

ARTICLE IX. TOWING AND IMMOBILIZATION OF VEHICLES*

***Editor's note:** Article IX was added by Ord. of 4-6-1998, Doc. #31131.

Sec. 39.84. Definitions.

- (1) "City" as used herein shall refer to the city limits of the City of Orlando.
- (2) "Property owner" shall mean that person who exercises dominion and control over the real property, including, but not limited to, the legal title holder, lessee, a resident manager, a property manager or other agent who has legal authority to bind the owner. An owner, operator, or other agent or employee of a towing or immobilization service may not be appointed as an agent for a property owner.
- (3) "Tow" shall mean to haul, carry, pull along, or otherwise transport a connected vehicle by means of another vehicle in a direct and continuous movement to the storage site of the towing or immobilization service and applies only to private property or trespass tows as defined in this chapter.
- (4) "Towing or immobilization service" shall include any person, company, corporation, or other entity whether licensed or not, who engages in or who owns or operates a business which engages, in whole or in part, in the towing or immobilization of vehicles for compensation from private property and does not apply to reposessions, or to the towing or removal of any privately owned vehicle by the operator or of any vehicle towing or removal service when such service is performed at the request of the owner of the vehicle.
- (5) "Connected" in reference to a vehicle shall mean the vehicle is secured and strapped sufficiently to another vehicle for towing.
- (6) "Vehicle" shall mean any mobile item which normally uses wheels whether motorized or not.
- (7) "Private property towing" or "trespass towing" shall mean towing or removal of a vehicle that is parked on private real property, without the consent of the vehicle's owner or operator.
- (8) "Gross vehicle weight" shall mean the weight of a vehicle as specified by the vehicle's manufacturer.
- (9) "Drop" shall mean an instance where the registered owner or other person in control of the vehicle arrives at the scene prior to the complete installation of an immobilization device and the departure of the **booting** agent; it shall also mean an instance in which the registered owner or other person in control of the vehicle arrives at the scene prior to the tow, but after the vehicle has been connected in any way to the towing or removal apparatus but before the tow truck has left the premises or parking lot with the vehicle.
- (10) "Storage site" shall mean all sites to which vehicles towed from within the city limits of Orlando will be stored.
- (11) "Agent" shall mean a person legally authorized to be in control of the vehicle or to act on behalf of the owner which agency may be evidenced by notarized documentation.
- (12) "Immobilization," "immobilize" or "immobilizing" also known as "boot" or "**booting**," shall mean the act of placing, on a parked vehicle, any device in a manner such that it prohibits the vehicle's usual manner of movement.
- (13) "Immobilization service" shall include any person, company, corporation or other entity, whether licensed or not, who is engaged in or owns or operates a business which

engages in whole or in part, in the immobilization or **booting** of vehicles for compensation.

(Ord. of 4-6-1998, Doc. #31131; Ord. of 8-15-2005, § 1, Ord. of 7-7-2008, § 2, Doc. #050815902; Ord. of 7-7-2008, § 2, Doc. #0807071005)

Sec. 39.85. Legislative Intent, Towing of Vehicles for Compensation, and Occupational License Requirement.

(1) The City Council hereby finds and determines that abandoned vehicles and damaged vehicles that cannot be moved, and the unauthorized parking of vehicles, constitutes public nuisances and public emergencies affecting the property, public safety, and welfare of the citizens and residents of the City of Orlando.

(2) Any person engaged in the business of towing or removing or immobilizing of vehicles shall comply with all the requirements and standards imposed by Florida Statute §§ 713.78, 715.07, and Chapter 39, Article IX of the Orlando City Code where applicable.

(3) Every person, company, corporation, or other entity that owns or operates a service that engages in towing or removing or immobilization of vehicles for profit within the City of Orlando must obtain an occupational license issued by the City of Orlando consistent with the provisions of Subsection 36.02(2) and Section 36.03 and any other applicable provisions of Chapter 36.

(4) A determination by the City's permitting authority that a towing or immobilization operator or company is subject to the City of Orlando's occupational license tax based upon one (1) or more factor(s) in Subsection 36.02(2) and Section 36.03, is deemed sufficient local incidents and is prima facie evidence that such company, person, or operator is liable for a license certificate.

(Ord. of 4-6-1998, Doc. #31131; Ord. of 8-15-2005, § 2, Doc. #050815902; Ord. of 7-7-2008, § 4, Doc. #0807071005)

Sec. 39.86. Prerequisites to and Requirements for Private Property Towing and Immobilization.

