

ORDINANCE NO. 08-17

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 70 OF THE CODE OF ORDINANCES ENTITLED "TRAFFIC AND VEHICLES" BY AMENDING SECTION 70-646 THROUGH 70-660 AND CREATING SECTIONS 70-661 AND 70-662; PROVIDING FOR DEFINITIONS, MINIMUM SAFETY REQUIREMENTS, INCREASED PERMIT FEES, PROHIBITED ACTS, AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, The City of Key West recognizes the inherent dangers involved in towing vehicles and the increased safety concerns regarding the towing of vehicles on the congested streets of the City of Key West; and

WHEREAS, it is the intent of The City of Key West to increase the requirements for tow truck operators to operate safely in the City of Key West; and

WHEREAS, The City of Key West has determined that this ordinance is in the public's best interest and necessity, and promotes the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That Chapter 6, Article I of the Code of Ordinances is hereby amended as follows*:

Sec. 70-646. Definitions.

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

(1) Administrative fee means the charge for notifying a motor vehicle owner and any lien holders that a wrecker operator has towed and stored the motor vehicle.

(2) Commercially manufactured wrecker means a tow truck that is:

a. Designed and constructed by a wrecker manufacturer which offers its wreckers for sale; or

b. Assembled by a business licensed and approved to assemble and certify wreckers according to manufacturer's specifications. FS 713.78 & 715.07 will be the prevailing Statutes

(3) Motor vehicle or vehicle shall mean any motor vehicle as described in section 320.01(1), Florida Statutes.

(4) Wrecker also means tow truck.

(5) Wrecker operator or operator means the individual, partnership, corporation, or business entity engaged for hire in the recovery, towing removal, or storage of wrecked, disabled, stolen or abandoned motor vehicles. For the purpose of this section, a hired driver or employee shall be governed by this section and shall be considered an agent of the wrecker operator.

~~Wrecker and tow truck mean any motor vehicle designed or adapted for towing or transporting vehicles and vessels.~~

Sec. 70-647. Regulations; Jurisdiction

The chief of police shall have the power to make such regulations as may be necessary to carry out this division and shall furnish to each licensed towing service a copy of such regulations. The provisions of this section shall apply to all wrecker operators providing towing and the removal of motor vehicle service and motor vehicle storage

in the City of Key West at the request of a law enforcement officer.

Sec. 70-648. Emergency conditions.

Nothing contained in this division shall be construed to limit the authority of the police department to otherwise request towing services in an emergency where necessary to preserve or promote the public health, safety, and welfare.

Sec. 70-649. Rotating call list.

(1) There is established a city rotating call list. A person in the business of operating a wrecker and who is eligible under this division may apply for a permit to be placed on the rotating call list and thereby take possession, handle, and store vehicles and vessels on land, as directed by the police department. The city may place itself on the rotating call list.

(2) A tow company on the rotating call list shall tow every vehicle or vessel on land as directed by the police department. The tow shall occur immediately when the police department indicates a safety hazard. The tow company neither shall undertake selective towing nor impose its own limits on the number of vehicles or vessels on land it will tow in a given time period. If a tow company determines not

to tow a vehicle or vessel on land per the direction of the police department, the tow company must justify its determination to the satisfaction of the police chief or his designee, or otherwise be subject to removal from the rotating call list. If all members of the rotating call list are unable to respond to a call, the police department may call for a wrecker not on the rotating call list.

(3) Except in extraordinary circumstances as authorized by the City Manager or his designee all vehicles and vessels on land towed by a tow company must be stored by that tow company within a distance no greater than mile marker 15 on US 1.

(4) The intent of this division is not to preclude a towing company and an owner of a vehicle or vessel to enter into a private agreement for the removal of the vehicle or vessel; provided, however, that a towing company shall not remove a vehicle or vessel if advised by the police department that it is needed as evidence in a criminal action.

(5) In the event that the rotating call list fails to assure an orderly removal of abandoned vehicles from the city's rights-of-way or public places, then the city may establish any lawful program or set of administrative rules necessary to ensure the removal of abandoned vehicles.

(6) Once notified by Communications, the Duty Tow /Wrecker service will respond to the requested scene within thirty (30) minutes. If the Tow/Wrecker service is unable to meet the deadline then the next Duty Tow/Wrecker will be called. For abandoned vehicles the duty abandoned tow/wrecker service will respond within 24 hours of being notified. Unless exigent circumstances exist, the Abandoned Duty rotation will be Mon-Fri during normal business hours

Sec. 70-650. Application for placement; License

Requirements; Revocation

~~Any person desiring to be placed on a call list for the purpose of offering towing service with the police department for the handling, removing and caring for lost, stolen, abandoned, and damaged vehicles impeding the free flow of traffic shall make application for an approval with the police department, and such application shall state the following:~~

~~(1) The name, home address and proposed business address of the applicant.~~

~~(2) The location, description and number of the tow trucks and towing services owned and operated by the applicant.~~

~~(3) The applicant has available space for properly accommodating and protecting all motor vehicles entrusted to the applicant's care; provided, however, that the requirement of this subsection may be adjusted, at the discretion of the chief of police, for an applicant who would propose to remove abandoned vehicles from the rights of way or public places of the city.~~

~~(4) The applicant shall present proof of possession of a valid state commercial tow truck operator's license for all employees providing services pursuant to this division.~~

~~(5) The applicant shall submit proof of a valid city business tax receipt.~~

(1) Selection

(a) Towing or wrecker companies providing city-initiated towing services shall be selected by a duly advertised request for proposals or requests for qualifications, as determined by the city commission by resolution. As part of the request for proposal or qualifications, each applicant must submit a completed application.

