

ORDINANCE

19-16

ORDINANCE NO. 19- 16

AN ORDINANCE AMENDING HILLSBOROUGH COUNTY CODE OF ORDINANCES AND LAWS CHAPTER 50, ARTICLE VII; AMENDING SECTION 50-174, PROVIDING FOR EXEMPTIONS; AMENDING SECTION 50-179, PROVIDING FOR PUBLIC VEHICLE DRIVER'S LICENSE REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR RESOLUTION OF CONFLICT OF LAWS; PROVIDING FOR INCLUSION IN THE HILLSBOROUGH COUNTY CODE; PROVIDING FOR FILING OF ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Hillsborough County Board of County Commissioners ("BOCC") recognized that regulation of vehicles for hire was necessary for the protection of the health, safety, and welfare of the traveling public within Hillsborough County; and

WHEREAS, Chapter 125, Florida Statutes, authorizes the Hillsborough County Board of County Commissioners to provide for the citizens of said County standards which ensure their health, safety and welfare; and

WHEREAS, Hillsborough County Board of County Commissioners enacted Ordinance No. 17-34, codified as Hillsborough County Code of Ordinances and Laws, Chapter 50, Article VII, Sections 50-171 through 50-199, as amended, to provide for regulation of trespass towing, immobilization, and rate services; and

WHEREAS, Hillsborough County Board of County Commissioners has determined that this Ordinance should be amended to better serve and protect its citizens; and

WHEREAS, the amendment of this Ordinance will assist County and Tax Collector staff with their duties in administering and regulating the trespass towing, immobilization, and rate services industry.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA:

Chapter 50, Article VII, Sections 50-174, and 50-179 of the Hillsborough County Code of Ordinances and Laws, are hereby amended as follows:

ARTICLE VII. – TRESPASS TOWING IMMOBILIZATION AND RATES

SECTION 1: Section 50-174 is amended to read:

Sec. 50-174. - Exemptions.

- (a) This article shall not apply to the towing or immobilization of a vehicle or vessel which occurs:
 - (1) With the consent of the vehicle's or vessel's owner or operator;
 - (2) If the vehicle or vessel is a law enforcement, firefighting, rescue squad, ambulance or other emergency vehicle which is marked as such; or
 - (3) At property owned by a governmental entity.
- (b) This article shall not apply to any vessel located in the County's or the city of Tampa's navigable waters.
- (c) With the exception of Section 50-186 as it relates to rates, this article shall not apply to non-consensual tows as defined in Section 50-173 above.
- (d) Emergency vehicles or vessels described above may not be towed or immobilized except as directed by law enforcement or the Department or at the request of the owner or operator of the emergency vehicle or vessel.
- (e) Commercial vehicles which reasonably appear to be of the kind routinely used for the delivery of mail, packages, supplies, or other products may not be towed or immobilized if it reasonably appears that the vehicle is parked at the location for purposes of making a routine delivery or other service for the property owner or its lessees, unless the Department or a law enforcement officer orders the removal or immobilization or the property owner, agent, lessee or authorized employee thereof has signed an order, prior to removal or immobilization, authorizing said removal or immobilization of a particular vehicle. Such an order issued by the property owner, agent, lessee or authorized employee must contain the same information as specified in Section 50-182(c).

SECTION 2: Section 50-179 is amended to read:

Sec. 50-179. - Public vehicle driver's license ("PVDL") requirements.

- (a) No person shall operate a tow truck without first obtaining a PVDL from the Agency. An application for a PVDL must be submitted to the Agency in the format prescribed by the Agency. Persons who obtained a PVDL, prior to and which is valid as of the effective date of this Ordinance, do not need to apply for a new PVDL from the Agency. However, such person is subject to the renewal provisions of Section 50-184 upon expiration of his/her current PVDL, and, at that time, will also be required to provide a set of fingerprints and sufficient information as described in Subsection (b) below to enable the Agency to obtain a Level II criminal background screening.