(1) Prior to the private property towing or immobilization of any vehicle, the property owner of the real property and the towing or immobilization service shall have executed a written agreement which shall at a minimum contain the following provisions:

(a) The legal name, physical address, and telephone number of the towing or immobilization service and the property owner requesting the towing or immobilization services;

(b) The property address and location and description of the parking lot or spaces from which the vehicle(s) will be towed or at which the vehicle(s) will be immobilized;

(c) The time of day that such towing or immobilization is authorized;

(d) The days of the week that such towing or immobilization is authorized;

(e) Exceptions to the above, such as partial days, specific hours or certain days or events;

(f) An enumerated list of all fees to be charged to either the property owner or vehicle owner/operator, which shall not exceed the amounts stated in section 39.89 of this chapter;

(g) The address and description of the location where the vehicle will be towed or stored or immobilized;

(h) The exact wording of each sign and a description of the location of each sign on the property which shall conform to Florida Statutes §§ 713.78 and 715.07, and this chapter; and

(i) The signature of both the property owner and the owner of the towing or immobilization service or its authorized representative, certifying that each has read and is in compliance with the provisions of Florida Statutes §§ 713.78 and 715.07, and the provisions of this chapter.

The above requirement of a written agreement shall not apply to the removal of vehicles from property appurtenant to and obviously part of a single family residence or where the vehicle is parked in such a way as to obstruct access to private entrances, exits, drives or loading areas.

(2) Prior to the private property towing or immobilization of any vehicle, two executed agreements described in subsection (1) above, and the City of Orlando occupational license (once annually) shall be filed in person by the towing or immobilization service or its authorized representative at Orlando Police Headquarters, Records Department. Said agreements shall be non-transferable. If the ownership of either the towing or immobilization service or the property changes, is amended, or modified, a new written agreement meeting the requirements of this section must be filed at Orlando Police Headquarters prior to any private property towing or immobilization from the subject property. The towing or immobilization service shall be responsible for advising the Orlando Police Department within two (2) business days of any changes, amendments, or modifications to, or rescissions of, these agreements. Towing or immobilization services are prohibited from engaging in private property towing or immobilization until the towing or immobilization service has filed a completed and executed agreement at Orlando Police Headquarters.

(3) It shall be unlawful for any towing or immobilization service to tow or drop or immobilize a vehicle located within the City of Orlando unless the towing or immobilization service has filed and has on record at the Orlando Police Headquarters a complete copy of the current rates charged for the towing and storage or immobilization of vehicles. Rate sheets filed with the Orlando Police Department must comply with the rates permitted by the ordinance. The rate sheet, and occupational license, must be filed at Orlando Police Headquarters annually by the towing or immobilization service representative.

(4) It is prohibited for a person to pay or accept money or other valuable consideration for the privilege of towing or removing or immobilizing vehicles from a particular location.

(5) Except for property appurtenant to and obviously a part of a single-family residence, and except for instances when notice is personally given to the owner or other legally authorized person in control of the vehicle that the area in which that vehicle is parked is reserved or otherwise unavailable for unauthorized vehicles and subject to being removed at the owner's or operator's expense, any property owner or lessee, or person authorized by the property owner or lessee, prior to towing, immobilizing, or removing any vehicle from private property without the consent of the owner/operator or other legally authorized person in control of that vehicle, must post a notice meeting the following requirements:

(a) The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property from either the public right-of-way or adjoining private property, and within five (5) feet from the public right-of-way line or private property line. If there are no curbs or access barriers, the signs must be posted not less than one (1) sign for each twenty-five (25) feet of lot frontage.

(b) The notice must clearly indicate, in two-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. The words "Tow-Away Zone" must be included on the notice in four-inch high letters per Florida Statute. The words "Strictly Enforced" must be included on the notice in two-inch high letters. If it is a 24-hour enforcement, the words "Strictly Enforced 24

Hours 7 Days a Week" must be included on the notice in one and one-half-inch high letters. At any place or property where vehicles are subject to immobilization, the following words must also be included in two-inch letters, "Illegally parked vehicles are subject to being towed or booted." The notice must also include in one-half-inch high letters the following statement: "Chapter 39, Orlando City Code and Florida Statute § 715.07, Fla. Stat." The sign shall also include the following language in one inch high letters, "Towing and booting of vehicles is regulated by state law and city ordinance. Any person wishing to file a complaint regarding a violation of a towing or immobilization law may do so by filing a complaint online at www.cityoforlando.net/police/index.htm, or by calling (407)246-2470." The name and telephone number of the towing or immobilization service must also be included on the sign. Notice as to any of these provisions may be placed adjacent to existing tow away signs.

