ARTICLE VI. - WRECKERS AND VEHICLE TOWING

Sec. 12-128. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Department means the city development department.

Director means the city development director or the director's designee.

Express instruction means a clear, definite and explicit request:

(1) Made in writing by a city code enforcement officer or any law enforcement officer to immobilize, recover, tow, remove or store a specific and individual vehicle or vessel which is disabled or abandoned or parked without authorization, or whose operator is unwilling or unable to remove the vehicle or vessel;

(2) Made in writing by a property owner or duly authorized agent of the property owner to immobilize, recover, tow, remove or store a specific and individual vehicle or vessel parked without permission of the property owner; however, such property owner or agent shall not be the person requested to immobilize, recover, tow, remove or store the vehicle or vessel or an employee or agent thereof; or

(3) Made by telephone, in person or in writing by a vehicle or vessel owner or the authorized driver to recover, tow, remove or store a specific and individual vehicle or vessel which is in the lawful control of the vehicle owner or authorized driver requesting the towing service. The foregoing notwithstanding, where the property owner is a government entity, the property owner or an employee or agent thereof, may be the same person requested to recover, to remove or store the vehicle.

Every request made in writing must indicate the date and time of the instruction and must be signed by the person requesting the towing service in the presence of the person providing the service. Every request by telephone must also be documented with the date and time of the call.

Property owner means that person who exercises dominion and control over real property, including, but not limited to, the legal titleholder, lessee, designated representative of a condominium association or any person authorized to exercise a shared dominion and control over real property; however, the term "property owner" shall not mean or include a person providing towing services within the purview of this article. The foregoing notwithstanding, all government entities providing their own towing services may be property owners for purposes of this article.

Recover means to take possession of a vehicle and its contents and to exercise control, supervision and responsibility over it.

Remove means to change the location of a vehicle by towing it.

Store means to place and leave a towed vehicle at a location where the person providing the towing service exercises control, supervision and responsibility over the vehicle. The storage facility must be securely fenced or locked for the protection of vehicles and property.

Tow means to haul, draw or pull along a vehicle by means of another vehicle equipped with booms, car carriers, roll-backs, winches or similar equipment.

Vehicle means any mobile item which normally uses wheels, whether motorized or not. ~~an automobile, truck, bus, trailer, semi-trailer, truck-tractor-semi-trailer combination, recreational unit primarily designed as temporary living quarters which either has its own motive power or is mounted on or drawn by another vehicle, or any other mobile item using wheels 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, mopeds, traction engines, road rollers or vehicles which run only upon a track.~~

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Vessel means every description of watercraft, barge, and airboat 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.S. 327.02.

Wrecker means a vehicle primarily designed and equipped to tow other vehicles.

(Code 1995, § 50-87; Ord. No. 1729-00, § 1, 6-26-2000)

Sec. 12-129. - Assignment on rotation basis.

The assignment or call of wreckers or tow trucks by the police department will be on a rotation basis as established by resolution of the city commission.

(Code 1981, § 13-51; Code 1995, § 50-86)

Sec. 12-130. - Vehicle towing license required.

Any person in a wrecker or vehicle towing business who is doing business in the city shall obtain an annual regulatory license from the city and pay the fee as currently established or as hereafter adopted by resolution of the city commission from time to time in appendix A to this Code.

Sec. 12-131. - Requirements for vehicle towing license.

(a) In order to qualify for issuance, renewal or retention of a vehicle towing license under this article, an applicant must apply to the city development department and be found to meet the requirements of this section.

(b) An applicant shall provide the following information to the department:

(1) Sufficient information to identify the applicant, including, but not limited to, full legal name, date of birth, telephone number, the place of business and residence street address, and driver license number. If the applicant is a corporation, the foregoing information shall be provided for each corporate officer, director, resident agent and shareholder. If the applicant is a partnership, the foregoing information shall be provided for each general and limited partner. A post office box address is not sufficient.

(2) Documentation demonstrating that all corporate or partnership applicants are qualified to do business in the state.

(3) A list of all persons with any ownership interest in the applicant who have previously been denied a license from this or any other jurisdiction, including a copy of the applicant's current fictitious name registration with the state.

(4) Any trade name under which the applicant operates, intends to operate, or has previously operated, and a description of proposed, existing and previous towing vehicles' colors and markings.

(5) A description of the applicant's operational procedure to include the location and description of all places of business, a description of the plan and facilities for maintaining towing vehicles and equipment, a description of the system for handling complaints and accidents, and a description of the applicant's communication system.

