfied.
5 The non-consent towtruck company recovering, towing or removing a vehicle/vessel
6 shall, within thirty (30) minutes of completion of such towing or removal, notify the
7 appropriate law enforcement agency in which jurisdiction the vehicle/vessel was parked
8 of the nature of the service rendered, the name and address of the storage facility where
9 the vehicle/vessel will be stored, the time the vehicle was secured to the towing vehicle,
10 and the make, model, color and vehicle/vessel license plate number (if any). The non-
11 consent towtruck company shall obtain the name of the person at the law enforcement
12 agency to whom such information was reported and note that name on the trip record. **It**
13 **shall be a violation of this Ordinance for a Non-Consent towtruck company to act as**
14 **a duly authorized agent as defined in Section 2 (13). of this Ordinance on behalf of**
15 **the real property owner. An example of such action shall include but not be limited**
16 **to the use of written warnings or stickers for pre-tow notification.**

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

31 D. Signing in the presence of the non-consent towtruck company/driver shall not be required
32 for a prior express instruction made by the real property owner or authorized agent
33 forwarded by facsimile transmission on a form provided by the Division. All other
34 requirements of this Ordinance shall apply and the real property owner or duly authorized
35 agent shall provide in the facsimile instruction the specific location (i.e., address, parking
36 space, etc.), color of the vehicle, make and/or model of the vehicle (if visible) and either
37 the license tag number or the vehicle identification number (if available) prior to the
38 vehicle/vessel being towed. Such facsimile instruction shall include the real property
39 owner's or authorized agent's signature and printed or typed full name and title, as well as
40 an electronic confirmation or electronic stamp of the date and time the instruction was
41 sent to the towtruck company. The towtruck company, in compliance with Section 12
42 (Records Required) of this Ordinance, shall maintain copies of facsimile instructions.
43 Failure of the non-consent towtruck company to act on a faxed instruction within twenty-
44 four (24) hours of an expressed instruction from the property owner or designee shall
45 require the issuance of a new facsimile or express authorization. Acting on an incomplete
46 facsimile from the property owner is a violation of this Ordinance.

47 E. No non-consent towtruck company/driver shall pay or rebate money, or solicit or offer the
48 rebate of money, or other valuable consideration in order to obtain the privilege of
49 rendering towing services. The only exception is governmental franchise fees.

50 F. Except as otherwise provided in this Ordinance, no such prior express instruction shall be
51 considered to have been given: 1) by the mere posting of signage as required by Sections
52 15 (Notice Requirements for Providing Non-Consent Tow Services at Request of Real
53 Property Owners) and 18 (Maximum Non-Consent Towing and Storage Rates for Non-
54 Consent Tow Services) of this Ordinance; 2) by virtue of the terms of any contract or
55 agreement between a towtruck company and a real property owner; 3) when the prior
56 express instruction occurs in advance of the actual unauthorized parking of the
57 vehicle/vessel; or 4) where the prior express instruction is general in nature and unrelated
58 to specific, individual and identifiable vehicles/vessels which are already parked without
59 authorization.

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

1 or duly authorized agent (as defined herein) of private property that authorizes the non-
 2 consent towtruck company to tow vehicles/vessels on or from its property. This written
 3 contract shall include the beginning date of said contract, the names of all persons who
 4 can authorize prior express instruction to the towtruck company to remove, recover or
 5 tow any vehicle/vessel on or from its property. The written contract shall include the
 6 name and current telephone number of the towtruck company performing the towing
 7 service, and the name, address and telephone number for any duly authorized agents
 8 acting on behalf of the real property owner. The written contract for non-consent towing
 9 shall also include a clear understanding of liability for the real property owner as stated in
 10 s.715.07 (4) and shall include the following wording, "When a person improperly causes
 11 a vehicle or vessel to be removed, such person shall be liable to the owner or lessee of the
 12 vehicle or vessel for the cost of removal, transportation, and storage; any damages
 13 resulting from the removal, transportation, or storage of the vehicle or vessel; attorney's
 14 fees; and court costs." No such contract shall state that the non-consent towtruck
 15 company assumes the liability for improperly towed vehicles/vessel, contrary to s.
 16 715.07(4), F.S. Any addendum to the contract shall include additional names and titles as
 17 necessary. The non-consent towtruck company must keep on file **an original, dated and**
 18 **signed each** contract and addendum (if applicable) with the property owner **or duly**
 19 **authorized agent**. Such contract shall be maintained for at least twelve (12) months after
 20 termination. The Division and law enforcement officers may inspect and request a copy
 21 of any and all such contracts from the non-consent towtruck company during normal
 22 business hours. The non-consent towtruck company may not withhold production of the
 23 contract upon demand by the Division or law enforcement. Failure to enter into or keep
 24 on file a contract with the property owner shall be a violation of this Ordinance. All
 25 contracts which were entered into prior to the effective date of this Ordinance, shall
 26 accomplish the requirements of this subsection by entering into an addendum to the
 27 current contract within three (3) months following the enactment of this Ordinance.

28
 29 Non-consent towtruck companies may not enter into a written contract with the owner of
 30 private property that authorizes the towtruck company to tow vehicles/vessels from the
 31 real property owner's property to the storage yard where the mileage restrictions have
 32 been exceeded contrary to s. 715.07 (2)(a)1, F.S., as may be amended from time to time.

- 33 H. Real property owners or authorized representatives shall not request the recovery, tow or
 34 the removal of vehicles/vessels that are reasonably identifiable from markings or
 35 equipment as law enforcement, fire fighting, rescue squad, ambulance, or other
 36 emergency vehicles/vessels which are marked as such.
- 37 I. ~~Real property owners or authorized agents shall not request the recovery, tow or the~~
 38 ~~removal of vehicles/vessels parked in a designated handicapped parking space. Such~~
 39 ~~instances must be handled by local law enforcement.~~ Any person who improperly causes
 40 a vehicle/vessel to be recovered, towed, removed or stored shall be liable to the vehicle
 41 owner or authorized representative for the costs of the services provided, any damages
 42 resulting from the recovery, towing, removal or storage and attorney's fees and court
 43 costs.
 44

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

- 47
- 48 A. In addition to the requirements of Section 14 (Non-consent Towing With Prior Express
 49 Instruction of Real Property Owner or Duly Authorized Agent and/or Law Enforcement
 50 Agency) of this Ordinance, non-consent towtruck companies duly permitted under this
 51 Ordinance may recover, tow or remove a vehicle/vessel or provide storage in connection
 52 therewith upon the prior express instruction of a real property owner or authorized agent,
 53 on whose property the vehicle/vessel is abandoned or parked without authorization,
 54 provided that the following requirements are satisfied:
 - 55 1. Notice shall be prominently posted on the real property from which the
 56 vehicle/vessel is proposed to be removed and shall fulfill the following
 57 requirements:
 - 58 a. A light reflective sign shall be prominently placed at each driveway
 59 access/entrance or curb cut allowing vehicular access to the real property,
 60 within five (5) feet from the public right-of-way line. If there are no curbs

