

DIVISION 3. - MOTOR VEHICLE TOWING AND STORAGE

FOOTNOTE(S):

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**Editor's note**—Section 1 of Ord. No. 2006-008, adopted Jan. 25, 2006, repealed and replaced emergency Ord. No. 2005-043, which had been codified as §§ 122-72—122-88, in its entirety. Sections 2—10 of Ord. No. 2006-008 enacted similar provisions to read as herein set out.

Sec. 122-71. - Findings of fact.

The Board of County Commissioners of Sarasota County, Florida, hereby makes the following findings of fact:

- (1) The Federal Government, in Title 49 U.S. Code § 14501, has preempted regulation by State and local governments of prices charged for all towing services except "nonconsensual" towing services.
- (2) Pursuant to F.S. § 125.0103(1)(c), the Board of County Commissioners is required to establish maximum fees which may be charged on the nonconsensual towing of vehicles from or immobilization of vehicles on private property, removal and storage of wrecked or disabled vehicles from an accident scene or for the removal and storage of vehicles in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle.
- (3) This ordinance shall apply to all municipalities within Sarasota County unless a municipality chooses to enact an ordinance regulating nonconsensual towing of vehicles or removal and storage of vehicles as described above in subsection (2), Findings of Fact. If a municipality has adopted its own ordinance for the regulation of nonconsensual towing, then the County's ordinance shall not apply within such municipality.
- (4) All rates, fees, and charges for Sheriff's rotation allocation towing and for towing from private property shall be set by resolution of the Sarasota Board of County Commissioners.
- (5) Numerous persons and firms in Sarasota County engage in the business of recovering, towing and storing motor vehicles. Such towing services must frequently be provided without the prior consent of the vehicle owner, or under exigent circumstances which prevent negotiation of the charges, terms and conditions for the towing service, often resulting in charges disproportionate to the services provided and disagreements and complaints between vehicle owners and Tow Truck Owners.
- (6) The condition of vehicles and equipment used to tow motor vehicles, the qualifications of Tow Truck Owners, and the manner in which towing services are rendered affect the health, safety, and welfare of the citizens of Sarasota County.

(Ord. No. 2006-008, § 2, 1-25-2006; Ord. No. 2007-089, § 2, 10-10-2007)

Sec. 122-72. - Title.

This Ordinance may be cited as the "Sarasota County Nonconsensual Towing Ordinance".

(Ord. No. 2006-008, § 3, 1-25-2006; Ord. No. 2007-089, § 3, 10-10-2007)

Sec. 122-73. - Applicability.

This Ordinance shall apply within all of the unincorporated areas of Sarasota County, Florida, and all municipalities in Sarasota County unless a municipality chooses to adopt its own ordinance, for the nonconsensual towing from or immobilization of vehicles on private property, removal and storage of wrecked or disabled vehicles from an accident scene or for the removal and storage of vehicles in the event the vehicle owner or vehicle operator is incapacitated, unavailable, leaves the procurement of tow truck services to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle. This Ordinance does not apply to a vehicle owner's request for utilization of a specific Tow Truck Owner, whether or not such Tow Truck Owner is on the Sheriff's rotation allocation system. In such event, the vehicle owner's request will be honored without resort to this Ordinance unless there will be an unreasonable time delay or a traffic problem exists at which time the towing shall be nonconsensual and this Ordinance shall apply.

(Ord. No. 2006-008, § 4, 1-25-2006; Ord. No. 2007-089, § 4, 10-10-2007)

Sec. 122-74. - Definitions.

As used in this Ordinance, the following words and phrases shall have the following meanings:

- (1) Board shall mean the Board of County Commissioners of Sarasota County, Florida.
- (2) Certificate or Certificate of Authority shall mean the written authority granted by the Sheriff in a form prescribed by the Sheriff to an applicant allowing the applicant to participate as a Tow Truck Owner in the Sheriff's rotation allocation system.
- (3) Gross Vehicle Weight (GVW) shall mean the maximum legal weight at which a vehicle can be operated including: the weight of the vehicle itself, fuel, and other fluids, passengers, and all cargo.
- (4) Highway shall mean any of the public streets, boulevards, avenues, drives, alleys or other roadways within Sarasota County, Florida.
- (5) Nonconsensual Towing shall mean any "tow" performed without the prior consent or authorization of the owner or operator of the motor vehicle being towed.
- (6) Non-towing Service shall mean any nonconsensual service that is provided pursuant to a request by the Sheriff for services as a result of a disabled vehicle that is not acting as an obstruction to normal traffic flow and does not result in the towing of a vehicle, but requires services including, but not limited to, changing a flat tire, providing gas, using battery jumper cables, assisting in starting a vehicle, or unlocking a vehicle.
- (7) Person shall mean any natural person, firm, partnership, association, corporation, or other entity of any kind whatsoever.
- (8) Private Property shall mean all real property not owned by, leased to, or similarly controlled by a governmental entity, including private roads.
- (9) Recover shall mean to take possession of a vehicle and its contents and to exercise control, supervision and responsibility over it.
- (10) Remove shall mean to change the location of a motor vehicle by towing it.
- (11) Sheriff shall mean the Sarasota County Sheriff or his designees.
- (12) Store shall mean to place and leave a towed vehicle at a location where the person providing the towing service exercises control, supervision and responsibility over the vehicle.
- (13) Tow shall mean to haul, draw or pull along a vehicle by means of another vehicle equipped with booms, car carriers, winches, or similar equipment.