(6) A description of services proposed to be provided to include days and hours of operation and types of towing and storage services to be provided and a listing of all rates and charges pursuant to this section.

(7) A record of all crimes in any way related to motor vehicles or involving a person with whom the applicant has come in contact while engaged in the services regulated by this article. In the case

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of a corporate or partnership applicant, all such information shall be provided by all corporate officers and directors, or partners.

(8) Proof of insurance as required in section 12-133.

(c) No towing license shall be issued to an applicant or renewed unless the applicant has completed the following:

(1) A true and correct application on a form provided by the department filed with the department with the other documentation required herein.

(2) A background investigation resulting in a determination by the department that:

a. Neither the applicant, nor any officer, director or partner of the applicant, nor any stockholder owning, holding, controlling or having a beneficial interest in five percent or more of the issued outstanding stock of a corporate general partner of a partnership applicant has been convicted of one or more felonies in any way related to motor vehicles or involving a person with whom the applicant came in contact while engaged in the services regulated by this article within the preceding five years, unless the civil rights of such individual have been restored or such person has successfully completed all sentences of incarceration, probationary periods, required rehabilitation activities, and payment of all fines and penalties imposed. For applicants requesting renewal, the city may only consider crimes committed after the date the applicant obtained his license, unless such crimes were not previously disclosed on the original application;

b. Neither the applicant, nor any officer, director or partner of the applicant, nor any stockholder owning, holding, controlling or having a beneficial interest in five percent or more of the issued outstanding stock of a corporate general partner of a partnership applicant has been convicted of three or more misdemeanors in any way related to motor vehicles or involving a person with whom the applicant came in contact while engaged in the services regulated by this article within the 36-month period preceding the date of application, unless the civil rights of such individual have been restored or such person has successfully completed all sentences of incarceration, probationary periods, required rehabilitation activities, and payment of all fines and penalties imposed. For applicants requesting renewal, the city may only consider crimes committed after the date the applicant obtained his license, unless such crimes were not previously disclosed on the original application;

c. Each corporate or partnership applicant is qualified under the laws of the state to do business under the trade name which it has applied for a license; and

d. No fraud or willful or knowing misrepresentation or false statement has been made in the application.

(3) The initial, renewal or late application fee, as applicable, shall be paid.

(Code 1995, § 50-88; Ord. No. 1729-00, § 1, 6-26-2000)

Sec. 12-132. - Denial of license; right of appeal; review.

Any person dissatisfied or aggrieved with the decision of the director to deny an application for initial license or license renewal may, within ten days after denial, appeal in writing to the city manager. Upon receipt of an appeal, the city manager or his designee shall schedule and hold a hearing. At the hearing, witnesses shall be sworn, and the rule of evidence applicable to quasi-judicial proceedings shall govern. After the conclusion of the hearing, the city manager or his designee shall affirm or reverse the decision of the director, and that action shall be final. Should the city manager or his designee reverse the decision of the director, the director shall issue a license forthwith.

(Code 1995, § 50-89; Ord. No. 1729-00, § 1, 6-26-2000)

Sec. 12-133. - Insurance requirements.

(a) It shall be unlawful for any person for compensation or as part of a regularly conducted business activity to recover, tow or remove a vehicle or to provide vehicle storage in connection therewith unless that person has filed with the department and maintains in effect for each towing vehicle operated by that person an insurance policy or certificates of insurance which shall indemnify or insure such person for its liability at a minimum of $1,000,000.00 per person and per occurrence for bodily injury and $500,000.00 per occurrence for property damage.

(b) All required insurance policies shall be issued by insurance companies authorized and qualified to do business in the state. No policy shall be accepted which is less than six months in duration.

(Code 1995, § 50-90; Ord. No. 1729-00, § 1, 6-26-2000)

Sec. 12-134. - Manifest, towing invoice, tow sheet or dispatch records required.

(a) It shall be unlawful for any person to recover, tow or remove a vehicle or provide storage in connection therewith unless the person providing such service shall maintain in his possession a manifest, towing invoice, tow sheet or dispatch records, which include, but are not limited to, the following information:

(1) Names of the wrecker company and of the natural person physically providing the service;

(2) Registration license tag number of the wrecker used to provide the service;

(3) Date and time that the service was requested;

(4) Name, address and telephone number of the person requesting the service;

(5) Date and time that the service was provided;

(6) Location at which the service originated;

(7) Destination to which the vehicle or vessel being provided the service was taken;

(8) Description of vehicle or vessel being provided the service, including make, model, year, color, vehicle identification number, hull number, and license plate number, if any;

(9) Description of services provided;

(10) Costs for the services provided; and

(11) Any and all load and offload charges, including the name, badge number, and agency of the officer on the scene who approved these additional charges, including a detailed explanation of the services rendered which necessitated the charges.