- (b) Each applicant shall, at a minimum, provide the following information as part of the application process:
- (1) Payment of an initial, non-refundable application fee, which shall be established by resolution adopted by the BOCC, as may be amended.
 - (2) Pursuant to the County's authority under Florida Statutes, Section 125.5801, as may be amended, a set of fingerprints and sufficient information in the manner prescribed by the Agency to enable the Agency to obtain a Level II criminal background screening on the applicant. The fingerprints shall be submitted to the Florida Department of Law Enforcement for a state criminal background history record check and to the Federal Bureau of Investigation for a national criminal history record check. Prior to submitting a request for a criminal history record check pursuant to this section, the Agency shall notify each applicant to be fingerprinted that his or her fingerprints will be sent to the Florida Department of Law Enforcement for a state criminal history record check and to the Federal Bureau of Investigation for a national criminal history record check.
 - (3) A complete application signed by the certificate holder for which that applicant will drive.
 - (4) Submit a seven (7) year Driver License Transcript that has been issued within the past thirty (30) days.
- (c) Each applicant must possess a valid driver's license in said driver's name issued by the State of Florida. Such driver's license must be valid for at least twelve (12) months prior to being issued a PVDL. If the State of Florida driver's license is less than twelve (12) months old, the applicant may provide proof of a previous valid driver's license issued at least twelve (12) months prior by another state immediately prior to obtaining the State of Florida driver's license. In order to be granted a PVDL, the applicant must not have had any suspensions, cancellations or revocations of the driver's license due to activities associated with operating a motor vehicle within the past five (5) years, and cannot have more than nine (9) points assessed against his or her driver's license within the twelve (12) months preceding the application, or during the application process, for the PVDL for criminal or moving-traffic offenses, including, but not limited to, any of the following specified offenses:
- (1) Failure to comply with ignition interlock requirements;
 - (2) Any court ordered or directed suspensions for criminal or moving-traffic offenses;
 - (3) School bus violations;
 - (4) Medical suspensions or revocations;

- (5) Zero-Tolerance violations for under twenty-one (21) years of age drinking;
 - (6) Theft or fraud;
 - (7) Drug related offenses;
 - (8) DUI;
 - (9) Failure to render aid;
 - (10) Fleeing or attempting to elude;
 - (11) Habitual traffic offender;
 - (12) Manslaughter/vehicular homicide;
 - (13) Reckless driving;
 - (14) Theft of motor vehicle, including theft of parts or components;
 - (15) Offenses involving sexual assault, or other immoral acts;
 - (16) Offenses involving human trafficking.
- (d) All applicants for PVDL's must undergo a Level II criminal background screening.
- (e) Any applicant/driver must not have been found guilty or been convicted of or pled guilty or nolo contendere, regardless of whether adjudication was withheld, to any disqualifying offense as specified below:
- (1) Driving under the influence (DUI) of alcohol or drugs within the past five (5) years;
 - (2) Reckless driving within the past three (3) years;
 - (3) Any violent crime felony or attempted violent crime felony, including, but not limited to: murder; attempted murder; attempted felony murder; manslaughter; armed robbery; robbery; assault with a deadly weapon; aggravated battery; any assault or battery on a person protected pursuant to Florida Statutes, Sections 784.07 or 784.081 which is classified as a felony; any other felony battery or assault; aggravated assault; kidnapping; attempted kidnapping; false imprisonment; armed burglary; aggravated stalking; home invasion; carjacking; and, attempted home invasion (lifetime);

- (4) Any property crime felony within the past five (5) years, including, but not limited to: grand theft; burglary; fraud; and, felony criminal mischief;
 - (5) Any felony crime involving the sale or possession of a controlled substance, as defined by Florida Statutes, Section 893.03, as may be amended, within the past five (5) years;
 - (6) Any misdemeanor crime involving a controlled substance, as defined by Florida Statutes, Section 893.03, as may be amended, within the past two (2) years;
 - (7) DUI Manslaughter or vehicular manslaughter/homicide (lifetime);
 - (8) Leaving the scene of an accident with death or serious bodily injury (lifetime);
 - (9) Leaving the scene of an accident with property damage within the past three (3) years;
 - (10) Any sex crime as defined in Florida Statutes, Chapter 794, as may be amended (lifetime);
 - (11) Any person who is required by law to register as a sex offender/predator, career offender, or convicted felon pursuant to Florida Statutes, Sections 775.13, 775.21, 775.261, 943.0435, 944.607, or 944.608, as may be amended (lifetime);
 - (12) Any crime related to lewdness and indecent exposure as defined in Florida Statutes, Chapter 800, as may be amended (lifetime);
 - (13) Any crime related to prostitution as defined in Florida Statutes, Chapter 796, as may be amended, within the past three (3) years;
 - (14) Any crime in violation of the Florida RICO (Racketeering Influenced and Corrupt Organization) Act, currently Florida Statutes Sections 895.01 through 895.06, as may be amended (lifetime); or
 - (15) Any offense committed in another jurisdiction that would be an offense listed in this Subsection (e) if that offense had been committed in the State of Florida.
- (f) For any offense listed in paragraph (e) which states a time period of ineligibility, said time period begins on the date of conviction, plea, or sentencing, whichever is later.
- (g) Any applicant/driver must not have been found, in the courts of this state, to have committed a delinquent act that would be a crime enumerated in paragraph (e) above if committed by an adult and such person is under twenty-four (24) years of age, or found to have committed a delinquent act in another state, territory, or country that would be a crime

