

CITY OF MIAMI BEACH

ADMINISTRATIVE RULES AND REGULATIONS

FOR

POLICE AND PARKING TOWING PERMITS

REVISED AS OF JUNE 2022

CITY OF MIAMI BEACH ADMINISTRATIVE RULES AND REGULATIONS FOR POLICE AND PARKING TOWING PERMITS

Introduction

Pursuant to Chapter 106, Article V, Division 2, Section 106-212 of the Code of the City of Miami Beach, Florida ("City Code"), and subject to City Commission approval, the City Manager shall promulgate rules and regulations as may be necessary to govern the discharge of towing and/or storage of vehicles identified by the City of Miami Beach Police Department (hereinafter, "MBPD" or the "Police Department") or City of Miami Beach Parking Department ("Parking Department") as requiring removal from the public right of ways. Each applicant awarded a permit by the City Commission to tow and/or store vehicles from the public right of ways, in accordance with Chapter 106, Article V, Division 2, Sections 106-211 through 106-222 of the City Code, shall comply at all times with the rules and regulations hereinafter set forth, and as same may be amended from time to time (the "Administrative Rules and Regulations"). An applicant awarded a permit to tow and/or store vehicles (hereinafter, the "Permit") pursuant to the aforesaid City Code section shall hereinafter be referred to as a "Permittee." However, the total number of permits granted under Chapter 106, Article V, Division 2, Section 106-213 of the City Code shall not exceed two.

1. QUALIFICATIONS OF APPLICANT

Prior to the issuance of a Permit, pursuant to Chapter 106, Article V of the City Code, an applicant shall be required to evidence, to the reasonable satisfaction of the City Manager or designee, that it has the necessary facilities, equipment, skills, personnel, and financial responsibility to furnish the work and services required under the Permit. An applicant shall be required to evidence a record of satisfactory past

performance and, in support thereof, may be required to submit references and provide such other documentation, as requested by the City Manager. Failure to qualify with any or all of the following requirements shall be sufficient justification for the City Manager to reject an application for a Permit (including rejection for renewal of a Permit).

2. COMPETENCY OF APPLICANTS

Permit applications shall only be considered from firms with proven experience in a towing business which has an established and satisfactory record of performance, and has available the required equipment, facilities, storage space, and personnel sufficient to ensure that the business can satisfactorily execute the work/services required.

An applicant must identify a facility which serves as its base of operations, and a storage facility located within the limits of the City of Miami Beach ("City"), where vehicles towed or impounded pursuant to the Permit shall be stored for the first 48 hours after being towed or impounded. The City Manager or designee reserves the right to inspect an applicant's existing or proposed equipment, facilities, and storage facility following submission of a Permit application.

Applicants must have all necessary licenses and permits, as required to operate and provide the required work/services including, without limitation, a business tax receipt issued by the City and any and all other applicable licenses and permits required by the City, Miami-Dade County, and the State of Florida.

By submission of an application, the applicant shall declare, represent and certify to the City that the only person or persons interested in the Permit is/are the principal or principals named therein; that no person or persons (other than therein mentioned) has/have any interest in the Permit; that the Permit is issued by the City without

connection to any person(s), company(ies) or party(ies) making the application; and that it is in all respects fair, in good faith, and without collusion or fraud.

By the City Commission's award of the Permit, and acceptance of the Permit by Permittee, Permittee thereby represents and warrants to the City that Permittee has made itself familiar with all applicable Federal, State, Miami-Dade County, and City laws, ordinances, and rules and regulations that may, in any way, affect and/or apply to the work/services to be provided (and Permittee shall continue to make itself aware and familiar with any subsequent updates in any such laws). Ignorance of the law on the part of the Permittee will in no way relieve Permittee from any responsibility and/or liability under the Permit.

3. PERMIT FEE/MONTHLY BILLING

Pursuant to Section 323.002, Florida Statutes, in addition to the maximum allowable rates that may be charged by the Permittee under Section 22 herein, the City shall charge a Permit Fee of \$30.00 on the registered owner or other legally authorized person in control of the vehicle (or vessel) that is towed ("Permit Fee"). The City hereby appoints Permittee as its agent to impose and collect the Permit Fee on behalf of the City. Permittee shall remit to the City any Permit Fee collected by the 20th of each month, for all Permit Fees collected during the previous month. The Permit Fee shall be reduced to \$25.00 for each vehicle towed that receives a Miami Beach Resident Rate pursuant to Section 22 herein.

Payments to the City shall be made by check or credit card. Payments made by check shall be remitted to the City of Miami Beach Finance Department (Revenue Section). Checks shall be clearly marked "Police Tow" or "Parking Department Tow."

4. INDEMNIFICATION/HOLD HARMLESS AND INSURANCE REQUIREMENTS

Permittee shall be responsible for any work/services, and every part thereof, undertaken pursuant to the Permit. For purposes of this Section 4, the term "Permittee" shall include, without limitation, all Permittee's officers, directors, employees, agents, contractors, and consultants, as well as any facilities, equipment, and property, of every description, used in connection with the performance of the work/services required under the Permit. As further consideration for the City's issuance of the Permit, Permittee expressly assumes all risks of damage or injury to property or persons used or employed by or used or retained by Permittee in connection with the work/services under the Permit, and of all injury or damage to any person or property, wherever located, resulting from any action or operation under the Permit, or in connection with the work/services thereunder.

As separate and additional consideration for the City's issuance of the Permit, Permittee shall indemnify, hold harmless and defend (with counsel approved by the City Attorney) the City of Miami Beach, Florida, its officers, employees, agents, contractors, and consultants, from and against any and all claims, liabilities, demands, causes of action, costs and expenses (including reasonable attorneys' fees at trial and all levels of appeal) of whatsoever kind or nature arising out of any error, omission, negligent act or willful misconduct of Permittee, its officers, directors, employees, agents, contractors, and consultants ("Claims"), whether directly or indirectly, from the provision of work/services under the Permit; provided, however, that there is expressly excluded from the foregoing obligations any Claims to the extent resulting from the gross negligence or willful misconduct of the City, or to the extent the Claim arises out of Permittee's release of an impounded rental vehicle to the person who rented the vehicle, and not those persons specified by Section 713.78(10), Florida Statutes. The

indemnification provisions of this Section 4 shall survive expiration or revocation of the Permit.

In addition to, and separate from, Permittee's obligation to indemnify and hold the City harmless (as set forth in the preceding paragraphs), Permittee shall maintain the following insurance coverage in full force and effect at all times throughout the Permit term. The maintenance of proper insurance coverage is a material element of the Permit and failure to maintain or renew coverage may be treated as a material breach of the Permit, which could result in suspension or revocation of the Permit in accordance with Section 106-220 of the City Code.

A. Worker's Compensation Insurance for all employees of the Permittee as required by Florida Statute 440, and Employer Liability Insurance for bodily injury or disease. Should the Permittee be exempt from this Statute, the Permittee and each employee shall hold the City harmless from any injury incurred during performance of the Permit. The exempt Permittee shall also submit (i) a written statement detailing the number of employees and that they are not required to carry Workers' Compensation Insurance and do not anticipate hiring any additional employees during the term of this Permit or (ii) a copy of a Certificate of Exemption.

B. Garage Keepers Legal Liability Insurance on an occurrence basis, including products and completed operations, contractual liability, property damage, bodily injury and personal & advertising injury for vehicles while in the Permittee's care, custody and control with limits no less than \$1,000,000 per occurrence, and \$2,000,000 general aggregate.

C. Automobile Liability Insurance covering any automobile, if Permittee has no owned automobiles, then coverage for hired and non-owned automobiles, with limit no less than \$1,000,000 combined per accident for bodily injury and property damage.

Additional Insured - City of Miami Beach must be included by endorsement as an additional insured with respect to all liability policies (except Professional Liability and Workers' Compensation) arising out of work or operations performed on behalf of the Permittee including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired or borrowed in the form of an endorsement to the Permittee's insurance.

Notice of Cancellation - Each insurance policy required above shall provide that coverage shall not be cancelled, except with notice to the City of Miami Beach c/o EXIGIS Insurance Compliance Services.

Waiver of Subrogation – Permittee agrees to obtain any endorsement that may be necessary to affect the waiver of subrogation on the coverages required. However, this provision applies regardless of whether the City has received a waiver of subrogation endorsement from the insurer.

Acceptability of Insurers – Insurance must be placed with insurers with a current A.M. Best rating of A:VII or higher. If not rated, exceptions may be made for members of the Florida Insurance Funds (i.e. FWCIGA, FAJUA). Carriers may also be considered if they are licensed and authorized to do insurance business in the State of Florida.

Verification of Coverage – Permittee shall furnish the City with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this contract. All certificates and endorsements are to be received

and approved by the City prior to commencement of the Permit term, and/or prior to commencement of any work and/or work/services under the Permit (whichever is earlier). However, failure to obtain the required documents prior to commencement of the Permit term, work and/or services as described above shall not waive the Permittee's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

CERTIFICATE HOLDER MUST READ:

CITY OF MIAMI BEACH
c/o EXIGIS Insurance Compliance Services
P.O. Box 4668 – ECM #35050
New York, NY 10163-4668

Kindly submit all certificates of insurance, endorsements, exemption letters to our servicing agent, EXIGIS, at: Certificates-miamibeach@riskworks.com

Special Risks or Circumstances - The City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Compliance with the foregoing requirements shall not relieve the Permittee of his/her liability and obligation under this section or under any other section of this agreement.

It is understood and agreed that all policies of insurance required hereunder shall be primary to any insurance or self-insurance of the City.

Permittee will also be solely responsible for securing and maintaining policies for any and all of its subcontractors, to the extent and in accordance with the same insurance requirements as applies to Permittee pursuant to this Section 4.

Notwithstanding compliance by Permittee and its subcontractors with the insurance requirements in this Section 4, Permittee shall be ultimately responsible and liable for any negligent acts, errors or omissions, or willful misconduct, of its subcontractor(s) (and of persons employed by such subcontractor(s)), to the extent that Permittee would be responsible (for the negligent acts, errors and omissions, or willful misconduct of persons employed and/or retained by Permittee) under the requirements of this Section 4.

Should Permittee fail to provide proof of coverage for any insurance required in this Section 4, within seven (7) days of receipt of written notice from the City Manager or designee, the City reserves the right, upon written notice to Permittee, to suspend or revoke the Permit, in accordance with Section 106-220 of the City Code, without liability to the City.

5. AUTHORIZED STORAGE FACILITIES AND ON PREMISES OFFICE

Permittee must have an authorized storage facility within the limits of the City, of which 31 spaces shall only be used by Permittee to store vehicles towed or impounded pursuant to the Permit. Vehicles must be stored at Permittee's authorized storage facility for a minimum of 48 hours, after which they may be moved to a storage facility outside the limits of the City, but within Miami-Dade County, Florida.

Permittee shall not store any vehicle with a "police hold" placed on it by the Police Department outside the limits of the City.

