

ORDINANCE NO. 23-__

AN ORDINANCE OF THE COUNTY OF PINELLAS, PROVIDING THAT THE PINELLAS COUNTY CODE BE AMENDED BY REVISING CHAPTER 122 OF SAID CODE: PROVIDING FOR REVISIONS TO CHAPTER 122 ADDING CLARIFYING LANGUAGE AND ADJUSTING DEFINED TERMS; AMENDING SECTION 122-40 RELATING TO MAINTENANCE OF RECORDS AND TOWING AGREEMENTS; AMENDING SECTION 122-42 ESTABLISHING TOWING RATES AND ADJUSTING VARIOUS FEES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREAS EMBRACED; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Pinellas County enacted a Towing Ordinance in 2000 in order to address public concerns and to protect the safety, health and welfare of Pinellas County citizens; and

WHEREAS, the Towing Ordinance was initially amended in 2016, and again in 2019 in order to clarify language, enhance several areas related to consumer protection, and adjust towing rates to balance consumer and industry interests; and

WHEREAS, as a part of the 2019 amendment, it was proposed that the ordinance be reviewed every three years to account for industry changes and look for potential improvements; and

WHEREAS, in accordance with this proposed three-year review, Consumer Protection met with the Professional Wreckers of Florida, Inc. (PWOFF), as well as local industry partners and law enforcement, in order to obtain feedback on local trends, operations and rates; and

WHEREAS, during these meetings, industry representatives indicated significant increases in staffing and operational costs as well as growing difficulties in maintain competitive operations under the current fee schedule; and

WHEREAS, the fees proposed in this amendment have been recommended by PWOFF and are in line with adjustments and rates found in comparable counties and amount to a proposed increase of approximately 19% for typical trespass-related tows; and

WHEREAS, Consumer Protection has incorporated changes to fee recommendations reflecting a separation of trespass and nonconsensual towing fees and an increase in base towing fees, mileage fees, storage fees, labor fees, and administrative fees. The proposed rate increase would be the second rate increase since the original Towing Ordinance enacted in 2000; and

WHEREAS, as an additional part of the review, it was found that clarifying language could be added throughout to address previously changed terminology as well as set standards for maintenance of records and enforcement; and

WHEREAS, the Board of County Commissioners agrees with the recommendations and desires that Chapter 122 be modified and the maximum rate schedule be updated.

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

SECTION 1. Chapter 122 of the Pinellas County Code is hereby amended to read as follows:

ARTICLE II.5. NONCONSENSUAL TOWING AND TRESPASS TOWING FROM PRIVATE PROPERTY

Sec. 122-38. Definitions.

- (a) As used in this section, the following words and terms shall have the meanings respectively as established below:

Immobilization, immobilize or immobilizing, also known as *boot* or *booting*, shall mean the act of placing, on a parked vehicle, a mechanical device that is designed to be attached to the wheel or tire so as to prohibit its usual manner of movement.

Immobilization services shall include any person, company, corporation, or other entity, whether licensed or not, who engages in or owns or operates a business which engages, in whole or in part, in the immobilization or booting of vehicles for compensation.

Police directed nonconsensual towing shall mean the removal and storage of wrecked or disabled vehicles from an accident scene or the removal and storage of vehicles in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker services to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle, excepting, however, all incidents of trespass towing as herein defined below.

Private property trespass towing shall mean towing or removal of a vehicle, without the consent of the vehicle's owner or operator, as such is authorized by F.S. § 715.07, when that vehicle is parked on private real property.

Property owner shall mean that person who exercises dominion and control over a parcel of real property, including but not limited to the legal title holder, lessee, a resident manager, a property manager, or other agent who has legal authority to bind the owner. A person providing a towing service may not be appointed as an agent for a property owner.

Tow shall mean to haul, carry, pull along, or otherwise transport or remove a vehicle by means of another vehicle.

Towing service shall include any person, company, corporation, or other entity, whether licensed or not, who engages in or owns or operates a business which engages, in whole or in part, in the towing or removal of vehicles for compensation.