(b) Every application for a towing license shall be in writing with a notarized signature of the applicant.

(c) Every application shall be filed with the licensing section together with an investigative, processing fee established in Sec. 50-652.

(d)The statements contained in the application shall become part of the towing license and may be modified only in accordance with the provisions of this article.

(e)Every application for a towing license shall be on a form prescribed by the licensing section and shall contain all the information required by that form, including, but not limited to:

- I. Sufficient information to identify the applicant; including, but not limited to, full legal name, date of birth or date of formation or incorporation of legal entity, business telephone numbers, and all business and residence addresses. If the applicant is a corporation, the foregoing information shall also be provided for each corporate officer, director, resident agent and shareholder. If the applicant is a partnership, the foregoing information shall also be provided for each general and each limited

partner. Post office box addresses will not be accepted.

- II. Documentation demonstrating that all corporate or partnership applicants are qualified to do business under state law.
- III. Photocopy of all city and county occupational licenses of the applicant.
- IV. A list of all persons with any ownership interest in the applicant who have previously been denied a license.
- V. 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.
- VI. A description of the applicant's management plan, which shall include, but is not limited to: Location and description of all places of business; A description of all towing vehicles and equipment; A description of the plan and facilities for maintaining towing vehicles and equipment; A system for handling complaints and accidents, insurance

coverage and a description of any communication system.

VII. A description of services proposed to be provided, including, but not limited to, days and hours of operation and types of towing and storage services to be provided.

VIII. Sufficient information to identify the applicant and each employee, including, but not limited to, full legal name, date of birth and social security number. For each employee, the wrecker company shall obtain documentation from the relevant local, state and federal agencies regarding the employee's criminal and arrest history and submit such information to the city. Wrecker companies shall submit current employee information every six months.

IX. Individual applicants shall obtain their fingerprints and photographs from the police department and provide them with the application and, where civil rights have been revoked, provide such

information with the application. If the applicant is a corporation or partnership, all such information shall be provided by all corporate officers and directors, or partners, as the case may be, and by all stockholders who own, hold or control five percent or more of issued and outstanding stock in the corporation or beneficial interest therein, and by all officers and directors of any corporate general partners of a partnership and by stockholders who own, hold or control five percent or more of issued and outstanding stock in a corporate general partner, or beneficial interest therein.

X. Proof of insurance as required in this article.

XI. The signature of each individual applicant, the signature of the president or vice-president of a corporate applicant, and the signature of all the general partners of a partnership applicant.

- XII. An affidavit signed by the applicant that the applicant shall abide by this article, city, county and state law.
- XIII. It shall be a violation of this section to fail to report to the licensing department any material change pertaining to the information supplied by the applicant or licensee for his license, including, but not limited to, changing the location of the applicant's place of business prior to issuing the license and during the time period for which the license has been issued.
- XIV. Each applicant for a license shall provide a schedule of all proposed rates and charges on a form prepared by the licensing section.
- XV. Any additional information about the application as the licensing department may deem appropriate.

(f) In order to be considered for Duty Tow Rotation, the tow company/wrecker service must also tow abandoned vehicles when directed to do so. The

Abandoned Vehicle rotation list will be determined by the Chief of Police or his/her designee. For Abandoned vehicles, the duty abandoned tow/wrecker service will respond within 24 hours of being notified. Unless exigent circumstances exist, the Abandoned Duty rotation will be Monday-Friday during normal business hours

(g) The City Manager or his designee is authorized to issue licenses to applicants who have met the standards and requirements for a towing license, and to promulgate rules, regulations and procedures for the application, issuance and revocation of such licenses.

(h) The City Manager or his designee shall review and investigate each application for a towing license and shall reject any application that is not properly filed or is incomplete or untrue in whole or in part, or which fails in any way to meet the requirements of subsection (e) of this section.

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

- I. Filed with the licensing administrator a true, correct and complete application on the form prescribed by the licensing section, including all proofs of required insurance.
- II. Paid the initial, renewal or late application fee, as applicable.
- III. Submitted to a background investigation resulting in a determination by the licensing administrator 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 and outstanding stock of a corporate general partner of a partnership applicant, has a currently suspended license, has had its license revoked by action of the licensing director within two years of the date of application, or has outstanding and

unsatisfied civil penalties imposed on
account of violations of this article.

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 and
outstanding stock of a corporate general
partner of a partnership applicant, has been
convicted of one or more felonies within the
preceding five years; or that three
misdemeanors have been committed within the
36-month period preceding the date of the
application, unless the civil rights of such
individual or applicant have been restored
or that 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 licensing
administrator may only consider crimes
committed after the date the applicant
obtained his license, unless such crimes

were not previously disclosed in the original application.

C. Each corporate or partnership application is qualified under the state law to do business under the trade name or names under which it has applied for a license.

D. No fraud or willful or knowing misrepresentation or false statement was made in the application.

E. No judgment against the applicant arising out of the activity of recovery, towing or removing a vehicle or providing storage in connection therewith remains unsatisfied, unless a stay or reversal of the judgment is procured through the courts.

F. No outstanding warrants of arrest against 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 and outstanding stock of a corporate general partner of a partnership applicant.

(j) Each towing license shall be on a form prescribed by the licensing section and shall be signed by the licensing administrator. Each towing license shall contain, at a minimum, the name and address of the applicant, the dates the license remains in effect unless suspended or revoked, and a statement of such additional terms and conditions, restrictions and limitations as were authorized in the application and approval process.

(k) Prior to the expiration of the initial towing license or expiration of the annual license, where applicable, an applicant may apply for an annual towing license. As a part of the renewal process, the original application shall be updated and verified by the applicant on forms prescribed by the licensing section. Renewal applications shall also include such financial information, as licensing department shall deem necessary to consider the continued appropriateness of maximum fees established by resolution. Each updated renewal application shall be submitted at least 60 days prior to expiration of the current initial or annual license and shall be accompanied by a renewal fee in an amount established

by resolution. The amount of the renewal fee shall be reasonably related to the cost of the administrative services and regulation provided, and shall be in addition to any other fees or charges required by this article. All annual towing licenses that are not renewed shall automatically expire on September 30 following the issuance date and all recovery; towing, removing and storage services permitted there under shall cease immediately. The licensing administrator shall deny each renewal application that is not timely, not properly filed, incomplete, untrue in whole or in part, unaccompanied by the required fee, or results in a determination by the licensing administrator that the applicant has failed to satisfy the requirements of subsection (i)(III) of this section.

(1) A license issued or renewed pursuant to the provisions of this article shall not be transferable, nor shall the ownership structure of the license be so modified as to continue a change in control or ownership of the license, without city commission approval.

(m) Each year the City of Key West will utilize the Consumer Price Index (CPI) as set forth by the United States Department of Labor as a guideline for possible rate increase/decrease of the respective duty rotation wrecker/tow companies.

Sec. 70-651. One business under different names.

It is the intention of this division that persons engaged in towing service shall not be allowed to seek separate licenses under different names where the ownership of the towing businesses is actually the same and/or the towing services are provided from the same premises. The chief of police and the police department shall have the power to make the necessary investigation to determine if the applicant's equipment is actually owned by and operated from the premises of an applicant who had been issued a permit by the city to be placed on a call list for the purpose of offering towing service on a rotation basis with the police department. If such investigation proves that the applicant is the same owner and/or the equipment is operated from the same premises, the police department shall deny such additional rotation turn.

Sec. 70-652. Filing of application, fee.

Application to be placed on the rotation call list shall be made to the chief of police in duplicate and shall be accompanied by an application fee of \$50.00. One of the applications shall be marked by the chief of police and delivered to the city manager disclosing that the applicant owns and possesses a business tax receipt to operate a tow truck and that the fee has been paid.

Sec. 70-653. Investigation, approval.

The police department shall ~~make~~ conduct an investigation of the applicant(s) for the rotation call list and ~~his driver~~ including any employees and shall approve the application if the applicant meets the requirements set out in this division. The chief of police, upon receipt of the approved application, shall issue for the applicant to be placed on the call list as provided in this division.

Sec. 70-654. ~~Tow truck equipment.~~ Wrecker classification and required equipment:

~~(a) Before an applicant shall be approved by the police department for placement on the rotating call list for a particular class of vehicle, the applicant must show that he is able to provide tow truck equipment and capacity~~

~~pursuant to state highway patrol requirements promulgated for A, B, or C roll back/slide back carrier service.~~

~~(b) Class A wreckers, for the removal of cars and light duty trucks and vehicles weighing 10,000 pounds gross vehicle weight or less, are defined as follows:~~

~~(1) A truck chassis with a manufacturer's rated capacity of at least 10,000 pounds gross vehicle weight. A complete, commercially manufactured boom and winch having a manufacturer's combined rating of at least four tons must be mounted on the chassis. Hand crank winches do not satisfy these requirements and will not be approved.~~

~~(2) A minimum of 100 feet of three eighths inch cable.~~

~~(3) Dollies.~~

~~(4) Floodlights on the hoist.~~

~~(5) Vehicles which are equipped with wheel lifts or the equivalent may also qualify as class A tow trucks so long as they are equipped with a boom and all other applicable requirements are met. Wheel lifts shall be rated at a minimum of 3,000 pounds lift capacity and must use wheel safety straps when lifting vehicles by the wheels only.~~

~~(6) Operators who wish to remove cars and light trucks may have, in addition, a roll back or slide back carrier truck/trailer with specifications and the equipment as provided in this section.~~

~~(c) Class A roll back or slide back wreckers, for the removal of cars and light duty trucks and vehicles weighing 10,000 pounds gross vehicle weight or less, are defined as follows:~~