enumerated in paragraph (e) above if committed by an adult and such person is under twenty-four (24) years of age.

- (h) An applicant/driver must not be on probation or parole for a felony crime at the time of application.
- (i) An applicant determined eligible for a PVDL and subsequently arrested, charged, and/or found guilty or been convicted of or pled guilty or nolo contendere to any disqualifying offense listed above shall notify the Agency of such within five (5) days.
- (j) Each tow truck driver shall possess and display the PVDL on his or her person at all times in a manner that is readily visible by others while on duty as a tow truck driver.
- (k) A driver shall not operate a tow truck if his or her PVDL has expired or has been revoked or suspended.
- (l) A driver shall not operate a tow truck unless such vehicle is permitted by the Agency as required by Section 50-178.
- (m) All drivers shall cooperate with the Agency and/or the Department to permit inspections of tow trucks to verify compliance with the requirements of this article.
- (n) An applicant at the time of application, or during the application process must not have a disqualifying crime enumerated in paragraph (e) above pending in any court. If it is determined that any such disqualifying charge is pending during the application process, the application will be placed on hold until the outcome of the charge(s) is finalized. This hold includes the time period in which an applicant may be participating in a pre-trial intervention program.
- (o)
 - (1) An applicant at the time of application, or during the application process must not have his or her driver's license restricted pursuant to Florida Statutes, Chapter 322, to "'business purposes only' or 'employment purposes only'" due to any cause related to moving-traffic and/or criminal offenses.
 - (2) The Agency and/or the Department may make exceptions for driver licenses that have been suspended or otherwise restricted due to non-traffic or non-criminal procedural issues such as failure to timely pay a traffic ticket or child/spousal support issues if the applicant or license holder demonstrates that he or she has actively taken steps to rectify the suspension or restriction by making obligated payments.

SECTION 3: SEVERABILITY.

If any portion of this Ordinance is for any reason held invalid or declared to be unconstitutional, inoperative or void by any court of competent jurisdiction, such holdings shall not affect the validity of the remainder of this Ordinance.

SECTION 4: RESOLUTION OF CONFLICT OF LAWS.

In all instances where Florida law, as evidenced by the Florida Administrative Code, Florida Statutes, applicable case law or otherwise, mandates standards or requirements that are stricter than the provisions of this Ordinance, or where a matter is addressed by Florida law that is not addressed by this Ordinance, then said law shall govern. In situations where this Ordinance addresses a matter in a manner that is stricter than that of Florida law, the provisions of this Ordinance shall control.

SECTION 5: INCLUSION IN THE HILLSBOROUGH COUNTY CODE.

The provisions of this Ordinance shall be included and incorporated in the Hillsborough County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Hillsborough County Code, once established.

SECTION 6: FILING OF ORDINANCE.

In accordance with the provisions of Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Florida Department of State.

SECTION 7: EFFECTIVE DATE.

This Ordinance shall become effective upon filing with the Florida Department of State.

STATE OF FLORIDA))
COUNTY OF HILLSBOROUGH))

I, PAT FRANK, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance adopted by the Board of County Commissioners at its meeting of June 19, 2019, as the same appears of record in Minute Book 517, of the Public Records of Hillsborough County Florida.

WITNESS my hand and official seal this 20th day of June 2019.

PAT FRANK
CLERK OF CIRCUIT COURT



By: Mildred K. Ditt
Deputy Clerk

Approved by County Attorney
as to Form and Legal Sufficiency

By: [Signature]
Sr. Assistant County Attorney



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

June 20, 2019

Honorable Pat Frank
Clerk of the Circuit Court
Hillsborough County
419 Pierce Street, Room 140
Tampa, Florida 33601

Attention: Midge Dixon

Dear Mrs. Frank:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hillsborough County Ordinance No. 19-16, which was filed in this office on June 20, 2019.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb