



Kevin Madok, CPA

Clerk of the Circuit Court & Comptroller – Monroe County, Florida

September 14, 2022

Department of State
Administrative Code & Register
500 S Bronough Street
Tallahassee FL 32399-0250

To Whom It May Concern,

Attached is a copy of Ordinance No. 019-2022 of the Board of County Commissioners of Monroe County, Florida, amending Section 25-7 of the Monroe County Code, deleting the definition of Permitting Official; deleting the requirement for an Operating Permit; increasing maximum rates for nonconsensual towing services; providing for severability; providing for the repeal of all ordinances inconsistent herewith; providing for incorporation into the Monroe County Code of Ordinances; and providing an effective date.

This Ordinance was adopted by the Monroe County Board of County Commissioners at a regular meeting, held in formal session, on August 17, 2022. Should you have any questions please feel free to contact me at (305) 292-3550.

Respectfully Submitted,

Kevin Madok, CPA, Clerk of
the Circuit Court & Comptroller &
ex-officio to the Monroe County
Board of County Commissioners

by: Liz Yongue, Deputy Clerk

cc: County Administrator
County Attorney
MuniCode
BOCC
File

KEY WEST
500 Whitehead Street
Key West, Florida 33040

MARATHON
3117 Overseas Highway
Marathon, Florida 33050

PLANTATION KEY
88770 Overseas Highway
Plantation Key, Florida 33070

ORDINANCE 019 - 2022

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, AMENDING SECTION 25-7 OF THE MONROE COUNTY CODE; DELETING THE DEFINITION OF PERMITTING OFFICIAL; DELETING THE REQUIREMENT FOR AN OPERATING PERMIT; INCREASING MAXIMUM RATES FOR NONCONSENSUAL TOWING SERVICES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HERewith; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners (“the Board”) finds it necessary from time to time to review and amend an ordinance to maintain its effectiveness and desired intent; and

WHEREAS, the Board directed the County Attorney to review this Ordinance, the County’s non-consensual tow ordinance to determine if the rates previously set need to be updated due to inflation; and

WHEREAS, this section is amended pursuant to the statutory power of Monroe County to establish and enforce business regulations necessary for the protection of the public, pursuant to F.S. 125.0103(1)(b) and F.S. 715.07; and

WHEREAS, the Board finds that its prior permitting scheme should be eliminated in the interests of reducing regulatory requirements on small business operators; and

WHEREAS, the Board finds that the public interest would be served by enacting amendments to Monroe County Code Sec. 25-7; and

WHEREAS, the Board finds that having one rate and fee schedule that applies to both non-consensual tows and law enforcement tows would eliminate unnecessary confusion so the Board specifically intends to strike the fee provisions in Section 25-7 and, in its place, incorporate by reference the updated rate and fee schedule adopted on August 17, 2022 as part of the ordinance on law enforcement tows into this ordinance for non-consensual tows.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY

COMMISSIONERS OF MONROE COUNTY, FLORIDA, AS FOLLOWS:

[Proposed Text Changes are presented in ~~strike through~~ to indicate deletions and underline to indicate additions; only those subsections, paragraphs, subparagraphs changed appear below.]

SECTION 1. Section 25-7 (d) is hereby amended as follows:

(d) *Definitions.* For purposes of this section, the following definitions shall apply:

~~*Permitting official* shall mean the county administrator or his/her designee.~~

SECTION 2. Section 25-7 (e) is hereby amended as follows:

~~(e) *Operating permit required-Disclaimer*~~

~~(1) Except as otherwise provided herein, it shall be unlawful for any person to conduct noneconsensual private towing services, or to cause or permit any other person for compensation to conduct noneconsensual private towing services in the county without first obtaining a noneconsensual tow permit under this section. It shall also be unlawful to advertise said services without first obtaining and maintaining a current noneconsensual tow permit pursuant to the provisions of this section. A person conducting noneconsent tows in the county but having his/her primary place of business outside of the county shall be required to obtain a noneconsensual tow permit and shall be subject to all the provisions of this section.~~

~~(2)~~ 1 Nothing in this section shall be construed to prohibit the discharge or storage of a vehicle lawfully recovered, towed or removed within a city or another county and lawfully transported within, or into, the county; nor shall anything in this section be construed to prohibit a vehicle owner from requesting the services of a towing business not regularly doing business in the county (i.e., routinely, contracted, etc.) to tow or transport such vehicle out of the county.

