



Interoffice Memorandum

February 27, 2023

TO: Mayor Jerry L. Demings
— AND —
County Commissioners

FROM: Byron W. Brooks *BWB*
County Administrator, County Administration

CONTACT PERSON: Lucas Daniel Boyce
Assistant to the County Administrator, County Administration
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SUBJECT: March 7, 2023 – Public Hearing Item
Amendments to Chapter 35, Traffic; Article II. Administration and
Enforcement. (Trespass Towing Rates, Nonconsensual Towing Rates,
Vehicle Immobilization, and Ancillary Fees)

On January 24, 2023, staff presented a second work session in response to the feedback, additional inquiries, and concerns raised during the September 27, 2022 work session. These issues centered around consumer protections relating to nonconsensual towing and industry cost increases over time. The public hearing on March 7, 2023 will address specific code amendments responsive to industry cost changes and Board feedback.

Staff's presentation will outline purpose of the public hearing and briefly cover background from the two work sessions that preceded the public hearing, including research regarding the towing industry's request to add a 3% processing or finance fee for the use of credit cards. Staff will then outline proposed code amendments for the Board's consideration.

Action Requested **Adopt an Ordinance amending the Orange County Code, Chapter 35, Traffic; Article II. Administration and Enforcement; allow staff to correct any non-substantial grammatical errors; and approve the proposed ordinance, including any changes made by the Board, and provide an effective date. All Districts**

C: Jeffrey Newton, County Attorney
Jon Weiss, Deputy County Administrator
Alan Marshall, Assistant to the Director, Planning Environmental Development Services
Scott D. Shevenell, Attorney, County Attorney's Office

ORDINANCE NO. 2023-_____

AN ORDINANCE RELATING TO TRESPASS TOWING,
NONCONSENSUAL TOWING, AND VEHICLE
IMMOBILIZATION IN ORANGE COUNTY, FLORIDA;
AMENDING DIVISION 3 OF ARTICLE II OF CHAPTER 35
OF THE ORANGE COUNTY CODE OF ORDINANCES TO
INCREASE THE MAXIMUM RATES AND FEES THAT
MAY BE CHARGED FOR CERTAIN TOWING SERVICES;
AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE
COUNTY:

Section 1. Amendments to Division 3 of Article II, Chapter 35. Division 3 of Article II, Chapter 35, Orange County Code, relating to vehicle towing and immobilization, is hereby amended to read as follows, with additions being shown by underlines and deletions being shown by strike-throughs:

**DIVISION 3. – TRESPASS TOWING FROM PRIVATE PROPERTY,
NONCONSENSUAL TOWING, AND VEHICLE IMMOBILIZATION**

Sec. 35-51. Title.

This Division III of Article II of Chapter 35 of the Orange County Code shall be known as the “trespass towing, nonconsensual towing, and vehicle immobilization” ordinance.

Sec. 35-52. Findings.

(a) The board of county commissioners finds that immobilization and towing of motor vehicles is undertaken at all hours of the day and night and can leave motorists and their passengers, including small children, stranded and vulnerable.

(b) The board finds that towing services frequently are provided without the prior consent of the vehicle owner, or under exigent circumstances that prevent negotiation of the charges, terms, and conditions for the towing service, often resulting in disagreements and complaints between vehicle owners and towing companies.

40 (c) The board finds that towing companies often hire
42 employees on a commission basis to patrol parking lots, which
44 creates a financial incentive on the part of tow truck operators to tow
vehicles in circumstances where towing may not be in the private
property owner's interest.

46 (d) The board finds that the needs of private property
48 owners for relief from unauthorized parking must be balanced with
50 the need to provide appropriate protection to consumers. While
52 private property owners should be able to manage parking issues
associated with their property using the services of towing
companies, allowing towing companies to manage parking issues or
to decide which vehicles are susceptible to trespass towing is not in
the public interest.

54 (e) The board finds that the qualifications of towing or
56 immobilization services and the manner in which towing services
are rendered affect the health, safety, and welfare of Orange County
residents and visitors.

Sec. 35-53. Scope.

58 (a) This ordinance shall be effective throughout the
60 unincorporated area of Orange County, and within any municipality
as provided by Section 704 of the Orange County Charter, as it may
62 be amended from time to time, unless a municipality chooses to
enact an ordinance covering the same subject matter, activity, or
64 conduct as the County ordinance. If a municipality has adopted its
own ordinance covering the same subject matter, activity, or
66 conduct as the County ordinance, then the County's ordinance shall
not apply within such municipality. Orange County shall not be
68 responsible for enforcing this ordinance within municipalities, but
reserves the jurisdiction and right to enforce this ordinance within a
municipality as it may deem necessary.

70 (b) No towing or immobilization service shall
72 immobilize, tow, or otherwise transport a vehicle for compensation
when the point of origin of the tow or transportation is within
74 Orange County unless such towing or immobilization service
complies with the requirements of chapters 713 and 715, Florida
Statutes, and the applicable provisions of this article.

Sec. 35-54. Definitions.

76 (a) *Authorized driver/agent* shall mean a person legally
78 authorized to be in control of the vehicle or to act on behalf of the
vehicle owner, including the registered owner or lessee, contract
80 lessee, operator, lienholder, or person authorized by any of the
foregoing to act on behalf of same. Such agency may be established

82 by any valid or easily verified record form, including but not limited
84 to electronic mail, electronic record, or facsimile transmission.