~~(1) A truck chassis with manufacturer's rated capacity of at least 10,000 pounds gross vehicle weight with a minimum of a 16 foot bed, dual rear wheels and a winch with at least 8,000 pounds' capacity.~~

~~(2) A minimum of 50 feet of three eighths inch cable.~~

~~(3) A minimum of two safety tiedown chains of at least ten feet each in length.~~

~~(4) Two spotlights or floodlights mounted on the rear of the carrier.~~

~~(5) A roll back or slide back carrier trailer shall meet the following requirements:~~

~~a. A commercially manufactured carrier trailer with a rated capacity of at least 8,000 pounds with a minimum 16-foot bed. A winch with at least 8,000 pounds' capacity.~~

~~b. A minimum of 50 feet of three eighths inch cable.~~

~~c. Brakes and trailer lights which meet the minimum statutory requirements of state law.~~

~~d. Safety chains.~~

~~e. Must be towed by and used in conjunction with an approved wrecker that meets or exceeds the class of the vehicle to be towed.~~

~~(d) Class B wreckers, for removal of medium duty trucks or vehicles weighing 20,000 pounds gross vehicle weight or less, are as follows:~~

~~(1) A truck chassis with a manufacturer's rated capacity of at least 20,000 pounds gross vehicle weight. A complete, twin winch, commercially manufactured boom and winches having a manufacturer's combined rating of at least ten ton capacity mounted on the chassis.~~

~~(2) A minimum of 100 feet of at least one half inch cable on each drum.~~

~~(3) One set of scotch blocks for wheels or hydraulic rear extendable scotch blocks.~~

~~(4) Floodlights on the hoist.~~

~~(e) Class C wreckers, for removal of heavy duty trucks, house trailers, buses, etc., weighing over 20,000 pounds gross vehicle weight, are as follows:~~

~~(1) A truck chassis with a manufacturer's rated capacity of at least 30,000 pounds gross vehicle weight and 30,000 pounds gross vehicle weight for tandem axle trucks. A complete, twin winch, commercially manufactured boom and~~

~~winch~~es having a manufacturer's combined rating of at least 25-ton capacity mounted on the chassis.

~~(2) A minimum of 200 feet of at least five eighths inch cable on each drum.~~

~~(3) Air brakes so constructed as to lock the rear wheels automatically upon failure.~~

~~(4) External air hookup and hoses, to supply air to disabled vehicles.~~

~~(5) One set of scotch blocks for wheels or hydraulic rear extendable scotch blocks.~~

~~(6) Floodlights on the hoist.~~

(1) Each tow truck owned or maintained by a wrecker operator shall be commercially manufactured and shall conform to all other requirements of this section. ~~The requirements of this section are waived only for those operators with tow trucks which were purchased before the effective date of this section or which were under a binding contract to purchase which was entered into before the effective date of this section.~~

(2) All tow trucks shall be equipped with a business-type communication radio or mobile telephone or cellular telephone. There shall be one (1) radio or phone for each truck. The equipment shall be licensed and approved by the

Federal Communications Commission. The mobile radio or telephone shall enable the wrecker operator to communicate with his trucks within his usual area of operation. A citizens band radio does not meet the requirements of this subsection.

(3) Specifications and required equipment shall be as follows:

(a) All wreckers (all classifications) shall include the following:

- I. A cradle, tow plate or tow sling to pick up motor vehicles. The cradle, tow plate or tow sling shall be equipped with safety chains and constructed in such a manner that it will not damage the motor vehicle to be towed.
- II. Dual rear wheels.
- III. Clearance and marker lights and all other equipment as required by Florida Statutes chapter 316.
- IV. A rotor beam or strobe-type light, amber in color, mounted on the wrecker in such a manner that it can be seen from the front, rear, and both sides.

- V. The name, address and telephone number of the wrecker operator shall be painted or permanently affixed in a conspicuous place on both sides of the trucks as required by Florida Statutes section 713.78(2).
- VI. At least one (1) heavy duty push broom with a minimum width of twenty-four (24) inches.
- VII. One (1) square shovel.
- VIII. One (1) ax.
- IX. One (1) crowbar or pry-bar with a minimum length of thirty (30) inches.
- X. Minimum of one (1) five-pound CO2 or dry chemical fire extinguisher or equivalent. Must be approved type and have a current inspection tag attached.
- XI. One (1) pair of bolt cutters with a minimum opening of one-half (1/2) inch.
- XII. One (1) set of jumper cables.
- XIII. One (1) four-way lug wrench.
- XIV. One (1) flashlight.
- XV. Five (5) thirty-minute fuses.
- XVI. One (1) snatch block for each winch with manufacturer's rating to match winch.
- XVII. Extra towing chain six (6) to eight (8) feet in length with hooks.

XVIII. At least three (3) safety cones or triangle reflectors.

XIX. Fifty (50) pounds of sand or petroleum absorbent.

(b) Class "A" wreckers (for the removal of cars and light duty trucks and vehicles weighing ten thousand (10,000) pounds gross vehicle weight or less): Specifications and equipment in addition to requirements outlined in subsection (b)(3)a of this section, shall be as follows:

I. A truck chassis with a manufacturer's rated capacity of at least ten thousand (10,000) pounds gross vehicle weight. A complete, commercially manufactured boom and at least one winch having a manufacturer's combined rating of at least four (4) tons must be mounted on the chassis. Hand crank winches do not satisfy these requirements and will not be approved.

