

ORDINANCE NO. 2010- 30

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TALLAHASSEE, FLORIDA

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, AMENDING ORDINANCE NUMBER 08-47, AS AMENDED, WHICH REGULATES NON-CONSENT LAW ENFORCEMENT TOWING, PRIVATE PROPERTY TOWING, IMMOBILIZATION, AND STORAGE OF VEHICLES, BY PROVIDING FOR AMENDMENTS TO THE FOLLOWING SECTIONS: DEFINITIONS; MAXIMUM TOWING STORAGE, AND RELATED RATES PERTAINING TO NON-CONSENT TOW SERVICES, AS WELL AS PRIVATE PROPERTY TOWING, AND IMPOUND AND IMMOBILIZATION; TOWING OR IMMOBILIZATION WITH PRIOR EXPRESS INSTRUCTION OF REAL PROPERTY OWNER OR AUTHORIZED AGENT AND/OR LAW ENFORCEMENT AGENCY; NOTICE REQUIREMENTS FOR REMOVING AND IMMOBILIZING VEHICLES/VESSELS FROM AND ON PRIVATE REAL PROPERTY; TOW TRUCK/IMMOBILIZATION COMPANY REQUIREMENTS; PENALTIES, ENFORCEMENT AND SCOPE OF ARTICLE; AND PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES, PROVIDING FOR CONFLICT AND SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of Commissioners desires to amend Ordinance No. 2008-47, as amended, to provide additional regulations for the operation of companies utilizing immobilization devices on vehicles within Collier County, Florida; and

WHEREAS, the Board of County Commissioners believes that the regulations proposed in this amended Ordinance promote and enhance the health, safety and welfare of its citizens; and

WHEREAS, on July 27, 2010, the Board of County Commissioners approved amending those sections of Ordinance No. 2008-47, as amended, as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, that Collier County Ordinance No. 2008-47, as amended, is hereby further amended to read as follows:

Section One:

Section Two of the Ordinance is hereby amended to read as follows:

Definitions.

Section Two, Definitions, is hereby amended to read as follows:

In case of ambiguity, subsection 1.01(15), Florida Statutes, can be referred to construe the intent of this article. As used in this article, the respective word or phrase means:

Accident scene means the place where the vehicle/vessel is located immediately following an accident that damaged that vehicle/vessel, preventing safe operation.

Administrative/lien fee shall mean the fee that is charged by a towing company for title records, conducting a lien search, advertising costs, and certified mail notification to the lienholder, owner and all persons with a vested interest in the vehicle of the whereabouts and charges against a vehicle or vessel as required by § 713.78, Florida Statutes.

Authorized person (for a vehicle/vessel) means any individual who at the time a decision to select a towing company is made, has lawful, actual or constructive physical possession or custody of that vehicle/vessel, including, prioritized in this descending order: registered owner or co-owner of the vehicle/vessel, operator of the vehicle/vessel, bailee of the vehicle/vessel, or licensed passenger who is then 16 years of age or older, or insurance company authorized by the owner or co-owner of a vehicle/vessel.

Authorized agent (for a property) means any agent or authorized agent for a property owner who has written authority to sign for an absentee owner or association board for the removal of a vehicle or vessel parked on real private property.

Authorized wrecker operator means a wrecker operator who is then designated as part of the wrecker operator system established by the governmental unit that then has jurisdiction over the scene of a wrecked or disabled vehicle (including, when applicable, the Division of Florida Highway Patrol), where the governmental unit/law enforcement officer has determined necessary the removal of a vehicle/vessel by rotation wrecker.

Commercial Motor Vehicle is defined as follows: Any motor vehicle or motor vehicle combination used on the streets or highways, which: (a) has a gross vehicle weight of 26,001 pounds or more, or has three or more axles regardless of weight, or is used in combination when the weight of such combination exceeds 26,001 pounds gross vehicle weight; (b) is designed to transport more than 15 persons, including the driver; or (c) is transporting hazardous materials and is required to be placarded in accordance with Title 49 C.F.R. part 172, Subpart F.

Disabled means a vehicle/vessel that cannot be moved by its own power because the physical condition of the towed vehicle/vessel, including from non-use, lack of fuel, mechanical malfunction or because such movement, except by being towed, would otherwise be illegal or violate a private rule.

Extra time at scene shall mean any extra time beyond one-half (1/2) hour at an accident scene, needed to safely remove a vehicle/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 billable time shall be documented by the tow truck operator and shall include the following information: (1) the name of the law enforcement agency, (2) the law enforcement agency case number, (3) a detailed description of the reason for the extra time required to remain at the accident scene, and (4) the officer's name badge number. The documentation shall also include a detailed explanation of the services rendered which necessitated the additional charges. Extra time on scene shall be charged in fifteen-minute increments.

