

C7 T A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AMENDMENT NO. 1 TO THE CITY'S ADMINISTRATIVE RULES AND REGULATIONS FOR POLICE AND PARKING TOWING PERMITS; SAID AMENDMENT NECESSARY TO CONFORM WITH CERTAIN PROVISIONS OF THE RULES AND REGULATIONS TO NEWLY ENACTED STATE LAW (HOUSE BILL NO. 179); AND FURTHER APPROVING AN INCREASE IN BEACH TOWING SERVICES, INC.'S AND TREMONT TOWING INC.'S (PERMITTEES) ADMINISTRATIVE FEE FOR NON-RESIDENT TOWS FROM THE CURRENT \$77, TO \$110 CONDITIONED ON THE PERMITTEES' AGREEMENT TO A \$50 FLAT RATE TOW FOR CITY RESIDENTS DURING FLOODS AND OTHER SPECIFIED SEVERE WEATHER EVENTS; WITH SAID AMENDMENT, INCREASED ADMINISTRATIVE FEES AND FLAT RATE TOWING FEES FOR RESIDENTS TO TAKE EFFECT ON JULY 1, 2024.

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Rickelle Williams, Interim City Manager

DATE: June 26, 2024

TITLE: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AMENDMENT NO. 1 TO THE CITY'S ADMINISTRATIVE RULES AND REGULATIONS FOR POLICE AND PARKING TOWING PERMITS; SAID AMENDMENT NECESSARY TO CONFORM WITH CERTAIN PROVISIONS OF THE RULES AND REGULATIONS TO NEWLY ENACTED STATE LAW (HOUSE BILL NO. 179); AND FURTHER APPROVING AN INCREASE IN BEACH TOWING SERVICES, INC.'S AND TREMONT TOWING INC.'S (PERMITTEES) ADMINISTRATIVE FEE FOR NON-RESIDENT TOWS FROM THE CURRENT \$77, TO \$110 CONDITIONED ON THE PERMITTEES' AGREEMENT TO A \$50 FLAT RATE TOW FOR CITY RESIDENTS DURING FLOODS AND OTHER SPECIFIED SEVERE WEATHER EVENTS; WITH SAID AMENDMENT, INCREASED ADMINISTRATIVE FEES AND FLAT RATE TOWING FEES FOR RESIDENTS TO TAKE EFFECT ON JULY 1, 2024.

RECOMMENDATION

The City Administration ("Administration") recommends that the Mayor and City Commission ("City Commission") adopt the Resolution.

BACKGROUND/HISTORY

The City of Miami Beach ("City") is authorized to issue towing permits for the discharge of towing and/or storage of vehicles identified by the City's Police Department or Parking Department, required for the removal of vehicles from the public rights-of-way (the "Towing Permits").

The City currently issues Towing Permits to the following two (2) providers which satisfy all of the City's requirements, both in the City Code and pursuant to the City's Administrative Rules and Regulations for Police and Parking Towing Permits (the "Administrative Rules and Regulations"): 1.) Beach Towing Services, Inc. and 2.) Tremont Towing, Inc. (the "Permittees").

The Permittees work closely with the City's Police and Parking departments, respectively, and have consistently provided good and capable service to the City. Most recently, in response to the severe flooding that occurred in Miami Beach, the Permittees volunteered to offer their services, free of charge, to assist residents with towing their stalled vehicles out of floodwaters.

On June 4, 2024, the Administration received a letter (Attachment A) from the Permittees' legal counsel, Rafael Andrade, Esq., regarding a newly enacted State Law, Committee Substitute for House Bill No. 179 ("HB 179") (Attachment B), which will take effect on July 1, 2024, and which will impact the City and the Permittees in several ways, including the City's current Administrative Rules and Regulations.

ANALYSIS

HB 179 resulted from extensive lobbying efforts by rental car companies, including, but not limited to, Enterprise, Alamo, and National rental car corporations. The resulting State law requires amending the City's Administrative Rules and Regulations, since some existing provisions will, as of July 1, 2024, be in conflict with the new State law. In summary, the proposed amendments included in HB 179 and their impact on the City's Administrative Rules and Regulations are as follows:

- 1.) Counties or municipalities that establish Maximum Allowable rates will be required to post the rates on their websites, as well as the process they follow for complaints regarding fees charged in excess of the rates. It should be noted that the City is in compliance with this requirement, as rates and a complaint process are currently included in the Towing Bill of Rights posted on the City's website, thus this new provision in the law does not require an amendment to the City's Administrative Rules and Regulations; and
- 2.) Towing companies/Permittees are now required to send lien notices (for unclaimed vehicles or for which charges for towing or storage services remain unpaid) within five (5) calendar days, rather than the current seven (7) days. Note this new provision does not require an amendment to the City's Rules and Regulations, simply compliance by the Permittees; and
- 3.) For purposes of releasing a towed vehicle, Tow companies/Permittees may no longer accept a rental car agreement from a renter of the vehicle as evidence that the person who rented the vehicle is an agent of the rental vehicle. Instead, the renter of a vehicle must now present a notarized agreement evidencing that the renter is an agent of the vehicle. This amendment to the current law will greatly impact the City and further investigation will be required to determine what, in effect, will be satisfactory proof under the new law for a renter to present to a tow company in order to obtain a release of their rental vehicle. Note this new provision in the law requires an amendment to the City's Rules and Regulations; and
- 4.) Tow companies/Permittees are authorized under HB 179 to accept two (2) forms of payment from a list that includes (i) cash, cashier's check, money order or traveler's check, (ii) bank, debit, or credit card, and (iii) mobile payment service, digital wallet or other electronic payment system. Currently, the City's Administrative Rules and Regulations do not include mobile payment, digital wallet or other electronic payment systems, thus, an amendment to the City's Administrative Rules and Regulations is required to include these new forms of payment which the Permittees have expressed that they would accept. It is important to note that in addition to (i) and (iii), the Permittees will continue to accept credit card and debit card payments from City residents only, and only debit card payments from Miami-Dade County residents.

In addition to the above, the Permittees have requested, via the June 4, 2024 letter to the Interim City Manager, that the City approve an increase to the Administrative Fee, for non-resident tows, from \$75 (currently \$77 as of October 1, 2023 due to an increase in the Consumer Price Index ("CPI")) to \$150. The Administrative Fee for City residents would remain at the current rate of \$77, and subject to future CPI increases. The Permittees recently met with the City's Parking Department staff and stated that the proposed increase in the Administrative Fee for non-City residents is necessary as compliance with HB 179 (particularly in terms of the reduced time for filing notices of lien) will increase their operating costs. Additionally, the Permittees represented that rising operating costs due to sustained inflation and rising insurance, equipment, and labor costs have created a financial burden. To remain financially viable and to continue to provide the expected levels of service to the City, the Permittees have represented that they must increase the Administrative Fee, for non-City resident tows only, to \$150. On June 17, 2024, the Permittees' legal counsel, Rafael Andrade, Esq., provided an email to the Administration with an attached

letter (Attachment C), dated February 26, 2024, from Chase Insurance Agency, Inc. addressed to Beach Towing Services, Inc. with a breakdown of Beach Towing's annual insurance premiums for the last five (5) years. The letter documents a significant increase from \$168,397 in 2023/2024 to \$410,677 in 2024/2025 (an increase of approximately \$242,000 over a one (1) year period). Beyond the letter, the Permittees have not provided any additional evidence, empirical data, or costs to further substantiate their claim. Notwithstanding, the Administration has negotiated in good faith with the Permittees' legal counsel. As a result of these discussions, the Administration and the Permittees have agreed to the following (subject to City Commission consideration):

- Administrative Fee of \$110, for non-City resident tows, which reflects a 43% increase from the current amount of \$77, and a 27% decrease from the Permittee's requested amount of \$150; and
- Flat rate tow of \$50, for City residents only, to any location within City limits as a result of a flood event, tropical storm, hurricane, or natural disaster, as indicated via a flash flood warning, flash flood emergency via the National Weather Service ("NWS") and/or a state of emergency declaration issued by the City, Miami-Dade County, State of Florida, and/or the United States government.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? (FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on . See BIE at:
<https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

N/A

CONCLUSION

The proposed amendments to the City's Administrative Rules and Regulations are necessary in order to comply with the new State law resulting from HB 179, which will take effect on July 1, 2024. With regard to the Permittees' requested increase in the Administrative Fee, for non-City resident tows only, from \$75 (currently \$77 as of October 1, 2023 due to an increase in the Consumer Price Index ("CPI")) to \$150, the Permittees have stated that the increase is necessary in order for them to remain financially viable, and to continue to provide the City with the expected levels of service. The Administrative Fee for City residents would remain at the current rate of \$77, and subject to future CPI increases.