- 1 or access barriers, signs shall be posted not less than one (1) sign each
2 twenty-five (25) feet of lot frontage. The sign shall be permanently
3 installed not less than three (3) feet and not more than six (6) feet above
4 ground level and shall be continuously maintained on the real property for
5 not less than twenty-four (24) hours prior to the towing or removal of any
6 vehicle/vessel(s).
- 7 b. The light reflective sign shall clearly display in not less than 2-inch high
8 letters on a contrasting background, the words: "UNAUTHORIZED
9 VEHICLES/VESSELS WILL BE TOWED AWAY AT THE
10 OWNER'S EXPENSE." The words "TOW-AWAY ZONE" must be
11 included on the light reflective sign in not less than 4-inch high letters on a
12 contrasting background;
- 13 c. The light reflective sign shall clearly indicate, in not less than 2-inch high
14 letters on a contrasting background, the days of the week, and hours of the
15 day during which vehicles/vessels will be towed away at the owner's
16 expense; and the name and current telephone number of the towtruck
17 company performing the towing service.
- 18 2. Light reflective signs must be maintained or replaced so that they are clearly
19 visible, legible and light reflective at all times. The towing company is
20 responsible for maintaining and replacing signs. In the event the towtruck
21 company goes out of business or is no longer performing tow services for the real
22 property owner, the real property owner is responsible for removal of signs.
23 Failing to provide, maintain, replace and/or remove the signs in accordance with
24 this section is a violation of this Ordinance.
- 25 3. The posting of notice requirements of this section shall not be required where:
- 26 a. The real property on which a vehicle/vessel is parked is property
27 appurtenant to and obviously part of a single-family type residence; or
28 b. Written notice is personally given to the vehicle/vessel owner or
29 authorized driver/agent that the real property on which the vehicle/vessel
30 is or will be parked is reserved or otherwise not available for unauthorized
31 vehicles/vessels and is subject to being removed at the vehicle/vessel
32 owner's expense.
- 33 B. Except as otherwise provided in Section 14, D., when any real property owner instructs
34 that a vehicle/vessel be recovered, towed, removed from his or her property and stored,
35 s/he or a designated representative shall sign the tow ticket authorizing the tow.
36 Immediately upon request, and without demanding compensation, the real property owner
37 shall inform the vehicle/vessel owner or other authorized person in control of the
38 vehicle/vessel of the name and address of the non-consent towtruck company that has
39 recovered, towed or removed the vehicle/vessel.
- 40 C. If the vehicle/vessel owner or authorized driver/agent arrives at the scene prior to the
41 vehicle/vessel being removed or towed from the property, the vehicle/vessel shall be
42 disconnected from the towtruck and the vehicle/vessel owner or authorized driver/agent
43 shall be allowed to remove the vehicle/vessel without interference upon the payment of a
44 reasonable service fee of not more than one-half of the posted rate for such towing service
45 (drop charge), for which a receipt shall be given, unless that person refuses to remove the
46 vehicle/vessel which is unlawfully parked. The bill/invoice must be presented to the
47 vehicle/vessel owner authorized/driver/agent prior to request for the payment. Non-
48 consent towtruck companies are not authorized to apply a fee in cases where the owner of
49 the vehicle/vessel arrives on the scene prior to a complete mechanical hook-up (road-
50 worthy) between the towtruck and the vehicle/vessel. In the event the owner/driver of the
51 vehicle/vessel is occupying the vehicle/vessel and refuses to vacate same, in addition to
52 the drop charge, the towtruck company/driver is permitted to charge extra time at the
53 scene where law enforcement involvement is necessary and the towtruck driver obtains
54 the name of the law enforcement agency, case number of the law enforcement agency and
55 if possible the name and badge number of the investigating law enforcement officer. The
56 towtruck driver shall also prepare detailed documentation/ explanation as to why "extra
57 time at scene" charges were required. All documentation shall be provided to the
58 vehicle/vessel owner or representative upon demand. Such fee shall be approved by
59 resolution of the Commission.
- 60

Section 16. Non-consent Towtruck Company Requirements.

- 1
2 A. Non-consent towtruck companies providing services pursuant to this Ordinance shall not
3 do so when there is a person occupying the vehicle/vessel.
4 B. Non-consent towtruck companies providing services pursuant to this Ordinance shall
5 transport the vehicle/vessel directly to the storage facility of the towtruck company providing the
6 service, to such other location as a law enforcement officer authorizing the tow may expressly
7 direct, or to a location expressly directed by the vehicle owner or authorized driver/agent. When
8 the vehicle owner or authorized driver/agent expressly authorizes the vehicle to be towed to a
9 location other than the towtruck company storage facility, the towtruck driver must:
- 10 4.1. Provide a “not to exceed” estimate in writing of all the rates and fees that will be
11 assessed for the tow or negotiate a consent-only towing agreement; and
 - 12 5.2. Disclose in writing the three methods of payment and come to a mutually agreed
13 time as to how and when the towing company will be compensated.
- 14 C. It is a violation of this Ordinance for a non-consent towtruck company to keep or stage
15 impounded vehicles/vessels in any temporary area or holding facility prior to the
16 transportation of the vehicle to its approved storage facility.
17 D. Non-consent towtruck companies which provide services pursuant to this Ordinance shall
18 file and keep on record with the Division a complete copy of all current rates charged for
19 the recovery, towing or removal of vehicles/vessels and storage provided in connection
20 therewith. Such persons shall also display prominently at each storage facility the
21 following information: signage which identifies the name of the towing company, a
22 schedule of all charges and rates for removal of vehicles/vessels for private property
23 impounds; a statement that these rates do not exceed those rates filed with the Division
24 and are in accordance with the provisions of this Ordinance and the rights afforded to a
25 vehicle owner or authorized driver/agent pursuant to Florida Statutes. The above
26 information shall be posted prominently in the area designated for the vehicle/vessel
27 owner or authorized driver/agent to transact business. Such area shall provide shelter,
28 safety and lighting adequate for the vehicle/vessel owner or authorized driver/agent to
29 read the posted rate schedule. Further, notice shall be posted advising the vehicle/vessel
30 owner or authorized driver/agent of the right to request and review a complete schedule
31 of charges and rates for towing services for the jurisdiction in which the law enforcement
32 order to tow was made, and that the towtruck company is permitted by the Division
33 noting the Division's telephone number, address and business hours.
34 E. Non-consent towtruck companies shall provide signage on the property clearly visible
35 from the street, (unless otherwise prohibited by local zoning laws) with at least three (3)
36 inch letters on a contrasting background with the name and phone number of the towtruck
37 company.
38 F. Non-consent towtruck companies which provide services pursuant to this Ordinance shall
39 advise any vehicle/vessel owner or authorized driver/agent who calls by telephone prior
40 to arriving at the storage facility of the following:
- 41 1. Each and every document or other item which must be produced to retrieve the
42 vehicle/vessel;
 - 43 2. The exact charges as of the time of the telephone call, and the rate at which
44 charges accumulate after the call;
 - 45 3. The acceptable methods of payment; and
 - 46 4. The hours and days the storage facility is open for regular business.
- 47 G. Non-consent towtruck companies which provide services pursuant to this Ordinance shall
48 allow every vehicle/vessel owner or authorized driver/agent to inspect the interior and
49 exterior of the towed vehicle upon his or her arrival at the storage facility before payment
50 of any charges (except for “After-Hour Gate or Personal Property Retrieval Fee”). With
51 the exception of vehicles being held pursuant to the specific request or “hold order” of a
52 law enforcement agency, the vehicle/vessel owner or authorized driver/agent shall be
53 permitted to remove the vehicle license tag and any and all personal property inside but
54 not affixed to the vehicle/vessel. A vehicle/vessel owner who shows a government
55 issued photo identification shall be given access to view ownership documents stored in
56 the vehicle/vessel. The vehicle/vessel and/or personal property shall be released to the
57 vehicle/vessel owner if the ownership documents are consistent (name and address) with
58 the photo identification. When a vehicle/vessel owner’s government issued identification
59 and ownership documents are stored inside the impounded vehicle due to unforeseen
60 circumstances, the towtruck company shall be required to recover the ownership

1 documents stored in the impounded vehicle (i.e., glove compartment, sun visors, etc.)
2 upon receipt of a vehicle/vessel key, vehicle access code, or electronic device from the
3 vehicle/vessel owner that would allow entry. The vehicle/vessel and/or personal property
4 shall be released to the vehicle/vessel owner if the ownership documents are consistent
5 with the photo identification.

6 H. Non-consent towtruck companies which provide services pursuant to this Ordinance shall
7 accept payment for charges from the vehicle/vessel owner or authorized driver/agent in
8 all the following forms:

- 9 1. Cash, money order or valid traveler's check; and
- 10 2. Valid bank debit/credit card, which shall include, but not be limited to,
11 MasterCard or VISA, that is in the name of the vehicle/vessel owner or authorized
12 driver/agent; and
- 13 3. Valid personal check showing on its face the name and Palm Beach County
14 address of the vehicle/vessel owner or authorized driver/agent.

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

20 I. Non-consent towtruck companies which provide services pursuant to this Ordinance shall
21 not store or impound a towed vehicle/vessel at a distance which exceeds a ten (10) mile
22 radius of the location from which the vehicle/vessel was recovered, towed or removed
23 unless no towing company providing services under this section is located within a ten
24 (10) mile radius, in which case a towed or removed vehicle/vessel must be stored at a site
25 within twenty (20) miles of the point of removal.