(b) Each manifest, towing invoice or tow sheet shall be available for inspection upon the demand of authorized city personnel at any time during the period of recovery, towing or removal of a vehicle or vessel.

(Code 1995, § 50-91; Ord. No. 1729-00, § 1, 6-26-2000)

Sec. 12-135. - Towing safety and equipment standards.

(a) It shall be unlawful for any person to recover, tow or remove a vehicle or vessel by use of a wrecker in a manner which violates the standards for use of such wrecker as set by the manufacturer thereof. It shall be unlawful to tow without the use of safety chains.

(b) Wreckers shall meet the safety and equipment requirements and specifications set forth in the administrative rules lawfully adopted by the Florida Highway Patrol as the same shall be amended from time to time.

(c) Operators shall permit authorized city personnel to inspect wreckers for compliance with this section at any time during normal business hours or during any period of recovery, towing or removal of a vehicle or vessel.

(Code 1995, § 50-92; Ord. No. 1729-00, § 1, 6-26-2000)

Sec. 12-136. - Records required.

Each person regulated under this article shall maintain accurate and complete records of all operating information as the city may require, including, but not limited to, manifests, towing invoices, or tow sheets for services rendered, and records of payments for services rendered. Such records shall be maintained in the county for at least three years. The city shall be granted access to these records for inspection and/or permitted to remove such records for the purpose of copying upon five days' prior notice and during regular business hours. All records and information inspected and not copied shall be confidential, except that records may be copied and made public for use in legal proceedings.

(Code 1995, § 50-93; Ord. No. 1729-00, § 1, 6-26-2000)

Sec. 12-137. - Anti-discrimination.

No operator shall refuse or neglect to provide vehicle or vessel recovery, towing or removal services or storage services in connection therewith to any orderly person requesting such service able and willing to pay for such services, on account of that person's race, color, sex, religion, national origin, age, marital status or handicap.

(Code 1995, § 50-94; Ord. No. 1729-00, § 1, 6-26-2000)

Sec. 12-138. - Towing without prior consent of vehicle owner or duly authorized driver of vehicle.

(a) In addition to the other requirements of this article, no person shall recover, tow or remove a vehicle or vessel or provide storage in connection therewith without the prior authorization of the vehicle or vessel owner or authorized driver, a property owner or authorized agent, or a law enforcement officer or city code enforcement officer, except in strict accordance with the requirements set forth in this section. Authorization of a property owner shall be implied if a tow-away zone notice is posted as provided in subsection (b)(5) of this section.

(b) The owner or lessee of real property, or any person authorized by the owner or lessee, which person may be the designated representative of the condominium association if the real property is a condominium, may cause any vehicle or vessel parked on such property without his or her permission to be removed by a person regularly engaged in the business of towing vehicles or vessels, without liability for the costs of removal, transportation, or storage or damages caused by such removal, transportation, or storage, or damages caused by such removal, transportation, or storage, under any of the following circumstances: ~~without the consent of the registered owner or other legally authorized person in control of that vehicle is subject to strict compliance with the following conditions and restrictions:~~

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(1) The towing or removal of any vehicle or vessel from private property without the consent of the registered owner or other legally authorized person in control of that vehicle or vessel is subject to substantial compliance with the following conditions and restrictions:

(~~1~~2) Any towed or removed vehicle or vessel must be stored at a site within a 10-mile radius of the point of removal in any county of 500,000 population or more, and within a 15-mile radius of the point of removal in any county of fewer than 500,000 population. That site must be open for

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the purpose of redemption of vehicles on any day that the person or firm towing such vehicle or vessel is open for towing purposes, from 8:00 a.m. to 6:00 p.m., and, when closed, shall have prominently posted a sign indicating a telephone number where the operator of the site can be reached at all times. Upon receipt of a telephoned request to open the site to redeem a vehicle or vessel, the operator shall return to the site within 1 hour or she or he will be in violation of this section. ~~Any towed or removed vehicle must be stored at a site within six miles of the point of removal. That site must be open for the purpose of redemption of vehicles on any day that the person or firm towing such vehicle is open for towing purposes, from 8:00 a.m. to 6:00 p.m., and, when closed, shall have a prominently posted sign indicating a telephone number where the operator of the site can be reached at all times. Upon receipt of a telephoned request to open the site to redeem a vehicle, the operator shall return to the site within one hour or he will be in violation of this section.~~

