

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

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Meeting Date: September 15, 2026	☐	Consent	☐	Regular
	☐	Ordinance	☒	Public Hearing

Department: Department of Public Safety
Submitted By: Department of Public Safety
Submitted For: Division of Consumer Affairs

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I. EXECUTIVE BRIEF

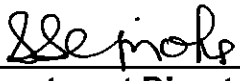
Motion and Title: Staff recommends motion to adopt: AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE CHAPTER 19, ARTICLE VIII (ORDINANCE NO. 2022-021), PROVIDING FOR DEFINITIONS; PROVIDING FOR OPERATING PERMIT REQUIRED; PROVIDING FOR NEW APPLICATIONS/RENEWALS AND ISSUANCE OF OPERATING PERMIT, FEES; PROVIDING FOR INSPECTION OF STORAGE YARDS AND PUBLIC OFFICES REQUIRED; PROVIDING FOR INSURANCE REQUIREMENTS; PROVIDING FOR TOW TRUCK REGISTRATION, TOW TRUCK STANDARDS, DECALS; PROVIDING FOR NON-CONSENT MANIFEST, TOWING INVOICE, OR TOW SHEET; PROVIDING FOR RECORDS REQUIRED; PROVIDING FOR NON-CONSENT TOWING WITH PRIOR EXPRESS INSTRUCTION; PROVIDING FOR NON-CONSENT TOW TRUCK COMPANY REQUIREMENTS; PROVIDING FOR MAXIMUM RATES; PROVIDING FOR TOW TRUCK DRIVER REQUIREMENTS, FAILURE TO COMPLY; PROVIDING FOR ADDITIONAL REQUIREMENTS FOR PROVIDING IMMOBILIZATION SERVICES; PROVIDING FOR CEASE AND DESIST ORDER; PROVIDING FOR ENFORCEMENT OF PENALTIES, CIVIL AND CRIMINAL; PROVIDING FOR ADMINISTRATIVE ENFORCEMENT, DENIAL, REVOCATION AND SUSPENSION OF OPERATING PERMITS/I.D. BADGES; PROVIDING FOR ADDITIONAL PENALTIES; PROVIDING FOR SCOPE OF ARTICLE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

Summary: At the September 1, 2026 Board of County Commissioners (BCC) Meeting, the BCC approved to advertise on a preliminary reading of the Ordinance. Due to changes in Section 713.78, Florida Statutes, staff identified a need to update the Towing and Immobilization Ordinance to bring it in line with statutory language, in addition to establishing a new research fee, that allows towing companies to recover actual, documented costs incurred in processing and administering individual tows.

Summary, Background and Policy Issues: Continued on page 3.

- Attachments:**
- 1) Proposed Towing and Immobilization Ordinance: Strike-through Version
 - 2) Proposed Towing and Immobilization Ordinance: Clean Version
 - 3) Proof of Publication

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Recommended By:		8/18/26	Date
	Department Director		
Approved By:		8/24/26	Date
	Deputy County Administrator		

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact

Fiscal Years	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>	<u>2030</u>
Personal Services					
Operating Expenses					
Capital Outlay					
Grants & Aids					
Program Income (County)					
In-Kind Match (County)					
Net Fiscal Impact	*0				

ADDITIONAL FTE

POSITIONS (Cumulative)	<u>0</u>	0	0	0	0
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Is Item Included In Current Budget? Yes _____ No _____
Is this item using Federal Funds? Yes _____ No _____
Is this item using State Funds? Yes _____ No _____

Budget Account Exp No: Fund ____ **Dept.** ____ **Unit** ____ **Obj.** ____
Rev No: Fund ____ **Dept.** ____ **Unit** ____ **Rev.** ____

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

***There is no fiscal impact associated with this agenda item, a separate agenda item (tentatively scheduled for September 15th) for updates to the resolution to include the maximum rates for immobilization and non-consent tows along with updated fees schedule and the estimated fiscal impact.**

C. Departmental Fiscal Review: 8/18/04

III. REVIEW COMMENTS

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

Line Mater 8/14/2026
OFMB
8/14/26

Brund. Grack 8/20/26
Contract Dev. And Control
26 8.20.26

B. Legal Sufficiency:


Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

Continued from Page 1

Summary: Staff and industry members identified several ways to improve the Ordinance to conform to Florida Statutes with respect to the time period when itemized invoices are completed; the posting of rate sheets; acceptable forms of payment; the type of documentation permitted to allow for the release of a vehicle; and improving general readability. The proposed revisions allows for citations to be heard before a special magistrate instead of County Court, which will result in more fine revenue being retained by the County. The proposed revisions were presented to the Consumer Affairs Hearing Board on May 20, 2026 and League of Cities on July 22, 2026 with no objection. Administration and enforcement of this Ordinance is funded entirely through license fees.

Countywide (RS)

Background and Policy Issues: Section 125.0103(1)(c), Florida Statutes, requires counties to establish maximum rates for the towing of vehicles or vessels or immobilization of vehicles or vessels on private property, removal and storage of wrecked or disabled vehicles or vessels from an accident scene or for the removal and storage of vehicles and vessels. Florida Statutes 125.01047 reinforces the County's authority to impose and collect towing and immobilization operating license fees, set maximum rates for the towing and immobilization of vehicles on private property including rates on different classes of vehicles, administrative fees, storage, fees, labor fees, and rates for towing services performed by government entities. The Ordinance has been in place in Palm Beach County since 1992. In 1999, the United States Court of Appeals for the Eleventh (11th) Circuit severely limited the regulation of the towing industry by state/local governments. A subsequent class-action lawsuit 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 Supreme Court of the United States overruled the 11th Circuit's decision, making it possible for local jurisdictions to again regulate towing companies. The original Ordinance was rewritten and approved by the BCC in 2005. In 2010 and 2022, the BCC approved numerous adjustments to this Ordinance.

ORDINANCE NO. 2026-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE CHAPTER 19, ARTICLE VIII (ORDINANCE NO. 2022-021), PROVIDING FOR DEFINITIONS; PROVIDING FOR OPERATING PERMIT REQUIRED; PROVIDING FOR NEW APPLICATIONS/RENEWALS AND ISSUANCE OF OPERATING PERMIT, FEES; PROVIDING FOR INSPECTION OF STORAGE YARDS AND PUBLIC OFFICES REQUIRED; PROVIDING FOR INSURANCE REQUIREMENTS; PROVIDING FOR TOW TRUCK REGISTRATION, TOW TRUCK STANDARDS, DECALS; PROVIDING FOR NON-CONSENT MANIFEST, TOWING INVOICE, OR TOW SHEET; PROVIDING FOR RECORDS REQUIRED; PROVIDING FOR NON-CONSENT TOWING WITH PRIOR EXPRESS INSTRUCTION; PROVIDING FOR NON-CONSENT TOW TRUCK COMPANY REQUIREMENTS; PROVIDING FOR MAXIMUM RATES; PROVIDING FOR TOW TRUCK DRIVER REQUIREMENTS, FAILURE TO COMPLY; PROVIDING FOR ADDITIONAL REQUIREMENTS FOR PROVIDING IMMOBILIZATION SERVICES; PROVIDING FOR CEASE AND DESIST ORDER; PROVIDING FOR ENFORCEMENT OF PENALTIES, CIVIL AND CRIMINAL; PROVIDING FOR ADMINISTRATIVE ENFORCEMENT, DENIAL, REVOCATION AND SUSPENSION OF OPERATING PERMITS/I.D. BADGES; PROVIDING FOR ADDITIONAL PENALTIES; PROVIDING FOR SCOPE OF ARTICLE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, such towing and immobilization service frequently must be provided without prior consent of the vehicle/vessel owner, or under circumstances which prevent negotiating the charges, terms and conditions for the towing or immobilization service, often resulting in disagreements and complaints between vehicle/vessel owners and providers of towing or immobilization 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 the towed vehicles/vessels and of the residents and visitors in Palm Beach County; and

48 **WHEREAS**, sections 125.0103(b) and 166.073(c) of the Florida Statutes empowers the
49 Board of County Commissioners to enact regulations pertaining to the towing and immobilization
50 industries, including the authority to regulate maximum rates when vehicles are towed or
51 immobilized; and

52 **WHEREAS**, chapter 19, article VIII of the Palm Beach County Code is being amended to
53 update regulations for towing pursuant to House Bill 179, approved by the Governor on March 22,
54 2024, and clarify regulations and procedures for towing and immobilization services; and

55 **WHEREAS**, the United States Supreme Court decision in *Ours Garage v. City of Columbus*,
56 536 U.S. 424 (2002) held that states could delegate their authority to regulate non-consent towing
57 services as it relates to price and safety; and

58 **WHEREAS**, the Board of County Commissioners of Palm Beach County finds it to be in the
59 best interest of the County, its citizens and its visitors to permit and regulate non-consent and consent
60 towing and immobilization services and to protect the health, safety, and welfare of its citizens and
61 visitors of Palm Beach County and to ensure uniform, fair, and consistent service rates, fees, and
62 procedures for towing, storage, and immobilization services; and

63 **WHEREAS**, the Board of County Commissioners of Palm beach County hereby amends
64 Palm Beach County Code chapter 19; article VIII (Ordinance No. 2021-021).

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

SECTION 1. DEFINITIONS

Section 19-182 of the Palm Beach County Code is hereby amended to read as follows:

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

Administrative/Lien fee shall mean the fee that is charged for title and lien search, advertising costs, and notification of lien holder and owner of the whereabouts and charges against a vehicle or vessel incurred by a tow truck company.

Advertisement shall mean any statement made in connection with the solicitation of a tow truck company or immobilization company and includes without limitation, statements and representations made in a newspaper, telephone directory or other publication, radio, television, electronic medium or contained in any notice, handbill, business card, sign, catalog, billboard, brochure, poster, social media, or letter.

Applicant shall mean any person who applies for an operating permit with Palm Beach County. In the case of partnerships, associations, corporations and other legal entities, "applicant" shall also mean any member of a partnership and the corporate officers and directors.

Application shall mean the questionnaire with supporting documentation required to be submitted to the division in order to obtain an operating permit, ID badge or renewal ~~or of~~ either. The application and instructions are obtained from the division.

Article shall mean Chapter 19, Article VIII of the Palm Beach County Code, the Towing and Immobilization Services Ordinance as may be amended from time to time.

Authorized driver/agent shall include the person who is empowered to act on behalf of the vehicle owner and the vehicle lien holder.

Board shall mean the Board of County Commissioners of Palm Beach County, Florida.

Compensation shall mean the exchange of goods or services for money, property, service or anything else of value.

Consent tow shall mean the recovery, towing and storage of a vehicle or vessel with the authorization/consent of the vehicle/vessel owner or authorized driver.

Consent tow truck company shall mean a person(s) who tows a motor vehicle/vessel with the authorization/consent of the vehicle/vessel owner or authorized driver/agent.

Consent-only towing operating permit shall mean the authority required by the provisions of this article of any individual or towing company engaging in the business of performing consent-only towing of vehicles/vessels.

Conviction shall mean any judicial determination of conviction, adjudication withheld or plea of nolo contendere from a court of competent jurisdiction.

Credit card convenience fee shall mean a fee that can be assessed and added to an invoice if a credit card is used for the transaction. The fee is intended to offset the cost associated with accepting credit card payments and is established by Board resolution.

Director shall mean the director of the Consumer Affairs Division.

Division shall mean the Consumer Affairs Division of the Public Safety Department of Palm Beach County designated to implement, enforce, interpret and monitor compliance with this article and includes the employees of the division.

Duly authorized agent shall mean a person designated by and acting on behalf of a real property owner per contractual agreement to request private property impounds or immobilization services. The duly authorized agent shall have no affiliation with the tow truck company or the immobilization company providing the service. The real property owner shall only appoint duly authorized agents which have a direct connection to the property (e.g., board member, employee of the property management company or home/condo owner's association, employee of the real property owner or state of Florida licensed security agency contracted by the real property owner or manager).

Employee shall mean a person who is compensated financially for a period of not less than twenty (20) hours per week and who performs all of his/her employment functions on the property of the employer or management company and is issued an annual federal tax statement of earnings (W-2 Form).

Extra time at scene/labor shall mean any extra time beyond one-half (½) hour, needed to safely remove a vehicle or vessel and shall also include the amount of time spent at a scene when a tow truck has been summoned and is on scene but unable to proceed through no fault of the tow truck operator. All extra time/labor shall be documented by the tow truck 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/labor shall be charged in fifteen-minute increments.

Good faith effort shall mean that required steps have been performed by the tow truck company according to F.S. § 713.78(4), as may be amended, to locate the vehicle/vessel owner or lien holder ~~in addition to the requirements of the Division~~.

Gross weight shall mean the weight of a tow truck in pounds plus the weight of the vehicle(s)/vessel(s) and contents being towed.

Immobilization shall mean the act of installing a mechanical device to a parked vehicle or vessel so as to prohibit the usual manner of movement or operation. Immobilization devices include, but are not limited to, boots and barnacles.

Immobilization operator shall mean the person who is responsible for placing the immobilization device on the vehicle or vessel.

Light reflective sign shall mean an eighteen-inch wide by twenty-four-inch high sign made of aluminum (at least .040 thickness) or fiber reinforced plastic (at least .090 thickness). The entire background surface and all lettering must at a minimum be Type I Engineered Grade Sheeting (ASTM D4956-01) or 3M Engineer Grade Prismatic Reflective Sheeting Series 3430 (or equivalent). The letters may be screen printed on the Type 1 sheeting using a compatible transparent ink so that the retro reflection is maintained and visible.

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

Non-consent tow shall mean the recovery, towing, removal and storage of a vehicle or vessel without authorization of the vehicle/vessel owner or authorized driver and shall include both "police directed tows" and "private property impounds" as defined herein.

Non-consent towing company shall mean person(s) who perform "police directed tows" or "private property impounds" as defined herein.

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

Operating permit shall mean the document, certificate or license issued by the division which evidences the authority for a person to either:

- (1) Engage in the activity of recovering, towing, removing and storage of vehicles for compensation; or

(2) Engage in the activity of immobilization for compensation. As used in this article, an operating permit does not mean a municipal or county business tax receipt.

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

Permit period shall mean the one (1) year beginning on January 1 and terminating on December 31 of each year.

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

Place of business shall mean the place designated as the primary business office of the tow truck and/or immobilization company that provides towing, immobilization, removal, recovery and/or storage services.

Police directed tow shall mean the removal and storage of wrecked or disabled vehicles or vessels at the direction of police/law enforcement from an accident scene or the removal and storage of a vehicle in the event the vehicle owner or driver is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel, excepting, however, all incidents of "private property impounds" as herein defined below.

Prior express instruction shall mean a clear, definite and explicit request that meets all the requirements of Section 19-194 herein; and: a) is a police directed tow to recover, tow, remove, or store a specific and individual vehicle or vessel which is disabled, abandoned, or parked without authorization or whose vehicle/vessel owner or authorized driver is unable or unwilling to remove the vehicle; or b) made in writing by a real property owner or duly authorized agent of the real property owner, as specifically referenced on the written contract between the real property owner and tow truck company, to recover, tow, remove and store a specific and individual vehicle or vessel parked without permission of the real property owner. The tow truck company, an employee or agent thereof shall not be the designated agent of the real property owner for the purpose of providing prior express instruction to recover, tow, remove or store the vehicle or vessel.

Private property impound shall mean towing or removal of a vehicle or vessel, without the consent of the vehicle/vessel owner or driver when that vehicle/vessel is parked on real property, as authorized by F.S. § 715.07, as may be amended.

Real property owner shall mean that person who exercises dominion and control over real property, including but not limited to, the legal title holder, lessee, designated representative of a condominium or homeowner's association or any person authorized to exercise or share dominion and control over real property; provided, however, that "real property owner" shall not mean or include a person providing towing or immobilization services within the purview of this article.

Real property shall mean real estate, land, structures and things affixed to it that are not movable and that are not personal property.

Recover shall mean to take possession of a vehicle or vessel and its contents and to exercise control, supervision and responsibility over it, but does not include immobilization.

Recovery shall mean the removal of a vehicle or vessel from an area not readily accessible to a roadway (i.e., within a standard cable length).

Remove shall mean to change the location of a vehicle/vessel by towing it.

Revoke shall mean to annul and make void the operating permit of a tow truck or immobilization company, or the I.D. badge of a tow truck driver.

Storage shall mean to place and leave a towed vehicle or vessel at a location where the person providing the towing services exercises control, supervision and the responsibility over the vehicle.

Storage yard also known as a storage facility shall mean the location where towed vehicles or vessels are stored.

Tow shall mean to haul, draw or pull along a vehicle or vessel by means of a tow truck equipped with booms, car carriers, winches, lifts, hook-up or similar commercially manufactured equipment.

Towing shall mean the act of moving one (1) vehicle or vessel from one (1) point to another (including hook-up, lift, and transport) using what is commonly referred to as a tow truck or a car carrier.

Tow truck shall mean any vehicle used to tow, haul, carry or to attempt to tow, haul or carry a vehicle or vessel.

Tow truck 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.

Tow truck decal shall mean a decal placed upon any tow truck granted approval to provide towing services by the division.

Tow truck driver shall mean the individual who is driving or physically operating a tow truck for a tow truck company engaged in tows.

~~*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:-~~

~~(1) Representations that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have;-~~

~~(2) Representations that a person or tow truck company has a sponsorship, approval, status, affiliation or connection which he or she does not have;-~~

~~(3) Representations that goods are original or new if in fact they are not, or if they are deteriorated, altered, reconditioned, reclaimed, or second hand;-~~

~~(4) Representations that goods are of a particular standard, brand, quality, style, or model, if they are of another;-~~

~~(5) Representations that goods or services are those of another, if they are not;-~~

~~(6) Using deceptive representations or designations of geographic origin in connection with goods or services;-~~

~~(7) Advertising goods or services intending not to sell them as advertised;-~~

~~(8) Advertising goods or services with intent not to supply reasonable expectable public demand, unless the advertisement discloses a limitation of quantity;-~~

~~(9) Making false or misleading statements concerning the need for, or necessity of, any goods, services, replacements, or repairs;-~~

~~(10) Disparaging the goods, services, or business of another by false or misleading representations of fact;-~~

~~(11) Making false or misleading statements of fact concerning the reasons for the existence of, or amounts of price reductions;-~~

~~(12) 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;~~

~~(13) 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;~~

~~(14) 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;~~

~~(15) 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;~~

~~(16) Using physical force, threat of physical force, or coercion in dealing with consumers;~~

~~(17) — Any violation of the Florida Deceptive and Unfair Trade Practices Act, F.S. § 501.201 et seq. have the same meaning as section 9-10 of the Palm Beach County Code, as may be amended.~~

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.

Vehicle or vessel owner shall mean a person with the "proof of ownership" described in this article.

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 F.S. § 327.02.

SECTION 2. OPERATING PERMIT REQUIRED

Section 19-184 of the Palm Beach County Code is hereby amended to read as follows:

- (a) It shall be unlawful for any person to recover, tow, remove, store or immobilize a vehicle or vessel for compensation in Palm Beach County or to employ, authorize or permit any other

person to recover, tow, remove, store or immobilize a vehicle or vessel in Palm Beach County without first obtaining and maintaining a current and valid operating permit pursuant to the provisions of this article.

(b) Tow truck companies whose principal place of business is located outside Palm Beach County that provide consent-only towing services in Palm Beach County shall be exempt from the operating permit provisions of this article, except that such tow truck companies are required to be permitted if the company picks-up and drops-off a vehicle or vessel solely within Palm Beach County as one (1) complete service.

(c) The provisions of this article shall not apply to governmental agencies, vehicle rental companies which tow their own vehicles, to businesses while utilizing trucks capable of transporting five (5) or more vehicles at one (1) time, or to persons who use a vehicle or vessel to transport a recreational vehicle solely for personal, family, or household use. Towing of motorcycles, recreational vehicles and boats fall under this exception.

(d) No person shall submit a bid nor shall any contract be awarded to recover, tow, remove, store or immobilize vehicles or vessels for the Board, unless the bidder, proposer, or responder has a valid and current operating permit for towing or immobilization services as applicable, issued pursuant to this article. Nothing herein shall prevent the County from contracting for more stringent requirements than set forth in this article.

(e) Each tow truck company and immobilization company shall possess all necessary federal, state, and municipal certificates, licenses and permits to operate as designated.

SECTION 3. NEW APPLICATIONS/RENEWALS AND ISSUANCE OF OPERATING PERMIT, FEES

Section 19-185 of the Palm Beach County Code is hereby amended to read as follows:

(a) The division shall issue, as applicable, either a towing operating permit, and/or a consent-only towing operating permit, and/or an immobilization operating permit to tow truck companies or immobilization companies which have met the criteria and requirements for an operating permit as provided for in this article.

(b) Every application for an operating permit shall be in writing, signed and verified by the applicant, filed with the division, and accompanied by the required operating permit application fee. The application shall be on a form prescribed by the division and shall contain information, including but not limited to:

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- (1) Sufficient information to identify the applicant, including but not limited to, full legal name, date of birth, telephone numbers, the place of business and residence addresses, a copy of the applicant's Palm Beach County Business Tax Receipt and Florida Identification Card or Florida driver's license number. If the applicant is a corporation, the foregoing information shall be provided for each corporate officer, director, registered agent or shareholder. If the applicant is a partnership, the foregoing information shall be provided for each general and limited partner. Post office box addresses shall not be accepted.
- (2) Documentation demonstrating that all corporate or partnership applicants are qualified under the laws of Florida to do business under the trade name or names under which it has applied for an operating permit.
- (3) A list of all persons with any ownership interest in the company who have previously been denied an operating permit from this or any other jurisdiction.
- (4) Verification of the business' current corporate status and fictitious name registration (if applicable) with the State of Florida.
- (5) Any trade name under which the business operates, intends to operate, or has previously operated.
- (6) The location and physical addresses of all places of business including storage facilities; as applicable.
- (7) A description of services proposed to be provided, including, but not limited to, days and hours of operation and types of towing and storage services, or immobilization services to be provided.
- (8) Proof of insurance as required in Section 19-187 (insurance requirements). As proof of insurance, a certificate of insurance must be submitted on the company's behalf directly to the division by the insurance company or agent.
- (9) A signature of each individual applicant, president or vice-president of a corporation and of all the general and limited partners of a partnership having twenty-five (25) percent or greater ownership in the company.
- (10) The submission of a statement assuring that each tow truck is commercially manufactured, meets the specifications listed herein, is in safe operating condition and receives routine service/maintenance.

(11) An agreement on the part of the applicant to abide by the provisions of this article and the laws of the State of Florida.

(12) Such additional information required by the division to process the application.

(c) The division shall review and investigate each application of an operating permit. In the case of an applicant that is not an individual, the applicant entity and any member of a partnership and the corporate offices and directors owning twenty-five (25) percent or more must meet the requirements of this article in order for the applicant to be eligible for an operating permit. The division shall deny any application that is incomplete or untrue in whole or in part, or which fails in any way to meet the requirements of this article.

(d) The applicant for permit shall not have pending criminal, administrative, or enforcement proceeding in this or any jurisdiction, nor shall the applicant's operating permit be currently under suspension or revocation in this or any jurisdiction based upon conduct that would result in suspension or revocation of an operating permit under this article. Application of this specific provision to consent-only towing companies is limited to proceedings that relate to public safety. Pending criminal, administrative or enforcement proceedings in any jurisdiction will result in a provisional operating permit that is dependent on the final disposition of the pending proceedings, unless the allegations and facts relate to a significant public safety issue. In such cases, the permit will be denied pending the outcome of the proceedings. The operating permit will be subject to revocation or suspension as appropriate following the conclusion of pending criminal, administrative or enforcement proceeding if the applicant no longer meets all eligibility requirements of this article. Fees, fines or penalties resulting from the pending enforcement proceeding must be satisfied pursuant to Section 19-205 or the provisional operating permit will be revoked.

(e) Applicants are required to have satisfied all civil and administrative fines, fees, costs, penalties or judgments arising out of an administrative or enforcement action brought by:

(1) The division, including any cease and desist orders and/or assurances of voluntary compliance issued by the division, pertaining to towing or immobilization regulations or applicable statutes, or

(2) Another governmental agency of any jurisdiction based upon conduct that would be a violation of this article, including a violation of towing or immobilization regulations in another jurisdiction.

All such civil fines, fees, penalties or judgments must be paid in full and satisfied prior to issuance or renewal of an operating permit under this article, unless the applicant presents proof of a payment plan that is current and evidencing good faith intent to satisfy any such fines, costs, judgments, penalties or fees that are outstanding.

(f) If an applicant or a director, officer, owner or partner of the applicant, owning at least twenty-five (25) percent had the entity operating permit revoked within one (1) year prior to the date of application, in this or any other jurisdiction, the applicant is not eligible for an operating permit until the expiration of one (1) year from date of revocation.

(g) The following are disqualifying offenses for applicants for towing or immobilization services permits:

(1) No time limit. Any conviction relating to sex crimes, the use of a deadly weapon, homicide, false imprisonment, kidnapping, violent offense against a law enforcement officer under F.S. § 775.0823 and any felony conviction for violence against a government or civil servant including but not limited to a paramedic, firefighter, law enforcement or other government or civil servant. The applicant must not have been adjudicated a habitual violent felony offender under F.S. § 775.084.

(2) Convictions. The applicant has been convicted of, found guilty of, or pled guilty or no contendere to, regardless of the adjudication of guilt, within the last ten (10) years from date of application of any of the following or substantially similar statutory offenses as may be updated or amended involving: repossession of a motor vehicle under F.S. Ch. 493, repair of a motor vehicle under F.S. §§ 559.901—559.9221, theft of a motor vehicle under F.S. § 812.014, carjacking under F.S. § 812.133, operation of a chop shop under F.S. § 812.16, failure to maintain records of motor vehicle parts and accessories under F.S. § 860.14, airbag theft or use of fake airbags under F.S. § 860.145 or F.S. § 860.146, overcharging for repairs and parts under F.S. § 860.15, or violation of the towing or storage requirements for a motor vehicle under F.S. § 321.051, F.S. Ch. 323, F.S. § 713.78, F.S. § 715.07, or any felony conviction involving a towed or immobilized vehicle or theft of property.

(3) Conviction of a felony by the applicant within the last five (5) years before the date of application which relates to public safety or demonstrates that the applicant cannot be trusted to safeguard the public's health, safety, welfare and/or property.

(4) Any criminal, administrative, or enforcement proceeding in any jurisdiction based upon conduct involving a violation of this article or other towing regulations. This paragraph shall apply to consent-only towing companies when such proceedings from other jurisdictions relate to public safety.

(5) Any unsatisfied judgments entered in an action brought by the division under this article.

(6) Has had its operating permit previously revoked by action of the division or any other jurisdiction within two (2) years of the date of application. This paragraph shall apply to consent-only towing companies when such proceedings relate to public safety.

(h) *Exemptions:* If an applicant had a valid operating permit on the effective date of the revision of this article, the applicant shall be exempt from any new disqualifications and/or requirements, and shall be permitted to continue to maintain its operating permit provided the operating permit does not lapse for a period of twelve (12) or more months. However, if the applicant or any director, officer, owner or partner is convicted of a new offense after the effective date of the revision of this article, that is a disqualifier under this article, or if new administrative or enforcement proceedings are initiated against the applicant in this or another jurisdiction, such that the applicant would not be eligible for an operating permit based on the new proceedings then the tow truck company or immobilization company's operating permit is subject to revocation.

(1) Operating permits expired for twelve (12) or more months cannot be reactivated. This exemption shall not be applied to new applications for operating permits initiated after the effective date of the revision of this article. This subsection only applies to the applicant entity as it existed on the effective date of the revision of this article and shall not be applied to exempt a director, officer, owner or partner joining the applicant after the effective date of the revision of this article.

(2) All tow truck companies and immobilization companies which desire to operate in Palm Beach County must secure an operating permit and follow the permitting procedures described in this section prior to conducting business. Immobilization companies must secure an operating permit within ninety (90) days from the effective date of the ordinance revision. If there are six (6) months or fewer less remaining before the division's annual operating permit renewal date, the nonrefundable fee for the

operating permit shall be fifty (50) percent of the operating permit fee. All other fees are required to be paid in full.

(i) Each operating permit issued pursuant to this section shall be valid and effective for one (1) year, beginning on January 1 and terminating on December 31 of each year. Failure to submit an operating permit application and the required nonrefundable fee for renewal by September 30 of each year will result in the assessment of a nonrefundable late fee. All fees shall be established by a resolution of the Board.