~~(3)~~ 2 The provisions of this section shall not apply to governmental agencies and persons operating pursuant to a government initiated tow request.

SECTION 3. Section 25-7 (f) is hereby stricken in its entirety.

SECTION 4. Section 25-7 (g) is hereby renamed as (f) and amended as follows:

~~(g)~~ f *Required equipment.*

~~(1)~~ 1 Every towing service operating under this section will be required to comply with the equipment requirements set forth in subsection 25-4(b).

~~(2)~~ 2 No more than 30 days prior to submitting the initial application, or a renewal application, the applicant shall be required to undergo an inspection performed by the Monroe County Fleet Maintenance Department showing that the applicant complies with the equipment requirements set forth in subsection 25-4(b). The applicant will be required to

~~contact the Monroe County Fleet Maintenance Department and schedule a mutually convenient time for said inspection. Upon completing the inspection the Monroe County Fleet Maintenance Department shall provide the applicant with an inspection form signed by the individual performing the inspection. Applicant shall submit the inspection form with the initial/renewal application. Applicants, in the six months prior to submission of an application, who have had their equipment inspected by the Monroe County Sheriff's Office or the Florida Highway Patrol pursuant to section 25-4 may submit a copy of the completed inspection form, signed by a MCSO deputy or FHP officer, in lieu of the inspection performed by the Monroe County Fleet Maintenance Department.~~

SECTION 5. Section 25-7(h) is hereby renamed as (g) and amended as follows:

~~(h g).~~ - *Maximum rates for nonconsensual towing services*

- ~~(1) The maximum rate for a nonconsensual private tow shall be as follows: the same rates set forth in subsection 25-4(d)(1).
as follows:-
 - ~~a. \$135.00 for mopeds, motoreycles, cars and vehicles weighing 10,000 pounds or less plus \$3.00 per mile.~~
 - ~~b. \$200.00 for vehicles weighing between 10,001 and 20,000 pounds plus \$4.00 per mile.~~
 - ~~c. \$485.00 for vehicles weighing in excess of 20,000 pounds plus \$5.00 per mile.~~
 - ~~d. A labor rate of up to a maximum of \$135.00 per hour may be applied in circumstances where extraordinary effort, such as the use of multiple tow trucks, is required.
A person in the process of towing or removing a vehicle or vessel from the premises or parking lot in which the vehicle or vessel is not lawfully parked must stop when a person seeks the return of the vehicle or vessel. The vehicle or vessel must be returned upon the payment of a reasonable service of not more than one half the rates set forth above. The vehicle or vessel may be towed or removed if, after a reasonable opportunity, the owner or legally authorized person in control of the vehicle or vessel is unable to pay the service fee. If the vehicle or vessel is redeemed, a detailed signed receipt must be given to the person redeeming the vehicle or vessel.~~~~
- ~~(2) Storage fees may be charged only after the vehicle has been in the storage facility for at least six hours. If the vehicle is not recovered by the vehicle/vessel owner after the six-hour time period has elapsed, then storage charges shall accrue in 24 hour increments from the time the vehicle/vessel arrived in the storage facility at the rate of \$30.00 per day for outside storage plus \$2.00 per foot for motor vehicles over 20 feet long and \$40.00 per day for inside storage plus \$2.00 per foot for motor vehicles over 20 feet long.~~
- ~~(3) An administrative fee in the maximum amount of \$25.00 shall be charged for all vehicles. A notification/lien fee of \$50.00 for the first notification and \$20.00 for each~~