26 J. Non-consent towtruck companies which provide services pursuant to this Ordinance shall
27 maintain one or more storage facilities, each of which shall maintain a current Palm
28 Beach County Business Tax Receipt and when applicable a municipal Business Tax
29 Receipt. The business shall be open for the purpose of redemption of vehicles/vessels by
30 owners or authorized drivers/agents on any day that the towtruck company is open for
31 towing purposes from at least 8:00 A.M. to 6:00 P.M., Monday through Friday and, when
32 closed, shall have posted prominently on the exterior of the storage facility and place of
33 business, if different, a notice indicating a telephone number where the towtruck company
34 can be reached at all times. Upon request of the vehicle/vessel owner or authorized
35 driver/agent, the towtruck company shall release the vehicle/vessel to the vehicle/vessel
36 owner or authorized driver/agent within one (1) hour.

37 K. Non-consent towtruck companies shall not, as a condition of release of the vehicle/vessel,
38 require a vehicle/vessel owner or authorized driver/agent to sign any release or waiver of
39 any kind which would release the towtruck company from liability for damages noted by
40 the vehicle/vessel owner or authorized driver/agent at the time of the vehicle's/vessel's
41 release. A detailed, signed receipt showing the legal name of the towtruck company
42 removing the vehicle/vessel shall be given to the vehicle/vessel owner or authorized
43 driver/agent at the time of payment, whether requested or not.

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

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

- 52 1. Current vehicle registration;
- 53 2. Vehicle Title;
- 54 3. An authorized driver/agent with a notarized release from the vehicle/vessel owner
55 or lien holder. Vehicle/Vessel owners have the right to identify/approve
56 designated agents to claim vehicles on their behalf. A facsimile or electronic
57 transfer of a notarized release statement from the vehicle/vessel owner shall be
58 accepted;
- 59 4. Insurance Card with the vehicle/vessel owner's information and vehicle
60 description;

- 5. Licensed Dealer in possession of an auction buyer's sales invoice; and/or
- 6. A notarized bill of sale for non-titled vehicles or vessels.

- N. Non-consent towtruck companies which provide services pursuant to this Ordinance shall make a "good faith effort" to locate the vehicle/vessel owner or lien holder. For the purposes of this paragraph and subsection, a "good faith effort" means that the required steps have been performed by the towtruck company according to Sections (4) **(c) and** (d) of the Florida Statutes 713.78. Failure to make a "good faith effort" to comply with the notification requirements of this section shall preclude the imposition of any storage charges against such vehicle or vessel.
- O. Non-consent towtruck companies which provide services pursuant to this Ordinance and found to be in violation of this Ordinance relating to a specific non-consent tow shall be required to reimburse the vehicle/vessel owner all illegal or over charges related to that towing incident. Failure to reimburse the owner of the vehicle/vessel in such cases is a violation of this Ordinance.
- P. Any non-consent towing company that has an unusable storage yard or has been evicted from its storage yard is subject to having its operating permit suspended.
- Q. Any towtruck driver in the process of transporting a junked vehicle (as defined in s. 319.30, F.S.) to a licensed salvage motor vehicle dealer and who is employed by, working for or operates a nonconsent towing company, must have physical possession of a derelict motor vehicle certificate, transferred title or certificate of destruction for such vehicle.
- R. It shall be a violation of this Ordinance for any non-consent towing company to fail to respond in writing within ten (10) business days to any written inquiry or request for information from the Division or any law enforcement agency.

Section 17. Consent-Only Towtruck Company Requirements.

- A. It shall be a violation of this Ordinance for any towtruck company that has been issued a Consent-Only Towing Operating Permit to perform non-consent towing services.
- B. Consent-Only towtruck companies providing services pursuant to this Ordinance shall not do so when there is a person occupying the vehicle/vessel.
- C. Consent-Only towtruck companies providing services pursuant to this Ordinance shall transport the vehicle/vessel directly to the location specified by the vehicle owner or duly authorized agent.
- D. It shall be a violation of this Ordinance for any consent-only towing company to fail to respond in writing within ten (10) business days to any written inquiry concerning public safety from the Division or any law enforcement agency.

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

- A. The Commission shall, by Resolution establish maximum rates, as may be amended from time to time, for nonconsent towing services as follows:
 - 1. Towing service per call, which shall include the first thirty (30) minutes that the towtruck is actually on the scene engaged in the safe removal of a vehicle/vessel.
 - 2. Mileage (per towed mile) according to Section 715.07, Florida Statutes.
 - 3. Storage may be charged only after the vehicle has been in the storage facility for at least 6 hours. If the vehicle was not recovered by the vehicle/vessel owner or authorized driver/agent after the 6-hour time period has elapsed, then storage charges shall accrue in 24-hour increments from the time the vehicle/vessel arrived in the storage facility and:
 - a. The police agency has authorized the vehicle/vessel to be impounded, or
 - b. The appropriate police agency has been notified by the towtruck company that the towtruck company is in possession of a vehicle/vessel as a result of a private property impound.
 - 4. Indoor storage rates may only be charged upon the express direction and written authorization of the owner/authorized driver/agent, lien holder, insurance company representative or investigating police agency. The only exceptions to this rule are:
 - a. When the condition of the vehicle requires indoor storage due to inclement weather conditions or the vehicle's window(s) and/or convertible top is down and cannot be raised and indoor storage is necessary to protect the

- 1 vehicle and its contents, or
2 b. When a municipal or county jurisdiction require indoor storage for towed
3 vehicles.
4 5. An Administrative/Lien Fee shall only be charged after the vehicle/vessel has
5 been in the storage facility for at least twenty-four (24) hours and:
6 a. The police agency has authorized the vehicle/vessel to be impounded, or
7 b. The police agency has been notified by the towtruck company that the
8 towtruck company is in possession of a vehicle/vessel as a result of a
9 private property impound.
10 c. The non-consent towtruck company must show proof that lien letter(s)
11 have been prepared with the appropriate names/addresses (i.e., U.S. Mail
12 Certification Number, correspondence copies, etc.) and that actual fees for
13 obtaining required ownership information have been expended. Failure to
14 document and provide all of the above required information will result in
15 administrative/lien fee charges being removed from the total cost of the
16 service/invoice and is a violation of this Ordinance.
17 6. Underwater recovery performed by a certified/professional diver with the written
18 documentation and approval of the investigating law enforcement agency/officer.
19 7. Hazardous material clean-up and disposal as required, mandated and/or licensed
20 through federal, state or local laws and approved by the investigating law
21 enforcement agency/officer.
22 ~~8. After hour Gate fees may not be applied between the hours of 8 a.m. and 6 p.m.~~
23 ~~Monday through Friday (excluding federal holidays) and not for six (6) hours after~~
24 ~~a vehicle has been impounded all other times when:~~
25 ~~a. Impounded vehicles/vessels are recovered by the owner or authorized~~
26 ~~driver/agent; or~~
27 ~~b. The owner or authorized driver/agent wishes to recover property from an~~
28 ~~impounded vehicle/vessel.~~
29 **After-hour Gate fees may not be applied between the hours of 8 a.m. and 6**
30 **p.m. Monday through Friday (excluding federal holidays). For all other**
31 **times, After-Hour Gate Fees may not be applied until (6) six hours after a**
32 **vehicle has been impounded in the company's storage facility. Applicable**
33 **After-Hour Gate Fees may also be applied when an owner or authorized**
34 **driver/agent wishes to recover property from an impounded vehicles/vessel.**
35 9. Extra Time at Scene/Labor Charge may be applied when any extra time beyond
36 one-half hour, is needed to safely remove a vehicle or vessel and includes the
37 amount of time spent at a scene when a towtruck has been summoned and is on
38 scene but unable to proceed through no fault of the towtruck operator. All extra
39 time/labor shall be documented by the towtruck driver and shall include the name
40 of the law enforcement agency and the law enforcement agency case number or
41 the officer's name and badge number. The documentation shall also include a
42 detailed explanation of the services rendered which necessitated the charges and if
43 possible photographs of the scene. Extra time shall be charged in 15-minute
44 increments. Failure to document and provide all of the above required
45 information will result in the extra time/labor charges being removed from the
46 total cost of the service/invoice and is a violation of this Ordinance.
47 B. All rates established shall be uniform throughout Palm Beach County both in the
48 incorporated and unincorporated areas, except where municipalities have established
49 differing maximum rates for their jurisdictions. From time to time, the rates established
50 by the Commission may be revised in accordance with a rate study.
51 C. Persons who provide services pursuant to this section shall not charge in excess of the
52 maximum allowable rates established by the Commission. No person providing services
53 pursuant to this section shall charge any type of fee other than the rates for which the
54 Commission has specifically established. Towtruck companies which tow
55 vehicles/vessels from Palm Beach County into another county shall abide by the terms of
56 this Ordinance including all rates and charges adopted by the Commission.
57 D. Towtruck companies which provide services pursuant to this section shall display on the
58 same sign as the rate schedule required by this Ordinance the following statement:
59 To The Vehicle/Vessel Owner
60 If you believe that you have been overcharged for the services rendered, you do

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

10
11 If you have a complaint about the way services were provided, you may call the
12 Palm Beach County Consumer Affairs Division, (561) 712-6600.