(c) The sign structure containing the required notices must be no more than thirty-six (36) inches in height and no more than eighteen (18) inches in width. The sign structure must be permanently installed with the words "Tow-Away Zone" not less than three (3) feet and not more than six (6) feet above ground level and must be continuously maintained on the property for not less than twenty-four (24) hours prior to the towing or removal or immobilization of any vehicles.

(6) The property owner shall keep signs clean of mildew and vegetation and in good repair.

(7) A business with twenty (20) or fewer parking spaces may satisfy the notice requirements of this section by prominently displaying a sign stating "Reserved Parking For Current Customers Only. Unauthorized Vehicles Will Be Towed Away Or Booted At The Owner's Expense" and the words "Strictly Enforced" in not less than four-inch high, light-reflective letters on a contrasting background.

(8) A towing or immobilization service owner or operator is prohibited from engaging in towing or immobilization on private property where the notice or sign structure requirements are not in compliance with this section.

(9) A private property owner, lessee, or agent may authorize the removal of a vehicle by a towing service when the vehicle is parked in such a manner that it restricts the normal operation of business; if a vehicle parked on a public right-of-way obstructs access to a private driveway, the owner, lessee, or agent may have the vehicle removed by a towing service upon signing an order that the vehicle be removed without a posted tow-away zone sign. It is prohibited for the towing company to tow the vehicle without such order. Said order shall be kept by the towing service for one (1) year from the date of the tow and made available for inspection by OPD or Code Enforcement. No vehicle parked on a public right-of-way or which obstructs access to a private driveway may be immobilized.

(10) It shall be unlawful for any owner, manager, employee, or agent of a towing or immobilization service, while engaged in towing or immobilization or storing of vehicles, to wear a law enforcement uniform or other indication or logo of law enforcement affiliation.

(11) Any towing or immobilization service operating within the City of Orlando shall, within thirty (30) minutes of the completion of any private property tow or immobilization, notify the Orlando Police Department of the towing or immobilization; the address of the storage site where the vehicle is stored; the location or address from which the vehicle was towed or at which the vehicle was immobilized; the time the vehicle was towed or removed or immobilized; the make, model, year, color, vehicle identification number (VIN), and license plate number of the vehicle; and, shall obtain the Orlando Police Department assigned incident number and record that number in the trip report. It is a violation of this law to fail to comply with the requirements of this subsection.

(12) All vehicles towed pursuant to a trespass tow shall be towed directly and continuously to the storage site owned or leased by the towing service and the towed vehicle shall not be kept in any temporary holding area. The practice of booting vehicles to hold vehicles for towing is strictly prohibited. No immobilized vehicle shall be towed by the towing or immobilization service until at least four (4) hours have elapsed after the installation of the booting device. In the event that a vehicle is lawfully booted and towed under this section, a booting fee may not be charged in addition to the towing fee; the maximum rate shall be limited to that which may be charged for towing said vehicle as set forth herein.

(13) A towing or immobilization service shall allow the owners, agents, or other legally authorized persons of the towed vehicle to park on site at the storage facility while picking up or inspecting a towed vehicle, or while paying a towing, storage or boot removal fee, unless reasonable alternative parking is made available by the towing or immobilization service within two (2) blocks of the storage facility.

(14) Any vehicle towed from locations within the City must be stored within a ten-mile radius of the point of removal. Failure to comply will, at a minimum, be sufficient to revoke the operator's license to conduct a towing service in the City of Orlando under this chapter and chapter 36. It is a violation of this subsection and prohibited for an existing towing or immobilization service to change the name of the business or corporate entity to obtain a new or additional occupational license for the purpose of circumventing the intent of this section.

(15) A towing or immobilization service shall allow the vehicle owners, or agents with an original notarized statement, to remove or retrieve personal property or possessions from the vehicle immediately at the scene of the tow or immobilization or at the storage facility prior to payment. The vehicle owner or agent shall be permitted to inspect the vehicle and the towing or immobilization service shall release to the owner or agent all personal property not affixed to the vehicle. The towing or immobilization service representative is prohibited from charging a fee for such retrieval or refusing to allow retrieval of personal property.