(j) An applicant failing to submit a complete application with all required supporting records within thirty (30) calendar days after the division's receipt of the application shall be denied a renewal or initial operating permit. Within ten (10) business days of receipt of the division's notice of denial, the applicant may refile a complete application with supporting documentation and pay a nonrefundable application re-filing fee established by a resolution of the Board. Failure to refile a complete application within this ten (10) day period results in the initial application being denied. However, applicants who do not satisfy the application defects within the ten (10) days will be allowed to resubmit a new application with a nonrefundable application permit fee and if applicable additional tow truck decal fees. The failure to re-file and pay the required fees will result in the denial of the operating permit application for that licensing period.

(k) After an initial application and every other year thereafter, the applicant shall submit to a background investigation.

(l) Each operating permit shall be printed on a certificate containing, at a minimum, the name and address of the company, the name of the principal, the dates the operating permit is in effect, and the identifying number assigned by the division to the company. The operating permit certificate issued by the division shall remain the property of Palm Beach County and shall be used only under the authority of the division.

(m) All operating permits shall be renewed annually. As a part of the renewal process, the original application shall be updated and verified by the applicant. Each updated renewal application shall be accompanied by a nonrefundable renewal fee. All operating permits which are not renewed shall automatically expire upon the expiration date of the operating permit, as stated on the operating permit, and all towing, storage and immobilization services shall cease immediately. The division shall deny each renewal application that is

not timely, is incomplete, is untrue in whole or in part, is unaccompanied by the required fees, or results in a determination by the division that the applicant has failed to satisfy the requirements of this article.

(n) All services authorized by an operating permit issued by the division shall cease immediately upon the expiration of the operating permit, notwithstanding the filing of a renewal application, unless the division, in writing and on forms prescribed and executed by the division, expressly allows the operating permit to remain effective pending its review of the submitted renewal application.

(o) An operating permit issued or renewed pursuant to the provisions of this section shall not be transferable, nor shall the ownership structure of the operating permit be so modified as to constitute a change in the control or ownership of the operating permit. If the business changes its name or ownership structure, a new business permit application and the business application permit fee shall be submitted to the division within forty-five (45) days of said change. In cases where the name of the business changes, the new business will be required to have each vehicle inspected and must also pay decal/vehicle fees.

Any change in fictitious name has to be reported to the division within ten (10) business days. The fictitious name must be registered with the Florida Department of Corporations.

(p) Failure to comply with or meet the criteria eligibility of this section may result in denial of an operating permit, revocation or suspension of the operating permit, a denial of renewal of an operating permit, issuance of a civil citation, a criminal conviction and/or other such remedies available to the division and law enforcement as permitted by law.

(q) All fees collected shall be deposited in a separate county fund for the division's operation.

SECTION 4. INSPECTION OF STORAGE YARDS AND PUBLIC OFFICES **REQUIRED**

Section 19-186 of the Palm Beach County Code is hereby amended to read as follows:

(a) Prior to the issuance of an operating permit, the division shall inspect each storage facility and public office area of a tow truck company to assure compliance with this article and the following:

(b) In addition to the requirements of F.S. § 713.78, as may be amended, Nonnon-consent towing storage facilities must meet the following requirements:

(21) At least ten (10) feet by twenty (20) feet of outdoor storage space for each standard vehicle/vessel (more for larger vehicles). The facility must be able to accommodate a minimum of ten (10) standard size vehicles. For towing companies unable to provide outdoor storage, an indoor facility must be provided with the same space for a minimum of ten (10) standard size vehicles and must use one (1) or more of the security methods defined herein. Tow truck companies which provide only indoor storage shall not exceed the maximum allowable outdoor storage rates established by the Board.

(32) At least ten (10) feet by twenty (20) feet of indoor storage space for each standard vehicle/vessel. The indoor storage space must adequately protect the vehicle from natural (e.g., rain, hail, etc.) and man-made (e.g., paint, chemicals, etc.) elements, be isolated to prevent contact with unapproved personnel/public and be placed in such a manner to prevent damage by any other means. Indoor storage space shall be adequately vented to the outside to prevent accumulation of toxic fumes or gases that may pose a threat to human health. The indoor facility must be able to accommodate a minimum of at least two (2) standard size vehicles.

(53) Each storage facility must use one (1) or more of the following security methods to discourage theft of vehicles/vessels or of any personal property contained in such vehicles/vessels:

- a. A night dispatcher or watchman remaining on duty at the storage facility from sunset to sunrise;
- b. A guard dog (as licensed and approved by the Palm Beach County Animal Care and Control Division) which remains at the storage facility from sunset to sunrise;
- c. Security cameras or other similar electronic surveillance devices which monitor and record activities in the storage facility during the hours the business is closed to the public; or

(64) An appropriate public office area protected from the weather and equipped with the approved sanitary facilities in accordance with the requirements of Chapter 64E-10, FAC.

(c) By resolution, the Board may establish a storage yard inspection fee.

SECTION 5. INSURANCE REQUIREMENTS

Section 19-187 of the Palm Beach County Code is hereby amended to read as follows:

- (a) It shall be unlawful for any tow truck company to recover, tow, remove or store a vehicle/vessel until that company has filed with the division proof of current commercial insurance as follows: auto liability for each vehicle, general/garage liability, on-hook cargo liability and worker's compensation (as required by state law). The Board shall establish the minimum insurance limits by resolution for each insurance type. Further, the required insurance coverages must remain in effect and current during the term of the operating permit. Tow truck companies no longer providing tow services shall surrender and return the operator permit by written notification to the division in order to terminate insurance responsibilities under this article.
- (b) It shall be unlawful for any immobilization company to maintain a current operator permit or to immobilize a vehicle until that company has filed with the division proof of current commercial insurance. The Board shall establish the minimum insurance limits by resolution for each insurance type. Further, the required insurance coverages must remain in effect and current during the term of the operating permit. Immobilization companies no longer providing immobilization services shall surrender and return the operator permit by letter notification to the division in order to terminate insurance requirements under this article.
- (c) All insurance policies required shall be issued by insurance companies licensed and admitted to write commercial liability insurance in the State of Florida. No policy shall be accepted which is less than a six-month duration. Each policy shall be endorsed to provide for thirty (30) days written notice to the division of any non-renewal of the policy or at least ten (10) days written notice to the division of any cancellation/non-payment of the policy.
- (d) A properly completed certificate of insurance evidencing all insurance coverages shall be made available to the division upon application for an operating permit. Each certificate of insurance shall be submitted to the division directly from the insurer or an insurance agent. Each vehicle must be listed on the certificate(s) by its year, make and vehicle identification number. Certificates of insurance must contain the following name and address as certificate holder:

Board of County Commissioners of Palm Beach County

c/o Department of Public Safety Division of Consumer Affairs

50 South Military Trail

West Palm Beach, FL 33415

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

(e) The division may deny, suspend or revoke the operating permit of any company for failure to obtain or maintain insurance as required by this article. Any company which submits false or fraudulent insurance documents shall be subject to immediate denial or revocation. Such companies shall not be eligible to reapply for a business permit for five (5) years. The division shall notify the state department of financial services/division of insurance fraud for follow-up investigation and review. Upon denial, suspension or revocation of the business permit, the company shall be entitled to an appeal according to the provisions in Section 19-208~~(hearings and appeals)~~.

(f) The division shall suspend the operating permit of any company which fails to ensure that each and every registered vehicle associated with the company has:

(1) A current certificate of insurance provided to the division by the authorized agent or insurance company no later than the date of expiration of its previous policy; or

(2) A reinstatement notice provided to the division no later than the date of cancellation of said policy.

(3) Any company which has had its business permit suspended more than two (2) times in any twelve-month period may have such permit revoked for a period of one (1) year.

(g) An "administrative insurance reactivation" fee established by resolution of the Board, shall be assessed all tow truck or immobilization companies that are suspended pursuant to subsection (e) above. The suspension shall not be withdrawn until the fee is paid to the division.

SECTION 6. TOW TRUCK REGISTRATION, TOW TRUCK STANDARDS,

DECALS

Section 19-188 of the Palm Beach County Code is hereby amended to read as follows:

- (a) It shall be unlawful to recover, tow or remove a vehicle/vessel or to provide storage in connection therewith unless the tow truck is registered with the division and each tow truck used to provide service displays in the lower left corner (driver side) of the front window, a current tow truck decal issued by the division. The tow truck decal remains the property of the division and can be used only under the authority of the division. Notwithstanding the foregoing, the county administrator or designee is authorized to exempt consent only tow truck companies from the decal requirement by order of the division during a declared state of emergency and extending for a period of forty five (45) days thereafter which may be extended for good cause by order of the county administrator or designee for an additional thirty (30) days in order to assist consumers in recovery following a disaster. During this emergency exemption requirement, consent tow truck companies shall notify the division of the need to operate. The division will maintain a registry of companies performing consent tows.
- (b) The division shall issue tow truck decals for each tow truck to be used for services upon application and satisfactory inspection of each tow truck by the division conforming to the requirements of Florida law and this article including but not limited to the following requirements:
- (1) Required permanent signage for each tow truck used for providing tow truck company services are as follows:
- a. The tow truck clearly displays the company name on the exterior of the driver and passenger sides in permanently affixed letters in contrasting colors at least three (3) inches high.
 - b. The physical address of the tow truck company's primary business address must be permanently affixed to the tow truck;
 - c. The telephone number and operating permit number must be permanently affixed to the tow truck in at least one (1) inch high letters in contrasting colors on the exterior driver and passenger sides; and

d. Magnetic signage of any type is not allowed and will not satisfy the signage requirements set forth in this article.

Notwithstanding the foregoing signage requirements, in the event the Florida legislature amends or changes any provision in F.S. Ch. 715, or amends or adds a similar Florida Statute to regulate or amend regulations on tow truck signage requirements, then the new or revised tow truck signage requirements in Florida Statutes shall take precedence over any inconsistent or conflicting signage requirements set forth in this article.

(2) Submission of an affidavit to the division assuring that each tow truck is commercially manufactured and meets the specifications listed in Section 19-183 (tow truck class specification) and is in safe operating condition.

(3) An application form prepared by the division shall be completed by the tow truck company, which correctly indicates the year, make, model, vehicle identification number, the State of Florida motor vehicle license plate number, and the expiration date of the license plate of each tow truck to be associated with the tow truck company. A copy of the State of Florida vehicle registration shall be provided to the division for each vehicle to be issued a decal.

(4) Payment of a nonrefundable decal fee established by resolution of the Board. All fees shall be deposited into the designated fund for the division's operations.

(5) Inspection of the tow truck by the division to ensure that the tow truck meets the minimum tow truck signage requirements and safety and equipment standards. The minimum safety inspection requirements for all tow trucks shall be:

- a. Compliance with Section 19-183 (tow truck class specification);
- b. Vehicle and towing apparatus in safe operating condition pursuant to F.S. Ch. 316, as may be amended;
- c. Tire conditions and tread;
- d. Braking performance;
- e. Lights—, including Headhead, parking, rear, signal and flood;
- f. Amber emergency lighting;
- g. Fire extinguisher;

h. Safety equipment—, including Flares-flares and light reflective safety cones or red triangle highway warning reflectors; and

i. Flashlight.

Tow trucks used exclusively for police directed tows shall be required to also have the following:

a. "Oil-dry-Dri" or its equivalent; and

b. Equipment—; Crowbar/pryer, jumper cables, bolt cutters, four-way lug wrench, extra tow chain, five-gallon trash receptacle, fire axe, heavy duty push broom and shovel.

(c) Each tow truck that has a decal is required to be insured as set forth in Section 19-187 herein. In cases where a tow truck is removed from service, the decal must be returned to the division in order to terminate the insurance requirement and remove the tow truck from the tow truck company truck roster.

(d) Each tow truck decal issued pursuant to this section shall be valid and effective for one (1) year beginning on January 1 and terminating on December 31 of each year. Failure to renew the tow truck decal before its expiration will result in the assessment of a nonrefundable late fee. All fees shall be established by resolution of the Board.

(e) The tow truck decal remains the property of the division and can be placed, removed and used only under the authority of the division and will be associated by number to an individually identified tow truck. Current insurance is required for each tow truck with a decal. Decals can be surrendered and returned to the division to remove a tow truck from the operating permit for the company.

(f) It shall be unlawful and a violation of this article for any tow truck company to alter or transfer ownership of any decal. If a tow truck is destroyed or sold, the tow truck company must remove said decal and surrender the remains to the division.

(g) Any additional tow trucks must comply with this section prior to being used for recovery, towing or removal of any vehicle/vessel. Upon compliance with this section, additional tow trucks 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 (6) months or less remaining before the annual decal renewal period.

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- (h) Decals shall be issued in numerical order and assigned to a specific tow truck and each decal issued shall display its assigned number.
- (i) The decal for each tow truck shall be affixed by personnel authorized by the division and shall not be removed except with approval of the division when removing a tow truck from service. The decal shall be displayed where affixed on the window and available for inspection by any law enforcement officer or by the division.
- (j) Replacement or duplicate decals may be approved by the division upon the completion of an application and notarized statement of the tow truck company stating that such replacement or duplicate decal is necessary and stating the reasons for such request, along with a replacement decal fee to be approved by resolution of the Board.
- (k) In the event a tow truck is inspected by a municipality or law enforcement agency that requires substantially the same inspection requirements as contained in this article, that tow truck 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 tow trucks associated with a tow truck company must be registered with the division and meet the vehicle safety requirements of this article.
- (l) Tow trucks that have a valid decal can be temporarily removed from service by return of the decal to the division. If that tow truck is returned to service prior to the next annual decal renewal, the tow truck company is required to:
- (1) Obtain a new decal and to pay a return to service decal fee; and
 - (2) Submit proof of current insurance.
- No inspection fee shall be required but the tow truck must be returned to service prior to December within the current renewal year. However, those tow trucks will be required to be inspected and will be issued annual decals at the upcoming annual renewal.
- (m) Tow trucks that are issued decals and temporarily removed from service by return of the decal to the division but that are returned to service after December of the current renewal year, will be required to be re-inspected and shall pay the inspection fees, regular decal fees and late fees. They must also provide proof of current insurance and satisfy all other requirements of this article. There is no proration of fees.

SECTION 7. NON-CONSENT MANIFEST, TOWING INVOICE, OR TOW SHEET

Section 19-190 of the Palm Beach County Code is hereby amended to read as follows:

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- (a) It shall be unlawful for any person providing non-consent towing services to recover, tow, remove or store a vehicle/vessel unless the tow driver at the tow scene and the towing company at the storage yard has in his/her possession a manifest, uniquely numbered towing invoice, tow sheet or dispatch records which may be electronic or hand written, and shall include the following information:
- (1) Name, address, and telephone number of the tow truck company, name of tow truck operator physically providing the service and the tow driver's I.D. badge number;
 - (2) Palm Beach County Towing Permit Number (TP#) and decal number of the towing vehicle used to provide the service;
 - (3) Name, address and telephone number of the person requesting the service, except as provided in Section 19-194 (non-consent towing with prior express instruction);
 - (4) Prior express instruction (signed and dated) of the real property owner provided in the presence of the tow truck driver recovering, towing or removing the vehicle/vessel except as provided in subsection (a) above;
 - (5) Date and time the tow truck arrived at the location where the service is to be performed;
 - (6) Date and time of release of vehicle/vessel to vehicle/vessel owner or authorized agent;
 - (7) Location at which the service originated;
 - (8) Destination to which the vehicle/vessel being provided the service is taken and the time of arrival at the destination;
 - (9) Description of vehicle/vessel being provided the service, including make, model, year (if known), color, vehicle/vessel identification number (if visible)-~~and~~, license plate number, and state of registration if any;
 - (10) Description of services provided;
 - (11) The total charges, including, but not limited to, cost of the initial towing service, cost of storage fees expressed as a daily rate, administrative fees, and other fees as approved by the Palm Beach County Board of County Commissioners, listed individually and specifically as well as the description of the services rendered;
 - (12) When an "extra time/labor at scene" charge is applied, the tow truck driver shall obtain and provide the name of the law enforcement agency and agency case number. In lieu of the case number, the badge number and name of the investigating law enforcement

officer on the scene must be provided. A detailed explanation of the services rendered which necessitated the charges shall also be recorded and provided to the vehicle/vessel owner or driver upon request;

(13) The following disclosure in bold capitalized letters of at least twelve-point type:

IF YOU HAVE QUESTIONS OR COMPLAINTS ABOUT NON-CONSENT TOWS THAT ARE NOT RESOLVED BY THE TOWING COMPANY MANAGEMENT, CONTACT THE PALM BEACH COUNTY CONSUMER AFFAIRS DIVISION, WEST PALM BEACH, FLORIDA. TELEPHONE: (561) 712-6600 OR BY INTERNET: www.pbcgov.com/consumer.

COMPANIES PERFORMING NON-CONSENT TOWS IN PALM BEACH COUNTY ARE REQUIRED TO ACCEPT ~~EACH~~ AT LEAST TWO OF THE FOLLOWING FORMS OF PAYMENT:

1. CASH, CASHIER'S CHECK, MONEY ORDER, OR VALID TRAVELER'S CHECK, ~~AND~~

2. VALID BANK DEBIT/CREDIT CARD, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, MASTERCARD OR VISA, THAT IS IN THE NAME OF THE VEHICLE/VESSEL OWNER ~~OR~~, AUTHORIZED DRIVER, LIENHOLDER, OR INSURANCE COMPANY REPRESENTATIVE ~~OR IN THE NAME OF A PERSON APPEARING IN PERSON AND WITH THE VEHICLE OWNER OR AUTHORIZED DRIVER~~. A CREDIT CARD CONVENIENCE FEE MAY BE ADDED TO THE TRANSACTION AMOUNT TO COVER CREDIT CARD FEES.

3. MOBILE PAYMENT SERVICE, DIGITAL WALLET, OR OTHER ELECTRONIC PAYMENT SYSTEM.

(b) Each original manifest, towing invoice, or tow sheet shall be available for inspection and a copy provided upon demand by law enforcement officers, by personnel authorized by the division to perform enforcement duties or to the vehicle/vessel owner or division personnel, or by the vehicle/vessel owner/driver. Electronic records must be made available in hard copies upon request and shall be made available electronically by email upon request.

(c) An itemized invoice of actual fees charged by a tow truck company for a completed tow must be produced and available to the vehicle or vessel owner, lienholder, insurance company, or their agent no later than one (1) business day after:-

1. The tow is completed; or

2. The tow truck company has obtained all necessary information to be included on the invoice, including any charges submitted by subcontractors used by the tow truck company to complete the tow and recovery.

SECTION 8. RECORDS REQUIRED

Section 19-192 of the Palm Beach County Code is hereby amended to read as follows:

Each tow truck company shall maintain accurate and complete records including but not limited to, manifests, towing invoices, ~~or~~ tow sheets, correspondence, supporting documentation and all other records and documents required to be maintained pursuant to the provisions of this article and by F.S. § 713.78(18), as it may be amended. All records and photographs shall be maintained for at least three (3) years for non-consent towing services and for one (1) year for services related to consent-only towing services. The division and the vehicle owner/driver shall have access to any records and photographs for inspection and copying, during regular business hours.

The division shall have the right to remove the records for the purpose of inspection and copying if the tow truck company does not have copying capability on hand. The division may allow the tow truck company to deliver copies to the division within twenty-four (24) hours, at the discretion of the division staff. All removed records shall be returned to the tow truck company within three (3) calendar days. Each refusal to allow inspection or copying for removal if copying capability is not present upon request, is a violation of this article punishable by a civil fine in an amount established by Board resolution.

SECTION 9. NON-CONSENT TOWING WITH PRIOR EXPRESS INSTRUCTION

Section 19-194 of the Palm Beach County Code is hereby amended to read as follows:

(a) In addition to the other requirements of this article, no tow truck company shall, recover, tow, or remove a vehicle/vessel or provide storage in connection therewith, except in accordance with F.S. Ch. 715 and the following:

(1) Police directed tow. Non-consent tow truck companies may recover, tow or remove a vehicle/vessel based upon the prior written instruction of a police officer.

(2) Private/public property impound. Non-consent tow truck companies may recover, tow or remove a vehicle/vessel on a private/public property impound without the prior express instruction of the vehicle/vessel owner or authorized driver, upon the prior

express instruction of the real property owner or his duly authorized agent on whose property the vehicle/vessel is disabled, abandoned or parked without authorization or whose vehicle/vessel owner or authorized agent is unwilling or unable to remove the vehicle/vessel, provided that the following requirements have been met:

- a. Except as otherwise provided herein, notice is provided as set forth in Section 19-195 of this article.
- b. A business owner or lessee may authorize the removal of a vehicle/vessel by a tow truck company without prior consent of the vehicle/vessel owner/driver when the vehicle is parked on a public right-of-way that obstructs access to a private driveway. The property owner may have the vehicle removed by a tow truck company without a posted tow-away zone sign upon signing the order that the vehicle be removed.
- c. The additional requirements for non-consent towing set forth in Section 19-196 of this article.
- d. The property owner or law enforcement officer has provided prior express instruction authorizing the tow in full compliance with this article.
- e. The non-consent tow truck company recovering, towing or removing a vehicle/vessel shall, within thirty (30) minutes of completion of such towing or removal, notify the appropriate law enforcement agency in which jurisdiction the vehicle/vessel was parked of the following:

(1) the ~~The~~ nature of the service rendered;

(2) the ~~The~~ name and address of the storage facility where the vehicle/vessel will be stored;

(3) the ~~The~~ time the vehicle/vessel was secured to the towing vehicle; and

(4) the ~~The~~ make, model, color and vehicle/vessel license plate number (if any) of the vehicle or description and registration number of the vessel.

The non-consent tow truck company shall obtain the name of the person at the law enforcement agency to whom such information was reported and note that name on the trip record. It shall be a violation of this article for a non-consent tow truck company to act as a duly authorized agent as defined in Section 19-182 on behalf

of the real property owner. An example of such action shall include but not be limited to the use of written warnings or stickers for pre-tow notification.

- (3) Except as otherwise provided in this article, every prior express instruction made in writing or in person shall indicate the date and time of the instruction and shall be signed by the law enforcement officer, or the real property owner/duly authorized agent in the physical presence of the tow truck company providing the service at the time the towing services are performed. The law enforcement officer or the real property owner/the duly authorized agent shall also print his/her full name. Prior express instruction (signed/printed name and date) must be provided on the manifest, towing invoice or tow sheet in the presence of the driver. Pre-authorization or post-authorization for prior express instruction is a violation of this article and shall result in the issuance of a citation and/or suspension or revocation of the operating permit. Being in the possession of a pre-signed, manifest, towing invoice, tow sheet or fax authorization form shall constitute prima facie evidence of pre-authorization and is a violation of this article. Such violation shall result in the issuance of a citation and/or suspension or revocation of the operating permit.
- (4) Prior express instruction for non-consent tow. Prior express instruction whether faxed or emailed must include each of the following:
- a. The specific location of the vehicle/vessel (i.e., address, parking space, etc.);
 - b. The color of the vehicle/vessel;
 - c. The make and/or model of the vehicle/vessel (if visible);
 - d. The license tag number or the vehicle/vessel identification number (if available);
 - e. The real property owner's or authorized agent's signature and printed or typed full name and title, except for email instructions;
 - f. The date and time that the instruction is signed must be included on the manifest towing invoice or tow sheet; and
 - g. Except as otherwise provided in this article, the law enforcement officer or the property owner shall execute and complete the prior express instruction in the physical presence of the tow driver at the time the towing service is performed.

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- (5) Prior express instruction expires twelve (12) hours from the time of execution regardless of whether the instruction is received by the tow truck company electronically, by email, or at the scene of a tow.
- (6) Prior express instruction received via facsimile or email is not required to be signed in the presence of the tow truck driver.
- (7) The tow truck company, in compliance with Section 19-192 (records required), shall maintain copies of facsimile and emailed prior express instructions sufficient to document compliance with this article including the date and time stamp. Tow truck companies utilizing expired prior express instruction without a date and time stamp are in violation of this article.
- (8) Emailed prior express instruction can be accepted only if each of the following specific additional criteria are satisfied:
- a. Each prior express instruction must be an email delivered to the tow truck company's primary email address and printable upon demand by law enforcement or division employee.
 - b. The email must establish the date and time the email was received by the tow truck company.
 - c. The email address(es) of the property owner or authorized agent must be on the contract.
- (9) Prior express instruction to tow, recover, or store a vehicle must be for a specifically identified vehicle and cannot be given for a generic vehicle location, event, time or place. Any tow driver found in the possession of a pre-signed manifest towing invoice, tow sheet, facsimile, email or electronic authorization form that is not in conformity to this article shall constitute prima facie evidence of pre-authorization and is a violation of this article. Such violation shall result in the issuance of a citation and/or suspension or revocation of the operating permit of the tow truck company and such other remedies as authorized in this article.
- (10) Except as otherwise provided in this article, no such prior express instruction shall be considered to have been given:
- a. By the mere posting of signage as required by Sections 19-195 (notice requirements for providing non-consent tow services at request of real property

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- owners) and Section 19-198 (maximum non-consent towing and storage rates for non-consent tow services);
- b. By virtue of the terms of any contract or agreement between a tow truck company and a real property owner;
 - c. When the prior express instruction occurs in advance of the actual unauthorized parking of the vehicle/vessel; or
 - d. Where the prior express instruction is general in nature and unrelated to specific, individual and identifiable vehicles/vessels which are already parked without authorization.
- (11) A tow truck company employee, operator, contractor or agent of a tow truck company cannot be the duly authorized agent for the purposes of providing prior express instruction to remove, tow, store, a vehicle/vessel.
- (12) The duly authorized agent shall have no affiliation with the tow truck company providing the towing service. The property owner shall only appoint duly authorized agents having a direct connection to the property (e.g., Board member, employee of the property management company or home/condo owner's association, employee of the property owner or State of Florida licensed security agency contracted by the property owner or manager). A violation of this provision is a violation of this article.
- (b) *Other Requirements for Non-Consent Tows.*
- (1) The non-consent tow truck company recovering, towing or removing a vehicle/vessel shall, within thirty (30) minutes of completion of such towing or removal, notify the appropriate law enforcement agency in which jurisdiction the vehicle/vessel was parked of the nature of the service rendered, the name and address of the storage facility where the vehicle/vessel will be stored, the time the vehicle/vessel was secured to the towing vehicle, and the make, model, color and vehicle/vessel license plate number (if any) of the vehicle/vessel or description and registration number of the vessel. The non-consent tow truck company shall obtain the name of the person at the law enforcement agency to whom such information was reported and note that name on the trip record. It shall be a violation of this article for a non-consent tow truck company to act as a duly authorized agent as defined in Section 19-182 on behalf of

the real property owner. An example of such action shall include but not be limited to the use of written warnings or stickers for pre-tow notification.

(2) The tow truck company in compliance with Section 19-192 (records required) shall maintain copies of facsimile and email instructions. Acting on an incomplete or expired electronic or facsimile instructions is a violation of this article.

(3) A non-consent tow truck company/driver shall not solicit, offer, pay or rebate money or other valuable consideration in order to obtain the privilege of rendering towing services. The only exception is governmental franchise fees.

(4) Each non-consent tow truck company shall enter into a written contract with the property owner or duly authorized agent (as defined herein) of private property that authorizes the non-consent tow truck company to tow vehicles/vessels on or from its property. This written contract shall include the following:

- a. The beginning date of said contract.
- b. The names of all persons who are duly authorized agents to provide prior express instruction to remove, recover or tow any vehicle/vessel on or from its property.
- c. The name, address and current telephone number of the tow truck company performing the towing service.
- d. The name, address, email address and telephone number for any duly authorized agents acting on behalf of the real property owner that can provide express instruction. Email address is required for those utilizing email for prior express instruction. If prior express instruction is sent by email, the sender's email address shown on the contract must match the authorization email. The contract may be amended by addendum to add or delete duly authorized agents for prior express instruction.
- e. The written contract for non-consent towing shall also include a clear understanding of liability for the real property owner as stated in F.S. § 715.07(4) and shall include the following wording, "When a person improperly causes a vehicle or vessel to be removed, such person shall be liable to the owner or lessee of the vehicle or vessel for the cost of removal, transportation, and storage; any damages resulting from the removal, transportation, or storage of the vehicle or vessel; attorney's fees; and court costs."