A. Authorized Storage Facilities

Permittee's authorized storage facility shall have available outside storage for a minimum of thirty-one (31) vehicles, but no more than a maximum of one hundred (100) vehicles. Said authorized storage facility will be enclosed in accordance with applicable

City zoning requirements. At a minimum, Permittee shall surround the authorized storage facility with a chain-link fence or solid-wall type fence at least six (6') feet high. The authorized storage facility shall be sufficiently illuminated to reveal persons and vehicles at a distance of at least 150 feet during evening hours. Permittee shall use such security measures as it deems necessary, to prevent theft, vandalism, stripping, and dismantling of parts from stored vehicles.

Permittee's authorized storage facility shall provide a completely enclosed (interior) storage area (solid walls, roof, and access door), which must accommodate a minimum of five (5) automobiles. The enclosed (interior) storage area shall be appropriately and adequately secured against entry by unauthorized persons.

In the event Permittee's authorized storage facility is filled to capacity, the Permittee shall notify the Police Department and Parking Department, and, notwithstanding Section 106-218 of the City Code and Section 13 herein, such departments shall have the option, at their sole discretion, to use the services of another Permittee until such time as Permittee notifies the departments that its authorized storage facility is no longer filled to capacity. Permittee, at its sole cost and responsibility, shall be required to make arrangements for storage, as required to comply with the terms of the Permit. Any storage facility proposed to be utilized by Permittee (not identified in the Permit) must obtain the prior written approval of the City Manager or designee prior to commencement of such use.

Permittee may not charge an additional towing fee for removal of a vehicle for storage outside the limits of the City. An owner (or other authorized individual) claiming a vehicle stored outside the limits of the City shall be given the option, without charge,

of either free transportation to the vehicle, or having the vehicle returned to the Permittee's authorized storage facility.

Permittee may not store or park towed vehicles in any municipal parking space or facility without express written authorization from the City Manager or designee. No storage charges shall be assessed for any vehicle which, pursuant to authorization of the City Manager or designee, is stored at a City facility.

B. On Premises Office

In addition to the authorized storage facility, the Permittee shall have a permanent on-premises office, which shall be staffed on a 24-hour basis by at least one (1) employee. Permittee shall also provide on-premises security in the form of one or more of the following: night dispatcher or watchman; security guard service; security dog; or security cameras.

Permittee must post a City-approved sign at its on-premises facility indicating charges (as shall have been approved by the City). This sign must include a statement about the accepted methods of payment and the number and kinds of identification required. At a minimum, the sign must be in one-inch (1") lettering, with contrasting background, permanently and prominently posted in the area where the charges are paid to Permittee.

All areas accessible to the public must be well lighted, with provisions to accommodate seating for members of the public retrieving vehicles. After 11 p.m., Permittee shall be prohibited from utilizing or maintaining any sort of public announcement (PA) system from its premises, (so as to eliminate and/or reduce amplified and other noise to the surrounding neighborhood that occurs after 11:00 p.m.).

Additional Conditions for Permittee's Authorized Storage Facility and On Premises Facility:

1. Storage and/or parking of vehicles must be fully screened from view, as seen from any right-of-way or adjoining property, when viewed from five feet six inches (5'6") above grade, with landscaping, an opaque wood fence, masonry wall, or other opaque screening device not less than six feet (6') in height.
2. Parking spaces, backup areas, and drives shall be appropriately dimensioned for the type of vehicles being parked or stored.
3. The City shall retain the right to modify the Permit and the conditions of operation should there be complaints about loud, excessive, unnecessary, or unusual late-night noise that occurs after 11:00 p.m.
4. The Permittee shall be responsible for maintaining the immediate areas adjacent to its on-premises facility and storage facility including, without limitation, the adjacent sidewalks, curbs, and gutters, in a clean and sanitary manner, free of refuse, at all times during its hours of operation.
5. Permittee shall be required to satisfy the landscaping requirements of Section 126-6(2) of the City Code (Palms as street trees: Single trunk palm species with a minimum of ten inches diameter at breast height (DBH) and a minimum of 15 feet of clear or grey wood at time of planting may be planted in addition to the required number of street trees. The maximum spacing of palms as street trees shall be 20 feet on center. Palms shall not count towards the required number of street trees. The City may require an increase in the maximum spacing due to site-specific constraints, such as, but not limited to,

visibility triangles, signage, utilities view corridors, or the use of large canopy or diameter trees).

6. A plan for a recurring maintenance schedule that includes, but is not limited to, cleaning Permittee's authorized storage facility, clipping of hedge material, removing and replacement of dead plant material, fertilization and irrigation, shall be submitted to the City Manager or designee, within five (5) business days from the commencement of the Permit Term, for the Manager (or his/her designee's) review and approval.

7. The lighting in Permittee's on-site facility and authorized storage facility must satisfy the City Code and the Florida Building Codes. The light from light poles shall be contained on-site. Any light poles shall not exceed fifteen feet (15') in height, measured from grade.

8. Permittee shall be responsible for operating its on-premises facility and authorized storage facility in an orderly, clean and quiet manner so that neighboring residents are not disturbed during the hours of operation. At a minimum, this shall include removing all trash from the lot not less than twice daily. The sounding of car alarms, automobile horns, playing of radios or any kind of audio system, and screeching of tires shall be prohibited. A sign addressing City Code provisions regarding car alarms, and a sign prohibiting the screeching of tires and sounding of horns, shall be posted on-site so they are plainly visible by, and legible to, users of the facility.

9. Violations of the City's Noise Ordinance (as codified in Article IV, Sections 46-151 through 46-162, and as same may be amended from time to time) may also be deemed a failure to comply under the terms of the Permit. Accordingly, in

the event of such non-compliance, only if established by final adjudication of the City's Special Magistrate (including all appeals), the Permit may be suspended or revoked in accordance with Section 106-220 of the City Code.

6. TOWS WITH POLICE HOLD

Unless otherwise requested, vehicles towed or impounded upon which the Police Department has placed a hold, shall be transported directly to Police Department headquarters at 1100 Washington Avenue, Miami Beach, Florida 33139 or to the Police Department's off-site facility at 6700 NW 36th Avenue, Miami, Florida 33147 (collectively, the "Police Storage Facility"). Once the Police Department authorizes the release of a vehicle with a police hold, the Police Department may (i) notify Permittee to pick up the vehicle and move it to Permittee's authorized storage facility, or (ii) advise the owner that the hold has been released and to pay the towing and storage fees incurred by Permittee prior to retrieving the vehicle from the Police Department's facility. The Police Department will not release the vehicle unless the owner presents proof of payment of the towing and storage charges incurred by the Permittee as required by Section 323.001(2)(a), Florida Statutes, and the terms of these Administrative Rules and Regulations. If the Police Department releases a vehicle without obtaining the required proof of payment from the owner, the Police Department must pay to the Permittee the towing and storage charges incurred by the Permittee within 60 days after the vehicle is released. The Police Department shall notify the Permittee, in writing, of the release of a vehicle within five (5) days of the vehicle being released.

In the event a vehicle with a hold cannot be stored at Police headquarters or the Police Department's off-site facility, a police Property & Evidence Unit supervisor or designee may request that it be stored at Permittee's authorized storage area, within

the City limits. The vehicle owner is responsible for retrieving the vehicle from the Permittee's tow yard or facility.

Said vehicles shall be stored for a period of up to five (5) working days, excluding Saturday, Sunday and Holidays, at no charge for the first five (5) working days. If, after expiration of the five (5) working days, the vehicle requires a police hold for a longer period of time, the Police Department may direct Permittee, in writing, to remove the vehicle to a City facility, without charge to the City. In the alternative, the notice may request that Permittee continue to store the vehicle at Permittee's storage facility. If the Police Department's notice elects to have the vehicle remain at Permittee's storage facility, the Police Department shall be responsible for any storage charges incurred after the initial five (5) working days.

If the Permittee does not receive such written notification from the Police Department, within the time period provided above, the Permittee may release the vehicle to the registered owner or lien holder; provided, however, that the Permittee shall provide the Police Department with written notice of Permittee's intent to release, prior to the actual release date. (See also Section 323.001(2), Florida Statutes). The vehicle owner or lienholder shall be responsible to pay the Permittee the towing and storage charges at the appropriate resident/non-resident established rate.

In cases where the Police Department places a hold on a vehicle pursuant to a violation of Chapter 106, Article IX, Sections 106-391 through 106-395 of the City Code (the City's Vehicle Impoundment Ordinance), Permittee shall release the vehicle without charge to the vehicle owner or lienholder, or agent of either, if so ordered by the City's Special Magistrate, and the Police Department shall pay the accrued towing, at the

discounted City of Miami Beach rate of \$185 and storage charges to Permittee within 60 days after the vehicle is released.

The Police Department shall notify Permittee, in writing, when a hold on a vehicle has been released. If such vehicle is stored at the Police Storage Facility, the Police Department shall coordinate with Permittee a date and time when Permittee can pick up the vehicle and move it to Permittee's storage facility. The Police Department shall not be responsible for the cost of moving a vehicle with a hold (active or released) from one location to another. All costs for moving a vehicle from one location to another, at the request of the Police Department, shall be borne solely by the vehicle owner or lienholder at the applicable rates under Section 22 herein, unless the Police Chief or designee notifies Permittee, in writing, that the vehicle owner was a crime victim or witness to a crime, in which case, the provisions of Section 22(C)(7) shall apply.

The Permittee shall not divulge any information with respect to a towed or impounded vehicle when such vehicle has a Police Hold. Anyone wishing to obtain information on a vehicle with a police hold shall be referred to the Police Department

7. STORAGE PROCEDURES FOR VEHICLES

The Permittee shall store towed or impounded vehicles in its outside storage area unless specific written instructions are given for inside storage by the impounding City Police Officer or City Parking Enforcement Specialist.

8. LOCATION CHANGES OF IMPOUNDED VEHICLES

Permittee shall not change the type of storage (inside or outside) or storage location, except as provided in Section 5 herein, without the prior written approval of the City Manager or designee.

9. ATTENDANT ON DUTY

The Permittee shall have sufficient attendants available, on a 24-hour, 7-days a week basis, for immediate response to calls for service from the City. Permittee shall have sufficient personnel available to staff its on-premises facility, on a 24-hour, 7-days a week basis, for the purpose of dispatching calls and releasing towed vehicles.

10. VEHICLE LOADING

All vehicle loading shall only be conducted within Permittee's premises. The use of a forklift or similar device shall be strictly prohibited on any City right-of-way.

11. EQUIPMENT

Permittee shall be solely responsible for operating and maintaining any and all equipment, as required to satisfactorily perform the work/services required under the Permit. All equipment shall be maintained in a state of readiness for response. In the event that Permittee utilizes any equipment not owned by it, the City shall require that Permittee demonstrate, to the City Manager or designee's satisfaction, that it has the primary use and control of such equipment throughout the Permit term (whether by providing proof of an equipment lease, or other legally binding contract evidencing use and control of any required equipment). Any equipment not owned by Permittee must be made available to Permittee on a first priority basis.

At a minimum, Permittee shall maintain and have available during the Permit term the following type(s) of equipment:

A. WRECKERS (TOW TRUCKS)

All wreckers will be registered and shall have appropriate licenses to operate as wreckers. Permittee's towing license number shall be displayed on the front of the vehicle in letters at least three (3") inches high. Permittee's company name shall

be displayed on the driver and passenger side of the vehicle in letters at least three (3") inches high. The company's address and telephone number shall be displayed on the driver and passenger side of the vehicle in letters at least one (1") inch high.