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

Incapacitated means any person who is then physically or legally unable to operate the towed vehicle/vessel at that time of the rotation request made by law enforcement because of that person's physical condition, including sickness, injury, being under the influence of alcohol or controlled substance, being under arrest, being detained, revocation or suspension of that person's operator's license or permit, or any other condition that the jurisdictional law enforcement officer determines is justification to call a wrecker off of rotation.

Immobilization Device means any device attached to a vehicle which is designed to prevent the vehicle from being operated.

Immobilization means the utilization of a "boot" or other ~~mechanism~~ Immobilization Device ~~which that~~ causes a vehicle to be immobile or otherwise renders a vehicle immobile or inoperable.

Immobilization Company means the private partnership, corporation or other privately owned business entity, including sole proprietor, engaged in the immobilization of vehicles, including the utilization of a "boot" or other ~~mechanism~~ Immobilization Device ~~which that~~ causes a vehicle to be immobile or otherwise renders a vehicle immobile or inoperable.

Law means all applicable ordinances, Florida Statutes, United States Statutes and Codes, special acts, or any applicable lawful rules and regulations enacted, promulgated, or adopted by any governmental entity or any agency or subdivision thereof.

Law Enforcement Officer means every officer (full or part-time) as then defined by federal law or by Florida Statute, including subsection 112.531(1), any subsection of 316.1906(1)(d)(1) (3) inclusive; or subsection 9443.10(1), (6) or (8).

Law Enforcement Tow shall mean any tow authorized by any jurisdictional law enforcement officer where an authorized wrecker operator is dispatched off of the wrecker rotation system (a non-consent tow).

Light reflective sign shall mean an eighteen-inch wide by twenty-four inch high sign made of aluminum (at least 0.040 thickness) or fiber reinforced plastic (at least 0.090 thickness). The entire background surface and all lettering must at a minimum be type 1 engineered grade sheeting (ASTM D4956-01). The letters may be screen printed on the type 1 sheeting using a compatible transparent ink so that the retroreflective is maintained and visible.

Mileage charge shall mean allowable charges for miles from the location of the company storage yard to the location of an accident scene or scene of a rotation call authorized by a jurisdictional law enforcement agent. Mileage charges are not reimbursable for private property towing.

Non-consent towing means the recovery, towing, removal and storage of a vehicle/vessel without authorization of the vehicle/vessel owner or authorized driver and shall include both "Law Enforcement Officer Tows" and "Private Property Impounds/Tows" as defined herein.

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

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

Private property means all real property not owned by, leased to, or similarly controlled by a governmental entity, including private roads.

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

Private rule means restrictive covenant, deed restriction, parking ticket restriction, and any other private rule or regulation that prohibits that type of vehicle/vessel from being at or on that private property at that time, and towing or immobilizing that vehicle/vessel from that property is then allowed by law.

Real property owner shall mean that person who exercises dominion and control over real private property, including but not limited to, the legal titleholder, 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 services within the purview of this article.

Recover shall mean to take possession of a vehicle/vessel and its contents and to exercise control, supervision and responsibility over it; including removal of vehicles from a canal or other body of water, wooded area, or any other unpaved area.

Remove shall mean the removal of a vehicle/vessel from a canal or other body of water, a wooded area not readily accessible to a roadway (i.e., within a standard cable length) or when a vehicle/vessel is buried. This includes towing, winching, skating, using go jacks, or any other method employed by towing companies.

Road means alley, court, drive, driveway, highway, interstate highway, lane, parking lot, street, or any other substantially similar place, public or private.

Scene means a physical location from where a vehicle is towed following response thereto by a law enforcement officer, including with regard to an impounded vehicle/vessel or an abandoned vehicle/vessel.

Storage means retaining actual physical possession of a vehicle/vessel at a private storage facility anywhere in Florida, for consideration, including storage at such a private storage facility by or on behalf of a governmental entity or agency of any subdivision thereof. *Storage* shall further mean to place and leave a towed vehicle/vessel at a location where the person providing the towing services exercises control, supervision and responsibility over the vehicle/vessel.

Storage facility shall mean the location where towed vehicle/vessels are stored.

Tow shall mean to haul, draw or pull along a vehicle or vessel by means of a tow truck (wrecker) for hire equipped with booms, car carriers, winches or similar commercially manufactured equipment. This is usually done by transporting vehicle/vessels through a means other than the towed vehicle/vessel's power source by pulling the vehicle/vessel behind a truck or transporting the towed vehicle/vessel on a truck bed or other substantially similar conveying vehicle/vessel that has four or more wheels.