84 (b) *Connected* in reference to a vehicle shall mean that
86 at least two of the vehicle's wheels are raised from the ground and
88 the connection is in compliance with the requirements of section
316.222, Florida Statutes (related to stop lamps and turn signals) and
section 316.525, Florida Statutes (requirements for vehicles hauling
loads).

90 (c) *Drop* shall mean an instance where the vehicle owner
92 or authorized driver/agent arrives at the scene prior to the complete
installation of an immobilization device and the departure of the
94 immobilization agent; it shall also mean an instance in which the
vehicle owner or authorized driver/agent arrives at the scene after
96 the vehicle has been connected to the towing or removal apparatus,
but before the tow truck has left the premises or parking lot with the
vehicle.

98 (d) *Duly authorized agent* shall mean a person
designated by and acting on behalf of a real property owner per
100 contractual agreement to request trespass towing. The duly
authorized agent shall have no affiliation with the towing or
102 immobilization service providing the trespass towing service. The
real property owner shall only appoint duly authorized agents with
104 a direct connection to the property (e.g., board member, employee
of the property management company or home/condo owner's
106 association, employee or lessee of the real property owner, or state
of Florida licensed security agency contracted by the real property
108 owner).

110 (e) *Gross vehicle weight* shall mean the weight of a
vehicle as specified by the vehicle's manufacturer.

112 (f) *Immobilize, immobilizing, and immobilization* shall
mean the use of a "boot" or other mechanism that causes a vehicle
114 to be immobile or otherwise renders a vehicle immobile or
inoperable.

116 (g) *Nonconsensual towing* shall mean the removal and
storage of wrecked or disabled vehicles from an accident scene or
the removal and storage of vehicles in the event the owner or
118 operator is incapacitated, unavailable, leaves the procurement of
wrecker service to the law enforcement officer at the scene, or
120 otherwise does not consent to removal of the vehicle, excepting,
however, all incidents of "trespass towing" as defined herein.

122 (h) *Property owner* shall mean that person who exercises
dominion and control over a parcel of real property, including but
124 not limited to the legal title holder, lessee, a resident manager, a

property manager, or other duly authorized agent who has legal authority to bind the owner. A person providing a towing or immobilization service may not be appointed as a duly authorized agent for a property owner.

(i) *Roam towing* shall mean trespass towing of vehicles by a towing or immobilization service without express written authorization from the property owner for each vehicle removed.

(j) *Storage site* shall mean all sites to which vehicles towed from within Orange County will be stored.

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

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

(m) *Trespass towing* shall mean towing or removal of a vehicle without the consent of the vehicle's owner or operator, as such is authorized by Section 715.07, Florida Statutes, when that vehicle is parked on private real property, excepting, however, all incidents of "nonconsensual towing" as defined herein.

Sec. 35-55. Exemptions.

(a) This article shall not apply to the towing or immobilization of a vehicle that occurs:

(1) At the direction of a law enforcement officer, community service officer, code enforcement officer, or parking specialist of the county pursuant to an agreement or contract between the county and a towing service; or

(2) With the consent of the vehicle's owner or operator; or

(3) At property owned by any governmental entity where the towing or immobilization of motor vehicles has been authorized by said governmental entity or its site manager, duly authorized agent, or lessee.

Sec. 35-56. Prerequisites and requirements for immobilization and trespass towing of vehicles on private property.

(a) ***Business tax receipt required.*** Every person, company, corporation, or other entity that owns or operates a service that engages in trespass towing or immobilization of vehicles or vessels for compensation within Orange County must obtain a

business tax receipt issued by Orange County, consistent with the provisions of Chapter 205, Florida Statutes, Section 25-53, Orange County Code, and any other applicable provisions of Chapter 25. In addition to the above, any such company that operates or maintains a storage site must obtain a business tax receipt issued by Orange County for the site. A separate business tax receipt is required for each location where towed vehicles and/or immobilization equipment are stored.

(b) Agreement required.

(1) Prior to trespass towing or immobilization of any vehicle, the property owner of the real property from which such tow or immobilization is to be made and the towing or immobilization service shall have executed a non-transferable written agreement, which shall contain, at a minimum, the following provisions:

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

b. The name of the real property owner and the name and individual email address of any duly authorized agent, and the address and/or legal description of the real property from which the vehicle(s) will be towed or at which the vehicle(s) will be immobilized. A property owner with multiple tenants shall list all businesses covered by the agreement;

c. The duration of the agreement;

d. The time of day that such towing or immobilization is authorized;

e. The days of the week that such towing or immobilization is authorized;

f. An enumerated list of all fees to be charged to either the property owner or vehicle owner/operator, which shall not exceed the amounts stated herein;

g. The address and description of the location where the vehicle will be towed/stored or immobilized. Said storage site shall not be more than ten (10) miles from where the tow originates;

h. The exact wording of each sign and a description of the location of each sign on the

property, which shall conform to Sections 713.78 and 715.07, Florida Statutes, and this article; and

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

(2) A copy of the agreement must be filed with the Sheriff's Office as per Section 715.07(6), Florida Statutes. All towing or immobilization services shall keep such agreements on file and make them available for inspection and/or copying to any law enforcement officer or code enforcement officer during normal business hours. A copy of the towing or immobilization service's business tax receipt must be attached as an addendum to the agreement.