(a) If no towing business providing such service is located within the area of towing limitations set forth in sub-subparagraph a., the following limitations apply: any towed or removed vehicle or vessel must be stored at a site within a 20-mile radius of the point of removal in any county of 500,000 population or more, and within a 30-mile radius of the point of removal in any county of fewer than 500,000 population. ~~If no towing business providing such service is located within the area of towing limitations, any towed or removed vehicle must be stored at a site within 30 miles of the point of removal.~~

(b) If no towing business providing such service is located within the area of towing limitations set forth in sub-subparagraph a., the following limitations apply: any towed or removed vehicle or vessel must be stored at a site within a 20-mile radius of the point of removal in any county of 500,000 population or more, and within a 30-mile radius of the point of removal in any county of fewer than 500,000 population.

(~~2~~ 3) The person or firm towing or removing the vehicle or vessel shall, within 30 minutes after ~~of~~ completion of such towing or removal, notify the municipal police department or, in an unincorporated area, the sheriff of such towing or removal, the storage site, the time the vehicle or vessel was towed or removed, and the make, model, color, and license plate number of the vehicle or description and registration number of the vessel and shall obtain the name of the person at that department to whom such information was reported and note that name on the trip record.

(~~3~~ 4) If the registered owner or other legally authorized person in control of the vehicle or vessel arrives at the scene prior to removal or towing of the vehicle, the vehicle or vessel shall be disconnected from the towing or removal apparatus, and that person shall be allowed to remove the vehicle or vessel without interference upon the payment of a reasonable service fee of not more than one-half of the posted rate for such towing service as provided in subsection (b)(6) of this section for which a receipt shall be given, unless that person refuses to remove the vehicle or vessel which is otherwise unlawfully parked.

(~~4~~ 5) A person may not pay or accept money or other valuable consideration for the privilege of towing or removing vehicles or vessels from a particular location. ~~The rebate or payment of money or any other valuable consideration from the individual or firm towing or removing vehicles to the owners or operators of the premises from which the vehicles are towed or removed, for the privilege of removing or towing those vehicles, is prohibited.~~

(~~5~~ 6) Except for property appurtenant to and obviously a part of a single-family residence, and except for instances when notice is personally given to the owner or other legally authorized person in control of the vehicle or vessel that the area in which that vehicle or vessel is parked is reserved or otherwise unavailable for unauthorized vehicles or vessels and that the vehicle or vessel is ~~and~~ subject to being removed at the owner's or operator's expense, any property owner or lessee, or person authorized by the property owner or lessee, prior to towing or removing any vehicle or vessel from private property without the consent of the owner or other legally authorized person in control of that vehicle or vessel, or other legally authorized person in control of that vehicle or vessel must post a notice meeting the following requirements:

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a. The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within five feet from the public right-of-way line. If there are no curbs or access barriers, the signs must be posted not less than one sign for each 25 feet of lot frontage.

b. The notice must clearly indicate, in light-reflective letters not less than two-inch high on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. The words "tow-away zone" must be included on the sign in not less than four-inch high letters.

c. The notice must also provide the name and current telephone number of the person or firm towing or removing the vehicles or vessels ~~, if the property owner, lessee, or person in control of the property has a written contract with the towing company.~~

d. The sign structure containing the required notices must be permanently installed with the words "tow-away zone" not less than three feet and not more than six feet above ground level and must be continuously maintained on the property for not less than 24 hours prior to the towing or removal of any vehicles or vessels.

e. The local government may require permitting and inspection of these signs prior to any towing or removal of vehicles or vessels being authorized.

f. A business with 20 or fewer parking spaces satisfies the notice requirements of this ~~subsection~~ subparagraph by prominently displaying a sign stating "Reserved Parking For Customers Only Unauthorized Vehicles or Vessels Will Be Towed Away At the Owner's Expense" in not less than four-inch high, light-reflective letters on a contrasting background.

g. A property owner towing or removing vessels from real property must post notice, consistent with the requirements in sub-subparagraphs a.-f., which apply to vehicles, that unauthorized vehicles or vessels will be towed away at the owner's expense.

A business owner or lessee may authorize the removal of a vehicle or vessel by a towing company when the vehicle or vessel is parked in such a manner that ~~it~~ restricts the normal operation of business; and if a vehicle parked on a public right-of-way obstructs access to a private driveway the owner, lessee, or agent may have the vehicle removed by a towing company upon signing an order that the vehicle or vessel be removed without a posted tow-away zone sign.