Towing company means any private partnership, corporation or other privately owned business entity, including sole proprietor, engaged in the operation of towing vehicles/vessels by means of a tow truck slide bed, wrecker or any other form of towing apparatus designated for the purpose of transporting motor vehicles or vessels. This definition includes any person, company, corporation, or other entity, which engages in, owns or operates a business that provides non-consent towing, recovery, removal and storage of vehicles/vessels for compensation.

Tow truck placard shall mean a decal or sign issued by the local government agent, authorized jurisdictional law enforcement agency, or similar governmental body, which is placed upon any tow truck to designate authorization to engage in non-consent tows and to allow parking in specially designated areas authorized by the county or jurisdictional governing body.

Unavailable means that no authorized person is physically present at the scene; or is present, but is incapacitated. When no accident scene is involved, an authorized person is unavailable if he or she cannot readily be contacted to be asked to decide which towing company can tow that vehicle/vessel on that occasion.

Vehicle means a machine or other substantially similar thing designed or used to transport one or more persons and/or property over road or land in the state of Florida, and that has two or more wheels, and is propelled by its own engine, motor, or pulling animal(s). Vehicle includes car, truck, trailer, semi-trailer, motorcycle, motor scooter, moped, bus, van, recreational vehicle, all-terrain vehicle, golf cart, animal-drawn vehicle, and every other substantially similar means of wheeled transportation.

Vessel is synonymous with boat as referenced in s. 1(b), Art. VII of the State Constitution and includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water in and around the state of Florida.

Wrecked means a vehicle that cannot be driven away from its location because of the physical condition of that vehicle/vessel, including from non-use.

Section Two:

Section Four of the Ordinance is hereby amended to read as follows:

Maximum towing, storage and related rates pertaining to non-consent tow services, as well as, private property towing, impound, and immobilization.

(a) Limited to the specific towing or immobilization operation and/or storage, this article does not limit pass-through of any additional towing, immobilization and/or storage

related fees or charges required or authorized by Florida law which supersedes this article. Also, limited to the specific towing, ~~or immobilization operation~~ and/or storage, this article does not affect any then existing rights of ~~the~~ a towing or immobilization company to recover from any person or entity all costs actually paid ~~by the towing company~~ for filing any form(s), taking any legal action(s), and/or other substantially similar costs.

(b) The Board of County Commissioners shall, by resolution, establish maximum rates for non-consent law enforcement towing, private property towing, storage, immobilization and related services of towed vehicles/vessels, which may be amended from time to time as follows:

- (1) Towing services per call, which shall include time from arrival on scene through the first thirty (30) minutes on scene that the tow truck is actually engaging in the safe removal of a vehicle/vessel.
- (2) A mileage charge for only law enforcement directed tows based upon the distance from the towing business' location to the scene and back.
- (3) Storage charges that shall begin six (6) hours after arrival at the towing company location and will accrue in twenty-four (24) hour intervals starting each day thereafter from the time of original arrival to the storage location (e.g., car towed in for storage at 6:00 p.m., between 6:00 p.m. and 12:00 a.m. no storage charge applies, at 12:01 a.m. charges for day one storage begins, the next day at 6:01 p.m. the second day of storage begins), where:
 - (a) Law enforcement has authorized the vehicle/vessel to be impounded; or
 - (b) The appropriate law enforcement agency has been notified by the tow truck company, within 30 minutes after completion of such towing or removal, that the tow truck company is in possession of a vehicle/vessel

resulting from a private property impound tow per Florida Statute § 715.07.

- (4) Indoor storage rates may only be charged upon the express direction and written authorization of the owner/authorized driver/agent, lien holder, insurance company representative or investigating law enforcement 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 requires indoor storage for towed vehicles/vessels.
- (5) An administrative/lien fee shall only be charged after the vehicle/vessel has been in the storage facility for at least five (5) calendar days, and:
 - (a) The law enforcement agency has prepared an incident report authorizing the vehicle/vessel to be impounded; or
 - (b) The law enforcement agency has been notified by the tow truck company, within 30 minutes after completion of such towing or removal, that the tow truck company is in possession of a vehicle/vessel resulting from a private property impound tow per Florida Statute § 715.07; and
 - (c) The tow truck company must show proof that lien letter(s) have been prepared with the appropriate names and addresses (i.e., U.S. Mail

Certification Number, correspondence copies, etc.), thereby establishing that fees have actually been expended.