- (14) Tow Truck shall mean any privately owned motor driven vehicle, including, but not limited to, car carriers, used in the recovery, towing or removal of motor vehicles.
- (15) Tow Truck Owner or Owner shall mean any person who provides the services of recovering, towing or removing vehicles and any vehicle storage services associated therewith in any capacity for either the Sheriff's Rotation Allocation System or private property towing pursuant to this Ordinance.
- (16) Tow Truck Operator or Operator shall mean any person who drives a tow truck for the purpose of providing the services of recovering, towing or removing vehicles in any capacity for either the Sheriff's Rotation Allocation System or private property towing pursuant to this Ordinance.
- (17) Towing Services shall mean the providing of vehicle removal and storage services in any capacity for either the Sheriff's Rotation Allocation System or private property towing, as set forth in this Ordinance.

(Ord. No. 2006-008, § 5, 1-25-2006; Ord. No. 2007-089, § 5, 10-10-2007)

Sec. 122-75. - Tow truck owner and operator requirements.

The following requirements apply to all Tow Truck Owners and Operators engaged in Towing Services in Unincorporated Sarasota County:

- (a) All Tow Truck Owners and Operators must have in their possession a valid Florida driver's license as required by Florida law for the operation of any vehicle used to provide Towing Services.
- (b) Tow Truck Owners and their Operators are required to comply with and be familiar with the Florida Uniform Traffic Control Law, F.S. ch. 316.
- (c) Each Tow Truck driver shall be thoroughly familiar with the operation of the Tow Truck he or she is operating.
- (d) A Tow Truck Owner shall respond to a call with a Tow Truck classified to meet or exceed the size of the vehicle to be towed.
- (e) Each Tow Truck Owner shall keep records reflecting the dates of services rendered, the nature of such services, the charges related thereto, and the identification of such motor vehicles and other personal property as may have come under its custody and control, for a period of three years following the occurrences of such transaction.
- (f) It shall be a violation of this Ordinance for any Tow Truck Owner to charge, demand, request, or collect rates, fees, and charges exceeding those established by Board Resolution for the services enumerated in this Ordinance.
- (g) All Tow Truck Owners and Operators are required to accept payment for towing services at the towing site and at the storage facility in the methods of cash, debit card, and major credit card.
- (h) All Tow Truck Owners and Operators are required to provide vehicle owners both at the towing site and at the storage facility with a preprinted rate sheet that clearly displays all rates and fees for towing and towing-related services.

(Ord. No. 2006-008, § 6, 1-25-2006; Ord. No. 2007-089, § 6, 10-10-2007)

Sec. 122-76. - Sheriff's rotation allocation system.

- (a) Administration.
  - (1) There is hereby established for administration by the Sheriff, a rotation allocation system utilizing qualified, as provided herein, Tow Truck Owners and Operators for the Towing and

storage of wrecked or disabled vehicles from an accident scene, or for the removal and storage of vehicles, in the event the vehicle owner or vehicle driver is incapacitated, unavailable, leaves the procurement of Tow Truck service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle by law enforcement, or for the dispatch of Tow Truck service to assist vehicle operators with such non-towing services as tire changes and jump starts with battery cables. Tow Truck Owners shall be eligible for inclusion in the system provided their equipment, storage facilities and Operators meet the qualifications set by this division.

- (2) The Sheriff may divide Sarasota County into zones with clearly defined boundaries for the purpose of establishing efficient Tow Truck rotation lists.
  - (3) Authorized Tow Truck Owners shall be called by the Sheriff for the removal of a wrecked, disabled, stolen or abandoned vehicle according to the Owner's placement on a rotation list maintained by the Sheriff and according to the Tow Truck classification for the size of the vehicle to be towed. Tow Truck Owners will be called in succession from the top of the list. Following each call, an Owner will be rotated to the bottom of the list, except as provided in subsection (a)(5) and (8) of this Section.
  - (4) Tow Truck requests from the field will be transmitted to the Sheriff's Office Teletype Section which will contact the proper Tow Truck Owner. Vehicle owner's requests for specific Tow Truck Owners will not be rotated and such Owners will maintain their position on the list.
  - (5) The Sheriff may cancel a request for services of a participating Tow Truck Owner at any time. In the event of cancellation or response without rendering service, the Tow Truck Owner will not be rotated but will maintain its position on the list.
  - (6) In the event of specialized recovery requirements not otherwise met by participating Tow Truck Owners, the Sheriff may call specialized recovery equipment on a nearest available basis.
  - (7) For multiple car accidents involving multiple disabled vehicles, the Tow Truck Owner subject to call by class from the rotation list will be advised by the Sheriff's Office Teletype Section of the number of Tow Trucks needed to separately remove each vehicle. The Tow Truck Owner will be given the option of removing all of the disabled vehicles to be removed if the Owner maintains the number of qualified drivers and Tow Trucks to accomplish removal. If the Tow Truck Owner lacks the capacity to Remove all of the vehicles, it shall nevertheless be called and additional Tow Truck Owners called as needed from the rotation list. The first Tow Truck Owner on the list will have a choice of disabled vehicles. If the first listed Owner does not arrive on the scene within a reasonable time, the investigating officer will assign vehicles to available Owners on the scene. The first Tow Truck Owner on the scene may be required to remove vehicles from the roadway, and such movement will not affect the choice of wrecked vehicles. No fee shall be charged for such roadway removal service.
  - (8) The Tow Truck Owner which renders services rather than towing a vehicle, known as Non-towing Services, shall not be rotated to the bottom of the rotation list but shall remain at the top of the list for the next available call.
- (b) Owner Requirements.
- (1) Tow Truck Owners and their Operators shall be on call 24 hours a day, seven days a week. The Tow Truck Owner or their Operator must acknowledge the rotation call by contacting the Sheriff's Office Teletype Section within five minutes after the rotation call was received. The Tow Truck Owner or their Operator shall advise the Sheriff's Office Teletype Section at the time the call is received whether or not it will respond. If the Tow Truck Owner or their Operator does not acknowledge the call, the Sheriff's Office Teletype Section shall cancel the call, rotate the Tow Truck Owner to the bottom of the list and request the next available Tow Truck Owner. Tow Truck Owners shall respond to the scene within 30 minutes after being contacted by the Sheriff's Office Teletype Section.
  - (2) A Tow Truck Owner or their Operator shall respond to all requests for service made through the Sheriff's Communications Center within a reasonable time under the existing conditions and