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- f. No such contract shall state that the non-consent tow truck company assumes the liability for improperly towed vehicles/vessel, contrary to F.S. § 715.07(4). Any addendum to the contract shall include additional names and titles as necessary.
- g. The non-consent tow truck company must keep on file an original, dated and signed contract and addendum (if applicable) with the property owner or duly authorized agent and each contract shall include a Palm Beach County Tow Map locator available on the Division of Consumer Affairs website or Good Mileage map attached thereto to demonstrate compliance with F.S. § 715.07(2)(a) 1.
- h. Such contract shall be maintained for at least twelve (12) months after contract termination. The division and law enforcement officers may inspect and request a copy of any and all such contracts from the non-consent tow truck company during normal business hours. Contracts authorizing the non-consent tow truck company to tow vehicles from the property owner's property to the storage yard in excess of the mileage restrictions of Florida Statutes violate this article and all recovery, towing, and storage charges shall be returned to the vehicle owner/driver.

(5) Real property owners or authorized representatives shall not request the recovery, tow or the removal of vehicles/vessels that are reasonably identifiable from markings or equipment as law enforcement, firefighting, rescue squad, ambulance, or other emergency vehicles/vessels which are marked as such.

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

SECTION 10. NON-CONSENT TOW TRUCK COMPANY REQUIREMENTS

Section 19-196 of the Palm Beach County Code is hereby amended to read as follows:

- (a) Non-consent tow truck companies shall not provide towing services pursuant to this article when there is a person occupying the vehicle/vessel.
- (b) Non-consent tow truck companies providing services pursuant to this article shall transport a towed vehicle/vessel directly to the approved storage yard of the tow truck company providing the service, to a location expressly designated by a law enforcement officer

authorizing the tow, or to a location expressly designated by the vehicle/vessel owner or authorized driver. When the vehicle owner or authorized driver expressly authorizes the vehicle/vessel to be towed to a location other than the tow truck company storage yard, the tow truck driver must:

- (1) Provide a "not to exceed" estimate in writing of all the rates and fees that will be assessed for the tow or negotiate a consent-only towing agreement; and
- (2) Disclose in writing the three (3) methods of payment and come to a mutually agreed time as to how and when the tow truck company will be compensated.

(c) It is a violation of this article for a non-consent tow truck company to keep or stage impounded vehicles/vessels in any temporary area or holding facility.

(d) Non-consent tow truck companies shall file and keep on record with the division a complete copy of all current rates charged for the recovery, towing or removal of vehicles/vessels and storage provided in connection therewith. Such persons shall also prominently display at each storage facility the following information: signage which identifies the name of the tow truck company, a schedule of all charges and rates for removal of vehicles/vessels for private property impounds; a statement that these rates do not exceed those rates filed with the division and are in accordance with the provisions of this article and the rights afforded to a vehicle owner or authorized driver pursuant to Florida Statutes. The above information shall be posted prominently in the area designated for the vehicle/vessel owner or authorized driver/agent to transact business. Such area shall provide shelter, safety and lighting adequate for the vehicle/vessel owner or authorized driver/agent to read the posted rate schedule. Further, notice shall be posted advising the vehicle/vessel owner or authorized driver/agent of the right to request and review a complete schedule of charges and rates for towing services for the jurisdiction in which the law enforcement order to tow was made, and that the tow truck company is permitted by the division noting the Division's telephone number, address and business hours.

(e) Non-consent tow truck companies which provide services pursuant to this article shall advise any vehicle/vessel owner or authorized driver who calls by telephone prior to arriving at the storage facility of the following:

- (1) Each and every document or other item which must be produced to retrieve the vehicle/vessel;

1011 (2) The exact charges as of the time of the telephone call and the rate at which charges
1012 accumulate after the call;

1013 (3) The acceptable methods of payment; and,

1014 (4) The hours and days the storage facility is open for regular business.

1015 (f) Non-consent tow truck companies which provide services pursuant to this article shall allow
1016 every vehicle/vessel owner or authorized driver/agent to inspect the interior and exterior of
1017 the towed vehicle upon his or her arrival at the storage facility before payment of any
1018 charges (except for "after-hour gate or personal property retrieval fee"). With the exception
1019 of vehicles being held pursuant to the specific request or "hold order" of a law enforcement
1020 agency, the vehicle/vessel owner or authorized driver/agent shall be permitted to remove the
1021 vehicle license tag and any and all personal property inside but not affixed to the
1022 vehicle/vessel. A vehicle/vessel owner who shows a government issued photo identification
1023 shall be given access to view ownership documents stored in the vehicle/vessel. The
1024 vehicle/vessel and/or personal property shall be released to the vehicle/vessel owner if the
1025 ownership documents are consistent (name and address) with the photo identification. When
1026 a vehicle/vessel owner's government issued identification and ownership documents are
1027 stored inside the impounded vehicle due to unforeseen circumstances, the tow truck
1028 company shall be required to recover the ownership documents stored in the impounded
1029 vehicle (i.e., glove compartment, sun visors, etc.) upon receipt of a vehicle/vessel key,
1030 vehicle access code, or electronic device from the vehicle owner that would allow entry.
1031 The vehicle/vessel and/or personal property shall be released to the vehicle/vessel owner if
1032 the ownership documents are consistent with the photo identification.

1033 (g) Non-consent tow truck companies which provide services pursuant to this article shall
1034 accept payment for charges as specified in Section 19-190.

1035 A tow truck company/driver shall not reject any of the above forms of payment. A
1036 vehicle/vessel owner or authorized driver shall not be required to furnish more than one (1)
1037 government issued form of picture identification when payment is made as specified in Section
1038 19-190.

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1040 (h) Non-consent tow truck companies which provide services pursuant to this article shall not
1041 store or impound a towed vehicle/vessel at a distance which exceeds a ten-mile radius of the

1042 location from which the vehicle/vessel was recovered, towed or removed unless no tow
1043 truck company providing services under this section is located within a ten-mile radius, in
1044 which case a towed or removed vehicle/vessel must be stored at a site within twenty (20)
1045 miles of the point of removal.

1046 (i) Non-consent tow truck companies which provide services pursuant to this article shall
1047 maintain one (1) or more storage facilities, each of which shall maintain a current Palm
1048 Beach County Business Tax Receipt and when applicable a municipal business tax receipt.
1049 The business shall be open for the purpose of redemption of vehicles/vessels by
1050 owners/drivers on any day that the tow truck company is open for towing purposes from at
1051 least 8:00 a.m. to 6:00 p.m., Monday through Friday and, when closed, shall have posted
1052 prominently, in a clearly visible location, on the exterior of the storage facility and primary
1053 place of business, if different, a notice indicating a telephone number where the tow truck
1054 company can be reached at all times. Upon request of the vehicle/vessel owner or
1055 authorized driver, the tow truck company shall release the vehicle/vessel to the
1056 vehicle/vessel owner or authorized driver/agent within one (1) hour.

1057 (j) Non-consent tow truck companies shall not, as a condition of release of the vehicle, require
1058 a vehicle/vessel owner/driver/agent to sign any release or waiver of any kind which would
1059 release the tow truck company from liability for damages noted by the vehicle/vessel owner
1060 or authorized driver/agent at the time of the vehicle's/vessel's release. A detailed, signed
1061 receipt showing the legal name of the tow truck company removing the vehicle/vessel shall
1062 be given to the vehicle/vessel owner or authorized driver at the time of payment, whether
1063 requested or not.

1064 (k) Nothing in this article shall prevent the sheriff or any municipality within the county from
1065 providing additional or more restrictive requirements in contracts or arrangements which
1066 authorize the recovery, towing or removal of vehicles/vessels or storage provided in
1067 connection therewith.

1068 (l) Non-consent tow truck companies which provide services pursuant to this article shall
1069 release vehicles/vessels towed or removed to the vehicle/vessel owner or authorized driver
1070 if documentation is provided proving ownership or agent status. Proof of ownership
1071 documents shall include a current government issued photo ID and one (1) of the following
1072 documents:

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- (1) Current vehicle registration or vehicle registration expired in the past ninety (90) days;
- (2) Vehicle title or property endorsed title transferring ownership pursuant to the requirements of F.S. § 319.22;
- (3) A contract between a lender and the owner of the vehicle or vessel;
- (4) A contract between a lessor and the lessee of the vehicle or vessel;
- (5) Credentials establishing the person as an employee or contract agent of an insurance company along with documentation identifying the vehicle by the vehicle identification number or vessel by the hull identification number.
- (63) Notarized document from the vehicle/vessel owner or lien holder authorizing a designated agent to pick up the vehicle and accompanied by a photocopy of the owner's driver's license. The notarized document with driver's license copy can be presented via facsimile or electronically (including by email), provided same can be printed and saved.
- (74) Insurance card with the vehicle/vessel owner's information and vehicle description;
- (85) Licensed dealer in possession of an auction buyer's sales invoice and/or;
- (96) A notarized bill of sale for non-titled vehicles or vessels;
- ~~(7) Valid rental or lease agreement;~~
- (108) If the vehicle owner's driver's license has been confiscated by law enforcement and the owner has no other government issued photo identification, then the owner may present one (1) of the following forms of identification:
- (a) ~~an~~ An itemized voucher/property receipt from an arresting law enforcement agency; or
- (b) ~~a~~ A booking or arrest record or original citation resulting from incident that prompted the tow from a law enforcement agency all issued within seven (7) days of the date the vehicle was towed.
- (m) Non-consent tow truck companies which provide services pursuant to this article shall make a "good faith effort" to locate the vehicle/vessel owner or lien holder. For the purposes of this paragraph and subsection, a "good faith effort" ~~means~~ includes that the required steps regarding notice have been performed by the tow truck company according to F.S. § 713.78(4)(c) ~~and (d)~~. Failure to make a "good faith effort" to comply with the notification

1103 requirements of this section shall preclude the imposition of any storage charges against
1104 such vehicle or vessel.

1105 (n) Non-consent tow truck companies which provide services pursuant to this article and found
1106 to be in violation of this article relating to a specific non-consent tow shall be required to
1107 reimburse the vehicle owner all illegal or over charges related to that towing incident.
1108 Failure to reimburse the owner of the vehicle in such cases is a violation of this article.

1109 (o) Any non-consent tow truck company that has an unusable storage yard or has been evicted
1110 from its storage yard is subject to having its operating permit suspended.

1111 (p) Any tow truck driver in the process of transporting a junked vehicle (as defined in F.S. §
1112 319.30) to a licensed salvage motor vehicle dealer and who is employed by, working for or
1113 operates a non-consent towing company, must have physical possession of a derelict motor
1114 vehicle certificate, transferred title or certificate of destruction for such vehicle.

1115 (q) It shall be a violation of this article for any non-consent towing company to fail to respond
1116 in writing within ten (10) business days to any written inquiry or request for information
1117 from the division or any law enforcement agency. Each tow truck company shall fully
1118 cooperate with providing records, facts and information as requested by the division and/or
1119 law enforcement in order to investigate and determine compliance with Florida law and this
1120 article.

1121 **SECTION 11. MAXIMUM RATES**

1122 Section 19-198 of the Palm Beach County Code is hereby amended to read as follows:

- 1123 (a) The Board shall, by resolution establish maximum rates, as may be amended from time to
1124 time, for non-consent towing services, including, but not limited to, the followingas follows:
- 1125 (1) Towing service per call, which shall include the first thirty (30) minutes that the tow
1126 truck is actually on the scene engaged in the safe removal of a vehicle/vessel.
- 1127 (2) Mileage (per towed mile) according to F.S. § 715.07.
- 1128 (3) Storage may be charged only after the vehicle/vessel has been in the storage facility for
1129 at least six (6) hours. If the vehicle/vessel was not recovered by the vehicle/vessel
1130 owner or authorized driver/agent after the six-hour time period has elapsed, then
1131 storage charges shall accrue in twenty-four (24) hour increments from the time the
1132 vehicle/vessel arrived in the storage facility and:
- 1133 a. The police agency has authorized the vehicle/vessel to be impounded; or

1134 b. The appropriate police agency has been notified by the tow truck company that
1135 the tow truck company is in possession of a vehicle/vessel as a result of a private
1136 property impound.

1137 (4) Indoor storage rates may only be charged upon the express instruction and written
1138 authorization of the owner/authorized driver/agent, lien holder, insurance company
1139 representative or investigating police agency. The only exceptions to this rule are:

1140 a. When the condition of the vehicle/vessel requires indoor storage due to inclement
1141 weather conditions or the vehicle's window(s) and/or convertible top is down and
1142 cannot be raised and indoor storage is necessary to protect the vehicle and its
1143 contents; or

1144 b. When a municipal or county jurisdiction require indoor storage for towed
1145 vehicles.

1146 (5) An administrative~~lien~~ flat fee shall not be applied unless the following requirements
1147 are satisfied:

1148 a. The vehicle/vessel has been in the storage facility for at least twenty-four (24)
1149 hours; and

1150 b. Ownership search is conducted; and

1151 c. The police agency has authorized the vehicle/vessel to be impounded; or

1152 d. The police agency has been notified by the tow truck company that the tow truck
1153 company is in possession of a vehicle/vessel as a result of a private property
1154 impound.

1155 (6) ~~Research Fees-fees~~ in excess of this administrative~~lien~~ flat fee may be charged by the
1156 tow company for expenses incurred to meet requirements such as lien notification
1157 letters, certified mail receipts, advertisements or any other requirement as imposed by
1158 F.S. § 713.78 so long as the tow company has detailed supporting proof of actual
1159 expenditures (e.g. invoices, bills, payments) and are kept on file with the tow company.

1160 (7) When applicable, an administrative fee can be charged on a vehicle/trailer combination
1161 or a semi-tractor/trailer combination.

1162 (8) The administrative/lien fee shall be established by ~~Resolution-resolution~~ of the Board.

1163 (9) Underwater recovery performed by a certified/professional diver with the written
1164 documentation and approval of the investigating law enforcement agency/officer.

1165 (10) Hazardous material clean-up and disposal as required, mandated and/or licensed
1166 through federal, state or local laws and approved by the investigating law enforcement
1167 agency/officer.

1168 (11) After-hour gate fees may not be applied between the hours of 7:00 a.m. and 6:00 p.m.
1169 Monday through Friday (excluding federal holidays). For all other times, after-hour
1170 gate fees may not be applied until one (1) hour after a vehicle has been impounded in
1171 the company's storage facility. Applicable after-hour gate fees may also be applied
1172 when an owner or authorized driver/agent wishes to recover property from an
1173 impounded vehicle/vessel.

1174 (12) Extra time at scene/labor charge may be applied when any extra time beyond one-half
1175 (½) hour, is needed to safely remove a vehicle or vessel and includes the amount of
1176 time spent at a scene when a tow truck has been summoned and is on scene but unable
1177 to proceed through no fault of the tow truck operator. All extra time/labor shall be
1178 documented by the tow truck driver and shall include the name of the law enforcement
1179 agency and the law enforcement agency case number or the officer's name and badge
1180 number. The documentation shall also include a detailed explanation of the services
1181 rendered which necessitated the charges and if possible photographs of the scene. Extra
1182 time shall be charged in fifteen (15) minute increments. Failure to document and
1183 provide all of the above required information will result in the extra time/labor charges
1184 being removed from the total cost of the service/invoice and is a violation of this
1185 article.

1186 (b) All rates established shall be uniform throughout Palm Beach County both in the
1187 incorporated and unincorporated areas, except where municipalities have established
1188 differing maximum rates for their jurisdictions. From time to time, the rates established by
1189 the Board may be revised in accordance with a rate study, and shall occur in periods not to
1190 exceed five (5) years.

1191 (c) Persons who provide tow or immobilization services pursuant to this section shall not
1192 charge in excess of the maximum allowable rates established by the Board. No person
1193 providing services pursuant to this section shall charge any type of fee other than the fees
1194 specifically established by the Board. Tow truck companies which tow vehicles/vessels

1195 from Palm Beach County into another county shall abide by the terms of this article
1196 including all rates and charges adopted by the Board.

1197 (d) Upon request of law enforcement or the division, the tow truck company shall present proof
1198 of compliance with each of the documentary requirements set forth in Section 19-198.
1199 Failure to have on file supporting documentation and proof as required herein will result in
1200 a violation of this article. Any charges or costs that cannot be documented as required
1201 herein shall be repaid or removed from the tow invoice. Documentation shall remain on file
1202 as required in Section 19-192.

1203 (e) Tow truck companies which provide services pursuant to this section shall display on the
1204 same sign as the rate schedule required by this article the following statement:

1205 To The Vehicle/Vessel Owner

1206 If you believe that you have been overcharged for the services rendered, you do not
1207 have to pay your bill to get your vehicle/vessel. Instead, you have the right to post a bond in
1208 the Circuit Court, payable to (name of Tow Truck Company), in the amount of the final bill
1209 for services rendered, and to file a complaint within ten (10) days of the time you have
1210 knowledge of the location of the vehicle/vessel. The Court will decide later who is correct.
1211 If you show (name of Tow Truck Company) a valid Clerk's certificate showing you have
1212 posted a bond, (name of Tow Truck Company) must release your vehicle/vessel to you
1213 immediately. This remedy is in addition to other legal remedies you may have pursuant to
1214 section 713.76 and section 713.78, Florida Statutes. If you have a complaint about the way
1215 services were provided, you may call the Palm Beach County Consumer Affairs Division,
1216 (561) 712-6600.

1217 (f) Each tow truck company shall maintain, on a form approved by the division, a rate sheet
1218 specifying all rates and charges, which shall be given by the tow truck driver to the
1219 requesting vehicle owner or his authorized driver/agent prior to commencing the service.

1220 The rate sheet shall be posted at the tow truck company's place of business.

1221 (g) Annual Rate and Fee Increases: Effective October 1, 2023 and each October 1 thereafter,
1222 police directed, private property impound, storage, and immobilization rates shall be
1223 adjusted by the annual percentage change in the Consumer Price Index ("CPI") or three (3)
1224 percent, whichever is less. Each year's rate shall be calculated based on the amounts from
1225 the previous year and rounded to the nearest whole dollar. The CPI utilized shall be the

most recent CPI reported by the Bureau of Labor Statistics All Urban Consumers for the United States, as published in January. The adjusted rates shall be calculated by the Division of Consumer Affairs and shall be posted on its website.

SECTION 12. TOW TRUCK DRIVER REQUIREMENTS; FAILURE TO COMPLY

Section 19-199 of the Palm Beach County Code is hereby amended to read as follows:

(a) It shall be unlawful for any person to operate any tow truck within and upon the streets of Palm Beach County without having first obtained a county tow truck driver's identification badge (tow driver's I.D. badge). All applicants and a tow driver's I.D. badge shall conform to the following:

(1) Be at least eighteen (18) years of age;

(2) Possess a valid State of Florida Driver's License (with photo depicting the driver) as required by the Florida Department of Highway Safety and Motor Vehicles and must show proof that he/she has possessed a valid driver's license from any state within the United States for three (3) years (two (2) years for drivers younger than twenty-one (21) years old) prior to applying for a tow driver's I.D. badge. If a person has not driven for three (3) years in the United States, he/she must obtain the driving record from any other jurisdictions where he/she did drive or if he/she is unable to obtain the driving record, must sign an affidavit under penalty of perjury that he/she has no driving record which would prevent him/her from driving a tow truck in Palm Beach County, Florida;

(3) The driver must provide the original form of his/her lifetime State of Florida Department of Highway Safety and Motor Vehicles traffic/driving record report to the division which was secured no more than thirty (30) days before the application/renewal was submitted, only if the division is unable to secure this required information. Upon initial application, if a driver has resided in Florida less than five (5) consecutive years, a traffic/driving record/history from each state where he/she previously resided must be provided for at least a five-year period;

(4) Has not had more than three (3) separate ~~incidents-convictions~~ involving moving violations in any twelve-month period in the previous three (3) years prior to the initial application or renewal of a tow driver's I.D. badge ~~in which the applicant pled guilty, was found guilty;~~ or

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- (5) Has not been classified as a habitual traffic offender (as defined by Florida Statutes) or as defined by the state where he/she previously resided within five (5) years of applying for a tow driver's I.D. badge and was not previously issued a tow driver's I.D. badge by the division;
- (6) Upon initial application or renewal, the driver must provide the original request form for his/her Florida Department of Law Enforcement (FDLE) criminal history/records report to the division, as well as payment for the amount required to secure the criminal history/records report. The division shall then be responsible for processing the request and payment to the FDLE. The division may conduct additional criminal history/records reports of other states/jurisdictions as deemed appropriate. The division shall require all applicants to submit to a Level I, criminal history records check. The division may approve a different means of securing the required criminal history/records should an alternative agency/system be discovered that provides more complete information than that provided by the FDLE;
- (7) Have no conviction ~~or plea of guilty or nolo contendere~~, within the preceding five (5) years from the date of I.D. badge application for any offense related to driving a motor vehicle under the influence or while intoxicated;
- (8) Have no more than one (1) conviction ~~or plea of guilty or nolo contendere~~, within the preceding ten (10) years from the date of I.D. badge application for any offense related to driving a motor vehicle under the influence or while intoxicated;
- (9) Have no more than two (2) traffic citations resulting from accidents in the three (3) years preceding the date of I.D. badge application wherein the driver has been found guilty;
- (10) Have no more than two (2) convictions of first degree misdemeanor traffic crimes including but not limited to the following: reckless driving, careless driving and racing in the three (3) years preceding the date of the I.D. badge application, ~~wherein the driver has been found guilty~~;
- (11) Not found by the division to have a lack of reputability as provided herein. For the purposes of this article, lack of reputability shall mean that the division cannot trust the applicant to safeguard the welfare and property of the public. Lack of reputability shall include, but not be limited to, the following:

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- a. Conviction of any Level 1 felony, as ranked by F.S. Ch. 921 that occurred less than five (5) years from the date of conviction or release from incarceration whichever is later.
- b. Conviction of any felony, not considered a Level 1 felony, as ranked by F.S. Ch. 921 that occurred less than ten (10) years from the date of I.D. badge application to conviction or release from incarceration, whichever is later.
- c. Notwithstanding the provisions of subsections a. and b. above, conviction of any felony that is directly related to operating a non-consent or consent towing business or vehicle. For the purposes of this article, any offense involving fraud, forgery, theft, robbery, perjury, ~~or false statement, or burglary~~ shall be considered to be directly related to the business of operating a towing vehicle.
- d. Conviction of any first degree misdemeanor within five (5) years, that is directly related to a non-consent or consent towing business or vehicle/vessel regardless of whether the applicant's civil rights have been restored or remained intact. For the purposes of this article, any offense involving fraud, forgery, theft, robbery, perjury ~~or false statement, or burglary~~ shall be considered to be directly related to the business of operating a towing company.
- e. Conviction before the date of I.D. badge application of any offense relating to sex crimes, the use of a deadly weapon, homicide, false imprisonment, kidnapping, violent offense against a law enforcement officer under F.S. § 775.0823, or having been adjudicated a habitual violent felony offender under F.S. § 775.084.
- f. Responding to a call while under the influence of alcohol or any controlled substance, based upon a finding made by law enforcement.
- g. Tow truck drivers with valid and properly issued tow truck driver I.D. badges before instances when this section is amended from time to time ~~at the time the amended ordinance from which this article is derived was approved~~ may continue to be eligible for issuance of a tow truck driver I.D. badge in future renewals as long as there are no additional crimes or reputability issues as referenced above. Tow truck drivers whose I.D. badges are expired for a period greater than twelve (12) months shall be considered new and subject to the provisions of this article.

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- (12) A tow truck driver with a current I.D. badge is required to notify the division within ten (10) business days upon being convicted of any crime. The division may initiate denial, revocation or suspension proceedings for lack of reputability issues and criminal convictions as provided in this subsection which arise subsequent to the issuance of a tow driver's I.D. badge;
- (13) Applicants shall have no unsatisfied civil penalties, judgments or administrative orders pertaining to this article;
- (14) Every application or renewal application for a tow driver's I.D. badge and application for amendment of a tow driver's I.D. badge, shall be in writing and signed by the applicant and shall be filed with the Palm Beach County Division of Consumer Affairs on a form provided by the division together with the nonrefundable tow driver's I.D. badge fees which shall not be subject to proration. Each tow driver's I.D. badge shall be valid for a two-year period from date of application approval. The division may deny or revoke a tow driver's I.D. badge if it is determined that the applicant has misrepresented, omitted, or concealed a fact on the application, renewal application or replacement application. If the tow driver's I.D. badge is revoked, the division shall not accept an application for said tow driver's I.D. badge for one (1) year from the date the badge is revoked. Any person renewing a tow driver's I.D. badge must file a renewal application, furnish the documentation requested by the division, and submit payment for the required nonrefundable renewal fee(s) not more than ninety (90) days before the expiration date of a tow driver's I.D. badge. Persons who fail to reapply for their tow driver's I.D. badge thirty (30) days prior to expiration, risk having a gap in their authorization to drive a tow truck. Persons who fail to submit their renewal application, required documentation and fees by the expiration date of the tow driver's I.D. badge must pay a nonrefundable late fee, over and above the tow driver's I.D. badge fee. Any applicant who fails to submit a renewal application within one (1) year of the expiration of a current badge will be considered a new applicant when reapplying and no grandfathered provisions will apply. Said fees shall be established by resolution of the Board;
- (15) Shall submit to photographing (full face exposure/without sunglasses or head coverings) prior to the issuance of the tow driver's I.D. badge by the division;

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- (16) Complete the tow driver's I.D. badge registration affidavits provided by the division;
- (17) Not possess a suspended or revoked driver's license as a result of a moving violation or have any outstanding and unsatisfied civil penalties, citations or judgments imposed due to violations of this article;
- (18) Not violate the terms of a cease and desist order, assurance of voluntary compliance, notice to correct a violation or any other lawful order of the director;
- (19) Not be enjoined by a court of competent jurisdiction from engaging in the towing business or was enjoined by a court of competent jurisdiction with respect to any of the requirements of this article; and
- (20) Have no conviction or plea of guilty or nolo contendere in any military or foreign jurisdiction, federal, state, county or municipal jurisdiction within the United States for violations analogous or parallel to those violations enumerated in all sections herein:
- a. The driver of a tow truck shall conspicuously display on the driver's person through the use of a neck lanyard, or above the waist on the outermost garment, the tow driver's I.D. badge issued pursuant to this article so that it is visible and available for inspection to the public, division personnel and all law enforcement officials while engaged and on duty for a tow truck company.
 - b. Each tow driver's I.D. badge shall be developed by the division. Each driver's I.D. badge shall, at a minimum, contain the name of the driver, date of expiration, photo of the driver, and such additional terms, conditions, provisions and limitations as were imposed during the approval process. Each company for which a driver will be driving must submit an affidavit (on a form prepared by the division) or documentation from the insurance company (fax acceptable) that the driver is eligible to be insured under the company's insurance policy.
 - c. The division may issue a replacement tow driver's I.D. badge to any driver upon payment of a nonrefundable replacement fee, presentation of proof or a sworn affidavit that the driver's I.D. badge has been lost, stolen or for any other valid reason, and any other documentation or requirement requested by the division. The replacement fee shall be established by resolution of the Board.
 - d. It shall be unlawful for any person to drive a tow truck unless such person has a valid tow driver's I.D. badge issued pursuant to this section.

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- e. It shall be unlawful for any person to drive a tow truck for any tow truck company which has not been granted an operating permit pursuant to Section 19-184 (operating permit required).
- f. It shall be unlawful for any applicant for a tow driver's I.D. badge to misrepresent, omit or conceal a fact on the application, renewal application or replacement application. Upon submission of the application, the division shall provide the driver with a receipt. No applicant shall be permitted to drive a tow truck in Palm Beach County until the division has issued to him/her a tow driver's I.D. badge.
- g. The division shall provide the tow driver's I.D. badge within ten (10) business days following the submittal of the application and all required documents. In the event the official criminal background records furnished to the division are insufficient and additional information is necessary, the division shall be permitted an additional twenty (20) business days to issue the driver's I.D. badge.
- gh. Tow truck drivers must be hygienically clean, well-groomed and neat. Drivers are not permitted to wear open toed shoes and must comply with all state and federal (e.g., O.S.H.A.) safety regulations. Non-consent tow truck drivers are not permitted to wear uniforms purporting to be from a different company or business than the one they actually work or drive for. Failure to abide by these requirements is a violation of this article.
- hi. Tow business owners, tow truck drivers, and tow business-related employees shall not use abusive language to either consumers or division personnel.
- ij. Tow truck drivers must be able speak and understand English to the extent they can take instruction from law enforcement officers and consumers and complete manifests or invoices.
- jk. Drivers shall cooperate fully at all times with the division in the furnishing of information required in connection with requests for proof of driver's license, vehicle insurance and/or tow driver's I.D. badge, during the process of applying to renew a tow driver's I.D. badge, and during investigations of consumer complaints. Further, drivers shall not obstruct, hamper or interfere with an investigation of violations of this article conducted by division personnel, any law enforcement officer or employee of any other agency enforcing this article.

kl. No person maintaining, owning, or operating a towing company shall suffer or permit any person or employee to drive a tow truck unless such person has a valid tow driver's I.D. badge issued pursuant to this article. This paragraph shall not apply to a towing company which is training a prospective driver. Such prospective driver must be accompanied by and working under the direct supervision of a company employee who is in possession of a valid tow driver's I.D. badge.

lm. Failure to comply with the provisions of this section may result in the division denying a tow driver I.D. badge, revoking or suspending the tow driver's I.D. badge, denying a renewal of such tow driver's I.D. badge, issuing a civil citation, a misdemeanor conviction or other such remedies available to the division herein.