- (6) Underwater recovery performed by a certified/professional diver with the written documentation and approval by the investigating law enforcement agency/officer on scene.
- (7) A late-hour gate fee may be applied between the hours of 6:00 p.m. to 8:00 a.m. Monday through Friday, and 6:00 p.m. Friday to 8:00 a.m. Monday, for law enforcement tows, when:
 - (a) Impounded vehicles/vessels are recovered by the owner or authorized driver/agent during the aforementioned late-hour gate period; or
 - (b) The owner or authorized driver/agent wishes to recover property from the impounded vehicle/vessel during the late-hour gate period. There shall be no charge to any owner or authorized person wishing to remove prescription medication and prescription eyeglasses from an impounded vehicle/vessel. Tow truck operators may inform the owner or authorized driver/agent of the vehicle/vessel that he/she may request that law enforcement officer be present at the time agreed upon to recover the property sought. If it is found that the authorized driver/agent of the vehicle/vessel made a false request to recover prescription medication and/or prescription eyeglasses in order to recover other items, the tow truck operator may impose a late-hour gate fee double the rate allowed by this ordinance.
- (8) Hazardous material clean-up and disposal as required, mandated and/or licensed through federal, state or local laws and approved by the investigating law enforcement agency/officer.

- (9) Rates for the release of an immobilization device.

Section Three:

Section Five of the Ordinance is hereby amended to read as follows:

Towing or immobilization with prior express instruction of real property owner or authorized agent and/or law enforcement agency.

In addition to the other requirements of this article, no tow truck company shall, for compensation, recover, ~~immobilize~~, tow, or remove a vehicle/vessel from real property, or provide storage in connection therewith, nor shall a immobilization company immobilize a vehicle/vessel from real property, without the prior express instruction of the vehicle/vessel owner or authorized driver, except in accordance with the following:

(a) Police directed tow: Tow truck companies may for compensation recover, tow or remove a vehicle/vessel based upon a law enforcement directed tow without the prior express instruction of the vehicle/vessel owner or authorized driver upon the prior express instruction of a law enforcement agency and in accordance with the terms of any contracts or agreements between the tow truck company and a governmental entity and/or law enforcement agency.

(b) Private property impound: Tow truck or immobilization companies may recover, tow, immobilize or remove a vehicle/vessel based upon a private property impound without the prior express instruction of the vehicle/vessel owner or authorized driver, upon the prior express instruction of a real property owner or his 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 requirements of this article are satisfied. All companies providing private property towing and/or immobilization in Collier County must have their storage facility (tow truck companies only) and

an office located within the county. Further, any towed or removed vehicle or vessel must be stored at a site within a 10-mile radius of the point of removal within the county boundaries. A person may not pay or accept money or other valuable consideration for the privilege of towing, immobilizing or removing vehicles or vessels from a particular location ~~as mandated by F.S. § 715.07(4)(2)(a)(4).~~

The tow truck or immobilization company recovering, towing or removing a vehicle/vessel shall, within thirty (30) minutes of completion of such towing, immobilization 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 or where the vehicle is immobilized, the time the vehicle was secured to the towing vehicle/vessel or immobilized, and the make, model, color and vehicle license plate number (if any) or registration number of the vehicle/vessel. The tow truck or immobilization company shall obtain the name and identification number of the person at the law enforcement agency to whom such information was reported and note that name on the trip ~~record~~ ticket.

For all vehicles/vessels removed or immobilized by a tow truck or immobilization company, a private property tow or immobilization ticket shall be completed and signed by the property owner or representative at the time of the tow or immobilization that includes that individual's driver's license number and the following information: the year, make, model, color and vehicle identification number, the vehicle license plate number (if any), a statement of any visible damage to the exterior of the vehicle/vessel, and an inventory of the visible inventory of the vehicle/vessel initialed by the real property owner or his authorized agent on whose property the vehicle is disabled, abandoned or parked without authorization. Companies that do not remove the vehicle from its location and are only providing immobilization services are not required to include an inventory of the contents of the vehicle/vessel.

(c) 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 with their Identification number.

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

- (1) By the mere posting of signage as required by this article;
- (2) By virtue of the terms of any contract or agreement between a tow truck company and a real property owner;
- (3) When the prior express instruction occurs in advance of the actual unauthorized parking of the vehicle/vessel; or
- (4) Where the prior express instruction is general in nature and unrelated to specific, individual and identifiable vehicles/vessels, which are already parked without authorization.