(3) Along with the agreement, the towing or immobilization service must submit:

a. A map showing the location of the real property from which vehicles will be towed, with a ten-mile radius drawn around such property, and the location of the storage site to which vehicles will be towed;

b. Photos showing the signage at the storage site; and

c. A list of driver names and identification numbers.

(4) Any modification to the agreement on file with the Sheriff's Office, including any change in the ownership of either the towing or immobilization service or the subject property, requires that a new written agreement meeting the requirements of this article be executed and filed with the Sheriff's Office prior to any trespass towing from the subject property. For changes to the list of duly authorized agents, an addendum to the agreement must be executed and filed with the Sheriff's Office.

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

250 (c) **Signage.** Prior to every vehicle trespass tow or
252 immobilization, the towing or immobilizing service shall ensure that
notice is posted upon such property that meets the following
requirements:

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

262 (2) The notice must clearly display the
following, which shall be visible from the public right-of-
way or adjoining private property night or day:

264 a. The words "Tow-Away Zone" in
light-reflective letters not less than four (4) inches
266 high on a contrasting background.

268 b. In light-reflective letters not less than
two (2) inches high on a contrasting background,
notice that unauthorized vehicles and vessels will be
270 towed away at the owner's expense.

272 c. The words "Strictly Enforced" in
letters not less than two (2) inches high. If it is a 24-
hour enforcement, the words, "Strictly Enforced 24
274 Hours 7 Days a Week" in letters not less than one and
one-half (1½) inches high.

276 d. In letters not less than one-half inch
(½) high, the following: "Chapter 35, Orange County
278 Code and Section 715.07, Florida Statutes."

280 e. At any place or property where
vehicles and vessels are subject to immobilization,
the following words in letters not less than two (2)
282 inches high, "Unauthorized vehicles and vessels are
subject to being towed or booted."

284 f. The name and telephone number of
the towing or immobilization service must be
286 included on the sign. (A pager number is not
sufficient.)

288 g. A Quick Response (QR) code,
provided by the County, must be included on the
290 bottom of the sign or on a second sign placed on the
same signpost, facing the same direction as the tow-
292 away sign, alongside the words, "For more

information, go to www.ocfl.net/parking or scan this code" in letters not less than one-half (½) inch high. The QR code shall be not less than one (1) inch by one (1) inch in size.

(3) The sign structure must be permanently installed with the words "Tow-Away Zone" not less than three (3) feet and not more than six (6) feet above ground level.

(4) The required signs must be continuously maintained on the property for no fewer than twenty-four (24) hours prior to the towing or immobilization of any vehicle.

(5) The property owner shall be responsible for keeping signs clean of mildew and vegetation and in good repair, and for replacing signs that become faded.

(6) Premises with twenty (20) or fewer parking spaces may satisfy the notice requirements of this section by prominently displaying a sign stating "Reserved Parking for Authorized Persons/Current Customers Only. Unauthorized Vehicles and Vessels Will Be Towed Away or Booted at the Owner's Expense" and the words "Strictly Enforced" in not less than four (4) inch high, light-reflective letters on a contrasting background. The sign also must include the name and telephone number of the towing or immobilization service. (A pager number is not sufficient.)

(7) The notice requirements do not apply to property appurtenant to and obviously a part of a single-family residence, or in instances when notice is personally given to the vehicle owner or person in control of the vehicle that the area is reserved or otherwise unavailable and any unauthorized vehicle is subject to being removed at the owner's or operator's expense.

(8) If a vehicle obstructs access to a private driveway, the property owner, lessee, or duly authorized agent may have the vehicle removed by a towing service upon signing an order that the vehicle be removed without a posted tow-away zone sign. It is prohibited for the towing or immobilization service to tow the vehicle without such order. Said order shall be kept by the towing or immobilization service for one (1) year from the date of the tow and made available for inspection by the Orange County Sheriff's Office or code enforcement officers.

(9) Except as specifically provided herein, property owners and towing or immobilization services are prohibited from engaging in trespass towing or immobilization from or on any private property where the notice or sign structure is not in compliance with this section.

(d) **Insurance.** Any towing or immobilization service or person engaged in towing or otherwise transporting vehicles for compensation or providing vehicle storage services in connection therewith shall maintain in effect, for each towing vehicle, an insurance policy or policies that meets the following requirements:

(1) The insurance policy or policies indemnify or insure such towing or immobilization service or person for its liability at a minimum of \$300,000 of liability insurance and at least \$50,000 of on-hook cargo insurance.

(2) The insurance carrier or company shall qualify as an insurance company authorized to transact business in the State of Florida pursuant to Chapter 624, Part III, Florida Statutes. The insurance carrier or company must be a participant in the Florida Insurance Guaranty Association.

(3) Policies shall be for a minimum term of six (6) months.

(4) A copy of the insurance certificate must be filed with the Sheriff's Office, and all towing or immobilization services shall keep insurance policy documentation on file and shall make such documentation available for inspection and/or copying to any law enforcement officer or code enforcement officer during normal business hours.

(e) **Storage facility requirements.** Any storage site used in conjunction with vehicles towed pursuant to this ordinance must meet the following requirements:

(1) The facility is surrounded by a chain-link or solid-wall type fence at least 6 feet in height;

(2) The facility is illuminated with lighting of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet during nighttime;

(3) Signage visible from the public right-of-way line that clearly indicates the name and phone number of the towing or immobilization service. If the facility is shared by more than one towing or immobilization service, the signage must list the name and phone number of every towing or immobilization service using the facility; and

378 (4) The facility meets all other applicable code
380 requirements, including, but not limited to, development
standards for the building, parking, landscaping, and
buffering.