SECTION 13. ADDITIONAL REQUIREMENTS FOR PROVIDING
IMMOBILIZATION SERVICES

Section 19-201 of the Palm Beach County Code is hereby amended to read as follows:

- (a) Immobilization operators must be hygienically clean, well-groomed and neat. Immobilization operators are not permitted to wear open toed shoes and must comply with all state and federal (e.g., O.S.H.A.) safety regulations.
- (b) Immobilization operators shall wear identification tags, prominently displayed on the front left side of their shirt that includes the immobilization company name, immobilization operator name and immobilization operator picture. Immobilization operators are not permitted to wear uniforms purporting to be from a different company or business than the one they actually work for. No identification shall use the words "enforcement" "department" or "Police." No badges that bear resemblance to law enforcement officers may be worn by immobilization contractor or staff. Failure to abide by these requirements is a violation of this article.
- (c) Immobilization operators shall not use abusive language to consumers or division personnel.
- (d) Immobilization operators must be able to speak and understand English to the extent they can take instruction from law enforcement officers and consumers and complete invoices.

(e) It is unlawful for an immobilization company to immobilize a vehicle/vessel parked on private property without permission or authority of the vehicle/vessel owner/driver of that vehicle, unless each of the following requirements are satisfied:

(1) The vehicle/vessel is parked in an unlawful manner or in violation of other parking rules and regulations.

(2) A light reflective sign (minimum dimensions of at least eighteen (18) inches high by twenty-four (24) inches) is prominently posted on the property as follows:

a. Each driveway access/entrance or curb cut allowing vehicular access to the real property.

b. Within ten (10) feet from the public roadway.

c. If there are no curbs or access barriers, signs shall be posted not less than one (1) sign each twenty-five (25) feet of lot frontage.

d. Each sign shall be permanently installed not less than three (3) feet and not more than six (6) feet above ground level. When authorized "Immobilization Zone" signs may be mounted on the same pole as the "Tow Away" signs.

Signs shall be continuously maintained on the real property for not less than twenty-four (24) hours prior to the immobilization of any vehicle(s).

e. The light reflective sign and the text shall clearly display, on a contrasting background, the following information:

1. In letters at least one (1) inch high the words: "Unauthorized vehicles will be immobilized and/or towed away at the owners expense";

2. In not less than two and one-half (2.5) inches high the words: "IMMOBILIZATION ZONE";

3. In letters at least one (1) inch high the days of the week and hours of the day during which vehicles will be immobilized;

4. In letters at least one (1) inch high the name of the company performing the immobilization service; and,

5. In letters at least two (2) inches high the telephone number to call and the on-site location (if applicable) where a person can go to request the release of the immobilization device on the vehicle.

(f) Light reflective signs must be maintained or replaced so that they are clearly visible, legible and light reflective at all times. The immobilization company is responsible for maintaining and replacing signs. Immobilization companies may charge property owners or companies a fee to install or maintain signage.

(g) In the event the immobilization company goes out of business or is no longer performing immobilization services for the property owner, the 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 article.

(h) No immobilization shall occur if the vehicle/vessel is occupied by a living person or animal.

(i) No immobilization shall occur if the vehicle/vessel is a police or law enforcement vehicle, a fire fighting vehicle, an emergency medical services vehicle or ambulance, or any other vehicle/vessel owned by a government entity. If a vehicle/vessel is immobilized by error but is ineligible for immobilization under this ~~paragraph~~section, the immobilization company will immediately release the vehicle/vessel without requiring payment for same upon demand of vehicle owner/driver.

~~(j) Immobilization shall be accomplished by installing a mechanical device to a parked vehicle/vessel so as to prevent its usual manner of operation.~~

(k) Immediately after a vehicle/vessel is immobilized, the person immobilizing such vehicle/vessel shall affix a warning notice to the driver's side window of the vehicle (if the window is down, the warning notice shall be placed on the front windshield in front of the driver location), that is adhered to the window by an adhesive backing or at least two (2) inch wide commercial clear adhesive tape indicating in font not smaller than fourteen (14) point that the vehicle is immobilized and that any attempt to move it will cause damage. Additionally, the notice shall provide the immobilization company name, a local telephone number to contact for release of the immobilization device, the fee for its removal including the accepted methods of payment (cash, money order, traveler's check, Visa or ~~MasterCard~~debit/credit card) immobilized vehicle make and tag number or vehicle identification number (VIN) and the location, date and time immobilization occurred. The warning notice must be printed on card stock or weather resistant vinyl with a minimum font size of forty (40) point with the words "WARNING" centered at the top of the notice. The notice shall not be less in size than eight and one-half (8½) by five and one-half (5½)

1501 inches. The warning notice sign shall be submitted with the operating permit application
1502 and approved by the County.

1503 (~~lk~~) An immobilization company or immobilization operator may not charge more than the
1504 maximum allowable rates established by Board Resolution.

1505 (~~ml~~) The rebate or repayment of money or any other valuable consideration directly or indirectly
1506 from the individual or firm immobilizing vehicles to the owners or operators of the premises
1507 from which the vehicles are immobilized, for the privilege of immobilizing those vehicles,
1508 is prohibited and is a violation of this article.

1509 (~~nm~~) No release or waiver of any kind purporting to limit or avoid liability for damages to a
1510 vehicle/vessel that has been immobilized shall be valid. In addition, any person who
1511 immobilized a vehicle/vessel, or other person authorized to accept payment of any charges
1512 for such immobilizing, shall provide a signed receipt to the individual paying the
1513 immobilizing charges at the time such charges are paid. Such receipt shall state the name,
1514 business address, and business telephone number of the person who has immobilized such
1515 vehicle/vessel and such receipt shall include the following statement (in at least twelve (12)
1516 point font):

1517 IF YOU HAVE QUESTIONS OR COMPLAINTS ABOUT THE IMMOBILIZATION OF
1518 YOUR VEHICLE THAT ARE UNABLE TO BE RESOLVED BY THE COMPANY
1519 MANAGEMENT, CONTACT THE PALM BEACH COUNTY DEPARTMENT OF
1520 PUBLIC SAFETY CONSUMER AFFAIRS DIVISION, WEST PALM BEACH,
1521 FLORIDA. BY INTERNET: www.pbcgov.com/consumer or by TELEPHONE: (561) 712-
1522 6600.

1523 (~~on~~) Any immobilization company which immobilized a vehicle/vessel shall respond to the
1524 location of the immobilized vehicle within one (1) hour after being contacted by the
1525 vehicle/vessel owner and remove the immobilization device within thirty (30) minutes after
1526 the removal fee has been paid. The vehicle owner/driver, or other person appearing in
1527 person with the vehicle/vessel owner/driver, shall be permitted to pay the appropriate charge
1528 for immobilizing at the location where such vehicle/vessel was immobilized.

1529 (~~po~~) COMPANIES PERFORMING IMMOBILIZATIONS IN PALM BEACH COUNTY ARE
1530 REQUIRED TO ACCEPT EACH OF THE FOLLOWING FORMS OF PAYMENT:
1531 CASH, MONEY ORDER OR VALID TRAVELER'S CHECK; AND VALID BANK

1532 DEBIT/CREDIT CARD WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO,
1533 MASTERCARD AND VISA CARD THAT IS IN THE NAME OF THE
1534 VEHICLE/VESSEL OWNER OR AUTHORIZED DRIVER, OR IN THE NAME OF A
1535 PERSON APPEARING IN PERSON AND WITH THE VEHICLE/VESSEL OWNER OR
1536 AUTHORIZED DRIVER. A CREDIT CARD CONVENIENCE FEE MAY BE ADDED
1537 TO THE TRANSACTION AMOUNT TO COVER CREDIT CARD FEES AS
1538 ESTABLISHED BY BOARD RESOLUTION.

1539 (qp) Each immobilization company must enter into a written contract with every property owner
1540 that authorizes the company to immobilize vehicles/vessels on the property. The contract
1541 shall state which parking violations are authorized for immobilization. Each contract must
1542 be kept on file for a period of three (3) years following termination of the contract. The
1543 division, law enforcement officers and the vehicle/vessel owner/driver of the immobilized
1544 vehicle may request a copy of the contract by telephone or email to the immobilization
1545 company or to be delivered either by hand delivery, email or facsimile to the requesting
1546 party, within forty-eight (48) business hours of request.

1547 (rq) Immobilization companies which provide services in violation of this article relating to a
1548 specific immobilization shall be required to reimburse the vehicle/vessel owner/driver all
1549 charges related to that immobilization incident. Failure to reimburse the vehicle/vessel
1550 owner/driver of the vehicle in such cases is a violation of this article.

1551 (sr) The business providing the immobilization service shall first obtain and maintain a current
1552 and valid operating permit issued by the division.

1553 (ts) The immobilization business shall maintain a telephone communication system to answer
1554 telephone calls from the public twenty-four (24) hours a day, seven (7) days per week for
1555 the timely release of immobilized/booted vehicles/vessels.

1556 (ut) All immobilization business vehicles shall display the company name on the driver and
1557 passenger side of the vehicle in letters at least three (3) inches high. The company's address
1558 and telephone number shall be displayed on the driver and passenger side of the vehicle in
1559 letters at least one (1) inch high. No immobilization business shall use the words
1560 "Department," or "Police," in its advertising, signs, stickers, uniforms or identifications.

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- (vu) An immobilized vehicle/vessel shall not remain immobilized for more than ~~ninety-~~
~~six~~ninety-six (96) hours. After such time period has expired, the vehicle shall be released
from the immobilization device and may be towed or removed.
- (wv) Each contract between the property owner and immobilization company shall specify the
amount of time in hours (not to exceed ninety-six (96) hours) that a vehicle will remain
immobilized before it is removed from the property and towed to the storage yard of a
licensed non-consent tow truck company or released from the immobilization.
- (xw) When a tow truck company is removing a vehicle that was immobilized and not redeemed
by the vehicle owner/driver within ninety-six (96) hours, the non-consent tow truck
company must first obtain prior express instruction in accordance with Section 19-194 to
remove the vehicle from the real property.
- (yx) Tow truck companies are not permitted to add immobilization charges to the tow truck
invoices and only the towing charges shall be imposed on the vehicle owner/driver.
- (zy) If a vehicle/vessel is in the process of being immobilized and the owner/operator of the
vehicle/vessel arrives and the immobilization device has not been attached and/or locked,
the immobilization company must not continue with the ~~booting~~ immobilization process
and cease any further attempts to apply it to the vehicle/vessel. Immobilization fees are not
permitted in such instances.
- (aaz) Vehicles/vessels that are parked in such a way to prevent egress/ingress to a property or
garbage dumpster, are parked in a designated handicapped parking space or fire lane, or are
parked in such a way that would constitute an important public safety concern, shall not be
immobilized.
- (baa) Every person, immobilization service, and immobilization contractor who immobilizes a
vehicle/vessel shall keep and maintain an immobilization log with the following
information:
- (1) Date and time the vehicle/vessel was observed illegally parked;
 - (2) The date and time of immobilization;
 - (3) The location/address of the real property where the immobilization took place;
 - (4) The description of the vehicle/vessel including make, model, year, color, vehicle
identification number, and license plate number;

(5) The date and time the request for removal of the immobilization device was received and the date and time of response and removal of the immobilization device;

(6) The amount and method of payment for release of the immobilization device;

(7) The name of the person removing the immobilization device; and

(8) The name of person to whom the vehicle/vessel was released.

(~~eebb~~) All persons and immobilization services shall keep all immobilization logs on file for a period of one (1) year and shall make such logs available for inspection to any law or code enforcement officer or designee assigned to investigate the complaints and enforcement during regular business hours (Monday—Friday 8:00 a.m.—5:00 p.m. excluding holidays).

Failure to comply with the provisions of this section may result in the following:

(1) ~~denial~~ Denial of the operating permit; ~~;~~

(2) ~~revocation~~ Revocation or suspension of the operating permit; ~~;~~ and/or

(3) ~~issuance~~ Issuance of a civil citation, a criminal conviction and/or other such remedies available to the division as provided herein and by law.

(~~ddcc~~) Persons who provide services pursuant to this article shall not use physical force, violence, intimidation or threats of physical force or violence in dealing with the individuals responsible for administering this article or individuals who have had or are about to have their vehicles immobilized.

SECTION 14. CEASE AND DESIST ORDER

Section 19-203 of the Palm Beach County Code is hereby amended to read as follows:

(a) If the division, after due investigation, has reason to believe that a tow truck or immobilization company has been or is violating any of the provisions of this article, then the division may cause to be served by personal service, certified mail or posting in a conspicuous place at the tow truck or immobilization company's primary place of business, a demand to cease and desist, stating the charges and shall incorporate and set out the following:

(1) The name of the complainant;

(2) The alleged charge and approximate date of the commission of the act;

(3) The section of the article alleged to be involved.

(b) Any tow truck or immobilization company which has been issued a cease and desist order by the division may appeal such order to the ~~consumer~~ Consumer affairs ~~Affairs hearing~~

~~Hearing board~~Board/special magistrate within twenty (20) days of receipt of the order. A nonrefundable filing fee must accompany the written request for appeal. The filing fee shall be established by resolution of the Board. The appeal shall be reviewed at a hearing of the consumer affairs hearing board/special magistrate within sixty (60) days of receipt by the division of the request for appeal.

(c) The board shall keep a full record of the hearing, which record shall be public and open to inspection by any person, and upon request, the board shall furnish such party a copy of the hearing record, at such cost as the commission deems appropriate.

(d) Procedure at hearings—: At the hearing, the tow truck or immobilization company may be represented by counsel and may bring all original documents and other data pertinent to the case; and will be given an opportunity to present witnesses and evidence it may deem appropriate.

(e) The ~~consumer~~Consumer ~~affairs~~affairs ~~hearing~~hearing ~~board~~Board/special magistrate shall hear the cases on the agenda. All testimony shall be under oath or by affirmation and shall be recorded. Each case before the ~~consumer~~Consumer ~~affairs~~affairs ~~hearing~~hearing ~~board~~Board/special magistrate shall be presented by the division. The ~~consumer~~Consumer ~~affairs~~affairs ~~hearing~~hearing ~~board~~Board/special magistrate shall take testimony from county staff, if relevant, the alleged violator, and other relevant testimony. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings. Upon determination of the ~~consumer~~Consumer ~~affairs~~affairs ~~hearing~~hearing ~~board~~Board/special magistrate, irrelevant, immaterial or unduly repetitious evidence may be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, including hearsay evidence, whether or not such evidence would be admissible in a trial in the courts of Florida. Due regard shall be given to the competent, reliable and technical evidence which will aid the ~~consumer~~Consumer ~~affairs~~affairs ~~hearing~~hearing ~~board~~Board/special magistrate in making a fair determination of the matter, regardless of the existence of any common law or statutory rule which might otherwise make improper the admission of such evidence.

(f) Any member of the ~~consumer~~Consumer ~~affairs~~affairs ~~hearing~~hearing ~~board~~Board/special magistrate or the attorney representing the division may inquire of or question any witness before the ~~consumer~~Consumer ~~affairs~~affairs ~~hearing~~hearing ~~board~~Board/special

magistrate. The alleged violator, or his/her attorney, shall be permitted to inquire of any witness before the ~~consumer~~ Consumer affairs ~~Affairs hearing~~ Hearing board ~~Board~~/special magistrate. The right to cross examine witnesses shall be preserved.

- (g) At the conclusion of the hearing, the ~~consumer~~ Consumer affairs ~~Affairs hearing~~ Hearing board ~~Board~~/special magistrate shall orally render its decision (order) based on evidence entered into the record. The decision shall be by motion approved by the affirmative vote of those members present and voting or by the special magistrate. The ~~consumer~~ Consumer affairs ~~Affairs hearing~~ Hearing board ~~Board~~/special magistrate's decision shall be transmitted to the tow truck company or immobilization company in the form of a written order including finding of facts, and conclusion of law consistent with the record. The order shall be transmitted by certified mail/hand delivery/posting to the tow truck or immobilization company within ten (10) days after the hearing. The order may include a notice that it must be complied with by a specified date.

- (h) Any person may appeal a final determination of the ~~consumer~~ Consumer affairs ~~Affairs hearing~~ Hearing board ~~Board~~/special magistrate within thirty (30) days of the rendition of the decision by filing a petition for writ of certiorari in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

SECTION 15. ENFORCEMENT OF PENALTIES, CIVIL AND CRIMINAL

Section 19-205 of the Palm Beach County Code is hereby amended to read as follows:

- (a) It shall be unlawful for any person to violate any of the provisions of this article, including failure to pay any fees for services of the division as set forth in this article. This article ~~shall~~ may be enforced by personnel authorized by the division, county code enforcement officials, and 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 article may be enforced by other Palm Beach County personnel.
- (b) The Consumer Affairs Hearing Board/Special Master and county court shall have jurisdiction over all violations of this article.
- (c) Violations may be enforced pursuant to the procedures and civil penalties of the Code Enforcement Citation Ordinance of Palm Beach County, as set forth in Chapter 8.5 of the Palm Beach County Code, and in accordance with F.S. § 162.21, as both may be amended.

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- (ed) 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.
- (de) The division is authorized to enforce the provisions of this article by administrative fines not to exceed five hundred dollars (\$500.00) for each violation. Any person who has violated any provision of this article shall be fined an amount as established by the Board by resolution. Each day of a continuing violation shall be deemed a separate violation.
- (ef) 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~~ he/she 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.
- (fg) 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 article.
- (gh) 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.~~
- ~~(h) 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.~~
- (i) If a person fails to pay the civil penalty or fails to appear in court to contest the citation, he/she 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 order to show cause may be issued. If the fine is paid, the case shall be dismissed. If the fine is not paid, judgment may be entered up to the maximum civil penalty of five hundred dollars (\$500.00) plus court costs.

(j) Any person who refuses to sign and accept a citation issued pursuant to this article shall be guilty of a misdemeanor of the second degree, punishable as provided by F.S. §§ 775.082, 775.083 or 775.084, as may be amended.

(k) The division may require mandatory court appearances for violations resulting in the issuance of a third or subsequent citation to a person. The citation shall clearly inform the person of the mandatory court appearance. The division shall maintain records to prove the number of citations issued to the person. Persons required to appear in court do not have the option of paying the fine instead of appearing in court.

(l) The following process applies when citations are issued pursuant to the jurisdiction of the Consumer Affairs Hearing Board/Special Master:

(1) Whenever, based upon personal investigation and in accordance with the policies and procedures established by the division, the investigator has reasonable and probable grounds to believe that a person has committed a violation of the vehicle for hire ordinance, the officer may issue a citation to the violator.

(2) Monies collected in payment for citations shall be remitted to the division.

(3) The act for which the citation is issued shall cease upon receipt of the citation, and the person charged with the violation shall elect either to correct the violation and pay the civil penalty in the manner indicated on the citation or, within ten (10) days of receipt of the citation, exclusive of weekends and legal holidays, request an administrative hearing before the Consumer Affairs Hearing Board/Special Master to appeal the issuance of the citation by the investigator. If the hearing date is not set forth in the citation, a notice of hearing shall be served on the violator as provided herein. Failure of the violator to appeal the decision of the investigator within the timeframe as set forth herein shall constitute a waiver of the violator's right to an administrative hearing. A waiver of the right to an administrative hearing shall be deemed an admission of the violation and penalties may be imposed accordingly.

(4) Upon written notification by the investigator that a respondent has not contested the citation or paid the penalty within the time allowed on the citation, or if a violation has not been corrected within the time set forth on the citation, the Consumer Affairs Hearing Board/Special Master shall enter an order ordering the

violator to pay the civil penalty set forth on the citation. A hearing shall not be necessary for the issuance of such an order. The order shall include a notice, if applicable, that fine(s) were imposed.

(5) Upon appeal of a citation, or at such other times as may be necessary, a hearing before the Consumer Affairs Hearing Board/Special Master may be convened. The following shall apply:

a. Minutes shall be kept of all hearings, and all hearings shall be open to the public.

b. At the hearing, the burden of proof shall be upon the County to show by a preponderance of the evidence that a violation does exist. Where proper notice of the hearing has been provided to the violator as provided herein, a hearing may proceed even in the absence of the violator.

(6) The formal rules of evidence shall not apply but fundamental due process shall be observed and shall govern the proceedings. Upon determination by the chair of the Consumer Affairs Hearing Board/Special Master, irrelevant, immaterial, or unduly repetitious evidence may be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida.

(7) Any member of the Consumer Affairs Hearing Board/Special Master, the attorney representing the Consumer Affairs Hearing Board, the respondent and his/her attorney may inquire or question any witness present at the hearing. The violator or his/her attorney shall be allowed to cross-examine all witnesses present at the hearing and present testimony and evidence.

(8) At the conclusion of the hearing, the Consumer Affairs Hearing Board/Special Master shall orally render an order based on evidence into the record. In the case of hearings before the Consumer Affairs Hearing Board, the decision shall be by motion approved by the affirmative vote of those persons present and voting. An order setting forth findings of fact and conclusions of law shall then be mailed to the violator within ten (10) days of the hearing.

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- (9) If the Consumer Affairs Hearing Board/Special Master finds that a violation exists, the Consumer Affairs Hearing Board/Special Master may order a civil penalty of no more than five hundred dollars (\$500.00). Each permit/ID badge or alternative identification not in compliance and each day in which a violation of this article exists shall constitute a separate offense.
- (10) A certified copy of an order imposing a civil penalty against the violator may be recorded in the public records and thereafter shall constitute a lien against any real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the Sheriff of the State, including a levy against personal property. The order shall not be deemed a court judgment except for enforcement purposes. A civil penalty imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose the lien, whichever occurs first. After three (3) months, from filing of any such lien which remains unpaid, the Consumer Affairs Hearing Board/Special Master may authorize the local governing body's attorney to foreclose the lien. No lien created pursuant to this article may be foreclosed on real property which is homestead, under Section 4, Article X of the Florida Constitution.
- (11) If the violator or his designated representative proves at the administrative hearing that the citation is invalid or that the violation has been corrected prior to appearing before the Consumer Affairs Hearing Board/Special Master, the Consumer Affairs Hearing Board/Special Master may reduce the fine or dismiss the violation, unless the violation is irreparable or irreversible.
- (12) An aggrieved party, including the governing body, may appeal a final administrative order of the Consumer Affairs Hearing Board/Special Master to the circuit court by petition for writ of certiorari.
- (13) Proper notice of hearing is given where notice has been mailed to the violator by certified mail, return receipt requested, by hand delivery by the sheriff or other law enforcement entity, by leaving the notice at the violator's usual place of residence with some person in the family above fifteen (15) years of age and

informing said person of the contents of the notice; or where an investigator, under oath, testifies that he/she did hand deliver the citation to the violator which included a hearing date.

(14) Notwithstanding the Consumer Affairs Hearing Board/Special Master process set forth above, the County shall take any other appropriate legal action, including, but not limited to, administrative action, enforcement through an alternative code enforcement ordinance pursuant to F.S. ch. 162, parts I and II, as may be amended, and requests for temporary and permanent injunctions to enforce the provisions of this article. It is the purpose of this article to provide additional cumulative remedies.

SECTION 16. ADMINISTRATIVE ENFORCEMENT, DENIAL, REVOCATION AND SUSPENSION OF OPERATING PERMITS/I.D. BADGES

Section 19-206 of the Palm Beach County Code is hereby amended to read as follows:

- (a) The director is authorized to deny, suspend or revoke operating permits, tow truck decals, or I.D. badges upon written notice. Tow truck and immobilization companies are subject to denial, suspension or revocation when it appears that:
- (1) The tow truck or immobilization company and/or driver/operator has failed to comply with or has violated the provisions of this article.
 - (2) The tow truck company has failed to comply with or has violated the provisions of F.S. Ch. 323, F.S. § 713.78 and F.S. § 715.07.
 - (3) The operating permit or I.D. badge was obtained or renewed by an application in which any material fact was omitted or falsely stated.
 - (4) Any tow truck or equipment owned or operated by the tow truck company and issued a decal pursuant to the article has been operating in violation of this article or any provision of law.
 - (5) An operating permit issued pursuant to this article may be suspended or revoked when the director receives written notification that the immobilization company, or tow truck company, or their officer, director or partner pled nolo contendere, pled guilty or has been convicted of any crime designated as a felony (as referenced in Section 19-185(g) (new applications/renewals and issuance of towing operating permit; fees) or any crime relating to motor vehicles.

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- (6) Failed to comply with the terms of a cease and desist order, notice to correct a violation, written assurance of voluntary compliance, or any other lawful order of the director, the division, or the consumer affairs hearing board and/or special magistrate.
- (7) Failed to obtain or maintain insurance as required by this article.
- (8) Misrepresented or concealed a fact on the application, renewal application, or replacement application for a license.
- (9) Engaged in any conduct as a part of the performance of any contract for service which constitutes a deceptive and unfair trade practice or fraud.

(b) *Suspensions.*

- (1) Any towing or immobilization company which has violated this article as provided for in this section may have its operating permit suspended by action of the division director for a period not to exceed thirty (30) days. In such cases the director shall provide written notice to the company at least ten (10) days prior to the effective date of the suspension.
- (2) Notwithstanding other suspension, revocation or denial procedures included in this article, where the action taken is based solely upon three (3) or more violations of this article which resulted in civil fines/penalties, judgments or administrative orders entered by the division and/or a conviction or plea of guilty or nolo contendere resulting from three (3) separate incidents/complaints within a twelve-month period shall result in the suspension of an operating permit for a period of four (4) business days. The company is required to pay an administrative reactivation fee established by resolution of the Board before any towing or immobilization services can resume in Palm Beach County. Any company found operating during a period of suspension, revocation or denial shall have its operating permit or I.D. badge revoked for a period of one (1) year. This penalty shall be in addition to any other penalties, fines or enforcement action that may be assessed or brought by the division.
- (3) Notwithstanding other suspension, revocation or denial procedures included in this article, where the action taken is based solely upon four (4) or more violations of this article which resulted in civil fines/penalties, judgments or administrative orders entered by the division and/or a conviction or plea of guilty or nolo contendere resulting from four (4) separate incidents/complaints within a twelve-month period

shall result in the suspension of an operating permit for a period of eight (8) business days. The company is required to pay an administrative reactivation fee established by resolution of the Board before any towing services can resume in Palm Beach County. Any company found operating during a period of suspension, revocation or denial shall have its operating period revoked for a period of one (1) year.

(4) The division may suspend or revoke the operating permit of any tow truck or immobilization company which fails to comply with the insurance requirements of Section 19-187 of this article.

(c) *Revocations.* Except as provided in subsection (b)(2) above, any towing or immobilization company which has had its operating permit revoked as provided for in subsection (a)(1)—(a)(9) above shall have such operating permit revoked for one (1) year from the date of the revocation notice. Such revocations may be appealed as provided for in Sec. 19-208. Operating permits that are revoked are not subject to reissuance for one (1) calendar year unless a different revocation period is specified elsewhere in this article. A reactivation fee will be assessed prior to any reinstatement as authorized by Board resolution.

SECTION 17. ADDITIONAL PENALTIES

Section 19-207 of the Palm Beach County Code is hereby amended to read as follows:

Failure to comply with the requirements of this article shall also constitute a violation of this article, and the Consumer Affairs Ordinance of Palm Beach County (~~Ordinance No. 13-035, as amended~~ Chapter 9 of the Palm Beach County Code, as may be amended). Violations of this article may be punishable, upon conviction, pursuant to F.S. § 125.69(1), by a fine not to exceed five hundred dollars (\$500.00) per violation or imprisonment not exceeding sixty (60) days, or both such fine or imprisonment, or may subject the violator to civil fines based on the issuance of a civil citation. Each day of continuing violation shall be considered a separate offense. In addition to the sanctions contained herein, the county shall take any other appropriate legal action, including but not limited to, cease and desist orders, other administrative action and requests for temporary and permanent injunctions to enforce the provisions of this article. It is the purpose of this article to provide additional cumulative remedies.