The Administration has negotiated in good faith with the Permittees legal counsel; and, as a result, the Administration and the Permittees have agreed, subject to City Commission consideration, to an Administrative Fee of \$110, for non-City resident tows, and a flat rate tow of \$50, for City residents only, to any location within City limits as a result of a flood event, tropical storm, hurricane, or natural disaster, as indicated via a flash flood warning, flash flood emergency via the National Weather Service ("NWS") and/or a state of emergency declaration issued by the City, Miami-Dade County, State of Florida, and/or the United States government.

It should be noted that the Permittees are the only two (2) service providers which satisfy the City's towing requirements under the City Code and the City's Administrative Rules and Regulations. Further, the Permittees have and are providing good and capable towing services to the City, and these services continue to be necessary.

The attached Resolution for City Commission consideration sets forth the necessary amendments to the City's Administrative Rules and Regulations. The City's Administrative Rules and Regulations will be amended administratively prior to the new State law taking effect on July 1, 2024.

The Administration recommends that the City Commission approve Amendment No. 1 to the City's Administrative Rules and Regulations; said Amendment necessary to conform with certain provision of the rules and regulations to newly enacted State law (House Bill 179); and further approving an increase in the Permittees' Administrative Fee for non-City resident tows from the current \$77 to \$110, conditioned on the Permittees' agreement to a \$50 flat rate tow for City residents during floods and other specified severe weather events; with said amendment, increased Administrative Fees and flat rate towing fees for residents to take effect on July 1, 2024.

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

Yes

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? Yes

If so, specify the name of lobbyist(s) and principal(s): Ralph Andrade

Department

Parking

Sponsor(s)

Co-sponsor(s)

ATTACHMENT A

LAW OFFICES OF RAFAEL E. ANDRADE, P.A.

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7TH FLOOR
MIAMI BEACH, FLORIDA 33139

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June 4, 2024

Via Email: RickelleWilliams@miamibeachfl.gov

Ms. Rickelle Williams, City Manager
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 3319

Re: Committee Substitute for Committee Substitute for House Bill No. 179

Dear Manager Williams:

I represent the interests of Tremont Towing, Inc., and Beach Towing Services, Inc., (collectively, the “Tow Companies”) regarding their Towing Permit’s with the City. Committee Substitute for Committee Substitute for House Bill No. 179 was signed into law by Governor Ron DeSantis on March 22, 2024, and takes effect July 1, 2024 (“HB 179”). Enclosed, please find a copy of HB 179.

HB 179, among other things, impacts the Tow Companies existing operations by: (i) reducing the period for sending lien notices from 7 days to 5 days;¹ (ii) clarifying that a rental agreement is not evidence that a renter is an agent of the vehicle or vessel owner; (iii) establishing record keeping requirements; (iv) establishing required forms of payment; (v) and establishing miscellaneous regulatory requirements. Several sections of the Towing Permit conflict with HB 179 and must be amended to comply with the new law by July 1, 2024.

The Tow Companies compliance with HB 179 will increase their operating costs, which, together with sustained inflation and rising insurance, equipment, and labor costs, places an untenable financial burden on them. In this regard, it is vital to note that when the Towing Permits were issued in June 2022, the Tow Companies *voluntarily* agreed to discount the F.S. 713.78(15)(a) administrative fee from \$250 to \$75,² and to delay sending the lien notices by 36 hours.³ However, due to HB 179, the Tow Companies can no longer afford to so deeply discount the administrative fee, or to delay sending the lien notices. To comply with the new requirement to send lien notices within 5 days, and remain financially viable, the Tow Companies must adjust the administrative fee for *non-resident tows* to \$150 and eliminate the 36-hour waiting period. All other rates remain the same. Please note that even with this adjustment, the Tow Companies are still *voluntarily* discounting 40% off the \$250 administrative fee.

¹ Pursuant to Section 713.78(12)(a), Florida Statutes, any person who violates Section 713.78(4), Florida Statutes, is guilty of a misdemeanor of the first degree.

² Section 713.78(15)(a), Florida Statutes; Section 22(C)(3) of the Towing Permit (attached).

³ Section 22(C)(3) of the Towing Permit.

Enclosed, please find a proposed amendment to the Towing Permit for your review and consideration. As always, the Tow Companies are available to meet with the City to discuss the implementation of HB 179 and any other matters of concern to the City. The Tow Companies looks forward to continuing to serve the City and being an integral part of the City's public safety efforts.

Thank you for your attention to this matter.

Sincerely,

/s/ Rafael E. Andrade

Rafael E. Andrade

cc: Ricardo J. Dopico, City Attorney
David Martinez, Assistant City Manager
Jose R. Gonzalez, Parking Director
Alberto Ventura, Assistant Parking Director

3. Administrative Fee:

Pursuant to Section 713.78(2), Florida Statutes, whenever the Permittee impounds and/or stores a vehicle or vessel under this Permit, the Permittee has a lien on the vehicle or vessel for a reasonable towing fee, for a reasonable administrative fee or charge imposed by a county or municipality, and for a reasonable storage fee; except that a storage fee may not be charged if the vehicle or vessel is stored for fewer than 6 hours. Although Section 713.78(15)(a), Florida Statutes, authorizes Permittee to charge a \$250 administrative fee for releasing a claim of lien on an impounded vehicle or vessel, Permittee voluntarily agrees to charge only a \$75 administrative fee plus the actual costs of complying with Section 713.78, Florida Statutes. Such administrative fee may only be charged after the first thirty-six (36) hours of storage. "Administrative fee" as used in this Section 22(C)(3) shall have the same meaning ascribed to it in Section 713.78(15)(a), Florida Statutes. The administrative fee shall not be imposed on vehicles owned by Miami Beach Residents or vehicles with a "police hold" until or unless the hold is removed. In order to be eligible for the waiver of the \$75 administrative fee, residents must provide proof of residency within the City of Miami Beach, and their driver's license information must match the registration information of the towed vehicle.

4. City Permit Fee:

Permittee will impose and collect on behalf of the City a Permit Fee of \$30.00.

5. Indexing Provision:

A handwritten signature in black ink, consisting of a stylized, cursive letter 'A' or similar mark.

ATTACHMENT B

CHAPTER 2024-27

Committee Substitute for Committee Substitute for House Bill No. 179

An act relating to towing and storage; amending ss. 125.0103 and 166.043, F.S.; requiring certain counties and municipalities to publish specified rates on their websites and establish a specified process; providing that rates established by the Division of Florida Highway Patrol apply to certain areas of the state; amending s. 321.051, F.S.; prohibiting the division from excluding certain wrecker operators from the wrecker operator system or failing to designate certain wrecker operators as authorized wrecker operators; providing exceptions; requiring, rather than authorizing, the division to establish certain maximum rates; requiring the Department of Highway Safety and Motor Vehicles to publish such rates on its website and establish a specified process; amending s. 323.001, F.S.; requiring an investigating agency or certain other persons to take possession of certain vehicles within a specified timeframe, unless another timeframe is otherwise agreed upon; amending s. 713.78, F.S.; providing and reordering definitions; authorizing towing-storage operators to charge certain fees; providing that towing-storage operators have a lien on a vehicle or vessel for such fees; authorizing towing-storage operators to enter, using reasonable care, a vehicle or vessel for specified purposes; providing liability under certain circumstances; revising requirements for law enforcement agencies, counties, municipalities, and the department relating to the removal of vehicles or vessels; revising requirements for notices of lien; revising requirements for towing-storage operators providing notice to public agencies of jurisdiction; authorizing certain persons and entities to initiate judicial proceedings to determine certain findings; authorizing certain persons and entities to post, without first initiating judicial proceedings, a cash or surety bond for a certain amount to have a vehicle or vessel released; prohibiting the requirement to initiate judicial proceedings in order to post such bond and the requirement to use a particular form; requiring the clerk of the court to automatically issue a certificate notifying a towing-storage operator to release the vehicle or vessel; requiring the party that posts the bond to give a receipt to the towing-storage operator reciting any property loss or damage to the vehicle or vessel or the contents thereof, and waiving such claims if such receipt is not provided; requiring a towing-storage operator to release or return the vehicle or vessel to the interested party that posted the bond; requiring the clerk of the court to release the cash bond or issue a specified notice relating to the surety bond to the towing-storage operator if the interested party does not initiate judicial proceedings within a certain timeframe; providing obligations relating to such notice; providing for expiration of such notice; requiring the court to award all recovery, towing, and storage fees to the towing-storage operator if the defendant prevails in the judicial proceedings; revising the timeframe in which certain unclaimed vehicles or vessels may be sold; revising

requirements for notices of sale; requiring approved third-party services to publish public notices of sale and report certain information by specified means to the department; providing the maximum fee that approved third-party services may collect and retain for such services; revising provisions for permission to inspect a vehicle or vessel; providing timeframes in which a vehicle, vessel, or personal property must be made available for inspection and release; revising criminal penalties; requiring towing-storage operators to accept certain documents, one of which must be notarized, as evidence of a person's interest in a vehicle or vessel; prohibiting certain persons from being required to furnish more than one form of current government-issued photo identification for purposes of verifying their identity; requiring towing-storage operators to maintain certain records for a certain period of time; requiring towing-storage operators to accept certain types of payment; providing for preemption; requiring towing-storage operators to maintain a rate sheet; providing requirements for such rate sheet; providing that certain fees are unreasonable; requiring towing-storage operators to maintain an itemized invoice for specified fees; providing requirements for such invoice; requiring disclosure of such invoice to specified persons and entities within a certain timeframe; providing applicability; making technical changes; amending s. 715.07, F.S.; conforming a cross-reference; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (b) and (c) of subsection (1) of section 125.0103, Florida Statutes, are amended, and paragraph (d) is added to that subsection, to read:

125.0103 Ordinances and rules imposing price controls.—

(1)

(b) This section does not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, or port rates; rates for towing of vehicles or vessels from or immobilization of vehicles or vessels on private property; or rates for removal and storage of wrecked or disabled vehicles or vessels from an accident scene or the removal and storage of vehicles or vessels, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel.