382 **(f) *Authorization for each immobilization or tow.***

384 (1) The property owner or duly authorized agent
shall provide authorization in the form of express written
386 instruction to tow or immobilize each vehicle and shall date
and sign such instruction in the presence of the person
388 towing or immobilizing the vehicle. Authorization also may
be given by electronic mail, provided that the duly
390 authorized agent and his/her individual electronic mail
address are currently on file with the Sheriff's Office as part
392 of the agreement to tow from the property. Only the property
owner or duly authorized agent can authorize towing of a
394 vehicle or immobilization of a vehicle on the property. No
such instruction shall be considered to have been given:

396 a. by posting of signage as required in
this article;

398 b. by virtue of the mere terms of any
contract or agreement between the property owner
and the towing or immobilization service;

400 c. where the instruction occurs in
advance of the actual unauthorized parking of the
402 vehicle; or

404 d. where the instruction is general in
nature and unrelated to specific, individual, and
406 identifiable vehicles that are already parked without
authorization.

408 (2) For each vehicle to be towed or immobilized,
the owner or duly authorized agent shall issue an
authorization form that provides the following information:

410 a. Name of person authorizing tow;

412 b. Vehicle description (license, make,
color);

c. Date and time of authorization; and

414 d. Name of towing or immobilization
service and the identification number of the tow
416 vehicle operator.

418 (3) Copies of this authorization shall be kept at
both the authorizer's place of business and the towing or

420 immobilization service's place of business for a minimum
422 period of one (1) year and shall be made available to any law
424 enforcement officer or code enforcement officer for
inspection during normal business hours. A copy also shall
be provided to the vehicle owner or authorized driver/agent
upon request.

426 (g) *Roam towing.* Where private real property is
designated for student housing parking, property owners may elect
428 to authorize a towing or immobilization service to tow away or
immobilize vehicles without the express written authorization
430 required in subsection (f) between the hours of 12:00 midnight and
7:00 a.m., provided the property owner first complies with the
following requirements:

432 (1) The following language shall be added to
each of the existing tow away signs or included as an
434 additional sign, in letters not less than one and one-half (1½)-
inches high: "Roam Towing In Effect, 12:00 midnight – 7:00
436 a.m. Vehicles and vessels may be towed without prior
authorization from property management."

438 (2) The agreement required by Section 35-56(b)
of this article shall be amended to provide for roam towing
440 between the hours of 12:00 midnight and 7:00 a.m.

442 (3) Photographs of the vehicle shall be taken
prior to its removal and shall be maintained by the towing or
immobilization service for a minimum period of one (1)
444 year. The photographs shall demonstrate the violation of
law, rule, or regulation for which the vehicle was towed or
446 immobilized. The photographs also shall show the condition
of the vehicle prior to towing or immobilization. The
448 photographs shall be made available to any law enforcement
officer or code enforcement officer for inspection during
450 normal business hours. A copy also shall be provided to the
vehicle owner or authorized driver/agent upon request.

452 (4) Lease, rental, or property owners' association
documents shall contain a notice provision indicating that
454 the residential property uses roam towing. In the case of
properties with existing leases, rental agreements, or
456 property owners' association documents, it shall be sufficient
to notify each of the owners and/or tenants of the property
458 by regular mail, at their last known addresses, prior to
initiating roam towing. All new leases, rental agreements,
460 and property owners' association documents, or amendments
thereto, shall contain a provision giving notice that the
462 property owner uses roam towing, as well as a complete and

464 detailed list of all rule violations that will result in towing. A
466 copy of these provisions must be posted in the rental office,
as well as a common or public area of the complex where
they can be accessed at all times.

468 (5) At the entrance or entrances to the residential
property, a sign shall be posted stating where the parking
470 rules can be read by residents and guests. Property owners
and towing or immobilization services are prohibited from
472 engaging in towing or immobilization from or on any private
property where the notice or sign structure is not in
compliance with this section.

474 (6) Exceptions to roam towing. Roam towing is
not allowed for the sole reason that a vehicle's registration
476 has expired unless the registration has been expired for a
period greater than one (1) month, or unless the property
478 owner or the towing or immobilization service first notifies
the vehicle owner by affixing upon the window adjacent to
480 the driver's seat of the vehicle, a sticker with a completely
removable adhesive containing a warning that the vehicle
482 will be towed unless the registration is renewed within three
(3) business days. A photograph shall be taken documenting
484 that such notice has been provided.

(h) Notification of towing activity.

486 (1) Any towing or immobilization service
initiating a trespass tow or immobilization within the
488 unincorporated territory of Orange County shall notify the
Orange County Sheriff's Office within thirty (30) minutes of
490 completion of any such trespass tow or immobilization and
shall provide, at a minimum, the following information:

492 a. The name of the towing or
immobilization service;

494 b. The identification number of the
driver initiating the tow;

496 c. The address or location from which
the vehicle was towed or at which the vehicle was
498 immobilized;

500 d. The address of the storage site to
which the vehicle was towed;

502 e. The time the vehicle was
immobilized, towed, or removed; and

f. The make, model, year, color, vehicle identification number (VIN), and license plate number of the vehicle.

