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VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2019 - 18

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE
VILLAGE OF ESTERO, FLORIDA, AMENDING
MOTOR VEHICLES AND TRAFFIC PROVISIONS OF
THE CODE PREVIOUSLY ADOPTED BY REFERENCE;
AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the Village of Estero was incorporated by referendum held on November 4, 2014; and

WHEREAS, the Charter of the Village of Estero (“Charter”) at Section 11, “General Provisions,” paragraph (5) “Transitional Ordinances and Resolutions,” provides that all applicable lawful Lee County ordinances currently in place at the time of passage of the referendum, unless specifically referenced in the Charter, shall remain in place unless rescinded by the Village Council or unless they are in conflict with an ordinance, rule or regulation of the Village; and

WHEREAS, the Village Council has determined that it is in the best interests and welfare of the Village and its residents to revise certain provisions of the Lee County Code to specifically apply to the Village.

NOW, THEREFORE, be it ordained by the Village Council of the Village of Estero, Florida:

Section 1. Lee County Code Sections amended.

The following sections were included in the Code of Laws and Ordinances, of the Village of Estero, Florida by virtue of their inclusion in the Lee County Code and are hereby amended as ordinances of the Village of Estero. These amendments are not intended to affect the validity of these provisions as laws of Lee County.

Lee County Code Chapter 24 Motor Vehicles and Traffic, previously adopted by reference is amended to read as follows:

Sec. 24-21. Title.

The provisions set out ~~in sections 24-21 through 24-33~~ in this division shall be known as, referred to and cited as the "~~Lee County~~ Estero Parking Ordinance."

Words underlined are additions; Words ~~struck through~~ are deletions.

45 **Sec. 24-22. Definitions.**

46

47 The following terms shall have the following meanings when used in this division
48 ~~sections 24-21 through 24-33~~:

49

50 ~~Commission: The Board of County Commissioners of Lee County, Florida.~~

51 ~~County: Lee County, a political subdivision of the State of Florida.~~

52 ~~Department: The Lee County Department of Transportation and Engineering (DOT &~~
53 ~~E).~~

54 Fire lane: The twelve-foot-wide strip of pavement immediately adjacent to the building
55 of a business center together with a twelve-foot-wide strip of pavement providing ingress and
56 egress from public roads to the buildings of a business center, which is appropriately marked
57 as a "Fire Lane."

58

59 MUTCD: The Manual on Uniform Traffic Control Devices for Streets and Highways.

60

61 Officer: The law enforcement officer or parking enforcement specialist of the Lee
62 County Sheriff's Department designated by the ~~county~~ village as the inspecting authority to
63 enforce parking regulations and issue summons.

64

65 Operator: Every individual who shall operate a vehicle as the owner thereof, or as the
66 agent, employee or permittee of the owner, or is in actual physical control of the vehicle.

67

68 Owner: The individual to whom such vehicle is registered with the State Department
69 of Highway Safety and Motor Vehicles.

70

71 Park or parking or stopping or standing: The standing of a vehicle, whether occupied
72 or not, upon a street otherwise than temporarily for the purpose of, and while actually engaged
73 in, receiving or discharging passengers or loading or unloading merchandise or in obedience
74 to traffic regulations, signs or signals, or an involuntary stopping of the vehicle by reason of
75 causes beyond the control of the operator of the vehicle.

76

77 Person: Any individual, firm, copartnership, association or corporation and shall
78 include the owner and/or operator of the vehicle.

79

80 Safety zone: The area or space officially set apart within a roadway for the exclusive
81 use of pedestrians and protected or so marked by adequate signs or authorized pavement
82 markings as to be plainly visible at all times while set apart as a safety zone.

83

84 Street or roadway (used interchangeably): Any public right-of-way, any public beach
85 or any public park located in ~~the unincorporated area of Lee County~~ Estero and established for
86 the use of the public for purposes of vehicular traffic.

87

Words underlined are additions; Words ~~struck through~~ are deletions.

88 Summons: The ticket citation form used by ~~Lee County Estero~~, a ~~political subdivision~~
89 ~~of the State of Florida.~~

90
91 Vehicle: Any device in, upon or by which any person or property is or may be
92 transported upon a highway, except a device which is operated upon rails or tracks.

93
94 **Sec. 24-23. Application.**

95
96 (a) Application to unincorporated areas. It is hereby provided ~~sections 24-21~~
97 ~~through 24-33~~ this division shall constitute a uniform law applicable in ~~all the unincorporated~~
98 ~~areas of Lee County Estero~~, to the extent permitted by the Florida Constitution, Article VIII,
99 Section ~~12~~.

100 (b) ~~Gasparilla and Captiva islands. Gasparilla Island Parking Ordinance, Lee~~
101 ~~County Ordinance Number 86-21, as amended or replaced, and Captiva Island Parking~~
102 ~~Ordinance, Lee County Ordinance Number 83-35, as amended or replaced, shall remain in full~~
103 ~~force and effect, and shall apply within their respective jurisdictions.~~

104
105 **Sec. 24-24. Administrative procedure.**

106
107 Procedure for issuance of summons, amounts and disposition of fines collected for
108 violations may be established by resolution of the ~~county commissioners~~ village council.

109
110 **Sec. 24-25. Criteria in issuance of summons.**

111
112 Any officer enforcing the provisions of ~~sections 24-21 through 24-33~~ this division may
113 issue a summons to any person or operator of a vehicle for such nonmoving offense in violation
114 of the provisions of these provisions on citations as required by law. ~~and shall consist~~
115 ~~substantially of the following information:~~

116
117 ~~"LEE COUNTY SUMMONS~~
118 ~~For Parking Violation~~ Ord. No. _____
119 ~~Officer's Copy~~ Ticket # _____
120 ~~Day of Week~~ Month _____ Day _____ Year _____ Time _____
121 ~~Name~~ _____
122 ~~Street~~ _____
123 ~~City~~ _____ ~~State~~ _____
124 ~~Vehicle Make~~ _____ ~~Year~~ _____
125 ~~Tag #~~ _____ ~~State~~ _____
126 ~~Date of~~
127 ~~Birth~~ Month _____ Day _____ Year _____ Race _____ Sex _____ Height _____
128 ~~Offense(s)~~ _____
129 _____
130 _____
131 ~~Name of Officer~~ _____

Words underlined are additions; Words ~~struck through~~ are deletions.

132 ~~Instruction: You must pay a civil penalty (or forfeit bond) in the amount of \$32.00, or~~
133 ~~appear in Traffic Court at the Lee County Courthouse at _____ on the _____~~
134 ~~day of _____ / _____ / _____, 19_____. If you elect to pay~~
135 ~~the penalty, it must be paid before the court date.~~

136 ~~To: _____~~

137 ~~_____~~

138 ~~_____~~

139 ~~Mailing Address~~

140 ~~Note: You must enclose your copy of the summons if you mail payment. Payment~~
141 ~~should be in the form of a money order or cashier's check. PERSONAL CHECKS WILL NOT~~
142 ~~BE ACCEPTED. Failure to respond to this Summons will result in further court action."~~

144 **Sec. 24-26. Nonliability of county Village.**

145
146 ~~Nothing in sections 24-21 through 24-33 this division shall be deemed to impose any~~
147 ~~liability upon the county village or upon any of its officers or employees, nor to relieve the~~
148 ~~owner and/or operator of such motor vehicle of any private duty [sic] from the duty to keep~~
149 ~~such motor vehicle legally parked.~~

151 **Sec. 24-27. Violation, enforcement, penalties.**

152
153 ~~It shall be unlawful for any person to violate the provisions of sections 24-21 through~~
154 ~~24-33 this division. It shall be the duty of any law enforcement official or parking enforcement~~
155 ~~specialist having jurisdiction in Lee County Estero to enforce the provisions of these sections.~~
156 ~~Any officer or parking enforcement specialist who discovers a vehicle parked in violation of~~
157 ~~these sections may:~~

158 (1) ~~Issue a summons used by the village county for such violation to the driver;~~

159 (2) ~~If the vehicle is unattended, attach such summons to the vehicle in a~~
160 ~~conspicuous place;~~

161 (3) ~~In cases of violators illegally parked in parking spaces provided for by~~
162 ~~governmental agencies, such vehicles may be removed by a law enforcement officer having~~
163 ~~jurisdiction in Lee County Estero to a storage lot, garage or other safe parking space, the cost~~
164 ~~of such removal and parking shall be a lien against the vehicle, and the law enforcement official~~
165 ~~shall charge the owner and/or operator in charge of the vehicle in violation with a noncriminal~~
166 ~~traffic infraction.~~

167 (4) ~~Any person who violates section 24-32, disabled persons parking, shall be~~
168 ~~punished by a fine of two hundred fifty dollars (\$250.00). The fines collected for a violation~~
169 ~~of the disabled persons parking section shall be deposited in a separate Lee County Estero~~
170 ~~account to be used in accordance with F.S. § 316.008(4), as amended.~~

171 (5) ~~Any person who violates the provisions of this section, except section 24-32,~~
172 ~~shall be punished by a fine of thirty-two dollars (\$32.00). Any person who fails to satisfy the~~
173 ~~provisions contained in the Lee County Estero summons for violations of parking contained in~~
174 ~~this section and elects to appear before a designated official to present evidence shall be~~
175 ~~deemed to have waived his right to the civil penalty provisions of the ticket. The official, after~~

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176 a hearing, shall make a determination as to whether a parking violation has been committed
177 and may impose a fine not to exceed one hundred dollars (\$100.00) plus court costs.

178 (6) No person shall, without authority, attempt to or in fact alter, deface, injure,
179 knock down or remove any official traffic-control device or sign. Any violation of this
180 provision shall constitute a misdemeanor. In addition, a violation of this provision may be
181 enforced through the ~~county~~ village code enforcement process.

182
183 **Sec. 24-28. Exercise of police power.**

184
185 ~~Sections 24-21 through 24-33~~ This division shall be deemed and construed to be an
186 exercise of the police power of the village ~~county~~ for the preservation and protection of public
187 safety and all of these provisions shall be liberally construed with a view to the effectuation of
188 such purpose.

189
190 **Sec. 24-29. Stopping, standing, parking prohibited in specified places.**

191
192 Except when necessary to avoid conflict with other traffic, or in compliance with law
193 or the directions of a police officer or official traffic-control device, no person or operator shall:

- 194
195 (1) Stop, stand or park a vehicle on any street as follows:
- 196 a. On the roadway side of any vehicle stopped or parking at the edge or curb
 - 197 of a street;
 - 198 b. On a sidewalk;
 - 199 c. Within an intersection;
 - 200 d. On a crosswalk;
 - 201 e. Between a safety zone and the adjacent curb or within thirty (30) feet of
 - 202 points on the curb immediately opposite the end of a safety zone, unless
 - 203 the traffic division of the department indicates a different length by
 - 204 posting official signs or installing pavement markings;
 - 205 f. Alongside or opposite any street excavation or obstruction when stopping,
 - 206 standing or parking would reduce the number of lanes of moving traffic
 - 207 to less than two (2) lanes (one ten-foot-wide lane of moving traffic in each
 - 208 direction) on streets with two-way traffic flow, or to less than one ten-
 - 209 foot-wide lane of moving traffic on a street with one-way traffic flow;
 - 210 g. Upon any bridge or other elevated structure on a highway or within a
 - 211 highway tunnel;
 - 212 h. On any railroad track(s);
 - 213 i. At any place where official signs prohibit stopping;
 - 214 j. In any area designated as a fire lane, except for the purpose of loading or
 - 215 unloading handicapped passengers and then only while actually engaged
 - 216 in the process of loading or unloading such passengers.