(c) Counties must establish maximum rates which may be charged on the towing of vehicles or vessels from or immobilization of vehicles or vessels on private property or which may be charged for; removal and storage of wrecked or disabled vehicles or vessels from an accident scene or for the removal and storage of vehicles or vessels, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to

the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel. However, if a municipality chooses to enact an ordinance establishing the maximum rates for the towing or immobilization of vehicles or vessels as described in paragraph (b), the county's ordinance does not apply within such municipality.

(d) A county or municipality that has established maximum rates as described in paragraph (c) must publish such rates on its website and must establish a process for investigating and resolving complaints regarding fees charged in excess of such rates. In areas where no maximum rates as described in paragraph (c) have been established, the maximum rates established by the Division of Florida Highway Patrol under s. 321.051(2) apply.

Section 2. Paragraphs (b) and (c) of subsection (1) of section 166.043, Florida Statutes, are amended, and paragraph (d) is added to that subsection, to read:

166.043 Ordinances and rules imposing price controls.—

(1)

(b) This section does not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, or port rates; rates for towing of vehicles or vessels from or immobilization of vehicles or vessels on private property; or rates for removal and storage of wrecked or disabled vehicles or vessels from an accident scene or the removal and storage of vehicles or vessels, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel.

(c) Counties must establish maximum rates which may be charged on the towing of vehicles or vessels from or immobilization of vehicles or vessels on private property or which may be charged for, removal and storage of wrecked or disabled vehicles or vessels from an accident scene or for the removal and storage of vehicles or vessels, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel. However, if a municipality chooses to enact an ordinance establishing the maximum rates for the towing or immobilization of vehicles or vessels as described in paragraph (b), the county's ordinance established under s. 125.0103 does not apply within such municipality.

(d) A county or municipality that has established maximum rates as described in paragraph (c) must publish such rates on its website and must establish a process for investigating and resolving complaints regarding fees charged in excess of such rates. In areas where no maximum rates as

described in paragraph (c) have been established, the maximum rates established by the Division of Florida Highway Patrol under s. 321.051(2) apply.

Section 3. Subsection (2) of section 321.051, Florida Statutes, is amended to read:

321.051 Florida Highway Patrol wrecker operator system; penalties for operation outside of system.—

(2)(a) The Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles is authorized to establish within areas designated by the patrol a wrecker operator system using qualified, reputable wrecker operators for removal and storage of wrecked or disabled vehicles from a crash scene or for removal and storage of abandoned vehicles, in the event the owner or operator is incapacitated or unavailable or leaves the procurement of wrecker service to the officer at the scene. All reputable wrecker operators are ~~shall be~~ eligible for use in the system provided their equipment and drivers meet recognized safety qualifications and mechanical standards set by rules of the Division of Florida Highway Patrol for the size of vehicle it is designed to handle. The division may not exclude a wrecker operator from the wrecker operator system or fail to designate a wrecker operator as an authorized wrecker operator based solely on a prior felony conviction unless such conviction is for a forcible felony as defined in s. 776.08 or a felony listed in s. 812.014(2)(c)6. or s. 812.16(2). The division is authorized to limit the number of wrecker operators participating in the wrecker operator system, which authority shall not affect wrecker operators currently participating in the system established by this section. The division must ~~is authorized to~~ establish maximum rates for the towing and storage of vehicles removed at the division's request, where such rates have not been set by a county or municipality pursuant to s. 125.0103 or s. 166.043. Such rates shall not be considered rules for the purpose of chapter 120; however, the department shall establish by rule a procedure for setting such rates.

(b) The department must publish on its website the maximum rates established under this subsection and must establish a process for investigating and resolving complaints regarding fees charged in excess of such maximum rates.

(c) Any provision in chapter 120 to the contrary notwithstanding, a final order of the department denying, suspending, or revoking a wrecker operator's participation in the system shall be reviewable in the manner and within the time provided by the Florida Rules of Appellate Procedure only by a writ of certiorari issued by the circuit court in the county wherein such wrecker operator resides.

Section 4. Subsection (8) is added to section 323.001, Florida Statutes, to read:

323.001 Wrecker operator storage facilities; vehicle holds.—

(8) If a vehicle is stored at a wrecker operator's facility pursuant to an investigatory hold or a hold for other evidentiary purposes, the investigating agency or other person requiring such hold must take possession of the vehicle within 30 days after the first day on which the vehicle is stored, unless another timeframe is otherwise agreed upon by the wrecker operator and the investigating agency or other person requiring the hold.

Section 5. Subsections (1), (2), (4), (5), (6), (8), (9), and (10), paragraph (a) of subsection (11), paragraphs (a) and (d) of subsection (12), paragraphs (a), (b), and (d) of subsection (13), and subsection (17) of section 713.78, Florida Statutes, are amended, and subsections (18), (19), and (20) are added to that section, to read:

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

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

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

(b) “Good faith effort” means that all of the following checks have been performed by a towing-storage operator to establish the prior state of registration and title of a vehicle or vessel that has been towed or stored by the towing-storage operator:

1. A check of the department's database for the owner and any lienholder.

2. A check of the electronic National Motor Vehicle Title Information System or an equivalent commercially available system to determine the state of registration when there is not a current registration record for the vehicle or vessel on file with the department.

3. A check of the vehicle or vessel for any type of tag, tag record, temporary tag, or regular tag.

4. A check of the law enforcement report for a tag number or other information identifying the vehicle or vessel, if the vehicle or vessel was towed at the request of a law enforcement officer.

5. A check of the trip sheet or tow ticket of the tow truck operator to determine whether a tag was on the vehicle or vessel at the beginning of the tow, if a private tow.

6. If there is no address of the owner on the impound report, a check of the law enforcement report to determine whether an out-of-state address is indicated from driver license information.

7. A check of the vehicle or vessel for an inspection sticker or other stickers and decals that may indicate a state of possible registration.

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

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

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

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

~~(c)~~(d) “National Motor Vehicle Title Information System” means the federally authorized electronic National Motor Vehicle Title Information System.

(d) “Newer model” means a vehicle or vessel that is 3 model years old or less, beginning with the model year of the vehicle or vessel as year one.

(e) “Older model” means a vehicle or vessel that is more than 3 model years old, beginning with the model year of the vehicle or vessel as year one.

(f) “Towing-storage operator” means a person who regularly engages in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier, or the storing of such vehicles or vessels.

~~(g)~~(a) “Vehicle” means any mobile item, whether motorized or not, which is mounted on wheels.

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

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

(2)(a) Whenever A towing-storage operator may charge the owner or operator of a vehicle or vessel only the following fees for, or incidental to, the recovery, removal, or storage of the vehicle or vessel:

1. Any reasonable fee for service specifically authorized under s. 125.0103 or s. 166.043 by ordinance, resolution, regulation, or rule of the county or municipality in which the service is performed.

2. Any reasonable fee for service specifically authorized by the Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles under s. 321.051(2).

3. Any reasonable fee for service as agreed upon in writing between a towing-storage operator and the owner of a vehicle or vessel.

4. Any lien release administrative fee as set forth in paragraph (15)(a).

5. Any reasonable administrative fee or charge imposed by a county or municipality pursuant to s. 125.01047, s. 166.04465, or s. 323.002 upon the registered owner or other legally authorized person in control of a vehicle or vessel.

~~(b) If a towing-storage operator person regularly engaged in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier recovers, removes, or stores a vehicle or vessel upon instructions from:~~

~~1.(a) The owner thereof;~~

~~2.(b) The owner or lessor, or a person authorized by the owner or lessor, of property on which such vehicle or vessel is wrongfully parked, and the removal is done in compliance with s. 715.07;~~

~~3.(e) The landlord or a person authorized by the landlord, when such motor vehicle or vessel remained on the premises after the tenancy terminated and the removal is done in compliance with s. 83.806 or s. 715.104; or~~

~~4.(d) Any law enforcement agency, county, or municipality,~~

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

(c) A towing-storage operator may enter, using reasonable care, a vehicle or vessel for purposes of recovering, removing, or storing such vehicle or vessel. A towing-storage operator is liable for any damage to the vehicle or vessel if such entry is not in accordance with the standard of reasonable care.

~~(4)(a) A towing-storage operator person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to paragraph (2)(b) subsection (2), and who claims a lien for recovery, towing, or storage services, must shall give notice, by certified mail, pursuant to subsection (16), to the registered owner, the insurance company insuring the vehicle or vessel notwithstanding s. 627.736, and all persons claiming a lien thereon, as disclosed by the records in the Department of Highway Safety and Motor Vehicles or as disclosed by the records of any corresponding agency in any other state in~~

which the vehicle or vessel is identified through a records check of the National Motor Vehicle Title Information System or an equivalent commercially available system as being titled or registered.

(b) ~~When~~ Whenever a law enforcement agency, county, or municipality authorizes the removal of a vehicle or vessel, or ~~whenever~~ a towing service, garage, repair shop, or automotive service, storage, or parking place notifies ~~a the~~ law enforcement agency of possession of a vehicle or vessel pursuant to s. 715.07(2)(a)2., if an approved third-party service cannot obtain the vehicle's or vessel's owner, lienholder, and insurer information or last state of record pursuant to subsection (16), then the person in charge of the towing service, garage, repair shop, or automotive service, storage, or parking place must request such information from the law enforcement agency of the jurisdiction where the vehicle or vessel is stored. The law enforcement agency to which the request was made must shall contact the Department of Highway Safety and Motor Vehicles, or the appropriate agency of the state of registration, if known, within 24 hours through the medium of electronic communications, giving the full description of the vehicle or vessel. Upon receipt of the full description of the vehicle or vessel, the department must shall search its files to determine the owner's name, the insurance company insuring the vehicle or vessel, and whether any person has filed a lien upon the vehicle or vessel as provided in s. 319.27(2) and (3) and notify the applicable law enforcement agency within 72 hours. The person in charge of the towing service, garage, repair shop, or automotive service, storage, or parking place must request shall obtain such information from the applicable law enforcement agency within 5 days after the date of storage and must provide the information to the approved third-party service in order to transmit notices as required under subsection (16) shall give notice pursuant to paragraph (a). The department may release the insurance company information to the requestor notwithstanding s. 627.736.

(c) The notice of lien must be sent by an approved third-party service by certified mail to the registered owner, the insurance company insuring the vehicle notwithstanding s. 627.736, and all other persons claiming a lien thereon within 5 7 business days, excluding ~~a~~ Saturday, and Sunday, or federal legal holiday, after the date of storage of the vehicle or vessel. ~~However, in no event shall the notice of lien be sent less than 30 days before the sale of the vehicle or vessel.~~ The notice must state all of the following:

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

2. The name, physical address, and telephone number of the lienor, and the entity name, as registered with the Division of Corporations, of the business where the towing and storage occurred, which must also appear on

the outside of the envelope sent to the registered owner and all other persons claiming an interest in or lien on the vehicle or vessel.

3. The fact of possession of the vehicle or vessel.
4. The name of the person or entity that authorized the lienor to take possession of the vehicle or vessel.
5. That a lien as provided in paragraph (2)(b) ~~subsection (2)~~ is claimed.
6. That charges have accrued and include an itemized statement of the amount thereof.
7. That the lien is subject to enforcement under law and that the owner or lienholder, if any, has the right to initiate judicial proceedings ~~a hearing~~ as set forth in subsection (5).
8. That any vehicle or vessel that remains unclaimed, or for which the charges for recovery, towing, or storage services remain unpaid, may be sold free of all prior liens 35 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is an older model ~~more than 3 years of age~~ or 57 50 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is a newer model ~~3 years of age or less~~.
9. The address at which the vehicle or vessel is physically located.

(d) The notice of lien may not be sent to the registered owner, the insurance company insuring the vehicle or vessel, and all other persons claiming a lien thereon less than 30 days before the sale of ~~a the~~ vehicle or vessel that is an older model or less than 52 days before the sale of a vehicle or vessel that is a newer model.

(e) If attempts to locate the name and address of the registered owner, the insurance company insuring the vehicle or vessel, and any other person claiming a lien thereon ~~are or lienholder~~ prove unsuccessful, 5 the towing-storage operator shall, after 7 business days, excluding a Saturday, and Sunday, or federal legal holiday, after the initial tow or storage, the towing-storage operator must notify the public agency of jurisdiction where the vehicle or vessel is stored in writing by certified mail or receipt-acknowledged electronic delivery ~~acknowledged hand delivery~~ that the towing-storage operator company has been unable to locate the name and address of the owner or lienholder and a physical search of the vehicle or vessel has disclosed no ownership information and a good faith effort has been made, including records checks of the Department of Highway Safety and Motor Vehicles database and the National Motor Vehicle Title Information System or an equivalent commercially available system. ~~For purposes of this paragraph and subsection (9), the term "good faith effort" means that the following checks have been performed by the company to establish the prior state of registration and for title:~~

1. ~~A check of the department's database for the owner and any lienholder.~~

2. ~~A check of the electronic National Motor Vehicle Title Information System or an equivalent commercially available system to determine the state of registration when there is not a current registration record for the vehicle or vessel on file with the department.~~

3. ~~A check of the vehicle or vessel for any type of tag, tag record, temporary tag, or regular tag.~~

4. ~~A check of the law enforcement report for a tag number or other information identifying the vehicle or vessel, if the vehicle or vessel was towed at the request of a law enforcement officer.~~

5. ~~A check of the trip sheet or tow ticket of the tow truck operator to determine whether a tag was on the vehicle or vessel at the beginning of the tow, if a private tow.~~

6. ~~If there is no address of the owner on the impound report, a check of the law enforcement report to determine whether an out-of-state address is indicated from driver license information.~~

7. ~~A check of the vehicle or vessel for an inspection sticker or other stickers and decals that may indicate a state of possible registration.~~

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

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

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

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

(5)(a) The registered owner of a vehicle or vessel in the possession of a towing-storage operator, the insurance company insuring such vehicle or vessel, and any other removed pursuant to subsection (2), or any person claiming a lien thereon, other than the towing-storage operator, may initiate judicial proceedings within 10 days after the time she or he has knowledge of the location of the vehicle or vessel, may file a complaint in the county court of competent jurisdiction in the county in which the vehicle or vessel is stored to determine whether the vehicle or vessel her or his property was wrongfully taken or withheld or whether fees were wrongfully charged.

(b) Regardless of whether judicial proceedings have been initiated pursuant to paragraph (a), at any time before the sale of the vehicle or

vessel by the towing-storage operator, the an owner of the vehicle or vessel, the insurance company insuring the vehicle or vessel, and any other person claiming a lien thereon, other than the towing-storage operator, or lienholder may have the her or his vehicle or vessel released upon posting with the clerk of the court in the county in which the vehicle or vessel is held a cash or surety bond or other adequate security equal to the amount of the accrued charges set forth in the notice of lien, plus accrued storage charges, at the time of the release of the vehicle or vessel, if any, for towing or storage and lot rental amount to ensure the payment of such charges in the event a court determines that the vehicle or vessel was not wrongfully taken or withheld or fees were not wrongfully charged. The owner of the vehicle or vessel, the insurance company insuring the vehicle or vessel, and any other person claiming a lien thereon, other than the towing-storage operator, may not be required to initiate judicial proceedings in order to post the bond in the registry of the court and are not required to use a particular form for posting the bond unless the clerk provides such form she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court must automatically shall issue a certificate notifying the towing-storage operator lienor of the posting of the bond and directing the towing-storage operator lienor to release the vehicle or vessel to the party that posted the bond. At the time of such release, after reasonable inspection, the party that posted the bond must she or he shall give a receipt to the towing-storage operator company reciting any claims she or he has for loss or damage to the vehicle or vessel or the contents thereof, or such claims are deemed waived.

1. Upon receiving a copy of a certificate giving notice of the posting of a bond in the required amount and directing the release of the vehicle or vessel, a towing-storage operator must release or return the vehicle or vessel to the party that posted the bond.

2. If the party posting the bond does not initiate judicial proceedings pursuant to paragraph (a) within 45 days after the issuance of the certificate by the clerk of the court, then upon request by the towing-storage operator, the clerk of the court must:

a. Release the cash to the towing-storage operator; or

b. Issue a notice certifying that a judicial proceeding has not been initiated within 45 days after the issuance of the certificate and requiring the surety that issued the bond to promptly pay the full face value of the bond to the towing-storage operator. The towing-storage operator has the obligation, upon receipt of the clerk's notice, to timely notify the surety of such notice. A notice issued by the clerk under this sub-subparagraph expires 120 days after its issuance if the notice is not delivered to the surety.

