

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: May 17, 2011

Consent Regular
 Ordinance Public Hearing

Department: Public Safety

Submitted By: Public Safety Department

Submitted For: Consumer Affairs Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt amendments to an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Chapter 19, Article VII of the Palm Beach County Code (Ordinance No. 2010-001); known as the Palm Beach County Towtruck Ordinance; providing for a title; providing for definitions; providing for towtruck class specifications; providing for required operating permit; providing for new applications/renewals and issuance of towing operating permit and fees; providing for inspection of storage yards and public offices; providing for insurance requirements, providing for towtruck registration, standards and decals; providing for inspection procedures and requirements; providing for non-consent manifest, towing invoice or tow sheet; providing for advertisements; providing for records requirements; providing for an operating permit required to do business with the county; providing for non-consent towing with prior express instruction of real property owner or authorized agent and/or law enforcement agency; providing for notice requirements for non-consent tow services at request of real property owners; providing for non-consent towtruck company requirements; providing for consent-only towtruck company requirements; providing for maximum non-consent towing and storages rates for non-consent tow services; providing for towtruck driver requirements and failure to comply; providing for fraudulent transfer of towtruck companies; providing for deceptive and unfair trade practices, providing for cease and desist orders, providing for assurances of voluntary compliance; providing for enforcement and civil/criminal penalties; providing for administrative enforcement, denial, revocation and suspension of operating permits; providing for additional penalties; providing for hearings and appeals; providing for scope; providing for repeal of laws in conflict; providing for a savings clause; providing for inclusion in the code of laws and ordinances; providing for severability; and providing for an effective date.

Summary: In January 2010 the Board of County Commissioners approved a complete rewrite of the Palm Beach County Towtruck Ordinance. After feedback from the towing industry and review by the County Attorney's Office, staff is recommending necessary changes to the Ordinance. The essential changes are: 1) more clearly defines when towing companies located outside of Palm Beach County must secure an operating permit; 2) alters the Towtruck driver I.D. Badge requirements to better comply with state statute 112.011; 3) clarifies that a towtruck company/driver may not act as an agent of a real property owner; and 4) makes it illegal for a towtruck company/driver to be in possession of pre-signed or undated manifests, invoices or authorization forms. There are several other corrections and clarifications. The proposed changes were reviewed and approved unanimously by the Palm Beach County Towing Advisory Committee. Enforcement of this ordinance is funded entirely through license fees. At its April 5, 2011 Meeting, the Board approved the preliminary reading of this Ordinance. **COUNTY-WIDE (GB).**

Background and Policy Issues: See page 3.

Attachments:

Proposed Ordinance

=====
Recommended by: Vincent J. Bonvento 4/19/11
Department Director Date

Approved By: Vincent J. Bonvento 4/19/11
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u> * </u>	_____	_____	_____	_____
# ADDITIONAL FTE	_____	_____	_____	_____	_____
POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included In Current Budget? Yes _____ No _____					
Budget Account No.: Fund _____ Agency _____ Org. _____ Object _____ Reporting Category _____					

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

* There is no fiscal impact associated with this item.

C. Departmental Fiscal Review: *Stephanie Sepioha*

III. REVIEW COMMENTS

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

OFMB *[Signature]* 4/26/2011 *Sharon P. Jacobowitz* / E. Jones 4/28/11
Contract Dev. and Control

B. Legal Sufficiency:

[Signature] 5/3/11
Assistant County Attorney

4/20/11 *4/20/11* *4/20/11*

This item complies with current County policies.

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-_____
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TOWTRUCK ORDINANCE NO. 2011-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE CHAPTER 19, ARTICLE VIII (ORDINANCE NO. 2010-001), PROVIDING FOR A TITLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR TOW TRUCK CLASS SPECIFICATIONS; PROVIDING FOR OPERATING PERMIT REQUIRED; PROVIDING FOR NEW APPLICATIONS/ RENEWALS AND ISSUANCE OF AN OPERATING PERMIT AND FEES; PROVIDING FOR INSPECTION OF STORAGE YARDS AND PUBLIC OFFICES; PROVIDING FOR INSURANCE REQUIREMENTS, PROVIDING FOR TOWTRUCK REGISTRATION, STANDARDS AND DECALS; PROVIDING FOR INSPECTION PROCEDURES AND REQUIREMENTS; PROVIDING FOR NONCONSENT MANIFEST, TOWING INVOICE OR TOW SHEET; PROVIDING FOR ADVERTISEMENTS; PROVIDING FOR RECORDS REQUIREMENTS; PROVIDING FOR AN OPERATING PERMIT REQUIRED TO DO BUSINESS WITH THE COUNTY; PROVIDING FOR NON-CONSENT TOWING WITH PRIOR EXPRESS INSTRUCTION OF REAL PROPERTY OWNER OR AUTHORIZED AGENT AND/OR LAW ENFORCEMENT AGENCY; PROVIDING FOR NOTICE REQUIREMENTS FOR PROVIDING NON-CONSENT TOW SERVICES AT REQUEST OF REAL PROPERTY OWNERS; PROVIDING FOR NONCONSENT TOWTRUCK COMPANY REQUIREMENTS; PROVIDING FOR CONSENT-ONLY TOWTRUCK COMPANY REQUIREMENTS; PROVIDING FOR MAXIMUM NONCONSENT TOWING AND STORAGES RATES FOR NON-CONSENT TOW SERVICES; PROVIDING FOR TOWTRUCK DRIVER REQUIREMENTS AND FAILURE TO COMPLY; PROVIDING FOR FRAUDULENT TRANSFER OF TOWTRUCK COMPANIES; PROVIDING FOR DECEPTIVE AND UNFAIR TRADE PRACTICES, PROVIDING FOR CEASE AND DESIST ORDERS, PROVIDING FOR ASSURANCES OF VOLUNTARY COMPLIANCE; PROVIDING FOR ENFORCEMENT AND CIVIL/CRIMINAL PENALTIES; PROVIDING FOR ADMINISTRATIVE ENFORCEMENT, DENIAL, REVOCATION AND SUSPENSION OF OPERATING PERMITS/I.D. BADGES; PROVIDING FOR ADDITIONAL PENALTIES; PROVIDING FOR HEARINGS AND APPEALS; PROVIDING FOR SCOPE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

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

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

6 WHEREAS, the Code is being amended to clarify the licensing and enforcement
7 procedures for towing companies and towtruck drivers; and
8

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

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

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

23 WHEREAS, the Board of County Commissioners of Palm Beach County hereby
24 amends Palm Beach County Code Chapter 19, Article VIII, (Ordinance No. 2010-001).
25

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

29 **SECTION 1. Title.**
30

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

34 **SECTION 2. Definitions.**
35

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

- 37 1. **Administrative/Lien Fee** shall mean the fee that is charged for title and lien search,
38 advertising costs, and notification of lien holder and owner of the whereabouts and
39 charges against a vehicle or vessel.
- 40 2. **Advertisement** shall mean any written statement made in connection with the
41 solicitation of a towtruck company and includes without limitation, statements and
42 representations made in a newspaper, telephone directory or other publication, radio,
43 television, electronic medium or contained in any notice, handbill, business card, sign,
44 catalog, billboard, brochure, poster or letter.
- 45 3. **Applicant** shall mean any person who applies for an operating permit or with Palm
46 Beach County. In the case of partnerships, associations, corporations and other legal
47 entities, "applicant" shall also mean any member of a partnership and the corporate
48 officers and directors.
- 49 4. **Authorized Driver/Agent** shall mean any person who is empowered to act on behalf of
50 the vehicle/vessel owner or lien holder.
- 51 5. **Commission** shall mean the Board of County Commissioners of Palm Beach County,
52 Florida.
- 53 6. **Compensation** shall mean the exchange of goods or services for money, property,
54 service or anything else of value.
- 55 7. **Consent Tow** shall mean the recovery, towing and storage of a vehicle or vessel with the
56 authorization/consent of the vehicle/vessel owner or authorized driver.
- 57 8. **Consent Tow Company** shall mean a person(s) who tows a motor vehicle/vessel with
58 the authorization/consent of the vehicle/vessel owner or authorized driver/agent.
- 59 9. **Consent-Only Towing Operating Permit** shall mean the authority required by the
60 provisions of this Ordinance of any individual or towing company engaging in the
61 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
22 through no fault of the towtruck operator. All extra time/labor shall be documented by
23 the towtruck driver and shall include the name of the law enforcement agency and the
24 law 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 thicknesses) 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 retro reflection is maintained and visible.
- 43 20. **Mechanical Connection** shall mean any type of physical connection between a vehicle
44 or 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
53 or 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.
- 61 27. **Police Directed Tow** shall mean the removal and storage of a wrecked or disabled