SECTION 18. SCOPE OF ARTICLE

Section 19-209 of the Palm Beach County Code is hereby amended to read as follows:

(a) The provisions of this article and the relevant Florida Statutes shall be the exclusive regulations applicable to immobilization, towing, recovery and removal of vehicles/vessels in Palm Beach County and all storage provided therewith. This article shall be applicable in both the unincorporated and incorporated areas, except that this article shall not apply to tow truck companies performing towing services or immobilization companies performing immobilization services as part of a contractual relationship with a government agency nor in any municipality that has adopted and maintains in effect ordinances or regulations governing the same matters.

(b) Nothing in this article shall be construed to prohibit the discharge or storage of a vehicle or vessel lawfully recovered, towed, immobilized or removed in another county and lawfully transported into Palm Beach County.

ARTICLE 19. REPEAL OF LAWS IN CONFLICT.

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

ARTICLE 20. SAVINGS CLAUSE.

Notwithstanding Section 3, Repeal of Laws in Conflict, all administrative and county orders, fines, and pending enforcement issued pursuant to the authority and procedures established by Ordinance 2022-021 shall remain in full force and effect.

ARTICLE 21. SEVERABILITY CLAUSE.

If any section, paragraph, sentence, clause, phrase or word of this Towing and Immobilization Ordinance, Policies, Procedures, or the application thereof, to any person or circumstance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, invalid or void, such holding shall not affect the remainder of this Towing and Immobilization Ordinance or the application of any other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end, all the provisions of this Ordinance are hereby declared to be severable.

1922 **ARTICLE 22. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.**

1923 The provisions of this Ordinance shall become and be made a part of the Code of Laws and
1924 Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered
1925 or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "article",
1926 or other appropriate word.

1927 **ARTICLE 23. CAPTIONS.**

1928 The captions, section headings, and section designations used in this Ordinance are for
1929 convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

1930 **ARTICLE 24. EFFECTIVE DATE.**

1931 The provisions of this Ordinance shall become effective upon filing with the Department
1932 of State.

1933

1934 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County,

1935 Florida, on this the _____ day of _____, 2026.

1936 **MIKE CARUSO,** **PALM BEACH COUNTY, FLORIDA, BY ITS**

1937 **CLERK OF THE CIRCUIT** **BOARD OF COUNTY COMMISSIONERS**

1938 **COURT & COMPTROLLER**

1939

1940

1941 By: _____ By: _____

1942 Deputy Clerk Sara Baxter, Mayor

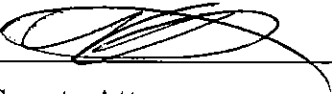
1943

1944 **APPROVED AS TO FORM AND**

1945 **LEGAL SUFFICIENCY**

1946

1947

1948 By:  _____

1949 County Attorney

1950

1951 **EFFECTIVE DATE: Filed with the Department of State of the ____ day of**

1952 _____, 2026.

ORDINANCE NO. 2026-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE CHAPTER 19, ARTICLE VIII (ORDINANCE NO. 2022-021), PROVIDING FOR DEFINITIONS; PROVIDING FOR OPERATING PERMIT REQUIRED; PROVIDING FOR NEW APPLICATIONS/RENEWALS AND ISSUANCE OF OPERATING PERMIT, FEES; PROVIDING FOR INSPECTION OF STORAGE YARDS AND PUBLIC OFFICES REQUIRED; PROVIDING FOR INSURANCE REQUIREMENTS; PROVIDING FOR TOW TRUCK REGISTRATION, TOW TRUCK STANDARDS, DECALS; PROVIDING FOR NON-CONSENT MANIFEST, TOWING INVOICE, OR TOW SHEET; PROVIDING FOR RECORDS REQUIRED; PROVIDING FOR NON-CONSENT TOWING WITH PRIOR EXPRESS INSTRUCTION; PROVIDING FOR NON-CONSENT TOW TRUCK COMPANY REQUIREMENTS; PROVIDING FOR MAXIMUM RATES; PROVIDING FOR TOW TRUCK DRIVER REQUIREMENTS, FAILURE TO COMPLY; PROVIDING FOR ADDITIONAL REQUIREMENTS FOR PROVIDING IMMOBILIZATION SERVICES; PROVIDING FOR CEASE AND DESIST ORDER; PROVIDING FOR ENFORCEMENT OF PENALTIES, CIVIL AND CRIMINAL; PROVIDING FOR ADMINISTRATIVE ENFORCEMENT, DENIAL, REVOCATION AND SUSPENSION OF OPERATING PERMITS/I.D. BADGES; PROVIDING FOR ADDITIONAL PENALTIES; PROVIDING FOR SCOPE OF ARTICLE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, such towing and immobilization service frequently must be provided without prior consent of the vehicle/vessel owner, or under circumstances which prevent negotiating the charges, terms and conditions for the towing or immobilization service, often resulting in disagreements and complaints between vehicle/vessel owners and providers of towing or immobilization 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 the towed vehicles/vessels and of the residents and visitors in Palm Beach County; and

48 **WHEREAS**, sections 125.0103(b) and 166.073(c) of the Florida Statutes empowers the
49 Board of County Commissioners to enact regulations pertaining to the towing and immobilization
50 industries, including the authority to regulate maximum rates when vehicles are towed or
51 immobilized; and

52 **WHEREAS**, chapter 19, article VIII of the Palm Beach County Code is being amended to
53 update regulations for towing pursuant to House Bill 179, approved by the Governor on March 22,
54 2024, and clarify regulations and procedures for towing and immobilization services; and

55 **WHEREAS**, the United States Supreme Court decision in *Ours Garage v. City of Columbus*,
56 536 U.S. 424 (2002) held that states could delegate their authority to regulate non-consent towing
57 services as it relates to price and safety; and

58 **WHEREAS**, the Board of County Commissioners of Palm Beach County finds it to be in the
59 best interest of the County, its citizens and its visitors to permit and regulate non-consent and consent
60 towing and immobilization services and to protect the health, safety, and welfare of its citizens and
61 visitors of Palm Beach County and to ensure uniform, fair, and consistent service rates, fees, and
62 procedures for towing, storage, and immobilization services; and

63 **WHEREAS**, the Board of County Commissioners of Palm beach County hereby amends
64 Palm Beach County Code chapter 19; article VIII (Ordinance No. 2021-021).

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

SECTION 1. DEFINITIONS

Section 19-182 of the Palm Beach County Code is hereby amended to read as follows:

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

Administrative/Lien fee shall mean the fee that is charged for title and lien search, advertising costs, and notification of lien holder and owner of the whereabouts and charges against a vehicle or vessel incurred by a tow truck company.

Advertisement shall mean any statement made in connection with the solicitation of a tow truck company or immobilization company and includes without limitation, statements and representations made in a newspaper, telephone directory or other publication, radio, television, electronic medium or contained in any notice, handbill, business card, sign, catalog, billboard, brochure, poster, social media, or letter.

Applicant shall mean any person who applies for an operating permit with Palm Beach County. In the case of partnerships, associations, corporations and other legal entities, "applicant" shall also mean any member of a partnership and the corporate officers and directors.

Application shall mean the questionnaire with supporting documentation required to be submitted to the division in order to obtain an operating permit, ID badge or renewal of either. The application and instructions are obtained from the division.

Article shall mean Chapter 19, Article VIII of the Palm Beach County Code, the Towing and Immobilization Services Ordinance as may be amended from time to time.

Authorized driver/agent shall include the person who is empowered to act on behalf of the vehicle owner and the vehicle lien holder.

Board shall mean the Board of County Commissioners of Palm Beach County, Florida.

Compensation shall mean the exchange of goods or services for money, property, service or anything else of value.

Consent tow shall mean the recovery, towing and storage of a vehicle or vessel with the authorization/consent of the vehicle/vessel owner or authorized driver.

Consent tow truck company shall mean a person(s) who tows a motor vehicle/vessel with the authorization/consent of the vehicle/vessel owner or authorized driver/agent.

Consent-only towing operating permit shall mean the authority required by the provisions of this article of any individual or towing company engaging in the business of performing consent-only towing of vehicles/vessels.

Conviction shall mean any judicial determination of conviction, adjudication withheld or plea of nolo contendere from a court of competent jurisdiction.

Credit card convenience fee shall mean a fee that can be assessed and added to an invoice if a credit card is used for the transaction. The fee is intended to offset the cost associated with accepting credit card payments and is established by Board resolution.

Director shall mean the director of the Consumer Affairs Division.

Division shall mean the Consumer Affairs Division of the Public Safety Department of Palm Beach County designated to implement, enforce, interpret and monitor compliance with this article and includes the employees of the division.

Duly authorized agent shall mean a person designated by and acting on behalf of a real property owner per contractual agreement to request private property impounds or immobilization services. The duly authorized agent shall have no affiliation with the tow truck company or the immobilization company providing the service. The real property owner shall only appoint duly authorized agents which have a direct connection to the property (e.g., board member, employee of the property management company or home/condo owner's association, employee of the real property owner or state of Florida licensed security agency contracted by the real property owner or manager).

Employee shall mean a person who is compensated financially for a period of not less than twenty (20) hours per week and who performs all of his/her employment functions on the property of the employer or management company and is issued an annual federal tax statement of earnings (W-2 Form).

Extra time at scene/labor shall mean any extra time beyond one-half (½) hour, needed to safely remove a vehicle or vessel and shall also include the amount of time spent at a scene when a tow truck has been summoned and is on scene but unable to proceed through no fault of the tow truck operator. All extra time/labor shall be documented by the tow truck 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/labor shall be charged in fifteen-minute increments.

Good faith effort shall mean that required steps have been performed by the tow truck company according to F.S. § 713.78, as may be amended, to locate the vehicle/vessel owner or lien holder.

Gross weight shall mean the weight of a tow truck in pounds plus the weight of the vehicle(s)/vessel(s) and contents being towed.

Immobilization shall mean the act of installing a mechanical device to a parked vehicle or vessel so as to prohibit the usual manner of movement or operation. Immobilization devices include, but are not limited to, boots and barnacles.

Immobilization operator shall mean the person who is responsible for placing the immobilization device on the vehicle or vessel.

Light reflective sign shall mean an eighteen-inch wide by twenty-four-inch high sign made of aluminum (at least .040 thickness) or fiber reinforced plastic (at least .090 thickness). The entire background surface and all lettering must at a minimum be Type I Engineered Grade Sheeting (ASTM D4956-01) or 3M Engineer Grade Prismatic Reflective Sheeting Series 3430 (or equivalent). The letters may be screen printed on the Type 1 sheeting using a compatible transparent ink so that the retro reflection is maintained and visible.

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

Non-consent tow shall mean the recovery, towing, removal and storage of a vehicle or vessel without authorization of the vehicle/vessel owner or authorized driver and shall include both "police directed tows" and "private property impounds" as defined herein.

Non-consent towing company shall mean person(s) who perform "police directed tows" or "private property impounds" as defined herein.

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

Operating permit shall mean the document, certificate or license issued by the division which evidences the authority for a person to either:

- (1) Engage in the activity of recovering, towing, removing and storage of vehicles for compensation; or

(2) Engage in the activity of immobilization for compensation. As used in this article, an operating permit does not mean a municipal or county business tax receipt.

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

Permit period shall mean the one (1) year beginning on January 1 and terminating on December 31 of each year.

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

Place of business shall mean the place designated as the primary business office of the tow truck and/or immobilization company that provides towing, immobilization, removal, recovery and/or storage services.

Police directed tow shall mean the removal and storage of wrecked or disabled vehicles or vessels at the direction of police/law enforcement from an accident scene or the removal and storage of a vehicle in the event the vehicle owner or driver is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel, excepting, however, all incidents of "private property impounds" as herein defined below.

Prior express instruction shall mean a clear, definite and explicit request that meets all the requirements of Section 19-194 herein; and: a) is a police directed tow to recover, tow, remove, or store a specific and individual vehicle or vessel which is disabled, abandoned, or parked without authorization or whose vehicle/vessel owner or authorized driver is unable or unwilling to remove the vehicle; or b) made in writing by a real property owner or duly authorized agent of the real property owner, as specifically referenced on the written contract between the real property owner and tow truck company, to recover, tow, remove and store a specific and individual vehicle or vessel parked without permission of the real property owner. The tow truck company, an employee or agent thereof shall not be the designated agent of the real property owner for the purpose of providing prior express instruction to recover, tow, remove or store the vehicle or vessel.

Private property impound shall mean towing or removal of a vehicle or vessel, without the consent of the vehicle/vessel owner or driver when that vehicle/vessel is parked on real property, as authorized by F.S. § 715.07, as may be amended.

Real property owner shall mean that person who exercises dominion and control over real property, including but not limited to, the legal title holder, lessee, designated representative of a condominium or homeowner's association or any person authorized to exercise or share dominion and control over real property; provided, however, that "real property owner" shall not mean or include a person providing towing or immobilization services within the purview of this article.

Real property shall mean real estate, land, structures and things affixed to it that are not movable and that are not personal property.

Recover shall mean to take possession of a vehicle or vessel and its contents and to exercise control, supervision and responsibility over it, but does not include immobilization.

Recovery shall mean the removal of a vehicle or vessel from an area not readily accessible to a roadway (i.e., within a standard cable length).

Remove shall mean to change the location of a vehicle/vessel by towing it.

Revoke shall mean to annul and make void the operating permit of a tow truck or immobilization company, or the I.D. badge of a tow truck driver.

Storage shall mean to place and leave a towed vehicle or vessel at a location where the person providing the towing services exercises control, supervision and the responsibility over the vehicle.

Storage yard also known as a storage facility shall mean the location where towed vehicles or vessels are stored.

Tow shall mean to haul, draw or pull along a vehicle or vessel by means of a tow truck equipped with booms, car carriers, winches, lifts, hook-up or similar commercially manufactured equipment.

Towing shall mean the act of moving one (1) vehicle or vessel from one (1) point to another (including hook-up, lift, and transport) using what is commonly referred to as a tow truck or a car carrier.

Tow truck shall mean any vehicle used to tow, haul, carry or to attempt to tow, haul or carry a vehicle or vessel.

Tow truck 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.

Tow truck decal shall mean a decal placed upon any tow truck granted approval to provide towing services by the division.

Tow truck driver shall mean the individual who is driving or physically operating a tow truck for a tow truck company engaged in tows.

Unfair or deceptive trade acts or practices shall have the same meaning as section 9-10 of the Palm Beach County Code, as may be amended.

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.

Vehicle or vessel owner shall mean a person with the "proof of ownership" described in this article.

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 F.S. § 327.02.

SECTION 2. OPERATING PERMIT REQUIRED

Section 19-184 of the Palm Beach County Code is hereby amended to read as follows:

(a) It shall be unlawful for any person to recover, tow, remove, store or immobilize a vehicle or vessel for compensation in Palm Beach County or to employ, authorize or permit any other person to recover, tow, remove, store or immobilize a vehicle or vessel in Palm Beach County without first obtaining and maintaining a current and valid operating permit pursuant to the provisions of this article.

(b) Tow truck companies whose principal place of business is located outside Palm Beach County that provide consent-only towing services in Palm Beach County shall be exempt from the operating permit provisions of this article, except that such tow truck companies

are required to be permitted if the company picks-up and drops-off a vehicle or vessel solely within Palm Beach County as one (1) complete service.

- (c) The provisions of this article shall not apply to governmental agencies, vehicle rental companies which tow their own vehicles, to businesses while utilizing trucks capable of transporting five (5) or more vehicles at one (1) time, or to persons who use a vehicle or vessel to transport a recreational vehicle solely for personal, family, or household use. Towing of motorcycles, recreational vehicles and boats fall under this exception.
- (d) No person shall submit a bid nor shall any contract be awarded to recover, tow, remove, store or immobilize vehicles or vessels for the Board, unless the bidder, proposer, or responder has a valid and current operating permit for towing or immobilization services as applicable, issued pursuant to this article. Nothing herein shall prevent the County from contracting for more stringent requirements than set forth in this article.

- (e) Each tow truck company and immobilization company shall possess all necessary federal, state, and municipal certificates, licenses and permits to operate as designated.

SECTION 3. NEW APPLICATIONS/RENEWALS AND ISSUANCE OF
OPERATING PERMIT, FEES

Section 19-185 of the Palm Beach County Code is hereby amended to read as follows:

- (a) The division shall issue, as applicable, either a towing operating permit, and/or a consent-only towing operating permit, and/or an immobilization operating permit to tow truck companies or immobilization companies which have met the criteria and requirements for an operating permit as provided for in this article.
- (b) Every application for an operating permit shall be in writing, signed and verified by the applicant, filed with the division, and accompanied by the required operating permit application fee. The application shall be on a form prescribed by the division and shall contain information, including but not limited to:
- (1) Sufficient information to identify the applicant, including but not limited to, full legal name, date of birth, telephone numbers, the place of business and residence addresses, a copy of the applicant's Palm Beach County Business Tax Receipt and Florida Identification Card or Florida driver's license number. If the applicant is a corporation, the foregoing information shall be provided for each corporate officer, director, registered agent or shareholder. If the applicant is a partnership, the foregoing

information shall be provided for each general and limited partner. Post office box addresses shall not be accepted.

(2) Documentation demonstrating that all corporate or partnership applicants are qualified under the laws of Florida to do business under the trade name or names under which it has applied for an operating permit.

(3) A list of all persons with any ownership interest in the company who have previously been denied an operating permit from this or any other jurisdiction.

(4) Verification of the business' current corporate status and fictitious name registration (if applicable) with the State of Florida.

(5) Any trade name under which the business operates, intends to operate, or has previously operated.

(6) The location and physical addresses of all places of business including storage facilities; as applicable.

(7) A description of services proposed to be provided, including, but not limited to, days and hours of operation and types of towing and storage services, or immobilization services to be provided.

(8) Proof of insurance as required in Section 19-187 (insurance requirements). As proof of insurance, a certificate of insurance must be submitted on the company's behalf directly to the division by the insurance company or agent.

(9) A signature of each individual applicant, president or vice-president of a corporation and of all the general and limited partners of a partnership having twenty-five (25) percent or greater ownership in the company.

(10) The submission of a statement assuring that each tow truck is commercially manufactured, meets the specifications listed herein, is in safe operating condition and receives routine service/maintenance.

(11) An agreement on the part of the applicant to abide by the provisions of this article and the laws of the State of Florida.

(12) Such additional information required by the division to process the application.

(c) The division shall review and investigate each application of an operating permit. In the case of an applicant that is not an individual, the applicant entity and any member of a partnership and the corporate offices and directors owning twenty-five (25) percent or more

must meet the requirements of this article in order for the applicant to be eligible for an operating permit. The division shall deny any application that is incomplete or untrue in whole or in part, or which fails in any way to meet the requirements of this article.

(d) The applicant for permit shall not have pending criminal, administrative, or enforcement proceeding in this or any jurisdiction, nor shall the applicant's operating permit be currently under suspension or revocation in this or any jurisdiction based upon conduct that would result in suspension or revocation of an operating permit under this article. Application of this specific provision to consent-only towing companies is limited to proceedings that relate to public safety. Pending criminal, administrative or enforcement proceedings in any jurisdiction will result in a provisional operating permit that is dependent on the final disposition of the pending proceedings, unless the allegations and facts relate to a significant public safety issue. In such cases, the permit will be denied pending the outcome of the proceedings. The operating permit will be subject to revocation or suspension as appropriate following the conclusion of pending criminal, administrative or enforcement proceeding if the applicant no longer meets all eligibility requirements of this article. Fees, fines or penalties resulting from the pending enforcement proceeding must be satisfied pursuant to Section 19-205 or the provisional operating permit will be revoked.

(e) Applicants are required to have satisfied all civil and administrative fines, fees, costs, penalties or judgments arising out of an administrative or enforcement action brought by:

(1) The division, including any cease and desist orders and/or assurances of voluntary compliance issued by the division, pertaining to towing or immobilization regulations or applicable statutes, or

(2) Another governmental agency of any jurisdiction based upon conduct that would be a violation of this article, including a violation of towing or immobilization regulations in another jurisdiction.

All such civil fines, fees, penalties or judgments must be paid in full and satisfied prior to issuance or renewal of an operating permit under this article, unless the applicant presents proof of a payment plan that is current and evidencing good faith intent to satisfy any such fines, costs, judgments, penalties or fees that are outstanding.

(f) If an applicant or a director, officer, owner or partner of the applicant, owning at least twenty-five (25) percent had the entity operating permit revoked within one (1) year prior to

the date of application, in this or any other jurisdiction, the applicant is not eligible for an operating permit until the expiration of one (1) year from date of revocation.

(g) The following are disqualifying offenses for applicants for towing or immobilization services permits:

(1) No time limit. Any conviction relating to sex crimes, the use of a deadly weapon, homicide, false imprisonment, kidnapping, violent offense against a law enforcement officer under F.S. § 775.0823 and any felony conviction for violence against a government or civil servant including but not limited to a paramedic, firefighter, law enforcement or other government or civil servant. The applicant must not have been adjudicated a habitual violent felony offender under F.S. § 775.084.

(2) Convictions. The applicant has been convicted of, found guilty of, or pled guilty or no contendere to, regardless of the adjudication of guilt, within the last ten (10) years from date of application of any of the following or substantially similar statutory offenses as may be updated or amended involving: repossession of a motor vehicle under F.S. Ch. 493, repair of a motor vehicle under F.S. §§ 559.901—559.9221, theft of a motor vehicle under F.S. § 812.014, carjacking under F.S. § 812.133, operation of a chop shop under F.S. § 812.16, failure to maintain records of motor vehicle parts and accessories under F.S. § 860.14, airbag theft or use of fake airbags under F.S. § 860.145 or F.S. § 860.146, overcharging for repairs and parts under F.S. § 860.15, or violation of the towing or storage requirements for a motor vehicle under F.S. § 321.051, F.S. Ch. 323, F.S. § 713.78, F.S. § 715.07, or any felony conviction involving a towed or immobilized vehicle or theft of property.

(3) Conviction of a felony by the applicant within the last five (5) years before the date of application which relates to public safety or demonstrates that the applicant cannot be trusted to safeguard the public's health, safety, welfare and/or property.

(4) Any criminal, administrative, or enforcement proceeding in any jurisdiction based upon conduct involving a violation of this article or other towing regulations. This paragraph shall apply to consent-only towing companies when such proceedings from other jurisdictions relate to public safety.

(5) Any unsatisfied judgments entered in an action brought by the division under this article.

(6) Has had its operating permit previously revoked by action of the division or any other jurisdiction within two (2) years of the date of application. This paragraph shall apply to consent-only towing companies when such proceedings relate to public safety.

(h) *Exemptions:* If an applicant had a valid operating permit on the effective date of the revision of this article, the applicant shall be exempt from any new disqualifications and/or requirements, and shall be permitted to continue to maintain its operating permit provided the operating permit does not lapse for a period of twelve (12) or more months. However, if the applicant or any director, officer, owner or partner is convicted of a new offense after the effective date of the revision of this article, that is a disqualifier under this article, or if new administrative or enforcement proceedings are initiated against the applicant in this or another jurisdiction, such that the applicant would not be eligible for an operating permit based on the new proceedings then the tow truck company or immobilization company's operating permit is subject to revocation.

(1) Operating permits expired for twelve (12) or more months cannot be reactivated. This exemption shall not be applied to new applications for operating permits initiated after the effective date of the revision of this article. This subsection only applies to the applicant entity as it existed on the effective date of the revision of this article and shall not be applied to exempt a director, officer, owner or partner joining the applicant after the effective date of the revision of this article.

(2) All tow truck companies and immobilization companies which desire to operate in Palm Beach County must secure an operating permit and follow the permitting procedures described in this section prior to conducting business. Immobilization companies must secure an operating permit within ninety (90) days from the effective date of the ordinance revision. If there are six (6) months or fewer remaining before the division's annual operating permit renewal date, the nonrefundable fee for the operating permit shall be fifty (50) percent of the operating permit fee. All other fees are required to be paid in full.

(i) Each operating permit issued pursuant to this section shall be valid and effective for one (1) year, beginning on January 1 and terminating on December 31 of each year. Failure to submit an operating permit application and the required nonrefundable fee for renewal by

September 30 of each year will result in the assessment of a nonrefundable late fee. All fees shall be established by a resolution of the Board.

(j) An applicant failing to submit a complete application with all required supporting records within thirty (30) calendar days after the division's receipt of the application shall be denied a renewal or initial operating permit. Within ten (10) business days of receipt of the division's notice of denial, the applicant may refile a complete application with supporting documentation and pay a nonrefundable application re-filing fee established by a resolution of the Board. Failure to refile a complete application within this ten (10) day period results in the initial application being denied. However, applicants who do not satisfy the application defects within the ten (10) days will be allowed to resubmit a new application with a nonrefundable application permit fee and if applicable additional tow truck decal fees. The failure to re-file and pay the required fees will result in the denial of the operating permit application for that licensing period.

(k) After an initial application and every other year thereafter, the applicant shall submit to a background investigation.

(l) Each operating permit shall be printed on a certificate containing, at a minimum, the name and address of the company, the name of the principal, the dates the operating permit is in effect, and the identifying number assigned by the division to the company. The operating permit certificate issued by the division shall remain the property of Palm Beach County and shall be used only under the authority of the division.

(m) All operating permits shall be renewed annually. As a part of the renewal process, the original application shall be updated and verified by the applicant. Each updated renewal application shall be accompanied by a nonrefundable renewal fee. All operating permits which are not renewed shall automatically expire upon the expiration date of the operating permit, as stated on the operating permit, and all towing, storage and immobilization services shall cease immediately. The division shall deny each renewal application that is not timely, is incomplete, is untrue in whole or in part, is unaccompanied by the required fees, or results in a determination by the division that the applicant has failed to satisfy the requirements of this article.

(n) All services authorized by an operating permit issued by the division shall cease immediately upon the expiration of the operating permit, notwithstanding the filing of a

renewal application, unless the division, in writing and on forms prescribed and executed by the division, expressly allows the operating permit to remain effective pending its review of the submitted renewal application.

- (o) An operating permit issued or renewed pursuant to the provisions of this section shall not be transferable, nor shall the ownership structure of the operating permit be so modified as to constitute a change in the control or ownership of the operating permit. If the business changes its name or ownership structure, a new business permit application and the business application permit fee shall be submitted to the division within forty-five (45) days of said change. In cases where the name of the business changes, the new business will be required to have each vehicle inspected and must also pay decal/vehicle fees.

Any change in fictitious name has to be reported to the division within ten (10) business days. The fictitious name must be registered with the Florida Department of Corporations.

- (p) Failure to comply with or meet the criteria eligibility of this section may result in denial of an operating permit, revocation or suspension of the operating permit, a denial of renewal of an operating permit, issuance of a civil citation, a criminal conviction and/or other such remedies available to the division and law enforcement as permitted by law.

- (q) All fees collected shall be deposited in a separate county fund for the division's operation.

SECTION 4. INSPECTION OF STORAGE YARDS AND PUBLIC OFFICES

REQUIRED

Section 19-186 of the Palm Beach County Code is hereby amended to read as follows:

- (a) Prior to the issuance of an operating permit, the division shall inspect each storage facility and public office area of a tow truck company to assure compliance with this article and the following:
- (b) In addition to the requirements of F.S. § 713.78, as may be amended, non-consent towing storage facilities must meet the following requirements:
- (1) At least ten (10) feet by twenty (20) feet of outdoor storage space for each standard vehicle/vessel (more for larger vehicles). The facility must be able to accommodate a minimum of ten (10) standard size vehicles. For towing companies unable to provide outdoor storage, an indoor facility must be provided with the same space for a minimum of ten (10) standard size vehicles and must use one (1) or more of the security methods defined herein. Tow truck companies which provide only indoor

storage shall not exceed the maximum allowable outdoor storage rates established by the Board.

(2) At least ten (10) feet by twenty (20) feet of indoor storage space for each standard vehicle/vessel. The indoor storage space must adequately protect the vehicle from natural (e.g., rain, hail, etc.) and man-made (e.g., paint, chemicals, etc.) elements, be isolated to prevent contact with unapproved personnel/public and be placed in such a manner to prevent damage by any other means. Indoor storage space shall be adequately vented to the outside to prevent accumulation of toxic fumes or gases that may pose a threat to human health. The indoor facility must be able to accommodate a minimum of at least two (2) standard size vehicles.