(c) Upon determining the respective rights of the parties, the court may award damages, attorney attorney's fees, and costs in favor of the prevailing party. In the any event the defendant prevails, the final order must shall provide for immediate payment in full of recovery, towing, and storage fees

by the vehicle or vessel owner or lienholder; or the agency ordering the tow; or the owner, lessee, or agent thereof of the property from which the vehicle or vessel was removed.

(6) A vehicle or vessel that is stored pursuant to paragraph (2)(b) subsection (2) and remains unclaimed, or for which reasonable charges for recovery, towing, or storing remain unpaid, and any contents not released pursuant to subsection (10), may be sold by the owner or operator of the storage space for such towing or storage charge 35 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is an older model ~~more than 3 years of age~~ or 57 50 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is a newer model ~~3 years of age or less~~. The sale must ~~shall~~ be at public sale for cash. If the date of the sale was not included in the notice required in subsection (4), notice of the sale must ~~shall~~ be given to the person in whose name the vehicle or vessel is registered and to all persons claiming a lien on the vehicle or vessel as shown on the records of the Department of Highway Safety and Motor Vehicles or of any corresponding agency in any other state in which the vehicle is identified through a records check of the National Motor Vehicle Title Information System or an equivalent commercially available system as being titled. Notice of the sale must be sent by certified mail to the registered owner of the vehicle or vessel, the insurance company insuring the vehicle or vessel, and the person having the recorded lien on the vehicle or vessel at the address shown on the records of the registering agency at least 30 days before the sale of the vehicle or vessel. ~~The notice must have clearly identified and printed, if the claim of lien is for a motor vehicle, The last 8 digits of the vehicle identification number of the motor vehicle subject to the lien, or, if the claim of lien is for a vessel, the hull identification number of the vessel subject to the lien, must be clearly identified and printed in the delivery address box and on the outside of the envelope sent to the registered owner, the insurance company insuring the vehicle or vessel, and all other persons claiming an interest in therein or lien on the vehicle or vessel thereon. The notice must be sent to the owner of the vehicle or vessel and the person having the recorded lien on the vehicle or vessel at the address shown on the records of the registering agency at least 30 days before the sale of the vehicle or vessel.~~ The notice must state the name, physical address, and telephone number of the lienor, and the vehicle identification number if the claim of lien is for a vehicle or the hull identification number if the claim of lien is for a vessel, all of which must also appear in the return address section on the outside of the envelope containing the notice of sale. After diligent search and inquiry, if the name and address of the registered owner or the owner of the recorded lien cannot be ascertained, the requirements of notice by mail may be dispensed with. In addition to the notice by mail, public notice of the time and place of sale must ~~shall~~ be made by publishing a notice thereof one time, at least 20 10 days before the date of the sale, on the publicly available website maintained by an approved third-party service. The third-party service must electronically report to the Department of Highway Safety and Motor Vehicles, via an electronic data exchange process using a web interface, the name, physical address, and telephone number of

the lienor; the time and place of the sale; the vehicle's license plate number, if known; the vehicle identification number, if the claim of lien is for a vehicle, or the hull identification number, if the claim of lien is for a vessel; and the amount due for towing, recovery, storage, and administrative fees. The third-party service that publishes the public notice of sale and electronically reports the required information to the department may collect and retain a service charge of no more than \$1 in a newspaper of general circulation in the county in which the sale is to be held. The proceeds of the sale, after payment of reasonable towing and storage charges, and costs of the sale, in that order of priority, ~~must shall~~ be deposited with the clerk of the circuit court for the county if the owner or lienholder is absent, and the clerk ~~must shall~~ hold such proceeds subject to the claim of the owner or lienholder legally entitled thereto. The clerk ~~is shall~~ be entitled to receive 5 percent of such proceeds for the care and disbursement thereof. The certificate of title issued under this section must ~~this law shall~~ be discharged of all liens unless otherwise provided by court order. The owner or lienholder may file a complaint after the vehicle or vessel has been sold in the county court of the county in which it is stored. Upon determining the respective rights of the parties, the court may award damages, attorney fees, and costs in favor of the prevailing party.

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

(9) Failure to make good faith efforts to comply with the notice requirements of this section precludes the imposition of any storage charges against the vehicle or vessel. If a lienor fails to provide notice to a person claiming a lien on a vehicle or vessel in accordance with subsection (4), the lienor may not charge the person for more than 5 ~~7~~ days of storage, but such failure does not affect charges made for towing the vehicle or vessel or the priority of liens on the vehicle or vessel.

(10) ~~A towing-storage operator must~~ Persons who provide services pursuant to this section shall permit vehicle or vessel owners, lienholders, insurance company representatives, or their agents, whose interest in the vehicle or vessel is evidenced by any of the documents listed in subsection (17) which agency is evidenced by an original writing acknowledged by the owner before a notary public or other person empowered by law to administer oaths, to inspect the towed vehicle or vessel and ~~must shall~~ release to the owner, lienholder, or agent the vehicle, vessel, or all personal property not affixed to the vehicle or vessel which was in the vehicle or vessel at the time the vehicle or vessel came into the custody of the towing-storage operator. The inspection and release of the vehicle, vessel, or personal

property must be permitted within 1 hour after the owner, lienholder, insurance company representative, or their agent presents any of the documents listed in subsection (17) to the towing-storage operator during normal business hours at the site where the vehicle or vessel is stored. Notwithstanding subparagraph (17)(a)6., a rental vehicle or vessel agreement is not evidence that the person who rented a vehicle or vessel is an agent of the rental vehicle or vessel owner for the purpose of releasing the vehicle or vessel. However, a towing-storage operator must release to the renter of a rental vehicle or vessel all personal property belonging to the renter which is not affixed to the rental vehicle or vessel within 1 hour after the renter's arrival person providing such services.

(11)(a) A towing-storage operator ~~Any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to paragraph (2)(b) subsection (2) and who has complied with the provisions of subsections (4) (3) and (6), when such vehicle or vessel is to be sold for purposes of being dismantled, destroyed, or changed in such manner that it is not the motor vehicle or vessel described in the certificate of title, must shall report the vehicle to the National Motor Vehicle Title Information System and apply to the Department of Highway Safety and Motor Vehicles for a certificate of destruction. A certificate of destruction, which authorizes the dismantling or destruction of the vehicle or vessel described therein, is shall be reassignable a maximum of two times before dismantling or destruction of the vehicle is shall be required, and must shall accompany the vehicle or vessel for which it is issued, when such vehicle or vessel is sold for such purposes, in lieu of a certificate of title. The application for a certificate of destruction must include proof of reporting to the National Motor Vehicle Title Information System and an affidavit from the applicant that she or he it has complied with all applicable requirements of this section and, if the vehicle or vessel is not registered in this state or any other state, by a statement from a law enforcement officer that the vehicle or vessel is not reported stolen, and must shall be accompanied by such documentation as may be required by the department.~~

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

(d) ~~Employees of the Department of Highway Safety and Motor Vehicles and law enforcement officers are authorized to inspect the records of a towing-storage operator any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels or transporting vehicles or vessels by wrecker, tow truck, or car carrier, to ensure compliance with the requirements of this section. A towing-storage operator Any person who fails to maintain records, or fails to produce records when required in a reasonable manner and at a reasonable time, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

(13)(a) Upon receipt by the Department of Highway Safety and Motor Vehicles of written notice from a wrecker operator who claims a wrecker operator's lien under subparagraph (2)(b)4. ~~paragraph (2)(d)~~ for recovery, towing, or storage of an abandoned vehicle or vessel upon instructions from any law enforcement agency, for which a certificate of destruction has been issued under subsection (11) and the vehicle has been reported to the National Motor Vehicle Title Information System, the department shall place the name of the registered owner of that vehicle or vessel on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8). If the vehicle or vessel is owned jointly by more than one person, the name of each registered owner must ~~shall~~ be placed on the list. The notice of wrecker operator's lien must ~~shall~~ be submitted on forms provided by the department and, which must include all ~~of the following~~:

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

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

(d) Upon discharge of the amount of the wrecker operator's lien allowed by paragraph (b), the wrecker operator must issue a certificate of discharged wrecker operator's lien on forms provided by the department to each

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

(17)(a) A towing-storage operator must accept an original or a copy of any of the following documents as evidence of a person's interest in a vehicle or vessel:

1. An electronic title.
2. A paper title.
3. A contract between a lender and the owner of the vehicle or vessel.
4. A contract between a lessor and the lessee of the vehicle or vessel.
5. Credentials establishing the person as an employee or contract agent of an insurance company along with documentation identifying the vehicle by the vehicle identification number or vessel by the hull identification number.
6. A written agreement evidencing that the person is an agent of the vehicle or vessel owner or lienholder.