217 (2) No person or operator of a vehicle shall stand or park a vehicle, whether
218 occupied or not, except momentarily to pick up or discharge a passenger or passengers, on any
219 street as follows:

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- 220 a. In front or within five (5) feet of the end of the driveway radius or edge
 221 of a public or private driveway so as to prevent proper ingress or egress;
 222 b. Within fifteen (15) feet of a fire hydrant;
 223 c. Within twenty (20) feet of a crosswalk at an intersection;
 224 d. Within thirty (30) feet upon the approach to any flashing signal, yield sign,
 225 stop sign or traffic-control signal located beside or over the intersection
 226 of two (2) or more roadway(s);
 227 e. Within twenty (20) feet of the driveway entrance to any fire station and
 228 on the side of a street opposite the entrance to any fire station within
 229 seventy-five (75) feet of such entrance when official signs prohibiting
 230 such parking, standing or stopping are installed;
 231 f. At any place where official signs prohibit standing;
 232 g. In any lane designated as a fire lane.
- 233 (3) No person or operator shall park a vehicle, whether occupied or not, except
 234 temporarily for the purpose of, and while actually engaged in, loading or unloading
 235 merchandise or passengers, on any street as follows:
 236 a. Within fifty (50) feet of the nearest rail of a railroad crossing unless the
 237 department establishes a different distance due to unusual circumstances;
 238 or
 239 b. At any place where official signs prohibit parking.
- 240 (4) No person shall move a vehicle not lawfully under his control to such prohibited
 241 area or away from a curb such a distance as is unlawful. Any person who is in violation of this
 242 subsection shall be punished as provided for in section 24-27.
 243

244 **Sec. 24-30. Parallel and angle parking regulations.**

- 245 (a) Parallel parking:
 246 (1) Except as otherwise provided in this section, every vehicle stopped or parked
 247 upon a two-way roadway shall be so stopped or parked with the right-hand wheels parallel to
 248 and within twelve (12) inches of the right-hand curb or edge of the roadway;
 249 (2) Every vehicle stopped or parked upon a one-way roadway shall be so stopped
 250 or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic
 251 movement, with its right-hand wheels within twelve (12) inches of the right-hand curb or edge
 252 of the roadway, or its left wheels within twelve (12) inches of the left-hand curb or edge of the
 253 roadway.
 254 (b) Angle parking. Angle parking may be permitted on streets and/or roadways
 255 within the Village unincorporated Lee County; provided, that a proper and documented traffic
 256 engineering study is performed, either by the public works department ~~of transportation and~~
 257 ~~engineering~~ or by a private consultant, and approved by the public works department ~~or as~~
 258 ~~provided by the Village's land development regulations of transportation and engineering~~
 259 ~~pursuant to the applicable Administrative Code.~~
 260
 261
 262
 263

Words underlined are additions; Words ~~struck through~~ are deletions.

264 **Sec. 24-31. Parking for certain purposes prohibited.**
265

266 (a) It is unlawful for any person to park a motor vehicle, as defined in Florida
267 Statutes, section 320.01, for a continuous period in excess of twenty-four (24) hours, after
268 written notice, upon a public street or highway, upon a public parking lot, or other public
269 property, or upon private property where the public has the right to travel by motor vehicle, for
270 the principal purpose and intent of displaying the motor vehicle thereon for sale, hire or rental
271 unless the sale, hire or rental of the motor vehicle is specifically authorized on such property
272 by a ~~county~~ Village regulation and the person is duly licensed as a motor vehicle dealer in
273 accordance with Florida Statute, section 320.27, and the person is in compliance with all
274 ~~county~~ licensing regulations.

275 (b) The provisions of subsection (a) above do not prohibit a person from parking
276 his own motor vehicle or his other personal property on any private property which he owns
277 or leases, or any private property for which he obtains the permission of the owner, for the
278 principal purpose and intent of sale, hire or rental.

279 (c) A law enforcement officer may cause to be removed at the owner's expense any
280 motor vehicle found upon a public street, public parking lot, other public property, or private
281 property where the public has the right to travel by motor vehicle which is in violation of
282 subsection (a). Every written notice issued pursuant to this section shall be affixed in a
283 conspicuous place upon a vehicle by a law enforcement officer.

284 (d) Any other provision of law to the contrary notwithstanding, a violation of
285 subsection (a) shall subject the owner of the motor vehicle to owing the applicable agency the
286 fees reasonably incurred by removal and storage of the motor vehicle.
287

288 **Sec. 24-32. Disabled persons parking.**
289

290 (a) Governmental agencies. It shall be a violation of ~~sections 24-21 through 24-33~~
291 this division for any person to park in properly marked handicap parking spaces required
292 ~~provided for~~ by governmental agencies. ~~The county having jurisdiction over street parking~~
293 ~~and/or publicly owned and operated facilities shall provide a minimum of specially designed~~
294 ~~and marked motor vehicle parking spaces, in accordance with Florida Statutes, section~~
295 ~~316.1955, for the exclusive use of those severely physically disabled individuals with~~
296 ~~permanent mobility problems which substantially impair their ability to ambulate and who~~
297 ~~have been issued an exemption parking permit pursuant to the provisions of Florida Statutes,~~
298 ~~section 316.1958 or section 320.0848, or a license plate pursuant to Florida Statutes, sections~~
299 ~~320.084, 320.0892, 320.0893 or 320.0845.~~

300 ~~Each such parking space shall be prominently outlined with pavement markings and~~
301 ~~posted with a permanent sign of a color and design approved by the director, department of~~
302 ~~transportation and engineering, or the designee, bearing the internationally accepted~~
303 ~~wheelchair symbol and the caption "PARKING BY DISABLED PERMIT ONLY."~~

304 It is unlawful for any person to stop, stand or park a vehicle within any such specially
305 designated and marked parking space provided in accordance with this section, unless such
306 vehicle displays a parking permit issued pursuant to Chapters 316 or 320, Florida Statutes,
307 ~~section 316.1958 or section 320.0848~~, and such vehicle is transporting a person eligible for the

Words underlined are additions; Words ~~struck through~~ are deletions.

308 parking permit. Whenever a law enforcement officer or a parking enforcement specialist finds
309 a vehicle in violation of this subsection, that officer shall:

310 (1) Have the vehicle in violation removed to any lawful parking space or facility,
311 or require the operator or other person in charge of the vehicle immediately to remove the
312 unauthorized vehicle from the parking space. Whenever a vehicle is removed by a law
313 enforcement officer or parking enforcement specialist to a storage lot, garage or other safe
314 parking space, the cost of such removal and parking shall be a lien against the vehicle.

315 (2) Charge the owner or operator in charge of the vehicle in violation with a
316 noncriminal traffic infraction. Any person who is in violation of this subsection shall be
317 punished as provided for in section 24-27.

318 (b) Nongovernmental agencies. It shall be a violation for any person to park in
319 properly marked handicap spaces as provided for by nongovernmental entities for certain
320 disabled persons. Any commercial real estate property owner offering parking for the general
321 public shall provide specially designed and marked motor vehicle parking spaces for the
322 exclusive use of physically disabled persons who were issued parking permits pursuant to
323 ~~Florida Statutes~~, section 316.1958 or section 320.0848, Florida Statutes, or a license plate
324 pursuant to ~~Florida Statutes~~, sections 320.084, 320.0842, 320.0843 or 320.0845, Florida
325 Statutes. The minimum number of such parking spaces shall be as provided in Florida Statutes,
326 section 316.1955(2)(c). Each such parking space shall conform to the requirements of Florida
327 Statutes, section 316.1956 and shall be posted and maintained with a permanent sign bearing
328 the internationally accepted wheelchair symbol and the caption "PARKING BY DISABLED
329 PERMIT ONLY." Any person who parks a vehicle in any parking space designated with the
330 internationally accepted wheelchair symbol and the caption "PARKING BY DISABLED
331 PERMIT ONLY" is guilty of a traffic infraction, unless such vehicle displays a parking permit
332 issued pursuant to F.S. § 320.0848, and such vehicle is transporting a person eligible for such
333 parking permit. However, any person who is chauffeuring a disabled person shall be allowed,
334 without need for any identification parking permit, momentary parking in any such parking
335 space for the purpose of loading or unloading a disabled person. No penalty shall be imposed
336 upon the driver for such momentary parking. Any person who is in violation of this subsection
337 shall be punished as provided for in section 24-27.

338

339 **Sec. 24-33. Posting of no parking signs.**

340

341 It shall be the responsibility of the public works department to post official no parking
342 signs conforming with the Manual of Uniform Traffic Control Devices (MUTCD) on streets
343 in certain designated areas prohibiting stopping, standing and/or parking in ~~the unincorporated~~
344 ~~areas of Lee County~~ Esterro.

345

346 **Sec. 24-95. Authority.**

347

348 The provisions of this article are enacted pursuant to the statutory and home rule powers
349 of the ~~county~~ village to establish and enforce business regulations necessary for the protection
350 of the public.

351

Words underlined are additions; Words ~~struck through~~ are deletions.

352 **Sec. 24-96. Title.**

353

354 This article is titled and may be cited as the "~~Lee County~~ Estero Towing and
355 Immobilization Code Ordinance".

356

357 **Sec. 24-97. Applicability.**

358

359 ~~This article is applicable within the unincorporated areas of Lee County, Florida.~~ The
360 article applies to the towing and storage of vehicles/vessels removed from property without the
361 vehicle/vessel owner's prior consent; the towing of vehicles/vessels from, or the
362 immobilization of vehicles on, private property; the removal and storage of wrecked or
363 disabled vehicles/vessels from an accident scene; and, the removal and storage of
364 vehicles/vessels in the event the owner or operator is incapacitated, unavailable or leaves the
365 procurement of wrecker service to the law enforcement officer at the scene; or, otherwise does
366 not consent to removal of the vehicle/vessel.