Vehicle shall mean any mobile item which normally uses wheels, whether motorized or not.

Sec. 122-39. Towing of vehicles for compensation.

No towing service shall tow or otherwise transport a vehicle for compensation when the point of origin of the tow or transportation is within the territory of Pinellas County unless such towing service complies with the requirements of F.S. § 715.07, and the applicable provisions of this section.

Sec. 122-40. Prerequisites to immobilization or trespass towing from private property.

- (a) Prior to the immobilization or private property trespass towing of any vehicle, the property owner of the real property from which such immobilization or tow is made and the immobilization or towing service shall have executed a written agreement which, at a minimum, shall contain the following provisions:
 - (1) The name and address of the property owner requesting the towing services;
 - (2) The location and description of the property from which the vehicle(s) will be towed;
 - (3) The duration of the agreement; including a starting date and ending date, as well as language which defines the terms of the renewal process, if any;
 - (4) The time of day that such immobilization or towing is authorized;
 - (5) The days of the week that such immobilization or towing is authorized;
 - (6) An enumerated list of all fees to be charged to either the property owner or vehicle owner/operator;
 - (7) The address and description of the location where the vehicle will be towed/stored. Said storage site shall not be more than ten miles from where the tow originates;
 - (8) The signature of both the property owner and the owner, or authorized representative of the towing service, certifying that each has read and is in compliance with the provisions of F.S. § 715.07, and the applicable provisions of this section; and
- (b) The above requirement of a written agreement shall not apply to the immobilization or removal of vehicles from property appurtenant to and obviously part of a single-family residence or where the vehicle is parked in such a way as to obstruct access to private entrances, exits, drives, or loading areas.
- (c) No immobilization or towing service shall pay or rebate money, or solicit or offer the payment or rebate of money or other valuable consideration, to property owners for the right to engage in private property trespass towing.
- (d) Any towing service initiating a private property trespass tow within the territory of Pinellas County shall notify the law enforcement agencies having jurisdiction of an area of such towing within 30 minutes of the completion of any such private property trespass tow. Such notification to the municipal police department or Pinellas County Sheriff's Office shall relate, at a minimum, the following information concerning the subject private property trespass tow; the storage site to which the vehicle was towed; the time the vehicle was towed or removed; the make, model, year, color, vehicle identification number (VIN), and license plate number of the vehicle. Further, the towing service shall obtain the municipal police

department or Pinellas County Sheriff's Office case number to assign to the private property trespass tow at the time of reporting the aforementioned information.

- (e) All vehicles towed shall be towed directly to the storage site owned or leased by the towing service and the vehicle shall not be kept in any temporary holding area.
- (f) Each towing service shall staff or monitor its telephone at all times and immediately advise any vehicle owner or authorized representative who calls by telephone of the following:
 - (1) Each and every document or other item which must be produced to retrieve the vehicle;
 - (2) The exact charges as of the time of the telephone call and the rate at which charges will accumulate thereafter;
 - (3) The acceptable methods of payment; and
 - (4) That the vehicle can be picked up within one hour of request.
- (g) Immobilization or towing services shall provide a written bill at the request of the owner or operator of a vehicle detailing the charges to date.
- (h) Immobilization or towing services shall provide, at the time of payment, a written receipt for all charges imposed and received from the owner or operator of a vehicle resulting from the towing of a vehicle. Said receipt shall include at a minimum:
 - (1) The date, time, and location of the immobilization or tow;
 - (2) The total charges listed individually and specifically; and
 - (3) The date and time of payment of the charges.
 - (4) The following disclosure in bold capitalized letters of at least 12-point type:

IF YOU HAVE A QUESTION OR COMPLAINT, PLEASE CONTACT PINELLAS COUNTY CONSUMER PROTECTION.