(b) A towing-storage operator may not require any of the documents listed in paragraph (a) to be notarized, except for the agreement in subparagraph (a)6. if such agreement is presented for the purpose of releasing the vehicle or vessel.

(c) Presenting one form of current government-issued photo identification constitutes sufficient identity verification for the purposes of this section A lienor must accept either a copy of an electronic title or a paper title as evidence of a person's interest in a vehicle or vessel.

(18) A towing-storage operator must retain for 3 years records produced for all vehicles or vessels recovered, towed, stored, or released. Such records must include at least all of the following:

- (a) All notice publications and certified mailings.
- (b) The purchase price of any unclaimed vehicle or vessel sold.

(c) The names and addresses of persons to which vehicles or vessels were released.

(d) The names and addresses of vehicle or vessel purchasers.

(e) All fees imposed under this section, including the itemized invoice required under paragraph (20)(c).

(19)(a) A towing-storage operator must accept payment for accrued charges from an authorized person listed in subsection (10) in any form from at least two of the following subparagraphs:

1. Cash, cashier's check, money order, or traveler's check.

2. Bank, debit, or credit card.

3. Mobile payment service, digital wallet, or other electronic payment system.

(b) Any of the authorized persons listed in subsection (10) are not required to furnish more than one form of current government-issued photo identification when payment is made in any of the forms listed in paragraph (a).

(c) A county or municipal charter, ordinance, resolution, regulation, or rule that conflicts with paragraph (a) is expressly preempted.

(20)(a) A towing-storage operator must maintain a rate sheet listing all fees for, or incidental to, the recovery, removal, or storage of a vehicle or vessel and must do all of the following:

1. Post the rate sheet at the towing-storage operator's place of business.

2. Make the rate sheet available upon request by the vehicle or vessel owner, lienholder, insurance company, or their agent.

3. Before attaching a vehicle or vessel to a wrecker, furnish the rate sheet to the owner or operator of the vehicle or vessel, if the owner or operator is present at the scene of the disabled vehicle or vessel.

(b) Any fee charged in excess of those listed on the rate sheet required under this subsection is deemed unreasonable.

(c) An itemized invoice of actual fees charged by a towing-storage operator for a completed tow must be produced and be available to the vehicle or vessel owner, lienholder, insurance company, or their agent no later than 1 business day after:

1. The tow is completed; or

2. The towing-storage operator has obtained all necessary information to be included on the invoice, including any charges submitted by

subcontractors used by the towing-storage operator to complete the tow and recovery.

(d) The itemized invoice required under paragraph (c) must contain all of the following information:

1. The date and time the vehicle or vessel was towed.
2. The location to which the vehicle or vessel was towed.
3. The name, address, and telephone number of the towing-storage operator.
4. A description of the towed vehicle or vessel, including the color, make, model, model year, and vehicle identification number of the vehicle or hull identification number of the vessel.
5. The license plate number and state of registration for the towed vehicle or vessel.
6. The cost of the initial towing service.
7. The cost of any storage fees, expressed as a daily rate.
8. Other fees, including administrative fees, vehicle or vessel search fees, fees for hazardous material and nonhazardous material cleanup, and fees for labor.
9. A list of the services that were performed under a warranty or that were otherwise performed at no cost to the owner of the vehicle or vessel.

(e) Any service performed or fee charged in addition to those described in subparagraph (d)6. or subparagraph (d)7. must be set forth on the itemized invoice required under paragraph (c) individually as a single line item that includes an explanation of the service or fee and the exact amount charged for the service or the exact amount of the fee.

(f) A towing-storage operator must make the itemized invoice required under paragraph (c) available for inspection and copying no later than 48 hours after receiving a written request to inspect such invoice from:

1. A law enforcement agency;
2. The Attorney General; or
3. The vehicle or vessel owner, lienholder, insurance company, or their agent.

Section 6. Paragraph (a) of subsection (2) of section 715.07, Florida Statutes, is amended to read:

715.07 Vehicles or vessels parked on private property; towing.—

(2) The owner or lessee of real property, or any person authorized by the owner or lessee, which person may be the designated representative of the condominium association if the real property is a condominium, may cause any vehicle or vessel parked on such property without her or his permission to be removed by a person regularly engaged in the business of towing vehicles or vessels, without liability for the costs of removal, transportation, or storage or damages caused by such removal, transportation, or storage, under any of the following circumstances:

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

1.a. Any towed or removed vehicle or vessel must be stored at a site within a 10-mile radius of the point of removal in any county of 500,000 population or more, and within a 15-mile radius of the point of removal in any county of fewer than 500,000 population. That site must be open for the purpose of redemption of vehicles on any day that the person or firm towing such vehicle or vessel is open for towing purposes, from 8:00 a.m. to 6:00 p.m., and, when closed, shall have prominently posted a sign indicating a telephone number where the operator of the site can be reached at all times. Upon receipt of a telephoned request to open the site to redeem a vehicle or vessel, the operator shall return to the site within 1 hour or she or he will be in violation of this section.

b. If no towing business providing such service is located within the area of towing limitations set forth in sub-subparagraph a., the following limitations apply: any towed or removed vehicle or vessel must be stored at a site within a 20-mile radius of the point of removal in any county of 500,000 population or more, and within a 30-mile radius of the point of removal in any county of fewer than 500,000 population.

2. The person or firm towing or removing the vehicle or vessel shall, within 30 minutes after completion of such towing or removal, notify the municipal police department or, in an unincorporated area, the sheriff, of such towing or removal, the storage site, the time the vehicle or vessel was towed or removed, and the make, model, color, and license plate number of the vehicle or description and registration number of the vessel and shall obtain the name of the person at that department to whom such information was reported and note that name on the trip record.

3. A person in the process of towing or removing a vehicle or vessel from the premises or parking lot in which the vehicle or vessel is not lawfully parked must stop when a person seeks the return of the vehicle or vessel. The vehicle or vessel must be returned upon the payment of a reasonable service fee of not more than one-half of the posted rate for the towing or removal service as provided in subparagraph 6. The vehicle or vessel may be towed or removed if, after a reasonable opportunity, the owner or legally authorized person in control of the vehicle or vessel is unable to pay the

service fee. If the vehicle or vessel is redeemed, a detailed signed receipt must be given to the person redeeming the vehicle or vessel.

4. A person may not pay or accept money or other valuable consideration for the privilege of towing or removing vehicles or vessels 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 or vessel that the area in which that vehicle or vessel is parked is reserved or otherwise unavailable for unauthorized vehicles or vessels and that the vehicle or vessel is 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, before towing or removing any vehicle or vessel from private property without the consent of the owner or other legally authorized person in control of that vehicle or vessel, must post a notice meeting the following requirements:

a. The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property within 10 feet from the road, as defined in s. 334.03(22). If there are no curbs or access barriers, the signs must be posted not fewer than one sign for each 25 feet of lot frontage.

b. The notice must clearly indicate, in not fewer than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. The words "tow-away zone" must be included on the sign in not fewer than 4-inch high letters.

c. The notice must also provide the name and current telephone number of the person or firm towing or removing the vehicles or vessels.

d. The sign structure containing the required notices must be permanently installed with the words "tow-away zone" not fewer than 3 feet and not more than 6 feet above ground level and must be continuously maintained on the property for not fewer than 24 hours before the towing or removal of any vehicles or vessels.

e. The local government may require permitting and inspection of these signs before any towing or removal of vehicles or vessels being authorized.

f. A business with 20 or fewer parking spaces satisfies the notice requirements of this subparagraph by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles or Vessels Will be Towed Away At the Owner's Expense" in not fewer than 4-inch high, light-reflective letters on a contrasting background.

g. A property owner towing or removing vessels from real property must post notice, consistent with the requirements in sub-subparagraphs a.-f., which apply to vehicles, that unauthorized vehicles or vessels will be towed away at the owner's expense.

A business owner or lessee may authorize the removal of a vehicle or vessel by a towing company when the vehicle or vessel is parked in such a manner that restricts the normal operation of business; and if a vehicle or vessel parked on a public right-of-way obstructs access to a private driveway the owner, lessee, or agent may have the vehicle or vessel removed by a towing company upon signing an order that the vehicle or vessel be removed without a posted tow-away zone sign.

6. Any person or firm that tows or removes vehicles or vessels and proposes to require an owner, operator, or person in control or custody of a vehicle or vessel to pay the costs of towing and storage before redemption of the vehicle or vessel must file and keep on record with the local law enforcement agency a complete copy of the current rates to be charged for such services and post at the storage site an identical rate schedule and any written contracts with property owners, lessees, or persons in control of property which authorize such person or firm to remove vehicles or vessels as provided in this section.