367

368 **Sec. 24-98. Findings, purpose and intent.**

369

- 370 (a) The above recitals are incorporated as additional findings as though fully set forth below.
- 371 (b) The ~~board of county commissioners~~ village council finds that providing for and
372 safeguarding the life, health, safety, property and welfare of its citizens, the regulation of
373 business enterprises engaged in the practice of recovering, towing, immobilizing,
374 removing and storing vehicles/vessels is a matter affecting the public interest; and, in order
375 to protect visitors and citizens within ~~Lee County~~ Estero, business entities engaged in these
376 activities must be required to comply with the regulations set forth in this article.
- 377 (c) This article is intended to supplement the provisions of F.S. §§ 125.0103, 316.193, 713.78,
378 715.07 and Florida Administrative Code (FAC) Rule 15B-9.
- 379 (d) The primary purpose of this article is to:
- 380 (1) Provide a uniform system for the regulation of business entities engaged in, or that
381 intend to engage in, the practice of recovering, towing, immobilizing, removing or
382 storing vehicles/vessels;
- 383 (2) Set maximum public service rates;
- 384 (3) State solicitation restrictions and permit requirements; and
- 385 (4) Establish minimum insurance requirements.
- 386 (e) This article is not intended to create additional operations standards or safety criteria; and,
387 assumes no legislative or regulatory responsibility there for. Nothing in this article may
388 be construed to alleviate the need of entities and operators to be familiar and comply with
389 the Florida Uniform Traffic Control laws, as well as other applicable laws, rules and
390 regulations, including but not limited to, F.S. § 715.07, FAC Rule 15B-9.001 et seq., and
391 Florida Highway Patrol requirements.
- 392 (f) Except for setting the maximum service rates, this article may not be construed to
393 supersede other Lee County Sheriff and Florida Highway Patrol call allocation rules and
394 procedures.
- 395

Words underlined are additions; Words ~~struck through~~ are deletions.

396 **Sec. 24-99. Definitions.**

397

398 As used in the article, the respective word or phrase means:

399

400 *Accident scene* means the place where the vehicle/vessel is located immediately following
401 an accident that damaged a vehicle/vessel, preventing safe operation.

402

403 *Administrative/lien fee* means the fee that is charged by a towing company for title records,
404 conducting a lien search, advertising costs, and certified mail notification to the lien holder,
405 owner and all persons with a vested interest in the vehicle and charges against a vehicle or
406 vessel as required by F.S. § 713.78.

407

408 *Authorized agent (for a property)* means any agent or authorized agent for a property
409 owner who has written authority to sign for an absentee owner or property association board
410 for the removal or immobilization of a vehicle or vessel parked on private property.

411

412 *Authorized representative (for a vehicle/vessel)* means any individual who at the time a
413 decision to select a towing company is made, has lawful, actual or constructive physical
414 possession or custody of that vehicle/vessel, including: (1) the registered owner or co-owner
415 of the vehicle/vessel; (2) lienholder or insurance company agent with appropriate
416 documentation evidencing authority to take possession of the vehicle/vessel; or, (3) licensed
417 driver who is then sixteen (16) years of age or older with notarized documentation indicating
418 authority to take possession of the vehicle/vessel.

419

420 *Authorized wrecker operator* means a wrecker operator who is designated as part of the
421 wrecker operator system established by the governmental unit that has jurisdiction over the
422 scene of a wrecked or disabled vehicle (including, when applicable, the Division of Florida
423 Highway Patrol), where the governmental unit/law enforcement officer has determined
424 removal of a vehicle/vessel by wrecker is necessary.

425

426 *Disabled* means a vehicle/vessel that cannot be moved by its own power because the
427 physical condition resulting from, but not limited to, non-use, lack of fuel or mechanical
428 malfunction prevents movement by the owner. A vehicle/vessel may also be deemed disabled
429 if it cannot be legally operated on the roadways or waterways.

430

431 *Extra time at scene* means any extra time beyond one-half (½) hour at an accident scene
432 that is needed to safely remove a vehicle/vessel and includes the amount of time spent at a
433 scene when a tow truck has been summoned and is on scene but unable to proceed through no
434 fault of the tow truck operator. All extra billable time must be documented by the tow truck
435 operator and include the following information: (a) the name of the law enforcement agency;
436 (b) the officer's name; and, (c) a detailed explanation of why the extra time at the accident
437 scene was required or necessary along with detail regarding the specific services rendered.
438 Extra time on scene will be charged in 15-minute increments.

439

Words underlined are additions; Words ~~struck through~~ are deletions.

440 *Gross weight* means the weight of a tow truck in pounds, plus the weight of the
441 vehicles/vessels or other machinery and the contents being towed.

442
443 *Immobilization* means the utilization of a "boot" or other mechanism, as defined herein,
444 which causes a vehicle to be immobile or otherwise renders a vehicle immobile or inoperable.

445
446 *Immobilization company* means the private partnership, corporation or other privately
447 owned business entity, including sole proprietor, engaged in the immobilization of vehicles,
448 including the utilization of a "boot" or other mechanism that causes a vehicle to be immobile
449 or otherwise renders a vehicle immobile or inoperable.

450
451 *Immobilization device* or *boot* means any device attached to a vehicle designed to prevent
452 the vehicle from being operated.

453 *Immobilization operator* means any individual engaged in the immobilization of vehicles,
454 including the utilization of a "boot" or other mechanism that causes a vehicle to be immobile
455 or otherwise renders a vehicle immobile or inoperable.

456
457 *Incapacitated* means any person who, at the time the wrecker request is made by law
458 enforcement, is physically or legally unable to operate the vehicle/vessel due to the person's
459 physical condition, including but not limited to sickness, injury, being under the influence of
460 alcohol or controlled substance, being under arrest, being detained, revocation or suspension
461 of the person's operator's license or permit, or any other condition that the jurisdictional law
462 enforcement officer determines is justification to call a wrecker to tow the vehicle/vessel.

463
464 *Law enforcement officer* means every officer (full or part-time) as then defined by federal
465 law or by Florida Statutes, including F.S. § 112.531(1), 316.1906(1)(d)(1)—(3), or 943.10(1),
466 (6) or (8).

467
468 *Law enforcement tow* means any tow authorized by the jurisdictional law enforcement
469 officer using an authorized wrecker operator.

470
471 *Light reflective sign* means at minimum an eighteen (18) inches wide by twenty-four (24)
472 inches high sign made of aluminum (at least 0.040 thickness) or fiber reinforced plastic (at
473 least 0.090 thickness). The entire background surface and all lettering must at a minimum be
474 type 1 engineered grade sheeting (ASTM D4956-01). The letters may be screen printed on the
475 type 1 sheeting using a compatible transparent ink so that the retro reflective is maintained and
476 visible.

477
478 *Mileage charge* means allowable charge, consistent with F.S. § 715.07, for each mile (1)
479 from the scene of a rotation call authorized by a jurisdictional law enforcement agent; (2) from
480 the private property impound/tow; or, (3) to the company storage yard.

481

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482 *Nonconsent towing* means the recovery, towing, removal and storage of a vehicle/vessel
483 without authorization from the vehicle/vessel owner or authorized driver. Nonconsent towing
484 encompasses both a "law enforcement officer tow" and "private property impounds/tows".
485

486 *Operator* means any person who provides the services of recovering, towing,
487 immobilizing or removing vehicles/vessels and any related storage services. It includes,
488 without distinction, the owner of the towing/immobilization entity as well as the driver of a
489 tow truck or the employee performing the immobilization.
490

491 *Person* means any natural person, firm, partnership, association, corporation or other
492 entity of any kind whatsoever.
493

494 *Private property impound or tow* means towing or removal of a vehicle/vessel, as
495 authorized by F.S. § 715.07, without the consent of the vehicle/vessel's owner or authorized
496 driver when that vehicle/vessel is parked on real property and the property owner or authorized
497 agent requested the removal in accordance with this article.

498 *Private rule* means a restrictive covenant, deed restriction, parking ticket restriction, and
499 any other private rule or regulation applicable to private property.
500

501 *Real property owner* means the person who exercises dominion and control over real
502 property including, but not limited to, the legal titleholder, lessee, designated representative of
503 a condominium or homeowner's association or any person authorized to exercise or share
504 dominion and control over real property. "Real property owner" does not mean a person
505 providing towing services pursuant to this article.
506

507 *Recover* means to take possession of a vehicle/vessel and its contents and to exercise
508 control, supervision and responsibility over it; including removal of vehicles/vessels from a
509 canal or other body of water, wooded area, or any other unpaved area.
510

511 *Remove* means the removal of a vehicle/vessel from a canal or other body of water, a
512 wooded area not readily accessible to a roadway (i.e., within a standard cable length) or when
513 a vehicle/vessel is buried. This includes towing, winching, skating, using "go jacks", or any
514 other method employed by towing companies.
515

516 *Road* means alley, court, drive, driveway, highway, interstate highway, lane, parking lot,
517 street, or any other substantially similar place, public or private.
518

519 *Scene* means a physical location from where a vehicle/vessel is towed following response
520 thereto by a law enforcement officer.
521

522 *Storage* means retaining actual physical possession of a vehicle/vessel at a private storage
523 facility for consideration; to place and leave a towed vehicle/vessel at a location where the
524 person providing the towing services exercises control, supervision and responsibility over the
525 vehicle/vessel.

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526 *Storage facility* means the location where towed vehicle/vessels are stored.

527

528 *Tow* means to haul, draw or pull along a vehicle or vessel by means of a tow truck
529 ("wrecker") or vessel for hire equipped with booms, car carriers, winches or similar
530 commercially manufactured equipment.

531

532 *Towing/tow or immobilization company* means a private partnership, corporation or other
533 privately owned business entity, including sole proprietor, engaged in the operation of towing
534 or immobilizing vehicles/vessels by means of a tow truck slide bed, wrecker or any other form
535 of towing apparatus designated for the purpose of transporting or immobilizing motor vehicles
536 or vessels. This definition includes any person, company, corporation, or other entity that
537 engages in, owns or operates a business that provides nonconsent towing, recovery, removal
538 and storage of vehicles/vessels for compensation.

539

540 *Tow truck identification* means a decal or sign issued by the local government agent,
541 authorized jurisdictional law enforcement agency, or similar governmental body, which is
542 placed upon any tow truck or tow vessel to designate authorization to engage in nonconsent
543 tows, and, to allow parking in specially designated areas authorized by the village ~~county~~ or
544 jurisdictional governing body.

545

546 *Unavailable* means that no authorized person is physically present at the scene; or, if
547 present, is incapacitated. When no accident scene is involved, an authorized person is
548 unavailable if he or she cannot readily be contacted.

549

550 *Vehicle* means a machine or other substantially similar thing designed with two (2) or
551 more wheels that is propelled by its own engine, motor or pulling animals and is used to
552 transport one (1) or more persons and property over road or land. The term "vehicle" includes
553 a car, truck, trailer, semi-trailer, motorcycle, motor scooter, moped, bus, van, recreational
554 vehicle, all-terrain vehicle, golf cart, animal-drawn vehicle, and every other similar means of
555 wheeled transportation.

556

557 *Vessel* is synonymous with the term "boat" as referenced in section 1(b), Art. VII of the
558 State Constitution and includes every description of watercraft, barge, and airboat, other than
559 a seaplane on the water, used or capable of being used as a means of transportation on water.

560

561 *Wrecked* means a vehicle/vessel that cannot be driven away under its own power from its
562 location due to its physical condition.

563

564 *Wrecker classification* means the wrecker classifications set forth in FAC15B-9.005. In
565 addition to Wrecker Classifications A—C in FAC15B-9.005, a Class D wrecker is added for
566 those specifications exceeding the minimum gross weight and related criteria for Class C
567 wreckers.

