

**ORDINANCE 20-03**

**TO AMEND TITLE 4 OF THE BLOOMINGTON MUNICIPAL CODE  
ENTITLED “BUSINESS LICENSES AND REGULATIONS”  
- Re: Adding Chapter 4.32 (Non-Consensual Towing Businesses)**

- WHEREAS, non-consensual towing is the towing of a vehicle from a parking lot at the lot owner’s request without the consent of the vehicle’s owner; and
- WHEREAS, while many companies engage in non-consensual towing in a fair and ethical way, others, especially in communities such as Bloomington where parking is limited, engage in non-consensual towing practices that might be deemed predatory. This includes, but is not limited to, refusing to release a vehicle to the owner before it has been removed from the private property; towing the vehicle a great distance to a storage facility, engaging in kick-back arrangements, and charging exorbitant towing and storage fees; and
- WHEREAS, these predatory towing practices disproportionately harm the community’s most vulnerable residents; and
- WHEREAS, the City of Bloomington (“City”) has a significant governmental interest in protecting the health, welfare, and safety of the community; and
- WHEREAS, regulating non-consensual towing activities could limit the harmful effects associated with predatory commercial private property towing while increasing community safety; and
- WHEREAS, Indiana Code §24-14-1-1 *et seq.* regulates towing services in the State of Indiana; and
- WHEREAS, under Indiana Home Rule law, local units are authorized to enact ordinances that are stricter and more protective than state statute, but may not conflict with statute; and
- WHEREAS, for that reason, the City wishes to enact requirements regarding the licensing of non-consensual tow businesses, signage at private lots at which non-consensual towing may take place, reasonable fees that may be associated with non-consensual towing and storage of vehicles, the maximal distance to which a vehicle can be towed for storage, and anti-kickback provisions, among other requirements;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. A new Chapter, Chapter 4.32, shall be added to the Bloomington Municipal Code. The Chapter shall be entitled “Non-Consensual Towing Businesses” and shall be inserted into the Table of Contents for the Title 4 and shall read as follows:

<b>Sections:</b>	
<b>4.32.010</b>	<b>Purpose</b>
<b>4.32.020</b>	<b>Applicability</b>
<b>4.32.030</b>	<b>Definitions</b>
<b>4.32.040</b>	<b>Non-Consensual Tow Business License—Required.</b>
<b>4.32.050</b>	<b>Non-Consensual Tow Business License—Non-Transferability</b>
<b>4.32.060</b>	<b>Non-Consensual Business License—Application.</b>
<b>4.32.070</b>	<b>Non-Consensual Business License – Fee and Term</b>
<b>4.32.080</b>	<b>Tow Truck Identification</b>
<b>4.32.090</b>	<b>Non-Consensual Business License—Insurance</b>
<b>4.32.100</b>	<b>Tow Business Fee Schedule</b>
<b>4.32.110</b>	<b>Display of Business Name and Proof of Licensure</b>
<b>4.32.120</b>	<b>Non-Consensual Tow Requirements and Restrictions</b>
<b>4.32.130</b>	<b>Signs Required to Be Posted at Parking Lot; Exception</b>
<b>4.32.140</b>	<b>Additional Requirements</b>
<b>4.32.150</b>	<b>Towing and Storage Fees</b>
<b>4.32.160</b>	<b>Vehicle Storage Facility Requirements; Invoice</b>
<b>4.32.170</b>	<b>Record-Keeping Requirement</b>

**4.32.180 Penalties, Revocation of License**  
**4.32.190 Appeal**

**4.32.010 Purpose**

The purpose of this chapter is to protect the public from unconscionable practices associated with non-consensual towing by means of the licensure of businesses engaged in this activity together with restrictions and requirements pertaining to the manner in which non-consensual towing shall be performed.

**4.32.020 Applicability**

The provisions of this Chapter shall apply only to non-consensual tows that originate within the corporate boundaries of the City of Bloomington (hereafter “the City”).

**4.32.030 Definitions**

When used in this Chapter, the following terms shall have the following meanings:

“**License Administrator**” is the Director of the Department of Economic and Sustainable Development and/or the Director’s designee.

“**Motor vehicle**” has the meaning set forth at Indiana Code § 9-13-2-105.

“**Non-consensual tow**” means the towing, by a tow business, or tow truck operator, of a vehicle trespassing on a parking lot, made at the request of the property owner or the owner’s authorized agent, without prior consent or authorization by the vehicle’s owner. Notwithstanding the foregoing, the following are not included within the definition of a non-consensual tow:

- (1) A tow initiated from a parking lot, as a result of a vehicular accident, as a result of a law enforcement investigation, or initiated in accordance with Bloomington Municipal Code 15.48 or Bloomington Municipal Code 15.52, provided that the tow is initiated by a representative of the city or by any law enforcement officer; or
- (2) A tow initiated by an authorized representative of Indiana University, provided that the University is removing a vehicle from the University’s campus.