(2) Further, the towing or immobilization service shall obtain the Orange County Sheriff's Office case number assigned to the trespass tow or immobilization at the time of reporting the aforementioned trespass tow or immobilization information.

(3) This notification is required regardless of whether the vehicle is retrieved within 30 minutes of arriving at the storage facility.

(i) Return of vehicle owner or authorized driver/agent prior to tow or immobilization.

(1) A towing or immobilization service in the process of towing, removing, or immobilizing an unauthorized vehicle must stop when a person seeks return of the vehicle.

(2) No towing or immobilization service operating within the unincorporated territory of Orange County shall tow or immobilize a vehicle or charge for its services where the vehicle owner or authorized driver/agent arrives at the scene prior to the towing or immobilization, unless:

a. The registered vehicle owner or authorized driver/agent refuses to remove the vehicle; or

b. The vehicle already has been fully connected to the towing or removal apparatus or the immobilization device, and the vehicle owner or authorized driver/agent refuses to pay a drop fee of not more than one-half ($\frac{1}{2}$) of the rate contained in Section 35-58 for such towing or immobilization service.

(3) The tow truck or immobilization service operator shall wait a minimum of fifteen (15) minutes at the location of the drop to allow the vehicle owner or authorized driver/agent to secure payment of the fees for towing or immobilization services, which are not to exceed the fees enumerated herein. All forms of payment required by Section 35-56(o)(1) shall be accepted.

(4) Within twenty (20) minutes of receiving payment of a drop fee, the tow truck or immobilization operator shall disconnect the vehicle from the tow truck or

immobilization device and return control of the vehicle to the owner or authorized driver/agent. The tow truck or immobilization service operator shall provide a written receipt as required in Section 35-56(o)(4).

(5) The towing or immobilization service shall accept payment of any drop fees at the site of the tow or immobilization.

(j) Towing directly to storage site. All vehicles towed shall be towed directly and continuously to the storage site owned or leased by the towing service, and the towed vehicle shall not be kept in any temporary holding area.

(k) Distance requirements.

(1) No vehicle towed as the result of a trespass towing shall be towed to and/or stored at a storage site located more than ten (10) miles from the point of initiation of such trespass tow.

(2) No person shall be required to travel more than one-half (½) mile to pay fees for a vehicle that has been immobilized. Only persons whose immobilized vehicles are also towed will be required to pay fees at the location of the stored vehicle as described herein. The maximum fee permitted for vehicles that are immobilized and towed is limited to the towing fees set forth herein; a charge to remove the immobilization device shall not be charged for towed vehicles.

(l) Use of immobilization devices.

(1) Except to the extent otherwise allowed by law, the practice of placing a boot or immobilization device on a vehicle is prohibited. When placement of a boot or immobilization device is allowed by law, booting or immobilization shall occur in accordance with the provisions of this ordinance and the provisions of any applicable statute pursuant to which the vehicle is immobilized.

(2) The practice of placing a boot or other immobilization device on a vehicle to hold for towing is strictly prohibited. No immobilized vehicle shall be towed by a towing or immobilization service until at least four (4) hours have elapsed after installation of the immobilization device. In the event that a vehicle is lawfully booted or otherwise immobilized and towed under this article, a separate fee for immobilization may not be charged in addition to the towing fee; the maximum rate shall be limited

to that which may be charged for towing said vehicle as set forth herein.

(3) When immobilization is accomplished by the placement of a boot or other wheel-locking device on the vehicle, it shall be placed on the front wheel of the driver's side of the motor vehicle. The boot or wheel-locking device may be placed on any other wheel or vehicle part only if placement on the driver's side front wheel is not feasible.

(4) Once an immobilization device has been placed on a vehicle, the device must be clearly and obviously marked with the name of the towing or immobilization service and a telephone number at which said service may be reached.

(5) Immediately after a vehicle is immobilized, the person immobilizing such vehicle, the owner of the property where the vehicle was immobilized, or an employee or duly authorized agent of such person or owner, shall affix upon the window adjacent to the driver's seat of such vehicle, a sticker with a completely removable adhesive, measuring eight and one-half by eleven (8½ x 11) inches, containing a warning that any attempt to move the vehicle may result in damage to the vehicle and stating the name and business address of the person who immobilized such vehicle, as well as a business telephone number (a pager number is not sufficient) that will facilitate the dispatch of personnel responsible for removing the immobilization device. Such notice also shall include the following: "Towing and immobilization of vehicles is regulated by state law and county ordinance. Any person wishing to file a complaint regarding a violation of a towing or immobilization law may do so by contacting the Orange County Consumer Fraud Unit at www.ocfl.net/consumerprotection or at 407.836.2490."

(m) *Inspecting vehicles; retrieving personal property.*

(1) A towing or immobilization service shall allow the owner or authorized driver/agent of a towed vehicle to park on site at the storage facility while picking up or inspecting the towed vehicle, while retrieving personal property from the vehicle, or while paying a towing, storage, or immobilization fee.

(2) A towing or immobilization service shall allow the vehicle owner or authorized driver/agent to inspect

the vehicle and to remove or retrieve personal property or possessions from the vehicle at the scene of the tow or immobilization or at the storage facility, regardless of whether payment is being made. The towing or immobilization service shall release to the vehicle owner or authorized driver/agent all personal property not affixed to the vehicle. The towing or immobilization service is prohibited from charging a fee for such inspection or retrieval or refusing to allow retrieval of personal property.