B. WRECKER CLASSIFICATION AND REQUIRED EQUIPMENT

If Permittee owns or leases any of the following wreckers, such wreckers shall meet the following minimum ratings:

(1) Class "A" Wrecker:

- a) 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(es) having a manufacturer's combined rating of at least 4 tons must be mounted on the chassis. Hand crank winches do not satisfy these requirements and will not be approved.
- b) A minimum of one hundred feet of 3/8-inch cable.
- c) Dollies.
- d) Flood lights on the hoist.
- e) 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 lbs. lift capacity and must utilize wheel safety straps when lifting vehicles by the wheels only.
- f) 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 equipment as provided in sectionu (2) below of this rule.
- g) HSMV Form 60308 shall be used by the Division for the inspection of Class "A" wreckers.

(2) Class "A" Roll-Back or Slide-Back Wrecker.

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

- b) A minimum of 50 feet of 3/8-inch cable.
- c) A minimum of two safety tie-down chains of at least ten (10) feet each in length.
- d) Two spot (flood) lights mounted on the rear of the carrier.
- e) A roll-back or slide-back carrier trailer shall meet the following requirements:
 - A commercially manufactured carrier trailer with a rated capacity of at least 8,000 pounds gross vehicle weight with a minimum sixteen (16) foot bed. A winch with at least 8,000 pound capacity.
 - A minimum of 50 feet of 3/8 inch cable.
 - Brakes and trailer lights which meet the minimum statutory requirements of Florida law.
 - Safety chains.
 - Must be towed by and used in conjunction with an approved wrecker that meets or exceeds the class of the vehicle to be towed.
- f) HSMV Form 60305 shall be used by the Division for the inspection of roll-back and slide-back carriers.

(3) Class "B" Wrecker:

- a) 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 (10) ton capacity mounted on the chassis. Class B wreckers that were previously approved at 15,000 pounds gross vehicle weight may continue in use within this class, even if sold to another approved rotation operator.
- b) A minimum of one hundred feet of at least 1/2-inch cable on each drum.
- c) One set of scotch blocks for wheels or hydraulic rear-extendable scotch blocks.
- d) Flood lights on the hoist.
- e) HSMV Form 60307 shall be used by the Division for the inspection of Class "B" wreckers.

(5) Class "C" Wrecker:

- a) A truck chassis with a manufacturer's rated capacity of at least 30,000 pounds gross vehicle weight and 50,000 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 25 ton capacity mounted on the chassis.
- b) A minimum of two hundred feet of at least 5/8-inch cable on each drum.
- c) Air brakes so constructed as to lock the rear wheels automatically upon failure.
- d) External air hookup and hoses, to supply air to disabled vehicles.
- e) One set of scotch blocks for wheels or hydraulic rear-extendable scotch blocks.
- f) Flood lights on the hoist.
- g) HSMV Form 60306 shall be used by the Division for the inspection of Class "C" wreckers.

C. ALL WRECKERS (ALL CLASSIFICATIONS) SHALL INCLUDE THE FOLLOWING:

- 1. A cradle, tow plate or tow sling to pick up 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 vehicle to be towed.
- 2. Dual rear wheels.
- 3. Clearance and marker lights and all other equipment as required by Chapter 316, F.S.
- 4. 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.
- 5. The name, address and telephone number of the wrecker operator for the zone in which the operator is qualified must be painted or permanently affixed in a conspicuous place on both sides of the trucks as required by Section 713.78(6), F.S. A unit number shall be painted on both sides of the cab of each wrecker. The same unit number on two or more wreckers qualified to tow within a zone is prohibited. Multiple addresses and telephone numbers are prohibited.

- a) The name must be in letters at least three (3) inches in height.
 - b) The zone address and telephone number must be at least one (1) inch in height.
 - c) The unit number must be at least three (3) inches in height and in contrasting color.
 - d) Magnetic or removal signs or placards will not meet these requirements.
- 6. At least one heavy duty push broom with a minimum width of twenty-four (24) inches.
 - 7. One square shovel.
 - 8. One ax.
 - 9. One crowbar or prybar with a minimum length of thirty (30) inches.
 - 10. 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.
 - 11. One pair of bolt cutters with a minimum opening of 1/2 inch.
 - 12. One set of jumper cables.
 - 13. One four-way lug wrench.
 - 14. One flashlight.
 - 15. Five thirty minute fuses.
 - 16. One snatch block for each winch with manufacturer's rating to match winch.
 - 17. Extra towing chain six to eight feet in length with hooks.
 - 18. At least three (3) safety cones or triangle reflectors.
 - 19. Fifty pounds of sand or equivalent.

D. COMMUNICATIONS SYSTEM

Permittee shall, at its sole cost and expense, provide its own two-way radio communications system. The communications system shall be between the

Permittee's base station and service trucks utilized in providing work/services under the Permit. The Parking Department shall provide Permittee with a radio to communicate with Permittee.

E. GPS VEHICLE TRACKING SYSTEM

Permittee shall, at its sole cost and expense, and prior to commencement of the Permit term, procure, install, and implement a GPS vehicle tracking system on all of its vehicles that provide towing services to the City, which will be accessible to the City for monitoring purposes only, in accordance with the following procedures:

- (a) Permittee shall implement the use of a GPS tracking system. The specifications of the system shall be submitted to the City for approval;
- (b) Prior to the commencement of work/services under the Permit, Permittee shall have the approved GPS tracking system installed and operational in all vehicles that provide towing services to the City. Non-compliance with this requirement may be grounds for suspension or revocation of the Permit in accordance with Section 106-220 of the City Code;
- (c) Notwithstanding anything to the contrary contained herein, Permittee specifically acknowledges and agrees that Permittee must have the GPS turned on at all times on all vehicles utilized to respond to City requests for tows.

12. EMPLOYEES OF PERMITTEE

Permittee shall be solely responsible for the means and methods for selecting, training, directing, instructing, disciplining, hiring and firing of its employees and/or contractors provided that at all times during the Permit term. Permittee shall be solely

responsible for ensuring that it shall have sufficient, and qualified, trained personnel to fulfil its obligations under the terms of the Permit, so as to satisfactorily perform the work/services required under such Permit.

a. Permittee shall perform driver license screening on all employees with driving responsibilities at the beginning of each permit year and upon the hiring of new drivers. A copy of each employee driver's license and screening report shall be kept on file by Permittee and provided to the City at the beginning of each permit year and upon the hiring of a new driver, unless prohibited by law.

b. Permittee shall be required to provide all employees with uniforms, which shall be subject to the prior written approval by the City Manager or designee.

c. Permittee shall perform drug test screening on all employees at the beginning of each contract year and upon the hiring of a new employee, as well as at the request of the City Manager, and shall provide pass/fail results to the City Manager or designee, unless prohibited by law.

Any and all employees and/or other individuals retained by Permittee, shall not, for any purposes, be considered to be employees of the City, and Permittee shall be solely responsible for their supervision and daily direction and control.

It is the intent of the City and Permittee, and Permittee specifically recognizes and acknowledges, that the Permittee is legally considered to be an independent contractor and that neither it, nor its officers, directors, employees, agents, contractors or consultants, shall, under any circumstances, be considered officers, directors, employees, contractors, agents or consultants of the City, and that the City shall at no time be legally responsible or liable for any negligent acts, errors, omissions, or misconduct on the part of Permittee, or any of its officers, directors, employees,

contractors, agents or consultants. Additionally, Permittee agrees to have no markings on either its vehicles, buildings, equipment, or correspondence that indicates or implies any official relationship between the Permittee and the City.

13. REQUESTS FOR TOW SERVICE

All requests for tows by the City shall be made through its Police Department or Parking Department. The dispatching unit of the Police Department or Parking Department will assign tows to Permittees on a rotating basis, alternating every tow.

The Police Department or Parking Department reserves the right to cancel a request for Permittee's services on a particular tow, at any time, up to the time of hook-up of the vehicle. Permittee acknowledges and agrees that the mere response to a Police Department or Parking Department service call, without other action, shall not constitute a service for which charges are applicable.

Except in situations where the Police Department places a hold on a vehicle or a vehicle has an "impoundment order" pursuant to Sec. 30-389.4(d) of the Code of Miami-Dade County, Florida, if the vehicle owner of the vehicle (or other authorized person, as defined herein) or lienholder arrives at the scene of the tow prior to the towing or impoundment of the vehicle, the vehicle shall be disconnected from the wrecker, and the vehicle owner or lienholder shall be allowed to remove the vehicle, without charge, interference or obstruction from the Permittee (See also Section 24 herein). For purposes of this Section, the term authorized person shall include any person who rents a vehicle and can provide evidence of custody via a valid rental agreement.

In those situations where the immediate removal of a legally parked vehicle is necessary in the interest of public safety including, without limitation, due to a fire,

storm, flood, other act of God, riot, civil disturbance, or a crime scene, upon prior written authorization of the Police Department, the Permittee shall remove the vehicle to the nearest public parking area (where parking is available), at no cost to the City (or to the vehicle owner or lienholder). A legally parked vehicle towed pursuant to this provision shall be treated and count as an Emergency Tow under Section 20 herein. For purposes of this Section 13, the term "authorized representative" shall include any person(s) who rented a vehicle and can provide evidence of custody through a valid rental agreement. For purposes of the Section 13, the term "valid rental agreement" shall mean a rental agreement which on its face shows that the due date for the return of the rental vehicle has not yet expired.

If, at the option of the Police Officer or Parking Enforcement Specialist at the scene of a tow, the vehicle requires special weather protection, it will be so noted on the vehicle storage receipt, and the Permittee shall be required to store such vehicle indoors.

If a request for a tow involves the removal of a vehicle (or vessel) which is located underwater, the Permittee shall provide underwater divers to handle the hook-up of such vehicle (or vessel). Underwater recovery salvage divers must be SCUBA certified. The cost associated with any underwater recovery salvage shall be consistent with those underwater recovery fees as set forth within Section 22 herein. Should the Permittee not offer this type of recovery service, the City then authorizes the Permittee to subcontract said service and to charge the owner or lienholder of the vehicle or vessel the actual cost the subcontractor charged the Permittee for the service.

14. DELAYS

Permittee shall respond to requests for tows within twenty (20) minutes of receipt of the request. In the event that Permittee cannot respond within twenty (20) minutes, it shall notify the Police Department or Parking Department, as applicable, of the estimated time of delay and the reasons thereof, and the Police Department or Parking Department shall have the option, at its sole discretion, to cancel the request and contact another Permittee, without cost or any liability to the Permittee to which the initial request for tow was directed.

15. REMOVAL OF HAZARDS

Upon arrival at the scene of a tow, Permittee's wrecker operator shall promptly remove any hazards or debris from the public right of way prior to proceeding to tow or impound the vehicle. In the event Permittee is requested to provide clean-up services only (and not tow or impound a vehicle), the vehicle storage receipt issued by the Police Department to Permittee shall be noted "Clean-Up Service Only." A call for Clean-Up Service Only shall be treated and count as an Emergency Tow under Section 20 herein.

16. IMPROPER TOWS

A Police supervisor or Parking Enforcement supervisor may request Permittee's tow truck operator to release a vehicle that has been engaged (but not removed from the scene of the tow) should the impoundment of the vehicle be deemed improper by such supervisor. The release of the vehicle shall be authorized in writing by such supervisor by signing in the indicated section of the tow slip. The supervisor's decision shall be final, and the tow truck operator shall proceed and comply with the release.

Any vehicle towed or impounded by Permittee, and subsequently ordered to be released by the Police Department or Parking Department because the vehicle was improperly towed or impounded shall be released to the vehicle owner without charge, and the Police Department or Parking Department, shall pay Permittee the City of Miami Beach rate of \$185 for such tow (plus applicable storage fees and administrative fees in connection with Section 713.78, Florida Statutes, or as provided for in this permit). Any order by the Police Department or Parking Department to release a vehicle under this Section 16 shall be in writing. In instances where a vehicle has been improperly towed and such vehicle belongs to a disabled operator, Permittee shall deliver said vehicle to the original scene of the tow or to such other location within the City (as directed by the City) and the City shall pay Permittee the City of Miami Beach rate of \$185, or as provided for in this permit).

17. IMPOUND REPORTS/OWNER NOTIFICATION

When the City requests that a vehicle be towed, the City and Permittee shall comply with Section 713.78, Florida Statutes (attached hereto).

18. VIEWING OF IMPOUNDED VEHICLES

The City interprets Section 713.78(10), Florida Statutes, to establish that Permittee is **minimally required** to permit vehicle or vessel owners, lienholders, insurance company representatives, or their agents to inspect an impounded vehicle or vessel and to remove all personal property not affixed to the vehicle or vessel which was in the vehicle or vessel at the time the vehicle or vessel came into the custody of the Permittee, but not to prohibit Permittee from permitting a person who rented a rental vehicle to inspect an impounded rental vehicle and removing all personal property not affixed to the vehicle which was in the vehicle at the time the vehicle came into the

custody of the Permittee. Therefore, the City directs Permittee to permit a person who rented an impounded rental vehicle to inspect such vehicle and to remove all personal property not affixed to the vehicle which was in the vehicle at the time the vehicle came into the custody of the Permittee.

19. VEHICLE RELEASES

In accordance with Section 713.78(10), Florida Statutes, Permittee shall release an impounded vehicle to the owner, lienholder or agent of either upon payment of the appropriate fee(s), and no later than thirty (30) minutes from receipt of such payment. The City interprets Section 713.78(10), Florida Statutes, to establish that Permittee is **minimally required** to release an impounded vehicle to the owner, lienholder, or agent of either, but not to prohibit Permittee from releasing a rental vehicle to the person who rented the vehicle. Therefore, the City directs Permittee to release an impounded rental vehicle to the person who rented the vehicle upon verification of a valid rental agreement and valid photo identification matching the name on said rental agreement and upon payment of the appropriate fee(s), and no later than thirty (30) minutes from receipt of such payment. The Permittee shall not release any vehicle that has an active "police hold".

A person who makes application for the release of an impounded vehicle shall be required to produce proof that they are either (i) the owner, lienholder, or agent of either, or (ii) in the case of a rental vehicle, the person who rented the vehicle. For an owner, sufficient proof may be demonstrated by presentation of the vehicle title or registration and valid photo identification which matches the name on the vehicle title or registration. For an agent of either the owner or lienholder, the agent must present an original writing acknowledged by the owner or lienholder before a notary public or other person

empowered by law to administer oaths, that the agent is authorized to redeem the vehicle and valid photo identification which matches the name in the original writing. For a person who rented a rental vehicle, sufficient proof may be established by a valid rental agreement and valid photo identification of the person seeking release of the vehicle (which matches the name on the rental agreement). For purposes of the Section 19, the term "valid rental agreement" shall mean a rental agreement which on its face shows that the due date for the return of the rental vehicle has not yet expired.

A photocopy of the documentation and of the photo ID used for the vehicle release shall be attached to the copy of the vehicle storage receipt. Such copies shall be clearly legible/identifiable.

Notwithstanding the preceding, or any other term or condition of the Permit, Permittee shall be solely responsible for whatever means and methods, as it deems necessary to ensure and ascertain that a vehicle has been released to the registered owner or a duly authorized representative of the owner and the City shall have no liability, whether to Permittee, the vehicle owner, or any other third parties, as a result of an improper or erroneous release of a vehicle by Permittee, except in the event of an improper or erroneous release to a person who rented a rental vehicle, provided the Permittee followed the verification requirements as established in the Permit.

All vehicles that have not been claimed shall be disposed of according to applicable law. Permittee will be required, within three (3) days after a sale or, if a title is surrendered for payment, to submit to the City a detailed listing of the vehicle identification number, tow receipt number, police case number (if applicable), year, make, model of vehicle, monies received, and the purchaser's name, address and local telephone number.

In the event that a vehicle is "junked," Permittee shall provide the City with a copy of the certificate of destruction (as required by State law). This copy shall be attached to the copy of the vehicle storage receipt. In the release section of the vehicle storage receipt, information shall be recorded as to the name, address, and local telephone number of the person or company that takes possession.

In cases where the registered owner of the vehicle relinquishes all claims to the vehicle and transfers ownership of the vehicle to Permittee, Permittee shall not charge a fee for services rendered.

Permittee shall notify the City Manager or designee of all abandoned/ unclaimed vehicles prior to such vehicles being slated for auction. All vehicles slated for auction must first be approved in writing by the City Manager or designee. The City shall have the right to bid on such vehicles and may obtain title upon payment of towing and storage charges, and costs of the sale, provided there are no other bidders. The City Manager shall designate an MBPD representative to track the vehicle auctions and make the appropriate bidding on behalf of the City.

20. EMERGENCY TOWING OF CITY VEHICLES

Permittee shall provide emergency towing services for City vehicles at no charge to the City, for a maximum of sixty-five (65) vehicles per year (each an "Emergency Tow"), upon written request from the Police Department, Parking Department, the City Manager and/or designee. Each Permittee shall provide such services for one month at a time, on a rotating basis with the other Permittee. This service is designed to remove, and secure vehicles owned or leased by the City which become disabled, crime or witness vehicles, and legally parked vehicles which require relocation for public safety reasons. (See also Section 13 herein). This emergency towing service shall not be used

for jump starts or door openings (a/k/a "lockouts") outside the limits of the City. Such emergency towing services are limited to Miami-Dade County and Broward County. After meeting the annual maximum of sixty-five (65) Emergency Tows, the City shall pay Permittee \$50.00 dollars per tow in Miami-Dade County, and \$100.00 per tow in Broward County, for any additional Emergency Tows. Permittee shall submit all bills pursuant to this Section 20 to the Police Department or Parking Department. The Police Department or Parking Department shall pay Permittee within thirty (30) days of Permittee billing the Police Department or Parking Department.

Permittee may receive requests for emergency towing of City vehicles from the Police Department, Parking Department, the City Manager and/or designee, who will provide Permittee with the following information, in writing:

1. location of the vehicle, with the nearest street address;
2. make, year, model and tag number of the City vehicle, together with all information available as to the condition of the vehicle;
3. name of the City employee operating the vehicle; and
4. reason for the tow (i.e. disabled, accident scene, etc.)

The Permittee shall tow and return a disabled City vehicle to the Mechanical Maintenance Garage at 140 MacArthur Causeway. Disabled Police Department vehicles may, upon written approval of the Police Chief or designee, be towed to the Miami Beach Police Station at 1100 Washington Avenue.

21. ABANDONED VEHICLES

Permittee shall remove abandoned vehicles on public streets, highways, right of ways, and other City or publicly owned property, upon request of the City Manager or designee. For purposes of this section, the term "vehicle" shall include, without

limitation, automobiles, trucks, truck bodies, and house trailers (including vehicles which may be partly or entirely dismantled or consist of only a major portion of the body or framework).

A Police officer or a City Parking Enforcement Specialist shall issue and affix stickers on abandoned vehicles. After a minimum of two (2) days, if the vehicle is not removed, it may be towed at the request of the City. However, vehicles parked where parking is prohibited, or so as to be a hazard or obstruction to traffic, must be towed immediately.

Notwithstanding the preceding paragraph, vehicles properly parked in one of the City's Residential Parking Permit Districts with a valid Residential Parking permit shall not be regarded as abandoned.

Permittee shall comply with Section 713.78, Florida Statutes, in providing notice to the registered owner of the vehicle, the insurance company insuring the vehicle, and all persons claiming a lien thereon.

Abandoned vehicles may be stored at Permittee's authorized storage facility, or at a salvage company located outside the City limits.

Permittee shall assume and be solely responsible for, and shall fully defend, indemnify and hold the City, its officers, employees, agents, contractors, and consultants, harmless from and against all claims and demands by any and all parties whatsoever related to (and including but not limited to alleged violation of) Section 713.78, Florida Statutes (as same may be amended from time to time). The Permittee shall pay all judgments obtained by reason of a violation of Section 713.78, Florida Statutes, as specified in suit or suits against the City, including all legal costs, court expenses and attorney fees, and other like expenses. Permittee shall have the right to

join in the defense of such suits. City shall notify Permittee of any such suits where Permittee is not named as a party. The failure of City to notify Permittee of such suit shall relieve Permittee of any and all responsibility or liability under this Section 21. However, there is expressly excluded from the foregoing obligations to indemnify those Claims resulting from the gross negligence or willful misconduct of the City, or to the extent the Claim arises out of Permittee's release of an impounded rental vehicle to the person who rented the vehicle, and not those persons specified by Section 713.78(10), Florida Statutes.

22. MAXIMUM ALLOWABLE RATES

Pursuant to Section 106-219, the City Commission hereby establishes the following maximum allowable rates for towing, removal, and storage services provided under the Permit ("Maximum Allowable Rates"). The Permittee shall not charge in excess of the following Maximum Allowable Rates (as same may be adjusted from time to time in accordance with the Indexing Provision in Section 22(C)(5):

- A. Maximum Allowable Hook-Up Rate (includes: Labor; Dollies; Administrative fees unrelated to Section 713.78, Florida Statutes, mileage, and after hours)

Non- City of Miami Beach residents:

Tow Rate Class "A" Tow Truck and Class A Car Carrier

Including first 30 minutes at the scene	\$250.00
---	----------

Tow Rate Class "B" Tow Truck

Including first 30 minutes at the scene	\$250.00
---	----------

Tow Rate Class "C" Tow Truck

Including first 30 minutes at the scene	\$275.00
---	----------

Should the Permittee not own or lease a Class "C" Tow Truck, the City then authorizes the Permittee to subcontract said wrecker and to charge a maximum of \$325.00.

Tow Rate Class "D" Tow Truck

Including first 30 minutes at the scene \$450.00

Should the Permittee not own or lease a Class "D" Tow Truck, the City then authorizes the Permittee to subcontract said wrecker and to charge a maximum of \$500.00.