TELEPHONE:(727)464-6200

EMAIL:consumer@pinellas.gov

WEBSITE: <http://www.pinellas.gov/consumer>
- (i) The above disclosure requirement shall be posted at the place of business of any towing service subject to this ordinance, in a plainly visible location.
- (j) The immobilization or towing service shall prepare and maintain a data sheet which shall include, but not be limited to, the following information:
 - (1) The name of the immobilization or towing service and person providing the service;
 - (2) The location from which the vehicle was towed regarding towing services;
 - (3) Date and time the immobilization or tow was initiated;
 - (4) The destination to which the vehicle was taken regarding towing services;
 - (5) The description of the vehicle including make, model, year, color, vehicle identification number, and license plate number;

- (6) The time and date the municipal police department or the Pinellas County Sheriff's Office was contacted by the towing service, and the case number assigned regarding towing services;
 - (7) The description of the services rendered, including an itemized list of all charges; and
 - (8) The date and time the vehicle was returned to the owner and the identity of that owner regarding towing services.
- (k) All immobilization and towing services shall keep all such data sheets, written agreements, and authorizations providing authority to tow on file for a period of three years and shall make them available to any law or code enforcement officer or designee assigned to investigate the complaints and/or enforcement during normal business hours. All such records shall be maintained on-site or be readily available through electronic means upon request by the officer or designee.
- (l) No towing service shall tow a vehicle when there is a person occupying the vehicle.
- (m) No towing service shall tow a vehicle from a property licensed to sell alcoholic beverages for consumption on the licensed premises from the hours of 9:00 p.m. until noon the following day, unless the driver of the towing vehicle is authorized by the property owner, lessee, or authorized employee or representative of the property. The driver of the towing vehicle shall obtain the signature of the property owner, lessee or authorized representative, authorizing the private property trespass tow. Such signature shall be obtained at the same location of the vehicle to be towed and at the time of the tow. The private property owner shall provide the towing service the name of the authorized representatives with owner permission to request a private property trespass tow. In no instance shall an employee of any tow company be listed as an authorized representative of an owner requesting a private property trespass tow.
- (1) The authorization providing authority to tow shall be retained by the towing service and include at least the name, telephone number, address of the signatory; whether the signatory is the property owner, lessee or authorized representative of the property from which the vehicle is being towed and shall be retained for at least three years following the date of the tow.

Sec. 122-41. Exemptions; return of owner prior to immobilization or tow.

- (a) *Exemptions.* This section shall not apply to the immobilization or towing of a vehicle which occurs:
- (1) At the direction of a law enforcement or code enforcement officer of the county, or of any municipality within the county pursuant to an agreement between the county or the municipality and a towing service;
 - (2) With the consent of the vehicle's owner or operator; or
 - (3) At the direction of an owner/manager of rental property when the tenant has abandoned a vehicle on the real property upon vacating the residence/residential unit.
- (b) *Return of owner prior to immobilization or tow.* No immobilization or towing service operating within the territory of Pinellas County shall immobilize or tow a vehicle or charge

for its services where the registered owner or other legally authorized person in control of the vehicle arrives at the scene prior to the immobilization or towing, unless:

- (1) The registered owner or other legally authorized person in control of the vehicle refuses to remove the vehicle; or
 - (2) The vehicle has already been connected to the towing removal or immobilization apparatus and the registered owner or other person in control of the vehicle refuses to pay a service fee of not more than one-half of the rate contained herein for such immobilization or towing service.
 - (3) The person immobilizing the vehicle or tow truck operator shall wait a minimum of 20 minutes to allow the vehicle's owner or operator to secure cash for the payment of the fees enumerated herein.
- (c) *Consumer access to personal items.* Immobilization or towing services operating within the territory of Pinellas County shall allow consumers immediate access to their impounded vehicle during operating hours for the purpose of retrieving unattached personal items. No fee shall be charged for this access, but a fee may be charged for granting access during non-operating hours. Hours of operation shall be posted and prominently displayed at the service's place of doing business and shall be reported to Pinellas County Consumer Protection. The cost of non-operating hours access shall be posted in close proximity to the hours of operation posting and shall be reported to Pinellas County Consumer Protection. The immobilization or towing service shall update Pinellas County Consumer Protection upon any changes in its operating hours or cost for non-operating hour access.