(16) Each towing or immobilization service shall staff or monitor its telephone twenty-four (24) hours a day, seven (7) days a week, including holidays, and return telephone calls within one (1) hour to advise any vehicle owner, operator, custodian, agent, or other legally authorized person or authorized representative who calls by telephone prior to arriving at the storage site or booting site of the following:

(a) Each and every document or other item which must be produced to retrieve the vehicle or release a booting device. Proof of vehicle ownership shall not be required of any person who is paying a fee for the removal of an immobilization device, unless the subject vehicle has also been towed.

(b) The exact charges as of the time of the telephone call, and the rate at which charges will accumulate thereafter;

(c) The acceptable methods of payment, which shall include cash, money order, cashier's check, and which may include valid major debit or credit card; and

(d) That the towed vehicle can be picked up within one (1) hour of request.

(e) That an immobilized vehicle will be released immediately upon receipt of payment whenever possible, but in no event more than thirty (30) minutes after payment of applicable fees.

(f) The location at which payment of any booting fees may be made.

(17) Upon payment of the authorized towing or booting fee, the towing or immobilization service shall release the towed or immobilized vehicle immediately at the request of the owner, or their agent whenever possible, but in no event more than thirty (30) minutes of receipt of payment. Acceptable forms of payment shall include cash,

money order, cashier's check, and may include valid major credit or debit card. No person shall be required to travel more than one-half mile from an immobilized vehicle in order to pay the boot removal fees. Only persons whose immobilized vehicles are also towed will be required to pay fees at the location of the stored vehicle as described herein. The maximum fee charged for vehicles that are immobilized and towed is limited to the towing fees set forth herein; boot removal fees shall not be charged for towed vehicles.

(18) Each towing or immobilization service shall provide, at the time of payment, whether or not requested, a written receipt with the company name for all charges imposed and all payments received from the owner or operator of a vehicle resulting from the towing or immobilization of a vehicle or from a drop or immobilization. Said receipt shall include the towing or immobilization rates and standards set forth in Sections 39.89(1) through 39.89(2), inclusive. Said receipt shall include at a minimum:

- (a) The date, time, and location of the tow or immobilization;
- (b) The total charges listed individually and specifically; and
- (c) The date, time and location of payment of the charges.
- (d) The name of the tow truck driver or **booting** agent and the name of the towing or immobilization service.
- (e) The city ordinance number authorizing each charge.

(19) The towing or immobilization service shall prepare and maintain a trip, tow, or immobilization data sheet which shall include, at a minimum, but not be limited to, the following information:

- (a) The legal name of the towing or immobilization service and tow truck driver providing the service. If not a corporation, the name of the owner of the business;
- (b) The location from which the vehicle was towed or at which the vehicle was immobilized;
- (c) Date and time the tow or immobilization was initiated;
- (d) The destination to which the vehicle was taken;
- (e) The description of the vehicle including the make, model, year, color, vehicle identification number, and license plate number;
- (f) The time and date the Orlando Police Department was contacted by the towing or immobilization service and the OPD incident number assigned;
- (g) The description of the services rendered including an itemized list of all charges;
- (h) The date and time the vehicle was returned to the owner or their agent, or the immobilization device removed, and, for towed vehicles, the name, address, and driver license number or other identification of such owner or their agent; and
- (i) A copy or stamp of the consumer rights guideline signed by the owner, custodian, or agent, which shall be maintained as part of the tow sheet documentation.

(20) All towing or immobilization services shall keep all such tow or immobilization data sheets and receipts on file for a period of two (2) years from the date of the tow or immobilization or drop and shall make them available for inspection and/or copying to any law enforcement officer or code enforcement officer during normal business hours.

(21) No towing or immobilization service shall tow or immobilize a vehicle when either a natural person or a live animal is occupying the vehicle.

(22) Any vehicle owner, or their agent, shall have the right to inspect the vehicle before accepting its return, and no release or waiver of any kind which would release the person or company towing the vehicle from liability for damages noted by the owner or other legally authorized person at the time of the redemption may be required from any vehicle owner, or their agent, as a condition of release of the vehicle to its owner.