B. Underwater recovery:

Should the Permittee not offer this type of recovery service, the City then authorizes the Permittee to subcontract said service and to charge the actual cost the subcontractor charged the Permittee for the service.

C. Special and additional charges:

1. Storage:

In accordance with Section 713.78(2), Florida Statutes, the first six (6) hours of storage must be without any charge. The Permittee must affirmatively document the date and time each towed or impounded vehicle arrives at Permittee's storage facility and must also affirmatively document the date and time of the retrieval of each towed or impounded vehicle by the registered owner. The time must be documented utilizing an electronic time-keeping stamping device, which reflects the time either in military format or including a.m./p.m., as applicable.

The following storage rates shall apply per day:

Inside-Interior and outside-exterior storage

(a) Motorcycles or Scooters \$20.00

(b) Any vehicle less than 20 \$40.00

feet in length and 8 feet in width

(c) Any vehicle over 20 feet in length \$40.00

Boat and Trailer

(a) Unit under 20 feet in length \$40.00

(b) Unit 21 feet to 35 feet in length \$40.00

(c) Unit over 35 feet in length \$45.00

2. Extra labor:

Cost of any waiting time or extra labor (i.e., "retrieving", special handling) accomplished within thirty (30) minutes of arrival at the scene of a tow shall be included in the base tow rate. If, and only if, such waiting time or extra labor consumes more than thirty (30) minutes, an extra waiting time or extra labor charge, per fifteen (15) minutes or any fraction thereof, may be assessed (commencing thirty (30) minutes after arrival at the scene) at the rate of \$16.50 per fifteen (15) minute increments or any fraction thereof. Any extra waiting time or extra labor charge authorization should be made by the Police officer or Parking Enforcement Specialist on the scene, whenever possible, and shall be so indicated in writing on the vehicle storage receipt.

3. Administrative Fee:

Pursuant to Section 713.78(2), Florida Statutes, whenever the Permittee impounds and/or stores a vehicle or vessel under this Permit, the

Permittee has a lien on the vehicle or vessel for a reasonable towing fee, for a reasonable administrative fee or charge imposed by a county or municipality, and for a reasonable storage fee; except that a storage fee may not be charged if the vehicle or vessel is stored for fewer than 6 hours. Although Section 713.78(15)(a), Florida Statutes, authorizes Permittee to charge a \$250 administrative fee for releasing a claim of lien on an impounded vehicle or vessel, Permittee voluntarily agrees to charge only a \$75 administrative fee plus the actual costs of complying with Section 713.78, Florida Statutes. Such administrative fee may only be charged after the first thirty-six (36) hours of storage. "Administrative fee" as used in this Section 22(C)(3) shall have the same meaning ascribed to it in Section 713.78(15)(a), Florida Statutes. The administrative fee shall not be imposed on vehicles owned by Miami Beach Residents or vehicles with a "police hold" until or unless the hold is removed. In order to be eligible for the waiver of the \$75 administrative fee, residents must provide proof of residency within the City of Miami Beach, and their driver's license information must match the registration information of the towed vehicle.

4. City Permit Fee:

Permittee will impose and collect on behalf of the City a Permit Fee of \$30.00 charge per non-resident tow and \$25.00 per resident tow.

5. Indexing Provision:

Beginning October 1, 2023, and each October 1 thereafter, the City Manager or designee shall increase the maximum allowable rates and fees by the annual percentage change in the Consumer Price Index (CPI)

for the Miami-Fort Lauderdale-West Palm Beach, Florida area, as published by the Bureau of Labor Statistics of the United States Department of Labor (Series ID CUURS35BSA0) up to a CPI increase of 3%; A CPI increase greater than 3% requires Commission approval via recommendation from the Finance and Economic Resiliency Committee. Each year's rates and fees increase shall be calculated based on the amounts from the previous year. The maximum allowable rates and fees under this method shall be rounded up to the nearest dollar. Notwithstanding the foregoing, the annual CPI increase shall not apply to the discounted Miami Beach resident rate of \$150 in Section 22(C)(6).

6. Miami Beach Resident Rate and City of Miami Beach Rate:

a. City of Miami Beach residents shall receive a discounted rate of \$150 for Class A tows (plus applicable storage fees and administrative fees in connection with Section 713.78, Florida Statutes). Storage charges will not apply to City of Miami Beach residents for the first 24 hours. In order to be eligible for the Miami Beach Resident Discount, residents must provide proof of residency within the City of Miami Beach, and their driver's license information must match the registration information of the towed vehicle. The Permittee shall maintain a log documenting of all City residents that receive the Miami Beach resident rate, which log shall be available for inspection and copying by the City Manager or designee, upon request. Permittee shall prominently post a sign displaying the Maximum Allowable Rates for both City and non-City residents within the

area(s) on its premises designated for the vehicle owner or their agent to transact business.

b. The City of Miami Beach shall receive a discounted rate of \$185 for improper tows paid by the Police Department or Parking Department pursuant to Section 16 herein (plus applicable storage fees and administrative fees in connection with Section 713.78, Florida Statutes).

7. Crime Victim or Witness Rate

Upon written notification from the Police Chief or his/her designee that the registered owner of a vehicle that was towed by the Police Department was a crime victim or witness to a crime, Permittee hereby agrees to voluntarily waive all towing and storage charges on the vehicle owner for the first 5 days, and instead charge the City a discounted rate of \$50.00 per tow. After the first 5 days, in addition to the \$50 charge, the City shall pay Permittee all applicable storage fees and administrative fees in connection with Section 713.78, Florida Statutes. Permittee shall provide the discounted rate of \$50.00 under this provision for a maximum of 10 vehicles per year. The City hereby waives its right to the Permit Fee for any vehicle owner who was a crime victim or witness to a crime and which receives a discounted rate of \$50 under this section, and Permittee shall not impose or collect the Permit Fee on behalf of the City.

8. Fuel Surcharge

Permittee is authorized to charge a \$5 fuel surcharge per tow during any period where the price for diesel fuel is \$5.00 or more per gallon in the City of Miami Beach.

23. RESPONSIBILITY FOR PAYMENT

Except as otherwise provided in this Permit, the vehicle owner or lienholder or agent of either shall be responsible for payment of charges imposed by the Permittee, due upon vehicle release, and the City shall not be responsible for any charges imposed for towing and storage, or for securing payments due upon vehicle release.

Permittee must accept the following forms of payment: cash, travelers checks, or personal bank checks drawn on a bank in Miami-Dade, Broward, or Monroe County. The Permittee may require two (2) forms of identification, one of which shall be a government-issued ID. Permittee shall accept credit cards and debit cards from City residents, and debit cards from any resident of Miami-Dade County. Any such credit cards or debit cards must be presented at time of the transaction for payment, and such credit card or debit card must be in the name of the registered owner. The Permittee may require two (2) forms of identification, one of which shall be a government-issued ID.

Prior to requiring the Permittee to accept credit cards from persons other than City residents, the City Manager shall refer this matter to the Finance and Economic Resiliency Committee for discussion and to make a recommendation to the Mayor and City Commission concerning whether credit cards should be an acceptable form of payment for all individuals retrieving a towed or impounded vehicle. However, if the Permittee can affirmatively prove and establish, to the satisfaction of the City Manager pursuant to an audit or other verifiable means, that the Permittee's chargeback rate for City tows (the "chargeback rate" is defined as the total chargeback cases per month divided by the total transactions per month) is in excess of 1.5% during any one month, then Permittee may automatically suspend the acceptance of credit cards, and the City

Manager shall refer the matter to the Finance and Economic Resiliency Committee for discussion and to make a recommendation to the Mayor and City Commission concerning whether credit cards should continue to be a required form of payment.

Permittee shall install and continuously operate and maintain in good working order at least one (1) automatic teller machine (ATM) on its premises.

24. WAIVER OF "DROP FEES"

Drop fees occur when a vehicle owner (or other legally authorized person in control of the vehicle) arrives on the scene of a tow, prior to removal of the vehicle from the scene, and the vehicle has been engaged (hooked) by the tow truck but has not left the scene. Although Florida law and Section 106-261 of the City Code allows Permittee to assess a "drop fee" (of not more than 50% of the posted towing rates), Permittee hereby agrees to voluntarily waive any and all drop fees for registered vehicle owners or other legally authorized person(s) in control of the vehicle arriving at the scene prior to the removal or towing of the vehicle. The provisions of this section shall not apply where the Police Department has placed a hold on the vehicle or the vehicle has an "impoundment order" pursuant to Sec. 30-389.4(d) of the Code of Miami-Dade County, Florida.

25. REPORTS AND FILES

The Permittee shall maintain the following records at its principal place of business within the City:

A. Permittee shall provide standardized, printed, sequentially numbered, City designed invoice forms listing the nature of the work performed by it for tows. An invoice shall be made for each and every vehicle towed. Permittee shall keep on file for three (3) years from the expiration of the permit, copies of all paid invoices, together

with vehicle storage receipts, and any and all impound logs (filed sequentially by Police case number or Parking Department sequentially numbered forms) during the Permit term. These records shall be subject to inspection by the City or its authorized representatives during regular business hours.

B. Standardized, printed, sequentially numbered vehicle storage receipts (yellow and goldenrod copies) for each and every vehicle towed by authority of the City, indicating reason for impoundment, vehicle description, date and time towed, location towed from and to, date and time released, proof of ownership notification, and all itemized charges.

Once the release occurs, the yellow copy is to be returned to the City with information including name, address, and telephone number of the individual to whom the vehicle was released (This information must appear legibly on both the yellow and goldenrod copies). The goldenrod copy will be retained by Permittee. These files will be maintained sequentially according to the Police Department or Parking Department case number.

C. A log of all calls for service by the Police Department and/or Parking Department on a weekly basis.

D. An Impound/Notification Log indicating, at a minimum, date, time and method of notification to the registered owner of an impounded vehicle.

E. A log indicating vehicles to be auctioned, date of auction, name and address of owner and lien holder, and date contacted.

F. A log indicating vehicles sold at auction, date auction notice was published, proceeds of auction, and distribution of proceeds.

G. Permittee shall keep on file for three (3) years from the expiration of the permit, copies of all paid invoices, together with vehicle storage receipts, and any and all impound logs (filed sequentially by Police Department case number or Parking Department sequentially numbered forms) during the Permit term. These records shall be subject to inspection by the City or its authorized representatives during regular business hours.

All of Permittee's files, records, and logs shall be available for inspection by the City or its authorized representatives during regular business hours. Permittee shall make available adequate workspace including, but not limited to, a table and chair, for City representatives inspecting records.

26. FORWARDING REPORTS TO THE POLICE DEPARTMENT, AND PARKING DEPARTMENT

The Permittee shall be solely responsible for the remittance of the following reports to the Police Department and the Parking Department throughout the duration of this Tow Permit. These Reports shall be remitted on the first day of each month, however, if the first day of the month falls on a Saturday, Sunday or legal holiday, then the Reports shall be remitted by 5:00 p.m. on the next business day immediately following such Saturday, Sunday, or legal holiday.

- A. Copies of all vehicle storage receipts for vehicles released the previous month, which should include a copy of the completed numbered invoice for each vehicle.
- B. Original log of all calls for service on a monthly basis.
- C. Original log of all vehicles with police holds in the custody of the Permittee.

- D. Original impound/notification Log for the previous month.
- E. Original log completed prior to vehicle auctions.
- F. Copy of the public notice of auction, at least 10 days prior to the auction.
- G. Original log completed immediately following auction.

All copies must be legible, and the originals shall be provided, upon request by the City Manager or designee.

27. INSPECTIONS AND AUDITS

Permittee agrees that all of its records, equipment, personnel, office and storage facilities will be subject to periodic inspection and audits by the City Manager or authorized representative and, in the case of inspection checks, without the need for prior notice to Permittee.

28. ETHICS AND CONDUCT

The Permittee shall conduct its business in an orderly, ethical, and business-like manner at all times, and shall use every means to obtain and keep the confidence of the public. All public contact shall be in a courteous and orderly manner.

29. COMPLAINTS AND DISPUTES

It is the sole responsibility of Permittee to address customer service issues in a polite, courteous, and respectful manner, regardless of the comportment of the complainant. Clearly, verbal or physical abuse is unacceptable and police assistance should be sought if a particular conflict escalates.

Any complaints received by the City concerning a violation by Permittee of Article V, Division 2, Sections 106-211 through 106-222 of the City Code, or these Administrative Rules and Regulations (including, without limitation, misconduct, excessive charges, poor business practices, damage to vehicles, etc.), shall be referred

to the City's Chief of Police or to the City's Parking Director for investigation (depending on which City department originated the tow). The respective department shall notify Permittee, in writing, of any such complaints (including the specific nature thereof) within five (5) business days from receipt of the complaint. The Permittee shall provide written explanation and information with respect to the particular complaint, within five (5) business days from notice by the City. Permittee's response shall include identification of any proposed resolution(s) and corrective measure(s) to be taken.

A written disposition of the complaint will be forwarded to the Permittee (and complainant) upon completion of the City's investigation. The City Manager reserves the right, in his/her sole discretion, to require Permittee to refund all or any portion of the towing fees to a complainant, as liquidated damages, should the City rule in favor of the complainant.

If there have been three (3) or more substantiated complaints filed with the City within a ninety (90) day period during the Permit term, the City Manager may suspend the Permit for a period of up to thirty (30) days in accordance with Section 106-220 of the City Code.

30. "HOW'S MY DRIVING?" PROGRAM

Permittee shall be required to establish and continuously operate a tow truck driver safety improvement program, through an independent third-party source that will establish a telephone contact and e-mail contact for receipt of complaints regarding unsafe tow truck operator driving throughout the City, which will be addressed by the Permittee to the satisfaction of the City Manager. Each vehicle will prominently display contact information for the public to report issues relating to the tow truck operator's driving. Upon request of the City Manager, Permittee shall provide a report from the

independent third-party source identifying any and all complaints lodged against the Permittee; investigations conducted by the Permittee; and corrective actions taken by the Permittee to the satisfaction of the City Manager. Prior to implementation, the aforestated Program shall be reviewed and approved by the City Manager, which approval shall not be unreasonably withheld. Any changes to the approved Program shall also be subject to the prior written approval of the City Manager.

31. CUSTOMER SERVICE/INFORMATION ITEMS AND MATERIALS

It is the City's intent to ensure the highest levels of customer service are provided to its residents, visitors, and tourists. To this end, all of Permittee's employees, agents, contractors, or servants that may have contact with customers with the general public must attend and participate in the City's Towing and Customer Contact Training. This training will specifically address customer relations training, including diffusing situations, demeanor/body language, and conflict resolution. All of Permittee's employees, agents, contractors or servants that have contact with customers or with the general public will be required to attend this training twice annually (every six months) throughout the term of the Permit. Permittee will further develop and issue informational materials providing answers to frequently asked questions, such as rates, directions/location of storage lots, and contact information.

32. CITIZENS BILL OF RIGHTS FOR TOWING

Permittee shall establish and continually operate and maintain a bilingual informational campaign, advising a vehicle owner who has been towed of their rights and important related information, including tow rates, methods of payment, and complaint contact information. Prior to implementation, the aforestated campaign shall be reviewed and approved by the City Manager, which approval shall not be

unreasonably withheld. Any changes to the approved campaign shall also require the prior written approval of the City Manager. Following approval of the Towing Bill of Rights by the City Manager, Permittee shall post notice on all of its service vehicles, identifying to the availability of a copy of the full Citizen's Bill of Rights to the general public, as well as advising the public of the "no drop fee" provision in Section 24. The notice on the vehicle shall be displayed in a prominent place on the vehicle and clearly visible and legible, in letters at least two (2") inches high.

33. NON-DISCRIMINATION POLICY

In connection with the performance of work/services under this Permit, Permittee shall not exclude from participation in, deny the benefits of, or subject to discrimination anyone on the grounds of race, color, national origin, sex, age, disability, religion, income or family status.

Additionally, Permittee shall comply fully with the City's Human Rights Ordinance, codified in Chapter 62 of the City Code, as may be amended from time to time, prohibiting discrimination in employment, housing, public accommodations, and public services on account of actual or perceived race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, disability, ancestry, height, weight, domestic partner status, labor organization membership, familial situation, or political affiliation.

Permittee shall take affirmative action to ensure that employees are treated during their employment without regard to their race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, disability, ancestry, height, weight, domestic partner status, labor organization membership, familial situation, or political affiliation.

Permittee must complete and submit the City's Disability Non-Discrimination Affidavit (Affidavit). In the event Permittee fails to execute the City's Affidavit or is found to be in non-compliance with the provisions of the Affidavit, the City may impose such sanctions as it may determine to be appropriate, including but not limited to, withholding assignment of tows to Permittee under the Permit until compliance, and/or suspension or revocation of the Permit in accordance with Section 106-220 of the City Code. In the event the City suspends or revokes the Permit pursuant to this Section, Permittee shall not be relieved of liability to the City for damages sustained by the City by virtue of Permittee's breach.

34. ASSIGNMENT

Permittees shall not assign, transfer, convey, sublet or otherwise dispose of this Permit, or of any or all of its rights, title or interest therein, or its or its power to execute such permit, to any person, company or corporation without the prior written consent of the City Commission.

35. CHANGES IN ADMINISTRATIVE RULES AND REGULATIONS

Any amendment to these Administrative Rules and Regulations shall be subject to the prior written recommendation of the City Manager and, thereafter, approval of the City Commission. Except for the annual consumer price index increase pursuant to Section 22(C)(5) herein, any changes in the schedule of Maximum Allowable Rates shall be subject to the prior recommendation of the City Manager and City Commission approval. Any change in the Maximum Allowable Rates requested by Permittee shall only be considered by the City on/or about October 1st of each year during the Permit term.

36. CITY CODE AND ADMINISTRATIVE RULES AND REGULATIONS INCORPORATED BY REFERENCE INTO PERMIT

The Permit shall incorporate by reference (as if fully set forth therein) Article V, Division 2, Sections 106-211 through 106-222 of the Miami Beach City Code, and these Administrative Rules and Regulations, as same (respectively) may be hereinafter amended from time to time, and compliance therewith shall be binding upon Permittee and required as a condition of the Permit. Further, the Permit shall incorporate by reference (as if fully set forth herein) Section 713.78, Florida Statutes (as may be amended from time to time), and Chapter 323 of the Florida Statutes (as may be amended from time to time) (collectively, "State Law"). In the event of a conflict between these Administrative Rules and Regulations and State Law, State Law shall supersede these Administrative Rules and Regulations; **except where Permittee and the City have agreed to an interpretation of State Law, as set forth in these Rules and Regulations and, in which case, the Administrative Rules and Regulations shall govern.**

2021 Florida Statutes

713.78 Liens for recovering, towing, or storing vehicles and vessels.—

(1) For the purposes of this section, the term:

(a) "Vehicle" means any mobile item, whether motorized or not, which is mounted on wheels.

(b) "Vessel" means every description of watercraft, barge, and airboat used or capable of being used as a means of transportation on water, other than a seaplane or a "documented vessel" as defined in s. 327.02.

(c) "Wrecker" means any truck or other vehicle which is used to tow, carry, or otherwise transport motor vehicles or vessels upon the streets and highways of this state and which is equipped for that purpose with a boom, winch, car carrier, or other similar equipment.

(d) "National Motor Vehicle Title Information System" means the federally authorized electronic National Motor Vehicle Title Information System.

(e) "Equivalent commercially available system" means a service that charges a fee to provide vehicle information and that at a minimum maintains records from those states participating in data sharing with the National Motor Vehicle Title Information System.

(2) Whenever a person regularly engaged in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier recovers, removes, or stores a vehicle or vessel upon instructions from:

(a) The owner thereof;

(b) The owner or lessor, or a person authorized by the owner or lessor, of property on which such vehicle or vessel is wrongfully parked, and the removal is done in compliance with s. 715.07;

(c) The landlord or a person authorized by the landlord, when such motor vehicle or vessel remained on the premises after the tenancy terminated and the removal is done in compliance with s. 83.806 or s. 715.104; or

(d) Any law enforcement agency,

she or he shall have a lien on the vehicle or vessel for a reasonable towing fee, for a reasonable administrative fee or charge imposed by a county or municipality, and for a reasonable storage fee; except that a storage fee may not be charged if the vehicle or vessel is stored for fewer than 6 hours.

(3) This section does not authorize any person to claim a lien on a vehicle for fees or charges connected with the immobilization of such vehicle using a vehicle boot or other similar device pursuant to s. 715.07.

(4)(a) A person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2), and who claims a lien for recovery, towing, or storage services, shall give notice, by certified mail, to the registered

owner, the insurance company insuring the vehicle notwithstanding s. 627.736, and all persons claiming a lien thereon, as disclosed by the records in the Department of Highway Safety and Motor Vehicles or as disclosed by the records of any corresponding agency in any other state in which the vehicle is identified through a records check of the National Motor Vehicle Title Information System or an equivalent commercially available system as being titled or registered.

(b) Whenever a law enforcement agency authorizes the removal of a vehicle or vessel or whenever a towing service, garage, repair shop, or automotive service, storage, or parking place notifies the law enforcement agency of possession of a vehicle or vessel pursuant to s. 715.07(2)(a)2., the law enforcement agency of the jurisdiction where the vehicle or vessel is stored shall contact the Department of Highway Safety and Motor Vehicles, or the appropriate agency of the state of registration, if known, within 24 hours through the medium of electronic communications, giving the full description of the vehicle or vessel. Upon receipt of the full description of the vehicle or vessel, the department shall search its files to determine the owner's name, the insurance company insuring the vehicle or vessel, and whether any person has filed a lien upon the vehicle or vessel as provided in s. 319.27(2) and (3) and notify the applicable law enforcement agency within 72 hours. The person in charge of the towing service, garage, repair shop, or automotive service, storage, or parking place shall obtain such information from the applicable law enforcement agency within 5 days after the date of storage and shall give notice pursuant to paragraph (a). The department may release the insurance company information to the requestor notwithstanding s. 627.736.

