

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING THE CODE OF ORDINANCES: CHAPTER 10 "BUSINESSES", ARTICLE IV. : TOW TRUCKS AND STORAGE FACILITIES", SECTION 10-90: "MAXIMUM RATES"; SECTION 10-92: TOWN TOWING LICENSE APPLICATION; REGULATORY FEE; PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND AN EFFECTIVE DATE.

WHEREAS: In order to provide for Town-wide consistency with the maximum rates and license requirements for Tow Truck Operators to those maximum rates and license requirements of Lee County, Florida

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Fort Myers Beach, that the above referenced section of the Town Code of Ordinances is amended as follows with new language underlined and stricken language stuck-through:

I. Sec. 10-90. Maximum Rates.

(a) *Procedure for setting rates.* The town council shall establish maximum towing and storage rates for vehicles ~~picked up~~ towed from property located within the town limits. In determining such rates the town council shall consider:

- (1) Costs incurred by the wrecker operator in the storage of vehicles, including the rental or purchase of property, insurance premiums, and maintenance of storage facilities.
- (2) Costs incurred by the wrecker operator in the removal of vehicles including maintenance and operation of wrecker units;
- (3) Prior or existing contracts between wrecker services and governmental agencies for the removal and storage of vehicles;
- (4) Towing and storage charges currently imposed by wrecker services for rotation and owner's requests calls;

(5) Equal to the rates set by Lee County and currently in effect pursuant to its Code of Ordinances relating to towing and vehicle immobilization.

(b) *Rate Schedule.* Rates set shall consist of the rate schedule, as currently established; or, as hereafter adopted by resolution of the town council, from time to time.

(c) *Maximum forms charge.* A maximum fee may be charged, as currently established; or, as hereafter adopted by resolution of the town council, from time to time, to the owner/driver of a vehicle towed or stored for the preparation, filing or mailing of any forms required by state statues, local ordinance or this article, if a vehicle is in storage for more than 24 hours. This subsection does not apply to any action initiated by a wrecker operator to foreclose a lien recognized by state law.

II. Sec. 10-92. Town towing license application; regulatory fee.

(a) *Application a prerequisite to licensure.* Application for a town towing license shall be made to the town manager on a form provided by the town.

(b) *Contents of Application.* Information to be provided by the applicant shall include, at a minimum:

(1) *Business location.*

- a. The STRAP number and street address from which the towing business will be operated.
- b. If the applicant is not the owner of the property from which the towing business will be operated, the applicant shall submit a notarized letter from the owner of the property to the town.

(2) *Ownership information.*

- a. Business owner's name, home address, local address, telephone number;
- b. Manager's name, home address, local address, telephone number;
- c. Mailing address at which notice of any town information pertinent to any town towing license shall be considered received and binding upon the applicant or town towing license holder, on the fifth day after first class mail is posted to said address;
- d. State sales tax number.

(3) *Business equipment information.* The number of, and a description of, the vehicles to be used by the business, including model, year, manufacturer, color and state vehicle identification number.

(4) *Proof of insurance.* Proof of required insurance.

(5) *Fire report.* Prior to any annual license renewal, the fire marshal will submit evidence of fire safety inspection to the town.

(6) *Annual fee.* Pay an annual fee, as currently established or as hereafter adopted by resolution of the town council from time to time for:

- a. The Town's administrative processing costs; and
- b. The right to provide towing services, as provided herein.

(7) A copy of the business owner's current "wrecker operator permit" issued by the Lee County Sheriff's Office pursuant to Lee County Ordinance. No license to operate within the Town shall be issued unless the applicant holds a current wrecker operator permit issued by the Lee County Sheriff's Office. Loss, for any reason, of a wrecker operator permit issued by the Lee County Sheriff's Office shall result in immediate suspension of any town towing license issued.

(c) Misrepresentation of Information. Applicants who misrepresent information provided under this section shall not be issued a town towing license, or if issued, may suffer suspension or revocation of the town towing license. Town towing licenses shall be issued on an annual basis coinciding with the town's fiscal year, ~~October 1 through September 30.~~

III. **SEVERABILITY.** Any provision, section, paragraph, sentence, clause, or portion of this ordinance or the application thereof to any person or circumstance, is for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining provisions or portions thereof.

IV. **CODIFICATION AND SCRIVERNER'S ERRORS.** The Town Council intends that this ordinance be made a part of the Fort Myers Beach Code of Ordinances. Sections of this ordinance can be renumbered or re-lettered and the word "ordinance" may be changed to "section", "article" or some other appropriate word or phrase to accomplish codification. Typographical errors that do not affect the intent can be corrected with the authorization of the Town Manager or designee without the need for a public hearing.

V. **CONFLICTS OF LAW.** Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements shall apply.

VI. **EFFECTIVE DATE.** This ordinance shall become effective immediately upon its adoption.

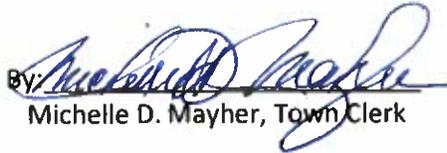
THE FOREGOING ORDINANCE was moved for adoption upon a motion by Vice Mayor Murphy with second by Council Member Shamp; and, upon being put to a roll call vote, the result was as follows:

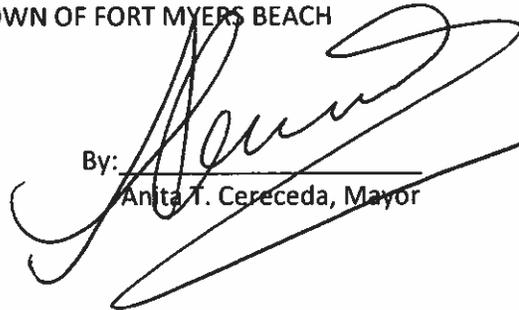
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|------------------------|-----|---------------------------------|-----|
| Anita Cereceda, Mayor | aye | Joanne Shamp, Council Member | aye |
| Ray Murphy, Vice Mayor | aye | Bruce Butcher, Council Member | aye |
| | | Rexann Hosafros, Council Member | aye |

DULY PASSED AND ADOPTED this 18th day of March, 2019.

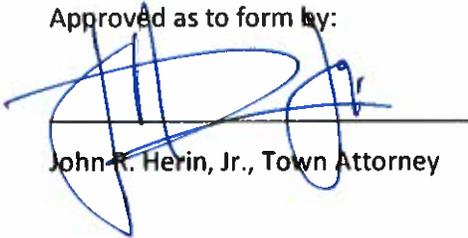
ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Michelle D. Mayher, Town Clerk

By: 
Anita T. Cereceda, Mayor

Approved as to form by:


John R. Herin, Jr., Town Attorney