(~~6~~ 7) Any person or firm that tows or removes vehicles or vessels and proposes to require an owner, operator, or person in control of a vehicle or vessel to pay the costs of towing and storage prior to redemption of the vehicle or vessel must file and keep on record with the local law enforcement agency a complete copy of the current rates to be charged for such services and post at the storage site an identical rate schedule and any written contracts with property owners, lessees, or persons in control of property which authorize such person or firm to remove vehicles or vessels as provided in this section.

(~~7~~ 8) Any person or firm towing or removing any vehicles or vessels from private property without the consent of the owner or other legally authorized person in control of the vehicles or vessels shall, on any trucks; wreckers, as defined in F.S. § 713.78(1)(c); or other vehicles used in the towing or removal, have the name, address, and telephone number of the company performing such service clearly printed in contrasting colors on the driver and passenger sides of the vehicle. The name shall be in at least three-inch permanently affixed letters, and the address and telephone number shall be in at least one-inch permanently affixed letters.

(~~8~~ 9) Vehicle entry for the purpose of removing a vehicle or vessel shall be allowed with reasonable care on the part of the person or firm towing the vehicle or vessel. Such person or firm shall be liable for any damage occasioned to the vehicle or vessel if such entry is not in accordance with the standard~~s~~ of reasonable care.

(~~9~~ 10) When a vehicle or vessel has been towed or removed pursuant to this section, it must be released to its owner or custodian within one hour after requested. Any vehicle or vessel owner,

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~~custodian,~~ or agent shall have the right to inspect the vehicle before accepting its return, and no release or waiver of any kind which would release the person or firm towing the vehicle or vessel from liability for damages noted by the owner or other legally authorized person at the time of the redemption may be required from any vehicle or vessel owner, custodian, or agent as a condition of release of the vehicle or vessel to its owner. A detailed, signed receipt showing the legal name of the company or person towing or removing the vehicle or vessel must be given to the person paying towing or storage charges at the time of payment, whether requested or not.

(a) These requirements are minimum standards and do not preclude enactment of additional regulations by any municipality or county including the right to regulate rates when vehicles or vessels are towed from private property.

(~~c~~b) This section does not apply to law enforcement, firefighting, rescue squad, ambulance, or other emergency vehicles which are marked as such or to property owned by any governmental entity.

(~~d~~c) When a person improperly causes a vehicle 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; attorneys' fees; and court costs.

(Code 1995, § 50-95; Ord. No. 1729-00, § 1, 6-26-2000)

Sec. 12-139. - Towing on holidays; express direction of property owner or authorized agent required.

Notwithstanding any other provision of this article, no person shall recover, tow or remove a vehicle or vessel or provide storage in connection therewith without the prior express instruction of the vehicle owner or authorized driver, a property owner or authorized agent, a law enforcement officer or city codes enforcement officer on a holiday. As used in this section, the term "holiday" means Christmas Day, Christmas Eve Day, New Year's Day, Independence Day, Thanksgiving Day and Labor Day.

(Code 1995, § 50-96; Ord. No. 1729-00, § 1, 6-26-2000)

Sec. 12-140. - Maximum towing and storage rates for providing tow services.

(a) The city commission shall, by resolution, establish maximum rates for providing recovery, towing, removal and storage services at the request of the police department, or a property owner or authorized representative, without the prior consent of the vehicle or vessel owner or other authorized person in control of the vehicle. From time to time, the maximum rates established by the city commission may be altered, revised, increased or decreased.

(b) Persons who provide services pursuant to this section shall not charge in excess of the maximum allowable rates established by the commission. No person providing services pursuant to this section shall charge any type of fee other than the fees for which the city commission has established specific rates.

(c) Each operator shall maintain a rate sheet specifying all rates and charges, which shall be given by the wrecker driver to the requesting vehicle owner or his authorized representative prior to commencing the service.

(Code 1995, § 50-97; Ord. No. 1729-00, § 1, 6-26-2000)

Sec. 12-141. - Violations; penalties.

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(a) In addition to the penalties set forth in F.S. § 715.07 for a violation of said section, a violation of any provision of this article shall be punishable in accordance with section 1-13.

(b) A vehicle towing license issued pursuant to this article may be revoked for a violation of the provisions of this article.

(Code 1995, § 50-98; Ord. No. 1729-00, § 1, 6-26-2000)

Secs. 12-142—12-162. - Reserved.