Sec. 122-42. Establishment of towing rates.

- (a) The initial maximum rates, applicable until the same are changed by resolution, for towing a vehicle, for the storage of a towed vehicle, or for the rendition of other services involving the use of a wrecker or other customary towing services when the point of origin of the tow or such services is within the territory of Pinellas County shall be as follows:
- (1) Class A vehicles (gross vehicle weight through 9,999 pounds or vehicle carrying a vessel 15 feet or less in length):
 - a. Private property trespass tow (flat rate) \$147.00
 - b. Police directed nonconsensual tow (flat rate) \$153.00
 - c. Mileage rate, in addition to flat rate, for a private property trespass tow not to exceed ten miles from the point of removal, per mile \$5.00
 - d. Mileage rate, in addition to flat rate for a police directed nonconsensual tow, per mile \$5.00
 - e. Police directed nonconsensual tow, time beyond initial 30 minutes at scene, per 15-minute block \$30.00
 - f. Private property trespass or police directed nonconsensual tow, daily storage rate \$30.00
 - (2) Class B vehicles (gross vehicle weight 10,000 pounds or more but less than 19,500 pounds or vehicle carrying a vessel more than 15 feet but less than 22 feet in length):

- a. Private property trespass tow (flat rate) \$265.00
 - b. Police directed nonconsensual tow (flat rate) \$270.00
 - c. Mileage rate, in addition to flat rate for a private property trespass tow not to exceed ten miles from the point of removal, per mile \$6.00
 - d. Mileage rate, in addition to flat rate for a police directed nonconsensual tow, per mile \$6.00
 - e. Police directed nonconsensual tow, time beyond initial 30 minutes at scene, per 15-minute block \$60.00
 - f. Private property trespass or police directed nonconsensual tow, daily storage rate \$40.00
- (3) Class C vehicles (gross vehicle weight 19,500 or more pounds but less than 25,000 pounds or vehicle carrying a vessel more than 22 feet in length):
- a. Private property trespass tow (flat rate) \$400.00
 - b. Police directed nonconsensual tow (flat rate) \$415.00
 - c. Mileage rate, in addition to flat rate, for a private property trespass tow not to exceed ten miles from the point of removal, per mile \$7.00
 - d. Mileage rate, in addition to flat rate, for a police directed nonconsensual tow, per mile \$7.00
 - e. Police directed nonconsensual tow, time beyond initial 30 minutes at scene, per 15-minute block \$90.00
 - f. Private property trespass or police directed nonconsensual tow, daily storage rate \$70.00
- (4) Class D vehicles (gross vehicle weight 25,000 pounds or more):
- a. Private property trespass tow (flat rate) \$520.00
 - b. Police directed nonconsensual tow (flat rate) \$530.00
 - c. Mileage rate, in addition to flat rate, for a private property trespass tow not to exceed ten miles from the point of removal, per mile \$7.00
 - d. Mileage rate, in addition to flat rate, for a police directed nonconsensual tow, per mile \$7.00
 - e. Police directed nonconsensual tow, time beyond initial 30 minutes at scene, per 15-minute block \$120.00
 - f. Private property trespass or police directed nonconsensual tow, daily storage rate \$70.00
- (b) No additional charges shall be made for or any fees added for special equipment or services such as double hook-up; vehicle entry when locked; dropping transmission linkage; axle or drive shaft removal; dollies; trailer or flat bed; lifts; slim jims; go jacks; removing bumpers; airing up brakes; additional fees for towing a tractor trailer, which shall be considered the tow of one (1) vehicle; or an additional fee for towing motor vehicles carrying other vehicles

(boats, cars, trucks, aircraft, tractors, heavy equipment, ATVs, or motorcycles) that are securely attached, which shall be considered part of that vehicle's load.