circumstances. If response cannot be made within 30 minutes, the Tow Truck Owner shall notify the Sheriff's Office Teletype Section of the estimated time of delay. The Teletype Section may then cancel the request for service, rotate the Tow Truck Owner to the bottom of the list and request the services of the next available Tow Truck Owner. Only the teletype section may authorize a company other than the actual company dispatched, regardless of whether the companies are under the same ownership.

- (3) In the event of a call to a Tow Truck Owner by someone other than the Sheriff's Office Teletype Section, such Owner shall notify the Sheriff's Office Teletype Section before proceeding to the scene. In any event, a vehicle owner has the right to choose a particular Towing Service unless that choice will result in unnecessary delay or a traffic hazard.
  - (4) Tow Truck Owners will be listed only in the name under which they are qualified. It is prohibited for a Tow Truck Owner conducting business at one location to receive multiple listings or classifications by utilizing a different or fictitious name for trucks operating out of the same location. When two or more corporations are owned by the same individual, partnership or parent corporation, each may have a separate listing only when each has a separate location and different corporate officers.
  - (5) Tow Truck Owners or Operators properly at the scene of an accident shall:
    - a. Remove vehicles involved in the accident only at the direction of the investigating officers;
    - b. Sweep glass from the roadway and remove all debris, auto parts, and portions of damaged vehicles or hazards from the scene.
- (c) Certificate of Authority.
- (1) No Tow Truck Owner shall be included in the Sheriff's rotation allocation system unless such person has a valid Certificate of Authority. The Owner must apply for and maintain a current Certificate of Authority at each place of business at which the Owner engages in business as a Tow Truck Owner.
  - (2) The application for Certificates of Authority shall be in such form as may be prescribed by the Sheriff and shall be submitted to the Sheriff by the applicant under penalty of perjury. The application shall include, in addition to such information as the Sheriff may reasonably require, the following:
    - a. The name, address, and date of birth of all Owners and a listing of all Tow Truck Operators.
    - b. If the Owner is a corporation, the names and dates of birth of its officers, directors and principal shareholders, the address of the corporation's principal place of business, and a copy of its articles of incorporation.
    - c. If the Owner is a partnership, the names, addresses and dates of birth of the partners, and a copy of its partnership agreement.
    - d. A listing of all felonies and misdemeanors, if any, of which the Owner, or any partner, officer, director or principal shareholder of the Owner, and any Tow Truck Operator of the applicant, has been convicted. If status of criminal history of any individual listed in this section changes during the year, the Sheriff's office must be notified within 48 hours by way of certified mail with return receipt.
    - e. The trade name in which the Owner intends to engage in business.
    - f. The Owner's sales tax identification number.
    - g. The address of each location from which the Owner intends to engage in business and the Owner's business phone number(s).
    - h. An affidavit from the Owner that it will maintain a place of business in Sarasota County which is open and accessible to the public during normal business hours pursuant to Florida Statute; that the applicant will maintain such books and records as may be required

by this Ordinance; and that the applicant's place of business and business records will be available at all reasonable hours for inspection by the Sheriff and/or his authorized representatives.

- i. Evidence in such form as may be required by the Sheriff that the Owner has obtained liability insurance coverage in an amount required by resolution of the Board.
  - j. A description of services proposed to be provided, including, but not limited to, days and hours of operations and types of Towing and storage services to be provided.
  - k. A description of the Owner's operational procedures, which shall include, but not be limited to, the following: location and description of all places of business, location and description of the places of business at which all records shall be maintained, a description of all existing Towing vehicles and equipment, a system for handling complaints and accidents, insurance coverage and a description of the Owner's communication systems.
- (3) Subject to Subsection 122-76.H herein, Certificates of Authority shall remain in force and effect during the remainder of the calendar year during which they are initially issued, and shall be renewed by the Sheriff thereafter on an annual basis upon receipt by the Sheriff of a renewal application from the applicant.
- (4) The renewal application shall be in such form as may be prescribed by the Sheriff and shall be submitted by the Owner to the Sheriff under penalty of perjury at least 30 days prior to the expiration of the term of the Certificate. The renewal application shall include, in addition to such information as the Sheriff may reasonably require, all of the information provided in the initial application, or latest renewal application, amended to reflect any changes in information during the preceding term of the Certificate.