568

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569 *Wrecker operator* means any person or firm regularly engaged for hire in the business of
570 towing or removing vehicles/vessels.

571
572 **Sec. 24-100. Permit required.**

- 573
574 (a) *Wrecker operator permit.* To engage in nonconsent towing a wrecker (or tow truck)
575 operator must have a valid "wrecker operator permit" issued by the ~~sheriffs~~ clerk's office
576 consistent with this article.
- 577 (b) *Immobilization operator permit.* Any immobilization operator, including an individual
578 providing the immobilization service, engaging in the immobilization or booting of a
579 vehicle must have a valid "immobilization operator permit" issued by the ~~sheriffs~~ clerk's
580 office consistent with this article.
- 581 (c) Upon issuance of a permit, the wrecker or immobilization operator is granted the privilege
582 of engaging in nonconsent towing or immobilization within ~~unincorporated Lee County~~
583 Estero, unless the permit expires, is suspended or revoked pursuant to the terms of this
584 article.
- 585 (d) At the time the towing or immobilization services are being performed, the operator must
586 have the permit readily available (at the scene of the activity) for inspection and
587 verification.
- 588 (e) A wrecker operator may hold more than one (1) wrecker operator permit, if each individual
589 permit is for purposes of employment with a different towing entity.

590
591 **Sec. 24-101. Permit application; fees.**

- 592
593 (a) Every application for a vehicle/vessel towing or immobilization permit must be on the
594 proscribed form signed and verified by the applicant and filed with the ~~Lee County sheriffs~~
595 clerk's Office, together with the investigative and processing fee established ~~as part of the~~
596 ~~Lee County Administrative Code~~ or by resolution of the ~~board of county commissioners~~
597 village council. Statements contained in the application become part of the permit and may
598 be modified only in writing as provided in this article or the established application
599 procedure.
- 600 (b) *Background check.* Each applicant will be subjected to a state and national criminal
601 background check based upon fingerprinting performed by the sheriff's office or pursuant
602 to a vendor approved by the Florida Department of Law Enforcement. The applicant is
603 responsible for the costs associated with fingerprinting. Applicants will be screened using
604 the ~~county~~ village or sheriff's office "ORI" numbers.
- 605 (c) *Application.* Every application for a wrecker or immobilization operator permit must be
606 submitted on a form proscribed by the sheriff's office. The form must contain, at
607 minimum, the following information:
- 608 (1) Sufficient information to identify the applicant, including, but not limited to, full legal
609 name, date of birth, date the legal entity was formed, telephone numbers, and all
610 business and residence addresses. If the applicant is a corporation (including a limited
611 liability company), the foregoing information will also be provided for each corporate
612 officer, director, resident agent and shareholder. If the applicant is a partnership, the

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- 613 foregoing information must be provided for each general and limited partner. Post
614 office box addresses are not sufficient.
- 615 (2) Documentation from the State of Florida, Division of Corporations, demonstrating
616 that all corporate or partnership applicants are qualified to do business under the Laws
617 of Florida.
- 618 (3) A certified copy of the applicant's driving record from the Florida Department of
619 Highway Safety and Motor Vehicles.
- 620 (4) A photocopy of the applicant's valid Florida Class E or higher driver's license.
- 621 (5) Photo copy of the applicant's occupational license.
- 622 (6) The address and STRAP number of the business location from which the applicant
623 will operate the business activity and storage facility. All business locations must be
624 identified.
- 625 (7) A list of all persons with an ownership interest in the applicant's business operation
626 who have been previously denied an operator permit or had one (1) suspended or
627 revoked.
- 628 (8) Any trade name under which the applicant operates, intends to operate, or has
629 previously operated.
- 630 (9) A description of the services to be provided, including but not limited to, hours of
631 operation, procedures for handling complaints and accidents, insurance coverage, and
632 the communication system to be used.
- 633 (10) A list of all felonies or misdemeanors for which the applicant has been adjudicated
634 guilty, or for which adjudication was withheld, within the five (5) years preceding the
635 date of the application. Individual applicants must be fingerprinted and photographed
636 by the sheriff's office or another law enforcement agency and this information must
637 be included with the application.
- 638 For purposes of this subsection, if the applicant is a partnership or corporation, the
639 above information must be provided for all corporate officers, directors, sole
640 proprietors, operations managers, managing general partners and any stockholders
641 that own or control five (5) percent or more of the issued and outstanding stock or
642 other beneficial interest in the business entity.
- 643 (11) Proof of insurance meeting the criteria set forth in this article.
- 644 (12) The signature of each individual applicant, the signature of the president or vice-
645 president of a corporate applicant and the signature of all general partners of a
646 partnership applicant.
- 647 (13) An agreement, signed by the applicant, indicating the applicant will abide by the
648 provisions of this article and the laws of the State of Florida.
- 649 (14) Such additional information as the ~~sheriff or his~~ clerk or designee may deem
650 appropriate.
- 651
- 652 (d) *Application fee.* The permit application fee is twenty-five dollars (\$25.00) and must be
653 paid at the time the application is submitted. The application fee will be deposited into a
654 separate county village fund and will be used exclusively to accomplish the purposes of
655 this article. The amount of the application fee must be reasonably related to the cost of the
656 services and regulations set forth in this article.

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657 **Sec. 24-102. Issuance of permit; appeal; renewal.**

658

659 (a) The sheriff is empowered to issue operator permits to applicants meeting all applicable
660 standards and requirements. The sheriff may promulgate administrative processes and
661 procedures applicable to the issuance and revocation of a permit.

662 (b) The sheriff will review and investigate each application for a license and reject any
663 application that is not properly filed, is incomplete, untrue in whole or in part, or which
664 otherwise fails to meet the requirements set forth in this article.

665 (c) *Criteria for permit issuance.* A wrecker or immobilization operator's permit may be
666 issued, in the sole discretion of the sheriff, if the applicant meets all of the following
667 minimum criteria:

668 (1) Filed a true, correct and complete application on the form proscribed by the sheriffs
669 office, including all proofs of required insurance.

670 (2) Holds a valid Florida Class E or higher driver's license.

671 (3) Paid the appropriate application fee; and

672 (4) The sheriff determines that:

673 a. The applicant has not been convicted, pled nolo contendere, had adjudication
674 withheld or been incarcerated for any of the following:

675 1. Any capital felony; any first degree felony; sexual battery; any violent felony
676 involving the use of a gun or other weapon that resulted in great bodily harm.

677 2. Any crime resulting in a sexual predator or offender registration.

678 3. Within the previous ten (10) years: Any violent felony not referenced in
679 subsection (c)(4)a.1. above.

680 4. Within the last ten (10) years: Any felony or first degree misdemeanor
681 directly related to the business of towing or immobilization of motor
682 vehicles/vessels, repossession of motor vehicles, motor vehicle theft;
683 carjacking or "chop shops"; or, liens for recovering, towing or storing
684 vehicles/vessels.

685 5. Within the previous five (5) years: Driving under the influence (DUI) of
686 alcohol, a controlled substance or a chemical substance to the extent that
687 normal faculties were impaired; reckless driving where the actual DUI
688 charge was reduced to reckless driving, but the DUI sentence was imposed;
689 or, driving with an unlawful blood alcohol level.

690 b. Neither the applicant, nor any officer, director, partner, or stockholder owning,
691 holding, controlling or having a beneficial interest of five (5) percent or more in
692 the business entity:

693 1. Has a currently suspended operator's permit or has had a permit revoked by
694 action of the ~~sheriff~~ clerk within two (2) years of the date of the application.

695 2. Has outstanding and unsatisfied civil penalties imposed on account of
696 violations of this article.

697 3. Has been convicted of one (1) or more felonies within the preceding five (5)
698 years; or committed three (3) misdemeanors within the preceding three (3)
699 years, unless the civil rights of such individual or applicant have been
700 restored or such person has completed all sentences of incarceration,

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- 701 probation rehabilitation activities and payment of any fines or penalties
702 imposed. For applicants requesting renewal, the ~~sheriff clerk~~ may only
703 consider crimes committed after the date the initial permit was issued, unless
704 the crimes were not previously disclosed.
- 705 c. Each corporate or partnership applicant is qualified under the Laws of Florida to
706 do business under the name in which the permit application was filed.
 - 707 d. No fraud or willful or knowing misrepresentation or false statement was made
708 on the application.
 - 709 e. No judgment against the applicant arising out of the activity of immobilization,
710 recovery, towing, removal or storage of a vehicle/vessel remains unsatisfied.
 - 711 f. There are no outstanding arrest warrants against the applicant or any officer,
712 director, partner or stockholder.
- 713 (d) *Review*. Permit applications will be reviewed and granted or denied in writing within five
714 (5) business days. A permit may be granted with conditions, as deemed appropriate by the
715 ~~sheriff clerk~~. If a permit application is denied, the reason for denial will be provided in
716 writing and advise the applicant may correct deficiencies in the application within seven
717 (7) days of the notice of denial without incurring an additional application fee.
- 718 (e) *Appeal*. If an application is denied (including a denial after the applicant unsuccessfully
719 attempts to correct application deficiencies), the denial may be appealed to the ~~Lee County~~
720 ~~Estero board of county commissioners~~ village council upon a written request to the ~~Lee~~
721 ~~County Estero~~ Attorney's Office, if filed within ten (10) days following the last written
722 denial. Appeals will be heard by the ~~board of county commissioners~~ village council at a
723 public meeting on the appeals agenda.
- 724 (f) *Renewal*. Renewal applications must be filed sixty (60) days prior to the end of the one
725 (1) year permit effective period on a form proscribed by the ~~sheriffs clerk's~~ office and be
726 accompanied by the appropriate fee. All annual permits that are not properly renewed, will
727 expire on the one (1) year anniversary of the permit effective date. It is the responsibility
728 of the applicant to obtain timely renewal of the permit.
- 729 (g) *Validity*. A permit issued by the ~~sheriffs clerk's~~ office is valid for a period of one (1) year
730 from the date of issuance.
- 731 (h) Permits and renewals issued under this article are not transferable.

732
733 **Sec. 24-103. Insurance requirements.**
734

- 735 (a) The wrecker or immobilization operator, or the business entity under which they are doing
736 business, must maintain the following policies of insurance according to the minimum
737 limits set forth in this section or as otherwise required by ~~Lee County Estero~~ Risk
738 Management. Each policy must be in the name of the operator or the business entity under
739 which the operator is doing business and include coverage for towing and storage, as
740 applicable. The policy must be effective throughout the period the operator is qualified to
741 do business under this article. This provision is not intended to limit the operator to the
742 types of insurance set forth below:
- 743 (1) Worker's compensation and employer's liability insurance as required by statute.