- (c) Storage fees as set forth above may be assessed after the first six hours beginning from the time the vehicle is delivered to the storage facility and will accrue at a rate of a fee for each 24 hours thereafter. An administrative fee of \$60.00 may be charged after the first 24 hours of fee storage so long as the towing service has complied with the requirements of F.S. § 713.78. A filing of lien notice fee of \$40.00 may also be charged to cover the execution and mailing of the lien notice so long as the towing service has complied with the requirements of F.S. § 713.78. Further, a tarpaulin fee in the amount of \$35.00 may be assessed when the towing service reasonably finds it necessary to install and maintain tarpaulin coverage on any stored vehicle in order to protect the interior accessories or upholstery of such vehicle from damage by inclement weather.
- (d) The maximum fees set forth herein may be changed from time to time by a resolution adopted by the board of county commissioners.
- (e) A person, operator, firm or corporation that provides police directed nonconsensual or private property trespass towing and storage services pursuant to this article shall accept payment for charges from the vehicle owner or authorized representative in the following forms:
 - (1) Cash;
 - (2) Major credit card; and
 - (3) Debit card.

Additional costs or fees in excess of four percent of the fee, or an amount adopted by resolution, for towing shall not be assessed by reason of payment being made by debit card or credit card.

Sec. 122-43. Immobilization—Requirements for immobilizing vehicles without prior consent of vehicle owner or duly authorized driver of vehicle.

The immobilization services shall not immobilize a vehicle owned by another person which is parked on private property without permission or authority of the owner or duly authorized driver of that vehicle, unless the following requirements are satisfied:

- (1) The vehicle is unlawfully parked and notice shall be prominently posted on the property on which the vehicle is immobilized.
- (2) The vehicle is not occupied by a living natural person or animal.
- (3) The persons providing the immobilization service shall comply with sections 122-40 and 122-41 of this article.
- (4) Immobilization shall be accomplished by placing a steel boot on the front wheel of the driver's side of the motor vehicle. The steel boot may be placed on any other wheel if placement on the front wheel on the driver's side is not feasible.
- (5) Immediately after a vehicle is booted, the person booting such vehicle, the owner of the property where such vehicle was booted, or an employee or agent of such person or owner, shall affix at the rearmost portion of the window adjacent to the driver's seat of such vehicle, a sticker with a completely removable adhesive, measuring $8\frac{1}{2} \times 11$ inches,

containing a warning that any attempt to move the vehicle may result in damage to the vehicle, and stating the name and business address of the person who booted such vehicle as well as a business telephone number which will facilitate the dispatch of personnel responsible for removing the boot.

- (6) Any person who had booted a vehicle shall release such vehicle as soon as practical, but not to exceed 30 minutes of receiving a request for such vehicle's release; provided however that payment of any charge for booting is made at or prior to the time of such vehicle's release.
- (7) An immobilization service may not charge more than a \$35.00 fee.

Sec. 122-44. Consumer complaints.

All consumer complaints directed to Pinellas County concerning excessive charges or charges or violations of this section shall be referred for investigation and resolution to Pinellas County Consumer Protection.

Sec. 122-45. Penalties.

- (a) Each violation of this section shall constitute a separate offense punishable as provided in section 1-8 of this Code.
- (b) Except for violations of section 122-40(h)(4), any person who violates this section shall be liable to the owner or lessee of the vehicle for all costs of recovery plus attorney's fees and court costs, and in addition shall be liable to the owner or lessee of any towed vehicle for damages resulting directly or indirectly from the removal, transportation, or storage of the vehicle.

Secs. 122-46—122-60. Reserved.

SECTION 2. Severability. If any Section, Subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 3. Areas Embraced. This Ordinance shall be effective in the incorporated as well as unincorporated areas of the County.

SECTION 4. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pinellas County Code and that the sections of this Ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to section, article, or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 5. Filing of Ordinance; Effective Date. Pursuant to Section 125.66, Fla. Stat., a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing of the ordinance with the Department of State.

APPROVED AS TO FORM

By: Cody J. Ward
Office of the County Attorney