(c) The notice of lien must be sent by certified mail to the registered owner, the insurance company insuring the vehicle notwithstanding s. 627.736, and all other persons claiming a lien thereon within 7 business days, excluding Saturday and Sunday, after the date of storage of the vehicle or vessel. However, in no event shall the notice of lien be sent less than 30 days before the sale of the vehicle or vessel. The notice must state:

1. If the claim of lien is for a vehicle, the last 8 digits of the vehicle identification number of the vehicle subject to the lien, or, if the claim of lien is for a vessel, the hull identification number of the vessel subject to the lien, clearly printed in the delivery address box and on the outside of the envelope sent to the registered owner and all other persons claiming an interest therein or lien thereon.

2. The name, physical address, and telephone number of the lienor, and the entity name, as registered with the Division of Corporations, of the business where the towing and storage occurred, which must also appear on the outside of the envelope sent to the registered owner and all other persons claiming an interest in or lien on the vehicle or vessel.

3. The fact of possession of the vehicle or vessel.

4. The name of the person or entity that authorized the lienor to take possession of the vehicle or vessel.

5. That a lien as provided in subsection (2) is claimed.

6. That charges have accrued and include an itemized statement of the amount thereof.

7. That the lien is subject to enforcement under law and that the owner or lienholder, if any, has the right to a hearing as set forth in subsection (5).

8. That any vehicle or vessel that remains unclaimed, or for which the charges for recovery, towing, or storage services remain unpaid, may be sold free of all prior liens 35 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is more than 3 years of age or 50 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is 3 years of age or less.

9. The address at which the vehicle or vessel is physically located.

(d) The notice of lien may not be sent to the registered owner, the insurance company insuring the vehicle or vessel, and all other persons claiming a lien thereon less than 30 days before the sale of the vehicle or vessel.

(e) If attempts to locate the name and address of the owner or lienholder prove unsuccessful, the towing-storage operator shall, after 7 business days, excluding Saturday and Sunday, after the initial tow or storage, notify the public agency of jurisdiction where the vehicle or vessel is stored in writing by certified mail or acknowledged hand delivery that the towing-storage company has been unable to locate the name and address of the owner or lienholder and a physical search of the vehicle or vessel has disclosed no ownership information and a good faith effort has been made, including records checks of the Department of Highway Safety and Motor Vehicles database and the National Motor Vehicle Title Information System or an equivalent commercially available system. For purposes of this paragraph and subsection (9), the term "good faith effort" means that the following checks have been performed by the company to establish the prior state of registration and for title:

1. A check of the department's database for the owner and any lienholder.
2. A check of the electronic National Motor Vehicle Title Information System or an equivalent commercially available system to determine the state of registration when there is not a current registration record for the vehicle or vessel on file with the department.
3. A check of the vehicle or vessel for any type of tag, tag record, temporary tag, or regular tag.
4. A check of the law enforcement report for a tag number or other information identifying the vehicle or vessel, if the vehicle or vessel was towed at the request of a law enforcement officer.
5. A check of the trip sheet or tow ticket of the tow truck operator to determine whether a tag was on the vehicle or vessel at the beginning of the tow, if a private tow.
6. If there is no address of the owner on the impound report, a check of the law enforcement report to determine whether an out-of-state address is indicated from driver license information.
7. A check of the vehicle or vessel for an inspection sticker or other stickers and decals that may indicate a state of possible registration.

8. A check of the interior of the vehicle or vessel for any papers that may be in the glove box, trunk, or other areas for a state of registration.

9. A check of the vehicle for a vehicle identification number.

10. A check of the vessel for a vessel registration number.

11. A check of the vessel hull for a hull identification number which should be carved, burned, stamped, embossed, or otherwise permanently affixed to the outboard side of the transom or, if there is no transom, to the outmost seaboard side at the end of the hull that bears the rudder or other steering mechanism.

(5)(a) The owner of a vehicle or vessel removed pursuant to subsection (2), or any person claiming a lien, other than the towing-storage operator, within 10 days after the time she or he has knowledge of the location of the vehicle or vessel, may file a complaint in the county court of the county in which the vehicle or vessel is stored to determine whether her or his property was wrongfully taken or withheld.

(b) At any time before the sale of the vehicle or vessel, an owner or lienholder may have her or his vehicle or vessel released upon posting with the court a cash or surety bond or other adequate security equal to the amount of the charges for towing or storage and lot rental amount to ensure the payment of such charges in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the lienor of the posting of the bond and directing the lienor to release the vehicle or vessel. At the time of such release, after reasonable inspection, she or he shall give a receipt to the towing-storage company reciting any claims she or he has for loss or damage to the vehicle or vessel or the contents thereof.

(c) Upon determining the respective rights of the parties, the court may award damages, attorney's fees, and costs in favor of the prevailing party. In any event, the final order shall provide for immediate payment in full of recovery, towing, and storage fees by the vehicle or vessel owner or lienholder; or the agency ordering the tow; or the owner, lessee, or agent thereof of the property from which the vehicle or vessel was removed.

(6) A vehicle or vessel that is stored pursuant to subsection (2) and remains unclaimed, or for which reasonable charges for recovery, towing, or storing remain unpaid, and any contents not released pursuant to subsection (10), may be sold by the owner or operator of the storage space for such towing or storage charge 35 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is more than 3 years of age or 50 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is 3 years of age or less. The sale shall be at public sale for cash. If the date of the sale was not included in the notice required in subsection (4), notice of the sale shall be given to the person in whose name the vehicle or vessel is registered and to all persons claiming a lien on the vehicle or vessel as shown on the records of the Department of Highway Safety and Motor Vehicles or of

any corresponding agency in any other state in which the vehicle is identified through a records check of the National Motor Vehicle Title Information System or an equivalent commercially available system as being titled. Notice of the sale must be sent by certified mail. The notice must have clearly identified and printed, if the claim of lien is for a motor vehicle, the last 8 digits of the vehicle identification number of the motor vehicle subject to the lien, or, if the claim of lien is for a vessel, the hull identification number of the vessel subject to the lien, in the delivery address box and on the outside of the envelope sent to the registered owner and all other persons claiming an interest therein or lien thereon. The notice must be sent to the owner of the vehicle or vessel and the person having the recorded lien on the vehicle or vessel at the address shown on the records of the registering agency at least 30 days before the sale of the vehicle or vessel. The notice must state the name, physical address, and telephone number of the lienor, and the vehicle identification number if the claim of lien is for a vehicle or the hull identification number if the claim of lien is for a vessel, all of which must also appear in the return address section on the outside of the envelope containing the notice of sale. After diligent search and inquiry, if the name and address of the registered owner or the owner of the recorded lien cannot be ascertained, the requirements of notice by mail may be dispensed with. In addition to the notice by mail, public notice of the time and place of sale shall be made by publishing a notice thereof one time, at least 10 days before the date of the sale, in a newspaper of general circulation in the county in which the sale is to be held. The proceeds of the sale, after payment of reasonable towing and storage charges, and costs of the sale, in that order of priority, shall be deposited with the clerk of the circuit court for the county if the owner or lienholder is absent, and the clerk shall hold such proceeds subject to the claim of the owner or lienholder legally entitled thereto. The clerk shall be entitled to receive 5 percent of such proceeds for the care and disbursement thereof. The certificate of title issued under this law shall be discharged of all liens unless otherwise provided by court order. The owner or lienholder may file a complaint after the vehicle or vessel has been sold in the county court of the county in which it is stored. Upon determining the respective rights of the parties, the court may award damages, attorney fees, and costs in favor of the prevailing party.

(7)(a) A wrecker operator recovering, towing, or storing vehicles or vessels is not liable for damages connected with such services, theft of such vehicles or vessels, or theft of personal property contained in such vehicles or vessels, provided that such services have been performed with reasonable care and provided, further, that, in the case of removal of a vehicle or vessel upon the request of a person purporting, and reasonably appearing, to be the owner or lessee, or a person authorized by the owner or lessee, of the property from which such vehicle or vessel is removed, such removal has been done in compliance with s. 715.07. Further, a wrecker operator is not liable for damage to a vehicle, vessel, or cargo that obstructs the normal movement of traffic or creates a hazard to traffic and is removed in compliance with the request of a law enforcement officer.

(b) For the purposes of this subsection, a wrecker operator is presumed to use reasonable care to prevent the theft of a vehicle or vessel or of any personal property contained in such vehicle stored in the wrecker operator's storage facility if all of the following apply:

1. The wrecker operator surrounds the storage facility with a chain-link or solid-wall type fence at least 6 feet in height;

2. The wrecker operator has illuminated the storage facility with lighting of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet during nighttime; and

3. The wrecker operator uses one or more of the following security methods to discourage theft of vehicles or vessels or of any personal property contained in such vehicles or vessels stored in the wrecker operator's storage facility:

- a. A night dispatcher or watchman remains on duty at the storage facility from sunset to sunrise;
- b. A security dog remains at the storage facility from sunset to sunrise;
- c. Security cameras or other similar surveillance devices monitor the storage facility; or
- d. A security guard service examines the storage facility at least once each hour from sunset to sunrise.

(c) Any law enforcement agency requesting that a motor vehicle be removed from an accident scene, street, or highway must conduct an inventory and prepare a written record of all personal property found in the vehicle before the vehicle is removed by a wrecker operator. However, if the owner or driver of the motor vehicle is present and accompanies the vehicle, no inventory by law enforcement is required. A wrecker operator is not liable for the loss of personal property alleged to be contained in such a vehicle when such personal property was not identified on the inventory record prepared by the law enforcement agency requesting the removal of the vehicle.

(8) A person regularly engaged in the business of recovering, towing, or storing vehicles or vessels, except a person licensed under chapter 493 while engaged in "repossession" activities as defined in s. 493.6101, may not operate a wrecker, tow truck, or car carrier unless the name, address, and telephone number of the company performing the service is clearly printed in contrasting colors on the driver and passenger sides of its vehicle. The name must be in at least 3-inch permanently affixed letters, and the address and telephone number must be in at least 1-inch permanently affixed letters.

(9) Failure to make good faith efforts to comply with the notice requirements of this section precludes the imposition of any storage charges against the vehicle or vessel. If a lienor fails to provide notice to a person claiming a lien on a vehicle or vessel in accordance with subsection (4), the lienor may not charge the person for more than 7 days of storage, but such failure does not affect charges made for towing the vehicle or vessel or the priority of liens on the vehicle or vessel.

(10) Persons who provide services pursuant to this section shall permit vehicle or vessel owners, lienholders, insurance company representatives, or their agents, which agency is evidenced by an original writing acknowledged by the owner before a notary public or other person empowered by law

to administer oaths, to inspect the towed vehicle or vessel and shall release to the owner, lienholder, or agent the vehicle, vessel, or all personal property not affixed to the vehicle or vessel which was in the vehicle or vessel at the time the vehicle or vessel came into the custody of the person providing such services.