(e) Each tow truck or immobilization company shall enter into a written contract with every owner of private property that authorizes the tow truck or immobilization company to tow or immobilize vehicles/vessels from its property. This written contract shall include the beginning date of said contract, the names and titles of all persons (i.e., owner, property manager, condominium president, etc.) who have the authority to appoint persons (i.e., security guard, night watchman, onsite manager, etc.) who can authorize prior express instruction to the tow truck or immobilization company to remove, recover, immobilize or tow any vehicle/vessel from its property. The written contract shall also include the name and current telephone number of the tow truck or immobilization company performing the towing or immobilization service. Any addendum to the contract shall include additional names and titles as necessary. No such contract shall state that the tow truck or ~~immobilization~~ company assumes the liability for improperly towed or ~~immobilized~~ vehicles/vessels, contrary to F.S. § 715.07(4). The tow truck or immobilization company must keep on file each contract and addendum (if applicable) with the property owner. Such contract shall be maintained for at least twelve (12) months after termination. Law enforcement officers/agencies may inspect and request a copy of any and all such contracts from the tow truck or immobilization company during normal business hours. The tow truck or immobilization company may not withhold production of the contract upon demand by law enforcement officers/agencies. Failure to enter into or keep on file a contract

with the property owner shall be a violation of this article. All contracts that were entered into prior to the effective date of this article shall accomplish the requirements of this subsection by entering into an addendum to the current contract within one (1) year following the enactment of this article.

(f) Tow truck ~~or immobilization~~ companies may not enter into a written contract with the owner of private property that authorizes the tow truck ~~or immobilization~~ company to tow vehicles/vessels from the real property owner's property to a storage yard where the mileage restrictions have been exceeded contrary to F.S. § 715.07(2)(a)1, as may be amended from time to time.

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

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

(i) Except as otherwise provided in this ordinance or allowed by law, the practice of placing a "boot" or other immobilization device on a vehicle is prohibited. When placement of an immobilization device is allowed by law, immobilization shall occur in accordance with the provisions of this ordinance or the provisions of any applicable statute pursuant to which a vehicle is immobilized, as follows:

(1) Only tow or immobilization companies licensed to conduct business in Collier County ~~properly licensed in accordance with State law~~ and who are

otherwise in compliance with all applicable Collier County ordinances requirements may immobilize vehicles.

(2) The practice of placing a boot or other immobilization device on a vehicle to hold for towing is strictly prohibited. No immobilized vehicle shall be towed by a towing company until at least (6) hours have elapsed after the installation of the immobilization device. In the event that a vehicle is lawfully booted or otherwise immobilized and towed under this section, a separate fee for immobilization may not be charged in addition to the towing fee; the maximum rate shall be limited to that which may be charged for towing said vehicle as set forth herein.

(3) When immobilization is accomplished by the placement of an immobilization device on the vehicle, it shall be placed on the front wheel of the driver's side of the vehicle. The immobilization device may only be placed on any other wheel or vehicle part if placement on the driver's side front wheel is not feasible.

(4) Immediately after a vehicle is immobilized, the person immobilizing such vehicle, the owner of the property where the vehicle is immobilized, or an employee or agent of such person or owner, shall affix upon each of the front windows adjacent to the driver's and passenger's seats of such vehicle; a sticker ~~with a completely removable adhesive~~, measuring eight ~~and one-half~~ by five ~~eleven~~ ($8 \frac{1}{2} \times 5$ ~~11~~) inches, containing a warning that any attempt to move the vehicle may result in damage to the vehicle and stating the name and business address of the person who immobilized such vehicle as well as a business telephone number that will facilitate the dispatch of personnel responsible for removing the immobilization device. The sticker will include the Collier County ordinance number regulating the practice. Upon payment to remove the immobilizing device, the immobilizing company shall completely remove the affixed sticker.

(5) Upon request of the immobilized vehicle's owner or authorized driver/agent, and payment of any applicable fee, the tow truck or immobilization

company shall release the immobilized vehicle to the vehicle's owner or authorized driver/agent within one (1) hour.

Section Four:

Section Six of the Ordinance is hereby amended to read as follows:

Notice requirements for removing and immobilizing vehicles/vessels from and on private real property.

(a) Tow truck or immobilization companies duly permitted under this article may recover, tow, immobilize or remove a vehicle/vessel or provide storage in connection therewith upon the prior express instruction of a real property owner or authorized agent, on whose property the vehicle/vessel is abandoned or parked without the authorization of the owner or other legally authorized person in control of that vehicle or vessel, provided that the following requirements are satisfied:

(1) Notice shall be prominently posted on the real property from which the vehicle/vessel is proposed to be removed or immobilized and shall fulfill the following requirements:

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

(ii) The light reflective sign shall clearly display in not less than two-inch high letters on a contrasting background, the words "UNAUTHORIZED VEHICLES WILL BE TOWED AWAY AT THE OWNER'S EXPENSE." The words "TOW-AWAY ZONE" must be included on the light reflective sign in not less than four-inch high letters on a contrasting background. If the property owner has authorized the immobilization of vehicles the sign shall read "UNAUTHORIZED VEHICLES WILL BE TOWED AWAY OR IMMOBILIZED AT THE OWNER'S EXPENSE."