(23) The towing company must provide a legible copy of the Consumer Rights Guidelines, as promulgated by the City, or stamp the equivalent of such on the back of

the receipt to each vehicle owner, operator, custodian, or agent of any dropped or towed or immobilized vehicle, and keep a copy or receipt of the guideline provided to the vehicle owner or agent. Said copy or stamp must be legibly printed in at least a 12-point font. It is a violation of the law to fail to provide the vehicle owner, or their agent, a copy of the promulgated guidelines.

(24) Where temporary parking permits are available to visitors, invitees, or licensees of businesses to which private parking spots are assigned, no vehicle may be towed or immobilized on such private property for illegal parking until the vehicle has been observed by the property owner or agent, or towing or immobilization service agent, as illegally parked for at least fifteen (15) minutes. This provision allows sufficient time for vehicle operators who are legitimate licensees or invitees to obtain temporary parking permits from said property owners or lessees.

(25) When immobilization is accomplished by placing a boot on the vehicle, it shall be placed on the front wheel of the driver's side of the motor vehicle. The boot may be placed on any other wheel or vehicle part if placement on the driver's side front wheel is not feasible. The boot or immobilization device must be clearly and obviously marked with the name of the towing or immobilization service and a telephone number at which said service may be reached.

(26) Immediately after a vehicle is booted, the person booting such vehicle, the owner of the property where the vehicle was booted, or an employee or agent of such person or owner, shall affix at the rear most portion of the window adjacent to the driver's seat of such vehicle, a sticker with a completely removable adhesive, measuring 8-1/2 x 11 inches, containing a warning that any attempt to move the vehicle may result in damage to the vehicle and stating the name and business address of the person who booted such vehicle as well as a business telephone number which will facilitate the dispatch of personnel responsible for removing the boot. Such notice shall also include the following, "Towing and booting of vehicles is regulated by state law and city ordinance. Any person wishing to file a complaint regarding a violation of a towing or immobilization law may do so by filing a complaint online at www.cityoforlando.net/police/index.htm, or by calling (407) 246-2470."

(27) A towing or immobilization service shall release a booted vehicle immediately after receiving payment for such vehicle's release whenever possible, but in no event shall the release be later than thirty (30) minutes after receipt of the required fee payment. Failure to comply with this section is a violation of law.

(28) Immobilization of any vehicle does not grant a right of lien in the immobilized vehicle.

(Ord. of 4-6-1998, Doc. #31131; Ord. of 8-15-2005, § 3, Doc. #050815902; Ord. of 7-7-2008, § 4, Doc. #0807071005)

Sec. 39.87. Exemptions and Prohibitions.

(1) This Article shall not apply to the towing or immobilization of a vehicle which occurs:

- (a) At the direction of a law enforcement officer, community service officer, code enforcement officer, or parking specialist of the City of Orlando, or pursuant to an agreement or contract with a governmental entity; or
- (b) With the consent of the vehicle's owner or operator; or
- (c) If the vehicle is a law enforcement, firefighting, rescue squad, ambulance, or other emergency vehicle, which is marked as such; or
- (d) At property owned by any governmental entity.

(2) Emergency vehicles as described above may not be booted or towed except as directed by a law enforcement or code enforcement officer or at the request of the owner or operator of the emergency vehicle.

(3) Commercial vehicles which reasonably appear to be of the kind routinely used for the delivery of mail, packages, supplies, or other products may not be immobilized or towed if it reasonably appears that the vehicle is parked at the location for purposes of making a routine delivery or other service for the property owner or its lessees, unless ordered by a code enforcement or law enforcement officer.

(4) An immobilization device may only be attached to one (1) vehicle at a time; a separate booting device must be used for each vehicle.

(5) It shall be unlawful for any person to tamper with a booting device that has been lawfully attached to a motor vehicle.

(Ord. of 4-6-1998, Doc. #311131; Ord. of 8-15-2005, § 4, Doc. #050815902; Ord. of 7-7-2008, § 5, Doc. #0807071005)

Sec. 39.88. Drop Fee--Return of Owner Prior to Tow or Immobilization; Immobilization Fees.

(1) No immobilization or towing service operating within the city shall immobilize or tow a vehicle or charge for its services where the registered owner or other legally authorized person in control of the vehicle arrives at the scene prior to the immobilization or towing, unless:

(a) The registered owner or other legally authorized person in control of the vehicle refuses to remove the vehicle; or

(b) The vehicle has already been connected to the towing removal or immobilization apparatus and the registered owner or other person in control of the vehicle refuses to pay a service fee (drop fee) of not more than one-half the rate contained herein for such immobilization (first 24 hours) or towing service.