(3) A towing or immobilization service shall not, as a condition of inspection of a vehicle, retrieval of a vehicle, or retrieval of personal property from a vehicle, require a vehicle owner or authorized driver/agent to sign a release or waiver of any kind that would release the company from liability for damages noted by the vehicle owner or authorized driver/agent at the time of the vehicle's release.

(n) Towing or immobilization service; hours of operation and required disclosure.

(1) Each towing or immobilization service that physically relocates vehicles shall maintain one (1) or more storage sites. A current Orange County Business Tax Receipt and, when applicable, a municipal business tax receipt is required for any storage site used in conjunction with vehicles towed pursuant to this ordinance. Such storage sites shall be open for the purpose of retrieval of vehicles by owners or authorized driver/agents on any day that the towing or immobilization service is open for towing purposes, from at least 8:00 a.m. to 6:00 p.m. When closed, the storage site shall have posted prominently on the exterior of the place of business a notice indicating a telephone number (a pager number is not sufficient) where the operator of the site can be reached.

(2) Each towing or immobilization service shall staff or monitor its telephone twenty-four (24) hours a day, seven (7) days a week, including holidays, and immediately advise any vehicle owner or authorized driver/agent who calls prior to arriving at the storage or immobilization site of the following:

a. Each and every document or other item that must be produced to retrieve the vehicle or to release the immobilization device. Proof of vehicle ownership shall not be required of a person who is paying a fee for removal of an immobilization

674 device, unless the subject vehicle has also been
675 towed;

676 b. The exact charges as of the time of the
677 telephone call, and the rate at which charges will
678 accumulate thereafter;

679 c. The acceptable methods of payment,
680 which shall include cash, money order, cashier's
681 check, and valid major debit and credit cards,
682 including but not limited to Visa and MasterCard;

683 d. Whether an automated teller machine
684 (ATM) is located at the storage site and the fee for its
use;

685 e. That the towed vehicle can be picked
686 up within one (1) hour of request; and

687 f. The location at which payment of any
688 fees may be made.

689 **(o) *Retrieval of vehicles.***

690 (1) Acceptable methods of payment shall include
691 cash, money order, cashier's check, and valid major debit and
692 credit cards, including but not limited to Visa and
693 MasterCard. If payment is made with cash, the towing or
694 immobilization service shall provide change to the closest
695 whole dollar and shall not condition payment on the owner
696 or authorized driver/agent having exact change. A person
697 paying by cashier's check shall not be required to present
698 more than one (1) form of picture identification. No
699 additional charges may be required if payment is made using
700 a credit card or debit card. All forms of payment shall be
701 accepted at the storage site for vehicles that have been
702 towed.

703 (2) The towing or immobilization service shall
704 not require that an expired registration be renewed before
705 releasing the vehicle. The towing or immobilization service
706 may charge a reasonable fee, as provided in Section 35-
707 58(a), to run a check to determine ownership of the vehicle.
708 The check must be through the appropriate state's
709 Department of Motor Vehicles or their authorized data
710 provider, who must have direct, real-time access to
711 vehicle registration and title data. Any check of the National
712 Motor Vehicle Title Information System (NMVTIS) must be
713 through a NMVTIS history provider approved by the
714 NMVTIS administrator, the American Association of Motor
715 Vehicle Administrators (AAMVA).

718 (3) Upon receiving payment of the authorized
720 towing, storage, or immobilization fees, the towing or
722 immobilization service shall release the towed or
immobilized vehicle immediately at the request of the owner
or authorized driver/agent whenever possible, but in no
event more than thirty (30) minutes after receipt of payment.

724 (4) Towing or immobilization services shall
provide a written bill at the request of the vehicle owner or
authorized driver/agent, detailing the charges to date.

726 (5) Towing or immobilization services shall
728 provide, at the time of payment, whether or not requested, a
written receipt for all charges imposed and received from the
730 vehicle owner or authorized driver/agent resulting from the
towing or immobilization of a vehicle. Said receipt shall
include, at a minimum:

732 a. The date, time, and location of the
tow or immobilization;

734 b. The total charges, listed individually
and specifically;

736 c. The date and time of payment of the
charges;

738 d. The name of the towing or
740 immobilization service, as well as the identification
number and signature of the driver initiating the tow;
and

742 e. The towing rates and standards set
forth in Section 35-58.

744 **(p) *Records required for towing or immobilization***
services.

746 (1) The towing or immobilization service shall
748 prepare and maintain a tow and immobilization data record
that shall include, at a minimum, the following information
for each vehicle towed or immobilized:

750 a. The legal name of both the towing or
752 immobilization service and the driver initiating the
tow. If not a corporation, the name of the business
owner;

754 b. The address or location from which
the vehicle was towed or immobilized;

756 c. Date and time the tow or
immobilization was initiated;

d. The destination to which the vehicle was taken;

e. The description of the vehicle, including the make, model, year, color, vehicle identification number, and license plate number;

f. The time and date the Orange County Sheriff's Office was contacted by the towing or immobilization service, and the Orange County Sheriff's Office case number assigned;

g. A description of the services rendered, including an itemized list of all charges; and

h. The date and time the vehicle was returned to the owner or authorized driver/agent or the immobilization device removed, and the name, address, and driver's license number of that owner or authorized driver/agent.