(11)(a) Any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2) and who has complied with the provisions of subsections (3) and (6), when such vehicle or vessel is to be sold for purposes of being dismantled, destroyed, or changed in such manner that it is not the motor vehicle or vessel described in the certificate of title, shall report the vehicle to the National Motor Vehicle Title Information System and apply to the Department of Highway Safety and Motor Vehicles for a certificate of destruction. A certificate of destruction, which authorizes the dismantling or destruction of the vehicle or vessel described therein, shall be reassignable a maximum of two times before dismantling or destruction of the vehicle shall be required, and shall accompany the vehicle or vessel for which it is issued, when such vehicle or vessel is sold for such purposes, in lieu of a certificate of title. The application for a certificate of destruction must include proof of reporting to the National Motor Vehicle Title Information System and an affidavit from the applicant that it has complied with all applicable requirements of this section and, if the vehicle or vessel is not registered in this state or any other state, by a statement from a law enforcement officer that the vehicle or vessel is not reported stolen, and shall be accompanied by such documentation as may be required by the department.

(b) The Department of Highway Safety and Motor Vehicles shall charge a fee of \$3 for each certificate of destruction. A service charge of \$4.25 shall be collected and retained by the tax collector who processes the application.

(12)(a) Any person who violates any provision of subsection (1), subsection (2), subsection (4), subsection (5), subsection (6), or subsection (7) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person who violates the provisions of subsections (8) through (11) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who uses a false or fictitious name, gives a false or fictitious address, or makes any false statement in any application or affidavit required under the provisions of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Employees of the Department of Highway Safety and Motor Vehicles and law enforcement officers are authorized to inspect the records of any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels or transporting vehicles or vessels by wrecker, tow truck, or car carrier, to ensure compliance with the requirements of this section. Any person who fails to maintain records, or fails to produce records when required in a reasonable manner and at a

reasonable time, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(13)(a) Upon receipt by the Department of Highway Safety and Motor Vehicles of written notice from a wrecker operator who claims a wrecker operator's lien under paragraph (2)(d) for recovery, towing, or storage of an abandoned vehicle or vessel upon instructions from any law enforcement agency, for which a certificate of destruction has been issued under subsection (11) and the vehicle has been reported to the National Motor Vehicle Title Information System, the department shall place the name of the registered owner of that vehicle or vessel on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8). If the vehicle or vessel is owned jointly by more than one person, the name of each registered owner shall be placed on the list. The notice of wrecker operator's lien shall be submitted on forms provided by the department, which must include:

1. The name, address, and telephone number of the wrecker operator.
2. The name of the registered owner of the vehicle or vessel and the address to which the wrecker operator provided notice of the lien to the registered owner under subsection (4).
3. A general description of the vehicle or vessel, including its color, make, model, body style, and year.
4. The vehicle identification number (VIN); registration license plate number, state, and year; validation decal number, state, and year; vessel registration number; hull identification number; or other identification number, as applicable.
5. The name of the person or the corresponding law enforcement agency that requested that the vehicle or vessel be recovered, towed, or stored.
6. The amount of the wrecker operator's lien, not to exceed the amount allowed by paragraph (b).

(b) For purposes of this subsection only, the amount of the wrecker operator's lien for which the department will prevent issuance of a license plate or revalidation sticker may not exceed the amount of the charges for recovery, towing, and storage of the vehicle or vessel for 7 days. These charges may not exceed the maximum rates imposed by the ordinances of the respective county or municipality under ss. 125.0103(1)(c) and 166.043(1)(c). This paragraph does not limit the amount of a wrecker operator's lien claimed under subsection (2) or prevent a wrecker operator from seeking civil remedies for enforcement of the entire amount of the lien, but limits only that portion of the lien for which the department will prevent issuance of a license plate or revalidation sticker.

(c)1. The registered owner of a vehicle or vessel may dispute a wrecker operator's lien, by notifying the department of the dispute in writing on forms provided by the department, if at least one of the following applies:

- a. The registered owner presents a notarized bill of sale proving that the vehicle or vessel was sold in a private or casual sale before the vehicle or vessel was recovered, towed, or stored.

b. The registered owner presents proof that the Florida certificate of title of the vehicle or vessel was sold to a licensed dealer as defined in s. 319.001 before the vehicle or vessel was recovered, towed, or stored.

c. The records of the department were marked "sold" prior to the date of the tow.

If the registered owner's dispute of a wrecker operator's lien complies with one of these criteria, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. If the vehicle or vessel is owned jointly by more than one person, each registered owner must dispute the wrecker operator's lien in order to be removed from the list. However, the department shall deny any dispute and maintain the registered owner's name on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8) if the wrecker operator has provided the department with a certified copy of the judgment of a court which orders the registered owner to pay the wrecker operator's lien claimed under this section. In such a case, the amount of the wrecker operator's lien allowed by paragraph (b) may be increased to include no more than \$500 of the reasonable costs and attorney's fees incurred in obtaining the judgment. The department's action under this subparagraph is ministerial in nature, shall not be considered final agency action, and is appealable only to the county court for the county in which the vehicle or vessel was ordered removed.

2. A person against whom a wrecker operator's lien has been imposed may alternatively obtain a discharge of the lien by filing a complaint, challenging the validity of the lien or the amount thereof, in the county court of the county in which the vehicle or vessel was ordered removed. Upon filing of the complaint, the person may have her or his name removed from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the court a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien to ensure the payment of such lien in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. Upon determining the respective rights of the parties, the court may award damages and costs in favor of the prevailing party.

3. If a person against whom a wrecker operator's lien has been imposed does not object to the lien, but cannot discharge the lien by payment because the wrecker operator has moved or gone out of business, the person may have her or his name removed from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the clerk of court in the county in

which the vehicle or vessel was ordered removed, a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien. Upon the posting of the bond and the payment of the application fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. The department shall mail to the wrecker operator, at the address upon the lien form, notice that the wrecker operator must claim the security within 60 days, or the security will be released back to the person who posted it. At the conclusion of the 60 days, the department shall direct the clerk as to which party is entitled to payment of the security, less applicable clerk's fees.

4. A wrecker operator's lien expires 5 years after filing.

(d) Upon discharge of the amount of the wrecker operator's lien allowed by paragraph (b), the wrecker operator must issue a certificate of discharged wrecker operator's lien on forms provided by the department to each registered owner of the vehicle or vessel attesting that the amount of the wrecker operator's lien allowed by paragraph (b) has been discharged. Upon presentation of the certificate of discharged wrecker operator's lien by the registered owner, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. Issuance of a certificate of discharged wrecker operator's lien under this paragraph does not discharge the entire amount of the wrecker operator's lien claimed under subsection (2), but only certifies to the department that the amount of the wrecker operator's lien allowed by paragraph (b), for which the department will prevent issuance of a license plate or revalidation sticker, has been discharged.

(e) When a wrecker operator files a notice of wrecker operator's lien under this subsection, the department shall charge the wrecker operator a fee of \$2, which shall be deposited into the General Revenue Fund. A service charge of \$2.50 shall be collected and retained by the tax collector who processes a notice of wrecker operator's lien.

(f) This subsection applies only to the annual renewal in the registered owner's birth month of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a motor vehicle dealer licensed under chapter 320, except for the transfer of registrations which includes the annual renewals. This subsection does not apply to any vehicle registered in the name of the lessor. This subsection does not affect the issuance of the title to a motor vehicle, notwithstanding s. 319.23(8)(b).

(14)(a) A copy of the notice of lien required by subsection (4) and the notice of sale required by subsection (6), which must include the vehicle identification number if the claim of lien is for a vehicle or the hull identification number if the claim of lien is for a vessel, and proof of the required check of the National Motor Vehicle Title Information System or an equivalent commercially available system shall constitute satisfactory proof for application to the Department of Highway Safety and Motor

Vehicles for transfer of title, together with any other proof required by any rules and regulations of the department.

(b) The Department of Highway Safety and Motor Vehicles may not approve an application for transfer of title if the application fails to include a copy of the notice of lien required by subsection (4) and the notice of sale required by subsection (6). The vehicle or hull identification number on the notice of lien must match the vehicle or hull identification number of the vehicle or vessel that is the subject of the transfer of title.

(15)(a) A lienor or the lienor's agent may charge an administrative fee to the registered owner or a person claiming a lien against the vehicle or vessel to obtain release of the vehicle or vessel from the claim of lien imposed under this section. Such administrative fee may not exceed \$250. For purposes of this paragraph, the term "administrative fee" means a lien fee or any fee imposed by the lienor or the lienor's agent for administrative costs added to the amount due for towing and storing the vehicle or vessel.

(b) A lienor or the lienor's agent may not charge fees or costs, other than those authorized in this section or ss. 125.0103 and 166.043, that exceed \$250.

(16) A towing-storage operator must use a third-party service approved by the Department of Highway Safety and Motor Vehicles to transmit all notices required by this section. If there is no third-party service approved by the department, the towing-storage operator may mail the notices and provide evidence of compliance with this section upon submission of an application for certificate of title or certificate of destruction.

(a) For purposes of this subsection, the term "third-party service" means a qualified business entity that, upon a request submitted through a website by a towing-storage operator:

1. Accesses the National Motor Vehicle Title Information System records to obtain the last state of record of the vehicle.

2. Accesses the owner, lienholder, and insurer information, as applicable, for a vehicle or vessel from the department.

3. Electronically generates the notices required of a towing-storage operator by this section through the website.

4. Prints and sends the notices required under this section to each owner, lienholder, and insurer of record by certified mail.

5. Electronically returns tracking information or other proof of mailing and delivery of the notices to the towing-storage operator.

6. Electronically reports to the department, via an electronic data exchange process using a web interface, the following information related to the towing and storage notice:

- a. The vehicle identification number or vessel hull identification number.
- b. The license plate number.

- c. The name and address of the towing-storage operator or lienor.
- d. The physical location of the vehicle or vessel.
- e. The date on which the vehicle or vessel was towed.
- f. The amount of storage fees owed at the time of the notice.
- g. The date of assessment of storage charges.
- h. The dates on which the notice was mailed and delivered.
- i. Other information required by the department.

(b) A third-party service must apply to and be approved by the department in order to provide notices under this section. The department shall prescribe the format for the application. The department may approve the applicant as qualified to perform the services provided in paragraph (a) if the applicant:

- 1. Provides the department with a \$1 million bond.
- 2. Submits an acceptable internal control and data security audit (Level 2) or its equivalent performed by a licensed certified public accountant.
- 3. Successfully demonstrates the ability to electronically provide required data to the department via an electronic data exchange process using a web interface.

(c) The department may deny, suspend, or revoke approval of a third-party service if the department determines that the third-party service has committed an act of fraud or misrepresentation related to a notice required by this section.

(d) A third-party service must maintain all records related to providing notices under this section for 5 years and allow the department to inspect and copy such records upon request. The records may be maintained in an electronic format.

(e) A third-party service must annually provide the department with evidence that it maintains a \$1 million bond and must annually submit an internal control and data security audit (Level 2) or its equivalent performed by a licensed certified public accountant to continue its approved status each year.

(f) A third-party service must maintain a publicly available website that allows owners, registrants, lienholders, insurance companies, or their agents to search for notices sent pursuant to this section. The search results must exclude personal identifying information but provide the same information provided to the department.

(17) A lienor must accept either a copy of an electronic title or a paper title as evidence of a person's interest in a vehicle or vessel.