~~additional letter shall only be charged after the vehicle/vessel has been in the storage facility for at least 24 hours; and, the nonconsent tow company must show proof that lien letter(s) have been prepared with the appropriate names/addresses (i.e., U.S. Mail certification number, correspondence copies, etc.) and that actual fees for obtaining required ownership information have been expended. Failure to document and provide all of the above required information will result in notification/lien fee charges being removed from the total cost of the service/invoice and is a violation of this section. Prior to instituting such charge, the tow company must provide such documentation to the vehicle/vessel owner upon demand.~~

~~(4) After hour gate fees may not be applied between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday (excluding federal holidays). The maximum amount of such after hours gate fee shall be \$75.00.~~

~~(5 2) Persons who provide services pursuant to this section shall not charge in excess of the maximum allowable rates established by the board. No person providing services pursuant to this section shall charge any type of fee other than the rates the board has specifically established. Persons who provide nonconsensual tow services from the county to a location outside the county shall abide by the terms of this section including all rates and charges adopted by the board.~~

~~(6 3) Persons who provide nonconsensual tow services pursuant to this section shall provide a Monroe County, Florida Maximum Non-Consent Towing Rates sheet to the vehicle or vessel owner upon request at the time of payment.~~

~~(7 4) Every towing service operating under this section shall conspicuously display at its place of business the maximum charges that may be imposed for ordinary towing and road service under this section.~~

~~(8 5) Upon payment of the fees specified herein, persons who provide nonconsensual tow services in areas where the speed limit exceeds 35 m.p.h. shall make reasonable arrangements to return any noncommercially owned moped, electric car or similar reduced-speed vehicle to the vehicle owner. The tow company may impose a fee, not to exceed \$50.00 \$75.00 and \$3.00 \$4.00 per mile (one way only) for the return delivery service.~~

SECTION 6. Section 25-7(i) is hereby renamed as (h) and amended as follows:

~~(i h)~~ *Nonconsent tow company requirements.*

~~(9) Persons providing nonconsensual tow services pursuant to this section who exceed the rates set forth in this section or impose charges not set forth in this section or in the Florida Statutes shall be required to reimburse those charges upon presentation by the vehicle/vessel owner to the permitting official of an affidavit, sworn to by the vehicle/vessel owner, and accompanying proof of payment of the excessive charges in~~

~~the form of a receipt, credit card statement, etc., to the permitting official. Failure to reimburse the owner of the vehicle/vessel in such cases is a violation of this section.~~

- (109) It shall be a violation of this section for any person providing nonconsensual tow services to fail to respond in writing within ten business days to any written inquiry or request for information from ~~the permitting official or~~ the County Attorney or any law enforcement agency.

SECTION 7. Section 25-7(j) is hereby renamed as (i).

SECTION 8. Section 25-7(k) is hereby renamed as (j):

SECTION 9. Section 25-7(l) is hereby renamed as (k) and amended as follows:

~~(k)~~ *Enforcement and penalties for violations.*

- (3) ~~The penalties described in paragraph (2) of this subsection shall be in addition to the abatement of the violating condition, any other equitable relief, or revocation of any permit or license by any governmental entity.~~ Should any person violate or fail to comply with any provision of this section, the office of the county attorney may make application to the circuit court for the Sixteenth Judicial Circuit of Florida for an order to enjoin such violation or failure of compliance.