(iii) The light reflective sign shall clearly indicate, in not less than two-inch high letters on a contrasting background, the days of the week, and hours of the day during which vehicles/vessels will be immobilized or towed ~~or immobilized~~ away at the owner's expense; and the name, address and current telephone number of the tow truck or immobilization company performing the towing or immobilization service.

(2) Light reflective signs must be maintained or replaced so that they are clearly visible, legible and light reflective at all times. The real property owner is responsible for providing, maintaining, replacing, and removing signs, as necessary. Failing to provide, maintain, replace and/or remove the signs in accordance with this section is a violation of this article.

(3) Startup: All new private property towing or immobilization contracts must comply with the light reflective sign requirements beginning three (3) months after the effective date of this article. All other "Tow Away" signs for previously existing contracts must comply with these requirements, as signs are replaced, but no later than three (3) years after enactment of this article.

(4) The posting of notice requirements of this section shall not be required where:

(i) The real property on which a vehicle is parked is property appurtenant to and obviously part of a single-family type residence; or

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

(b) When any real property owner instructs a vehicle/vessel to be recovered, towed, immobilized or removed from his or her property and stored, she/he or a designated representative authorizing the tow or immobilization shall sign their name and print their driver's license number on the tow/immobilization ticket and include a vehicle condition report and a visual inventory list thereon. Companies that do not remove the vehicle from its location and are only providing immobilization services are not required to include an inventory of the contents of the vehicle/vessel. Immediately upon request, and without demanding compensation, the real property owner shall inform the vehicle owner or other authorized person in control of the vehicle/vessel of the name and address of the tow truck or immobilization company that has recovered, towed, immobilized or removed the vehicle/vessel.

(c) If the vehicle/vessel owner or authorized driver/agent arrives at the scene prior to the vehicle/vessel being removed, immobilized or towed from the property, the vehicle/vessel shall be disconnected from the tow truck or the immobilization device shall be removed and the vehicle/vessel owner or authorized driver/agent shall be allowed to remove the vehicle/vessel without interference upon the payment of a reasonable service fee of not more than one-half (1/2) of the posted rate for such towing service (drop charge), for which a receipt shall be given, unless that person refuses to remove the vehicle/vessel, which is unlawfully parked. In the case of an immobilized vehicle, the drop charge would be one-half of the established fee. No service fee shall be demanded or paid if the vehicle was in the process of being immobilized but not yet connected to the

immobilization device. The bill/invoice must be presented to the vehicle/vessel owner authorized/driver/agent prior to request for the payment. In the event the owner/driver of the vehicle/vessel is occupying the vehicle/vessel and refuses to vacate same, in addition to the drop charge, a tow truck company/driver is permitted to charge extra time at the scene where law enforcement involvement is necessary and the tow truck driver obtains the name of the law enforcement agency, case number of the law enforcement agency and the name and badge number of the investigating law enforcement officer. The tow truck driver shall also prepare detailed documentation/explanation as to why "extra time at scene" charges were required. All documentation shall be provided to the vehicle/vessel owner or authorized agent upon demand.

Section Five:

Section Seven of the Ordinance is hereby amended to read as follows:

Tow truck/Immobilization company requirements.

(a) Tow truck ~~or immobilization~~ companies providing services pursuant to this article shall not do so when there is a person or animal occupying the vehicle/vessel.

(b) Tow truck companies providing services pursuant to this article shall transport the vehicle/vessel directly to the storage facility of the tow truck company providing the service, or to such other location as a law enforcement officer authorizing the tow may expressly direct, and shall not keep the vehicle/vessel in any temporary holding area.

(c) Tow truck or immobilization companies providing services pursuant to this article shall keep on file complete records of all current rates charged for the recovery, towing, immobilization or removal of vehicles/vessels and storage provided in connection therewith. Tow truck companies shall also display prominently at each storage facility the following information: signage which identifies the name of the towing company, a schedule of all charges and rates for removal of vehicles/vessels for private property impounds and/or the removal of

immobilization devices, a statement that the rates do not exceed the rates established and authorized pursuant to this article and the rights afforded to a vehicle/vessel owner or authorized driver/agent pursuant to state statutes. The above information shall be posted prominently in the area designated by such tow truck companies to transact business. During business hours, 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 or immobilization services for the jurisdiction in which the law enforcement order to tow was made.

(d) Tow truck ~~or immobilization~~ companies shall provide signage on the property clearly visible from the street (unless otherwise prohibited by local zoning laws) with at least three-inch letters on a contrasting background with the name and phone number of the tow truck company.