- 13
14 E. Each towtruck company shall maintain, on a form approved by the Division, a rate sheet
15 specifying all rates and charges, which shall be given by the towtruck driver to the
16 requesting vehicle/vessel owner or his authorized driver/agent prior to commencing the
17 service.
18

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

20 A. It shall be unlawful for any person to operate any towtruck within and upon the streets of
21 Palm Beach County without having first obtained a Palm Beach County Towtruck
22 Driver's identification badge (Tow Driver's I.D. Badge). All applicants for a Tow
23 Driver's I.D. Badge shall conform to the following:

- 24 1. Be at least eighteen (18) years of age;
25 2. Possess a valid State of Florida Driver's License **(with photo depicting the**
26 **driver)** as required by the Florida Department of Highway Safety and Motor
27 Vehicles and must show proof that he/she has possessed a valid driver's license
28 from any state within the United States for three (3) years (2 years for drivers
29 younger than 21 years old) prior to applying for a Tow Driver's I.D. Badge. If a
30 person has not driven for three (3) years in the United States, he/she must obtain
31 the driving record from any other jurisdictions where he/she did drive or if he/she
32 is unable to obtain the driving record, must sign an affidavit under penalty of
33 perjury that he/she has no driving record which would prevent him/her from
34 driving a towtruck in Palm Beach County, Florida;
35 3. The driver must provide the original form of his/her lifetime State of Florida
36 Department of Highway Safety and Motor Vehicles traffic/driving record report to
37 the Division which was secured no more than thirty (30) days before the
38 application/renewal was submitted, only if the Division is unable to secure this
39 required information. Upon initial application, if a driver has resided in Florida
40 less than five (5) consecutive years, a traffic/driving record/history from each state
41 where he/she previously resided must be provided for at least a five year period;
42 4. Has not had more than three (3) ~~or more~~ separate incidents involving moving
43 violations in any twelve (12) month period in the previous three (3) years prior to
44 the initial application or renewal of a Tow Driver's I.D. Badge in which the
45 applicant pled guilty, was found guilty or ~~adjudication was withheld~~.
46 5. Has not been classified as a habitual traffic offender (as defined by Florida
47 Statutes) or as defined by the state where he/she previously resided within five (5)
48 years of applying for a Tow Driver's I.D. badge and was not previously issued a
49 Tow Driver's I.D. Badge by the Division;
50 6. Upon initial application or renewal, the driver must provide the original request
51 form for his/her Florida Department of Law Enforcement (FDLE) criminal
52 history/records report to the Division, as well as payment for the amount required
53 to secure the criminal history/records report. The Division shall then be
54 responsible for processing the request and payment to the FDLE. The Division
55 may conduct additional criminal history/records reports of other
56 states/jurisdictions as deemed appropriate. The Division may require an applicant
57 to submit to a finger print analysis if there is a question of identity. The
58 Commission may approve a different means of securing the required criminal
59 history/records should an alternative agency/system be discovered that provides
60 more complete information than that provided by the FDLE.

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7. Have no conviction or plea of guilty or nolo contendere, ~~regardless of adjudication of guilt~~, within the preceding five (5) years from the date of application for any offense related to driving a motor vehicle under the influence or while intoxicated.

8. Have no more than one conviction or plea of guilty or nolo contendere, ~~regardless of adjudication of guilt~~, within the preceding ten (10) years from the date of application for any offense related to driving a motor vehicle under the influence or while intoxicated.

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

10. Have no more than two (2) convictions of first degree misdemeanor traffic crimes including but not limited to the following: reckless driving, careless driving and racing in the three (3) years preceding the date of the current permit year wherein the driver has been found guilty.

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

11. Be found by the Division to have a lack of reputability as provided herein. For the purposes of this Ordinance, lack of reputability shall mean that the Division cannot trust the applicant to safeguard the welfare and property of the public. Lack of reputability shall include, but not be limited to, the following:

a. **Conviction of any felony not considered a Level 1 felony, as provided in Rule 9, Florida Governor Rules of Executive Clemency, as the rules may be amended from time to time, and wherein the applicant's civil rights have not been restored.**

b. **Conviction of any Schedule 1 Level felony as provided in Rule 9, Florida Rules of Executive Clemency as the rules may be amended from time to time that occurred less than five years from the date of conviction or release from incarceration (whichever is later) wherein the applicant's civil rights have not been restored.**

c. **Notwithstanding the provisions of Section 19.A.11.a. and b. above, conviction of any felony that is directly related to operating a non-consent or consent towing business or vehicle, regardless of whether the applicant's civil rights have been restored or remained intact. For the purposes of this Ordinance, any offense involving fraud, forgery, theft, perjury or false statement shall be considered to be directly related to the business of operating a towing company.**

d. **Conviction of any first degree misdemeanor that is directly related to a non-consent or consent towing business or vehicle regardless of whether the applicant's civil rights have been restored or remained intact. For the purposes of this Ordinance, any offense involving fraud, forgery, theft, perjury or false statement shall be considered to be directly related to the business of operating a towing company.**

e. **Responding to a call while under the influence of alcohol or any controlled substance.**

f. **Towtruck Drivers with valid Towtruck Driver I.D. Badges at the time this amended Ordinance was approved may continue to be eligible for issuance of a Towtruck Driver I.D. Badge in future renewals as long as there are no additional crimes or reputability issues as referenced above.**

~~11. Have no conviction or plea of guilty or nolo contendere, regardless of adjudication~~

1 of guilt, within the preceding three (3) years from the date of conviction or release
2 from incarceration (whichever is later) if the applicant's civil rights have not been
3 restored, including but not limited to the following first-degree misdemeanors
4 determined by the Commission to be necessary for the protection of public safety:
5 stalking, battery, driving while license is suspended or revoked, exposure of
6 sexual organs, carrying a concealed weapon, reckless driving which causes
7 damage to property, racing on highway, criminal possession of a controlled
8 substance/paraphernalia, luring or enticing a child under twelve (12), or obscenity
9 (selling/distributing sexual material to minor). In the event the applicant's civil
10 rights have been restored, the I.D. Badge may be denied or revoked if the crime
11 committed is deemed to be directly related to operating a towtruck or towing
12 business.

13 12. Have no conviction or plea of guilty or nolo contendere, regardless of adjudication
14 of guilt, within the preceding five (5) years from the date of conviction or release
15 from incarceration (whichever is later) if the applicant's civil rights have not been
16 restored, including but not limited to the following felonies determined by the
17 Commission to be necessary for the protection of public safety: battery, carrying a
18 concealed weapon, robbery (not armed), burglary (not 1st degree), repossession of
19 a motor vehicle under Chapter 493, repair of a motor vehicle under ss. 559.901-
20 559.9221, F.S., theft of a motor vehicle under s. 812.014, F.S., carjacking under s.
21 812.133, F.S., operation of a chop shop under s. 812.16, F.S., overcharging for
22 repairs and parts for insurance purposes under 860.15, F.S., criminal sale of a
23 controlled substance, criminal possession of controlled substance/paraphernalia,
24 obscenity (selling/distributing sexual material to a minor or exchanging computer
25 pornography with a minor), a habitual felony offender, aggravated assault, child
26 abuse/neglect, reckless driving with serious bodily injury, fleeing/attempting to
27 elude a law enforcement officer, aggravated fleeing or eluding a law enforcement
28 officer causing serious body injury, luring or enticing a child under twelve (12)
29 (2nd conviction), resisting an officer with violence, procuring a person under
30 eighteen (18) for prostitution, selling or buying minors for sex
31 trafficking/prostitution, forcing/compelling/coercing a person for prostitution, or
32 abuse/aggravated abuse/neglect of an elderly person or a disabled adult. The
33 Division may require applicants to provide the final disposition for felony
34 criminal cases on background checks received by the Division from any source.
35 Failure to provide the disposition of such cases shall result in the denial of a Tow
36 Driver's I.D. badge. In the event the applicant's civil rights have been restored,
37 the I.D. Badge may be denied or revoked if the crime committed is deemed to be
38 directly related to operating a towtruck or towing business.