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

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- or a car carrier.
40. **Towing Operating Permit** shall mean the authority required by the provisions of this Ordinance of any individual or towing company engaging in the business of both non-consent and consent towing of vehicles/vessels.
41. **Towtruck** shall mean any vehicle used to tow, haul, carry or to attempt to tow, haul or carry a vehicle or vessel.
42. **Towtruck Company** shall mean any person, company, corporation, or other entity, which engages in, owns or operates a business which provides towing, recovery, removal and storage of vehicles or vessels for compensation.
43. **Towtruck Decal** shall mean a decal placed upon any towtruck granted approval to provide non-consent towing services by the Division.
44. **Towtruck Driver** shall mean the individual who is driving or physically operating a towtruck for a towtruck company engaged in non-consent tows.
45. **Unfair or deceptive trade acts or practices** shall mean unfair methods of competition, unconscionable acts or practices and unfair deceptive acts or practices in the conduct of any consumer transaction and shall include but are not limited to the following:
- a. Representations that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have;
 - b. Representations that a person or towtruck company has a sponsorship, approval, status, affiliation or connection which he or she does not have;
 - c. Representations that goods are original or new if in fact they are not, or if they are deteriorated, altered, reconditioned, reclaimed, or second-hand;
 - d. Representations that goods are of a particular standard, brand, quality, style, or model, if they are of another;
 - e. Representations that goods or services are those of another, if they are not;
 - f. Using deceptive representations or designations of geographic origin in connection with goods or services;
 - g. Advertising goods or services intending not to sell them as advertised;
 - h. Advertising goods or services with intent not to supply reasonable expectable public demand, unless the advertisement discloses a limitation of quantity;
 - i. Making false or misleading statements concerning the need for, or necessity of, any goods, services, replacements, or repairs;
 - j. Disparaging the goods, services, or business of another by false or misleading representations of fact;
 - k. Making false or misleading statements of fact concerning the reasons for the existence of, or amounts of price reductions;
 - l. Failing to return or refund deposits or advance payments for goods not delivered or services not rendered, when no default or further obligation of persons making such deposits or advance payments exists;
 - m. Taking consideration for goods or services intending not to deliver such goods or perform such services, or intending to deliver goods or provide service materially different from those contracted for, ordered or sold;
 - n. Offering gifts, prizes, free items, or other gratuities, intending not to provide them as offered in connection with a sale of goods or services to a consumer;
 - o. Making false or misleading statements concerning the existence, terms, or probability of any rebate, additional goods or services, commission, or discount offered as an inducement for the sale of goods or services;
 - p. Using physical force, threat of physical force, or coercion in dealing with consumers;
 - q. Any violation of the Florida Deceptive and Unfair Trade Practices Act, Section 501.201 et seq., Florida Statutes.
46. **Vehicle** shall mean an automobile, truck, bus, trailer, motorcycle, moped, motorized scooters, recreational unit primarily designed as temporary living quarters which either has its own motive power or is drawn by another vehicle, or any other mobile item using wheels and being operated on the roads of Palm Beach County, which is used to transport persons or property and is propelled by power other than muscular power; provided, however, that the term does not include bicycles, traction engines, road rollers, commercial heavy equipment or vehicles which run only upon a track.
47. **Vessel** shall mean every description of watercraft, barge and air boat used or capable of being used as a means of transportation on water, other than a seaplane or a "documented vessel" as defined in s.327.02, Florida Statutes.

1 48. Vehicle or Vessel Owner shall mean a person with the "Proof of Ownership" described
2 in this Ordinance.
3

4 **SECTION 3. Towtruck Class Specifications.**
5

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

8 A. Class A Ratings

9 Towtruck

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

19
20 Car Carrier

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

29
30 Light Duty – Non-Police Towing

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

35
36 B. Class B Ratings (Medium Duty)

37
38 Towtruck

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

49
50 Car Carrier

- 51 1. Minimum gross weight 22,500 lbs.
52 2. Minimum deck capacity..... 10,000 lbs.
53 3. Minimum wheel lift capacity for 2nd vehicle 4,000 lbs.
54 4. Minimum length..... 19'
55 5. Minimum winching capacity 8,000 lbs.
56 6. Minimum cable size and length 3/8"X50'
57 7. Minimum tie down chains (4 each)5/16" grade 80
58 8. Tie down straps (optional) (4 each) 2,000 lbs. Each wheel
59 9. Minimum cab to axle dimension.....120"
60 10. Required State DOT Registration
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- 1
2 C. Class C Towtruck - Ratings (Heavy Duty)
3 1. Minimum gross weight 33,000 lbs.
4 Air brakes, all tires H rated, capacity must
5 equal axle rating. Device required to control
6 disabled vehicle's brakes.
7 2. Minimum boom capacity 50,000 lbs.
8 3. Minimum winching capacity 50,000 lbs.
9 4. Minimum cable size and length 5/8"X150'
10 5. Minimum wheel lift retracted rating 40,000 lbs.
11 6. Minimum wheel lift extended rating 12,000 lbs.
12 7. Minimum tow Bar 10,000 lbs.
13 8. Minimum safety chains (2 each) 1/2" grade 80
14 9. Minimum cab to axle dimension 156"
15 10. Required State DOT Registration

- 16
17 D. Class D. Towtruck - Ratings (Ultra Heavy Duty)
18 1. Minimum gross weight 58,000 lbs.
19 Air brakes, all tires H rated, capacity must
20 equal axle rating. Device required to control
21 disabled vehicle's brakes. Tandem axles required.
22 2. Minimum boom capacity 100,000 lbs.
23 3. Minimum winching capacity 100,000 lbs.
24 4. Minimum cable size and length 3/4"X250'
25 5. Minimum wheel lift retracted rating 40,000 lbs.
26 6. Minimum wheel lift extended rating 15,000
27 7. Minimum heavy-duty towbar rating 10,000 lbs.
28 8. Minimum safety chains (2 each) 1/2" grade 80
29 9. Minimum cab to axle dimension 18'
30 10. Required State DOT Registration
31

32 **SECTION 4. Operating Permit Required.**

- 33
34 A. Towing: It shall be unlawful for any person to recover, tow, remove or store a
35 vehicle/vessel for compensation in Palm Beach County or to cause or permit any other
36 person for compensation to recover, tow, remove or store a vehicle/vessel in Palm Beach
37 County without first obtaining and maintaining a current and valid operating permit
38 pursuant to the provisions of this Ordinance. It shall also be unlawful to advertise said
39 services without first obtaining and maintaining a current and valid operating permit
40 pursuant to the provisions of this Ordinance. A person conducting non-consent tows in
41 Palm Beach County but having his/her primary place of business outside of Palm Beach
42 County shall be required to obtain an Operating Permit and shall be subject to all the
43 provisions of this Ordinance.
44 B. Towing companies whose principal place of business is located outside Palm Beach
45 County that provide consent-only towing services in Palm Beach County shall be exempt
46 from the licensing/permitting provisions of this Ordinance, except that such towing
47 companies are required to be licensed if the company picks-up and drops-off a vehicle or
48 vessel solely within Palm Beach County as one complete service.
49 C. The provisions of this Ordinance shall not apply to governmental agencies, vehicle rental
50 companies which tow their own vehicles, to businesses utilizing trucks capable of
51 transporting five (5) or more vehicles at one time, or to persons who use towing vehicles
52 to transport their vehicles solely for personal, family, household or recreational use.
53
54

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

- 57
58 A. The Division shall issue either a Towing Operating Permit or a Consent-Only Towing
59 Operating Permit to towtruck companies which have met the standards and requirements
60 for an operating permit as provided for in this Ordinance.
61 B. Every application/renewal for an operating permit shall be in writing, signed and verified

1 by the applicant, and filed with the Division. The application/renewal shall be on a form
2 prescribed by the Division and shall contain information, including but not limited to:

- 3 1. Sufficient information to identify the applicant, including but not limited to, full
4 legal name, date of birth, telephone numbers, the place of business and residence
5 addresses, a copy of the applicant's Palm Beach County Business Tax Receipt and
6 Florida driver's license number. If the applicant is a corporation, the foregoing
7 information shall be provided for each corporate officer, director, registered agent
8 and shareholder. If the applicant is a partnership, the foregoing information shall
9 be provided for each general and limited partner. Post office box addresses shall
10 not be accepted.
- 11 2. Documentation demonstrating that all corporate or partnership applicants are
12 qualified under the laws of Florida to do business under the trade name or names
13 under which it has applied for an operating permit.
- 14 3. A list of all persons with any ownership interest in the company who have
15 previously been denied an operating permit from this or any other jurisdiction.
- 16 4. Verification of the business' current corporate status and Fictitious Name
17 Registration (if applicable) with the State of Florida.
- 18 5. Any trade name under which the business operates, intends to operate, or has
19 previously operated.
- 20 6. The location and physical addresses of all places of business including storage
21 facilities.
- 22 7. A description of services proposed to be provided, including, but not limited to,
23 days and hours of operation and types of towing and storage services to be
24 provided.
- 25 8. Proof of insurance as required in Section 7 (Insurance Requirements) of this
26 Ordinance. As proof of insurance, a certificate of insurance must be submitted on
27 the company's behalf directly to the Division by the insurance company or agent.
- 28 9. A signature of each individual applicant, president or vice-president of a
29 corporation and of all the general and limited partners of a partnership having 25
30 percent or greater ownership in the company.
- 31 10. The submission of a statement assuring that each towtruck is commercially
32 manufactured, meets the specifications listed herein, is in safe operating condition
33 and receives routine service/maintenance.
- 34 11. An agreement on the part of the applicant to abide by the provisions of this
35 Ordinance and the laws of the State of Florida.
- 36 12. Such additional information required by the Division to process the
37 application/renewal.

38
39 C. The Division shall review and investigate each application/renewal of an operating
40 permit and shall deny any application/renewal that is incomplete or untrue in whole or in
41 part, or which fails in any way to meet the requirements of this Ordinance including but
42 not limited to the following:

- 43
44 1. The applicant has been convicted of, found guilty of, or pled guilty or nolo
45 contendere to, regardless of the adjudication of guilt, within the last ten (10) years
46 involving: repossession of a motor vehicle under Chapter 493, F.S., repair of a
47 motor vehicle under ss. 559.901-559.9221, F.S., theft of a motor vehicle under s.
48 812.014, F.S., carjacking under s. 812.133, F.S., operation of a chop shop under s.
49 812.16, F.S., failure to maintain records of motor vehicle parts and accessories
50 under s. 860.14, F.S., airbag theft or use of fake airbags under s. 860.145 or s.
51 860.146, overcharging for repairs and parts under 860.15, F.S., or violation of the
52 towing or storage requirements for a motor vehicle under s. 321.051, F.S.,
53 Chapter 323, F.S., s. 713.78, F.S., s. 715.07, F.S., or any felony where use of a
54 vehicle was involved in theft of property. In the case of a corporate or partnership
55 applicant, all corporate officers and directors, or partners shall provide all such
56 information, as the case may be.
- 57 2. Any unsatisfied civil fines or penalties arising out of an administrative or
58 enforcement action brought by the Division (including any Cease and Desist
59 Orders and/or Assurances of Voluntary Compliance issued by the Division) or
60 another governmental agency based upon conduct involving a violation of this
61 Ordinance or other towing regulations.