(3) Each storage facility must use one (1) or more of the following security methods to discourage theft of vehicles/vessels or of any personal property contained in such vehicles/vessels:

- a. A night dispatcher or watchman remaining on duty at the storage facility from sunset to sunrise;
- b. A guard dog (as licensed and approved by the Palm Beach County Animal Care and Control Division) which remains at the storage facility from sunset to sunrise;
- c. Security cameras or other similar electronic surveillance devices which monitor and record activities in the storage facility during the hours the business is closed to the public; or

(4) An appropriate public office area protected from the weather and equipped with the approved sanitary facilities in accordance with the requirements of Chapter 64E-10, FAC.

(c) By resolution, the Board may establish a storage yard inspection fee.

SECTION 5. INSURANCE REQUIREMENTS

Section 19-187 of the Palm Beach County Code is hereby amended to read as follows:

(a) It shall be unlawful for any tow truck company to recover, tow, remove or store a vehicle/vessel until that company has filed with the division proof of current commercial insurance as follows: auto liability for each vehicle, general/garage liability, on-hook cargo liability and worker's compensation (as required by state law). The Board shall establish the minimum insurance limits by resolution for each insurance type. Further, the required

insurance coverages must remain in effect and current during the term of the operating permit. Tow truck companies no longer providing tow services shall surrender and return the operator permit by written notification to the division in order to terminate insurance responsibilities under this article.

(b) It shall be unlawful for any immobilization company to maintain a current operator permit or to immobilize a vehicle until that company has filed with the division proof of current commercial insurance. The Board shall establish the minimum insurance limits by resolution for each insurance type. Further, the required insurance coverages must remain in effect and current during the term of the operating permit. Immobilization companies no longer providing immobilization services shall surrender and return the operator permit by letter notification to the division in order to terminate insurance requirements under this article.

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

(d) A properly completed certificate of insurance evidencing all insurance coverages shall be made available to the division upon application for an operating permit. Each certificate of insurance shall be submitted to the division directly from the insurer or an insurance agent. Each vehicle must be listed on the certificate(s) by its year, make and vehicle identification number. Certificates of insurance must contain the following name and address as certificate holder:

Board of County Commissioners of Palm Beach County
c/o Department of Public Safety Division of Consumer Affairs
50 South Military Trail
West Palm Beach, FL 33415

Evidence of the renewal of the policy shall be filed with the division prior to such policy's expiration date. Failure to file such evidence of insurance, or failure to have same in full force and effect, may result in denial of a permit, revocation or suspension of the permit, a denial of

renewal of such permit, issuance of a civil citation, a misdemeanor charge or other such remedies available to the division herein.

(e) The division may deny, suspend or revoke the operating permit of any company for failure to obtain or maintain insurance as required by this article. Any company which submits false or fraudulent insurance documents shall be subject to immediate denial or revocation. Such companies shall not be eligible to reapply for a business permit for five (5) years. The division shall notify the state department of financial services/division of insurance fraud for follow-up investigation and review. Upon denial, suspension or revocation of the business permit, the company shall be entitled to an appeal according to the provisions in Section 19-208.

(f) The division shall suspend the operating permit of any company which fails to ensure that each and every registered vehicle associated with the company has:

(1) A current certificate of insurance provided to the division by the authorized agent or insurance company no later than the date of expiration of its previous policy; or

(2) A reinstatement notice provided to the division no later than the date of cancellation of said policy.

(3) Any company which has had its business permit suspended more than two (2) times in any twelve-month period may have such permit revoked for a period of one (1) year.

(g) An "administrative insurance reactivation" fee established by resolution of the Board, shall be assessed all tow truck or immobilization companies that are suspended pursuant to subsection (e) above. The suspension shall not be withdrawn until the fee is paid to the division.

SECTION 6. TOW TRUCK REGISTRATION, TOW TRUCK STANDARDS,

DECALS

Section 19-188 of the Palm Beach County Code is hereby amended to read as follows:

(a) It shall be unlawful to recover, tow or remove a vehicle/vessel or to provide storage in connection therewith unless the tow truck is registered with the division and each tow truck used to provide service displays in the lower left corner (driver side) of the front window, a current tow truck decal issued by the division. The tow truck decal remains the property of the division and can be used only under the authority of the division. Notwithstanding the foregoing, the county administrator or designee is authorized to exempt consent only tow

truck companies from the decal requirement by order of the division during a declared state of emergency and extending for a period of forty five (45) days thereafter which may be extended for good cause by order of the county administrator or designee for an additional thirty (30) days in order to assist consumers in recovery following a disaster. During this emergency exemption requirement, consent tow truck companies shall notify the division of the need to operate. The division will maintain a registry of companies performing consent tows.

(b) The division shall issue tow truck decals for each tow truck to be used for services upon application and satisfactory inspection of each tow truck by the division conforming to the requirements of Florida law and this article including but not limited to the following requirements:

(1) Required permanent signage for each tow truck used for providing tow truck company services are as follows:

- a. The tow truck clearly displays the company name on the exterior of the driver and passenger sides in permanently affixed letters in contrasting colors at least three (3) inches high.
- b. The physical address of the tow truck company's primary business address must be permanently affixed to the tow truck;
- c. The telephone number and operating permit number must be permanently affixed to the tow truck in at least one (1) inch high letters in contrasting colors on the exterior driver and passenger sides; and
- d. Magnetic signage of any type is not allowed and will not satisfy the signage requirements set forth in this article.

Notwithstanding the foregoing signage requirements, in the event the Florida legislature amends or changes any provision in F.S. Ch. 715, or amends or adds a similar Florida Statute to regulate or amend regulations on tow truck signage requirements, then the new or revised tow truck signage requirements in Florida Statutes shall take precedence over any inconsistent or conflicting signage requirements set forth in this article.

(2) Submission of an affidavit to the division assuring that each tow truck is commercially manufactured and meets the specifications listed in Section 19-183 (tow truck class specification) and is in safe operating condition.

(3) An application form prepared by the division shall be completed by the tow truck company, which correctly indicates the year, make, model, vehicle identification number, the State of Florida motor vehicle license plate number, and the expiration date of the license plate of each tow truck to be associated with the tow truck company. A copy of the State of Florida vehicle registration shall be provided to the division for each vehicle to be issued a decal.

(4) Payment of a nonrefundable decal fee established by resolution of the Board. All fees shall be deposited into the designated fund for the division's operations.

(5) Inspection of the tow truck by the division to ensure that the tow truck meets the minimum tow truck signage requirements and safety and equipment standards. The minimum safety inspection requirements for all tow trucks shall be:

- a. Compliance with Section 19-183 (tow truck class specification);
- b. Vehicle and towing apparatus in safe operating condition pursuant to F.S. Ch. 316, as may be amended;
- c. Tire conditions and tread;
- d. Braking performance;
- e. Lights, including head, parking, rear, signal and flood;
- f. Amber emergency lighting;
- g. Fire extinguisher;
- h. Safety equipment, including flares and light reflective safety cones or red triangle highway warning reflectors; and
- i. Flashlight.

Tow trucks used exclusively for police directed tows shall be required to also have the following:

- a. "Oil-Dri" or its equivalent; and
- b. Equipment: Crowbar/pryer, jumper cables, bolt cutters, four-way lug wrench, extra tow chain, five-gallon trash receptacle, fire axe, heavy duty push broom and shovel.

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- 617 (c) Each tow truck that has a decal is required to be insured as set forth in Section 19-187
618 herein. In cases where a tow truck is removed from service, the decal must be returned to
619 the division in order to terminate the insurance requirement and remove the tow truck from
620 the tow truck company truck roster.
- 621 (d) Each tow truck decal issued pursuant to this section shall be valid and effective for one (1)
622 year beginning on January 1 and terminating on December 31 of each year. Failure to renew
623 the tow truck decal before its expiration will result in the assessment of a nonrefundable late
624 fee. All fees shall be established by resolution of the Board.
- 625 (e) The tow truck decal remains the property of the division and can be placed, removed and
626 used only under the authority of the division and will be associated by number to an
627 individually identified tow truck. Current insurance is required for each tow truck with a
628 decal. Decals can be surrendered and returned to the division to remove a tow truck from
629 the operating permit for the company.
- 630 (f) It shall be unlawful and a violation of this article for any tow truck company to alter or
631 transfer ownership of any decal. If a tow truck is destroyed or sold, the tow truck company
632 must remove said decal and surrender the remains to the division.
- 633 (g) Any additional tow trucks must comply with this section prior to being used for recovery,
634 towing or removal of any vehicle/vessel. Upon compliance with this section, additional tow
635 trucks acquired during the licensing year will receive a decal at a prorated fee. The prorated
636 fee shall be fifty (50) percent of the regular decal fee if there are six (6) months or less
637 remaining before the annual decal renewal period.
- 638 (h) Decals shall be issued in numerical order and assigned to a specific tow truck and each
639 decal issued shall display its assigned number.
- 640 (i) The decal for each tow truck shall be affixed by personnel authorized by the division and
641 shall not be removed except with approval of the division when removing a tow truck from
642 service. The decal shall be displayed where affixed on the window and available for
643 inspection by any law enforcement officer or by the division.
- 644 (j) Replacement or duplicate decals may be approved by the division upon the completion of
645 an application and notarized statement of the tow truck company stating that such
646 replacement or duplicate decal is necessary and stating the reasons for such request, along
647 with a replacement decal fee to be approved by resolution of the Board.

(k) In the event a tow truck is inspected by a municipality or law enforcement agency that requires substantially the same inspection requirements as contained in this article, that tow truck 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 tow trucks associated with a tow truck company must be registered with the division and meet the vehicle safety requirements of this article.

(l) Tow trucks that have a valid decal can be temporarily removed from service by return of the decal to the division. If that tow truck is returned to service prior to the next annual decal renewal, the tow truck company is required to:

- (1) Obtain a new decal and to pay a return to service decal fee; and
- (2) Submit proof of current insurance.

No inspection fee shall be required but the tow truck must be returned to service prior to December within the current renewal year. However, those tow trucks will be required to be inspected and will be issued annual decals at the upcoming annual renewal.

(m) Tow trucks that are issued decals and temporarily removed from service by return of the decal to the division but that are returned to service after December of the current renewal year, will be required to be re-inspected and shall pay the inspection fees, regular decal fees and late fees. They must also provide proof of current insurance and satisfy all other requirements of this article. There is no proration of fees.

SECTION 7. NON-CONSENT MANIFEST, TOWING INVOICE, OR TOW SHEET

Section 19-190 of the Palm Beach County Code is hereby amended to read as follows:

(a) It shall be unlawful for any person providing non-consent towing services to recover, tow, remove or store a vehicle/vessel unless the tow driver at the tow scene and the towing company at the storage yard has in his/her possession a manifest, uniquely numbered towing invoice, tow sheet or dispatch records which may be electronic or hand written, and shall include the following information:

- (1) Name, address, and telephone number of the tow truck company, name of tow truck operator physically providing the service and the tow driver's I.D. badge number;
- (2) Palm Beach County Towing Permit Number (TP#) and decal number of the towing vehicle used to provide the service;

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- (3) Name, address and telephone number of the person requesting the service, except as provided in Section 19-194 (non-consent towing with prior express instruction);
- (4) Prior express instruction (signed and dated) of the real property owner provided in the presence of the tow truck driver recovering, towing or removing the vehicle/vessel except as provided in subsection (a) above;
- (5) Date and time the tow truck arrived at the location where the service is to be performed;
- (6) Date and time of release of vehicle/vessel to vehicle/vessel owner or authorized agent;
- (7) Location at which the service originated;
- (8) Destination to which the vehicle/vessel being provided the service is taken and the time of arrival at the destination;
- (9) Description of vehicle/vessel being provided the service, including make, model, year (if known), color, vehicle/vessel identification number (if visible), license plate number, and state of registration if any;
- (10) Description of services provided;
- (11) The total charges, including, but not limited to, cost of the initial towing service, cost of storage fees expressed as a daily rate, administrative fees, and other fees as approved by the Palm Beach County Board of County Commissioners, listed individually and specifically as well as the description of the services rendered;
- (12) When an "extra time/labor at scene" charge is applied, the tow truck driver shall obtain and provide the name of the law enforcement agency and agency case number. In lieu of the case number, the badge number and name of the investigating law enforcement officer on the scene must be provided. A detailed explanation of the services rendered which necessitated the charges shall also be recorded and provided to the vehicle/vessel owner or driver upon request;
- (13) The following disclosure in bold capitalized letters of at least twelve-point type:
- IF YOU HAVE QUESTIONS OR COMPLAINTS ABOUT NON-CONSENT
TOWS THAT ARE NOT RESOLVED BY THE TOWING COMPANY
MANAGEMENT, CONTACT THE PALM BEACH COUNTY CONSUMER
AFFAIRS DIVISION, WEST PALM BEACH, FLORIDA. TELEPHONE: (561) 712-
6600 OR BY INTERNET: www.pbcgov.com/consumer.

COMPANIES PERFORMING NON-CONSENT TOWS IN PALM BEACH
COUNTY ARE REQUIRED TO ACCEPT AT LEAST TWO OF THE FOLLOWING
FORMS OF PAYMENT:

1. CASH, CASHIER'S CHECK, MONEY ORDER, OR VALID TRAVELER'S
CHECK.

2. VALID BANK DEBIT/CREDIT CARD, WHICH SHALL INCLUDE, BUT
NOT BE LIMITED TO, MASTERCARD OR VISA, THAT IS IN THE NAME OF
THE VEHICLE/VESSEL OWNER, AUTHORIZED DRIVER, LIENHOLDER, OR
INSURANCE COMPANY REPRESENTATIVE. A CREDIT CARD
CONVENIENCE FEE MAY BE ADDED TO THE TRANSACTION AMOUNT TO
COVER CREDIT CARD FEES.

3. MOBILE PAYMENT SERVICE, DIGITAL WALLET, OR OTHER
ELECTRONIC PAYMENT SYSTEM.

(b) Each original manifest, towing invoice, or tow sheet shall be available for inspection and a
copy provided upon demand by law enforcement officers, by personnel authorized by the
division to perform enforcement duties or to the vehicle/vessel owner or division personnel,
or by the vehicle/vessel owner/driver. Electronic records must be made available in hard
copies upon request and shall be made available electronically by email upon request.

(c) An itemized invoice of actual fees charged by a tow truck company for a completed tow
must be produced and available to the vehicle or vessel owner, lienholder, insurance
company, or their agent no later than one (1) business day after:

1. The tow is completed; or

2. The tow truck company has obtained all necessary information to be included on the
invoice, including any charges submitted by subcontractors used by the tow truck company
to complete the tow and recovery.

SECTION 8. RECORDS REQUIRED

Section 19-192 of the Palm Beach County Code is hereby amended to read as follows:

Each tow truck company shall maintain accurate and complete records including but not
limited to, manifests, towing invoices, tow sheets, correspondence, supporting documentation
and all other records and documents required to be maintained pursuant to the provisions of this
article and by F.S. § 713.78(18), as it may be amended. All records and photographs shall be

maintained for at least three (3) years for non-consent towing services and for one (1) year for services related to consent-only towing services. The division and the vehicle owner/driver shall have access to any records and photographs for inspection and copying, during regular business hours.

The division shall have the right to remove the records for the purpose of inspection and copying if the tow truck company does not have copying capability on hand. The division may allow the tow truck company to deliver copies to the division within twenty-four (24) hours, at the discretion of the division staff. All removed records shall be returned to the tow truck company within three (3) calendar days. Each refusal to allow inspection or copying for removal if copying capability is not present upon request, is a violation of this article punishable by a civil fine in an amount established by Board resolution.

SECTION 9. NON-CONSENT TOWING WITH PRIOR EXPRESS INSTRUCTION

Section 19-194 of the Palm Beach County Code is hereby amended to read as follows:

(a) In addition to the other requirements of this article, no tow truck company shall, recover, tow, or remove a vehicle/vessel or provide storage in connection therewith, except in accordance with F.S. Ch. 715 and the following:

(1) Police directed tow. Non-consent tow truck companies may recover, tow or remove a vehicle/vessel based upon the prior written instruction of a police officer.

(2) Private/public property impound. Non-consent tow truck companies may recover, tow or remove a vehicle/vessel on a private/public property impound without the prior express instruction of the vehicle/vessel owner or authorized driver, upon the prior express instruction of the real property owner or his duly authorized agent on whose property the vehicle/vessel is disabled, abandoned or parked without authorization or whose vehicle/vessel owner or authorized agent is unwilling or unable to remove the vehicle/vessel, provided that the following requirements have been met:

a. Except as otherwise provided herein, notice is provided as set forth in Section 19-195 of this article.

b. A business owner or lessee may authorize the removal of a vehicle/vessel by a tow truck company without prior consent of the vehicle/vessel owner/driver when the vehicle is parked on a public right-of-way that obstructs access to a private driveway. The property owner may have the vehicle removed by a tow truck

771 company without a posted tow-away zone sign upon signing the order that the
772 vehicle be removed.

773 c. The additional requirements for non-consent towing set forth in Section 19-196 of
774 this article.

775 d. The property owner or law enforcement officer has provided prior express
776 instruction authorizing the tow in full compliance with this article.

777 e. The non-consent tow truck company recovering, towing or removing a
778 vehicle/vessel shall, within thirty (30) minutes of completion of such towing or
779 removal, notify the appropriate law enforcement agency in which jurisdiction the
780 vehicle/vessel was parked of the following:

781 (1) The nature of the service rendered;

782 (2) The name and address of the storage facility where the vehicle/vessel will be
783 stored;

784 (3) The time the vehicle/vessel was secured to the towing vehicle; and

785 (4) The make, model, color and vehicle/vessel license plate number (if any) of the
786 vehicle or description and registration number of the vessel.

787 The non-consent tow truck company shall obtain the name of the person at the law
788 enforcement agency to whom such information was reported and note that name
789 on the trip record. It shall be a violation of this article for a non-consent tow truck
790 company to act as a duly authorized agent as defined in Section 19-182 on behalf
791 of the real property owner. An example of such action shall include but not be
792 limited to the use of written warnings or stickers for pre-tow notification.

793 (3) Except as otherwise provided in this article, every prior express instruction made in
794 writing or in person shall indicate the date and time of the instruction and shall be
795 signed by the law enforcement officer, or the real property owner/duly authorized
796 agent in the physical presence of the tow truck company providing the service at the
797 time the towing services are performed. The law enforcement officer or the real
798 property owner/the duly authorized agent shall also print his/her full name. Prior
799 express instruction (signed/printed name and date) must be provided on the manifest,
800 towing invoice or tow sheet in the presence of the driver. Pre-authorization or post-
801 authorization for prior express instruction is a violation of this article and shall result in

the issuance of a citation and/or suspension or revocation of the operating permit.

Being in the possession of a pre-signed, manifest, towing invoice, tow sheet or fax authorization form shall constitute prima facie evidence of pre-authorization and is a violation of this article. Such violation shall result in the issuance of a citation and/or suspension or revocation of the operating permit.

(4) Prior express instruction for non-consent tow. Prior express instruction whether faxed or emailed must include each of the following:

- a. The specific location of the vehicle/vessel (i.e., address, parking space, etc.);
- b. The color of the vehicle/vessel;
- c. The make and/or model of the vehicle/vessel (if visible);
- d. The license tag number or the vehicle/vessel identification number (if available);
- e. The real property owner's or authorized agent's signature and printed or typed full name and title, except for email instructions;
- f. The date and time that the instruction is signed must be included on the manifest towing invoice or tow sheet; and
- g. Except as otherwise provided in this article, the law enforcement officer or the property owner shall execute and complete the prior express instruction in the physical presence of the tow driver at the time the towing service is performed.

(5) Prior express instruction expires twelve (12) hours from the time of execution regardless of whether the instruction is received by the tow truck company electronically, by email, or at the scene of a tow.

(6) Prior express instruction received via facsimile or email is not required to be signed in the presence of the tow truck driver.

(7) The tow truck company, in compliance with Section 19-192 (records required), shall maintain copies of facsimile and emailed prior express instructions sufficient to document compliance with this article including the date and time stamp. Tow truck companies utilizing expired prior express instruction without a date and time stamp are in violation of this article.

(8) Emailed prior express instruction can be accepted only if each of the following specific additional criteria are satisfied:

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- a. Each prior express instruction must be an email delivered to the tow truck company's primary email address and printable upon demand by law enforcement or division employee.
 - b. The email must establish the date and time the email was received by the tow truck company.
 - c. The email address(es) of the property owner or authorized agent must be on the contract.

(9) Prior express instruction to tow, recover, or store a vehicle must be for a specifically identified vehicle and cannot be given for a generic vehicle location, event, time or place. Any tow driver found in the possession of a pre-signed manifest towing invoice, tow sheet, facsimile, email or electronic authorization form that is not in conformity to this article shall constitute prima facie evidence of pre-authorization and is a violation of this article. Such violation shall result in the issuance of a citation and/or suspension or revocation of the operating permit of the tow truck company and such other remedies as authorized in this article.

(10) Except as otherwise provided in this article, no such prior express instruction shall be considered to have been given:

- a. By the mere posting of signage as required by Sections 19-195 (notice requirements for providing non-consent tow services at request of real property owners) and Section 19-198 (maximum non-consent towing and storage rates for non-consent tow services);
- b. By virtue of the terms of any contract or agreement between a tow truck company and a real property owner;
- c. When the prior express instruction occurs in advance of the actual unauthorized parking of the vehicle/vessel; or
- d. Where the prior express instruction is general in nature and unrelated to specific, individual and identifiable vehicles/vessels which are already parked without authorization.

(11) A tow truck company employee, operator, contractor or agent of a tow truck company cannot be the duly authorized agent for the purposes of providing prior express instruction to remove, tow, store, a vehicle/vessel.

(12) The duly authorized agent shall have no affiliation with the tow truck company providing the towing service. The property owner shall only appoint duly authorized agents having a direct connection to the property (e.g., Board member, employee of the property management company or home/condo owner's association, employee of the property owner or State of Florida licensed security agency contracted by the property owner or manager). A violation of this provision is a violation of this article.

(b) *Other Requirements for Non-Consent Tows.*

(1) The non-consent tow truck company recovering, towing or removing a vehicle/vessel shall, within thirty (30) minutes of completion of such towing or removal, notify the appropriate law enforcement agency in which jurisdiction the vehicle/vessel was parked of the nature of the service rendered, the name and address of the storage facility where the vehicle/vessel will be stored, the time the vehicle/vessel was secured to the towing vehicle, and the make, model, color and vehicle/vessel license plate number (if any) of the vehicle/vessel or description and registration number of the vessel. The non-consent tow truck company shall obtain the name of the person at the law enforcement agency to whom such information was reported and note that name on the trip record. It shall be a violation of this article for a non-consent tow truck company to act as a duly authorized agent as defined in Section 19-182 on behalf of the real property owner. An example of such action shall include but not be limited to the use of written warnings or stickers for pre-tow notification.

(2) The tow truck company in compliance with Section 19-192 (records required) shall maintain copies of facsimile and email instructions. Acting on an incomplete or expired electronic or facsimile instructions is a violation of this article.

(3) A non-consent tow truck company/driver shall not solicit, offer, pay or rebate money or other valuable consideration in order to obtain the privilege of rendering towing services. The only exception is governmental franchise fees.

(4) Each non-consent tow truck company shall enter into a written contract with the property owner or duly authorized agent (as defined herein) of private property that authorizes the non-consent tow truck company to tow vehicles/vessels on or from its property. This written contract shall include the following:

a. The beginning date of said contract.

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- b. The names of all persons who are duly authorized agents to provide prior express instruction to remove, recover or tow any vehicle/vessel on or from its property.
- c. The name, address and current telephone number of the tow truck company performing the towing service.
- d. The name, address, email address and telephone number for any duly authorized agents acting on behalf of the real property owner that can provide express instruction. Email address is required for those utilizing email for prior express instruction. If prior express instruction is sent by email, the sender's email address shown on the contract must match the authorization email. The contract may be amended by addendum to add or delete duly authorized agents for prior express instruction.
- e. The written contract for non-consent towing shall also include a clear understanding of liability for the real property owner as stated in F.S. § 715.07(4) and shall include the following wording, "When a person improperly causes a vehicle or vessel to be removed, such person shall be liable to the owner or lessee of the vehicle or vessel for the cost of removal, transportation, and storage; any damages resulting from the removal, transportation, or storage of the vehicle or vessel; attorney's fees; and court costs."
- f. No such contract shall state that the non-consent tow truck company assumes the liability for improperly towed vehicles/vessel, contrary to F.S. § 715.07(4). Any addendum to the contract shall include additional names and titles as necessary.
- g. The non-consent tow truck company must keep on file an original, dated and signed contract and addendum (if applicable) with the property owner or duly authorized agent and each contract shall include a Palm Beach County Tow Map locator available on the Division of Consumer Affairs website or Good Mileage map attached thereto to demonstrate compliance with F.S. § 715.07(2)(a) 1.
- h. Such contract shall be maintained for at least twelve (12) months after contract termination. The division and law enforcement officers may inspect and request a copy of any and all such contracts from the non-consent tow truck company during normal business hours. Contracts authorizing the non-consent tow truck company to tow vehicles from the property owner's property to the storage yard in

925 excess of the mileage restrictions of Florida Statutes violate this article and all
926 recovery, towing, and storage charges shall be returned to the vehicle
927 owner/driver.

928 (5) Real property owners or authorized representatives shall not request the recovery, tow
929 or the removal of vehicles/vessels that are reasonably identifiable from markings or
930 equipment as law enforcement, firefighting, rescue squad, ambulance, or other
931 emergency vehicles/vessels which are marked as such.

932 (6) Any person who improperly causes a vehicle/vessel to be recovered, towed, removed
933 or stored shall be liable to the vehicle owner or authorized representative for the costs of the
934 services provided, any damages resulting from the recovery, towing, removal or storage and
935 attorney's fees and court costs.

936 **SECTION 10. NON-CONSENT TOW TRUCK COMPANY REQUIREMENTS**

937 Section 19-196 of the Palm Beach County Code is hereby amended to read as follows:

938 (a) Non-consent tow truck companies shall not provide towing services pursuant to this
939 article when there is a person occupying the vehicle/vessel.

940 (b) Non-consent tow truck companies providing services pursuant to this article shall transport
941 a towed vehicle/vessel directly to the approved storage yard of the tow truck company
942 providing the service, to a location expressly designated by a law enforcement officer
943 authorizing the tow, or to a location expressly designated by the vehicle/vessel owner or
944 authorized driver. When the vehicle owner or authorized driver expressly authorizes the
945 vehicle/vessel to be towed to a location other than the tow truck company storage yard, the
946 tow truck driver must:

947 (1) Provide a "not to exceed" estimate in writing of all the rates and fees that will be
948 assessed for the tow or negotiate a consent-only towing agreement; and

949 (2) Disclose in writing the three (3) methods of payment and come to a mutually agreed
950 time as to how and when the tow truck company will be compensated.

951 (c) It is a violation of this article for a non-consent tow truck company to keep or stage
952 impounded vehicles/vessels in any temporary area or holding facility.

953 (d) Non-consent tow truck companies shall file and keep on record with the division a complete
954 copy of all current rates charged for the recovery, towing or removal of vehicles/vessels and
955 storage provided in connection therewith. Such persons shall also prominently display at

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

(e) Non-consent tow truck companies which provide services pursuant to this article shall advise any vehicle/vessel owner or authorized driver who calls by telephone prior to arriving at the storage facility of the following:

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

(f) Non-consent tow truck companies which provide services pursuant to this article shall allow every vehicle/vessel owner or authorized driver/agent to inspect the interior and exterior of the towed vehicle upon his or her arrival at the storage facility before payment of any charges (except for "after-hour gate or personal property retrieval fee"). With the exception of vehicles being held pursuant to the specific request or "hold order" of a law enforcement agency, the vehicle/vessel owner or authorized driver/agent shall be permitted to remove the vehicle license tag and any and all personal property inside but not affixed to the vehicle/vessel. A vehicle/vessel owner who shows a government issued photo identification shall be given access to view ownership documents stored in the vehicle/vessel. The

vehicle/vessel and/or personal property shall be released to the vehicle/vessel owner if the ownership documents are consistent (name and address) with the photo identification. When a vehicle/vessel owner's government issued identification and ownership documents are stored inside the impounded vehicle due to unforeseen circumstances, the tow truck company shall be required to recover the ownership documents stored in the impounded vehicle (i.e., glove compartment, sun visors, etc.) upon receipt of a vehicle/vessel key, vehicle access code, or electronic device from the vehicle owner that would allow entry.