39 13. Have no conviction, plea of guilty, nolo contendere or adjudication withheld of
40 any of the following offenses determined by the Commission to be necessary for
41 the protection of public safety, if the applicant's civil rights have not been
42 restored. In the event the applicant's civil rights have been restored, the I.D.
43 Badge may be denied or revoked if any of the following crimes committed are
44 deemed to be directly related to operating a towtruck or towing business:
45 (a) Murder, attempted murder, attempted felony murder, manslaughter, (F.S.
46 Chapter 782)
47 (b) DUI manslaughter (F.S. 316.193(3));
48 (c) Sexual battery, attempted sexual battery (F.S. 794.011);
49 (d) Lewd or lascivious battery, attempted lewd or lascivious battery, lewd or
50 lascivious molestation, lewd or lascivious conduct, or lewd or lascivious
51 exhibition (F.S. Chapter 800);
52 (e) Lewd or lascivious offense upon or in the presence of an elderly or
53 disabled person, attempted lewd or lascivious offense upon or in the
54 presence of an elderly or disabled person (F.S. 825.1025);
55 (f) Sexual performance by a child, attempted sexual performance by a child
56 (F.S. 827.071);
57 (g) Aggravated child abuse (F.S. 827.03);
58 (h) Failure to register as a sexual predator (F.S. 775) or sexual offender (F.S.
59 943.0435);
60 (i) Computer pornography, transmission of computer pornography, buying or

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- ~~selling of minors (F.S. Chapter 847);~~
- ~~(j) Kidnapping, attempted kidnapping, false imprisonment, or luring and enticing a child (F.S. Chapter 787);~~
- ~~(k) Aggravated battery, attempted aggravated battery (F.S. 784);~~
- ~~(l) Armed robbery, attempted armed robbery, carjacking, attempted carjacking, home invasion, attempted home invasion (F.S. Chapter 812);~~
- ~~(m) Poisoning of food or water (F.S. 859.01);~~
- ~~(n) First degree burglary or attempted first degree burglary (F.S. 810.02);~~
- ~~(o) Arson or attempted arson (F.S. 806.01);~~
- ~~(p) Aggravated stalking (F.S. 784.048);~~
- ~~(q) Aggravated battery or aggravated assault on a law enforcement officer or other specified officer (F.S. 784.07);~~
- ~~(r) Aircraft piracy (F.S. 860.16);~~
- ~~(s) Unlawful throwing, projecting, placing, or discharging of any destructive device or bomb or attempting to do so (F.S. 790.161);~~
- ~~(t) Facilitating or furthering terrorism (F.S. 775.31);~~
- ~~(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;~~

~~15.12.~~ 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. **The Division may initiate denial, revocation or suspension proceedings for lack of reputability issues and criminal convictions as provided in this subsection which arise subsequent to the issuance of a Tow Driver's I.D. badge.**

~~16.13.~~ Applicants shall have no unsatisfied civil penalties, judgments or administrative orders pertaining to this Ordinance.

~~17.14.~~ 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 Division 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 Driver's I.D. badge after the time requirements have been satisfied.~~ If the Tow Driver's I.D. badge is revoked, 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 revoked. Any person renewing a Tow Driver's I.D. badge must file a renewal application, furnish the documentation requested by the Division, and submit payment for the required non-refundable renewal fee(s) not more than ninety (90) days before the expiration date of a Tow Driver's I.D. badge. Persons who fail to reapply for their Tow Driver's I.D. badge thirty (30) days prior to expiration, risk having a gap in their authorization to drive a towtruck. Persons who fail to submit their renewal application, required documentation and fees by the expiration date of the Tow Driver's I.D. badge must pay a non-refundable late

1 fee, over and above the Tow Driver's I.D. Badge fee. Any applicant who fails to
2 submit a renewal application within one (1) year of the expiration of a current
3 badge will be considered a new applicant when reapplying and no grandfathered
4 provisions will apply. Said fees shall be established by resolution of the
5 Commission;

6 ~~18-15.~~ Shall submit to photographing (full face exposure/without sunglasses or head
7 coverings) prior to the issuance of the Tow Driver's I.D. badge by the Division;

8 ~~19-16.~~ Complete the Tow Driver's I.D. badge registration affidavits provided by the
9 Division;

10 ~~20-17.~~ Not possess a suspended or revoked driver's license as a result of a moving
11 violation or have any outstanding and unsatisfied civil penalties, citations or
12 judgments imposed due to violations of this Ordinance;

13 ~~21-18.~~ Not violate the terms of a cease and desist order, assurance of voluntary
14 compliance, notice to correct a violation or any other lawful order of the Director;

15 ~~22-19.~~ Not be enjoined by a court of competent jurisdiction from engaging in the towing
16 business or was enjoined by a court of competent jurisdiction with respect to any
17 of the requirements of this Ordinance;

18 ~~23-20.~~ Have no conviction or plea of guilty or nolo contendere ~~regardless of adjudication~~
19 in any military or foreign jurisdiction, federal, state, county or municipal
20 jurisdiction within the United States for violations analogous or parallel to those
21 violations enumerated in all sections herein.

22 B. The driver of a tow truck shall conspicuously display on the driver's person through the
23 use of a neck lanyard, or above the waist on the outermost garment, the Tow Driver's I.D.
24 badge issued pursuant to this Ordinance so that it is visible and available for inspection to
25 the public, Division personnel and all law enforcement officials while engaged and on
26 duty for a towtruck company.

27 C. Each Tow Driver's I.D. badge shall be developed by the Division. Each driver's I.D.
28 badge shall, at a minimum, contain the name of the driver, date of expiration, photo of the
29 driver, and such additional terms, conditions, provisions and limitations as were imposed
30 during the approval process. Each company for which a driver will be driving must
31 submit an affidavit (on a form prepared by the Division) or documentation from the
32 insurance company (fax acceptable) that the driver is eligible to be insured under the
33 company's insurance policy.

34 D. The Division may issue a replacement Tow Driver's I.D. badge to any driver upon
35 payment of a non-refundable replacement fee, presentation of proof or a sworn affidavit
36 that the driver's I.D. badge has been lost, stolen or for any other valid reason, and any
37 other documentation or requirement requested by the Division. The replacement fee shall
38 be established by resolution of the Board.

39 E. It shall be unlawful for any person to drive a towtruck unless such person has a valid Tow
40 Driver's I.D. badge issued pursuant to this Section.

41 F. It shall be unlawful for any person to drive a towtruck for any towtruck company which
42 has not been granted an operating permit pursuant to Section 4 (Operating Permit
43 Required) of this Ordinance.

44 G. It shall be unlawful for any applicant for a Tow Driver's I.D. badge to misrepresent, omit
45 or conceal a fact on the application, renewal application or replacement application.

46 H. Upon submission of the application, the Division shall provide the driver with a receipt.
47 No applicant shall be permitted to drive a towtruck in Palm Beach County until the
48 Division has issued to him/her a Tow Driver's I.D. badge. The Division shall provide the
49 Tow Driver's I.D. badge within ten (10) business days following the submittal of the
50 application and all required documents. In the event the official criminal background
51 records furnished to the Division are insufficient and additional information is necessary,
52 the Division shall be permitted an additional twenty (20) business days to issue the
53 driver's I.D. badge. The Division will process applications on a more timely basis when
54 the required certified/original criminal and driving background records are submitted with
55 the initial application and an additional rush fee is paid to the Division. Such fee must be
56 approved by the Commission.