(c) No fee shall be charged if it is determined that the vehicle was lawfully parked.

(2) The tow truck operator shall wait a minimum of twenty (20) minutes at the location of the drop to allow the vehicle owner or operator or other person in control of the vehicle to secure payment funds for the fees enumerated herein at the location of the drop.

(3) Within twenty (20) minutes of payment for a drop fee, the tow truck operator shall disconnect the vehicle from the tow truck or immobilization device and return control of the vehicle to the owner or other legally authorized person. The tow truck or immobilization service operator shall provide a written receipt as required by subsection 39.86(19).

(4) A person in the process of towing or immobilizing or removing a vehicle from the premises or parking lot in which the vehicle is not lawfully parked must stop when a person seeks the return of the vehicle.

(5) The towing or immobilization service shall accept payment of any drop fee and any immobilization fee (drop or otherwise) at the site at which the tow commenced or the vehicle was immobilized, or at any other location within a one-half mile of the vehicle location. No person shall be required to travel more than a one-half mile from an immobilized vehicle in order to pay the fees. Only persons whose immobilized vehicles are also towed will be required to pay fees at the location of the stored vehicle as described herein.

(Ord. of 4-6-1998, Doc. #311131; Ord. of 8-15-2005, § 5, Doc. #050815902; Ord. of 7-7-2008, § 6, Doc. #0807071005)

Sec. 39.89. Establishment of Rates.

(1) The maximum rates for towing or immobilizing a vehicle or for the storage of a towed vehicle when the point of origin of the tow or immobilization is within the city limits of Orlando shall be as follows:

(a) *Class A Vehicles:*

Towing of vehicles with a gross vehicle weight of up to and including 10,000 pounds . . . \$100.00

Maximum daily storage (after 24 hours) . . . 20.00

Immobilization fee . . . 22.00 per 24-hour period

(b) *Class B Vehicles:*

Towing of vehicles with a gross vehicle weight of more than 10,000 pounds and up to and including 19,500 pounds . . . \$200.00

Maximum daily storage (after 24 hours) . . . 30.00

Immobilization fee . . . 22.00 per 24-hour period

(c) *Class C Vehicles:*

Towing of vehicles with a gross vehicle weight of more than 19,500 and up to and including 50,000 pounds (which are upright and in a towable condition) . . . \$300.00

Maximum daily storage (after 24 hours) . . . 60.00

Immobilization fee . . . 22.00 per 24-hour period

(d) *Class D Vehicles:*

Towing of vehicles with a gross vehicle weight of more than 50,000 pounds . . . \$400.00

Maximum daily storage (after 24 hours) . . . 60.00

Immobilization fee . . . 22.00 per 24-hour period

(2) The maximum rates established in subsection (1) above shall be a flat fee which shall be all inclusive and towing or immobilization service companies are prohibited from imposing any other or additional charges such as, but not limited to:

(a) Any fees for special equipment or services such as double hook up, vehicle entry when locked, dropping transmission linkage, axle or drive shaft removal, dollies, trailer or flat bed, lifts, slim jims, go jacks, removing bumpers, airing up brakes, mileage, fuel charge, or for copying the vehicle registration or other documents; or

(b) Time spent at the scene of the tow or immobilization; or

(c) Gate fees, and fees for returning to the location where the vehicle is stored in order to release the vehicle; or

(d) Storage for the first twenty-four (24) hours from the time the vehicle is towed; or

(e) An additional fee for the towing of a tractor trailer, which shall be considered the tow of "one" vehicle; or

(f) An additional fee for the towing of motor vehicles carrying other vehicles (boats, cars, trucks, aircraft, tractors, heavy equipment ATV's, and motorcycles that are securely attached, which shall be considered part of that vehicle's load.

(3) Tow or immobilization service companies are prohibited from charging fees of whatever kind for services rendered during the first twenty-four (24) hours that the vehicle is in the possession or under the control of the towing or immobilization service, beginning from the time the vehicle is delivered to the storage facility other than the fee set forth in section 39.89. Storage fees for towed vehicles as set forth above may be assessed after the initial twenty-four-hour period based on twenty-four-hour increments and not on calendar days. An administrative fee of fifty dollars (\$50.00) may be charged after the first forty-eight (48) hours so long as the towing service has actually complied with the requirements of Florida Statutes § 713.78, including execution and mailing of the lien notice.