The vehicle/vessel and/or personal property shall be released to the vehicle/vessel owner if the ownership documents are consistent with the photo identification.

(g) Non-consent tow truck companies which provide services pursuant to this article shall accept payment for charges as specified in Section 19-190.

A tow truck company/driver shall not reject any of the above forms of payment. A vehicle/vessel owner or authorized driver shall not be required to furnish more than one (1) government issued form of picture identification when payment is made as specified in Section 19-190.

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

(i) Non-consent tow truck companies which provide services pursuant to this article shall maintain one (1) or more storage facilities, each of which shall maintain a current Palm Beach County Business Tax Receipt and when applicable a municipal business tax receipt. The business shall be open for the purpose of redemption of vehicles/vessels by owners/drivers on any day that the tow truck company is open for towing purposes from at least 8:00 a.m. to 6:00 p.m., Monday through Friday and, when closed, shall have posted prominently, in a clearly visible location, on the exterior of the storage facility and primary place of business, if different, a notice indicating a telephone number where the tow truck company can be reached at all times. Upon request of the vehicle/vessel owner or

1018 authorized driver, the tow truck company shall release the vehicle/vessel to the
1019 vehicle/vessel owner or authorized driver/agent within one (1) hour.

1020 (j) Non-consent tow truck companies shall not, as a condition of release of the vehicle, require
1021 a vehicle/vessel owner/driver/agent to sign any release or waiver of any kind which would
1022 release the tow truck company from liability for damages noted by the vehicle/vessel owner
1023 or authorized driver/agent at the time of the vehicle's/vessel's release. A detailed, signed
1024 receipt showing the legal name of the tow truck company removing the vehicle/vessel shall
1025 be given to the vehicle/vessel owner or authorized driver at the time of payment, whether
1026 requested or not.

1027 (k) Nothing in this article shall prevent the sheriff or any municipality within the county from
1028 providing additional or more restrictive requirements in contracts or arrangements which
1029 authorize the recovery, towing or removal of vehicles/vessels or storage provided in
1030 connection therewith.

1031 (l) Non-consent tow truck companies which provide services pursuant to this article shall
1032 release vehicles/vessels towed or removed to the vehicle/vessel owner or authorized driver
1033 if documentation is provided proving ownership or agent status. Proof of ownership
1034 documents shall include a current government issued photo ID and one (1) of the following
1035 documents:

1036 (1) Current vehicle registration or vehicle registration expired in the past ninety (90) days;
1037 (2) Vehicle title or property endorsed title transferring ownership pursuant to the
1038 requirements of F.S. § 319.22;
1039 (3) A contract between a lender and the owner of the vehicle or vessel;
1040 (4) A contract between a lessor and the lessee of the vehicle or vessel;
1041 (5) Credentials establishing the person as an employee or contract agent of an insurance
1042 company along with documentation identifying the vehicle by the vehicle
1043 identification number or vessel by the hull identification number.

1044 (6) Notarized document from the vehicle/vessel owner or lien holder authorizing a
1045 designated agent to pick up the vehicle and accompanied by a photocopy of the
1046 owner's driver's license. The notarized document with driver's license copy can be
1047 presented via facsimile or electronically (including by email), provided same can be
1048 printed and saved.

1049 (7) Insurance card with the vehicle/vessel owner's information and vehicle description;
1050 (8) Licensed dealer in possession of an auction buyer's sales invoice and/or;
1051 (9) A notarized bill of sale for non-titled vehicles or vessels;
1052 (10) If the vehicle owner's driver's license has been confiscated by law enforcement and the
1053 owner has no other government issued photo identification, then the owner may
1054 present one (1) of the following forms of identification:
1055 (a) An itemized voucher/property receipt from an arresting law enforcement
1056 agency; or
1057 (b) A booking or arrest record or original citation resulting from incident that
1058 prompted the tow from a law enforcement agency all issued within seven (7) days
1059 of the date the vehicle was towed.

1060 (m) Non-consent tow truck companies which provide services pursuant to this article shall make
1061 a "good faith effort" to locate the vehicle/vessel owner or lien holder. For the purposes of
1062 this paragraph and subsection, a "good faith effort" includes that the required steps
1063 regarding notice have been performed by the tow truck company according to F.S. § 713.78.
1064 Failure to make a "good faith effort" to comply with the notification requirements of this
1065 section shall preclude the imposition of any storage charges against such vehicle or vessel.

1066 (n) Non-consent tow truck companies which provide services pursuant to this article and found
1067 to be in violation of this article relating to a specific non-consent tow shall be required to
1068 reimburse the vehicle owner all illegal or over charges related to that towing incident.
1069 Failure to reimburse the owner of the vehicle in such cases is a violation of this article.

1070 (o) Any non-consent tow truck company that has an unusable storage yard or has been evicted
1071 from its storage yard is subject to having its operating permit suspended.

1072 (p) Any tow truck driver in the process of transporting a junked vehicle (as defined in F.S. §
1073 319.30) to a licensed salvage motor vehicle dealer and who is employed by, working for or
1074 operates a non-consent towing company, must have physical possession of a derelict motor
1075 vehicle certificate, transferred title or certificate of destruction for such vehicle.

1076 (q) It shall be a violation of this article for any non-consent towing company to fail to respond
1077 in writing within ten (10) business days to any written inquiry or request for information
1078 from the division or any law enforcement agency. Each tow truck company shall fully
1079 cooperate with providing records, facts and information as requested by the division and/or

law enforcement in order to investigate and determine compliance with Florida law and this article.

SECTION 11. MAXIMUM RATES

Section 19-198 of the Palm Beach County Code is hereby amended to read as follows:

- (a) The Board shall, by resolution establish maximum rates, as may be amended from time to time, for non-consent towing services, including, but not limited to, the following:

(1) Towing service per call, which shall include the first thirty (30) minutes that the tow truck is actually on the scene engaged in the safe removal of a vehicle/vessel.

(2) Mileage (per towed mile) according to F.S. § 715.07.

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

- a. The police agency has authorized the vehicle/vessel to be impounded; or
- b. The appropriate police agency has been notified by the tow truck company that the tow truck company is in possession of a vehicle/vessel as a result of a private property impound.

(4) Indoor storage rates may only be charged upon the express instruction and written authorization of the owner/authorized driver/agent, lien holder, insurance company representative or investigating police agency. The only exceptions to this rule are:

- a. When the condition of the vehicle/vessel requires indoor storage due to inclement weather conditions or the vehicle's window(s) and/or convertible top is down and cannot be raised and indoor storage is necessary to protect the vehicle and its contents; or
- b. When a municipal or county jurisdiction require indoor storage for towed vehicles.

(5) An administrative flat fee shall not be applied unless the following requirements are satisfied:

- a. The vehicle/vessel has been in the storage facility for at least twenty-four (24) hours; and

1111 b. Ownership search is conducted; and

1112 c. The police agency has authorized the vehicle/vessel to be impounded; or

1113 d. The police agency has been notified by the tow truck company that the tow truck

1114 company is in possession of a vehicle/vessel as a result of a private property

1115 impound.

1116 (6) Research fees in excess of this administrative flat fee may be charged by the tow

1117 company for expenses incurred to meet requirements such as lien notification letters,

1118 certified mail receipts, advertisements or any other requirement as imposed by F.S. §

1119 713.78 so long as the tow company has detailed supporting proof of actual

1120 expenditures (e.g. invoices, bills, payments) and are kept on file with the tow company.

1121 (7) When applicable, an administrative fee can be charged on a vehicle/trailer combination

1122 or a semi-tractor/trailer combination.

1123 (8) The administrative/lien fee shall be established by resolution of the Board.

1124 (9) Underwater recovery performed by a certified/professional diver with the written

1125 documentation and approval of the investigating law enforcement agency/officer.

1126 (10) Hazardous material clean-up and disposal as required, mandated and/or licensed

1127 through federal, state or local laws and approved by the investigating law enforcement

1128 agency/officer.

1129 (11) After-hour gate fees may not be applied between the hours of 7:00 a.m. and 6:00 p.m.

1130 Monday through Friday (excluding federal holidays). For all other times, after-hour

1131 gate fees may not be applied until one (1) hour after a vehicle has been impounded in

1132 the company's storage facility. Applicable after-hour gate fees may also be applied

1133 when an owner or authorized driver/agent wishes to recover property from an

1134 impounded vehicle/vessel.

1135 (12) Extra time at scene/labor charge may be applied when any extra time beyond one-half

1136 (½) hour, is needed to safely remove a vehicle or vessel and includes the amount of

1137 time spent at a scene when a tow truck has been summoned and is on scene but unable

1138 to proceed through no fault of the tow truck operator. All extra time/labor shall be

1139 documented by the tow truck driver and shall include the name of the law enforcement

1140 agency and the law enforcement agency case number or the officer's name and badge

1141 number. The documentation shall also include a detailed explanation of the services

1142 rendered which necessitated the charges and if possible photographs of the scene. Extra
1143 time shall be charged in fifteen (15) minute increments. Failure to document and
1144 provide all of the above required information will result in the extra time/labor charges
1145 being removed from the total cost of the service/invoice and is a violation of this
1146 article.

1147 (b) All rates established shall be uniform throughout Palm Beach County both in the
1148 incorporated and unincorporated areas, except where municipalities have established
1149 differing maximum rates for their jurisdictions. From time to time, the rates established by
1150 the Board may be revised in accordance with a rate study, and shall occur in periods not to
1151 exceed five (5) years.

1152 (c) Persons who provide tow or immobilization services pursuant to this section shall not
1153 charge in excess of the maximum allowable rates established by the Board. No person
1154 providing services pursuant to this section shall charge any type of fee other than the fees
1155 specifically established by the Board. Tow truck companies which tow vehicles/vessels
1156 from Palm Beach County into another county shall abide by the terms of this article
1157 including all rates and charges adopted by the Board.

1158 (d) Upon request of law enforcement or the division, the tow truck company shall present proof
1159 of compliance with each of the documentary requirements set forth in Section 19-198.
1160 Failure to have on file supporting documentation and proof as required herein will result in
1161 a violation of this article. Any charges or costs that cannot be documented as required
1162 herein shall be repaid or removed from the tow invoice. Documentation shall remain on file
1163 as required in Section 19-192.

1164 (e) Tow truck companies which provide services pursuant to this section shall display on the
1165 same sign as the rate schedule required by this article the following statement:

1166 To The Vehicle/Vessel Owner

1167 If you believe that you have been overcharged for the services rendered, you do not
1168 have to pay your bill to get your vehicle/vessel. Instead, you have the right to post a bond in
1169 the Circuit Court, payable to (name of Tow Truck Company), in the amount of the final bill
1170 for services rendered, and to file a complaint within ten (10) days of the time you have
1171 knowledge of the location of the vehicle/vessel. The Court will decide later who is correct.
1172 If you show (name of Tow Truck Company) a valid Clerk's certificate showing you have

posted a bond, (name of Tow Truck Company) must release your vehicle/vessel to you immediately. This remedy is in addition to other legal remedies you may have pursuant to 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.

(f) Each tow truck company shall maintain, on a form approved by the division, a rate sheet specifying all rates and charges, which shall be given by the tow truck driver to the requesting vehicle owner or his authorized driver/agent prior to commencing the service. The rate sheet shall be posted at the tow truck company's place of business.

(g) Annual Rate and Fee Increases: Effective October 1, 2023 and each October 1 thereafter, police directed, private property impound, storage, and immobilization rates shall be adjusted by the annual percentage change in the Consumer Price Index ("CPI") or three (3) percent, whichever is less. Each year's rate shall be calculated based on the amounts from the previous year and rounded to the nearest whole dollar. The CPI utilized shall be the most recent CPI reported by the Bureau of Labor Statistics All Urban Consumers for the United States, as published in January. The adjusted rates shall be calculated by the Division of Consumer Affairs and shall be posted on its website.

SECTION 12. TOW TRUCK DRIVER REQUIREMENTS; FAILURE TO COMPLY

Section 19-199 of the Palm Beach County Code is hereby amended to read as follows:

(a) It shall be unlawful for any person to operate any tow truck within and upon the streets of Palm Beach County without having first obtained a county tow truck driver's identification badge (tow driver's I.D. badge). All applicants and a tow driver's I.D. badge shall conform to the following:

- (1) Be at least eighteen (18) years of age;
- (2) Possess a valid State of Florida Driver's License (with photo depicting the driver) as required by the Florida Department of Highway Safety and Motor Vehicles and must show proof that he/she has possessed a valid driver's license from any state within the United States for three (3) years (two (2) years for drivers younger than twenty-one (21) years old) prior to applying for a tow driver's I.D. badge. If a person has not driven for three (3) years in the United States, he/she must obtain the driving record from any other jurisdictions where he/she did drive or if he/she is unable to obtain the

1204 driving record which would prevent him/her from driving a tow truck in Palm Beach
1205 County, Florida;

1206 (3) The driver must provide the original form of his/her lifetime State of Florida
1207 Department of Highway Safety and Motor Vehicles traffic/driving record report to the
1208 division which was secured no more than thirty (30) days before the
1209 application/renewal was submitted, only if the division is unable to secure this required
1210 information. Upon initial application, if a driver has resided in Florida less than five (5)
1211 consecutive years, a traffic/driving record/history from each state where he/she
1212 previously resided must be provided for at least a five-year period;

1213 (4) Has not had more than three (3) separate convictions involving moving violations in
1214 any twelve-month period in the previous three (3) years prior to the initial application
1215 or renewal of a tow driver's I.D. badge ; or

1216 (5) Has not been classified as a habitual traffic offender (as defined by Florida Statutes) or
1217 as defined by the state where he/she previously resided within five (5) years of
1218 applying for a tow driver's I.D. badge and was not previously issued a tow driver's I.D.
1219 badge by the division;

1220 (6) Upon initial application or renewal, the driver must provide the original request form
1221 for his/her Florida Department of Law Enforcement (FDLE) criminal history/records
1222 report to the division, as well as payment for the amount required to secure the
1223 criminal history/records report. The division shall then be responsible for processing
1224 the request and payment to the FDLE. The division may conduct additional criminal
1225 history/records reports of other states/jurisdictions as deemed appropriate. The division
1226 shall require all applicants to submit to a Level I, criminal history records check. The
1227 division may approve a different means of securing the required criminal
1228 history/records should an alternative agency/system be discovered that provides more
1229 complete information than that provided by the FDLE;

1230 (7) Have no conviction within the preceding five (5) years from the date of I.D. badge
1231 application for any offense related to driving a motor vehicle under the influence or
1232 while intoxicated;

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- 1233 (8) Have no more than one (1) conviction within the preceding ten (10) years from the date
1234 of I.D. badge application for any offense related to driving a motor vehicle under the
1235 influence or while intoxicated;
- 1236 (9) Have no more than two (2) traffic citations resulting from accidents in the three (3)
1237 years preceding the date of I.D. badge application wherein the driver has been found
1238 guilty;
- 1239 (10) Have no more than two (2) convictions of first degree misdemeanor traffic crimes
1240 including but not limited to the following: reckless driving, careless driving and racing
1241 in the three (3) years preceding the date of the I.D. badge application;
- 1242 (11) Not found by the division to have a lack of reputability as provided herein. For the
1243 purposes of this article, lack of reputability shall mean that the division cannot trust the
1244 applicant to safeguard the welfare and property of the public. Lack of reputability shall
1245 include, but not be limited to, the following:
- 1246 a. Conviction of any Level 1 felony, as ranked by F.S. Ch. 921 that occurred less
1247 than five (5) years from the date of conviction or release from incarceration
1248 whichever is later.
- 1249 b. Conviction of any felony, not considered a Level 1 felony, as ranked by F.S. Ch.
1250 921 that occurred less than ten (10) years from the date of I.D. badge application
1251 to conviction or release from incarceration, whichever is later.
- 1252 c. Notwithstanding the provisions of subsections a. and b. above, conviction of any
1253 felony that is directly related to operating a non-consent or consent towing
1254 business or vehicle. For the purposes of this article, any offense involving fraud,
1255 forgery, theft, robbery, perjury, false statement, or burglary shall be considered to
1256 be directly related to the business of operating a towing vehicle.
- 1257 d. Conviction of any first degree misdemeanor within five (5) years, that is directly
1258 related to a non-consent or consent towing business or vehicle/vessel regardless of
1259 whether the applicant's civil rights have been restored or remained intact. For the
1260 purposes of this article, any offense involving fraud, forgery, theft, robbery,
1261 perjury, false statement, or burglary shall be considered to be directly related to
1262 the business of operating a towing company.

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- e. Conviction before the date of I.D. badge application of any offense relating to sex crimes, the use of a deadly weapon, homicide, false imprisonment, kidnapping, violent offense against a law enforcement officer under F.S. § 775.0823, or having been adjudicated a habitual violent felony offender under F.S. § 775.084.
- f. Responding to a call while under the influence of alcohol or any controlled substance, based upon a finding made by law enforcement.
- g. Tow truck drivers with valid and properly issued tow truck driver I.D. badges before instances when this section is amended from time to time may continue to be eligible for issuance of a tow truck driver I.D. badge in future renewals as long as there are no additional crimes or reputability issues as referenced above. Tow truck drivers whose I.D. badges are expired for a period greater than twelve (12) months shall be considered new and subject to the provisions of this article.
- (12) A tow truck driver with a current I.D. badge is required to notify the division within ten (10) business days upon being convicted of any crime. The division may initiate denial, revocation or suspension proceedings for lack of reputability issues and criminal convictions as provided in this subsection which arise subsequent to the issuance of a tow driver's I.D. badge;
- (13) Applicants shall have no unsatisfied civil penalties, judgments or administrative orders pertaining to this article;
- (14) Every application or renewal application for a tow driver's I.D. badge and application for amendment of a tow driver's I.D. badge, shall be in writing and signed by the applicant and shall be filed with the Palm Beach County Division of Consumer Affairs on a form provided by the division together with the nonrefundable tow driver's I.D. badge fees which shall not be subject to proration. Each tow driver's I.D. badge shall be valid for a two-year period from date of application approval. The division may deny or revoke a tow driver's I.D. badge if it is determined that the applicant has misrepresented, omitted, or concealed a fact on the application, renewal application or replacement application. If the tow driver's I.D. badge is revoked, the division shall not accept an application for said tow driver's I.D. badge for one (1) year from the date the badge is revoked. Any person renewing a tow driver's I.D. badge must file a renewal application, furnish the documentation requested by the division, and submit payment

for the required nonrefundable renewal fee(s) not more than ninety (90) days before the expiration date of a tow driver's I.D. badge. Persons who fail to reapply for their tow driver's I.D. badge thirty (30) days prior to expiration, risk having a gap in their authorization to drive a tow truck. Persons who fail to submit their renewal application, required documentation and fees by the expiration date of the tow driver's I.D. badge must pay a nonrefundable late fee, over and above the tow driver's I.D. badge fee. Any applicant who fails to submit a renewal application within one (1) year of the expiration of a current badge will be considered a new applicant when reapplying and no grandfathered provisions will apply. Said fees shall be established by resolution of the Board;

(15) Shall submit to photographing (full face exposure/without sunglasses or head coverings) prior to the issuance of the tow driver's I.D. badge by the division;

(16) Complete the tow driver's I.D. badge registration affidavits provided by the division;

(17) Not possess a suspended or revoked driver's license as a result of a moving violation or have any outstanding and unsatisfied civil penalties, citations or judgments imposed due to violations of this article;

(18) Not violate the terms of a cease and desist order, assurance of voluntary compliance, notice to correct a violation or any other lawful order of the director;

(19) Not be enjoined by a court of competent jurisdiction from engaging in the towing business or was enjoined by a court of competent jurisdiction with respect to any of the requirements of this article; and

(20) Have no conviction or plea of guilty or nolo contendere in any military or foreign jurisdiction, federal, state, county or municipal jurisdiction within the United States for violations analogous or parallel to those violations enumerated in all sections herein:

- a. The driver of a tow truck shall conspicuously display on the driver's person through the use of a neck lanyard, or above the waist on the outermost garment, the tow driver's I.D. badge issued pursuant to this article so that it is visible and available for inspection to the public, division personnel and all law enforcement officials while engaged and on duty for a tow truck company.
- b. Each tow driver's I.D. badge shall be developed by the division. Each driver's I.D. badge shall, at a minimum, contain the name of the driver, date of expiration,

1325 photo of the driver, and such additional terms, conditions, provisions and
1326 limitations as were imposed during the approval process. Each company for which
1327 a driver will be driving must submit an affidavit (on a form prepared by the
1328 division) or documentation from the insurance company (fax acceptable) that the
1329 driver is eligible to be insured under the company's insurance policy.

1330 c. The division may issue a replacement tow driver's I.D. badge to any driver upon
1331 payment of a nonrefundable replacement fee, presentation of proof or a sworn
1332 affidavit that the driver's I.D. badge has been lost, stolen or for any other valid
1333 reason, and any other documentation or requirement requested by the division.
1334 The replacement fee shall be established by resolution of the Board.

1335 d. It shall be unlawful for any person to drive a tow truck unless such person has a
1336 valid tow driver's I.D. badge issued pursuant to this section.

1337 e. It shall be unlawful for any person to drive a tow truck for any tow truck company
1338 which has not been granted an operating permit pursuant to Section 19-184
1339 (operating permit required).

1340 f. It shall be unlawful for any applicant for a tow driver's I.D. badge to misrepresent,
1341 omit or conceal a fact on the application, renewal application or replacement
1342 application. Upon submission of the application, the division shall provide the
1343 driver with a receipt. No applicant shall be permitted to drive a tow truck in Palm
1344 Beach County until the division has issued to him/her a tow driver's I.D. badge.

1345 g. The division shall provide the tow driver's I.D. badge within ten (10) business
1346 days following the submittal of the application and all required documents. In the
1347 event the official criminal background records furnished to the division are
1348 insufficient and additional information is necessary, the division shall be
1349 permitted an additional twenty (20) business days to issue the driver's I.D. badge.

1350 h. Tow truck drivers must be hygienically clean, well-groomed and neat. Drivers are
1351 not permitted to wear open toed shoes and must comply with all state and federal
1352 (e.g., O.S.H.A.) safety regulations. Non-consent tow truck drivers are not
1353 permitted to wear uniforms purporting to be from a different company or business
1354 than the one they actually work or drive for. Failure to abide by these
1355 requirements is a violation of this article.

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- i. Tow business owners, tow truck drivers, and tow business employees shall not use abusive language to either consumers or division personnel.
- j. Tow truck drivers must be able speak and understand English to the extent they can take instruction from law enforcement officers and consumers and complete manifests or invoices.
- k. Drivers shall cooperate fully at all times with the division in the furnishing of information required in connection with requests for proof of driver's license, vehicle insurance and/or tow driver's I.D. badge, during the process of applying to renew a tow driver's I.D. badge, and during investigations of consumer complaints. Further, drivers shall not obstruct, hamper or interfere with an investigation of violations of this article conducted by division personnel, any law enforcement officer or employee of any other agency enforcing this article.
- l. No person maintaining, owning, or operating a towing company shall suffer or permit any person or employee to drive a tow truck unless such person has a valid tow driver's I.D. badge issued pursuant to this article. This paragraph shall not apply to a towing company which is training a prospective driver. Such prospective driver must be accompanied by and working under the direct supervision of a company employee who is in possession of a valid tow driver's I.D. badge.
- m. Failure to comply with the provisions of this section may result in the division denying a tow driver I.D. badge, revoking or suspending the tow driver's I.D. badge, denying a renewal of such tow driver's I.D. badge, issuing a civil citation, a misdemeanor conviction or other such remedies available to the division herein.

SECTION 13. ADDITIONAL REQUIREMENTS FOR PROVIDING
IMMOBILIZATION SERVICES

Section 19-201 of the Palm Beach County Code is hereby amended to read as follows:

- (a) Immobilization operators must be hygienically clean, well-groomed and neat. Immobilization operators are not permitted to wear open toed shoes and must comply with all state and federal (e.g., O.S.H.A.) safety regulations.
- (b) Immobilization operators shall wear identification tags, prominently displayed on the front left side of their shirt that includes the immobilization company name, immobilization

1387 operator name and immobilization operator picture. Immobilization operators are not
1388 permitted to wear uniforms purporting to be from a different company or business than the
1389 one they actually work for. No identification shall use the words "enforcement"
1390 "department" or "Police." No badges that bear resemblance to law enforcement officers may
1391 be worn by immobilization contractor or staff. Failure to abide by these requirements is a
1392 violation of this article.

1393 (c) Immobilization operators shall not use abusive language to consumers or division
1394 personnel.

1395 (d) Immobilization operators must be able to speak and understand English to the extent they
1396 can take instruction from law enforcement officers and consumers and complete invoices.

1397 (e) It is unlawful for an immobilization company to immobilize a vehicle/vessel parked on
1398 private property without permission or authority of the vehicle/vessel owner/driver of that
1399 vehicle, unless each of the following requirements are satisfied:

1400 (1) The vehicle/vessel is parked in an unlawful manner or in violation of other parking
1401 rules and regulations.

1402 (2) A light reflective sign (minimum dimensions of at least eighteen (18) inches high by
1403 twenty-four (24) inches) is prominently posted on the property as follows:

1404 a. Each driveway access/entrance or curb cut allowing vehicular access to the real
1405 property.

1406 b. Within ten (10) feet from the public roadway.

1407 c. If there are no curbs or access barriers, signs shall be posted not less than one (1)
1408 sign each twenty-five (25) feet of lot frontage.

1409 d. Each sign shall be permanently installed not less than three (3) feet and not more
1410 than six (6) feet above ground level. When authorized "Immobilization Zone"
1411 signs may be mounted on the same pole as the "Tow Away" signs.

1412 Signs shall be continuously maintained on the real property for not less than
1413 twenty-four (24) hours prior to the immobilization of any vehicle(s).

1414 e. The light reflective sign and the text shall clearly display, on a contrasting
1415 background, the following information:

1416 1. In letters at least one (1) inch high the words: "Unauthorized vehicles will be
1417 immobilized and/or towed away at the owners expense";

1418 2. In not less than two and one-half (2.5) inches high the words:
1419 "IMMOBILIZATION ZONE";

1420 3. In letters at least one (1) inch high the days of the week and hours of the day
1421 during which vehicles will be immobilized;

1422 4. In letters at least one (1) inch high the name of the company performing the
1423 immobilization service; and,

1424 5. In letters at least two (2) inches high the telephone number to call and the on-site
1425 location (if applicable) where a person can go to request the release of the
1426 immobilization device on the vehicle.

1427 (f) Light reflective signs must be maintained or replaced so that they are clearly visible, legible
1428 and light reflective at all times. The immobilization company is responsible for maintaining
1429 and replacing signs. Immobilization companies may charge property owners or companies a
1430 fee to install or maintain signage.

1431 (g) In the event the immobilization company goes out of business or is no longer performing
1432 immobilization services for the property owner, the property owner is responsible for
1433 removal of signs. Failing to provide, maintain, replace and/or remove the signs in
1434 accordance with this section is a violation of this article.

1435 (h) No immobilization shall occur if the vehicle/vessel is occupied by a living person or animal.

1436 (i) No immobilization shall occur if the vehicle/vessel is a police or law enforcement vehicle, a
1437 fire fighting vehicle, an emergency medical services vehicle or ambulance, or any other
1438 vehicle/vessel owned by a government entity. If a vehicle/vessel is immobilized by error but
1439 is ineligible for immobilization under this section, the immobilization company will
1440 immediately release the vehicle/vessel without requiring payment for same upon demand of
1441 vehicle owner/driver.

1442 (j) Immediately after a vehicle/vessel is immobilized, the person immobilizing such
1443 vehicle/vessel shall affix a warning notice to the driver's side window of the vehicle (if the
1444 window is down, the warning notice shall be placed on the front windshield in front of the
1445 driver location), that is adhered to the window by an adhesive backing or at least two (2)
1446 inch wide commercial clear adhesive tape indicating in font not smaller than fourteen (14)
1447 point that the vehicle is immobilized and that any attempt to move it will cause damage.
1448 Additionally, the notice shall provide the immobilization company name, a local telephone

1449 number to contact for release of the immobilization device, the fee for its removal including
1450 the accepted methods of payment (cash, money order, traveler's check, debit/credit card)
1451 immobilized vehicle make and tag number or vehicle identification number (VIN) and the
1452 location, date and time immobilization occurred. The warning notice must be printed on
1453 card stock or weather resistant vinyl with a minimum font size of forty (40) point with the
1454 words "WARNING" centered at the top of the notice. The notice shall not be less in size
1455 than eight and one-half (8½) by five and one-half (5½) inches. The warning notice sign
1456 shall be submitted with the operating permit application and approved by the County.