57 I. Non-consent towtruck drivers must be hygienically clean, well groomed and neat.
58 Drivers are not permitted to wear open toed shoes and must comply with all state and
59 federal (e.g., O.S.H.A.) safety regulations. Non-consent towtruck drivers are not
60 permitted to wear uniforms purporting to be from a different company or business than

1 the one they actually work or drive for. Failure to abide by these requirements is a
2 violation of this Ordinance.

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

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

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

15 M. No person maintaining, owning, or operating a towing company shall suffer or permit any
16 person or employee to drive a towtruck unless such person has a valid Tow Driver's I.D.
17 badge issued pursuant to this Ordinance. This paragraph shall not apply to a towing
18 company which is training a prospective driver. Such prospective driver must be
19 accompanied by and working under the direct supervision of a company employee who is
20 in possession of a valid Tow Driver's I.D. badge.

21 N. Failure to comply with the provisions of this Section may result in the Division denying a
22 Tow Driver I. D. badge, revoking or suspending the Tow Driver's I.D. badge, denying a
23 renewal of such Tow Driver's I.D. badge, issuing a civil citation, a misdemeanor
24 conviction or other such remedies available to the Division herein.

25 ~~O. Start-Up—Any person acting, on the effective date of this Ordinance as a towtruck driver
26 defined under the terms of this Ordinance, shall be subject to the terms of this Ordinance
27 as of the effective date of this Ordinance. Any such person must submit an initial
28 application for a Tow Driver's I.D. badge up to thirty (30) days prior to his/her date of
29 birth but in any case no later than his/her date of birth. Any person who has submitted an
30 initial application for a Tow Driver's I.D. Badge by his/her date of birth shall be
31 permitted to continue acting as a towtruck driver as described in Paragraph I above.~~

32 33 **Section 20. Fraudulent Transfer of Towtruck Company.**

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

38 A. The transfer was to an insider;

39 B. The towtruck company retained possession or control of the property transferred after the
40 transfer;

41 C. The transfer was disclosed or concealed;

42 D. Before the transfer was made or obligation was incurred, the towtruck company had been
43 sued or threatened with suit;

44 E. The transfer was of substantially all the towtruck company's assets;

45 F. The value of the consideration received by the towtruck company was reasonably
46 equivalent to the value of the asset transferred or the amount of the obligation incurred;

47 G. The towtruck company was insolvent or became insolvent shortly after the transfer was
48 made or the obligation was incurred;

49 H. The transfer occurred shortly before or shortly after substantial permit fees or civil
50 penalties were incurred; and

51 I. The towtruck company transferred the essential assets of the business to a lienor who
52 transferred the assets to an insider of the towtruck company.

53 J. It shall be a violation of this Ordinance for a towtruck company to fraudulently transfer a
54 towtruck company.
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56 **Section 21. Deceptive and Unfair Trade Practices.**

57 No person shall engage in any unfair method of competition, unconscionable acts or practices or
58 unfair or deceptive acts or practices in the conduct of towing services. A towtruck company
59 engages in an unfair method of competition or unfair or unconscionable acts or deceptive
60 practices when in the course of his or her business, vocation or occupation, he or she knows or in

1 the exercise of care should know, that he or she in the past engaged or is now engaging in any
2 unfair method of competition or unconscionable acts or practices or unfair or deceptive acts or
3 practices in the conduct of any towing services.
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5 **Section 22. Cease and Desist Order.**

- 6 A. If the Division, after due investigation, has reason to believe that a towtruck company has
7 been or is violating any of the provisions of this Ordinance, then the Division may cause
8 to be served by personal service, certified mail or posting in a conspicuous place at the
9 towtruck company's place of business, a demand to cease and desist, stating the charges
10 and shall incorporate and set out the following:
11 1. The name of the complainant;
12 2. The alleged charge and approximate date of the commission of the act;
13 3. The section of the ordinance alleged to be involved.
- 14 B. Any towtruck company which has been issued a cease and desist order by the Division
15 may appeal such order to the Consumer Affairs Hearing Board/Hearing Officer within
16 twenty (20) days of receipt of the order. A nonrefundable filing fee must accompany the
17 written request for appeal. The filing fee shall be established by resolution of the
18 Commission. The appeal shall be reviewed at a hearing of the Consumer Affairs Hearing
19 Board/Hearing Officer within sixty (60) days of receipt by the Division of the request for
20 appeal.
- 21 C. The Board shall keep a full record of the hearing, which record shall be public and open
22 to inspection by any person, and upon request, the Board shall furnish such party a copy
23 of the hearing record, at such cost as the Commission deems appropriate.
- 24 D. Procedure at hearings: At the hearing, the towtruck company may be represented by
25 counsel and may bring all original documents and other data pertinent to the case; and
26 will be given an opportunity to present witnesses and evidence he or she may deem
27 appropriate.
- 28 E. The Consumer Affairs Hearing Board/Hearing Officer shall hear the cases on the agenda.
29 All testimony shall be under oath or by affirmation and shall be recorded. Each case
30 before the Consumer Affairs Hearing Board/Hearing Officer shall be presented by the
31 Division. The Consumer Affairs Hearing Board/Hearing Officer shall take testimony
32 from County staff, if relevant, the alleged violator, and other relevant testimony. Formal
33 rules of evidence shall not apply, but fundamental due process shall be observed and
34 govern the proceedings. Upon determination of the chairperson, irrelevant, immaterial or
35 unduly repetitious evidence may be excluded, but all other evidence of a type commonly
36 relied upon by reasonably prudent persons in the conduct of their affairs shall be
37 admissible, including hearsay evidence, whether or not such evidence would be
38 admissible in a trial in the courts of Florida. Due regard shall be given to the competent,
39 reliable and technical evidence which will aid the Consumer Affairs Hearing
40 Board/Hearing Officer in making a fair determination of the matter, regardless of the
41 existence of any common law or statutory rule which might otherwise make improper the
42 admission of such evidence.
- 43 F. Any member of the Consumer Affairs Hearing Board/Hearing Officer or the attorney
44 representing the Division may inquire of or question any witness before the Consumer
45 Affairs Hearing Board/Hearing Officer. The alleged violator, or his/her attorney, shall be
46 permitted to inquire of any witness before the Consumer Affairs Hearing Board/Hearing
47 Officer. The right to cross examine witnesses shall be preserved.
- 48 G. At the conclusion of the hearing, the Consumer Affairs Hearing Board/Hearing Officer
49 shall orally render its decision (order) based on evidence entered into the record. The
50 decision shall be by motion approved by the affirmative vote of those members present
51 and voting. The Consumer Affairs Hearing Board/Hearing Officer's decision shall be
52 transmitted to the towtruck company in the form of a written order including finding of
53 facts, and conclusion of law consistent with the record. The order shall be transmitted by
54 certified mail/hand delivery/posting to the towtruck company within ten (10) days after
55 the hearing. The order may include a notice that it must be complied with by a specified
56 date.
- 57 H. Any person may appeal a final determination of the Consumer Affairs Hearing
58 Board/Hearing Officer within thirty (30) days of the rendition of the decision by filing a
59 petition for writ of certiorari in the Circuit Court of the Fifteenth Judicial Circuit in and
60 for Palm Beach County, Florida.

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2 **Section 23. Assurance of Voluntary Compliance.**

- 3 A. In the enforcement of this Ordinance, the Division may accept an assurance of voluntary
4 compliance with respect to any method, act, or practice deemed to be violative of law
5 from any person who has engaged, or was about to engage in, such method, act, or
6 practice. Any such assurance shall be a formal written agreement between the Division
7 and the towtruck company, approved as to form and legal sufficiency by the County
8 Attorney's Office, and filed with the Clerk of the Circuit Court of the Fifteenth Judicial
9 Circuit. Such assurances of voluntary compliance may be conditioned on a commitment
10 to reimburse consumers or any other appropriate corrective action such as the payment by
11 the towtruck company of the costs of the investigation by the Division. An assurance of
12 voluntary compliance is not evidence of prior violation of this part, however, unless an
13 assurance of voluntary compliance has been rescinded by agreement of the parties or
14 voided by the Court for good cause, subsequent failure to comply with the terms of an
15 assurance of voluntary compliance shall be deemed prima facie evidence of a violation of
16 this Ordinance. No such assurance of voluntary compliance shall act as a limitation upon
17 any action or remedy available to a person aggrieved by a violation of this Ordinance.
18 B. Every towtruck company desiring to negotiate an assurance of voluntary compliance shall
19 be apprised of his or her right to have his or her case heard by the Consumer Affairs
20 Hearing Board/Hearing Officer in the event he or she does not wish to enter into such
21 assurance of voluntary compliance. **Such procedures shall be in accordance with the**
22 **hearing procedures providing in Section 27 of this Ordinance.**
23

24 **SECTION 24. Enforcement and Penalties: Civil and Criminal.**

- 25 A. It shall be unlawful for any person to violate any of the provisions of this Ordinance. This
26 Ordinance shall be enforced by personnel authorized by the Division, county code
27 enforcement officials, the police agencies of the various municipalities in Palm Beach
28 County and by the Palm Beach County Sheriff's Office. When specifically authorized by
29 the Director, this Ordinance may be enforced by other Palm Beach County personnel.
30 B. Persons who provide services pursuant to this Ordinance shall not use physical force or
31 violence or threats of physical force or violence in dealing with the individuals
32 responsible for administering this Ordinance or individuals who have had or are about to
33 have their vehicles/vessels recovered, towed or removed or stored in connection
34 therewith.
35 C. The County Court shall have jurisdiction over all violations of this Ordinance.
36 D. The Division shall maintain a system by which violators are given citations or written
37 notice of all violations. The County Clerk shall accept designated fines and issue receipts
38 therefore.
39 E. The Division is authorized to enforce the provisions of this Ordinance by administrative
40 fines not to exceed five hundred dollars (\$500.00) for each violation. Any person who
41 has violated any provision of this Ordinance shall be fined an amount as established by
42 the Commission by Resolution. Each day of a continuing violation shall be deemed a
43 separate violation.
44 F. Payment shall be made, either by mail or in person, to the Violations Bureau within the
45 time specified upon the citation. If a person follows these procedures **and makes**
46 **payment**, he shall be deemed to have admitted to the infraction and to have waived
47 his/her right to a hearing on the issue of the commission of the infraction.
48 G. All fines collected as a result of said citations (except those fines collected as a result of
49 citations issued by municipal law enforcement officers, which shall be remitted by the
50 Clerk of the Court directly to the municipality issuing the citation) shall be paid into the
51 County Treasury and deposited into the designated fund for the Division. All mandatory
52 costs as required by statute shall be assessed against every person convicted of a violation
53 of this Ordinance.
54 H. Any person who fails to make payments within the time period specified on the citation
55 shall be deemed to have waived his/her right to pay the civil penalty as set forth in the
56 citation and shall appear before the County Court.
57 I. Any person who elects to appear before the court to contest the citation shall be deemed
58 to waive his/her right to pay the civil penalty. The court, after a hearing, shall make a
59 finding as to whether a violation has occurred and may impose a civil penalty not to

1 exceed five-hundred dollars (\$500.00) plus court costs.

2 J. If a person fails to pay the civil penalty or fails to appear in court to contest the citation,
3 s/he shall be deemed to have waived his/her right to contest the citation and, in such case,
4 a default judgment shall be entered and the judge shall impose a fine. At that time an
5 order to show cause may be issued. If the fine is paid, the case shall be dismissed. If the
6 fine is not paid, judgment may be entered up to the maximum civil penalty of five-
7 hundred dollars (\$500.00) plus court costs.

8 K. Any person who refuses to sign and accept a citation issued pursuant to this Ordinance
9 shall be guilty of a misdemeanor of the second degree, punishable as provided by sections
10 775.082, 775.083 or 775.084, Florida Statutes.

11 L. The Division may require mandatory court appearances for violations resulting in the
12 issuance of a third or subsequent citation to a person. The citation shall clearly inform the
13 person of the mandatory court appearance. The Division shall maintain records to prove
14 the number of citations issued to the person. Persons required to appear in court do not
15 have the option of paying the fine instead of appearing in court.
16

17 **SECTION 25. Administrative Enforcement, Denial, Revocation and**
18 **Suspension of Operating Permits/I.D. Badges.**

19
20 A. The Director is authorized to deny, suspend or revoke operating permits, towtruck decals,
21 **or I.D. Badges** upon written notice. Towtruck companies are subject to denial,
22 suspension or revocation when it appears that:

23 1. The towtruck company and/or driver has failed to comply with or has violated the
24 provisions of this Ordinance;

25 2. The towtruck company has failed to comply with or has violated the provisions of
26 Chapter 323 F.S., s. 713.78 and 715.07, F.S.;

27 3. The operating permit **or I.D. Badge** was obtained by an application in which any
28 material fact was omitted or falsely stated;

29 4. Any towtruck or equipment owned or operated by the towtruck company and
30 issued a decal pursuant to the Ordinance has been operating in violation of this
31 Ordinance or any provision of law.

32 5. In addition, an operating permit issued pursuant to this Ordinance may be
33 suspended or revoked when the Director receives written notification that **the**
34 towtruck company, **the** towtruck operator's officer, director or partner pled nolo
35 contendere, pled guilty or has been convicted of any crime designated as a felony
36 (as referenced in Section 5.C.1. New Applications/Renewals and Issuance of
37 Towing Operating Permit; Fees of this Ordinance); **or** any crime relating to motor
38 vehicles; ~~or any crime involving the sale or possession of controlled substances as~~
39 ~~defined by the Florida Rico Act, section 893.03, Florida Statutes, regardless of~~
40 ~~whether adjudication has been withheld.~~ The only exception to this rule is where
41 **may be when** the civil rights of such individual has been restored.

42 ~~6. Notwithstanding other suspension, revocation or denial procedures included in~~
43 ~~this Ordinance, three (3) or more violations of this Ordinance which resulted in~~
44 ~~civil fines/penalties, judgments or administrative orders entered by the Division~~
45 ~~and/or a conviction or plea of guilty or nolo contendere resulting from three~~
46 ~~separate incidents/complaints within a twelve (12) month period shall result in the~~
47 ~~revocation, suspension or denial of an operating permit for a period of three to~~
48 ~~five business days. The company is required to pay an administrative reactivation~~
49 ~~fee established by resolution of the Commission before any towing services can~~
50 ~~resume in Palm Beach County. Any company found operating during a period of~~
51 ~~suspension, revocation or denial shall have its operating permit revoked for a~~
52 ~~period of one (1) year.~~

53 ~~7. Notwithstanding other suspension, revocation or denial procedures included in~~
54 ~~this Ordinance, four (4) or more violations of this Ordinance which resulted in~~
55 ~~civil fines/penalties, judgments or administrative orders entered by the Division~~
56 ~~and/or a conviction or plea of guilty or nolo contendere resulting from four~~
57 ~~separate incidents/complaints within a twelve (12) month period shall result in the~~
58 ~~revocation, suspension or denial of an operating permit for a period of six to 10~~
59 ~~business days. The company is required to pay an administrative reactivation fee~~

~~established by resolution of the Commission before any towing services can resume in Palm Beach County. Any company found operating during a period of suspension, revocation or denial shall have its operating period revoked for a period of one (1) year.~~

8-6. Failed to comply with the terms of a cease and desist order, notice to correct a violation, written assurance of voluntary compliance, or any other lawful order of the Director, the Division, or the Consumer Affairs Hearing Board and/or Hearing Officer.

9-7. Failed to obtain or maintain insurance as required by this Ordinance.

10-8. Misrepresented or concealed a fact on the application, renewal application, or replacement application for a license.

11-9. Engaged in any conduct as a part of the performance of any contract for service which constitutes a deceptive and unfair trade practice or fraud.

B. **Suspensions**

B-1. Any company which has violated this Ordinance as provided for in this section, may have its operating permit suspended by action of the Division Director for a period not to exceed thirty (30) days. In such cases the Director shall provide written notice to the company at least ten (10) days prior to the effective date of the suspension. Any company which decides to appeal the suspension by the Director, must submit the written request for an appeal and applicable appeal fee to the Consumer Affairs Division within that ten (10) day period. The written appeal will then effect a "stay" on the suspension until the Consumer Affairs Hearing Board/Special Master makes a final determination as to the merits of the suspension. The appeal hearing shall be conducted as provided for in Section 27 (Hearings and Appeals). If the Hearing Board/Special Master affirms the action of the Director, the suspension becomes effective the day following the decision of the Hearing Board/Special Master.