Should the Owner fail to submit a renewal application within the time period prescribed above, and thereby fail to renew a Certificate of Authority pursuant to this Ordinance, it shall be unlawful, subsequent to the expiration of the Certificate, for the Owner to engage in business as, serve in the capacity of, or act as a Tow Truck Owner on the Sheriff's rotation allocation list until such time as a Certificate of Authority has been reissued.

- (5) Every new application for a Certificate of Authority or renewal application for a Certificate of Authority shall be accompanied by an application or renewal fee as established by resolution of the Board. Should a reinspection of Towing vehicles, equipment, or facilities be required, a reinspection fee equal to the application or renewal fee may be charged depending on the circumstances and at the discretion of the Sheriff.
- (6) Prior to the issuance of a Certificate of Authority, it is the responsibility of the Tow Truck Owner to obtain background information on each Operator, including the driver history record and records from the Florida Crime Information Center and National Crime Information Center. Upon receipt of the background information, each Tow Truck Owner shall notify the Sheriff by supplying copies of all background information records on each Operator to the Sheriff by way of certified mail with return receipt. Proof of notification will be the responsibility of the Tow Truck Owner. All Tow Truck Owners shall immediately notify the Sheriff of any changes in Operators, tow trucks, tow truck unit numbers, insurance coverage or any other changes relating to ownership or management of the business. If, during the effective period of a Certificate of Authority, the status of the criminal history of any Tow Truck Owner or Operator changes as a result of a criminal arrest or conviction, the Tow Truck Owner shall notify the Sheriff within 48 hours by way of certified mail with return receipt.
- (d) Tow Truck Standards. All Tow Trucks that provide Towing Services shall comply with the following minimum standards:
- (1) General Standards—All Classes. All Tow Trucks must have upon them at all times the following equipment:

- a. Cradle, tow plate or tow sling to pick up vehicles. The cradle or tow plate is to be equipped with safety chains and so constructed that no further damage will occur when picking up vehicles.
  - b. Dual rear wheels.
  - c. Two spot or flood lights mounted on the rear of the Tow Truck.
  - d. All Tow Trucks must include:
    - 1. Two safety chains in addition to those otherwise specifically required below, that are 20 feet in length;
    - 2. Dollies, (Class A Tow Trucks only);
    - 3. At least one heavy duty push broom with a minimum width of 24 inches;
    - 4. One square shovel;
    - 5. One ax;
    - 6. One crowbar or pry-bar with a minimum length of 30 inches;
    - 7. A minimum of one five-pound CO<sub>2</sub> or dry chemical fire extinguisher or equivalent. The extinguisher must be of an approved type and have a current inspection tag attached;
    - 8. One pair of bolt cutters with a minimum one-half-inch opening;
    - 9. One set of jumper cables;
    - 10. One four-way lug wrench;
    - 11. One flashlight;
    - 12. One set of red reflectors;
    - 13. Five 30-minute fuses;
    - 14. One snatch-block for each winch, with manufacturer's rating to match winch;
    - 15. One set of scotch-blocks for wheels or hydraulic rear extendable wheel chocks, except rollbacks;
    - 16. A rotor beam or strobe-type light, amber in color, mounted in such a manner that it can be seen from the front, rear, and sides;
    - 17. Extra towing chain, six to eight feet, with hooks;
    - 18. Fifty pounds of sand or suitable equivalent (may be stored in alternate containers provided that scale is available during inspections to verify total weight);
    - 19. A business-type two way communication radio or telephone operating properly with access to a central dispatch facility;
    - 20. Owner's business name, address, phone number and vehicle unit number permanently and conspicuously displayed upon the exterior portion of each side of the vehicle pursuant to F.S. § 713.78. Pursuant thereto, the business name and vehicle unit number shall be in at least three-inch permanently affixed letters, and the address and telephone numbers shall be in at least one-inch permanently affixed letters; and
    - 21. Any additional safety equipment or other requirements prescribed by the Florida Department of Motor Vehicles, Division of Highway Patrol and Department of Transportation.
- (2) Car Carrier or Rollbacks.
- a. Gross vehicle weight rating of 10,000 pounds.
  - b. A minimum of 16-foot bed.

- c. A complete, commercially manufactured carrier and which with a manufacturer's rating of at least four tons mounted on the chassis. Hand crank winches do not satisfy this requirement.
  - d. Fifty feet of three-eighths-inch or larger cable on each drum.
- (3) Class A Standards.
- a. Vehicles (cars, light duty trucks, other types of vehicles including but not limited to trailers with or without load of any kind, and trailered vessels under 15 feet in length) weighing 10,000 pounds or less GVW.
  - b. A complete, commercially manufactured crane and winch with a manufacturer's rating of at least four tons mounted on the chassis. Hand crank winches do not satisfy this requirement.
  - c. One hundred feet of three-eighths or larger cable in each drum.
  - d. Dollies and associated equipment.
- (4) Class B Standards.
- a. Vehicles (medium duty trucks, other types of vehicles including but not limited to trailers with or without load of any kind, and trailered vessels greater than 15 feet and less than 22 feet) weighing from 10,001 pounds to 20,000 pounds GVW.
  - b. A complete, commercially manufactured crane and winches with a manufacturer's rating of at least ten tons mounted on the chassis. Hand crank winches do not satisfy this requirement.
  - c. One hundred feet of one-half inch or larger cable on each drum.
- (5) Class C Standards.
- a. Vehicles (heavy duty trucks, buses, other types of vehicles including but not limited to trailers with or without load of any kind, and trailered vessels greater than 22 feet) weighing from 20,001 pounds to 25,000 pounds GVW.
  - b. A complete, commercially manufactured crane and winches with a manufacturer's rating of at least 25 tons mounted on the chassis. Hand crank winches do not satisfy this requirement.
  - c. Two hundred feet of cable to manufacturer's specifications.
  - d. Safety air brakes to provide automatic safety locking function and to supply air to disabled vehicles.
  - e. External air hookup and hoses.
- (6) Class D Standards.
- a. Vehicles (heavy duty trucks, mobile homes, buses, other types of heavy vehicles including but not limited to trailers with or without load of any kind, and trailered vessels greater than 22 feet, etc.) weighing 25,001 pounds or more GVW.
  - b. Dual axle (tandem) rear wheels.
  - c. Minimum of 120-inch cab to axle length.
  - d. Full air brakes constructed so as to lock power wheels upon air failure.
  - e. Lifting and combined winching capacity of not less than 25 tons.
  - f. Five-eighths-inch cable for winch.
  - g. Tow bar, cradle or sling attachment, under-reach, or roll-back vehicle carrier.
- (e) Display of Decal.



- (1) It shall be unlawful to provide Towing Services in Sarasota County pursuant to the Sheriff's rotation allocation system or to store a vehicle in connection therewith unless the Tow Truck used to provide such service clearly displays, in the lower right corner of the front windshield, a Certificate of Authority decal issued by the Sheriff.
  - (2) If a Tow Truck is destroyed, or the decal is damaged so that it is illegible, a replacement decal may be issued upon the filing of an affidavit by the Tow Truck Owner with the Sheriff, verifying that the decal has been destroyed or damaged and the payment of a decal replacement fee as established by resolution of the Board. If the replacement decal is to be placed upon a Tow Truck not previously referenced in the applicant's application or renewal application, the Owner shall submit an amendment to said application providing the relevant information regarding the Tow Truck.
  - (3) It shall be unlawful and a violation of this Ordinance to display a decal on a Tow Truck while the Tow Truck or the Tow Truck Owner is suspended from the Sheriff's rotation allocation system or after the Tow Truck Owner's Certificate of Authority is revoked. The Sheriff's Traffic Section will be responsible for removing decals from Tow Trucks under the circumstances provided in this subsection.
- (f) Storage Facility Standards.
- (1) Tow Truck Owners shall provide storage facilities which shall be maintained at the Owner's place of business or an owned or leased satellite facility that complies with the standards outlined for a storage facility. A satellite facility may only be operated if a primary storage facility exists that meets the standards outlined in this section and is owned by the same Tow Truck Owner. When an Owner operates both primary and satellite storage facilities, vehicles shall be towed to facility with closest proximity to point of hook up. These facilities must be fenced and locked for the protection of vehicles and property.
  - (2) Tow Truck Owners shall provide storage for all impounded/towed vehicles in the outside storage area unless specific written instructions are given for inside storage by the impounding officer or the vehicle owner. If required for investigative purposes, the Tow Truck Owner shall move the vehicle(s) to a designated area for processing prior to storage. In such instance, the Sheriff will not authorize release of the vehicle until all outstanding charges by the vehicle owner, as authorized by the Sheriff, have been paid.
  - (3) The Tow Truck Owner shall not change the type of storage facility (inside or outside) afforded a vehicle without written permission from the Sheriff. The Tow Truck Owner shall not change the storage facility location without first obtaining written permission from the Sheriff.
  - (4) 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., Monday through Friday. The Tow Truck Owner shall not require the vehicle owner, adjuster or representative to pay any fee in order to inspect or photograph the Stored vehicle.
  - (5) All fencing shall be chain-link or solid-wall type, at least six feet high, 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 150 feet during nighttime.
  - (6) Permanent inside storage facilities must be available for 24-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 subsection.
  - (7) A minimum of 25 storage spaces with three inside storage spaces must be available.
  - (8) Tow Truck Owners shall comply with hold orders placed by the Sheriff 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 Tow Truck Owner upon valid proof of ownership once the hold is released.