(4) The towing rates and any fees set forth above in subsections (1) and (2) shall be prominently posted and clearly legible in not less than two-inch high letters on contrasting background at the point of payment at the storage site. Such notice shall be visible to the person picking up the vehicle from the place where payment is tendered. The towing service must also prominently post a clearly legible notice at the point of payment at the storage site in not less than one-half-inch high letters in contrasting

background, the following statement: "Towing is regulated by Chapter 39, Orlando City Code, and Florida Statutes § 715.07, copies of which are available by the towing service at this location upon request." A towing or immobilization service company is prohibited from engaging in private property towing within the City of Orlando unless the above notices are prominently posted, and clearly legible, at the point of payment at the storage site.

(Ord. of 4-6-1998, Doc. #31131; Ord. of 8-15-2005, § 6, Doc. #050815902; Ord. of 7-7-2008, § 7, Doc. #0807071005)

Sec. 39.90. Violatons; Presumption; Jurisdiction.

If a towing or immobilization service, its owner, operator, driver, or representative, is found guilty in a court of law of any violation of this towing and immobilization ordinance, regardless of adjudication, or found by the City's Code Enforcement Board to be in violation of a total of three (3) or more provisions of this towing and immobilization ordinance, within a two-year period or less of the first finding of violation, it shall constitute a presumption that the towing or immobilization service's operation within the City of Orlando is contrary to public policy or the welfare of the City. Such determination may be the basis for the Chief Administrative Officer or designee to initiate proceedings to revoke the towing or immobilization service's occupational license. Any towing or immobilization service owner or operator whose occupational license has been revoked shall not be eligible to receive an occupational license for towing or immobilization for a minimum period of one (1) year from the date of the revocation of license. It shall be unlawful for an existing towing or immobilization service to change the name of the business or corporate entity to obtain a new or additional occupational license for the purpose of circumventing the intent of this section. Any such determination by the Chief Administrative Officer, or designee or the Code Enforcement Board, shall constitute a violation of this section. Appeal of the revocation of license shall be as provided in section 39.94 of the Orlando City Code.

(Ord. of 4-6-1998, Doc. #31131; Ord. of 8-15-2005, § 7, Doc. #050815902; Ord. of 7-7-2008, § 8, Doc. #0807071005)

Sec. 39.91. Misrepresentation or Falsifying Tow or Immobilization Documents.

It is unlawful for any person or towing or immobilization service to misrepresent, misstate, or provide false information on any documentation required by this chapter, including the tow data sheet, consumer guideline form, receipt, or bill issued pursuant to this chapter or rates for towing, dropping, or storage of vehicles.

(Ord. of 8-15-2005, § 8, Doc. #050815902; Ord. of 7-7-2008, § 9, Doc. #0807071005)

Sec. 39.92. Prohibited Immobilizations and Tows from Public Property.

It is unlawful for a towing or immobilization service operator to tow or immobilize a vehicle from public property unless by written agreement with the City of Orlando, by order of a law enforcement officer, or with the consent of the vehicle owner or agent. The towing or immobilization service shall bear the burden of proof of such agreement, order, or consent.

(Ord. of 8-15-2005, § 9, Doc. #050815902; Ord. of 7-7-2008, § 10, Doc. #0807071005)

Sec. 39.93. Penalties.

Each violation of this chapter, except subsections 39.86(5) through (7) shall constitute a separate offense, arrestable and punishable as provided in section 1.08 of

the City Code. Nothing in this section shall be construed to prohibit the City of Orlando from enforcing this Chapter by other means including, but not limited to code citations pursuant to Florida Statutes §§ 162.21 through 162.30, as amended, and Sections 5.10 through 5.19 of the City Code.

(Ord. of 4-6-1998, Doc. #31131; Ord. of 8-15-2005, § 10, Doc. #050815902; Ord. of 7-7-2008, § 11, Doc. #0807071005)

Sec. 39.94. Issue, Reissue, Transfer, Revocation of License; Right of Appeal.

(1) The Chief Administrative Officer or designee may refuse to issue or reissue or transfer the occupational license for a towing or immobilization service as provided for in this Section when the issue, reissue, or transfer of the license would be contrary to public policy or the welfare of the City.