- ~~(4) In addition to the penalties described above, any owner who is found by the permitting official, pursuant to the process set forth herein, to have violated this section shall be subject to the suspension or revocation of its nonconsensual tow permit. Within ten days of an allegation that an owner has violated a provision of this section the permitting official shall schedule a hearing with the owner. Failure by the owner to appear at the hearing shall result in the immediate suspension of the owners nonconsensual tow permit. Such suspension shall remain in place until the owner contacts the permitting official and reschedules the hearing. The permitting official shall hear testimony and/or evidence of the nature of the violations and any circumstances associated therewith. After such hearing the permitting official may suspend or revoke the violator's nonconsensual tow permit for a period of up to one year based upon the gravity and frequency of the violations. The violator may appeal the permitting official's decision to the county commission by filing written notice with the county administrator office within three days of the permitting official's written determination. The county commission shall set the matter for hearing with appropriate public notice for the next regularly scheduled commission meeting. By majority vote, the commission may affirm, reverse or modify the decision of the permitting official based upon the factors considered by the permitting official and those brought before the commission at hearing.~~

SECTION 10. SEVERABILITY. If any section, subsection, sentence, clause, or provision of this ordinance is held invalid or declared to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property or

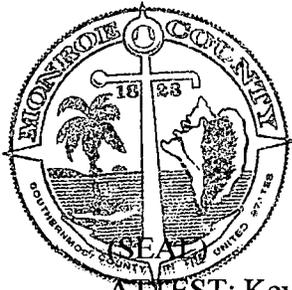
circumstances, such holding shall not affect its applicability to any other person, property or circumstances.

SECTION 11. CONFLICT WITH OTHER ORDINANCES. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

SECTION 12. INCLUSION IN CODE OF ORDINANCES. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances in the County of Monroe, Florida, as additions or amendments thereto, and the Monroe County Code shall be appropriately renumbered to conform to the uniform numbering system of the Code. The editors are the municipal code corporation are advised that any provision of section 25-7 that does not appear in this ordinance shall remain unchanged. The editors are authorized to make editorial edits for renumbering and relabeling.

SECTION 13. TRANSMITTAL AND EFFECTIVE DATE This Ordinance shall be filed with the Department of State and shall be effective as provided in section 125.66(2), Florida Statutes.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting of said board held on the August 17, 2022.



Mayor David Rice	<u>Yes</u>
Mayor <i>Pro Tem</i> Craig Cates	<u>Yes</u>
Commissioner Michelle Coldiron	<u>Yes</u>
Commissioner James K. Scholl	<u>Yes</u>
Commissioner Holly Merrill Raschein	<u>Yes</u>

ATTEST: Kevin Madok, Clerk

BOARD OF COUNTY
COMMISSIONERS OF MONROE
COUNTY, FLORIDA

By: *E. J. Madok*
As Deputy Clerk

By: *[Signature]*
Mayor/Chairman

FILED FOR RECORD

2022 SEP 14 AM 9:35

CLERK C.R.C.T.
MONROE COUNTY, FL

James D.
Molenaar

Digitally signed by James D.
Molenaar
Date: 2022.08.10 14:35:14 -04'00'

Approved as to Form and Legal Sufficiency
James D. Molenaar
Asst. County Attorney
MONROE COUNTY ATTORNEY'S OFFICE

THE CITIZEN

KEY WEST

The Florida Keys Only Daily Newspaper, Est. 1876
PO Box 1800, Key West FL 33041
P: (305) 292-7777 ext. 219 F: (305) 295-8025
legals@keysnews.com

MONROE CO ADMIN/BOCC
1100 SIMONTON ST STE 2-205
KEY WEST FL 33040

Account: 423273

Ticket: 3857548

PUBLISHER'S AFFIDAVIT

STATE OF FLORIDA COUNTY OF MONROE

Before the undersigned authority personally appeared

_____ Melinda Prescott _____, who on oath says that he or she is

The legal advertising representative of the Key West Citizen, a five day newspaper published in Key West, in Monroe County, Florida; that the attached copy of advertisement, being a legal notice in the matter of Non-Consensual Tow Ord. was published in said newspaper in the issues of:

Saturday, August 6, 2022

Affiant further says that the Key West Citizen is a newspaper published in Key West, in said Monroe County, Florida and that the said newspapers has heretofore been continuously published in said Monroe County, Florida Tuesday thru Saturday weekly, and has been entered as periodicals matter at the post office in Key West, in said Monroe County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Melinda Prescott