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- 744 (2) Garage liability insurance in an amount not less than three hundred thousand dollars
745 (\$300,000.00) combined single limit.
- 746 (3) Garage keeper's legal liability insurance in an amount not less than fifty thousand
747 dollars (\$50,000.00) for each loss, covering perils of fire and explosion; theft of a
748 vehicle, its parts or contents; riot and civil commotion; vandalism; malicious
749 mischief; and, damage to a vehicle in tow.
- 750 (4) The following minimum levels of bodily injury liability insurance and property
751 damage liability insurance, in accord with F.S. § 627.7415, as follows:
- 752 a. Fifty thousand dollars (\$50,000.00) per occurrence and one hundred thousand
753 dollars (\$100,000.00) combined single limit for a wrecker with a gross vehicle
754 weight of less than thirty-five thousand (35,000) pounds.
- 755 b. One hundred thousand dollars (\$100,000.00) per occurrence and three hundred
756 thousand dollars (\$300,000.00) combined single limit for a wrecker with a gross
757 vehicle weight of thirty-five thousand (35,000) pounds or more, but less than
758 forty-four thousand (44,000) pounds.
- 759 c. Three hundred thousand dollars (\$300,000.00) per occurrence and five hundred
760 thousand dollars (\$500,000.00) combined single limit for a wrecker with a gross
761 vehicle weight of forty-four thousand (44,000) pounds or more.
- 762 d. For immobilization activity, liability coverage in an amount no less than twenty
763 thousand dollars (\$20,000.00) for each incident.
- 764 (b) The insurance coverage required must include those classifications that are listed in
765 standard liability manuals, which most nearly reflect the operation of the wrecker or
766 immobilization operator.
- 767 (c) All required insurance policies must be issued by an insurance company authorized to do
768 business in the State of Florida and be in a form acceptable to risk management. Policies
769 valid for less than six (6) months duration are not acceptable.
- 770 (d) The insurance must be kept in full force and effect by the certificate holder at all times the
771 permit is effective. Failure to maintain appropriate insurance will result in automatic
772 suspension of the permit. The suspension will remain in place until proof of insurance is
773 filed with the sheriff.
- 774

775 **Sec. 24-104. Permit document specifications.**

776

- 777 (a) The wrecker operator permit or immobilization operator permit issued by the sheriff's
778 office must meet the following specifications:
- 779 (1) Be not less than 21/8 inches by 33/8 inches in size.
- 780 (2) Include a photograph of the wrecker or immobilization operator that is not less than
781 one (1) inch by one and one-half (1½) inches in size.
- 782 (3) State the name of the wrecker or immobilization service/business entity along with
783 the wrecker or immobilization operator's first name in letters that are not less than ¼
784 inch by ¼ inch.
- 785 (4) Include a control number (decal number) that is linked to the wrecker or
786 immobilization operator's personal driver's license information.

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- 787 (5) Include evidence (i.e. a mark or signature) from the sheriff's office that it is a valid
788 permit.
789 (6) State the expiration date of the permit.
790 (7) State any conditions, restrictions or limitations on the permit approval.
791 (8) A valid permit must be laminated to protect the information on its face.
792 (b) The permit must be replaced if the permit is lost, damaged, stolen, becomes illegible or
793 the permit holder changes the business entity under which the services are provided.
794 (c) The cost for a replacement permit is five dollars (\$5.00) and is valid only for the remainder
795 of the period applicable to the original permit.
796

797 **Sec. 24-105. Manifest, trip record or tow sheet.**
798

- 799 (a) A person or entity recovering, towing, immobilizing, or removing a vehicle/vessel or
800 providing storage in connection therewith must maintain a manifest, trip record or tow
801 sheet that includes, at minimum, the following information:
802 (1) Name of the permit holder as well as the individual person/employee providing the
803 service.
804 (2) Decal number of the towing vehicle, equipment or car carrier used to provide the
805 service.
806 (3) Date and time that the service was requested.
807 (4) Name, address and phone number of the person requesting the service. If law
808 enforcement requested the tow, include the requesting officer's name and agency
809 name.
810 (5) Date and time the service was initiated.
811 (6) Location at which the service originated.
812 (7) Destination to which the towed vehicle is taken and the time of arrival at the
813 destination.
814 (8) Description of the vehicle that is the subject of the service, including make, model,
815 year, color, vehicle identification number, and state license plate number, if any.
816 (9) A statement of any visible damage to the exterior of the vehicle and an inventory of
817 the visible inventory within the vehicle.
818 (10) Description of services provided.
819 (11) Costs of services provided.
820 (12) Date and time the vehicle was delivered to the storage facility.
821 (13) Date and time the vehicle was released to the owner or agent.
822 (b) Each manifest, trip record or tow sheet must be immediately available for inspection by
823 law enforcement officers or by personnel authorized by the sheriff, at completion of
824 recovery, towing, immobilization or removal of the vehicle.
825 (c) Each permittee must keep, maintain and retain the original manifest, trip record or tow
826 sheet for at least three (3) years. No person/entity providing the service may destroy,
827 mutilate, alter or deface any manifest, trip record or tow sheet prior to the expiration of
828 the three (3) years. All manifests, trip records and tow sheets must be available for
829 inspection by the sheriff or authorized personnel during regular business hours.
830

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831 **Sec. 24-106. Regulations applicable to the tow or immobilization operator and related**
832 **business entity.**

- 833
- 834 (a) The tow or immobilization operator, or the related business entity, must have a valid
835 occupational license (i.e. business tax receipt) for the business entity providing the
836 services. This license must be posted and available for viewing on the business site and
837 storage facility.
- 838 (b) The tow operator must provide storage for the towed vehicle at a location that is within a
839 ten-mile radius of the location from which the vehicle was removed. However, if a
840 permitted operator providing services in accord with this article is not located within a ten-
841 mile radius, then a removed vehicle may be stored in Lee County at a site within twenty
842 (20) miles of the point of removal.
- 843 (c) The tow operator providing services must transport the vehicle directly to the storage site
844 of the towing entity providing the service or to another location as directed by the law
845 enforcement officer authorizing the tow. Vehicles may not be kept or placed in a
846 temporary holding area.
- 847 (d) At the tow storage facility or immobilization business location, the operator must maintain
848 prominent clearly visible signs (in no less than twelve (12) point type, unless otherwise
849 indicated) in the area where business is transacted indicating the following:
- 850 (1) The name and phone number of the entity; the hours the storage site is open for regular
851 business; and the phone number to call to obtain after hour services. This information
852 must be clearly visible from the street in at least three (3) inch letters on a contrasting
853 background.
- 854 (2) A schedule of all current rates and charges applicable to tows, removal, impounds and
855 immobilization. This schedule should also include a statement indicating the stated
856 rates and charges do not exceed those established and authorized by this article.
- 857 (3) Notice of the right to request and review a complete schedule of the rates and charges
858 for towing and immobilization services as adopted by Lee County Estero.
- 859 (4) Notice regarding claimed overcharges for nonconsent tows or immobilization
860 indicating: (1) the owner has a right to post security in the amount of the charges for
861 towing, storage or immobilization with the circuit court in order to obtain release of
862 the vehicle/vessel; (2) upon posting of security meeting F.S. § 713.78 and payment of
863 the fees required by F.S. § 28.24, the clerk of court will issue a certificate directing
864 release of the vehicle/vessel; and, (3) the operator is obligated to release the
865 vehicle/vessel upon receipt of the certificate as to the posting of bond.
- 866 (e) Any operator or entity providing services pursuant to this article may not do so when there
867 is a person or animal occupying the vehicle/vessel.
- 868 (f) The permitted operator providing the services must maintain a place of business, which:
- 869 (1) Supports an office that has at least one (1) on-duty person from 8:00 a.m. to 6:00 p.m.
870 Monday through Friday to answer phone calls and serve the public.
- 871 (2) Maintains a telephone communication system to answer calls from the public twenty-
872 four (24) hours a day. Provides after hours services that must enable the vehicle/vessel
873 owner/representative to obtain release of the vehicle/vessel within one (1) hour of the
874 phone call.

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- 875 (3) Provides a detailed, signed receipt, at the time payment is made, showing the legal
876 name of the towing or immobilization company, to the person paying the towing,
877 immobilization or storage charges. This receipt must be provided whether requested
878 or not.
- 879 (g) The person/entity providing towing/immobilization services in accordance with this
880 article must advise any vehicle owner or authorized representative that calls by telephone
881 prior to arriving at the storage site the following information:
882 (1) Each and every document or other item that must be produced to retrieve the
883 vehicle/vessel.
884 (2) The exact charges as of the time of the telephone call and the rate at which charges
885 accumulate after the call.
886 (3) The acceptable methods of payment.
887 (4) The hours and days the storage site is open for regular business.
- 888 (h) The person/entity providing storage services must permit every vehicle/vessel owner or
889 authorized representative, upon presentation of reasonable proof as to ownership or
890 authorization from the owner, to inspect the towed vehicle immediately upon arrival at the
891 storage site and before payment of any charges. Examples of "reasonable proof" under
892 this article include, but are not limited to, a driver's license matching the name on the
893 vehicle registration and proof of authorized representation. With the exception of
894 vehicle/vessels held pursuant to a specific request or "hold order" issued by law
895 enforcement, the vehicle owner or authorized representative must be permitted to remove
896 the vehicle license tag as well as any and all personal possessions inside but not affixed to
897 the vehicle, including but not limited to iPods, cellular phones, computers, and hand held
898 GPS units; and, the storage site operator must assist the vehicle owner or representative in
899 doing so.
- 900 (i) The person or entity providing services under this article must accept payment for charges
901 from the vehicle/vessel owner or authorized representative in at least two (2) of the
902 following three (3) categories:
903 (1) Cash, money order or valid traveler's check;
904 (2) Valid bank credit card or debit card; or
905 (3) Valid personal check showing on its face the name and address of the vehicle/vessel
906 owner or authorized representative.
907 A vehicle owner or authorized representative may not be required to furnish more
908 than one (1) form of picture identification when payment is rendered using a valid
909 bank card, debit card or personal check.
- 910 (j) The tow or immobilization entity may not condition release of the vehicle/vessel on a
911 requirement that the owner/agent be required to sign a release or waiver with respect to
912 liability for damages.
- 913 (k) The tow operator must complete a tow sheet consistent with section 24-106 for every tow
914 performed. For private property tows, the sheet must be signed by the property owner or
915 authorized representative authorizing the tow/removal unless law enforcement requested
916 the tow, then a signature is not required. This tow sheet must include proper verification
917 of the identity of the property owner or agent upon whose property the vehicle is disabled,

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918 abandoned or parked without authorization. A driver's license number for the property
919 owner is an example of proper identity verification.

920 (l) Any person providing services in accord with this section may not pay or rebate money or
921 solicit/offer the rebate of money or other valuable consideration in order to obtain the
922 privilege of providing towing/immobilization services.

923

924 **Sec. 24-107. Nonconsent tow or immobilization.**

925

926 A nonconsent tow or immobilization may occur only in compliance with this article and
927 the following:

928 (1) The tow or immobilization operator must hold a valid permit in accord with the
929 provisions of this article.

930 (2) The vehicle/vessel is not occupied, by a person or animal, at the time the towing,
931 immobilization or removal occurs.

932 (3) Law enforcement directed tow. A duly permitted operator is acting upon the express
933 instruction of a law enforcement officer and the activity is conducted in accordance
934 with the contract/agreement between the permitted operator and the governmental
935 entity in whose jurisdiction the law enforcement officer serves.