II. A minimum of one hundred (100) feet of three-eighths-inch cable.

III. Dollies.

IV. Flood lights on the hoist.

V. Vehicles which are equipped with wheel lifts or the equivalent may also qualify as class "A" tow

trucks so long as they are equipped with a boom and all other applicable requirements are met. Wheel lifts shall be rated at a minimum of three thousand (3,000) pounds lift capacity and must utilize wheel safety straps when lifting vehicles by the wheels only.

VI. Operators who wish to remove cars and light trucks may have, in addition, a roll-back or slide-back carrier truck/trailer with specifications and the equipment as provided in subsection 11-7(b)(3)c of this section.

(c) Class "A" roll-back or slide-back wreckers (for the removal of cars and light duty trucks and vehicles weighing ten thousand (10,000) pounds gross vehicle weight or less): Specifications and equipment for roll-back or slide-back carriers in addition to the requirements outlined in subsection 11-7(b)(3)a of this section shall include the following:

I. A truck chassis with a manufacturer's rated capacity of at least ten thousand (10,000) pounds gross vehicle weight with a minimum of a sixteen-foot bed, dual rear wheels and a winch with at least eight thousand (8,000) pounds capacity.

- II. A minimum of fifty (50) feet of three-eighths-inch cable.
- III. A minimum of two (2) safety tie-down chains of at least ten (10) feet each in length.
- IV. Two (2) spot (flood) lights mounted on the rear of the carrier.
- V. A roll-back or slide-back carrier trailer shall meet the following requirements:
 - A. A commercially manufactured carrier trailer with a rated capacity of at least eight thousand (8,000) pounds gross vehicle weight with a minimum sixteen-foot bed equipped with a winch with at least eight thousand (8,000) pounds lifting/pulling capacity.
 - B. A minimum of fifty (50) feet of three-eighths-inch cable.
 - C. Brakes and trailer lights which meet the minimum statutory requirements of Florida law.
 - D. Safety chains.
 - E. Must be towed by and used in conjunction with an approved wrecker that meets or exceeds the class of the vehicle to be towed.

(d) Class "B" wreckers (for removal of medium duty trucks or vehicles weighing twenty thousand (20,000) pounds gross vehicle weight or less): Specifications and equipment in addition to the requirements outlined in subsection 11-7(b)(3)a of this section, shall be as follows:

- I. A truck chassis with a manufacturer's rated capacity of at least twenty thousand (20,000) pounds gross vehicle weight. A complete, twin-winch, commercially manufactured boom and winches having a manufacturer's combined rating of at least ten-ton capacity mounted on the chassis.
- II. A minimum of one hundred (100) feet of at least one-half-inch cable on each drum.
- III. One (1) set of scotch blocks for wheels or hydraulic rear-extendable scotch blocks.
- IV. Flood lights on the hoist.

(e) Class "C" wreckers (for removal of heavy duty trucks, house trailers, buses, etc., weighing over twenty thousand (20,000) pounds gross vehicle weight): Specifications and equipment in addition to

the requirements outlined in subsection 11-7(b)(3)a of this section, shall be as follows:

- I. A truck chassis with a manufacturer's rated capacity of at least thirty thousand (30,000) pounds gross vehicle weight and thirty thousand (30,000) pounds gross vehicle weight for tandem axle trucks. A complete, twin-winch, commercially manufactured boom and winches having a manufacturer's combined rating of at least twenty-five-ton capacity mounted on the chassis.
- II. A minimum of two hundred (200) feet of at least five-eighths-inch cable on each drum.
- III. Air brakes so constructed as to lock the rear wheels automatically upon failure.
- IV. External air hookup and hoses, to supply air to disabled vehicles.
- V. One (1) set of scotch blocks for wheels or hydraulic rear-extendable scotch blocks.
- VI. Flood lights on the hoist.

(f) Class D wrecker. The requirements for a class "D " wrecker are as follows:

- I. Commercially manufactured unit, with a rated capacity of not less than 52,000 pounds, GVW,

according to the manufacturer's identification plate. Any modification to increase GVW must be documented by the dealer or manufacturer.

- II. Cab to bogey dimension of not less than 180 inches.
- III. Commercially manufactured boom or booms with a minimum total capacity of 70,000 pounds.
- IV. Hydraulically operated winch or winches with a minimum total winching capacity of 70,000 pounds.
- V. Two hundred feet of three-fourths-inch steel core cable per winch.
- VI. Hydraulically operated under reach with a retracted rating of not less than 45,000 pounds and an extended rating of not less than 12,000 pounds.
- VII. Rear support jacks or outriggers.
- VIII. Two one-half-inch alloy safety chains.
- IX. Tow bar or tow-sling equipped.
- X. External air hookup and minimum hoses to supply air to disabled vehicles.
- XI. Two snatch blocks, minimum 24,000-pound capacity for each.
- XII. Spring brake-air lock.
- XIII. Two scotch blocks.

XIV. Six to eight feet of extra towing chain with hoods, minimum 4,000-pound capacity.

(4) This section only applies to wrecker operators providing towing services to law enforcement agencies.