(2) All towing or immobilization services shall keep all such tow and immobilization data records on file for a period of three (3) years and shall make them available for inspection and/or copying to any law enforcement officer or code enforcement officer during normal business hours.

Sec. 35-57. Prohibitions.

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

(b) It is unlawful to tow or immobilize an emergency or law enforcement vehicle that is marked unless directed by law enforcement, code enforcement, or at the request of the owner or operator of the emergency vehicle.

(c) A commercial vehicle that reasonably appears to be of the kind routinely used for delivery of mail, packages, supplies, or other products may not be immobilized or towed if it reasonably appears that the vehicle is parked at the location for purpose of making a routine delivery or providing other service for the property owner or its lessee, unless ordered by a code enforcement or law enforcement officer.

(d) Tampering with an immobilization device that is lawfully attached to a motor vehicle is prohibited.

(e) It is unlawful for a towing or immobilization service operator to tow or immobilize a vehicle from public property unless by written agreement with the governmental real property owner,

800 lessee, or duly authorized agent; by order of law enforcement or
802 code enforcement; or with the consent of the vehicle owner or
authorized driver/agent. The towing or immobilization service shall
804 bear the burden of proof of such agreement, order, or consent, except
as otherwise allowed herein.

806 (f) No vehicle parked on a public right-of-way or that
obstructs access to a private driveway may be immobilized.

808 (g) No towing or immobilization service shall pay or
rebate money, or solicit or offer the payment or rebate of money or
810 other valuable consideration, to property owners for the right to
engage in vehicle immobilization or trespass towing from any
property.

812 (h) No towing or immobilization service shall employ or
otherwise compensate individuals, commonly referred to as
814 "spotters," who report the presence of unauthorized parked vehicles
for purposes of immobilization or towing.

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

820 (j) It is unlawful for any towing or immobilization
service to demand a drop fee if the vehicle to which they are
822 physically connected exceeds the gross vehicle weight capability of
the tow truck.

824 (k) It is unlawful for any person or towing or
immobilization service to misrepresent, misstate, or provide false
826 information on any documentation required by this article, including
the tow data sheet, receipt, or bill issued pursuant to this article.

828
Sec. 35-58. Establishment of rates.

830 (a) The maximum rates, applicable until the same are
changed by resolution or other official action, for towing or
832 immobilizing a vehicle, for storage of a towed vehicle, or for the
rendition of other services involving use of a tow truck or other
834 customary towing or immobilization services when the point of
origin of the tow or such services is within the unincorporated
836 territory of Orange County shall be assessed by vehicle type, as
follows:

838 (1) Class A vehicles [gross vehicle weight
through ten thousand (10,000) pounds or vehicle carrying a
840 vessel fifteen (15) feet or less in length]

(2) Class B vehicles [gross vehicle weight ten thousand one (10,001) pounds or more but less than nineteen thousand five hundred (19,500) pounds or vehicle carrying a vessel more than fifteen (15) feet but less than twenty-two (22) feet in length]

(3) Class C vehicles [gross vehicle weight nineteen thousand five hundred (19,500) or more pounds but less than twenty-five thousand (25,000) pounds or vehicle carrying a vessel more than twenty-two (22) feet in length]

(4) Class D vehicles [gross vehicle weight more than twenty-five thousand (25,000) pounds]

Rates for Services by Vehicle Type		Class A	Class B	Class C	Class D
1	Trespass tow (flat rate)	\$125.00 135.00	\$250.00	\$375.00	\$500.00
2	Nonconsensual tow	\$125.00 135.00	\$250.00 315.00	\$375.00 400.00	\$500.00 550.00
3	Nonconsensual tow, per mile	\$3.00 4.00	\$4.00 5.00	\$5.00 7.00	\$6.00 8.00
4	Nonconsensual tow, time beyond initial thirty (30) minutes at scene, per fifteen (15) minute block	\$31.25 39.00	\$62.50 79.00	\$93.75 116.00	\$125.00 153.00
5	Trespass or nonconsensual tow storage per day (after initial non-fee period)	\$25.00 32.00	\$35.00 44.00	\$60.00 76.00	\$60.00 76.00
6	Immobilization per day (includes installation and removal of device)	\$22.00	\$22.00	\$22.00	\$22.00
7	Research fee (actual cost, up to the maximum, for research on vehicle ownership – to be charged if vehicle registration is expired)	\$5.00 7.00	\$5.00 7.00	\$5.00 7.00	\$5.00 7.00

(b) A maximum fee of forty dollars (\$40.00) may be charged when a dolly is required to effectuate a nonconsensual tow of a Class A vehicle. Otherwise, no additional fees or charges shall be made for special equipment or services, including but not limited to double hook-up; vehicle entry when locked; dropping transmission linkage; axle or drive shaft removal; dollies; trailer or flat bed; lifts; slim jims; go jacks; removing bumpers; airing up brakes; mileage; fuel charge; copying the vehicle registration or other documents; providing copies of towing statute (Section 715.07, Florida Statutes); returning to the location where the vehicle is stored in order to release the vehicle; gate fees or fees for entering storage facility; fees for driving the vehicle out of the storage facility; additional fees for towing a tractor trailer, which shall be

considered the tow of one vehicle; or an additional fee for towing motor vehicles carrying other vehicles (boats, cars, trucks, aircraft, tractors, heavy equipment, ATVs, or motorcycles) that are securely attached, which shall be considered part of that vehicle's load.

(c) No other fees of whatever kind may be charged for services rendered during the first twenty-four (24) hours that the vehicle is in the possession of the towing service in the case of trespass tows, or the first six (6) hours in the case of nonconsensual tows, in both cases beginning from the time the vehicle is delivered to the storage facility. Storage fees as set forth above may be assessed after the initial non-fee periods based on twenty-four (24) hour increments, not on calendar days. An administrative fee of fifty dollars (\$50.00) ~~forty-five dollars (\$45.00)~~, plus all actual fees imposed by the State of Florida for obtaining ownership information [i.e. actual postage fees, actual advertising fee, and actual cost of title search for out-of-state vehicles (itemization is required)] may be charged only after the first forty-eight (48) hours of fee storage, so long as the towing service has complied with the requirements of Section 713.78, Florida Statutes, including execution and mailing of the lien notice. A one-time "tarpaulin fee" in the amount of fifteen dollars (\$15.00) may be assessed when the towing service reasonably finds it necessary to install and maintain tarpaulin coverage on any stored vehicle in order to protect the interior accessories or upholstery of such vehicle from damage by inclement weather.

(d) The maximum fees set forth herein may be changed from time to time by a resolution adopted by the board of county commissioners.

(e) The towing rates and any fees set forth above in this section shall be prominently posted and clearly legible in not less than two (2)-inch high letters on contrasting background at the point of payment at the storage site. Such notice shall be visible to the person picking up the vehicle from the place where payment is tendered. The towing service also must prominently post a clearly legible notice at the point of payment at the storage site, in letters not less than one-half (½)-inch high on contrasting background, the following statement: "Towing is regulated by Chapter 35, Orange County Code, and Section 715.07, Florida Statutes, copies of which are available by the towing service at this location upon request." On the same sign, the following language shall be included in letters not less than one-half (½)-inch high:

"TO THE VEHICLE OWNER: If you believe your vehicle was wrongfully towed and/or you have been overcharged for services rendered, you do not have to pay your bill to get your car. Instead, you have the right to post a bond in the

912 circuit court, payable to [name of towing or immobilization
914 service], in the amount of the final bill for services rendered,
916 and the court will decide later who is right. If you show us a
918 valid clerk's certificate showing that you have posted a bond,
920 we must release your vehicle to you immediately. This
remedy is in addition to other legal remedies you have
pursuant to Chapter 713, Florida Statutes. If you have a
complaint about the way services were provided, you may
contact the Orange County Consumer Fraud Unit at
www.ocfl.net/consumerprotection or 407.836.2490."

922 (f) A towing or immobilization service is prohibited
924 from engaging in trespass towing within the County unless the
above notices are prominently posted, and clearly legible, at the
point of payment at the storage site.

926 **Sec. 35-59. Enforcement of violations; penalties.**

928 (a) Each violation of this article shall constitute a
separate offense punishable as provided in section 1-9 of this Code
930 by a fine not to exceed five hundred dollars (\$500.00) or by
imprisonment in the county jail for a term not to exceed sixty (60)
932 days, or by both such fine and imprisonment. All law enforcement
officials are hereby authorized to assist in the enforcement of this
934 article to the extent that it is within their respective jurisdictions to
do so.

936 (b) Nothing in this code shall be construed to prohibit the
county from enforcing this article by alternate means including, but
938 not limited to: code enforcement or code citations pursuant to
Chapter 162, part I or II, Florida Statutes; by criminal action; by
civil action, including petitions to enjoin persons violating this
940 article; or by any other means available by law.

942 (c) Violations of this article enforced pursuant to
Chapter 162, pt. I, Florida Statutes, shall be heard before the special
magistrate authorized by Chapter 162, pt. I, Florida Statutes, and
944 Chapter 11, Article II, of this Code. Hearings in front of the special
magistrate shall be conducted in accordance with Chapter 162, pt. 1,
946 Florida Statutes, and Chapter 11, Article II, of this Code, with all
applicable procedures and available penalties as prescribed.

948 (d) Consumer Investigators assigned to the Orange
County Consumer Fraud Investigative Unit shall be considered
950 Code Inspectors for purposes of enforcing this article pursuant to
Chapter 162, pt. 1, Florida Statutes, and Chapter 11, Article II, of
952 this Code.

954 (e) Any towing or immobilization service, its owner,
operator, driver, or representative, or any person who violates this

956 article shall be liable to the owner or lessee of the vehicle for all
958 costs of recovery (including all towing, immobilization, storage, and
960 other associated fees and costs) plus attorney's fees and court costs;
962 and, in addition, shall be liable to the owner or lessee of any towed
or immobilized vehicle for any damages resulting directly or
indirectly from the placement or removal of the immobilization
device and/or from the removal, transportation, or storage of the
vehicle.

Sec. 35-60. Reserved.

964 **Section 3. Effective date.** This ordinance shall become effective on April 1, 2023.

ADOPTED THIS ____ DAY OF _____, 2023.

966 **ORANGE COUNTY, FLORIDA**
968 By: Board of County Commissioners

970
972 By: _____
974 Jerry L. Demings
Orange County Mayor

976 **ATTEST:** Phil Diamond, CPA, County Comptroller
978 As Clerk of the Board of County Commissioners

980
982 By: _____
984 Deputy Clerk