936 (4) Private property impound. A duly permitted operator is acting upon the express
937 instruction of a property owner or authorized agent, or in certain instances a law
938 enforcement officer, on whose property the vehicle is disabled, abandoned or parked
939 without authorization or whose owner/representative is unwilling or unable to remove
940 the vehicle/vessel.

941 (5) The operator or entity performing the nonconsent tow or immobilization must, within
942 thirty (30) minutes of completing the activity, notify the law enforcement agency with
943 jurisdiction based upon the location of the vehicle/vessel at the time the service was
944 provided, of the following: (1) the address and time at which the services were
945 rendered (e.g. where the vehicle/vessel was located at the time); (2) the name and
946 address of the storage facility; (3) the make, model color and vehicle license plate
947 number or vessel registration number; and, (4) the name of the operator providing the
948 services. The tow manifest must include the name and identification number of the
949 law enforcement officer to whom the information was provided.

950

951 **Sec. 24-108. Express instruction by law enforcement.**

952

953 (a) Unless otherwise specifically provided in this article, express instruction from law
954 enforcement that may be relied upon as authorization to tow, remove or immobilize a
955 vehicle must be in writing, identify the date and time the instruction was provided, be
956 signed by the law enforcement officer, and include the officer's identification number. The
957 written document may be prepared by someone other than the officer, however, the officer
958 must sign and verify the accuracy of the document and the instructions prior to the tow or
959 immobilization.

960 (b) The following items alone are not express prior instruction from a law enforcement
961 officer:

Words underlined are additions; Words ~~struck through~~ are deletions.

- 962 (1) Mere posting of signage as required by this article.
963 (2) The terms of a contract or agreement between a towing or immobilization company
964 and a real property owner.
965 (3) An attempt to issue prior express instruction in advance or before the actual
966 unauthorized parking of a vehicle occurs.
967 (4) Prior express instruction that is general in nature and not specifically related to
968 individual identifiable vehicles that are already parked without authorization.
969

970 **Sec. 24-109. Requirements for nonconsent tows from or immobilization on private**
971 **property.**
972

973 (a) Tow or immobilization operators holding a valid permit issued under this article may
974 recover, tow, immobilize or remove a vehicle and provide storage in connection therewith
975 upon the instruction of a property owner, or authorized agent, on whose property the
976 vehicle is abandoned or parked without authorization, provided the following
977 requirements are met:

978 (1) Notice, meeting the following requirements, must be prominently posted on the
979 property from which the vehicle/vessel will be removed or immobilization will occur:

980 a. Notice must be provided on a light reflective sign as follows:

981 1. In not less than two (2) inch high light reflective letters on a contrasting
982 background, the words "UNAUTHORIZED VEHICLES WILL BE
983 TOWED AWAY AT THE OWNER'S EXPENSE".

984 or

985 If the property owner has authorized the immobilization of vehicle, then the
986 text should read as follows "UNAUTHORIZED VEHICLES WILL BE
987 TOWED AWAY OR IMMOBILIZED AT THE OWNER'S EXPENSE".

988 2. The words, "TOW-AWAY ZONE" must be included in not less than four
989 (4) inch light reflective letters on a contrasting background.

990 3. In not less than one (1) inch high light reflective letters on a contrasting
991 background, the days of the week and hours of the day during which vehicles
992 may be towed or immobilized, the name and phone number of the towing or
993 immobilization entity performing the service.

994 b. The sign must be prominently placed at each driveway access or curb cut
995 allowing vehicle access to the property, setback five (5) feet from the right-of-
996 way line. If there are no curbs or access barriers, signs must be placed at 25-foot
997 intervals along the property frontage. The signs must be permanently installed
998 not less than four (4) feet, but not more than six (6) feet, above ground level and
999 be continuously maintained on the real property for a period of not less than
1000 twenty-four (24) hours prior to the towing, immobilization or removal of any
1001 vehicle.

1002 c. Light reflective signs must be maintained or replaced so as to remain clearly
1003 visible, legible and light reflective at all times. The property owner is responsible
1004 for providing, maintaining, replacing and removing the signs as necessary.

1005 d. Failure to maintain the appropriate signing is a violation of this article.

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- 1006 e. The posting of notice, as set forth in this section, is not required where:
1007 1. The real property upon which the vehicle is parked is property appurtenant
1008 to and obviously a part of a single-family residence.
1009 2. Written notice is personally given to the vehicle/vessel owner or authorized
1010 driver/agent indicating that the property upon which the vehicle/vessel is
1011 parked is reserved or otherwise not available for unauthorized
1012 vehicles/vessels; and, the vehicle/vessel is subject to removal or
1013 immobilization at the vehicle/vessel owner's expense.
- 1014 (2) The real property owner or authorized agent must provide express instruction to
1015 recover, tow, immobilize or remove the vehicle. Evidence of the express instruction
1016 must include the property owner or authorized agent's signature, along with the date,
1017 on the tow sheet. The person preparing the tow sheet must verify the identity of the
1018 property owner or authorized agent before accepting the signature.
- 1019 (3) Immediately upon request, and without demanding compensation, the real property
1020 owner must inform the vehicle/vessel owner or authorized representative of the name
1021 and address of the tow truck or immobilization entity that recovered, towed,
1022 immobilized or removed the vehicle/vessel.
- 1023 (4) Persons or entities providing services pursuant to this section may recover,
1024 immobilize, tow or remove a vehicle/vessel or provide storage in connection
1025 therewith if the vehicle/vessel owner or authorized representative arrives at the scene
1026 prior to recovery, towing, immobilization or removal, and:
- 1027 a. The registered owner or other legally authorized representative in control of the
1028 vehicle/vessel refuses or is unable to remove the vehicle/vessel; or
1029 b. A complete mechanical connection exists between the vehicle/vessel, the towing
1030 or removal apparatus, or the immobilization boot, and the vehicle/vessel owner
1031 or authorized representative refuses to pay a reasonable service fee of not more
1032 than one-half (1/2) of the posted/established rate (drop charge) for the services as
1033 required under this article.
1034 c. No service fee may be demanded if the vehicle/vessel was in the process of being
1035 towed or immobilized, but not yet connected to the wrecker or immobilization
1036 devise.
- 1037 (5) *Drop charges.* If the vehicle/vessel owner or authorized representative arrives at the
1038 scene and is willing and able to remove the vehicle/vessel, but for the complete
1039 mechanical connection, a drop charge consistent with this article may be charged.
- 1040 (b) *Agreement to tow.*
- 1041 (1) Unless the tow/immobilization meets one (1) of the sign notice exceptions set forth
1042 in subsection (c) below, the towing or immobilization company must enter into a
1043 written contract with each private property owner that authorizes the towing or
1044 immobilization company to tow, immobilize, remove and store vehicles from its
1045 property. The contract must include:
- 1046 a. Contract term (beginning and end date);
1047 b. The names and titles of those persons (e.g. owner, property manager,
1048 condominium president) with the authority to appoint or delegate others (e.g.
1049 security guard, onsite manager) that can act on behalf of the property owner to

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- 1050 provide express authorization to tow, remove or immobilize a vehicle from its
1051 property; and,
- 1052 c. The name and contact information of the towing or immobilization company
1053 performing the services.
- 1054 (2) The agreement may not include a provision designating liability for the improper
1055 towing, immobilization, removal or storage of a vehicle to the towing or
1056 immobilization company.
- 1057 a. This provision may not be used by a towing or immobilization company to avoid
1058 liability for damages to a vehicle caused by the towing or immobilization
1059 operator's negligence in providing services.
- 1060 b. Any person or entity improperly causing a vehicle/vessel to be recovered, towed,
1061 immobilized, removed or stored is liable to the vehicle/vessel owner for the costs
1062 of the services provided; any damages resulting from the removal,
1063 immobilization, towing and storage of the vehicle/vessel; and, attorney's fees and
1064 court costs.
- 1065 (3) The towing or immobilization company must keep and maintain a copy of each
1066 agreement, including any addendums or amendments, on file for at least twelve (12)
1067 months after the agreement terminates. Law enforcement officers and agencies have
1068 the right to request and inspect all agreements during normal business hours. Towing
1069 and immobilization companies must produce the documents upon reasonable request
1070 by the law enforcement agency.
- 1071 (4) The agreement may not authorize the recovery, tow, removal or immobilization of
1072 vehicles/vessels that are reasonably identifiable from markings or equipment as law
1073 enforcement, fire fighting, rescue squad, ambulance or other emergency vehicles or
1074 property owned by a government entity.
- 1075 (5) The agreement may not include terms and conditions that are contrary to the
1076 provisions of this article.
- 1077 ~~(6) Any contract existing prior to the date this section was enacted must be consistent~~
1078 ~~with this section by January 1, 2014.~~
- 1079 (c) *Exception to sign notice requirement.* The removal of a vehicle/vessel by a towing
1080 company may occur without a posted tow-away zone sign in place, when:
- 1081 (1) Authorized by a business owner or lessee due to the fact that the vehicle/vessel is
1082 parked in such a ways as to restrict the normal operation of a business.
- 1083 (2) Authorized by an owner, lessee or agent due to the fact that the vehicle/vessel is
1084 parked on a public right-of-way in a manner that obstructs access to a private
1085 driveway.
- 1086 (3) The property on which the vehicle/vessel is parked is appurtenant to and obviously a
1087 part of a single-family residence.
- 1088 (4) The vehicle/vessel owner/agent has been given personal notice that the area in which
1089 the vehicle/vessel is parked is reserved or otherwise unavailable for unauthorized
1090 vehicle/vessels and that the vehicle/vessel is subject to removal at the
1091 owner's/operator's expense.
- 1092

Words underlined are additions; Words ~~struck through~~ are deletions.

1093 **Sec. 24-110. Drop charges.**

1094

1095 (a) If the vehicle/vessel owner or authorized representative arrives at the scene prior to
1096 recovery, towing, immobilization or removal and is willing and able to remove the
1097 vehicle/vessel, but for the complete mechanical connection, a drop charge consistent with
1098 this article may be charged.

1099 (b) An invoice detailing the charges must be presented by the operator prior to the request for
1100 payment.

1101 (c) If the owner/driver is in the vehicle/vessel and refuses to vacate, then in addition to the
1102 drop charge, the tow or immobilization operator may charge for extra time at the scene.
1103 This additional charge is permitted if law enforcement involvement is necessary and the
1104 operator obtains the investigating law enforcement officer's name and badge number. The
1105 operator must also provide a detailed written explanation for "extra time at the scene"
1106 charges. All documentation must be provided to the vehicle/vessel owner upon request.

1107 (d) If a tow company, at the request of law enforcement, is required to perform and has
1108 performed a service, including but not limited to: towing, removal, movement of vehicles,
1109 roadway or scene cleanup or other services required at the scene prior to making a
1110 complete mechanical connection, and the owner/operator seeks to remove the
1111 vehicle/vessel using means other than the tow company providing services at the scene,
1112 the tow company that has acted at the direction of law enforcement has the right to obtain
1113 payment for services rendered at the scene from the owner/operator. Under these
1114 circumstances, charges for the services rendered at the scene will be based upon the hourly
1115 rate charge for the wrecker class on scene plus any exceptional charges (i.e. underwater
1116 recovery charges or hazardous waste cleanup) authorized by law enforcement.