Sec. 70-655. Disapproval, appeal.

If a person's application to be placed on the rotating call list is disapproved, the police department shall immediately notify the applicant accordingly. If the application for placement on the rotating list is disapproved by the police department, such applicant shall have the right to appeal the decision of the police department by filing a notice of such appeal to the city commission with the city clerk within 20 days after notification to the applicant by the police department of its disapproval. The application fee shall not be refunded if the application is denied.

Sec. 70-656. Insurance required.

~~Each holder of a rotating call list permit shall maintain~~
No person for compensation shall recover, tow, or remove a motor vehicle or provide motor vehicle storage or otherwise

function as a wrecker operator until that person maintains
in effect an insurance policy which shall insure it for its
liability at a minimum, as follows:

(1) For each tow truck, combined single limit of
\$500,000.00; and

(2) For garage keeper's liability, not less than
\$50,000.00 for each loss covering perils of fire and
explosion, theft of a motor vehicle and parts or contents,
riot and civil commotion, vandalism, malicious mischief,
and for on-hook protection; provided, however, that the
requirement of this subsection may be adjusted, at the
discretion of the chief of police, for an applicant who
would propose to remove abandoned vehicles from the rights-
of-way or public places of the city.

**Sec. 70-657. Removal from rotating call list; Revocation
or suspension of license.**

~~Any violation of this division may subject a tow company on
the rotating call list to suspension or revocation. The
city manager or his designee shall conduct a hearing and
provide notice and an opportunity to be heard to the
subject tow company. The city manager or his designee shall
take into consideration: (i) the nature of the violation or~~

~~alleged violation; (ii) the towing company's record of violations and complaints against it; and (iii) the history of recurrence of violations by the tow company. Only when there is a history of recurrence of the violation or an instance of consumer fraud or an earlier suspension under this division may the city manager or his designee revoke the rotating call list permit and remove the tow company from the list. In all other instances, the city manager or his designee, upon his judgment, may issue a suspension order. A suspension shall not exceed 90 days. The decision of the city manager or his designee may be appealed to the city commission by the filing of an appeal in writing to the city clerk within ten days of the receipt of the decision. An appeal stays execution of the order.~~

On written complaint of any person or by its own initiation, The Chief of Police or his/her designee may investigate the activities or action of a business licensed under this article to determine if there are grounds for revocation or suspension of a license. The Chief of Police or designee upon notice to the licensee and upon public hearing, shall determine if the license should be revoked or suspended based on evidence and testimony presented at the hearing.

Sec. 70-658. ~~Maximum charges.~~ Rates

(1) For the removal and storage of wrecked or disabled motor vehicles or for the removal and storage of abandoned motor vehicles at the request of a law enforcement officer, the maximum rate that may be charged by a wrecker operator is:

(a) Class "A" wrecker service- \$135.00

- I. For motorcycles, cars and vehicles weighing 10,000 pounds or less
- II. Inside storage per day (after the first 6 hours)- \$40.00 plus \$2.00 per foot for vehicles over 20 feet in length.
- III. Outside storage per day (after the first 6 hours)- \$40.00 plus \$1.00 per foot for vehicles over 20 feet in length
- IV. Hourly charge in pro-rated quarter hour increments beginning 60 minutes after arrival- \$135.00
- V. Administrative fee per notification- \$25.00
- VI. After hours gate fee- \$75.00

(b) Class "B" wrecker service- \$200.00

- I. For vehicles weighing 20,000 pounds or less

II. Inside storage per day (after the first 6 hours)-
\$40.00 plus \$2.00 per foot for vehicles over 20
feet in length.

III. Outside storage per day (after the first 6
hours)- \$40.00 plus \$1.00 per foot for vehicles
over 20 feet in length

IV. Hourly charge in pro-rated quarter hour
increments beginning 60 minutes after arrival-
\$180.00

V. Administrative fee per notification- \$25.00

VI. After hours gate fee- \$75.00

(c) Class "C &D" wrecker service- \$485.00

I. For vehicles weighing between 20,000 pounds to
52,000 pounds

II. Inside storage per day (after the first 6 hours)-
\$40.00 plus \$2.00 per foot for vehicles over 20
feet in length.

III. Outside storage per day (after the first 6
hours)- \$40.00 plus \$1.00 per foot for vehicles
over 20 feet in length

IV. Hourly charge in pro-rated quarter hour
increments beginning 60 minutes after arrival-
\$300.00

V. Administrative fee per notification- \$25.00

VI. After hours gate fee- \$75.00

~~(a) Base rate. The maximum charges for ordinary towing and road service made pursuant to this division are as follows:~~

~~(1) Class A wrecker . . . \$ 85.00~~

~~(2) Class B wrecker . . . 85.00~~

~~(3) Class C wrecker . . . 300.00~~

(2) The daily storage rate must be prorated in six-hour increments when the vehicle is retrieved by the owner or his agent. The administrative fee may only be charged when notice is sent by the operator to the motor vehicle owner and any lien holder(s).

(3) ~~(b)~~ Ordinary towing and road service shall include the use of a sling or wheel lift when required to be used to render the service, and no additional charges are to be made for use of the sling or wheel lift.