- 1 3. Any criminal, administrative, or enforcement proceeding in any jurisdiction based
2 upon conduct involving a violation of this Ordinance or other towing regulations.
3 This paragraph shall apply to consent-only towing companies when such
4 proceedings from other jurisdictions relate to public safety.
5 4. Any unsatisfied judgments entered in an action brought by the Division under this
6 Ordinance.
7 5. Has had its operating permit previously revoked by action of the Division or any
8 other jurisdiction within two (2) years of the date of application. This paragraph
9 shall apply to consent-only towing companies when such proceedings relate to
10 public safety.
11
12 D. All towtruck companies which desire to operate in Palm Beach County must secure an
13 operating permit and follow the permitting procedures described in this section prior to
14 conducting business. If there are six months or less remaining before the annual renewal
15 period, the non-refundable fee for the operating permit shall be fifty (50) percent of the
16 approved fee, otherwise all other fees are applicable.
17
18 E. Each operating permit and towtruck decal issued pursuant to this section shall be valid
19 and effective for one (1) year, terminating on December 31 of each year. Failure to
20 submit an operating permit application and the required non-refundable fee for renewal
21 by September 30 of each year will result in the assessment of a non-refundable late fee.
22 All fees shall be established by a resolution of the Commission.
23
24 F. Towtruck companies failing to submit a complete and true application within thirty (30)
25 calendar days after the Division's receipt of the application shall be denied an operating
26 permit. Within ten (10) business days of receipt of the Division's notice of denial, such
27 towtruck companies may refile a complete and true application and pay a non-refundable
28 application re-filing fee established by a resolution of the Commission. Failure to refile
29 an application within this ten (10) day period will result in the towtruck company being
30 required to submit a new application and repaying the non-refundable application permit
31 fee and applicable towtruck decal fees. The failure to re-file and pay the required fees
32 will result in the denial of the operating permit application for that licensing period.
33
34 G. After initial application and upon renewal, the applicant shall submit to a background
35 investigation every other year.
36
37 H. Each operating permit shall be printed on a certificate containing, at a minimum, the
38 name and address of the company, the name of the principal, the dates the operating
39 permit is in effect, and the identifying number assigned by the Division to the company.
40 The operating permit certificate issued by the Division shall remain the property of Palm
41 Beach County and shall be used only under the authority of the Division.
42
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
53 J. An operating permit issued or renewed pursuant to the provisions of this section shall not
54 be transferable, nor shall the ownership structure of the operating permit be so modified
55 as to constitute a change in the control or ownership of the operating permit. If the
56 business changes its name or ownership structure, a new business permit application and
57 the business application permit fee shall be submitted to the Division within forty-five
58 (45) days of said change. In cases where the name of the business changes, the new
59 business will be required to have each vehicle inspected and must also pay decal/vehicle
60 fees.
61

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

5
6 L. All fees collected shall be deposited in a separate County fund for the Division's
7 operation.
8

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

10
11 A. Prior to the issuance of an operating permit, the Division shall inspect each storage
12 facility and public office area to assure compliance with this Ordinance and the
13 following:

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

- 15 1. Adequate chain-link or solid-wall fencing that has a minimum height of six (6)
16 feet with lockable and secure gates surrounding the storage facility.
17 (713.78(7) (b)1), F.S.
- 18 2. At least ten (10) feet by twenty (20) feet of outdoor storage space for each
19 standard vehicle/vessel (more for larger vehicles). The facility must be able to
20 accommodate a minimum of ten (10) standard size vehicles. For towing
21 companies unable to provide outdoor storage, an indoor facility must be provided
22 with the same space for a minimum of ten (10) standard size vehicles and must
23 use one or more of the security methods defined herein. Towing companies
24 which provide only indoor storage shall not exceed the maximum allowable
25 outdoor storage rates established by the Commission.
- 26 3. At least ten (10) feet by twenty (20) feet of indoor storage space for each standard
27 vehicle/vessel. The indoor storage space must adequately protect the vehicle
28 from natural (i.e., rain, hail, etc.) and man-made (i.e., paint, chemicals, etc.)
29 elements, be isolated to prevent contact with unapproved personnel/public and be
30 placed in such a manner to prevent damage by any other means. Indoor storage
31 space shall be adequately vented to the outside to prevent accumulation of toxic
32 fumes or gases that may pose a threat to human health. The indoor facility must
33 be able to accommodate a minimum of at least two standard size vehicles.
- 34 4. Illuminate the storage facility with lighting of sufficient intensity to reveal
35 persons and vehicles/vessels at a distance of 150 feet during nighttime.
36 (713.78(7)(b)2), F.S.
- 37 5. Each storage facility must use one or more of the following security methods to
38 discourage theft of vehicles/vessels or of any personal property contained in such
39 vehicles/vessels:
 - 40 a) A night dispatcher or watchman remaining on duty at the storage facility
41 from sunset to sunrise;
 - 42 b) A guard dog (as licensed and approved by the Palm Beach County Animal
43 Care & Control Division) which remains at the storage facility from sunset
44 to sunrise;
 - 45 c) Security cameras or other similar electronic surveillance devices which
46 monitor and record activities in the storage facility during the hours the
47 business is closed to the public; or
 - 48 d) A licensed security guard service which examines/patrols the storage
49 facility at least once each hour from sunset to sunrise. (713.78(7)(b)3),
50 F.S.
- 51 6. An appropriate office area protected from the weather and equipped with a wired
52 telephone system and approved sanitary facilities in accordance with the
53 requirements of Chapter 64E-10, FAC.

54 C. By resolution, the Commission may establish a storage yard inspection fee.
55
56
57

58 **SECTION 7. Insurance Requirements.**

59
60 A. It shall be unlawful for any towtruck company to recover, tow, or remove a
61 vehicle/vessel or to provide vehicle/vessel storage services in connection therewith until

1 that company has filed with the Division and maintains in effect, the following types of
2 commercial insurance: auto liability for each vehicle, general/garage liability, on-hook
3 cargo liability and worker's compensation (as required by state law). The Board shall
4 establish the minimum insurance limits by resolution for each insurance type.

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

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

16 Board of County Commissioners of Palm Beach County
17 C/o Division of Consumer Affairs
18 50 South Military Trail
19 West Palm Beach, FL 33415
20

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

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

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

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

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

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

48
49 A. It shall be unlawful to recover, tow or remove a vehicle/vessel or to store it in connection
50 therewith unless the towtruck used to provide such service displays in the lower left
51 corner (driver side) of the front window a current decal issued by the Division. The
52 towtruck decal remains the property of the Division and can be used only under the
53 authority of the Division.

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

- 57 1. Inspection by personnel authorized by the Division to ensure that the towtruck
58 clearly displays the company name on the exterior of the driver and passenger
59 sides in permanently affixed letters in contrasting colors at least three (3) inches
60 high. The physical address of the business, telephone number and operating
61 permit number must be in at least one (1) inch permanently affixed letters in

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contrasting colors on the exterior driver and passenger sides. Magnetic signage of any type is not permitted.

2. Submission of an affidavit to the Division assuring that each towtruck is commercially manufactured and meets the specifications listed in Section 3 (Towtruck Class Specification) of this Ordinance and is in safe operating condition.
3. An application form prepared by the Division and completed by the towtruck company, which correctly indicates the year, make, model, vehicle identification number, and the State of Florida motor vehicle license plate number and the expiration date of the license plate of the towtruck. A copy of the State of Florida Vehicle Registration shall be provided for each vehicle to be registered/permitted with the Division.
4. Payment of a non-refundable decal fee established by resolution of the Commission and deposited and used in the same manner as other fees and charges under this Ordinance.
5. Inspection of the towtruck by personnel authorized by the Division to ensure that the towtruck meets the minimum towtruck signage requirements and safety and equipment standards. The minimum safety requirements for all towtrucks shall be:
 - a. Compliance with Section 3 (Towtruck Class Specification) of this Ordinance;
 - b. Vehicle and towing apparatus in safe operating condition pursuant to Chapter 316, F.S.;
 - c. Tire conditions and tread;
 - d. Braking performance;
 - e. Lights – head, parking, rear, signal and flood;
 - f. Amber emergency lighting;
 - g. Fire extinguisher;
 - h. Safety Equipment – Flares, light reflective safety cones or red triangle highway warning reflectors; and
 - i. Flashlight.Towtrucks used exclusively for Police Directed tows shall be required to also have the following:
 - a. “Oil Dry” or its equivalent; and
 - b. Equipment – crowbar/pryer, jumper cables, bolt cutters, 4-way lug wrench, extra tow chain, five (5) gallon trash receptacle, fire axe, heavy duty push broom and shovel.

- C. It shall be unlawful for any towtruck company to alter or transfer ownership of any decal. If a towtruck is destroyed or sold, the towtruck company must remove said decal and surrender the remains to the Division.
- D. Any additional towtrucks must comply with this Section prior to being used for recovery, towing or removal of any vehicle/vessel. Upon compliance with this Section, additional towtrucks acquired during the licensing year will receive a decal at a prorated fee. The prorated fee shall be fifty (50) percent of the regular decal fee if there are six months or less remaining before the annual renewal period.
- E. Decals shall be issued in numerical order and each decal issued shall display its assigned number. Decals shall be issued annually when the operating permit is renewed.
- F. The decal for each towtruck shall be affixed by personnel authorized by the Division and shall at all times be displayed and available for inspection by any law enforcement officer or by personnel authorized by the Division to perform enforcement duties.
- G. Replacement or duplicate decals may be authorized by the Division upon the completion of an application and notarized statement of the towtruck company stating that such replacement or duplicate decal is necessary and stating the reasons for such request, along with a nominal charge to be approved by resolution of the Commission.
- H. A towing company which has towtrucks inspected by a municipality or law enforcement agency that meet the inspection requirements of this Ordinance, shall be exempt from the inspection requirements herein as long as the inspection took place within ninety (90) days of the required Division inspection. However, all towtrucks operating pursuant to this Ordinance shall be registered with the Division and meet the vehicle safety requirements of this Ordinance.