1117 For purposes of this section the term "mechanical connection" means all of the following
1118 criteria are met:

1119 (1) For a flatbed truck tow: Four (4) wheels are on the flat bed; or for a wheel lift tow:
1120 two (2) wheels are off the ground; and

1121 (2) The vehicle to be towed is completely secured with safety chains or a safety strap;
1122 and

1123 (3) The tower is in complete control of the vehicle/vessel to be towed.

1124

1125 **Sec. 24-111. Immobilization.**

1126

1127 (a) Except as otherwise provided in this article or specifically allowed by law, the practice of
1128 placing a "boot" or other immobilization device on a vehicle is prohibited.

1129 (b) The immobilization can only occur in a manner consistent with the following:

1130 (1) Immobilization of a vehicle may only be performed by a duly permitted operator.

1131 (2) Placing a boot or other immobilization device on a vehicle to hold it for later towing
1132 is strictly prohibited. An immobilized vehicle may not be removed by a towing
1133 company until at least six (6) hours after the initial "booting" of the vehicle occurs. If
1134 a vehicle is lawfully booted and then towed, a separate fee for the immobilization may
1135 not be charged in addition to the towing fee. The maximum rate is limited to the
1136 charges applicable to towing the vehicle to the storage location.

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- 1137 (3) Immobilization. A "boot" or other device must be placed on the driver's side front
1138 wheel, unless placement on the driver's side front wheel is not feasible because of the
1139 vehicle's location.
- 1140 (4) Immediately after the vehicle is immobilized, a sticker must be placed on the window
1141 adjacent to the driver's seat by the operator performing the immobilization. The
1142 sticker must:
- 1143 a. Be affixed with completely removable adhesive.
 - 1144 b. Be highly visible.
 - 1145 c. Measure eight and one-half (8½) by eleven (11) inches.
 - 1146 d. Contain a warning that any attempt to remove the vehicle will result in damage
1147 to the vehicle.
 - 1148 e. State the name, business address and business phone number of the person that
1149 immobilized the vehicle; contact information to dispatch personnel responsible
1150 for removing the immobilization device.
 - 1151 f. Reference this article.
- 1152 (5) Upon request of the immobilized vehicle's owner or authorized representative and
1153 payment of applicable fees, the immobilization operator must release the vehicle to
1154 the owner/representative within one (1) hour.
1155

1156 **Sec. 24-112. Tow truck class specifications.**

1157
1158 All tow truck vehicles must meet the requirements set forth in Florida Administrative
1159 Code Rule 15B-9.005.
1160

1161 **Sec. 24-113. Business inspection requirements.**

1162
1163 Towing and immobilization operators providing services controlled under the provisions
1164 of this article may be subject to annual inspection by the Lee County Sheriff's Office. The
1165 purpose of the inspection will be to ensure compliance with the provisions of this article.
1166 Entities or operators not meeting the requirements of this article may be cited for violations
1167 discovered during the annual inspection.
1168

1169 **Sec. 24-114. Towing safety standards.**

- 1170
1171 (a) It is unlawful for any person to recover, tow, or remove a vehicle/vessel, using a towing
1172 vehicle, equipment or car carrier in a manner that violates the standards for use of such
1173 towing vehicle, equipment or car carrier as set by the manufacturers thereof.
- 1174 (b) It is unlawful to tow without the use of safety chains or safety straps.
- 1175 (c) It is unlawful to operate a tow truck without the required insurance coverage.
- 1176 (d) It is unlawful for a tow truck operator working within the right-of-way areas to do so
1177 without wearing high-visibility safety apparel consistent with the Code of Federal
1178 Regulations (23 CFR 634).
1179

Words underlined are additions; Words ~~struck through~~ are deletions.

1180 **Sec. 24-115. Maximum rates for nonconsent services.**

1181

1182 (a) The maximum rates for nonconsent towing and immobilization services are set forth on
1183 Attachment A to this article.

1184 (b) The ~~county~~ village may, by resolution, amend Attachment A and revise, decrease, increase
1185 or establish maximum rates for nonconsent immobilization, recovery, towing, removal
1186 and storage services.

1187 (c) The criteria for establishing the maximum rates for nonconsent law enforcement towing,
1188 private property towing, storage, immobilization and related services are:

1189 (1) Towing services per call means and includes the time from arrival on scene through
1190 the first thirty (30) minutes the tow truck is actively engaged in the safe removal of a
1191 vehicle/vessel.

1192 (2) Mileage charges.

1193 a. A mileage charge may not be imposed/charged for the first ten (10) miles from
1194 the nonconsent tow location.

1195 b. A mileage charge for private property impound/tow must be consistent with F.S.
1196 § 715.07, which requires storage within a 10-mile radius of the removal site.

1197 c. A mileage charge for each mile over the initial ten (10) miles as measured from
1198 the location of an accident scene or rotation call authorized by a jurisdictional
1199 law enforcement agency.

1200 d. Mileage is measured as the shortest distance ("as the crow flies"), between the
1201 location or scene of the tow's origination and the storage facility.

1202 (3) Storage charges must be based upon a 24-hour calendar day, beginning at 12:01 a.m.
1203 and ending at midnight. A vehicle/vessel in storage for six (6) hours or longer, in any
1204 24-hour calendar day, will accrue storage charges for that 24-hour calendar day. A
1205 vehicle/vessel in storage for less than six (6) hours, in any 24-hour calendar day, will
1206 not accrue storage charges for that 24-hour calendar day. Example: Vehicle arrives in
1207 storage at 6:30 p.m., Monday, and is picked up by 6:30 a.m., Tuesday. No charges
1208 accrue for storage on Monday because storage on Monday was only five and one-half
1209 (5½) hours; storage charges do accrue for Tuesday, as storage on Tuesday was for six
1210 and one-half (6½) hours. These storage rates are applicable when:

1211 a. Law enforcement has authorized the vehicle to be impounded; or

1212 b. The appropriate law enforcement agency has been notified by the tow operator,
1213 within thirty (30) minutes after the completion of the tow/removal, that the
1214 towing company is in possession of a vehicle resulting from a private property
1215 impound tow in accord with F.S. § 715.07.

1216 (4) Indoor storage rates may be charged only upon the express direction, accompanied
1217 by written authorization, from the vehicle owner (or authorized representative),
1218 lienholder, insurance company representative, or investigating law enforcement
1219 agency, unless the condition of the vehicle requires indoor storage due to an inclement
1220 weather condition, or the vehicle windows or convertible top is down and cannot be
1221 raised, and storage is necessary to protect the vehicle and its contents.

1222 (5) Administrative fees, including any lien fees, may be charged only after the vehicle
1223 has been in storage for at least three (3) full calendars days; and

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- 1224 a. The law enforcement agency has prepared an incident report authorizing the
 1225 vehicle impoundment; or
 1226 b. The appropriate law enforcement agency has been notified by the tow operator,
 1227 within thirty (30) minutes after completion of the tow/removal, that the towing
 1228 company is in possession of a vehicle resulting from a private property impound
 1229 tow in accord with F.S. § 715.07; and
 1230 c. The towing company provides proof that the lien notices have been prepared and
 1231 sent in accordance with F.S. § 713.78, including the appropriate names and
 1232 addresses of the owner and lienholder, and the certified mail information and has
 1233 otherwise complied with the provisions of F.S. §§ 713.58 and 713.78.
 1234 (6) Underwater recovery fees may be charged if the recovery activity is performed by a
 1235 certified or professional diver, upon the written authorization and approval of the
 1236 investigating law enforcement agency or officer on the scene.
 1237 (7) A "late hour gate period" may be established by the tow operator between the hours
 1238 of 6:00 p.m. and 8:00 a.m. daily and between the hours of 12:01 a.m. and 12:00
 1239 midnight on a Village of Estero ~~Lee County~~ government observed holidays. Late hour
 1240 gate fees may be charged when:
 1241 a. An impounded vehicle is recovered by the owner or authorized representative
 1242 during the late hour gate period or Village of Estero ~~Lee County~~ government
 1243 observed holiday.
 1244 b. The owner or authorized representative seeks to recover property from an
 1245 impounded vehicle during the late hour gate period or Village of Estero ~~Lee~~
 1246 ~~County~~ government observed holiday. However, no charges are permitted for
 1247 removal/recovery of prescription medication or prescription eyeglasses from an
 1248 impounded vehicle by the owner or authorized representative. If the towing
 1249 company/storage entity determines that the owner or authorized representative
 1250 made a false request to recover prescription medications or eyeglasses in order
 1251 to recover other items, the towing operator may impose a late hour gate fee that
 1252 is double the rate adopted by the village ~~county~~ under this article. The towing
 1253 company/storage entity may request that a law enforcement officer be present at
 1254 a time agreed for the recovery of prescription items under this section.
 1255 (8) Hazardous material clean-up and disposal, if required, by a duly permitted operator,
 1256 in accordance with federal, state and local laws and upon the approval of the
 1257 investigating law enforcement agency or officer.
 1258

1259 **Sec. 24-116. Violations; penalties and enforcement.**
 1260

- 1261 (a) It is unlawful for any person, as part of a regularly conducted business activity to
 1262 immobilize, recover, tow, remove a vehicle/vessel or store a vehicle/vessel in connection
 1263 therewith or to cause or permit any other person to immobilize, recover, tow, remove or
 1264 store a vehicle/vessel without first obtaining and maintaining a current and valid operator
 1265 permit pursuant to the provisions of this article. A property owner may cause or permit the
 1266 removal of a vehicle from their property in accordance with the provisions of this article.

Words underlined are additions; Words ~~struck through~~ are deletions.