(e) Tow truck or immobilization companies providing services pursuant to this article shall advise any vehicle/vessel owner or authorized driver/agent who calls by telephone prior to arriving at the storage facility or, in the case of immobilized vehicles, the immobilized vehicle's location, of the following:

- (i) Each and every document or other item which must be produced to retrieve the vehicle/vessel;
- (ii) The exact charges as of the time of the telephone call, and the rate at which charges accumulate after the call;
- (iii) The acceptable methods of payment; and
- (iv) The hours and days the tow truck company's storage facility is open for regular business.

(f) Tow truck or immobilization companies providing services pursuant to this article shall allow every vehicle/vessel owner or authorized driver/agent to inspect the interior and exterior of the towed/immobilized vehicle/vessel upon his or her arrival at the storage facility or

at the immobilized vehicle's location before payment of any charges. In the case of immobilization companies, the immobilization device does not have to be removed until after payment is rendered. With the exception of vehicles/vessels being held pursuant to the specific request or "hold order" of a law enforcement agency, the vehicle 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.

(g) Companies providing 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 within Collier County from which the vehicle/vessel was recovered, towed or removed unless no towing 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 within Collier County.

(h) Tow truck companies providing services pursuant to this article shall maintain one (1) or more storage facilities and shall maintain a current county occupational license and shall be open for the purpose of redemption of vehicles/vessels by owners or authorized drivers/agents 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 on the exterior of the storage facility and 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 authorized driver/agent, the tow truck company shall release the vehicle/vessel to the vehicle/vessel owner or authorized driver/agent within one (1) hour.

(i) Tow truck or immobilization companies shall not, as a condition of release of the vehicle/vessel, require a vehicle/vessel owner or authorized driver/agent to sign any release or waiver of any kind which would release the tow truck or immobilization company from liability for damages noted by the vehicle/vessel owner or authorized driver/agent at the time of the vehicle/vessel's release. A detailed, signed receipt showing the legal name of the tow truck or

immobilization ~~truck~~ company removing or immobilizing the vehicle/vessel shall be given to the vehicle owner or authorized driver/agent at the time of payment, ~~where~~ whether requested or not.

(j) Tow truck ~~or immobilization~~ companies providing services pursuant to this article shall post a notice clearly visible to the vehicle/vessel owner or authorized driver/agent seeking to recover his/her towed vehicle/vessel, ~~or to have an immobilization device removed~~ that if the owner or authorized driver/agent believes he/she is being overcharged for a non-consent tow or immobilization, he/she has the right to post a cash or surety bond (or other adequate security equal to the amount of the charges for towing or storage) for the disputed amount with the circuit court to obtain release of the vehicle/vessel. Upon the posting of the bond as set forth in Section 713.78, Florida Statutes, and payment of the applicable fee set forth in Section 28.24, Florida Statutes, the clerk of the court shall issue a certificate notifying the lienor of the posting of the bond and directing the lienor to release the vehicle or vessel. The towing company is obligated to release the vehicle upon a showing of proof of the bond.

~~———— (k) ——— Nothing in this article shall prevent the Collier County Sheriff from providing additional or more restrictive requirements in contracts or arrangements which authorize the recovery, towing or removal of vehicles/vessels or storage provided in connection therewith.~~

(~~lk~~) Tow truck ~~or immobilization~~ companies operating in Collier County shall carry an insurance policy or policies or certificates of insurance that shall indemnify/insure such company for its liability, at a minimum, as follows:

(i) Auto liability for each tow truck:

1. \$300,000 combined single limit for Class A–Light Duty tow trucks used exclusively for private property impounds.
2. \$500,000 combined single limits for all other tow trucks.

(ii) General/garage liability:

1. \$300,000 combined single limit for tow truck operators performing only private property impounds.
2. \$500,000 combined single limit for all other tow truck operators.

- (iii) Garage keeper's liability: \$50,000.00 for any one vehicle and \$100,000 per occurrence.
- (iv) \$50,000 on-hook cargo liability coverage for each vehicle.
- (v) Workers' Compensation coverage as required by state law.

All insurance policies shall be issued by insurance companies authorized and qualified to do business in the State of Florida. Notwithstanding the minimum insurance coverage amounts required herein, the Collier County Sheriff may require higher coverage limits as a condition of eligibility for working law enforcement rotation calls. To the extent that State law requires greater liability coverage amounts than those stated herein, the greater amounts required by State law shall control.

(ml) Immobilization companies shall carry an insurance policy or policies or certificates of insurance that shall indemnify/insure such company for its liability in an amount of no less than \$20,000.00 and for Workers' Compensation coverage as required by State law. All insurance policies shall be issued by insurance companies authorized and qualified to do business in Florida. To the extent that state law requires greater liability coverage amounts than those stated herein, the greater amounts required by State law shall control. The insurance shall be kept in full force and effect by the certificate holder at all times the immobilization company is conducting business.