1457 (k) An immobilization company or immobilization operator may not charge more than the
1458 maximum allowable rates established by Board Resolution.

1459 (l) The rebate or repayment of money or any other valuable consideration directly or indirectly
1460 from the individual or firm immobilizing vehicles to the owners or operators of the premises
1461 from which the vehicles are immobilized, for the privilege of immobilizing those vehicles,
1462 is prohibited and is a violation of this article.

1463 (m) No release or waiver of any kind purporting to limit or avoid liability for damages to a
1464 vehicle/vessel that has been immobilized shall be valid. In addition, any person who
1465 immobilized a vehicle/vessel, or other person authorized to accept payment of any charges
1466 for such immobilizing, shall provide a signed receipt to the individual paying the
1467 immobilizing charges at the time such charges are paid. Such receipt shall state the name,
1468 business address, and business telephone number of the person who has immobilized such
1469 vehicle/vessel and such receipt shall include the following statement (in at least twelve (12)
1470 point font):

1471 IF YOU HAVE QUESTIONS OR COMPLAINTS ABOUT THE IMMOBILIZATION OF
1472 YOUR VEHICLE THAT ARE UNABLE TO BE RESOLVED BY THE COMPANY
1473 MANAGEMENT, CONTACT THE PALM BEACH COUNTY DEPARTMENT OF
1474 PUBLIC SAFETY CONSUMER AFFAIRS DIVISION, WEST PALM BEACH,
1475 FLORIDA. BY INTERNET: www.pbcgov.com/consumer or by TELEPHONE: (561) 712-
1476 6600.

1477 (n) Any immobilization company which immobilized a vehicle/vessel shall respond to the
1478 location of the immobilized vehicle within one (1) hour after being contacted by the
1479 vehicle/vessel owner and remove the immobilization device within thirty (30) minutes after

1480 the removal fee has been paid. The vehicle owner/driver, or other person appearing in
1481 person with the vehicle/vessel owner/driver, shall be permitted to pay the appropriate charge
1482 for immobilizing at the location where such vehicle/vessel was immobilized.

1483 (o) COMPANIES PERFORMING IMMOBILIZATIONS IN PALM BEACH COUNTY ARE
1484 REQUIRED TO ACCEPT EACH OF THE FOLLOWING FORMS OF PAYMENT:
1485 CASH, MONEY ORDER OR VALID TRAVELER'S CHECK; AND VALID BANK
1486 DEBIT/CREDIT CARD WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO,
1487 MASTERCARD AND VISA CARD THAT IS IN THE NAME OF THE
1488 VEHICLE/VESSEL OWNER OR AUTHORIZED DRIVER, OR IN THE NAME OF A
1489 PERSON APPEARING IN PERSON AND WITH THE VEHICLE/VESSEL OWNER OR
1490 AUTHORIZED DRIVER. A CREDIT CARD CONVENIENCE FEE MAY BE ADDED
1491 TO THE TRANSACTION AMOUNT TO COVER CREDIT CARD FEES AS
1492 ESTABLISHED BY BOARD RESOLUTION.

1493 (p) Each immobilization company must enter into a written contract with every property owner
1494 that authorizes the company to immobilize vehicles/vessels on the property. The contract
1495 shall state which parking violations are authorized for immobilization. Each contract must
1496 be kept on file for a period of three (3) years following termination of the contract. The
1497 division, law enforcement officers and the vehicle/vessel owner/driver of the immobilized
1498 vehicle may request a copy of the contract by telephone or email to the immobilization
1499 company or to be delivered either by hand delivery, email or facsimile to the requesting
1500 party, within forty-eight (48) business hours of request.

1501 (q) Immobilization companies which provide services in violation of this article relating to a
1502 specific immobilization shall be required to reimburse the vehicle/vessel owner/driver all
1503 charges related to that immobilization incident. Failure to reimburse the vehicle/vessel
1504 owner/driver of the vehicle in such cases is a violation of this article.

1505 (r) The business providing the immobilization service shall first obtain and maintain a current
1506 and valid operating permit issued by the division.

1507 (s) The immobilization business shall maintain a telephone communication system to answer
1508 telephone calls from the public twenty-four (24) hours a day, seven (7) days per week for
1509 the timely release of immobilized/booted vehicles/vessels.

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- 1510 (t) All immobilization business vehicles shall display the company name on the driver and
1511 passenger side of the vehicle in letters at least three (3) inches high. The company's address
1512 and telephone number shall be displayed on the driver and passenger side of the vehicle in
1513 letters at least one (1) inch high. No immobilization business shall use the words
1514 "Department," or "Police," in its advertising, signs, stickers, uniforms or identifications.
- 1515 (u) An immobilized vehicle/vessel shall not remain immobilized for more than ninety-six (96)
1516 hours. After such time period has expired, the vehicle shall be released from the
1517 immobilization device and may be towed or removed.
- 1518 (v) Each contract between the property owner and immobilization company shall specify the
1519 amount of time in hours (not to exceed ninety-six (96) hours) that a vehicle will remain
1520 immobilized before it is removed from the property and towed to the storage yard of a
1521 licensed non-consent tow truck company or released from the immobilization.
- 1522 (w) When a tow truck company is removing a vehicle that was immobilized and not redeemed
1523 by the vehicle owner/driver within ninety-six (96) hours, the non-consent tow truck
1524 company must first obtain prior express instruction in accordance with Section 19-194 to
1525 remove the vehicle from the real property.
- 1526 (x) Tow truck companies are not permitted to add immobilization charges to the tow truck
1527 invoices and only the towing charges shall be imposed on the vehicle owner/driver.
- 1528 (y) If a vehicle/vessel is in the process of being immobilized and the owner/operator of the
1529 vehicle/vessel arrives and the immobilization device has not been attached and/or locked,
1530 the immobilization company must not continue with the immobilization process and cease
1531 any further attempts to apply it to the vehicle/vessel. Immobilization fees are not permitted
1532 in such instances.
- 1533 (z) Vehicles/vessels that are parked in such a way to prevent egress/ingress to a property or
1534 garbage dumpster, are parked in a designated handicapped parking space or fire lane, or are
1535 parked in such a way that would constitute an important public safety concern, shall not be
1536 immobilized.
- 1537 (aa) Every person, immobilization service, and immobilization contractor who immobilizes a
1538 vehicle/vessel shall keep and maintain an immobilization log with the following
1539 information:
- 1540 (1) Date and time the vehicle/vessel was observed illegally parked;

1541 (2) The date and time of immobilization;

1542 (3) The location/address of the real property where the immobilization took place;

1543 (4) The description of the vehicle/vessel including make, model, year, color, vehicle

1544 identification number, and license plate number;

1545 (5) The date and time the request for removal of the immobilization device was received

1546 and the date and time of response and removal of the immobilization device;

1547 (6) The amount and method of payment for release of the immobilization device;

1548 (7) The name of the person removing the immobilization device; and

1549 (8) The name of person to whom the vehicle/vessel was released.

1550 (bb) All persons and immobilization services shall keep all immobilization logs on file for a

1551 period of one (1) year and shall make such logs available for inspection to any law or code

1552 enforcement officer or designee assigned to investigate the complaints and enforcement

1553 during regular business hours (Monday—Friday 8:00 a.m.—5:00 p.m. excluding holidays).

1554 Failure to comply with the provisions of this section may result in the following:

1555 (1) Denial of the operating permit;

1556 (2) Revocation or suspension of the operating permit; and/or

1557 (3) Issuance of a civil citation, a criminal conviction and/or other such remedies available

1558 to the division as provided herein and by law.

1559 (cc) Persons who provide services pursuant to this article shall not use physical force, violence,

1560 intimidation or threats of physical force or violence in dealing with the individuals

1561 responsible for administering this article or individuals who have had or are about to have

1562 their vehicles immobilized.

1563 **SECTION 14. CEASE AND DESIST ORDER**

1564 Section 19-203 of the Palm Beach County Code is hereby amended to read as follows:

1565 (a) If the division, after due investigation, has reason to believe that a tow truck or

1566 immobilization company has been or is violating any of the provisions of this article, then

1567 the division may cause to be served by personal service, certified mail or posting in a

1568 conspicuous place at the tow truck or immobilization company's primary place of business,

1569 a demand to cease and desist, stating the charges and shall incorporate and set out the

1570 following:

1571 (1) The name of the complainant;

1572 (2) The alleged charge and approximate date of the commission of the act;

1573 (3) The section of the article alleged to be involved.

1574 (b) Any tow truck or immobilization company which has been issued a cease and desist order

1575 by the division may appeal such order to the Consumer Affairs Hearing Board/special

1576 magistrate within twenty (20) days of receipt of the order. A nonrefundable filing fee must

1577 accompany the written request for appeal. The filing fee shall be established by resolution

1578 of the Board. The appeal shall be reviewed at a hearing of the consumer affairs hearing

1579 board/special magistrate within sixty (60) days of receipt by the division of the request for

1580 appeal.

1581 (c) The board shall keep a full record of the hearing, which record shall be public and open to

1582 inspection by any person, and upon request, the board shall furnish such party a copy of the

1583 hearing record, at such cost as the commission deems appropriate.

1584 (d) Procedure at hearings: At the hearing, the tow truck or immobilization company may be

1585 represented by counsel and may bring all original documents and other data pertinent to the

1586 case and will be given an opportunity to present witnesses and evidence it may deem

1587 appropriate.

1588 (e) The Consumer Affairs Hearing Board/special magistrate shall hear the cases on the agenda.

1589 All testimony shall be under oath or by affirmation and shall be recorded. Each case before

1590 the Consumer Affairs Hearing Board/special magistrate shall be presented by the division.

1591 The Consumer Affairs Hearing Board/special magistrate shall take testimony from county

1592 staff, if relevant, the alleged violator, and other relevant testimony. Formal rules of evidence

1593 shall not apply, but fundamental due process shall be observed and govern the proceedings.

1594 Upon determination of the Consumer Affairs Hearing Board/special magistrate, irrelevant,

1595 immaterial or unduly repetitious evidence may be excluded, but all other evidence of a type

1596 commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be

1597 admissible, including hearsay evidence, whether or not such evidence would be admissible

1598 in a trial in the courts of Florida. Due regard shall be given to the competent, reliable and

1599 technical evidence which will aid the Consumer Affairs Hearing Board/special magistrate in

1600 making a fair determination of the matter, regardless of the existence of any common law or

1601 statutory rule which might otherwise make improper the admission of such evidence.

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- (f) Any member of the Consumer Affairs Hearing Board/special magistrate or the attorney representing the division may inquire of or question any witness before the Consumer Affairs Hearing Board/special magistrate. The alleged violator, or his/her attorney, shall be permitted to inquire of any witness before the Consumer Affairs Hearing Board/special magistrate. The right to cross examine witnesses shall be preserved.
- (g) At the conclusion of the hearing, the Consumer Affairs Hearing Board/special magistrate shall orally render its decision (order) based on evidence entered into the record. The decision shall be by motion approved by the affirmative vote of those members present and voting or by the special magistrate. The Consumer Affairs Hearing Board/special magistrate's decision shall be transmitted to the tow truck company or immobilization company in the form of a written order including finding of facts, and conclusion of law consistent with the record. The order shall be transmitted by certified mail/hand delivery/posting to the tow truck or immobilization company within ten (10) days after the hearing. The order may include a notice that it must be complied with by a specified date.
- (h) Any person may appeal a final determination of the Consumer Affairs Hearing Board/special magistrate within thirty (30) days of the rendition of the decision by filing a petition for writ of certiorari in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.
- SECTION 15. ENFORCEMENT OF PENALTIES, CIVIL AND CRIMINAL**
- Section 19-205 of the Palm Beach County Code is hereby amended to read as follows:
- (a) It shall be unlawful for any person to violate any of the provisions of this article, including failure to pay any fees for services of the division as set forth in this article. This article may be enforced by personnel authorized by the division, county code enforcement officials, and the police agencies of the various municipalities in Palm Beach County and the Palm Beach County Sheriff's Office. When specifically authorized by the director, this article may be enforced by other Palm Beach County personnel.
- (b) The Consumer Affairs Hearing Board/Special Master and county court shall have jurisdiction over all violations of this article.
- (c) Violations may be enforced pursuant to the procedures and civil penalties of the Code Enforcement Citation Ordinance of Palm Beach County, as set forth in Chapter 8.5 of the Palm Beach County Code, and in accordance with F.S. § 162.21, as both may be amended.

1633

1634 (d) The division shall maintain a system by which violators are given citations or written notice
1635 of all violations. The county clerk shall accept designated fines and issue receipts therefore.

1636 (e) The division is authorized to enforce the provisions of this article by administrative fines
1637 not to exceed five hundred dollars (\$500.00) for each violation. Any person who has
1638 violated any provision of this article shall be fined an amount as established by the Board by
1639 resolution. Each day of a continuing violation shall be deemed a separate violation.

1640 (f) Payment shall be made, either by mail or in person, to the violations bureau within the time
1641 specified upon the citation. If a person follows these procedures and makes payment, he/she
1642 shall be deemed to have admitted to the infraction and to have waived his/her right to a
1643 hearing on the issue of the commission of the infraction.

1644 (g) All fines collected as a result of said citations (except those fines collected as a result of
1645 citations issued by municipal law enforcement officers, which shall be remitted by the clerk
1646 of the court directly to the municipality issuing the citation) shall be paid into the county
1647 treasury and deposited into the designated fund for the division. All mandatory costs as
1648 required by statute shall be assessed against every person convicted of a violation of this
1649 article.

1650 (h) Any person who fails to make payments within the time period specified on the citation
1651 shall be deemed to have waived his/her right to pay the civil penalty as set forth in the
1652 citation.

1653 (i) If a person fails to pay the civil penalty or fails to appear in court to contest the citation,
1654 he/she shall be deemed to have waived his/her right to contest the citation and, in such case,
1655 a default judgment shall be entered and the judge shall impose a fine. At that time an order
1656 to show cause may be issued. If the fine is paid, the case shall be dismissed. If the fine is not
1657 paid, judgment may be entered up to the maximum civil penalty of five hundred dollars
1658 (\$500.00) plus court costs.

1659 (j) Any person who refuses to sign and accept a citation issued pursuant to this article shall be
1660 guilty of a misdemeanor of the second degree, punishable as provided by F.S. §§ 775.082,
1661 775.083 or 775.084, as may be amended.

1662 (k) The division may require mandatory court appearances for violations resulting in the
1663 issuance of a third or subsequent citation to a person. The citation shall clearly inform the

person of the mandatory court appearance. The division shall maintain records to prove the number of citations issued to the person. Persons required to appear in court do not have the option of paying the fine instead of appearing in court.

- (l) The following process applies when citations are issued pursuant to the jurisdiction of the Consumer Affairs Hearing Board/Special Master:

(1) Whenever, based upon personal investigation and in accordance with the policies and procedures established by the division, the investigator has reasonable and probable grounds to believe that a person has committed a violation of the vehicle for hire ordinance, the officer may issue a citation to the violator.

(2) Monies collected in payment for citations shall be remitted to the division.

(3) The act for which the citation is issued shall cease upon receipt of the citation, and the person charged with the violation shall elect either to correct the violation and pay the civil penalty in the manner indicated on the citation or, within ten (10) days of receipt of the citation, exclusive of weekends and legal holidays, request an administrative hearing before the Consumer Affairs Hearing Board/Special Master to appeal the issuance of the citation by the investigator. If the hearing date is not set forth in the citation, a notice of hearing shall be served on the violator as provided herein. Failure of the violator to appeal the decision of the investigator within the timeframe as set forth herein shall constitute a waiver of the violator's right to an administrative hearing. A waiver of the right to an administrative hearing shall be deemed an admission of the violation and penalties may be imposed accordingly.

(4) Upon written notification by the investigator that a respondent has not contested the citation or paid the penalty within the time allowed on the citation, or if a violation has not been corrected within the time set forth on the citation, the Consumer Affairs Hearing Board/Special Master shall enter an order ordering the violator to pay the civil penalty set forth on the citation. A hearing shall not be necessary for the issuance of such an order. The order shall include a notice, if applicable, that fine(s) were imposed.

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- 1693 (5) Upon appeal of a citation, or at such other times as may be necessary, a hearing
1694 before the Consumer Affairs Hearing Board/Special Master may be convened.
1695 The following shall apply:
- 1696 a. Minutes shall be kept of all hearings, and all hearings shall be open to the
1697 public.
- 1698 b. At the hearing, the burden of proof shall be upon the County to show by a
1699 preponderance of the evidence that a violation does exist. Where proper
1700 notice of the hearing has been provided to the violator as provided herein,
1701 a hearing may proceed even in the absence of the violator.
- 1702 (6) The formal rules of evidence shall not apply but fundamental due process shall be
1703 observed and shall govern the proceedings. Upon determination by the chair of
1704 the Consumer Affairs Hearing Board/Special Master, irrelevant, immaterial, or
1705 unduly repetitious evidence may be excluded, but all other evidence of a type
1706 commonly relied upon by reasonably prudent persons in the conduct of their
1707 affairs shall be admissible, whether or not such evidence would be admissible in a
1708 trial in the courts of Florida.
- 1709 (7) Any member of the Consumer Affairs Hearing Board/Special Master, the attorney
1710 representing the Consumer Affairs Hearing Board, the respondent and his/her
1711 attorney may inquire or question any witness present at the hearing. The violator
1712 or his/her attorney shall be allowed to cross-examine all witnesses present at the
1713 hearing and present testimony and evidence.
- 1714 (8) At the conclusion of the hearing, the Consumer Affairs Hearing Board/Special
1715 Master shall orally render an order based on evidence into the record. In the case
1716 of hearings before the Consumer Affairs Hearing Board, the decision shall be by
1717 motion approved by the affirmative vote of those persons present and voting. An
1718 order setting forth findings of fact and conclusions of law shall then be mailed to
1719 the violator within ten (10) days of the hearing.
- 1720 (9) If the Consumer Affairs Hearing Board/Special Master finds that a violation
1721 exists, the Consumer Affairs Hearing Board/Special Master may order a civil
1722 penalty of no more than five hundred dollars (\$500.00). Each permit/ID badge or

1723 alternative identification not in compliance and each day in which a violation of
1724 this article exists shall constitute a separate offense.

1725 (10) A certified copy of an order imposing a civil penalty against the violator may be
1726 recorded in the public records and thereafter shall constitute a lien against any real
1727 or personal property owned by the violator. Upon petition to the circuit court,
1728 such order may be enforced in the same manner as a court judgment by the Sheriff
1729 of the State, including a levy against personal property. The order shall not be
1730 deemed a court judgment except for enforcement purposes. A civil penalty
1731 imposed pursuant to this part shall continue to accrue until the violator comes into
1732 compliance or until judgment is rendered in a suit to foreclose the lien, whichever
1733 occurs first. After three (3) months, from filing of any such lien which remains
1734 unpaid, the Consumer Affairs Hearing Board/Special Master may authorize the
1735 local governing body's attorney to foreclose the lien. No lien created pursuant to
1736 this article may be foreclosed on real property which is homestead, under Section
1737 4, Article X of the Florida Constitution.

1738 (11) If the violator or his designated representative proves at the administrative hearing
1739 that the citation is invalid or that the violation has been corrected prior to
1740 appearing before the Consumer Affairs Hearing Board/Special Master, the
1741 Consumer Affairs Hearing Board/Special Master may reduce the fine or dismiss
1742 the violation, unless the violation is irreparable or irreversible.

1743 (12) An aggrieved party, including the governing body, may appeal a final
1744 administrative order of the Consumer Affairs Hearing Board/Special Master to the
1745 circuit court by petition for writ of certiorari.

1746 (13) Proper notice of hearing is given where notice has been mailed to the violator by
1747 certified mail, return receipt requested, by hand delivery by the sheriff or other
1748 law enforcement entity, by leaving the notice at the violator's usual place of
1749 residence with some person in the family above fifteen (15) years of age and
1750 informing said person of the contents of the notice; or where an investigator,
1751 under oath, testifies that he/she did hand deliver the citation to the violator which
1752 included a hearing date.

(14) Notwithstanding the Consumer Affairs Hearing Board/Special Master process set forth above, the County shall take any other appropriate legal action, including, but not limited to, administrative action, enforcement through an alternative code enforcement ordinance pursuant to F.S. ch. 162, parts I and II, as may be amended, and requests for temporary and permanent injunctions to enforce the provisions of this article. It is the purpose of this article to provide additional cumulative remedies.

**SECTION 16. ADMINISTRATIVE ENFORCEMENT, DENIAL, REVOCATION
AND SUSPENSION OF OPERATING PERMITS/I.D. BADGES**

Section 19-206 of the Palm Beach County Code is hereby amended to read as follows:

- (a) The director is authorized to deny, suspend or revoke operating permits, tow truck decals, or I.D. badges upon written notice. Tow truck and immobilization companies are subject to denial, suspension or revocation when it appears that:
- (1) The tow truck or immobilization company and/or driver/operator has failed to comply with or has violated the provisions of this article.
 - (2) The tow truck company has failed to comply with or has violated the provisions of F.S. Ch. 323, F.S. § 713.78 and F.S. § 715.07.
 - (3) The operating permit or I.D. badge was obtained or renewed by an application in which any material fact was omitted or falsely stated.
 - (4) Any tow truck or equipment owned or operated by the tow truck company and issued a decal pursuant to the article has been operating in violation of this article or any provision of law.
 - (5) An operating permit issued pursuant to this article may be suspended or revoked when the director receives written notification that the immobilization company, or tow truck company, or their officer, director or partner pled nolo contendere, pled guilty or has been convicted of any crime designated as a felony (as referenced in Section 19-185(g) (new applications/renewals and issuance of towing operating permit; fees) or any crime relating to motor vehicles.
 - (6) Failed to comply with the terms of a cease and desist order, notice to correct a violation, written assurance of voluntary compliance, or any other lawful order of the director, the division, or the consumer affairs hearing board and/or special magistrate.

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- 1784 (7) Failed to obtain or maintain insurance as required by this article.
- 1785 (8) Misrepresented or concealed a fact on the application, renewal application, or
- 1786 replacement application for a license.
- 1787 (9) Engaged in any conduct as a part of the performance of any contract for service which
- 1788 constitutes a deceptive and unfair trade practice or fraud.
- 1789 (b) *Suspensions.*
- 1790 (1) Any towing or immobilization company which has violated this article as provided for
- 1791 in this section may have its operating permit suspended by action of the division
- 1792 director for a period not to exceed thirty (30) days. In such cases the director shall
- 1793 provide written notice to the company at least ten (10) days prior to the effective date
- 1794 of the suspension.
- 1795 (2) Notwithstanding other suspension, revocation or denial procedures included in this
- 1796 article, where the action taken is based solely upon three (3) or more violations of this
- 1797 article which resulted in civil fines/penalties, judgments or administrative orders
- 1798 entered by the division and/or a conviction or plea of guilty or nolo contendere
- 1799 resulting from three (3) separate incidents/complaints within a twelve-month period
- 1800 shall result in the suspension of an operating permit for a period of four (4) business
- 1801 days. The company is required to pay an administrative reactivation fee established by
- 1802 resolution of the Board before any towing or immobilization services can resume in
- 1803 Palm Beach County. Any company found operating during a period of suspension,
- 1804 revocation or denial shall have its operating permit or I.D. badge revoked for a period
- 1805 of one (1) year. This penalty shall be in addition to any other penalties, fines or
- 1806 enforcement action that may be assessed or brought by the division.
- 1807 (3) Notwithstanding other suspension, revocation or denial procedures included in this
- 1808 article, where the action taken is based solely upon four (4) or more violations of this
- 1809 article which resulted in civil fines/penalties, judgments or administrative orders
- 1810 entered by the division and/or a conviction or plea of guilty or nolo contendere
- 1811 resulting from four (4) separate incidents/complaints within a twelve-month period
- 1812 shall result in the suspension of an operating permit for a period of eight (8) business
- 1813 days. The company is required to pay an administrative reactivation fee established by
- 1814 resolution of the Board before any towing services can resume in Palm Beach County.

1815 Any company found operating during a period of suspension, revocation or denial shall
1816 have its operating period revoked for a period of one (1) year.

1817 (4) The division may suspend or revoke the operating permit of any tow truck or
1818 immobilization company which fails to comply with the insurance requirements of
1819 Section 19-187 of this article.

1820 (c) *Revocations.* Except as provided in subsection (b)(2) above, any towing or immobilization
1821 company which has had its operating permit revoked as provided for in subsection (a)(1)—
1822 (a)(9) above shall have such operating permit revoked for one (1) year from the date of the
1823 revocation notice. Such revocations may be appealed as provided for in Sec. 19-208.
1824 Operating permits that are revoked are not subject to reissuance for one (1) calendar year
1825 unless a different revocation period is specified elsewhere in this article. A reactivation fee
1826 will be assessed prior to any reinstatement as authorized by Board resolution.

1827 **SECTION 17. ADDITIONAL PENALTIES**

1828 Section 19-207 of the Palm Beach County Code is hereby amended to read as follows:

1829 Failure to comply with the requirements of this article shall also constitute a violation of this
1830 article, and the Consumer Affairs Ordinance of Palm Beach County (Chapter 9 of the Palm
1831 Beach County Code, as may be amended). Violations of this article may be punishable, upon
1832 conviction, pursuant to F.S. § 125.69(1), by a fine not to exceed five hundred dollars (\$500.00)
1833 per violation or imprisonment not exceeding sixty (60) days, or both such fine or imprisonment,
1834 or may subject the violator to civil fines based on the issuance of a civil citation. Each day of
1835 continuing violation shall be considered a separate offense. In addition to the sanctions contained
1836 herein, the county shall take any other appropriate legal action, including but not limited to,
1837 cease and desist orders, other administrative action and requests for temporary and permanent
1838 injunctions to enforce the provisions of this article. It is the purpose of this article to provide
1839 additional cumulative remedies.

1840 **SECTION 18. SCOPE OF ARTICLE**

1841 Section 19-209 of the Palm Beach County Code is hereby amended to read as follows:

1842 (a) The provisions of this article and the relevant Florida Statutes shall be the exclusive
1843 regulations applicable to immobilization, towing, recovery and removal of vehicles/vessels
1844 in Palm Beach County and all storage provided therewith. This article shall be applicable in
1845 both the unincorporated and incorporated areas, except that this article shall not apply to

tow truck companies performing towing services or immobilization companies performing immobilization services as part of a contractual relationship with a government agency nor in any municipality that has adopted and maintains in effect ordinances or regulations governing the same matters.

(b) Nothing in this article shall be construed to prohibit the discharge or storage of a vehicle or vessel lawfully recovered, towed, immobilized or removed in another county and lawfully transported into Palm Beach County.

ARTICLE 19. REPEAL OF LAWS IN CONFLICT.

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

ARTICLE 20. SAVINGS CLAUSE.

Notwithstanding Section 3, Repeal of Laws in Conflict, all administrative and county orders, fines, and pending enforcement issued pursuant to the authority and procedures established by Ordinance 2022-021 shall remain in full force and effect.

ARTICLE 21. SEVERABILITY CLAUSE.

If any section, paragraph, sentence, clause, phrase or word of this Towing and Immobilization Ordinance, Policies, Procedures, or the application thereof, to any person or circumstance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, invalid or void, such holding shall not affect the remainder of this Towing and Immobilization Ordinance or the application of any other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end, all the provisions of this Ordinance are hereby declared to be severable.

ARTICLE 22. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

1873 **ARTICLE 23. CAPTIONS.**

1874 The captions, section headings, and section designations used in this Ordinance are for
1875 convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

1876 **ARTICLE 24. EFFECTIVE DATE.**

1877 The provisions of this Ordinance shall become effective upon filing with the Department
1878 of State.

1879

1880 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County,

1881 Florida, on this the _____ day of _____, 2026.

1882	SHANNON RAMSEY-CHESSMAN	PALM BEACH COUNTY, FLORIDA, BY ITS
1883	CLERK & COMPTROLLER AD INTERIM	BOARD OF COUNTY COMMISSIONERS

1884

1885

1886

1887	By: _____	By: _____
1888	Deputy Clerk	Sara Baxter, Mayor

1889

1890 **APPROVED AS TO FORM AND**
1891 **LEGAL SUFFICIENCY**

1892

1893

1894 By: [Signature]
1895 **County Attorney**

1896

1897 **EFFECTIVE DATE:** Filed with the Department of State of the ____ day of
1898 _____, 2026.

PLACEHOLDER: PROOF OF PUBLICATION