- 1267 This article does not apply to persons using a towing vehicle to transport a vehicle/vessel
 1268 for personal, family, household or recreational use.
- 1269 (b) It is unlawful for any person, as part of a regularly conducted business activity, to advertise
 1270 to immobilize, recover, tow, remove or store a vehicle/vessel in connection therewith or
 1271 to cause or permit any other person to immobilize, recover, tow, remove a vehicle/vessel
 1272 or provide storage without first obtaining and maintaining a current and valid operator
 1273 permit pursuant to the provisions of this article. Any advertisement in any media form,
 1274 including advertisements and telephone listings in all "yellow pages", must include the
 1275 permit number issued in accordance with this article.
- 1276 (c) It is unlawful for the owner of any wrecker service to permit any person to be employed
 1277 as a wrecker operator conducting nonconsent towing services within the village
 1278 ~~unincorporated Lee County~~, unless such person holds a valid wrecker operator permit
 1279 consistent with the provisions of this article.
- 1280 (d) Nothing in this article may be construed to prohibit the discharge or storage of a
 1281 vehicle/vessel lawfully recovered, towed or removed ~~in another county~~ outside of the
 1282 village limits and lawfully transported to ~~Lee County~~ Estero; nor may anything in this
 1283 article be construed to prevent the immobilization of vehicles by a governmental agency.
- 1284 (e) Nothing in this article may be construed to prevent a natural person from working in an
 1285 employment relation with another person holding a valid permit under this article. Any
 1286 person that is an independent contractor, and not an employee of a duly permitted operator,
 1287 will be subject to compliance with the requirements and provisions of this article.
- 1288 (f) Any person who improperly causes a vehicle/vessel to be recovered, towed, immobilized,
 1289 removed or stored is liable to the vehicle/vessel owner or authorized representative for the
 1290 costs of services provided, any damages resulting from the recovery, towing,
 1291 immobilization, removal or storage, and attorney's fees and costs.
- 1292 (g) Each violation of this article is subject to the maximum fines and penalties specified in the
 1293 law under which the enforcement action is based and as provided by either by resolution
 1294 of the Village Council or state law including, but not limited to, F.S. §§ 125.69 and 715.07,
 1295 F.S. chs. 162 and 775 and, the Lee County Administrative Code.
- 1296 (h) Notwithstanding the imposition of any other penalty by the ~~county~~ village or other entity,
 1297 three (3) or more separate incidents involving violations of this article committed by the
 1298 same towing or immobilization operator or entity within a 365-day time period will be
 1299 deemed a per se sufficient basis for forfeiture of the towing or immobilization operator
 1300 permit for a period of sixty (60) days.
- 1301 (i) This section does not apply to the towing of a vehicle/vessel that occurs with the consent
 1302 of the vehicle/vessel owner or authorized representative.
- 1303 (j) The provisions of this article will be enforced by the Lee County sheriff.

1304
 1305 **Sec. 24-117. Administration; disposition of fees and fines; audit.**
 1306

- 1307 (a) The sheriff is responsible for the administration of this article.
 1308 (b) The sheriff has the authority to compromise assessments of fines imposed for violations
 1309 of this article.
 1310 (c) The sheriff may use any legal means to collect unpaid fees and fines.

Words underlined are additions; Words ~~struck through~~ are deletions.

1311 (d) Fees and fines collected by the ~~sheriff~~ under this article will be deposited by the sheriff
1312 into the ~~Lee County Estero~~ general revenue fund to be used exclusively for the
1313 administration and operations under this article.

1314 ~~(e) The monies collected under this article will be audited in compliance with F.S. ch. 219.~~

1315 ~~ATTACHMENT~~ _____ A

1316 ~~2013~~ MAXIMUM _____ RATE _____ SCHEDULE

1317 ~~Lee County, FLORIDA~~

1318 ~~(a) Wrecker rates:~~ Rate

1319 ~~(1) Class~~ _____ A _____ ~~Wreckers:~~

1320 ~~(including roll-back or slide-back carriers)~~

1321 ~~Base rate (private property tow)\$125.00~~

1322 ~~Rotation tow (law enforcement tow)150.00~~

1323 ~~Mileage charge4.00~~

1324 ~~—Per mile charge beyond initial ten miles for law enforcement tows from scene~~
1325 ~~or location, consistent with F.S. § 715.07(2).~~

1326 ~~Hourly rate (for waiting or working time on scene after first 30 minutes)80.00~~

1327 ~~(2) Class B Wreckers:~~

1328 ~~Base rate (private property tow)\$150.00~~

1329 ~~Rotation tow (law enforcement tow)200.00~~

1330 ~~Mileage charge5.00~~

1331 ~~—Per mile charge beyond initial ten miles for law enforcement tows from scene~~
1332 ~~or location consistent with F.S. § 715.07(2).~~

1333 ~~Hourly rate105.00~~

1334 ~~(3) Class C Wreckers:~~

1335 ~~Base rate (private property tow)\$300.00~~

1336 ~~Rotation tow (law enforcement tow)400.00~~

1337 ~~Mileage charge6.00~~

1338 ~~—Per mile charge beyond initial ten miles for private property tows, if permitted~~
1339 ~~by F.S. § 715.07(2).~~

1340 ~~—Per mile charge beyond initial ten miles for law enforcement tows from scene~~
1341 ~~or location consistent with F.S. § 715.07(2).~~

1342 ~~Hourly rate200.00~~

1343 ~~(4) Class D Wreckers:~~

1344 ~~Base rate (private property tow)\$400.00~~

1345 ~~Rotation tow (law enforcement tow)400.00~~

1346 ~~Mileage charge7.00~~

1347 ~~—Per mile charge beyond initial ten miles for private property tows, if permitted~~
1348 ~~by F.S. § 715.07(2).~~

1349 ~~—Per mile charge beyond initial ten miles for law enforcement tows from scene~~
1350 ~~or location consistent with F.S. § 715.07(2).~~

1351 ~~Hourly rate280.00~~

1352 ~~(b) Separate charges:~~

1353 ~~1. Removal of drive shaft*~~

1354 ~~2. Air hook-up*~~

Words underlined are additions; Words ~~struck through~~ are deletions.

- 1355 ~~3. Remove/pull axle*~~
- 1356 ~~4. Remove bumper*~~
- 1357 ~~5. Removal air foils*~~
- 1358 ~~6. Landoll trailer Semi roll back or drop back trail or truck\$200.00~~
- 1359 ~~7. Air bags2,200.00~~
- 1360 ~~8. Extra manpower Per man-hour charge65.00~~
- 1361 ~~* Minimum ¼ hour applicable rate or actual time worked at applicable hourly rate.~~

1362 ~~(c) Storage rates:~~

1363 ~~DAILY MAXIMUM URBAN STORAGE TO 25 FEET IN LENGTH:~~

1364 ~~Inside\$40.00~~

1365 ~~Outside35.00~~

1366 ~~DAILY MAXIMUM URBAN STORAGE OVER 25 FEET IN LENGTH:~~

1367 ~~Inside\$55.00~~

1368 ~~Outside50.00~~

1369 ~~Storage charges must be based upon a 24-hour calendar day, beginning at 12:01 a.m. and~~
 1370 ~~ending at midnight. A vehicle/vessel in storage for six (6) hours or longer, in any 24-hour~~
 1371 ~~calendar day, will accrue storage charges for that 24-hour calendar day. A vehicle/vessel in~~
 1372 ~~storage for less than six (6) hours, in any 24-hour calendar day, will not accrue storage charges~~
 1373 ~~for that 24-hour calendar day. (e.g. Vehicle arrives in storage at 6:30 p.m., Monday, and is~~
 1374 ~~picked up 6:30 a.m., Tuesday. No charges accrue for storage on Monday because storage on~~
 1375 ~~Monday was only five and one-half (5½) hours; storage charges do accrue for Tuesday, as~~
 1376 ~~storage on Tuesday was for six and one-half (6½) hours.)~~

1377 ~~(d) Gate fees: Except as otherwise provided in the article, the maximum rate chargeable for~~
 1378 ~~late hour gate fees is as follows:~~

1379 ~~(1) Monday Friday late hour gate fee rate: If an owner or authorized agent seeks to~~
 1380 ~~recover a towed/impounded vehicle/vessel or property within such vehicle/vessel~~
 1381 ~~during the weekdays of Monday through Friday between the hours of 6:00 p.m. and~~
 1382 ~~8:00 a.m., the following late hour gate fee will apply\$35.00~~

1383 ~~(2) Saturday Sunday late hour gate fee rate: If an owner or authorized agent seeks to~~
 1384 ~~recover a towed/impounded vehicle/vessel or property within such vehicle/vessel~~
 1385 ~~after 6:00 p.m., Friday through 8:00 a.m., Monday, the following late hour gate fee~~
 1386 ~~will apply\$35.00~~

1387 ~~(3) Lee County government observed holidays: If an owner or authorized agent seeks to~~
 1388 ~~recover a towed/impounded vehicle/vessel or property within such vehicle/vessel~~
 1389 ~~after 12:01 a.m. and before 12:00 midnight on a Lee County government observed~~
 1390 ~~holiday, the following gate fee will apply\$35.00~~

1391 ~~(4) Additional gate fees: Additional gate fees may be charged if the owner/agent arrives~~
 1392 ~~at the storage facility without the appropriate documentation and payment, as~~
 1393 ~~identified by the storage entity contacted to allow recovery within the time frame late~~
 1394 ~~hour gate fees are applicable, and the owner/agent leaves and returns with the~~
 1395 ~~appropriate documentation and payment during the time in which late hour gate fees~~
 1396 ~~are applicable.~~

1397 ~~(e) Administrative lien fee: The maximum rate chargeable as an administrative lien fee are as~~
 1398 ~~follows:~~

Words underlined are additions; Words ~~struck through~~ are deletions.

1399 ~~An administrative lien fee may be charged only after the vehicle has been in the storage~~
1400 ~~facility or immobilized for at least three (3) calendar days and after all other requirements as~~
1401 ~~provided in the Lee County Towing and Immobilization Ordinance have been met. The~~
1402 ~~maximum rate that may be charged as an administrative lien fee is the sum of seventy five~~
1403 ~~dollars (\$75.00), plus recovery of the costs and fees imposed by the state of registration for~~
1404 ~~obtaining ownership information.~~
1405 ~~(f) *Underwater recovery fee:* An underwater recovery fee of one hundred dollars (\$100.00)~~
1406 ~~plus actual costs may be charged when performed by a certified/professional diver if~~
1407 ~~supported by written documentation approved by the investigating law enforcement~~
1408 ~~officer.~~
1409 ~~(g) *Hazardous material clean-up and disposal fee:* The prevailing rate for cleaning up and~~
1410 ~~disposing of hazardous materials when mandated or required through state or local laws~~
1411 ~~will be permitted upon written approval by the investigating law enforcement officer.~~
1412 ~~(h) *Immobilization:* Maximum rate chargeable for releasing an immobilized vehicle on private~~
1413 ~~property:~~
1414 ~~Seventy-five dollars (\$75.00) for each immobilization properly conducted in accordance~~
1415 ~~with the Lee County Towing and Immobilization Ordinance and Florida law.~~

1416
1417 **Section 2. Effective Date.**

1418
1419 This ordinance shall become effective immediately upon adoption.

1420
1421 **PASSED** on first reading this 10th day of July, 2019.

1422
1423 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,
1424 Florida this 2nd day of October, 2019.

1425
1426 Attest:

VILLAGE OF ESTERO, FLORIDA

1427
1428
1429 By: _____
1430 Kathy Hall, MMC, Village Clerk

By: _____
Bill Ribble, Mayor

1431
1432 Reviewed for legal sufficiency:

1433
1434
1435 By: _____
1436 Burt Saunders, Esq., Village Attorney

1437
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1439
1440
1441
1442
Words underlined are additions; Words ~~struck through~~ are deletions.

	Vote:	AYE	NAY
1443	Mayor Ribble	_____	_____
1444	Vice Mayor Errington	_____	_____
1445	Councilmember Batos	_____	_____
1446	Councilmember Boesch	_____	_____
1447	Councilmember Levitan	_____	_____
1448	Councilmember McLain	_____	_____
1449	Councilmember Wilson	_____	_____

Words underlined are additions; Words ~~struck through~~ are deletions.