(2) Upon the written request of the Chief of Police, the Chief Administrative Officer or designee may schedule a hearing and send a copy to the towing or immobilization service owner or operator and written notice of hearing by certified mail, return receipt requested, or by hand delivery to the owner of the towing or immobilization service at the last known address. If an attempt to reach the owner by hand delivery or certified mail is unsuccessful, notice of the hearing may be made by publication as provided in Chapter 49, Florida Statutes, as amended. Notice, whether by certified mail, hand delivery, or publication, must be provided at least three (3) business days prior to the scheduled hearing before the Chief Administrative Officer or designee. The Chief Administrative Officer or designee shall conduct a public hearing regarding the refusal to issue, reissue, or transfer the occupational license and may receive and consider any evidence, including evidence of general reputation of the towing or immobilization service operation or person(s) operating such service which is the subject of the hearing. All testimony at the hearing shall be under oath. The Chief Administrative Officer or designee shall not be bound by the formal rules of evidence and may consider hearsay testimony; however the Chief Administrative Officer or designee shall act to ensure fundamental due process in the hearing process. The towing or immobilization service owner shall have the opportunity to appear before the Chief Administrative Officer or designee, in person and/or through legal counsel, to offer evidence. At the conclusion of the hearing, based on the evidence received, the Chief Administrative Officer or designee may find and declare, based upon the preponderance of evidence that the towing or immobilization service owner or operator(s) have violated the towing and immobilization ordinance or the applicable sections of Chapter 36, and that the violation(s) is contrary to the interest of the public health, safety, or welfare. If the Chief Administrative Officer or designee makes one (1) or more of the above findings, the Chief Administrative Officer or designee may refuse to issue or reissue or transfer the occupational license of the towing or immobilization service. The Chief Administrative Officer or designee may continue the hearing in order to receive additional evidence, testimony, or for any other reasons the Chief Administrative Officer or designee deems appropriate. If the Chief Administrative Officer or designee does not find that the violations have been proven, he or she shall direct the Office of Permitting Services to issue, reissue, or transfer the license. The Chief Administrative Officer or designee shall have the power to adopt rules for the administration and conduct of its hearings which are consistent with this section and the rules of procedure adopted by City Council. Such rules shall be designed to facilitate the efficient administration of this section.

(3) In each case of such refusal by the Chief Administrative Officer or designee to issue, reissue, or transfer such license, the applicant therefor shall have the right to

appeal such refusal to the City Council by filing with the Chief Administrative Officer or designee, and City Clerk, a notice of appeal within ten (10) days after such refusal. The City Council, not later than the second regularly scheduled City Council meeting following receipt of the notice of appeal, shall hold a public hearing to determine if such refusal to issue, reissue, or transfer a license under this section is in the public interest. Notice of the hearing shall be given to the license applicant, which notice shall fix a date for the hearing giving the license applicant an opportunity to be heard on the denial of the issue, reissue, or transfer of the license by the Chief Administrative Officer or designee. Such notice shall be given in writing by the City Clerk, at least five (5) days before the date of such hearing, unless such notice is waived by the license applicant. The City Council after hearing from the parties, shall either sustain the decision of the Chief Administrative Officer or designee and deny the requested license or transfer, or order the Office of Permitting Services to issue, reissue, or transfer the license. The City Council shall make its decision based upon whether the Chief Administrative Officer or designee had sufficient reliable evidence to sustain the decision. No new evidence may be presented during the appeal. Such issuance, reissuance, or transfer of occupational license approved by the City Council will be made only after payment to the City of the appropriate license or transfer fee.

(4) The City Council shall have the right and authority to revoke any occupational license as referred to in this section and issued to any person, whenever it is made to appear that the business method or operation or work to be conducted or carried on by the licensee is being conducted or carried on through unfair, fraudulent, or illegal methods to the detriment or damage of the public health, safety or welfare, or to customers or patrons of such licensee. Unfair or fraudulent methods are defined as including, but shall not be limited to, untrue or misleading advertising of products or services offered.

(5) An aggrieved party may appeal a final order of the City Council to a court of competent jurisdiction in the Ninth Judicial Circuit. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created prior to such appeal. An appeal shall be filed within thirty (30) days of the date of the written order to be appealed.

(Ord. of 8-15-2005, § 11, Doc. #050815902; Ord. of 7-7-2008, § 12, Doc. #0807071005)