- (9) A copy of an inventory prepared by the Sheriff of all personal property found in a wrecked, disabled or abandoned vehicle shall be provided to the Tow Truck Owner. The Tow Truck owner 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 in 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" was placed, the Tow Truck Owner 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 Sheriff.
  - (10) During the hours from 8:00 a.m. to 6:00 p.m., Monday through Friday, Tow Truck owners 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.
  - (11) Should it become necessary to remove personal property from a vehicle, or release a vehicle, at a time other than during regular business hours of 8:00 a.m. to 6:00 p.m., Monday through Friday, when the storage facility is not staffed, the Tow Truck Owner will be required to do so and will be allowed to charge a fee not established by Resolution of the Board.
- (g) Insurance.
- (1) The Tow Truck Owner shall maintain policies of insurance issued by Companies authorized in the State of Florida according to the minimum limits set forth by resolution of the Board.
  - (2) Each policy shall be in the name of the Tow Truck Owner, and shall include coverage for towing and storage. The policies shall be effective throughout the period that the Tow Truck Owner is qualified to participate in the rotation allocation system. It is not the intent of this subsection to limit the Tow Truck Owner to the types of insurance required by the Board.
  - (3) The Tow Truck Owner must furnish certificates of insurance to the Sheriff prior to approval for participation in the rotation allocation system and thereafter 30 days prior to the expiration of the term of the Owner's Certificate of Authority. The Certificates shall clearly indicate that no material change or cancellation of the insurance shall be effective without 30 days prior written notice to the Sheriff.
- (h) Denial, Suspension or Revocation of Certificate of Authority.
- (1) A designee of the Sheriff may investigate each application for inclusion on the Sheriff's rotation allocation system. The investigation may include the following: background checks; criminal history checks; driver's license status/record checks; and inspection of the applicant's Tow Truck(s), equipment, and facilities. Findings of the investigation with a recommended action shall be reported to the Sheriff in writing. The Sheriff shall determine whether the Tow Truck Owner is approved or denied inclusion in the rotation allocation system according to this ordinance. The Sheriff may deny an applicant's inclusion on the rotation allocation system if the Tow Truck Owner or any Operator:
    - a. Fails to meet or comply with the provisions of this ordinance; or
    - b. Fails to maintain any local or state license required for the operation of a Tow Truck Service; or
    - c. Pled or was found guilty of any felony, regardless of adjudication; or
    - d. Pled or was found guilty, regardless of adjudication, of any first degree misdemeanor directly related to the business of operating a Tow Truck, For the purpose of this Ordinance, any offense involving grand theft, criminal driving offenses, perjury or false

statement shall be considered to be directly related to the business of operating a Tow Truck; or

- e. Employs an Operator who has pled or been found guilty, regardless of adjudication, of:
    - 1. Any felony; or
    - 2. Any first degree misdemeanor directly related to the business of operating a Tow Truck. For the purpose of this ordinance, any offense involving grand theft, criminal driving offenses, perjury or false statement shall be considered to be directly related to the business of operating a Tow Truck.
  - f. Provides a false statement on the application for a Certificate of Authority pursuant to this Ordinance.
- (2) The determination of the Sheriff shall be made in writing without unreasonable delay and shall state the grounds therefore. The determination of the Sheriff shall be final, subject only to appeal to the circuit court.
- (3) Commission of the following acts by a Tow Truck Owner or their Operator(s) shall result in a letter of warning from the Sheriff for the first offense, 30 days suspension for a second offense within three years from the first offense, and revocation of a Certificate of Authority for a third or subsequent offense within five years from the first offense.
- a. Chasing or running wrecks in Sarasota County without proper call from the Sheriff; or
  - b. Failure to answer a call from Sheriff's Communications Center three times within a calendar month; or
  - c. Two or more times causing additional damage to a vehicle while removing it pursuant to a call under this Ordinance within 30 days of the first damage; or
  - d. Any charge, demand, or request of a rate which is in addition to or exceeds the maximum rate established by resolution of the Board; or
  - e. Permitting an Operator who is not listed as such with the Sheriff's Office under Subsection 122-76.C. of the Code to answer a call pursuant to this Ordinance; or
  - f. Providing a different Tow Truck Company than requested by dispatch as prohibited by Subsection 122-76.B. of the Code; or
  - g. Failure to comply with any provision or requirement of this Ordinance relating to the removal and storage of vehicles and operation of the Tow Truck Company.
- (4) The following shall result in 30 days suspension for a first offense and revocation of a Certificate of Authority for a second or subsequent offense within three years of the first offense:
- a. Removal of a wrecked, disabled or abandoned vehicle without investigation or clearance by a proper law enforcement agency; or
  - b. Refusal to comply with a directive from the Sheriff's Office pursuant to the provisions of this Ordinance.
- (5) The following may result in revocation of the Tow Truck Owner's Certificate of Authority:
- a. Tow Truck Owner enters guilty plea or is found guilty, regardless of adjudication; of any felony; or
  - b. Tow Truck Owner enters guilty plea or is found guilty, regardless of adjudication; of any first degree misdemeanor directly related to the business of operating a Tow Truck.. For the purpose of this Ordinance, any offense involving grand theft, criminal driving offenses, perjury or false statement shall be considered to directly relate to the business of operating a Tow Truck; or