B-2. Any company which has had its operating permit suspended for a specific Ordinance deficiency but fails to correct that deficiency after thirty (30) days shall have such operating permit revoked for a period of one (1) year from the date of the revocation notice. Such revocation may be appealed as provided for in Section 27 **of this Ordinance.**

3. **Notwithstanding other suspension, revocation or denial procedures included in this Ordinance, where the action taken is based solely upon three (3) or more violations of this Ordinance which resulted in civil fines/penalties, judgments or administrative orders entered by the Division and/or a conviction or plea of guilty or nolo contendere resulting from three separate incidents/complaints within a twelve (12) month period shall result in the suspension of an operating permit for a period of three to five business days. The company is required to pay an administrative reactivation fee established by resolution of the Commission before any towing services can resume in Palm Beach County. Any company found operating during a period of suspension, revocation or denial shall have its operating permit revoked for a period of one (1) year.**

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

D. **Revocations: Except as provided in Section 25.B.2. above, any company which has had its operating permit revoked as provided for in Section 25.A.(1-9) above shall have such operating permit revoked for one (1) year from the date of the revocation**

1 **notice. Such revocations may be appealed as provided for in Section 27 of this**
2 **Ordinance.**

3
4 **Section 26. Additional Penalties.**

5 Failure to comply with the requirements of this Ordinance shall also constitute a violation of this
6 Ordinance, and the Consumer Affairs Ordinance of Palm Beach County (No. 77-10, as
7 amended). Violations of this Ordinance may be punishable, upon conviction, pursuant to Section
8 125.69(1), Florida Statutes, by a fine not to exceed five-hundred dollars (\$500.00) per violation
9 or imprisonment not exceeding sixty (60) days, or both such fine or imprisonment, or may
10 subject the violator to civil fines based on the issuance of a civil citation. Each day of continuing
11 violation shall be considered a separate offense. In addition to the sanctions contained herein, the
12 County shall take any other appropriate legal action, including but not limited to, cease and desist
13 orders, other administrative action and requests for temporary and permanent injunctions to
14 enforce the provisions of this Ordinance. It is the purpose of this Ordinance to provide additional
15 cumulative remedies.

16
17 **SECTION 27. Hearings and Appeals.**

18
19 Upon receipt of the notice of denial, revocation, or suspension of an operating permit, which
20 notice shall specify the grounds for the denial, suspension or revocation, the towtruck company
21 **or Tow Driver I.D. Badge** shall be entitled to an appeal according to the following:

- 22 A. Administrative Appeal: Any towtruck company **or tow driver**, which has had an
23 operating permit/**badge**, denied, revoked, or suspended by the Division, may appeal such
24 decision to the Consumer Affairs Hearing Board/Special Master within twenty (20) days
25 of receipt of the decision. A non-refundable filing fee must accompany the written
26 request for appeal. **The towtruck company or tow driver may be represented by an**
27 **attorney and shall be entitled to present a defense.** The company or its attorney shall
28 file a written notice of appeal signed by the company or its attorney requesting a hearing
29 and setting forth a brief statement of the reasons thereof. The filing fee shall be
30 established by resolution of the Commission. The appeal shall be reviewed at a hearing of
31 the Consumer Affairs Hearing Board/Special Master within sixty (60) days of receipt by
32 the Division of the notice of appeal. ~~The towtruck company may be represented by an~~
33 ~~attorney and shall be entitled to present a defense.~~
- 34 B. Orders: At the conclusion of any hearing set forth in this section, the Consumer Affairs
35 Hearing Board/Special Master shall orally render its decision (order) based on evidence
36 entered into the record. The decision shall be by motion approved by the affirmative vote
37 of those members present and voting. The decision shall be stated in a written order and
38 mailed to the towtruck company not later than ten (10) days after the hearing, and shall be
39 deemed final agency action with regard to the matter appealed.
- 40 C. Court Appeal: Any person may appeal a final determination of the Consumer Affairs
41 Hearing Board/Special Master within thirty (30) days of the rendition of the decision by
42 filing a petition for writ of certiorari in the Circuit Court of the Fifteenth Judicial Circuit
43 in and for Palm Beach County, Florida.
- 44 D. For purposes of appeal, the FDLE Criminal History/Records Reports and the State of
45 Florida Department of Highway Safety and Motor Vehicles traffic/driving record report
46 shall be deemed prima facie evidence and admitted into evidence before the Consumer
47 Affairs Hearing Board/Special Master.
- 48 E. Upon receipt of such notice of appeal, the Division shall set a time and place for such
49 hearing and shall give the violator or attorney and the Consumer Affairs Hearing
50 Board/Special Master reasonable notice thereof. All hearings and appeals shall be
51 scheduled and determined as promptly as practicable and in no event more than sixty (60)
52 days from the date of the notice of the written notice of appeal was filed. Written notice
53 of the time, date, and place of the hearing of the appeal by the Division shall be served
54 upon the appellant no later than twenty (20) days prior to the date of the hearing. Said
55 notice of hearing, shall be by personal service, certified mail or posting in a conspicuous
56 place at the towtruck company's place of business. Failure of the company to respond
57 within the time frames specified herein or failure to appear at a duly noticed hearing shall
58 be deemed a waiver of the right to hearing and an admission of the acts specified in the
59 notice.

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

17 **F.G.** The Consumer Affairs Hearing Board/Special Master shall consider the case record as
18 well as the statement offered by any interested party and shall consider the matter de novo
19 and shall, upon the basis of the record before it, affirm, modify or reverse the decision of
20 the Director.

21 **G. H.** If the Consumer Affairs Hearing Board/Special Master affirms the decision of the
22 Director to deny, suspend or revoke an operating permit/**I.D. Badge**, the suspension or
23 revocation shall be effective from the date of the Consumer Affairs Hearing
24 Board's/Hearing Officer's order. A decision to affirm the action of the Director shall
25 constitute final agency action for purposes of further appeal.

26 **H.I.** Suspension of the Operating **Permit/I.D. Badge**: If, at the conclusion of the hearing, the
27 Consumer Affairs Hearing Board/Special Master decides to suspend the operating
28 permit/**I.D. Badge**, a time certain shall be set as the period of suspension. Prior to the
29 end of such time certain, those violations for which the suspension was imposed shall be
30 corrected; otherwise, the suspended permit(s) will be automatically revoked. An
31 Administrative Reactivation fee shall be collected to reinstate the suspended permit(s).
32 The Administrative Reactivation fee shall be established by resolution of the
33 Commission.

34 **I.J.** Revocation of Permit/I. D Badge: If, at the conclusion of the hearing, the Consumer
35 Affairs Hearing Board/Special Master decides to revoke an operating permit the
36 individual, driver or towtruck company shall remove and/or return the operating permit to
37 the Division. A towtruck company whose operating permit has been revoked shall not be
38 eligible to reapply as a new applicant for a period of six (6) months from the date of
39 revocation.

40 **J.K.** If the Consumer Affairs Hearing Board/Special Master reverses the decision of the
41 Director, it shall direct the Director to issue or restore the towtruck operating permit/**I.D.**
42 **Badge**.

43 **K.L.** In the event a written notice of appeal and accompanying filing fees are not submitted
44 within the times frames outlined in this Ordinance, the decision of the Director shall
45 prevail.

46 **L.M.** Effect of Appeal: The appeal of the decision of the Director to suspend or revoke an
47 operating permit/**I.D. Badge** shall stay the effective date of the suspension or revocation.
48

49 **SECTION 28. Scope of Ordinance.**

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

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

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

1 **SECTION 29. Repeal of Laws in Conflict.**

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

4
5 **SECTION 30. Savings Clause.**

6 Notwithstanding Section 30, Repeal of Laws in Conflict, all administrative and court orders,
7 fines and pending enforcement issued pursuant to the authority and procedures established by
8 Ordinance 2005-009 shall remain in full force and effect.

9
10 **SECTION 31. Inclusion in the Code of Laws & Ordinances.**

11 The provisions of this Ordinance shall become and be made a part of the Code of Laws and
12 Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered
13 or relettered to accomplish such, and the words "ordinance," "article," "section," "subsection," or
14 "paragraph" may be changed to any other appropriate word to accomplish codification.

15
16 **SECTION 32. Severability.**

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

20
21 **SECTION 33. Effective Date.**

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