1 **Section 9. Inspection Procedures and Requirements.**
2

- 3 A. The Division shall conduct storage facility and individual towtruck inspections upon the
4 completion and submittal of all application requirements by each towtruck company.
5 The Division will provide written notification (fax or electronic notification acceptable)
6 to the towtruck company of the need for inspection of storage facilities and all towtrucks.
7 1. Within five (5) business days of notification, the towtruck company shall contact
8 the Division to schedule an appointment for inspection. Said inspection shall be
9 completed within twenty (20) business days after the towtruck company contacts
10 the Division to schedule the inspection. If the towtruck company does not
11 schedule the inspection within five (5) business days of notification, then prior to
12 inspection, an inspection late fee established by resolution of the Commission
13 must be paid to the Division. Failure to schedule the appointment following
14 initial notification by the Division within the five (5) day time period shall result
15 in the denial of the operating permit and a requirement that the operating permit
16 application be resubmitted along with applicable non-refundable operating permit
17 application re-filing fees established by resolution of the Commission.
18 2. If the towtruck company cancels the inspection, a cancellation fee must be paid to
19 the Division prior to inspection. Failure to reschedule the appointment within
20 eleven (11) business days of the initial notification by the Division or to complete
21 said inspection within twenty (20) business days after the appointment has been
22 rescheduled, shall result in the denial of the operating permit and a requirement
23 that prior to inspection, the operating permit application be resubmitted along
24 with applicable non-refundable application re-filing fees established by resolution
25 of the Commission. The applicant shall only be permitted one opportunity to
26 reschedule the required inspections.
- 27 B. If a storage facility inspection reveals deficiencies (fails) and a reinspection is required,
28 then a storage facility reinspection fee must be paid to the Division. The fee is to be
29 established by the Commission by resolution. Within five (5) business days of
30 notification, the towtruck company shall contact the Division to schedule an appointment
31 for reinspection. Said reinspection shall be completed within twenty (20) business days
32 after the towtruck company contacts the Division to schedule the reinspection. Failure to
33 complete said reinspection within twenty (20) business days after the appointment has
34 been scheduled, shall result in the denial of the operating permit and a requirement that
35 the application be resubmitted along with applicable non-refundable application re-filing
36 fees established by resolution of the Commission.
- 37 C. Upon the Division's inspection of the storage facility and towtruck(s), if all towtrucks are
38 not available/present, then the towtruck company shall bring the unavailable truck(s) to
39 the Division's designated inspection site within five (5) business days by appointment. If
40 the towtruck(s) are not inspected within five (5) business days, then a vehicle inspection
41 late fee must be paid to the Division. The fee is to be established by the Commission by
42 resolution.
- 43 D. If towtruck inspection reveals deficiencies (fails) and a reinspection is required, then the
44 failed truck(s) are to be brought to the Division's designated reinspection site within 5
45 business days by appointment. The vehicle reinspection fee shall be applied each time the
46 individual towtruck fails the inspection process. If the towtruck is not reinspected within
47 five (5) business days, then a late vehicle reinspection fee must be paid to the Division.
- 48 E. Towtrucks that are out of service at the time of a scheduled vehicle inspection and are
49 expected to be out-of-service longer than five (5) business days as well as towtrucks that
50 have failed two (2) inspections will be red-tagged by the Division. A red-tag "out of
51 service" decal will be applied to the vehicle by a Division employee and the vehicle may
52 not be used for any business or towing purposes until such time as the vehicle is brought
53 to the Division's designated site, inspected and approved for operation. Only Division
54 employees may remove the red-tag decal.
- 55 F. It shall be unlawful to operate a towtruck which has failed to pass any critical item
56 specified on any towtruck inspection performed by personnel authorized by the Division
57 or has failed to correct other inspection deficiencies within the time period specified by
58 the Division or is operating with safety deficiencies or without the proper insurance
59 coverage. When a towtruck has failed to pass inspection or the owner has failed to
60 correct such inspection deficiencies or the vehicle is operating with safety deficiencies or
61 without the proper insurance coverage, personnel authorized by the Division shall affix to

1 the lower left corner of the towtruck windshield a red tag "out of service" decal/notice. It
2 shall be unlawful for the towtruck company or any other person other than personnel
3 authorized by the Division to remove this notice from the windshield of the towtruck.
4 This notice shall remain the property of the Division and Palm Beach County.

- 5 G. It is a violation of this Ordinance not to have storage facilities and towtrucks inspected
6 according to the above requirements. Failure to pay the required fees is a violation of
7 this Ordinance.
8

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

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

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

53
54 **COMPANIES PERFORMING NON-CONSENT TOWS IN PALM**
55 **BEACH COUNTY ARE REQUIRED TO ACCEPT ALL OF THE**
56 **FOLLOWING FORMS OF PAYMENT:**

- 57 1. **CASH, MONEY ORDER OR VALID TRAVELER'S CHECK;**
58 **AND**
- 59 2. **VALID BANK DEBIT/CREDIT CARD, WHICH SHALL**
60 **INCLUDE, BUT NOT BE LIMITED TO, MASTERCARD OR**
61

- 1 VISA, THAT IS IN THE NAME OF THE VEHICLE/VESSEL
2 OWNER OR AUTHORIZED DRIVER/AGENT; AND
3 3. VALID PERSONAL CHECK SHOWING ON ITS FACE
4 THE NAME AND FLORIDA ADDRESS OF THE
5 VEHICLE/VESSEL OWNER OR AUTHORIZED
6 DRIVER/AGENT.
7

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

13 **SECTION 11. Advertisements.**

14
15 In all advertisements, towtruck companies performing non-consent towing services shall furnish
16 the complete business address, telephone number and Palm Beach County Towing Operating
17 Permit Number of said towtruck company. The Permit Number is not required in telephone
18 directories where the publisher gratuitously provides a "business listing" with only the company
19 name, address and phone number.
20

21 **SECTION 12. Records Required.**

22
23 Each towtruck company shall maintain accurate and complete records including but not limited
24 to, manifests, towing invoices, or tow sheets for services rendered. When photographs are taken
25 of vehicles/vessels, the vehicle/vessel owner and the Division shall have access to such photos
26 for the purpose of inspection and/or copying. Such records and photographs shall be maintained
27 for at least three (3) years for services related to non-consent towing services and for one (1)
28 year for services related to consent-only towing services. The Division shall be granted access
29 to these records for inspection and/or copying, during regular business hours, upon 24-hours
30 prior notice. In the event, the Division is denied the opportunity to inspect and copy such
31 records; the Division shall have the right to remove the records for the purpose of copying and
32 shall return any records removed within three (3) calendar days. All records and information
33 inspected and not copied shall be confidential, except that records may be copied and made
34 public for the purpose of complaint investigations, operating permit suspension and/or
35 revocation proceedings.
36

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

38
39 No person shall submit a bid, nor shall any contract be awarded, on any county contract or
40 agreement to recover, tow, or remove vehicles/vessels or provide storage in connection with
41 such services unless that person has a valid and current operating permit issued pursuant to this
42 Ordinance. Nothing herein shall prevent the County from contracting for more stringent
43 requirements than set forth in this Ordinance.
44

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

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

- 52 A. Police Directed Tow: Non-consent towtruck companies may for compensation recover,
53 tow or remove a vehicle/vessel based upon a police directed tow without the prior
54 express instruction of the vehicle/vessel owner or authorized driver upon the prior
55 express instruction of a law enforcement agency and in accordance with the terms of any
56 contracts or agreements between the towtruck company and a governmental entity and/or
57 law enforcement agency.
58 B. Private/Public Property Impound: Non-consent towtruck companies may for
59 compensation recover, tow or remove a vehicle/vessel on a private/public property
60 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
2 authorized agent on whose property the vehicle/vessel is disabled, abandoned or parked
3 without authorization or whose vehicle/ vessel owner or authorized agent is unwilling or
4 unable to remove the vehicle/vessel, provided that the requirements of this Ordinance are
5 satisfied. The non-consent towtruck company recovering, towing or removing a
6 vehicle/vessel shall, within thirty (30) minutes of completion of such towing or removal,
7 notify the appropriate law enforcement agency in which jurisdiction the vehicle/vessel
8 was parked of the nature of the service rendered, the name and address of the storage
9 facility where the vehicle/vessel will be stored, the time the vehicle was secured to the
10 towing vehicle, and the make, model, color and vehicle/vessel license plate number (if
11 any). The non-consent towtruck company shall obtain the name of the person at the law
12 enforcement agency to whom such information was reported and note that name on the
13 trip record. It shall be a violation of this Ordinance for a Non-Consent towtruck
14 company to act as a duly authorized agent as defined in Section 2 (13) of this Ordinance
15 on behalf of the real property owner. An example of such action shall include but not be
16 limited 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 Ordinance.
29 Such violation shall result in the issuance of a citation and/or suspension or revocation of
30 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
40 as 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
46 incomplete 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
48 the 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
61 or duly authorized agent (as defined herein) of private property that authorizes the non-

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

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

32 H. Real property owners or authorized representatives shall not request the recovery, tow or
33 the removal of vehicles/vessels that are reasonably identifiable from markings or
34 equipment as law enforcement, fire fighting, rescue squad, ambulance, or other
35 emergency vehicles/vessels which are marked as such.

36 I. Any person who improperly causes a vehicle/vessel to be recovered, towed, removed or
37 stored shall be liable to the vehicle owner or authorized representative for the costs of the
38 services provided, any damages resulting from the recovery, towing, removal or storage
39 and attorney's fees and court costs.
40

41 **SECTION 15. Notice Requirements for Providing Non-consent Tow Services**
42 **at Request of Real Property Owners.**
43

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

51 1. Notice shall be prominently posted on the real property from which the
52 vehicle/vessel is proposed to be removed and shall fulfill the following
53 requirements:

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

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vehicle/vessel(s).

- b. The light reflective sign shall clearly display in not less than 2-inch high letters on a contrasting background, the words: "UNAUTHORIZED VEHICLES/VESSELS WILL BE TOWED AWAY AT THE OWNER'S EXPENSE." The words "TOW-AWAY ZONE" must be included on the light reflective sign in not less than 4-inch high letters on a contrasting background;
- c. The light reflective sign shall clearly indicate, in not less than 2-inch high letters on a contrasting background, the days of the week, and hours of the day during which vehicles/vessels will be towed away at the owner's expense; and the name and current telephone number of the towtruck company performing the towing service.

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

3. The posting of notice requirements of this section shall not be required where:
- a. The real property on which a vehicle/vessel is parked is property appurtenant to and obviously part of a single-family type residence; or
 - b. Written notice is personally given to the vehicle/vessel owner or authorized driver/agent that the real property on which the vehicle/vessel is or will be parked is reserved or otherwise not available for unauthorized vehicles/vessels and is subject to being removed at the vehicle/vessel owner's expense.