(nm) The following additional provisions shall apply to the immobilization of vehicles/vessels on private property:

- (i) Prior to immobilizing a vehicle for a first time "incidental" parking violation (incidental being defined as when a vehicle/vessel is parked such that it intrudes upon an area in violation of the private property's rules at a distance of less than 6 inches) the immobilizing company shall first post a legible printed warning notice on the driver's side window of the vehicle/vessel in a highly visible color, noting the time that the warning was posted, and stating that the vehicle/vessel is parked in violation of the private property's rules and that if the vehicle is not relocated to a proper

parking spot within six (6) hours of the issuance of the warning the vehicle/vessel will be immobilized. The immobilization company shall keep records of the time of issuance of the warning notice for a minimum period of one (1) year.

(ii) Lease, rental, or property owners' association documents shall contain a notice provision indicating that the residential property utilizes vehicle/vessel immobilization. In the case of properties with existing leases, rental agreements or property owners' associations documents, it shall be sufficient to notify by regular mail, at the last known address, each of the tenants/owners of the property prior to the initiation of vehicle immobilization. All new leases, rental agreements or property owners' association documents shall contain the provision giving notice that the property owner intends to utilize vehicle immobilization, and a complete and specifically detailed list of rules, that if violated, will result in vehicle immobilization. A copy of those provisions must be posted in the rental office and/or a common area. A copy of those provisions must also be maintained on file in each immobilization service vehicle involved in vehicle immobilization.

(iii) Companies providing immobilization services shall accept payment to release vehicles/vessels in the form of cash, bank debit card and major credit cards.

Section Six:

Section Eight of the Ordinance is hereby amended to read as follows:

Penalties, enforcement and scope of article.

(a) Each violation of this article shall be subject to the maximum fine and/or other penalties as then specified in the law under which that enforcement action is based, including Section 125.69, Florida Statutes; Part II of Chapter 162, Florida Statutes; as if a misdemeanor under Section 775.0823, Florida Statutes; or pursuant to any other provisions of law incorporated

by reference into section 1-6 of Collier County's Code of Laws and Ordinances on the date of the violation.

(b) Notwithstanding imposition any other penalty or penalties by the county or by any other entity, three or more separate incidents involving violations of this ordinance, committed by the same towing or immobilization company within a 365 day time period, is a per se sufficient basis for forfeiture of that towing or immobilization company's and/or storage company's Collier County occupational license for a period of sixty (60) days.

(c) This article shall not apply to the towing/immobilization of a vehicle/vessel that occurs with the consent of the vehicle/vessel's owner or operator.

(d) Violations of the provisions of this Ordinance shall be enforced by the Collier County Sheriff.

(e) Nothing in this article shall prevent the Collier County Sheriff from providing additional or more restrictive requirements in contracts or arrangements which authorize the recovery, towing or removal of vehicles/vessels or storage provided in connection therewith.

Section Seven: 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 Collier County, Florida. The sections of the ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," or any other appropriate word.

Section Eight: Conflict and severability.

In the event this ordinance conflicts with any other Ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of the ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a

separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

Section Nine: **Effective Date.**

This ordinance shall take effect upon filing with the Florida Department of State.

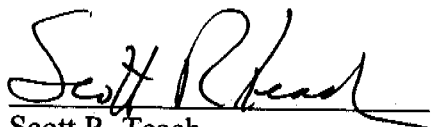
PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida this 27th day of July, 2010.

ATTEST:
DWIGHT E. BROCK, CLERK

By: 
DEPUTY CLERK

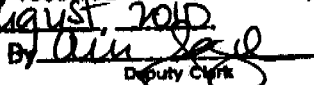

Approved as to the form and
signature only.

Approved as to form and
legal sufficiency:


Scott R. Teach
Deputy County Attorney

BOARD OF COUNTY COMMISSIONERS OF
COLLIER COUNTY, FLORIDA

By: 
FRED W. COYLE, CHAIRMAN

This ordinance filed with the
Secretary of State's Office the
12th day of AUGUST, 2010
and acknowledgement of that
filing received this 12th day
of AUGUST, 2010.
By: 
Deputy Clerk

STATE OF FLORIDA)

COUNTY OF COLLIER)

I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true and correct copy of:

ORDINANCE 2010-30

Which was adopted by the Board of County Commissioners on the 27th day of July, 2010, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 30th day of July, 2010.

DWIGHT E. BROCK
Clerk of Courts and Clerk
Ex-officio to Board of
County Commissioners

Ann Jennejohn

By: Ann Jennejohn
Deputy Clerk