(4) ~~(e)~~ Additional rates. Charges for towing and road service in addition to those set forth in subsection (a) of

this section are permitted, when necessary and applicable, as follows:

(a) ~~(1)~~ For extraordinary tows, an hourly rate may be charged by the tow company. Whether the tow is extraordinary and eligible for the additional hourly charge shall be authorized or ratified by the police chief. The hourly rate shall be cumulative for all employees of the tow company involved in the extraordinary tow. The hourly rate shall be \$100.00 per hour.

(b) ~~(2)~~ For use of a GoJac or other type of dolly, a device to lift individual wheels manually, the rate shall be \$30.00.

(c) ~~(3)~~ If the tow company is required to remove either a front or rear axle in order to perform the tow, the rate shall be \$40.00.

(d) ~~(4)~~ If the tow company is required to remove a drive shaft in order to perform the tow, the rate shall be \$50.00.

(e) ~~(5)~~ ~~For a~~ Use of a Lo-Boy trailer for carrying vehicles the rate shall be \$300.00. However, ~~except that~~ a Lo-Boy shall not be used and therefore not charged simultaneously with a class C wrecker, ~~the rate shall be \$300.00.~~

(f) ~~(6)~~ The tow company shall not charge for mileage for tows of vehicles or vessels on land picked up in the city and brought to the tow company's storage area. For any other tow, at the direction of the police department, the tow company may charge a mileage fee of ~~\$2.00~~ \$3.00 per mile.

(g) ~~(7)~~ Sales tax shall be added to all charges under this section.

(5) ~~(d)~~ ~~Once a towing service has been requested by an officer and the towing service has arrived at the vehicle, if the owner or driver of the vehicle in violation returns to the vehicle after physical preparation for towing service has begun and before the wrecker has been put in motion to depart the area with the vehicle, the tow operator shall release the vehicle to the owner or driver of the vehicle, upon police authorization and upon payment of a fee of not more than one half of the base rate for towing charges as set forth in subsection (a) of this section.~~ In the event a law enforcement officer needs a tow truck for a towable violation, and once the towing service has been requested by the officer at the violation site and the operator has advised the officer that he is en route to the request, should the owner or driver of the motor vehicle in violation return to the vehicle site before the

operator has arrived at the motor vehicle, or before the operator has departed with the vehicle, and upon the officer's authorization to release the vehicle to the owner or driver, then the owner or driver of the vehicle shall pay a charge of not more than one-half (1/2) of the base rate for the class of towing service called for.

(6) ~~(e)~~ Towing companies may charge an additional \$20.00 per vehicle as compensation for all certified letters and all other time and expenses incurred through compliance with F.S. § 713.78, provided that the charge shall not be due and owing until the towing service has complied with the notice requirements of the statute.

~~(f) For storage of vehicles and vessels required to be stored as a result of the towing and road service as provided in this section, the maximum charge shall be \$20.00 per day or a fraction thereof. Oversize vehicles, including but not limited to recreational vehicles and trucks, shall be charged a daily storage rate equivalent to \$20.00 for the first 15 feet and \$1.00 for every foot in length thereafter.~~

(7) ~~(g)~~ This section applies only to rates charged by towing services called at the request of a law enforcement officer ~~city personnel~~, rather than by direction of the owner of the vehicle or vessel on land. In all other

situations this section does not apply, and the parties may negotiate prices and rates as in other ordinary service contracts.

(8) (h)— In addition to accepting cash, all tow companies shall accept travelers checks and credit cards from vehicle and vessel owners.

(9) A wrecker operator may dispatch a heavier class of wrecker to the site but may charge no more than the rates applicable to the type of service required. Should a recreational vehicle, boat, or other type of trailer be attached to a motor vehicle which requires towing, and only one tow truck is required to remove the vehicle and its trailer, only one (1) tow charge may be levied for the combined length of the vehicle and its trailer.

Sec. 70-659. Display of rates.

Every towing service operating under this division shall conspicuously display at its place of business the maximum charges that may be imposed for ordinary towing and road service under this section, and failure to do so shall be an offense punishable as provided by ~~section~~ Sec. 1-15. All operators shall provide a copy of the posted tow charges to any vehicle owner or operator upon request.

Sec. 70-660. Billing for charges.

(1) ~~(a)~~ The owner or operator of a towing service shall have prepared billheads setting forth the name and address of the place of business of the towing service. Before removing a disabled vehicle a bill on such billhead form, in duplicate, shall be prepared, the original of which shall be given to the owner or operator of the disabled vehicle or his authorized representative if available and a duplicate copy shall be retained by the towing service.

Bills shall contain the following information:

(a) ~~(1)~~ The name and address of the person engaging in the towing service.

(b) ~~(2)~~ The state license number of the disabled vehicle.

(c) ~~(3)~~ The total amount to be charged for the towing service, if known.

(2) ~~(b)~~ The towing service shall retain a duplicate copy of the bill for a period of six months and shall produce the copy upon demand of the police department or any other person who removes the disabled vehicle from the compound of the wrecker service to any other place.

Sec. 70-661 Storage facilities.