(Signature of Affiant)

Affirmed and subscribed before me this 10th day of August 2022

Laura M Robins

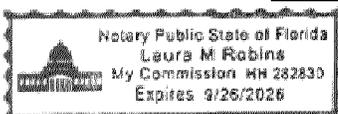
(Notary Public Signature)

_____ Laura M Robins _____

(Notary Public Printed Name)

My commission expires _____ 9/26/2026 _____

Personally Known Produced Identification _____
Type of Identification Produced _____ (Notary Seal) _____



NOTICE OF INTENT TO CONSIDER ADOPTION OF COUNTY ORDINANCE

NOTICE IS HEREBY GIVEN TO WHOM IT MAY CONCERN that on August 17, 2022, at 1:30 P.M., or as soon thereafter as the matter may be heard, at the Harvey Government Center, 1200 Truman Ave, Key West, Florida, the Board of County Commissioners of Monroe County, Florida, intends to consider adopting the following ordinance:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, AMENDING SECTION 25-7(h) OF THE MONROE COUNTY CODE; DELETING THE DEFINITION OF PERMITTING OFFICIAL; DELETING THE REQUIREMENT FOR AN OPERATING PERMIT; INCREASING MAXIMUM RATES FOR NONCONSENSUAL TOWING SERVICES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HERewith; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

The proposed ordinance may be inspected by the public at the Monroe County website by viewing the agenda packet for the August 17 meeting, which will be posted beginning on August 5, 2022 at: <http://monroecounty-fl.iqm2.com/citizens/default.aspx>. The ordinance may also be viewed at the Monroe County Attorney's office at 1111 12th St., Suite 408 Key West, FL 33040.

The public can participate in the August 17, 2022, meeting of the Board of County Commissioners of Monroe County, FL by attending in person or via Zoom. The Zoom link can be found in the agenda at <http://monroecounty-fl.iqm2.com/citizens/default.aspx>.

ADA ASSISTANCE: If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the County Administrator's Office, by phoning (305) 292-4441, between the hours of 8:30a.m.—5:00p.m., prior to the scheduled meeting; if you are hearing or voice-impaired, call "711". Live Closed-Captioning is available via our web portal @ <http://monroecounty-fl.iqm2.com/Citizens/Default.aspx> for meetings of the Monroe County Board of County Commissioners.

Dated at Key West, Florida, this 2nd day of August 2022.

(SEAL)
KEVIN MADOK, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Monroe County, Florida
08/06/22 - KWC
423273 3857548



Published Weekly
Marathon, Monroe County, Florida

PROOF OF PUBLICATION

**STATE OF FLORIDA
COUNTY OF MONROE**

Before the undersigned authority personally appeared **JASON KOLER** who on oath, says that he is **PUBLISHER** of the **WEEKLY NEWSPAPERS**, a weekly newspaper published in Marathon, in Monroe County, Florida: that the attached copy of advertisement was published in said newspaper in the issues of: (date(s) of publication)

August 4, 2022

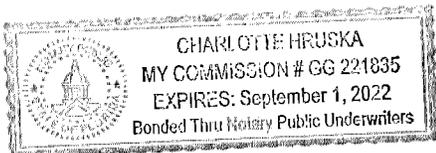
Affiant further says that the said **WEEKLY NEWSPAPERS** is a newspaper published at Marathon, in said Monroe County, Florida, and that the said newspaper has heretofore been continuously published in said Monroe County, Florida, once each week (on Thursday) and has been qualified as a second class mail matter at the post office in Marathon, in Monroe County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement. The affiant further says that he has neither paid nor promised any person, firm, or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper(s) and that The Weekly Newspapers is in full compliance with Chapter 50 of the Florida State Statutes on Legal and Official Advertisements.

Sworn to and subscribed before me this 4 day of August, 2022.

(SEAL)

Charlotte Hruska

Notary



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