7. Any person or firm towing or removing any vehicles or vessels from private property without the consent of the owner or other legally authorized person in control or custody of the vehicles or vessels shall, on any trucks, wreckers as defined in s. 713.78(1) ~~s. 713.78(1)(e)~~, or other vehicles used in the towing or removal, have the name, address, and telephone number of the company performing such service clearly printed in contrasting colors on the driver and passenger sides of the vehicle. The name shall be in at least 3-inch permanently affixed letters, and the address and telephone number shall be in at least 1-inch permanently affixed letters.

8. Vehicle entry for the purpose of removing the vehicle or vessel shall be allowed with reasonable care on the part of the person or firm towing the vehicle or vessel. Such person or firm shall be liable for any damage occasioned to the vehicle or vessel if such entry is not in accordance with the standard of reasonable care.

9. When a vehicle or vessel has been towed or removed pursuant to this section, it must be released to its owner or person in control or custody within 1 hour after requested. Any vehicle or vessel owner or person in control or custody has the right to inspect the vehicle or vessel before accepting its return, and no release or waiver of any kind which would release the person or firm towing the vehicle or vessel from liability for damages noted by the owner or person in control or custody at the time of the redemption may be required from any vehicle or vessel owner or person in control or custody as a condition of release of the vehicle or vessel to its owner or person in control or custody. A detailed receipt showing the legal name of the company or person towing or removing the vehicle or vessel must be given to the person paying towing or storage charges at the time of payment, whether requested or not.

Section 7. This act shall take effect July 1, 2024.

Approved by the Governor March 22, 2024.

Filed in Office Secretary of State March 22, 2024.

February 26, 2024

Beach Towing Services, Inc.
1349 Dade Blvd.
Miami Beach, FL 33139

RE: Commercial Package Policies

Attn Michael Festa;

As requested, below is a breakdown of your premiums over the last 5 years :

- 2020-2021 : \$288,546
- 2021-2022 : \$138,106
- 2022-2023 : \$180,356
- 2023-2024 : \$168,397
- 2024-2025 : \$410,677

Your premiums are higher due to territory and location which limits the markets available. This is the cause of the significant increase.

Best Regards,



Jennifer Benedetto

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AMENDMENT NO. 1 TO THE CITY'S ADMINISTRATIVE RULES AND REGULATIONS FOR POLICE AND PARKING TOWING PERMITS; SAID AMENDMENT NECESSARY TO CONFORM WITH CERTAIN PROVISIONS OF THE RULES AND REGULATIONS TO NEWLY ENACTED STATE LAW (HOUSE BILL NO. 179); AND FURTHER APPROVING AN INCREASE IN BEACH TOWING SERVICES, INC.'S AND TREMONT TOWING INC.'S (PERMITTEES) ADMINISTRATIVE FEE FOR NON-RESIDENT TOWS FROM THE CURRENT \$77, TO \$110 CONDITIONED ON THE PERMITTEES' AGREEMENT TO A \$50 FLAT RATE TOW FOR CITY RESIDENTS DURING FLOODS AND OTHER SPECIFIED SEVERE WEATHER EVENTS; WITH SAID AMENDMENT, INCREASED ADMINISTRATIVE FEES AND FLAT RATE TOWING FEES FOR RESIDENTS TO TAKE EFFECT ON JULY 1, 2024.

WHEREAS, Chapter 106, Article V, Division 2 of the City Code, provides for the issuance of towing permits for the towing of vehicles identified by the City as requiring removal from the public right of way (the "Police and Parking Towing Permits" or "Towing Permits"); and

WHEREAS, on June 22, 2022, pursuant to Resolution No. 2022-32206, the Mayor and City Commission approved the issuance of new Towing Permits to Beach Towing Services, Inc., and Tremont Towing, Inc., (the "Permittees"), for a three (3) year term, commencing August 1, 2022; and

WHEREAS, the City Code, also provides for the promulgation of rules and regulations, as may be necessary, to govern the discharge of towing and/or storage of vehicles identified by the City's Police Department or the City's Parking Departments as requiring removal from the public right of way (the "Administrative Rules and Regulations"); and

WHEREAS, the latest version of the Administrative Rules and Regulations was adopted on June 22, 2022, pursuant to Resolution No. 2022-32206; and

WHEREAS, on March 22, 2024, Governor Ron DeSantis signed into law Committee Substitute for House Bill No. 179, which will take effect on July 1, 2024 ("HB 179"); and

WHEREAS, HB 179 will impact towing companies and, specifically, the Permittees' operations by among other things: (1.) reducing the period for pending lien notices from seven (7) to five (5) days; (2.) clarifying that a rental car agreement shall not longer be considered as proof that a renter is an agent of the vehicle or authorized vehicle owner; (3.) establishing requirement for cities and counties to post their Maximum Allowable (Towing) Rates and rate dispute procedure on their governmental websites; (4.) establishing required forms of payment; and (5.) establishing miscellaneous other regulatory requirements; and

WHEREAS, after reviewing HB 179, it has been determined that several of the provisions in the Administrative Rules and Regulations conflict with HB 179; an amendment to the Rules and Regulations is therefore necessary to comply with State Law; and

WHEREAS, the Permittees have notified the City's Parking Department that their compliance with HB 179, together with sustained inflation and rising insurance, equipment, and labor costs, places an "untenable financial burden" on them; and

WHEREAS, as a result, the Permittees have represented that they can no longer afford the current \$77 (currently as of October 1, 2023 due to an increase in the Consumer Price Index ("CPI")) Administrative Fee; to remain financially viable, they have requested that the Mayor and City Commission approve an increase to the Administrative Fee charged for non-resident tows from the current \$77, to \$150, effective July 1, 2024.

WHEREAS, the Administrative Fee for City residents would remain at the current rate of \$77, and subject to future CPI increases; and

WHEREAS, to remain financially viable and to continue to provide the expected levels of service to the City, the Permittees have represented that they must increase the Administrative Fee, for non-City resident tows only, to \$150; and

WHEREAS, as a result of these discussions, the Administration and the Permittees have agreed to the following (subject to City Commission consideration):

- \$110 Administrative Fee, for non-City residents, which reflects a 43% increase from the current amount of \$77, and a 27% decrease from the Permittee's requested amount of \$150; and
- \$50 flat rate tow for City residents to any location within City limits as a result of a flood event, tropical storm, hurricane, or natural disaster, as indicated via a flash flood warning, flash flood emergency via the National Weather Service ("NWS") and/or a state of emergency declaration issued by the City, Miami-Dade County, State of Florida, and/or the United States government.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby:

- (1.) Approve Amendment No. 1 to the City's Administrative Rules and Regulations for Police and Parking Towing Permits; said amendment required in order to comply with State Law (newly enacted HB 179), and to take effect on July 1, 2024;
- (2.) As requested by the City's Towing Permittees, Beach Towing Services, Inc. and Tremont Towing, Inc., the Mayor and City Commission hereby approve an increase to the Administrative Fee, for non-resident tows only, from \$77 to \$110, with such increase to be effective on July 1, 2024; and
- (3.) In consideration of, and as a condition to, the Administrative Fee increase, the permittees have agreed to a \$50 flat rate tow for City residents to any location within City limits as a result of a flood event, tropical storm, hurricane, or natural disaster, as indicated via a flash flood warning, flash flood emergency via the National Weather Service ("NWS") and/or a state of emergency declaration issued by the City, Miami-Dade County, State of Florida, and/or the United States government.

PASSED and **ADOPTED** this ____ day of ____ 2024.

ATTEST

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

RW/DM/JRG

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

6/18/2024

Date

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Rickelle Williams, Interim City Manager *RW*

DATE: June 26, 2024

TITLE: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AMENDMENT NO. 1 TO THE CITY'S ADMINISTRATIVE RULES AND REGULATIONS FOR POLICE AND PARKING TOWING PERMITS; SAID AMENDMENT NECESSARY TO CONFORM WITH CERTAIN PROVISIONS OF THE RULES AND REGULATIONS TO NEWLY ENACTED STATE LAW (HOUSE BILL NO. 179); AND FURTHER APPROVING AN INCREASE IN BEACH TOWING SERVICES, INC.'S AND TREMONT TOWING INC.'S (PERMITTEES) ADMINISTRATIVE FEE FOR NON-RESIDENT TOWS FROM THE CURRENT \$77, TO \$110 CONDITIONED ON THE PERMITTEES' AGREEMENT TO A \$50 FLAT RATE TOW FOR CITY RESIDENTS DURING FLOODS AND OTHER SPECIFIED SEVERE WEATHER EVENTS; WITH SAID AMENDMENT, INCREASED ADMINISTRATIVE FEES AND FLAT RATE TOWING FEES FOR RESIDENTS TO TAKE EFFECT ON JULY 1, 2024.