(1) Wrecker operators shall provide storage facilities which shall be maintained at the operator's place of business. These facilities must be fenced and locked for the protection of vehicles and property.

(2) The wrecker operator shall provide storage for all impounded/towed vehicles in an outside storage area unless specific written instructions are given for inside storage by the impounding law enforcement officer. If required for investigative purposes, the wrecker operator shall move the vehicle(s) to a designated area for processing prior to storage. In such instance, the law enforcement agency will not authorize release of the vehicle until all outstanding charges by the operator, as authorized by this section have been satisfied.

(3) The wrecker operator shall not change the type of storage facility (inside or outside) afforded a vehicle without written permission from the officer in charge. The wrecker operator shall not change the storage facility location without first obtaining written permission from the officer in charge.

(4) The storage facility must be owned or leased solely by the wrecker operator and vehicles stored by the operator must be separately fenced and locked.

(5) The registered owner of a vehicle or the owner's representatives or owner's insurance adjusters, upon proper identification, shall be permitted to inspect or photograph stored vehicles during the hours of 8:00 a.m. to 6:00 p.m., on days they are engaged in towing. The wrecker operator shall not require the owner, adjuster or representative to pay any fee in order to inspect or photograph the stored vehicle.

(6) All fencing shall be chain-link or solid-wall type and at least six (6) feet in height where permissible under land use regulations of the county to discourage theft of any vehicle or any property being stored inside. All storage facilities shall be illuminated with lighting of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred fifty (150) feet during nighttime.

(7) Permanent inside storage facilities must be available for twenty-four-hour storage when weather or other

conditions require inside storage for the protection of the vehicle or personal property. A lean-to, tent or shed does not meet the requirements of this section. Inside storage must be within a weather-tight building.

(8) A minimum of twenty-five (25) storage spaces with three (3) inside storage spaces must be available. ~~Wrecker operators who have been on a rotation system for the Florida Highway Patrol, Monroe County Sheriff's office, or the police department of the City of Key West or the City of Layton for six (6) months prior to the effective date of this rule may continue on the list without regard to the minimum storage spaces required herein, so long as all other applicable provisions of these rules are met.~~ Service bays or repair bays do not qualify as inside storage, nor does any area that is utilized for any activity other than serving as a permanent inside storage area, when vehicles are actually stored inside at the request of a law enforcement agency or the owner of a vehicle.

(9) Wrecker operators shall comply with hold orders placed by the law enforcement agency, including any instructions for inside or outside storage. Vehicles involved in a fatality and sealed by the traffic homicide

investigator shall remain intact until the seals are removed by the investigator. No property of any kind shall be released to anyone without authority of the homicide investigator. If no fatality occurred, then the vehicle and the property may be released by the wrecker operator upon valid proof of ownership once the hold is released.

(10) A copy of an inventory prepared by the law enforcement agency, of all personal property found in a wrecked, disabled or abandoned vehicle shall be provided to the wrecker operator. The wrecker operator shall permit the removal of such property by the vehicle owner or his agent from a stored vehicle during normal business hours without charge. The agent's authority shall be evidenced by a writing acknowledged by the owner before a notary public or other person empowered by law to administer oaths. A signed receipt for each article removed by the owner or his agent shall be obtained. Personal property shall be defined as any item not affixed to the vehicle which was in the vehicle at the time of the tow. In the case of vehicles stored where no "hold order" has been placed, the wrecker operator will directly release any vehicle upon presentation of proper proof of identification and ownership. If these conditions cannot be met due to unusual

or extraordinary circumstances, the vehicle will be released only upon authorization obtained from the law enforcement agency.

(11) Wrecker operators handling the initial tow shall exercise reasonable care and control of parts and contents located in vehicles while under their protection or while in storage.

(12) During the hours from 8:00 a.m. to 6:00 p.m., on any day they are actively engaged in towing, wrecker operators will provide adequate staffing at the storage facility so that personal property may be removed from the vehicle or the vehicle itself may be released without undue delay. If the property or vehicle is to be released after hours the wrecker operator will respond within 60 minutes to release the property or vehicle.

(13) Should it become necessary that personal property be removed from a vehicle or a vehicle be released when the storage facility is not staffed, the wrecker operator will be required to do so and allowed to charge a reasonable fee.

Sec. 70-662 Penalties

Violations shall be prosecuted under Sec 1-15 and/or suspension from both the Duty and Abandoned Tow rotation list consistent with the provisions above.

*(Coding: Added language is underlined; deleted language is ~~struck through~~. Language added at 1st reading is underlined twice; language deleted at first reading is ~~struck through twice~~.)

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

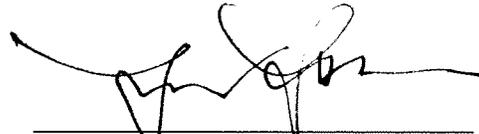
Section 4: This Ordinance shall go into effect ~~immediately upon~~ thirty (30) days after its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this 7th day of October, 2008.

Read and passed on final reading at a regular meeting held this 21st day of October, 2008.

Authenticated by the presiding officer and Clerk of the Commission on 23rd day of October, 2008.

Filed with the Clerk October 23, 2008.



MORGAN McPHERSON, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK