

## Palm Beach County Towtruck Ordinance

No. 2022-021, § 1, adopted August 23, 2022

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### Sec. 19-199. Tow truck driver requirements; failure to comply.

- (a) It shall be unlawful for any person to operate any tow truck within and upon the streets of Palm Beach County without having first obtained a county tow truck driver's identification badge (tow driver's I.D. badge). All applicants and a tow driver's I.D. badge shall conform to the following:
- (1) Be at least eighteen (18) years of age;
  - (2) Possess a valid State of Florida Driver's License (with photo depicting the driver) as required by the Florida Department of Highway Safety and Motor Vehicles and must show proof that he/she has possessed a valid driver's license from any state within the United States for three (3) years (two (2) years for drivers younger than twenty-one (21) years old) prior to applying for a tow driver's I.D. badge. If a person has not driven for three (3) years in the United States, he/she must obtain the driving record from any other jurisdictions where he/she did drive or if he/she is unable to obtain the driving record, must sign an affidavit under penalty of perjury that he/she has no driving record which would prevent him/her from driving a tow truck in Palm Beach County, Florida;
  - (3) The driver must provide the original form of his/her lifetime State of Florida Department of Highway Safety and Motor Vehicles traffic/driving record report to the division which was secured no more than thirty (30) days before the application/renewal was submitted, only if the division is unable to secure this required information. Upon initial application, if a driver has resided in Florida less than five (5) consecutive years, a traffic/driving record/history from each state where he/she previously resided must be provided for at least a five-year period;
  - (4) Has not had more than three (3) separate incidents involving moving violations in any twelve-month period in the previous three (3) years prior to the initial application or renewal of a tow driver's I.D. badge in which the applicant pled guilty, was found guilty; or
  - (5) Has not been classified as a habitual traffic offender (as defined by Florida Statutes) or as defined by the state where he/she previously resided within five (5) years of applying for a tow driver's I.D. badge and was not previously issued a tow driver's I.D. badge by the division;
  - (6) Upon initial application or renewal, the driver must provide the original request form for his/her Florida Department of Law Enforcement (FDLE) criminal history/records report to the division, as well as payment for the amount required to secure the criminal history/records report. The division shall then be responsible for processing the request and payment to the FDLE. The division may conduct additional criminal history/records reports of other states/jurisdictions as deemed appropriate. The division shall require all applicants to submit to a Level I, criminal history records check. The division may approve a different means of securing the required criminal history/records should an alternative agency/system be discovered that provides more complete information than that provided by the FDLE;
  - (7) Have no conviction or plea of guilty or nolo contendere, within the preceding five (5) years from the date of I.D. badge application for any offense related to driving a motor vehicle under the influence or while intoxicated;
  - (8) Have no more than one (1) conviction or plea of guilty or nolo contendere, within the preceding ten (10) years from the date of I.D. badge application for any offense related to driving a motor vehicle under the influence or while intoxicated;
  - (9) Have no more than two (2) traffic citations resulting from accidents in the three (3) years preceding the date of I.D. badge application wherein the driver has been found guilty;
  - (10) Have no more than two (2) convictions of first degree misdemeanor traffic crimes including but not limited to the following: reckless driving, careless driving and racing in the three (3) years preceding the date of the I.D. badge application, wherein the driver has been found guilty;

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- (11) Not found by the division to have a lack of reputability as provided herein. For the purposes of this article, lack of reputability shall mean that the division cannot trust the applicant to safeguard the welfare and property of the public. Lack of reputability shall include, but not be limited to, the following:
- a. Conviction of any Level 1 felony, as ranked by F.S. Ch. 921 that occurred less than five (5) years from the date of conviction or release from incarceration whichever is later.
  - b. Conviction of any felony, not considered a Level 1 felony, as ranked by F.S. Ch. 921 that occurred less than ten (10) years from the date of I.D. badge application to conviction or release from incarceration, whichever is later.
  - c. Notwithstanding the provisions of subsections a. and b. above, conviction of any felony that is directly related to operating a non-consent or consent towing business or vehicle. For the purposes of this article, any offense involving fraud, forgery, theft, perjury or false statement shall be considered to be directly related to the business of operating a towing vehicle.
  - d. Conviction of any first degree misdemeanor within five (5) years, that is directly related to a non-consent or consent towing business or vehicle/vessel regardless of whether the applicant's civil rights have been restored or remained intact. For the purposes of this article, any offense involving fraud, forgery, theft, perjury or false statement shall be considered to be directly related to the business of operating a towing company.
  - e. Conviction before the date of I.D. badge application of any offense relating to sex crimes, the use of a deadly weapon, homicide, false imprisonment, kidnapping, violent offense against a law enforcement officer under F.S. § 775.0823, or having been adjudicated a habitual violent felony offender under F.S. § 775.084.
  - f. Responding to a call while under the influence of alcohol or any controlled substance, based upon a finding made by law enforcement.
  - g. Tow truck drivers with valid tow truck driver I.D. badges at the time the amended ordinance from which this article is derived was approved may continue to be eligible for issuance of a tow truck driver I.D. badge in future renewals as long as there are no additional crimes or reputability issues as referenced above. Tow truck drivers whose I.D. badges are expired for a period greater than twelve (12) months shall be considered new and subject to the provisions of this article.
- (12) A tow truck driver with a current I.D. badge is required to notify the division within ten (10) business days upon being convicted of any crime. The division may initiate denial, revocation or suspension proceedings for lack of reputability issues and criminal convictions as provided in this subsection which arise subsequent to the issuance of a tow driver's I.D. badge;
- (13) Applicants shall have no unsatisfied civil penalties, judgments or administrative orders pertaining to this article;
- (14) Every application or renewal application for a tow driver's I.D. badge and application for amendment of a tow driver's I.D. badge, shall be in writing and signed by the applicant and shall be filed with the Palm Beach County Division of Consumer Affairs on a form provided by the division together with the nonrefundable tow driver's I.D. badge fees which shall not be subject to proration. Each tow driver's I.D. badge shall be valid for a two-year period from date of application approval. The division may deny or revoke a tow driver's I.D. badge if it is determined that the applicant has misrepresented, omitted, or concealed a fact on the application, renewal application or replacement application. If the tow driver's I.D. badge is revoked, the division shall not accept an application for said tow driver's I.D. badge for one (1) year from the date the badge is revoked. Any person renewing a tow driver's I.D. badge must file a renewal application, furnish the documentation requested by the division, and submit

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- payment for the required nonrefundable renewal fee(s) not more than ninety (90) days before the expiration date of a tow driver's I.D. badge. Persons who fail to reapply for their tow driver's I.D. badge thirty (30) days prior to expiration, risk having a gap in their authorization to drive a tow truck. Persons who fail to submit their renewal application, required documentation and fees by the expiration date of the tow driver's I.D. badge must pay a nonrefundable late fee, over and above the tow driver's I.D. badge fee. Any applicant who fails to submit a renewal application within one (1) year of the expiration of a current badge will be considered a new applicant when reapplying and no grandfathered provisions will apply. Said fees shall be established by resolution of the Board;
- (15) Shall submit to photographing (full face exposure/without sunglasses or head coverings) prior to the issuance of the tow driver's I.D. badge by the division;
  - (16) Complete the tow driver's I.D. badge registration affidavits provided by the division;
  - (17) Not possess a suspended or revoked driver's license as a result of a moving violation or have any outstanding and unsatisfied civil penalties, citations or judgments imposed due to violations of this article;
  - (18) Not violate the terms of a cease and desist order, assurance of voluntary compliance, notice to correct a violation or any other lawful order of the director;
  - (19) Not be enjoined by a court of competent jurisdiction from engaging in the towing business or was enjoined by a court of competent jurisdiction with respect to any of the requirements of this article; and
  - (20) Have no conviction or plea of guilty or nolo contendere in any military or foreign jurisdiction, federal, state, county or municipal jurisdiction within the United States for violations analogous or parallel to those violations enumerated in all sections herein:
    - a. The driver of a tow truck shall conspicuously display on the driver's person through the use of a neck lanyard, or above the waist on the outermost garment, the tow driver's I.D. badge issued pursuant to this article so that it is visible and available for inspection to the public, division personnel and all law enforcement officials while engaged and on duty for a tow truck company.
    - b. Each tow driver's I.D. badge shall be developed by the division. Each driver's I.D. badge shall, at a minimum, contain the name of the driver, date of expiration, photo of the driver, and such additional terms, conditions, provisions and limitations as were imposed during the approval process. Each company for which a driver will be driving must submit an affidavit (on a form prepared by the division) or documentation from the insurance company (fax acceptable) that the driver is eligible to be insured under the company's insurance policy.
    - c. The division may issue a replacement tow driver's I.D. badge to any driver upon payment of a nonrefundable replacement fee, presentation of proof or a sworn affidavit that the driver's I.D. badge has been lost, stolen or for any other valid reason, and any other documentation or requirement requested by the division. The replacement fee shall be established by resolution of the Board.
    - d. It shall be unlawful for any person to drive a tow truck unless such person has a valid tow driver's I.D. badge issued pursuant to this section.
    - e. It shall be unlawful for any person to drive a tow truck for any tow truck company which has not been granted an operating permit pursuant to Section 19-184 (operating permit required).
    - f. It shall be unlawful for any applicant for a tow driver's I.D. badge to misrepresent, omit or conceal a fact on the application, renewal application or replacement application. Upon

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submission of the application, the division shall provide the driver with a receipt. No applicant shall be permitted to drive a tow truck in Palm Beach County until the division has issued to him/her a tow driver's I.D. badge. The division shall provide the tow driver's I.D. badge within ten (10) business days following the submittal of the application and all required documents. In the event the official criminal background records furnished to the division are insufficient and additional information is necessary, the division shall be permitted an additional twenty (20) business days to issue the driver's I.D. badge.

- g. Tow truck drivers must be hygienically clean, well-groomed and neat. Drivers are not permitted to wear open toed shoes and must comply with all state and federal (e.g., O.S.H.A.) safety regulations. Non-consent tow truck drivers are not permitted to wear uniforms purporting to be from a different company or business than the one they actually work or drive for. Failure to abide by these requirements is a violation of this article.
- h. Tow truck drivers shall not use abusive language to consumers or division personnel.
- i. Tow truck drivers must be able speak and understand English to the extent they can take instruction from law enforcement officers and consumers and complete manifests or invoices.
- j. Drivers shall cooperate fully at all times with the division in the furnishing of information required in connection with requests for proof of driver's license, vehicle insurance and/or tow driver's I.D. badge, during the process of applying to renew a tow driver's I.D. badge, and during investigations of consumer complaints. Further, drivers shall not obstruct, hamper or interfere with an investigation of violations of this article conducted by division personnel, any law enforcement officer or employee of any other agency enforcing this article.
- k. No person maintaining, owning, or operating a towing company shall suffer or permit any person or employee to drive a tow truck unless such person has a valid tow driver's I.D. badge issued pursuant to this article. This paragraph shall not apply to a towing company which is training a prospective driver. Such prospective driver must be accompanied by and working under the direct supervision of a company employee who is in possession of a valid tow driver's I.D. badge.
- l. Failure to comply with the provisions of this section may result in the division denying a tow driver I.D. badge, revoking or suspending the tow driver's I.D. badge, denying a renewal of such tow driver's I.D. badge, issuing a civil citation, a misdemeanor conviction or other such remedies available to the division herein.

(Ord. No. 2022-021, § 19, 8-23-22)