RECOMMENDATION

The City Administration ("Administration") recommends that the Mayor and City Commission ("City Commission") adopt the Resolution.

BACKGROUND/HISTORY

The City of Miami Beach ("City") is authorized to issue towing permits for the discharge of towing and/or storage of vehicles identified by the City's Police Department or Parking Department, required for the removal of vehicles from the public rights-of-way (the "Towing Permits").

The City currently issues Towing Permits to the following two (2) providers which satisfy all of the City's requirements, both in the City Code and pursuant to the City's Administrative Rules and Regulations for Police and Parking Towing Permits (the "Administrative Rules and Regulations"):

- 1.) Beach Towing Services, Inc. and
- 2.) Tremont Towing, Inc. (the "Permittees").

The Permittees work closely with the City's Police and Parking departments, respectively, and have consistently provided good and capable service to the City. Most recently, in response to the severe flooding that occurred in Miami Beach, the Permittees volunteered to offer their services, free of charge, to assist residents with towing their stalled vehicles out of floodwaters.

On June 4, 2024, the Administration received a letter (Attachment A) from the Permittees' legal counsel, Rafael Andrade, Esq., regarding a newly enacted State Law, Committee Substitute for House Bill No. 179 ("HB 179") (Attachment B), which will take effect on July 1, 2024, and which will impact the City and the Permittees in several ways, including the City's current Administrative Rules and Regulations.

ANALYSIS

HB 179 resulted from extensive lobbying efforts by rental car companies, including, but not limited to, Enterprise, Alamo, and National rental car corporations. The resulting State law requires amending the City's Administrative Rules and Regulations, since some existing provisions will, as of July 1, 2024, be in conflict with the new State law. In summary, the proposed amendments included in HB 179 and their impact on the City's Administrative Rules and Regulations are as follows:

- 1.) Counties or municipalities that establish Maximum Allowable rates will be required to post the rates on their websites, as well as the process they follow for complaints regarding fees charged in excess of the rates. It should be noted that the City is in compliance with this requirement, as rates and a complaint process are currently included in the Towing Bill of Rights posted on the City's website, thus this new provision in the law does not require an amendment to the City's Administrative Rules and Regulations; and
- 2.) Towing companies/Permittees are now required to send lien notices (for unclaimed vehicles or for which charges for towing or storage services remain unpaid) within five (5) calendar days, rather than the current seven (7) days. Note this new provision does not require an amendment to the City's Rules and Regulations, simply compliance by the Permittees; and
- 3.) For purposes of releasing a towed vehicle, Tow companies/Permittees may no longer accept a rental car agreement from a renter of the vehicle as evidence that the person who rented the vehicle is an agent of the rental vehicle. Instead, the renter of a vehicle must now present a notarized agreement evidencing that the renter is an agent of the vehicle. This amendment to the current law will greatly impact the City and further investigation will be required to determine what, in effect, will be satisfactory proof under the new law for a renter to present to a tow company in order to obtain a release of their rental vehicle. Note this new provision in the law requires an amendment to the City's Rules and Regulations; and
- 4.) Tow companies/Permittees are authorized under HB 179 to accept two (2) forms of payment from a list that includes (i) cash, cashier's check, money order or traveler's check, (ii) bank, debit, or credit card, and (iii) mobile payment service, digital wallet or other electronic payment system. Currently, the City's Administrative Rules and Regulations do not include mobile payment, digital wallet or other electronic payment systems, thus, an amendment to the City's Administrative Rules and Regulations is required to include these new forms of payment which the Permittees have expressed that they would accept. It is important to note that in addition to (i) and (iii), the Permittees will continue to accept credit card and debit card payments from City residents only, and only debit card payments from Miami-Dade County residents.

In addition to the above, the Permittees have requested, via the June 4, 2024 letter to the Interim City Manager, that the City approve an increase to the Administrative Fee, for non-resident tows, from \$75 (currently \$77 as of October 1, 2023 due to an increase in the Consumer Price Index ("CPI")) to \$150. The Administrative Fee for City residents would remain at the current rate of \$77, and subject to future CPI increases. The Permittees recently met with the City's Parking Department staff and stated that the proposed increase in the Administrative Fee for non-City residents is necessary as compliance with HB 179 (particularly in terms of the reduced time for filing notices of lien) will increase their operating costs. Additionally, the Permittees represented

that rising operating costs due to sustained inflation and rising insurance, equipment, and labor costs have created a financial burden. To remain financially viable and to continue to provide the expected levels of service to the City, the Permittees have represented that they must increase the Administrative Fee, for non-City resident tows only, to \$150. On June 17, 2024, the Permittees' legal counsel, Rafael Andrade, Esq., provided an email to the Administration with an attached letter (Attachment C), dated February 26, 2024, from Chase Insurance Agency, Inc. addressed to Beach Towing Services, Inc. with a breakdown of Beach Towing's annual insurance premiums for the last five (5) years. The letter documents a significant increase from \$168,397 in 2023/2024 to \$410,677 in 2024/2025 (an increase of approximately \$242,000 over a one (1) year period). Beyond the letter, the Permittees have not provided any additional evidence, empirical data, or costs to further substantiate their claim. Notwithstanding, the Administration has negotiated in good faith with the Permittees' legal counsel. As a result of these discussions, the Administration and the Permittees have agreed to the following (subject to City Commission consideration):

- Administrative Fee of \$110, for non-City resident tows, which reflects a 43% increase from the current amount of \$77, and a 27% decrease from the Permittee's requested amount of \$150; and
- Flat rate tow of \$50, for City residents only, to any location within City limits as a result of a flood event, tropical storm, hurricane, or natural disaster, as indicated via a flash flood warning, flash flood emergency via the National Weather Service ("NWS") and/or a state of emergency declaration issued by the City, Miami-Dade County, State of Florida, and/or the United States government.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? (FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on . See BIE at:
<https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

N/A

CONCLUSION

The proposed amendments to the City's Administrative Rules and Regulations are necessary in order to comply with the new State law resulting from HB 179, which will take effect on July 1, 2024. With regard to the Permittees' requested increase in the Administrative Fee, for non-City resident tows only, from \$75 (currently \$77 as of October 1, 2023 due to an increase in the Consumer Price Index ("CPI")) to \$150, the Permittees have stated that the increase is necessary in order for them to remain financially viable, and to continue to provide the City with the expected levels of service. The Administrative Fee for City residents would remain at the current rate of \$77, and subject to future CPI increases.

The Administration has negotiated in good faith with the Permittees legal counsel; and, as a result, the Administration and the Permittees have agreed, subject to City Commission consideration, to an

Administrative Fee of \$110, for non-City resident tows, and a flat rate tow of \$50, for City residents only, to any location within City limits as a result of a flood event, tropical storm, hurricane, or natural disaster, as indicated via a flash flood warning, flash flood emergency via the National Weather Service ("NWS") and/or a state of emergency declaration issued by the City, Miami-Dade County, State of Florida, and/or the United States government.

It should be noted that the Permittees are the only two (2) service providers which satisfy the City's towing requirements under the City Code and the City's Administrative Rules and Regulations. Further, the Permittees have and are providing good and capable towing services to the City, and these services continue to be necessary.

The attached Resolution for City Commission consideration sets forth the necessary amendments to the City's Administrative Rules and Regulations. The City's Administrative Rules and Regulations will be amended administratively prior to the new State law taking effect on July 1, 2024.

The Administration recommends that the City Commission approve Amendment No. 1 to the City's Administrative Rules and Regulations; said Amendment necessary to conform with certain provision of the rules and regulations to newly enacted State law (House Bill 179); and further approving an increase in the Permittees' Administrative Fee for non-City resident tows from the current \$77 to \$110, conditioned on the Permittees' agreement to a \$50 flat rate tow for City residents during floods and other specified severe weather events; with said amendment, increased Administrative Fees and flat rate towing fees for residents to take effect on July 1, 2024.

Since the new law, HB 179, shortens the time for the towing companies (Permittees) to file a Notice of Lien (for unpaid charges) from 7 to 5 days, Permittees have informed the City that they can longer agree to maintain the voluntary 36 hour waiting period (i.e. within which to delay sending the lien notices) set forth in the current Administrative Rules and Regulations. Therefore, this Supplemental Memorandum will amend the original Commission Memorandum to advise the Mayor and City Commission that a further amendment to the Administrative Rules and Regulations will be necessary to eliminate and delete the language requiring the 36 hour voluntary hold (which language is found in Section 22(C)(3) of the Rules and Regulations).

After meeting with Permittees, the Administration has no objection to the above amendment.

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

Yes

Is this item related to a G.O. Bond Project:

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? Yes

If so, specify the name of lobbyist(s) and principal(s): Ralph Andrade

Department

Parking

Sponsor(s)

Co-sponsor(s)