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

C. If the vehicle/vessel owner or authorized driver/agent arrives at the scene prior to the vehicle/vessel being removed or towed from the property, the vehicle/vessel shall be disconnected from the towtruck and the vehicle/vessel owner or authorized driver/agent shall be allowed to remove the vehicle/vessel without interference upon the payment of a reasonable service fee of not more than one-half of the posted rate for such towing service (drop charge), for which a receipt shall be given, unless that person refuses to remove the vehicle/vessel which is unlawfully parked. The bill/invoice must be presented to the vehicle/vessel owner authorized/driver/agent prior to request for the payment. Non-consent towtruck companies are not authorized to apply a fee in cases where the owner of the vehicle/vessel arrives on the scene prior to a complete mechanical hook-up (road-worthy) between the towtruck and the vehicle/vessel. In the event the owner/driver of the vehicle/vessel is occupying the vehicle/vessel and refuses to vacate same, in addition to the drop charge, the towtruck company/driver is permitted to charge extra time at the scene where law enforcement involvement is necessary and the towtruck driver obtains the name of the law enforcement agency, case number of the law enforcement agency and if possible the name and badge number of the investigating law enforcement officer. The towtruck driver shall also prepare detailed documentation/explanation as to why "extra time at scene" charges were required. All documentation shall be provided to the vehicle/vessel owner or representative upon demand. Such fee shall be approved by resolution of the Commission.

Section 16. Non-consent Towtruck Company Requirements.

- A. Non-consent towtruck companies providing services pursuant to this Ordinance shall not do so when there is a person occupying the vehicle/vessel.
- B. Non-consent towtruck companies providing services pursuant to this Ordinance shall transport the vehicle/vessel directly to the storage facility of the towtruck company

1 providing the service, to such other location as a law enforcement officer authorizing the
2 tow may expressly direct, or to a location expressly directed by the vehicle owner or
3 authorized driver/agent. When the vehicle owner or authorized driver/agent expressly
4 authorizes the vehicle to be towed to a location other than the towtruck company storage
5 facility, the towtruck driver must:

- 6 1. Provide a "not to exceed" estimate in writing of all the rates and fees that will be
7 assessed for the tow or negotiate a consent-only towing agreement; and
- 8 2. Disclose in writing the three methods of payment and come to a mutually agreed
9 time as to how and when the towing company will be compensated.

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

- 1 with the photo identification.
- 2 H. Non-consent towtruck companies which provide services pursuant to this Ordinance shall
- 3 accept payment for charges from the vehicle/vessel owner or authorized driver/agent in
- 4 all the following forms:
- 5 1. Cash, money order or valid traveler's check; and
 - 6 2. Valid bank debit/credit card, which shall include, but not be limited to,
 - 7 MasterCard or VISA, that is in the name of the vehicle/vessel owner or authorized
 - 8 driver/agent; and
 - 9 3. Valid personal check showing on its face the name and Palm Beach County
 - 10 address of the vehicle/vessel owner or authorized driver/agent.
- 11 A towtruck company/driver shall not reject any of the above forms of payment. A
- 12 vehicle/vessel owner or authorized driver/agent shall not be required to furnish
- 13 more than one (1) government issued form of picture identification when payment
- 14 is made by valid bank debit/credit card or personal check, and said presentation
- 15 shall constitute sufficient identity verification.
- 16 I. Non-consent towtruck companies which provide services pursuant to this Ordinance shall
- 17 not store or impound a towed vehicle/vessel at a distance which exceeds a ten (10) mile
- 18 radius of the location from which the vehicle/vessel was recovered, towed or removed
- 19 unless no towing company providing services under this section is located within a ten
- 20 (10) mile radius, in which case a towed or removed vehicle/vessel must be stored at a site
- 21 within twenty (20) miles of the point of removal.
- 22 J. Non-consent towtruck companies which provide services pursuant to this Ordinance shall
- 23 maintain one or more storage facilities, each of which shall maintain a current Palm
- 24 Beach County Business Tax Receipt and when applicable a municipal Business Tax
- 25 Receipt. The business shall be open for the purpose of redemption of vehicles/vessels by
- 26 owners or authorized drivers/agents on any day that the towtruck company is open for
- 27 towing purposes from at least 8:00 A.M. to 6:00 P.M., Monday through Friday and, when
- 28 closed, shall have posted prominently on the exterior of the storage facility and place of
- 29 business, if different, a notice indicating a telephone number where the towtruck
- 30 company can be reached at all times. Upon request of the vehicle/vessel owner or
- 31 authorized driver/agent, the towtruck company shall release the vehicle/vessel to the
- 32 vehicle/vessel owner or authorized driver/agent within one (1) hour.
- 33 K. Non-consent towtruck companies shall not, as a condition of release of the vehicle/vessel,
- 34 require a vehicle/vessel owner or authorized driver/agent to sign any release or waiver of
- 35 any kind which would release the towtruck company from liability for damages noted by
- 36 the vehicle/vessel owner or authorized driver/agent at the time of the vehicle's/vessel's
- 37 release. A detailed, signed receipt showing the legal name of the towtruck company
- 38 removing the vehicle/vessel shall be given to the vehicle/vessel owner or authorized
- 39 driver/agent at the time of payment, whether requested or not.
- 40 L. Nothing in this Ordinance shall prevent the Sheriff or any municipality within the county
- 41 from providing additional or more restrictive requirements in contracts or arrangements
- 42 which authorize the recovery, towing or removal of vehicles/vessels or storage provided
- 43 in connection therewith.
- 44 M. Non-consent towtruck companies which provide services pursuant to this Ordinance shall
- 45 release vehicles/vessels towed or removed to the vehicle/vessel owner or authorized
- 46 driver/agent provides Proof of Ownership documents. Proof of Ownership documents
- 47 shall include:
- 48 1. Current vehicle registration;
 - 49 2. Vehicle Title;
 - 50 3. An authorized driver/agent with a notarized release from the vehicle/vessel owner
 - 51 or lien holder. Vehicle/Vessel owners have the right to identify/approve
 - 52 designated agents to claim vehicles on their behalf. A facsimile or electronic
 - 53 transfer of a notarized release statement from the vehicle/vessel owner shall be
 - 54 accepted;
 - 55 4. Insurance Card with the vehicle/vessel owner's information and vehicle
 - 56 description;
 - 57 5. Licensed Dealer in possession of an auction buyer's sales invoice; and/or
 - 58 6. A notarized bill of sale for non-titled vehicles or vessels.
- 59 N. Non-consent towtruck companies which provide services pursuant to this Ordinance shall
- 60 make a "good faith effort" to locate the vehicle/vessel owner or lien holder. For the
- 61 purposes of this paragraph and subsection, a "good faith effort" means that the required

- 1 steps have been performed by the towtruck company according to Sections (4) (c) and (d)
 2 of the Florida Statutes 713.78. Failure to make a "good faith effort" to comply with the
 3 notification requirements of this section shall preclude the imposition of any storage
 4 charges against such vehicle or vessel.
- 5 O. Non-consent towtruck companies which provide services pursuant to this Ordinance and
 6 found to be in violation of this Ordinance relating to a specific non-consent tow shall be
 7 required to reimburse the vehicle/vessel owner all illegal or over charges related to that
 8 towing incident. Failure to reimburse the owner of the vehicle/vessel in such cases is a
 9 violation of this Ordinance.
- 10 P. Any non-consent towing company that has an unusable storage yard or has been evicted
 11 from its storage yard is subject to having its operating permit suspended.
- 12 Q. Any towtruck driver in the process of transporting a junked vehicle (as defined in s.
 13 319.30, F.S.) to a licensed salvage motor vehicle dealer and who is employed by,
 14 working for or operates a nonconsent towing company, must have physical possession of
 15 a derelict motor vehicle certificate, transferred title or certificate of destruction for such
 16 vehicle.
- 17 R. It shall be a violation of this Ordinance for any non-consent towing company to fail to
 18 respond in writing within ten (10) business days to any written inquiry or request for
 19 information from the Division or any law enforcement agency.
 20

21 **Section 17. Consent-Only Towtruck Company Requirements.**

- 22
- 23 A. It shall be a violation of this Ordinance for any towtruck company that has been issued a
 24 Consent-Only Towing Operating Permit to perform non-consent towing services.
- 25 B. Consent-Only towtruck companies providing services pursuant to this Ordinance shall
 26 not do so when there is a person occupying the vehicle/vessel.
- 27 C. Consent-Only towtruck companies providing services pursuant to this Ordinance shall
 28 transport the vehicle/vessel directly to the location specified by the vehicle owner or duly
 29 authorized agent.
- 30 D. It shall be a violation of this Ordinance for any consent-only towing company to fail to
 31 respond in writing within ten (10) business days to any written inquiry concerning public
 32 safety from the Division or any law enforcement agency.
 33

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

- 36
- 37 A. The Commission shall, by Resolution establish maximum rates, as may be amended from
 38 time to time, for nonconsent towing services as follows:
- 39 1. Towing service per call, which shall include the first thirty (30) minutes that the
 40 towtruck is actually on the scene engaged in the safe removal of a vehicle/vessel.
- 41 2. Mileage (per towed mile) according to Section 715.07, Florida Statutes.
- 42 3. Storage may be charged only after the vehicle has been in the storage facility for
 43 at least 6 hours. If the vehicle was not recovered by the vehicle/vessel owner or
 44 authorized driver/agent after the 6-hour time period has elapsed, then storage
 45 charges shall accrue in 24-hour increments from the time the vehicle/vessel
 46 arrived in the storage facility and:
- 47 a. The police agency has authorized the vehicle/vessel to be impounded, or
 48 b. The appropriate police agency has been notified by the towtruck company
 49 that the towtruck company is in possession of a vehicle/vessel as a result
 50 of a private property impound.
- 51 4. Indoor storage rates may only be charged upon the express direction and written
 52 authorization of the owner/authorized driver/agent, lien holder, insurance
 53 company representative or investigating police agency. The only exceptions to
 54 this rule are:
- 55 a. When the condition of the vehicle requires indoor storage due to inclement
 56 weather conditions or the vehicle's window(s) and/or convertible top is
 57 down and cannot be raised and indoor storage is necessary to protect the
 58 vehicle and its contents, or
 59 b. When a municipal or county jurisdiction require indoor storage for towed
 60 vehicles.
- 61 5. An Administrative/Lien Fee shall only be charged after the vehicle/vessel has

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been in the storage facility for at least twenty-four (24) hours and:
a. The police agency has authorized the vehicle/vessel to be impounded, or
b. The 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.
c. The non-consent towtruck company must show proof that lien letter(s) have been prepared with the appropriate names/addresses (i.e., U.S. Mail Certification Number, correspondence copies, etc.) and that actual fees for obtaining required ownership information have been expended. Failure to document and provide all of the above required information will result in administrative/lien fee charges being removed from the total cost of the service/invoice and is a violation of this Ordinance.