- c. The unexplained removal or disappearance of personal property or parts from towed vehicles in the exclusive possession and control of the Tow Truck Owner; or
  - d. Responding to a call while under the influence of alcohol or any controlled substance or chemical substance; or
  - e. Three suspensions where the third offense occurs within five years from the first offense; or
  - f. Providing false or misleading information to the Sheriff's Office during any investigation of possible violation of this Ordinance.
- (6) If a Tow Truck is inspected and fails to meet the requirements of Subsection 122-76.D pertaining to tow truck standards, the following action shall be taken:
- a. The failed Tow Truck shall be immediately suspended from the rotation allocation system by the Sheriff until such time as it passes inspection and is approved for use. The suspension shall be effected in writing. The operation of a non-qualified Tow Truck is declared to be an immediate serious danger to the public health, safety and welfare, requiring the immediate suspension of the Tow Truck. The continued use of a suspended Tow Truck is a violation of this ordinance and shall constitute grounds for the emergency suspension of the Tow Truck Owner.
  - b. In the event this is the only Tow Truck maintained by the Owner which was approved by the Sheriff for its class, the Owner shall be suspended immediately by the Sheriff from the rotation allocation system for the class. The suspension shall be effected in writing. The suspension shall continue until such time as the Tow Truck successfully passes inspection and is approved for use, or the Tow Truck Owner's Certificate of Authority is revoked for failure to pass inspection. The Tow Truck Owner must correct the deficiencies and request to have the Tow Truck reinspected within 30 days from the date of the suspension. If the Tow Truck is not approved within the 30-day period, the Tow Truck Owner's Certificate of Authority shall be revoked.
- (7) If any insurance coverage of the Tow Truck Owner is canceled or not renewed according to the requirements of Subsection 122-76.G of the Code:
- a. The Tow Truck Owner shall be immediately suspended from the rotation allocation system. The suspension shall be effected in writing. The use of the Tow Truck by a Tow Truck Owner who does not maintain the insurance coverage required by this ordinance is declared to be an immediate serious danger to the public health, safety and welfare, requiring the immediate suspension of the Tow Truck Owner.
  - b. If the required insurance coverage is not obtained and provided to the Sheriff within 30 calendar days after the date of cancellation or expiration, the Tow Truck Owner's Certificate of Authority shall be revoked.
- (8) The inspections and determinations required in Section 122-76 shall be made by a designee of the Sheriff. A suspension or revocation of a Certificate of Authority may be appealed by the aggrieved Tow Truck Owner by serving a written request for a hearing upon the Sheriff within seven working days from receipt of the written determination. The request must be delivered to the Sheriff by certified mail. Unless otherwise agreed to by the parties, no hearing shall occur sooner than ten working days from the date of service of the written request upon the Sheriff, provided that any automatic suspension from the rotation allocation system provided by this Ordinance shall remain in effect pending final disposition. The hearing shall be conducted by an independent hearing officer designated by the Sheriff. The rules of evidence shall not apply at the hearing, but fundamental due process shall be observed and testimony shall be received under oath. The determination of the hearing officer shall be made in writing without unreasonable delay and shall state the grounds therefore. The determination of the hearing officer shall be final, subject only to review in Circuit Court by petition for writ of certiorari.

- (9) In the event a Certificate of Authority is revoked, the Tow Truck Owner will be required to reapply for a Certificate of Authority pursuant to Subsection 122-76.C in order to be considered for the Sheriff's Rotation Allocation System. The Tow Truck Owner may reapply for a Certificate of Authority after the applicable time period below:
  - a. First Revocation: Period of Revocation is one year.
  - b. Second Revocation: Period of Revocation is two years.
  - c. Third Revocation: Revocation is permanent.
- (i) Inspections. Upon reasonable notice during the hours of 8:00 am to 6:00 pm, Monday through Friday, the Sheriff or his designee shall be permitted to inspect a Tow Truck Owner's storage facilities, Tow Trucks and records for compliance with the requirements of this ordinance.

(Ord. No. 2006-008, § 7, 1-25-2006; Ord. No. 2007-089, § 7, 10-10-2007)

Sec. 122-77. - Towing from private property.

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

- (1) Any towed or removed vehicle must be stored at a site within 15 miles of the point of removal. If no towing business providing such service is located within the area of towing limitations, the following limitations apply: any towed or removed vehicle must be stored at a site within 30 miles of the point of removal.
- (2) The storage site must be open for the purpose of redemption of vehicles on any day that the Tow Truck Operator is open for towing purposes, from 8:00 a.m. to 6:00 p.m., and, when closed shall have prominently posted a sign indicating a telephone number where the operator of the site can be reached at all times. Upon receipt of a telephoned request to open the site to redeem a vehicle, the Tow Truck Operator shall return to the site within 30 minutes or she/he will be in violation of this Ordinance.
- (3) The Tow Truck Owner or designee shall, within 15 minutes of completion of such towing or removal, notify by telephone the municipal police department or, in an unincorporated area, the Sheriff's Office Teletype Section of such towing or removal, the storage site, the date and time the vehicle was towed or removed, and the make, model, color, and license plate number of the vehicle and shall obtain the name and identification number of the person at that department to whom such information was reported and note that name on the trip record. Violation of this paragraph is a misdemeanor of the first degree, punishable as provided in F.S. § 775.082 or 775.083.
- (4) If the registered owner or other legally authorized person in control of the vehicle arrives at the scene prior to initiation of hook-up of the vehicle to a tow truck, the owner shall be allowed to remove the vehicle without interference and with no fee or payment required.
- (5) If the registered owner or other legally authorized person in control of the vehicle arrives at the scene after hook-up of the vehicle to a tow truck, but prior to removal or towing of the vehicle, the vehicle shall be disconnected from the towing or removal apparatus, and that person shall be allowed to remove the vehicle without interference upon the payment of a reasonable service fee of not more than one-half of the posted rate for such towing service, for which a receipt shall be given unless that person refuses to remove the vehicle which is otherwise unlawfully parked. A vehicle owner shall have 30 minutes after arrival at the site of hook-up to provide payment to the tow truck operator.
- (6) The rebate or payment of money or any other valuable consideration from the Tow Truck Owner or designee to the owners or operators of the premises from which the vehicles are towed or removed, for the privilege of removing or towing those vehicles, is prohibited.