- 6. Underwater recovery performed by a certified/professional diver with the written documentation and approval of the investigating law enforcement agency/officer.
- 7. Hazardous material clean-up and disposal as required, mandated and/or licensed through federal, state or local laws and approved by the investigating law enforcement agency/officer.
- 8. After-hour Gate fees may not be applied between the hours of 8 a.m. and 6 p.m. Monday through Friday (excluding federal holidays). For all other times, After-Hour Gate Fees may not be applied until (6) six hours after a vehicle has been impounded in the company's storage facility. Applicable After-Hour Gate Fees may also be applied when an owner or authorized driver/agent wishes to recover property from an impounded vehicles/vessel
- 9. Extra Time at Scene/Labor Charge may be applied when any extra time beyond one-half hour, is needed to safely remove a vehicle or vessel and includes the amount of time spent at a scene when a towtruck has been summoned and is on scene but unable to proceed through no fault of the towtruck operator. All extra time/labor shall be documented by the towtruck driver and shall include the name of the law enforcement agency and the law enforcement agency case number or the officer's name and badge number. The documentation shall also include a detailed explanation of the services rendered which necessitated the charges and if possible photographs of the scene. Extra time shall be charged in 15-minute increments. Failure to document and provide all of the above required information will result in the extra time/labor charges being removed from the total cost of the service/invoice and is a violation of this Ordinance.

B. All rates established shall be uniform throughout Palm Beach County both in the incorporated and unincorporated areas, except where municipalities have established differing maximum rates for their jurisdictions. From time to time, the rates established by the Commission may be revised in accordance with a rate study.

C. Persons who provide services pursuant to this section shall not charge in excess of the maximum allowable rates established by the Commission. No person providing services pursuant to this section shall charge any type of fee other than the rates for which the Commission has specifically established. Towtruck companies which tow vehicles/vessels from Palm Beach County into another county shall abide by the terms of this Ordinance including all rates and charges adopted by the Commission.

D. Towtruck companies which provide services pursuant to this section shall display on the same sign as the rate schedule required by this Ordinance the following statement:

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

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

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2 E. Each towtruck company shall maintain, on a form approved by the Division, a rate sheet
3 specifying all rates and charges, which shall be given by the towtruck driver to the
4 requesting vehicle/vessel owner or his authorized driver/agent prior to commencing the
5 service.
6

7 **Section 19. Towtruck Driver Requirements; Failure to Comply**
8

- 9 A. It shall be unlawful for any person to operate any towtruck within and upon the streets of
10 Palm Beach County without having first obtained a Palm Beach County Towtruck
11 Driver's identification badge (Tow Driver's I.D. Badge). All applicants for a Tow
12 Driver's I.D. Badge shall conform to the following:
13 1. Be at least eighteen (18) years of age;
14 2. Possess a valid State of Florida Driver's License (with photo depicting the driver)
15 as required by the Florida Department of Highway Safety and Motor Vehicles and
16 must show proof that he/she has possessed a valid driver's license from any state
17 within the United States for three (3) years (2 years for drivers younger than 21
18 years old) prior to applying for a Tow Driver's I.D. Badge. If a person has not
19 driven for three (3) years in the United States, he/she must obtain the driving
20 record from any other jurisdictions where he/she did drive or if he/she is unable to
21 obtain the driving record, must sign an affidavit under penalty of perjury that
22 he/she has no driving record which would prevent him/her from driving a
23 towtruck in Palm Beach County, Florida;
24 3. The driver must provide the original form of his/her lifetime State of Florida
25 Department of Highway Safety and Motor Vehicles traffic/driving record report
26 to the Division which was secured no more than thirty (30) days before the
27 application/renewal was submitted, only if the Division is unable to secure this
28 required information. Upon initial application, if a driver has resided in Florida
29 less than five (5) consecutive years, a traffic/driving record/history from each
30 state where he/she previously resided must be provided for at least a five year
31 period;
32 4. Has not had more than three (3) separate incidents involving moving violations in
33 any twelve (12) month period in the previous three (3) years prior to the initial
34 application or renewal of a Tow Driver's I.D. Badge in which the applicant pled
35 guilty, was found guilty or;
36 5. Has not been classified as a habitual traffic offender (as defined by Florida
37 Statutes) or as defined by the state where he/she previously resided within five (5)
38 years of applying for a Tow Driver's I.D. badge and was not previously issued a
39 Tow Driver's I.D. Badge by the Division;
40 6. Upon initial application or renewal, the driver must provide the original request
41 form for his/her Florida Department of Law Enforcement (FDLE) criminal
42 history/records report to the Division, as well as payment for the amount required
43 to secure the criminal history/records report. The Division shall then be
44 responsible for processing the request and payment to the FDLE. The Division
45 may conduct additional criminal history/records reports of other
46 states/jurisdictions as deemed appropriate. The Division may require an applicant
47 to submit to a finger print analysis if there is a question of identity. The
48 Commission may approve a different means of securing the required criminal
49 history/records should an alternative agency/system be discovered that provides
50 more complete information than that provided by the FDLE.
51 7. Have no conviction or plea of guilty or nolo contendere, within the preceding five
52 (5) years from the date of application for any offense related to driving a motor
53 vehicle under the influence or while intoxicated.
54 8. Have no more than one conviction or plea of guilty or nolo contendere, within the
55 preceding ten (10) years from the date of application for any offense related to
56 driving a motor vehicle under the influence or while intoxicated.
57 9. Have no more than two (2) traffic citations resulting from accidents in the three
58 (3) years preceding the date of the current permit year wherein the driver has been
59 found guilty.
60 10. Have no more than two (2) convictions of first degree misdemeanor traffic crimes
61 including but not limited to the following: reckless driving, careless driving and

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- 1 racing in the three (3) years preceding the date of the current permit year wherein
2 the driver has been found guilty.
- 3 11. Not found by the Division to have a lack of reputability as provided herein. For
4 the purposes of this Ordinance, lack of reputability shall mean that the Division
5 cannot trust the applicant to safeguard the welfare and property of the public.
6 Lack of reputability shall include, but not be limited to, the following:
- 7 a. Conviction of any felony not considered a Level 1 felony, as provided in
8 Rule 9, Florida Governor Rules of Executive Clemency, as the rules may
9 be amended from time to time, and wherein the applicant's civil rights
10 have not been restored.
 - 11 b. Conviction of any Schedule 1 Level felony as provided in Rule 9,
12 Florida Rules of Executive Clemency as the rules may be amended from
13 time to time that occurred less than five (5) years from the date of
14 conviction or release from incarceration (whichever is later) wherein the
15 applicant's civil rights have not been restored.
 - 16 c. Notwithstanding the provisions of Section 19.A.11.a. and b. above,
17 conviction of any felony that is directly related to operating a non-consent
18 or consent towing business or vehicle, regardless of whether the
19 applicant's civil rights have been restored or remained intact. For the
20 purposes of this Ordinance, any offense involving fraud, forgery, theft,
21 perjury or false statement shall be considered to be directly related to the
22 business of operating a towing vehicle.
 - 23 d. Conviction of any first degree misdemeanor that is directly related to a
24 non-consent or consent towing business or vehicle regardless of whether
25 the applicant's civil rights have been restored or remained intact, For the
26 purposes of this Ordinance, any offense involving fraud, forgery, theft,
27 perjury or false statement shall be considered to be directly related to the
28 business of operating a towing company.
 - 29 e) Responding to a call while under the influence of alcohol or any
30 controlled substance, based upon a finding made by law enforcement,
 - 31 f) Towtruck Drivers with valid Towtruck Driver I.D. Badges at the time this
32 amended Ordinance was approved may continue to be eligible for
33 issuance of a Towtruck Driver I.D. Badge in future renewals as long as
34 there are no additional crimes or reputability issues as referenced above.
- 35 12. A towtruck driver with a current I.D. badge is required to notify the Division
36 within ten (10) business days upon being convicted of any crime. The Division
37 may initiate denial, revocation or suspension proceedings for lack of reputability
38 issues and criminal convictions as provided in this subsection which arise
39 subsequent to the issuance of a Tow Driver's I.D. badge.
- 40 13. Applicants shall have no unsatisfied civil penalties, judgments or administrative
41 orders pertaining to this Ordinance.
- 42 14. Every application or renewal application for a Tow Driver's I.D. badge and
43 application for amendment of a Tow Driver's I.D. badge, shall be in writing and
44 signed by the applicant and shall be filed with the Palm Beach County Division of
45 Consumer Affairs on a form provided by the Division together with the non-
46 refundable Tow Driver's I.D. badge fees which shall not be subject to proration.
47 Each Tow Driver's I.D. badge shall be valid for a two-year period and shall be
48 renewed every other year on the applicant's date of birth. The Division may deny
49 or revoke a Tow Driver's I.D. badge if it is determined that the applicant has
50 misrepresented, omitted, or concealed a fact on the application, renewal
51 application or replacement application. If the Tow Driver's I.D. badge is denied,
52 the DCA shall not accept an application for said Tow Driver's I.D. badge for one
53 (1) year from the date the badge is denied. If the Tow Driver's I.D. badge is
54 revoked, the DCA shall not accept an application for said Tow Driver's I.D.
55 badge for one (1) year from the date the badge is revoked. Any person renewing
56 a Tow Driver's I.D. badge must file a renewal application, furnish the
57 documentation requested by the Division, and submit payment for the required
58 non-refundable renewal fee(s) not more than ninety (90) days before the
59 expiration date of a Tow Driver's I.D. badge. Persons who fail to reapply for their
60 Tow Driver's I.D. badge thirty (30) days prior to expiration, risk having a gap in
61 their authorization to drive a towtruck. Persons who fail to submit their renewal

- 1 application, required documentation and fees by the expiration date of the Tow
2 Driver's I.D. badge must pay a non-refundable late fee, over and above the Tow
3 Driver's I.D. Badge fee. Any applicant who fails to submit a renewal application
4 within one (1) year of the expiration of a current badge will be considered a new
5 applicant when reapplying and no grandfathered provisions will apply. Said fees
6 shall be established by resolution of the Commission;
- 7 15. Shall submit to photographing (full face exposure/without sunglasses or head
8 coverings) prior to the issuance of the Tow Driver's I.D. badge by the Division;
- 9 16. Complete the Tow Driver's I.D. badge registration affidavits provided by the
10 Division;
- 11 17. Not possess a suspended or revoked driver's license as a result of a moving
12 violation or have any outstanding and unsatisfied civil penalties, citations or
13 judgments imposed due to violations of this Ordinance;
- 14 18. Not violate the terms of a cease and desist order, assurance of voluntary
15 compliance, notice to correct a violation or any other lawful order of the Director;
- 16 19. Not be enjoined by a court of competent jurisdiction from engaging in the towing
17 business or was enjoined by a court of competent jurisdiction with respect to any
18 of the requirements of this Ordinance;
- 19 20. Have no conviction or plea of guilty or nolo contendere in any military or foreign
20 jurisdiction, federal, state, county or municipal jurisdiction within the United
21 States for violations analogous or parallel to those violations enumerated in all
22 sections herein.
- 23 B. The driver of a tow truck shall conspicuously display on the driver's person through the
24 use of a neck lanyard, or above the waist on the outermost garment, the Tow Driver's
25 I.D. badge issued pursuant to this Ordinance so that it is visible and available for
26 inspection to the public, Division personnel and all law enforcement officials while
27 engaged and on duty for a towtruck company.
- 28 C. Each Tow Driver's I.D. badge shall be developed by the Division. Each driver's I.D.
29 badge shall, at a minimum, contain the name of the driver, date of expiration, photo of
30 the driver, and such additional terms, conditions, provisions and limitations as were
31 imposed during the approval process. Each company for which a driver will be driving
32 must submit an affidavit (on a form prepared by the Division) or documentation from the
33 insurance company (fax acceptable) that the driver is eligible to be insured under the
34 company's insurance policy.
- 35 D. The Division may issue a replacement Tow Driver's I.D. badge to any driver upon
36 payment of a non-refundable replacement fee, presentation of proof or a sworn affidavit
37 that the driver's I.D. badge has been lost, stolen or for any other valid reason, and any
38 other documentation or requirement requested by the Division. The replacement fee shall
39 be established by resolution of the Board.
- 40 E. It shall be unlawful for any person to drive a towtruck unless such person has a valid
41 Tow Driver's I.D. badge issued pursuant to this Section.
- 42 F. It shall be unlawful for any person to drive a towtruck for any towtruck company which
43 has not been granted an operating permit pursuant to Section 4 (Operating Permit
44 Required) of this Ordinance.
- 45 G. It shall be unlawful for any applicant for a Tow Driver's I.D. badge to misrepresent, omit
46 or conceal a fact on the application, renewal application or replacement application.
- 47 H. Upon submission of the application, the Division shall provide the driver with a receipt.
48 No applicant shall be permitted to drive a towtruck in Palm Beach County until the
49 Division has issued to him/her a Tow Driver's I.D. badge. The Division shall provide the
50 Tow Driver's I.D. badge within ten (10) business days following the submittal of the
51 application and all required documents. In the event the official criminal background
52 records furnished to the Division are insufficient and additional information is necessary,
53 the Division shall be permitted an additional twenty (20) business days to issue the
54 driver's I.D. badge. The Division will process applications on a more timely basis when
55 the required certified/original criminal and driving background records are submitted
56 with the initial application and an additional rush fee is paid to the Division. Such fee
57 must be approved by the Commission.
- 58 I. Non-consent towtruck drivers must be hygienically clean, well groomed and neat.
59 Drivers are not permitted to wear open toed shoes and must comply with all state and
60 federal (e.g., O.S.H.A.) safety regulations. Non-consent towtruck drivers are not
61 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
16 any person or employee to drive a towtruck unless such person has a valid Tow Driver's
17 I.D. 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

26 **Section 20. Fraudulent Transfer of Tow truck Company.**

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

- 32 A. The transfer was to an insider;
- 33 B. The towtruck company retained possession or control of the property transferred after the
34 transfer;
- 35 C. The transfer was disclosed or concealed;
- 36 D. Before the transfer was made or obligation was incurred, the towtruck company had been
37 sued or threatened with suit;
- 38 E. The transfer was of substantially all the towtruck company's assets;
- 39 F. The value of the consideration received by the towtruck company was reasonably
40 equivalent to the value of the asset transferred or the amount of the obligation incurred;
- 41 G. The towtruck company was insolvent or became insolvent shortly after the transfer was
42 made or the obligation was incurred;
- 43 H. The transfer occurred shortly before or shortly after substantial permit fees or civil
44 penalties were incurred; and
- 45 I. The towtruck company transferred the essential assets of the business to a lienor who
46 transferred the assets to an insider of the towtruck company.
- 47 J. It shall be a violation of this Ordinance for a towtruck company to fraudulently transfer a
48 towtruck company.
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52 **Section 21. Deceptive and Unfair Trade Practices.**

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54 No person shall engage in any unfair method of competition, unconscionable acts or practices or
55 unfair or deceptive acts or practices in the conduct of towing services. A towtruck company
56 engages in an unfair method of competition or unfair or unconscionable acts or deceptive
57 practices when in the course of his or her business, vocation or occupation, he or she knows or in
58 the exercise of care should know, that he or she in the past engaged or is now engaging in any
59 unfair method of competition or unconscionable acts or practices or unfair or deceptive acts or
60 practices in the conduct of any towing services.
61

1 **Section 22. Cease and Desist Order.**
2

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

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

B. Every towtruck company desiring to negotiate an assurance of voluntary compliance shall be apprised of his or her right to have his or her case heard by the Consumer Affairs Hearing Board/Hearing Officer in the event he or she does not wish to enter into such assurance of voluntary compliance. Such procedures shall be in accordance with the hearing procedures provided in Section 27 of this Ordinance.

SECTION 24. Enforcement and Penalties: Civil and Criminal.

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

1 order to show cause may be issued. If the fine is paid, the case shall be dismissed. If the
2 fine is not paid, judgment may be entered up to the maximum civil penalty of five-
3 hundred dollars (\$500.00) plus court costs.

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

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

13 **SECTION 25. Administrative Enforcement, Denial, Revocation and**
14 **Suspension of Operating Permits/I.D. Badges.**
15

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

- 19 1. The towtruck company and/or driver has failed to comply with or has violated the
20 provisions of this Ordinance;
- 21 2. The towtruck company has failed to comply with or has violated the provisions of
22 Chapter 323 F.S., s. 713.78 and 715.07, F.S.;
- 23 3. The operating permit or I.D. Badge was obtained by an application in which any
24 material fact was omitted or falsely stated;
- 25 4. Any towtruck or equipment owned or operated by the towtruck company and
26 issued a decal pursuant to the Ordinance has been operating in violation of this
27 Ordinance or any provision of law.
- 28 5. In addition, an operating permit issued pursuant to this Ordinance may be
29 suspended or revoked when the Director receives written notification that the
30 towtruck company, the towtruck operator's officer, director or partner pled nolo
31 contendere, pled guilty or has been convicted of any crime designated as a felony
32 (as referenced in Section 5.C.1. New Applications/Renewals and Issuance of
33 Towing Operating Permit; Fees of this Ordinance); or any crime relating to motor
34 vehicles. The only exception to this rule may be when the civil rights of such
35 individual has been restored.
- 36 6. Failed to comply with the terms of a cease and desist order, notice to correct a
37 violation, written assurance of voluntary compliance, or any other lawful order of
38 the Director, the Division, or the Consumer Affairs Hearing Board and/or Hearing
39 Officer.
- 40 7. Failed to obtain or maintain insurance as required by this Ordinance.
- 41 8. Misrepresented or concealed a fact on the application, renewal application, or
42 replacement application for a license.
- 43 9. Engaged in any conduct as a part of the performance of any contract for service
44 which constitutes a deceptive and unfair trade practice or fraud.

45 B. Suspensions

- 46 1. Any company which has violated this Ordinance as provided for in this section
47 may have its operating permit suspended by action of the Division Director for a
48 period not to exceed thirty (30) days. In such cases the Director shall provide
49 written notice to the company at least ten (10) days prior to the effective date of
50 the suspension. Any company which decides to appeal the suspension by the
51 Director must submit the written request for an appeal and applicable appeal fee
52 to the Consumer Affairs Division within that ten (10) day period. The written
53 appeal will then effect a "stay" on the suspension until the Consumer Affairs
54 Hearing Board/Special Master makes a final determination as to the merits of the
55 suspension. The appeal hearing shall be conducted as provided for in Section 27
56 (Hearings and Appeals). If the Hearing Board/Special Master affirms the action
57 of the Director, the suspension becomes effective the day following the decision
58 of the Hearing Board/Special Master.
- 59 2. Any company which has had its operating permit suspended for a specific
60 Ordinance deficiency but fails to correct that deficiency after thirty (30) days shall
61 have such operating permit revoked for a period of one (1) year from the date of

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

3 3. Notwithstanding other suspension, revocation or denial procedures included in
4 this Ordinance, where the action taken is based solely upon three (3) or more
5 violations of this Ordinance which resulted in civil fines/penalties, judgments or
6 administrative orders entered by the Division and/or a conviction or plea of guilty
7 or nolo contendere resulting from three separate incidents/complaints within a
8 twelve (12) month period shall result in the suspension of an operating permit for
9 a period of four (4) business days. The company is required to pay an
10 administrative reactivation fee established by resolution of the Commission
11 before any towing services can resume in Palm Beach County. Any company
12 found operating during a period of suspension, revocation or denial shall have its
13 operating permit revoked for a period of one (1) year.

14 4. Notwithstanding other suspension, revocation or denial procedures included in
15 this Ordinance, where the action taken is based solely upon four (4) or more
16 violations of this Ordinance which resulted in civil fines/penalties, judgments or
17 administrative orders entered by the Division and/or a conviction or plea of guilty
18 or nolo contendere resulting from four separate incidents/complaints within a
19 twelve (12) month period shall result in the suspension of an operating permit for
20 a period of eight (8) business days. The company is required to pay an
21 administrative reactivation fee established by resolution of the Commission
22 before any towing services can resume in Palm Beach County. Any company
23 found operating during a period of suspension, revocation or denial shall have its
24 operating period revoked for a period of one (1) year.

25 C. Revocations: Except as provided in Section 25.B.2. above, any company which has had
26 its operating permit revoked as provided for in Section 25.A.(1-9) above shall have such
27 operating permit revoked for one (1) year from the date of the revocation notice. Such
28 revocations may be appealed as provided for in Section 27 of this Ordinance.
29

30 **Section 26. Additional Penalties.**

31
32 Failure to comply with the requirements of this Ordinance shall also constitute a violation of this
33 Ordinance, and the Consumer Affairs Ordinance of Palm Beach County (No. 77-10, as
34 amended). Violations of this Ordinance may be punishable, upon conviction, pursuant to Section
35 125.69(1), Florida Statutes, by a fine not to exceed five-hundred dollars (\$500.00) per violation
36 or imprisonment not exceeding sixty (60) days, or both such fine or imprisonment, or may
37 subject the violator to civil fines based on the issuance of a civil citation. Each day of continuing
38 violation shall be considered a separate offense. In addition to the sanctions contained herein,
39 the County shall take any other appropriate legal action, including but not limited to, cease and
40 desist orders, other administrative action and requests for temporary and permanent injunctions
41 to enforce the provisions of this Ordinance. It is the purpose of this Ordinance to provide
42 additional cumulative remedies.
43

44 **SECTION 27. Hearings and Appeals.**

45
46 Upon receipt of the notice of denial, revocation, or suspension of an operating permit, which
47 notice shall specify the grounds for the denial, suspension or revocation, the tow truck company
48 or Tow Driver I.D Badge shall be entitled to an appeal according to the following:

49 A. Administrative Appeal: Any towtruck company or tow driver, which has had an
50 operating permit/badge, denied, revoked, or suspended by the Division, may appeal such
51 decision to the Consumer Affairs Hearing Board/Special Master within twenty (20) days
52 of receipt of the decision. A non-refundable filing fee must accompany the written
53 request for appeal. The towtruck company or tow driver may be represented by an
54 attorney and shall be entitled to present a defense. The company or its attorney shall file
55 a written notice of appeal signed by the company or its attorney requesting a hearing and
56 setting forth a brief statement of the reasons thereof. The filing fee shall be established
57 by resolution of the Commission. The appeal shall be reviewed at a hearing of the
58 Consumer Affairs Hearing Board/Special Master within sixty (60) days of receipt by the
59 Division of the notice of appeal.

60 B. Orders: At the conclusion of any hearing set forth in this section, the Consumer Affairs
61 Hearing Board/Special Master shall orally render its decision (order) based on evidence

- 1 entered into the record. The decision shall be by motion approved by the affirmative vote
2 of those members present and voting. The decision shall be stated in a written order and
3 mailed to the towtruck company not later than ten (10) days after the hearing, and shall
4 be deemed final agency action with regard to the matter appealed.
- 5 C. Court Appeal: Any person may appeal a final determination of the Consumer Affairs
6 Hearing Board/Special Master within thirty (30) days of the rendition of the decision by
7 filing a petition for writ of certiorari in the Circuit Court of the Fifteenth Judicial Circuit
8 in and for Palm Beach County, Florida.
- 9 D. For purposes of appeal, the FDLE Criminal History/Records Reports and the State of
10 Florida Department of Highway Safety and Motor Vehicles traffic/driving record report
11 shall be deemed prima facie evidence and admitted into evidence before the Consumer
12 Affairs Hearing Board/Special Master.
- 13 E. Upon receipt of such notice of appeal, the Division shall set a time and place for such
14 hearing and shall give the violator or attorney and the Consumer Affairs Hearing
15 Board/Special Master reasonable notice thereof. All hearings and appeals shall be
16 scheduled and determined as promptly as practicable and in no event more than sixty (60)
17 days from the date of the notice of the written notice of appeal was filed. Written notice
18 of the time, date, and place of the hearing of the appeal by the Division shall be served
19 upon the appellant no later than twenty (20) days prior to the date of the hearing. Said
20 notice of hearing, shall be by personal service, certified mail or posting in a conspicuous
21 place at the towtruck company's place of business. Failure of the company to respond
22 within the time frames specified herein or failure to appear at a duly noticed hearing shall
23 be deemed a waiver of the right to hearing and an admission of the acts specified in the
24 notice.
- 25 F. The Consumer Affairs Hearing Board/Hearing Officer shall hear the cases on the agenda.
26 All testimony shall be under oath or by affirmation and shall be recorded. Each case
27 before the Consumer Affairs Hearing Board/Hearing Officer shall be presented by the
28 Division. The Consumer Affairs Hearing Board/Hearing Officer shall take testimony
29 from County staff, if relevant, the alleged violator, and other relevant testimony. Formal
30 rules of evidence shall not apply, but fundamental due process shall be observed and
31 govern the proceedings. Upon determination of the chairperson, irrelevant, immaterial or
32 unduly repetitious evidence may be excluded, but all other evidence of a type commonly
33 relied upon by reasonably prudent persons in the conduct of their affairs shall be
34 admissible, including hearsay evidence, whether or not such evidence would be
35 admissible in a trial in the courts of Florida. Due regard shall be given to the competent,
36 reliable and technical evidence which will aid the Consumer Affairs Hearing
37 Board/Hearing Officer in making a fair determination of the matter, regardless of the
38 existence of any common law or statutory rule which might otherwise make improper the
39 admission of such evidence.
- 40 G. The Consumer Affairs Hearing Board/Special Master shall consider the case record as
41 well as the statement offered by any interested party and shall consider the matter de
42 novo and shall, upon the basis of the record before it, affirm, modify or reverse the
43 decision of the Director.
- 44 H. If the Consumer Affairs Hearing Board/Special Master affirms the decision of the
45 Director to deny, suspend or revoke an operating permit/I.D. Badge, the suspension or
46 revocation shall be effective from the date of the Consumer Affairs Hearing
47 Board's/Hearing Officer's order. A decision to affirm the action of the Director shall
48 constitute final agency action for purposes of further appeal.
- 49 I. Suspension of the Operating Permit/I.D. Badge: If, at the conclusion of the hearing, the
50 Consumer Affairs Hearing Board/Special Master decides to suspend the operating
51 permit/I.D. Badge, a time certain shall be set as the period of suspension. Prior to the end
52 of such time certain, those violations for which the suspension was imposed shall be
53 corrected; otherwise, the suspended permit(s) will be automatically revoked. An
54 Administrative Reactivation fee shall be collected to reinstate the suspended permit(s).
55 The Administrative Reactivation fee shall be established by resolution of the
56 Commission.
- 57 J. Revocation of Permit/I. D Badge: If, at the conclusion of the hearing, the Consumer
58 Affairs Hearing Board/Special Master decides to revoke an operating permit the
59 individual, driver or Tow truck Company shall remove and/or return the operating permit
60 to the Division. A towtruck company whose operating permit has been revoked shall not
61 be eligible to reapply as a new applicant for a period of six (6) months from the date of

- 1 revocation.
2 K. If the Consumer Affairs Hearing Board/Special Master reverses the decision of the
3 Director, it shall direct the Director to issue or restore the towtruck operating permit/I.D.
4 Badge.
5 L. In the event a written notice of appeal and accompanying filing fees are not submitted
6 within the times frames outlined in this Ordinance, the decision of the Director shall
7 prevail.
8 M. Effect of Appeal: The appeal of the decision of the Director to suspend or revoke an
9 operating permit/I.D. Badge shall stay the effective date of the suspension or revocation.
10

11 **SECTION 28. Scope of Ordinance.**

- 12
13 A. The provisions of this Ordinance and the relevant Florida Statutes shall be the exclusive
14 regulations applicable to towing, recovery and removal of vehicles/vessels in Palm Beach
15 County and all storage provided therewith. This Ordinance shall be applicable in both the
16 unincorporated and incorporated areas, except that this Ordinance shall not apply in any
17 municipality that has adopted and maintains in effect Ordinances or regulations
18 governing the same matters.
19 B. Nothing in this Ordinance shall be construed to prohibit the discharge or storage of a
20 vehicle or vessel lawfully recovered, towed or removed in another county and lawfully
21 transported into Palm Beach County.
22

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

24
25 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby
26 repealed as it relates to the enforcement of this Ordinance only.
27
28
29

30 **SECTION 30. Savings Clause.**

31
32 Notwithstanding Section 30, Repeal of Laws in Conflict, all administrative and court orders,
33 fines and pending enforcement issued pursuant to the authority and procedures established by
34 Ordinance 2010-001 shall remain in full force and effect.
35
36

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

38
39 The provisions of this Ordinance shall become and be made a part of the Code of Laws and
40 Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered
41 or relettered to accomplish such, and the words "ordinance," "article," "section," "subsection," or
42 "paragraph" may be changed to any other appropriate word to accomplish codification.
43

44 **SECTION 32. Severability.**

45
46 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason
47 held by a court of competent jurisdiction to be unconstitutional, inoperative or void, such holding
48 shall not affect the remainder of this Ordinance.
49

50 **SECTION 33. Effective Date.**

51
52 The provisions of this Ordinance shall be effective immediately upon filing with the Department
53 of State.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the _____ day of _____, 2011.

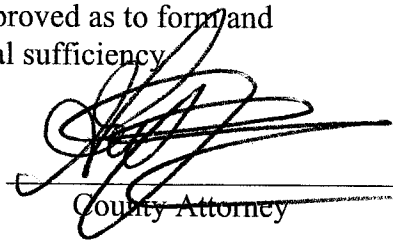
SHARON BOCK, CLERK
Board of County Commissioners

Palm Beach COUNTY, Florida by its
Board of County Commissioners

By _____
Deputy Clerk

By: _____
Karen T. Marcus, Chair

Approved as to form and
legal sufficiency

By: 
County Attorney

Filed with the Department of State on the _____ day of _____, 2011.

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