- (7) Except for property appurtenant to and obviously a part of a single-family residence, and except for instances when notice is personally given to the owner or other legally authorized person in control of the vehicle that the area in which that vehicle is parked is reserved or otherwise unavailable for unauthorized vehicle and subject to being removed at the owner's or operator's expense, any property owner or lessee, prior to towing or removing any vehicle from private property without the consent of the owner or other legally authorized person in control of that vehicle, must post a notice meeting the following requirements:
- a. The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within five feet from the public right-of-way line. If there are no curbs or access barriers, the signs must be posted not less than one sign for each 25 feet of lot frontage.
  - b. The notice must clearly indicate, in not less than two-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. The words "tow-away zone" must be included on the sign in not less than four-inch high letters.
  - c. If the property owner, lessee, or person in control of the property has a written contract with the Tow Truck Company, the notice must also provide the name and current telephone number of the Tow Truck Company.
  - d. The sign structure containing the required notices must be permanently installed with the words "tow-away zone" not less than three feet and not more than six feet above ground level and must be continuously maintained on the property for not less than 24 hours prior to the towing or removal of vehicles.
  - e. The County may require permitting and inspection of these signs prior to any towing or removal of vehicles being authorized.
  - f. A business with 20 or fewer parking spaces satisfies the notice requirements of this Ordinance by prominently displaying a sign stating "Reserve Parking for Customers Only Unauthorized Vehicles Will be Towed Away at the Owners Expense" in not less than four-inch high, light-reflective letters on a contrasting background. A business owner or lessee may authorize the removal of a vehicle by a Tow Truck company when the vehicle is parked in such a manner that restricts the normal operation of business; and if a vehicle parked on a public right-of-way obstructs access to a private driveway the owner, lessee, or agent may have the vehicle removed by a Tow Truck company upon signing an order that the vehicle be removed without a posted tow-away zone sign.
- (8) Any person or firm that tows or removes vehicles and proposes to require an owner, operator, or person in control of a vehicle to pay the costs of towing and storage prior to redemption of the vehicle must file and keep on record with the local law enforcement agency a complete copy of the current rates to be charged for such services and post at the storage site an identical rate schedule, and any written contracts with property owners, lessees, or persons in control of property which authorize such person or firm to remove vehicles as provided in this Ordinance. Violation of this paragraph is a misdemeanor of the first degree, punishable as provided in F.S. § 775.082 or 775.083.
- (9) Any Tow Truck Owner or Operator towing or removing any vehicles from private property must have the owner's business name, address, phone number and vehicle unit number permanently and conspicuously displayed upon the exterior portion of each side of the vehicle. Pursuant thereto, the business name and vehicle unit number shall be in at least three-inch permanently affixed letters, and the address and telephone numbers shall be in at least one-inch permanently affixed letters.
- (10) When a vehicle has been towed or removed pursuant to this section, it must be released to its owner or custodian within one hour after requested. Any vehicle owner, custodian, or agent shall have the right to inspect the vehicle before accepting its return, and no release or waiver of any kind which would release the person or firm towing the vehicle from liability for damages

noted by the owner or other legally authorized person at the time of the redemption may be required from any vehicle owner, custodian, or agent as a condition of release of the vehicle to the owner. A detailed, signed receipt showing the legal name of the company or person towing or removing the vehicle must be given to the person paying towing or storage charges at the time of payment, whether requested or not.

- (11) This section does not apply to law enforcement, firefighting, rescue squad, ambulance, or other emergency vehicles which are marked as such or to property owned by any government entity.
- (12) When a person improperly causes a vehicle to be removed, such person shall be liable to the owner or lessee of the vehicle for the cost of removal, transportation, or storage of the vehicle; attorney's fees; and court costs.

(Ord. No. 2006-008, § 8, 1-25-2006; Ord. No. 2007-089, § 8, 10-10-2007)

Sec. 122-78. - Enforcement.

- (b) Provisions related to the Sheriff's rotating allocation system shall be subject to enforcement by the Sheriff shall be punishable by a fine not to exceed \$500.00 or by imprisonment in the county jail not to exceed 60 days or by both such fine and imprisonment.
- (b) This Ordinance may be enforced through code enforcement officials of Sarasota County Government or any other remedy provided at law, including equitable relief. In any such proceeding, Sarasota County shall be entitled to recover its reasonable attorney's fees.

(Ord. No. 2006-008, § 9, 1-25-2006)

Sec. 122-79. - Sunset date.

This Ordinance shall be automatically repealed on June 30, 2017, unless otherwise amended or ratified by the Board of County Commissioners of Sarasota County, Florida.

(Ord. No. 2006-008, § 10, 1-25-2006; Ord. No. 2007-089, § 9, 10-10-2007)

Secs. 122-80—122-110. - Reserved.