“**Parking lot**” means and includes:

- (1) A parking facility built for, or provided to, patrons or staff of a business or other organization;
- (2) A commercial parking facility;
- (3) A parking facility provided for tenants of multifamily dwellings; or
- (4) A parking facility provided by the property owner of a vacant or undeveloped lot.

“**Tow business license**” means a license issued by the City to a business engaged in non-consensual towing of vehicles that originate within the corporate boundaries of the City of Bloomington.

“**Tow truck operator**” has the meaning set forth at Indiana Code § 24-14-2-16.

“**Tow truck or tow vehicle**” has the meaning set forth at Indiana Code § 24-14-2-15.

“**Towing company**” has the meaning set forth at Indiana Code § 24-14-2-17.

“**Vehicle’s Owner**” means the motor vehicle’s registered owner, an authorized agent of the registered owner, or an authorized operator of the vehicle.

**4.32.040 Non-Consensual Tow Business License—Required.**

It shall be unlawful for a towing company to perform a non-consensual tow originating within the City without first having obtained a valid non-consensual tow business license issued by the City pursuant to this chapter. Provided, however, where a tow does not originate within the City and where a tow truck business is merely transporting a vehicle through the City, that towing company shall be exempt from this requirement.

**4.32.050 Non-Consensual Tow Business License—Non-Transferability**

A non-consensual tow business license shall be non-transferrable.

**4.32.060 Non-Consensual Tow Business License—Application.**

Any person or towing company who wishes to obtain a license under this chapter must first complete an application prescribed by the Department of Economic and Sustainable Development.

- (a) An application for a non-consensual towing business shall include the following information:
  - (1) The towing company’s taxpayer identification number;
  - (2) Applicant’s full name and current physical address;
  - (3) The telephone number and e-mail address of the primary place of business;
  - (4) The address, telephone number, and hours of operation of any vehicle storage facility where towed vehicles will be towed and stored; and
  - (5) A telephone number where the principal owner(s) of the towing company can be reached in the event of an emergency;
- (b) Insurance Required. Upon application for the tow business license, a towing company shall provide proof of insurance and meet the requirements of Bloomington Municipal Code § 4.32.090.
- (c) Change in Licensee Information. In the event that the information provided by the licensee in the licensee’s application changes during the term of the license, the towing company shall give written notice of such changes to the City within fifteen (15) business days of the occurrence of the change.

**4.32.070 Non-Consensual Tow Business License— Fee and Term**

- (a) Fee. The Controller shall charge a nonrefundable fee of three-hundred fifty dollars (\$350) to recover the cost of activities associated with the administration, regulation, and issuance of non-consensual tow business licenses.
- (b) Term.
  - (1) A non-consensual tow business license shall be valid for a period of one year from the date of issuance; and
  - (2) Non-consensual tow business licenses shall become invalid immediately if the license is defaced, altered, forged, or counterfeited.

**4.32.080 Tow Truck Identification**

Upon the issuance of a tow business license, the City shall assign an identification number to the licensed tow truck company. Such identification number as well as the name of the tow company shall be conspicuously affixed to the exterior of each tow truck operated by the tow company so that they may be readily identified by law enforcement personnel.

**4.32.090 Non-Consensual Tow Business License—Insurance**

- (a) It is unlawful for any person to operate a non-consensual towing company within the City of Bloomington unless, at the time of operation, the owner has in effect valid insurance policies as described in § 4.32.090(b).
- (b) As a condition of receiving a non-consensual tow business license, a towing company shall provide the license administrator with a Certificate of Insurance naming the City of Bloomington as an additional insured and indicating that the company’s insurance is primary. The insurance certificate must show proof of the following minimum insurance limits:

Commercial General Liability - \$1,000,000 per occurrence  
- \$2,000,000 aggregate  
Automobile Liability - \$1,000,000 per occurrence  
Garage Keeper’s Liability - \$150,000 per occurrence

All policies shall be endorsed to indicate that the City shall receive thirty (30) days' prior written notice of policy cancellation or non-renewal of coverage.

- (c) A non-consensual towing company shall release, hold harmless and indemnify the City of Bloomington from any and all claims which may arise as a result of the company's activities undertaken pursuant to its license.

**4.32.100 Non-Consensual Tow Requirements and Restrictions**

- (a) It shall be unlawful for a licensed towing company or tow truck operator to tow a vehicle from a parking lot unless the parking lot owner or the owner's authorized agent, present at the time of the tow, signs a contemporaneous specific written authorization for the tow of the vehicle.
- (b) The written authorization shall include the following information:
  - (1) The make, model, year, vehicle identification number, and license plate number of the vehicle to be towed;
  - (2) The address of the parking lot from which the vehicle is to be towed;
  - (3) The signature and printed name of the person authorizing the tow;
  - (4) A written statement indicating the date and time of the authorization and that the person authorizing the tow is the owner of the parking lot or the owner's authorized agent;
  - (5) A written statement affirming that the owner of the parking lot will be liable for any damages which may be awarded to the owner of the towed vehicle if the vehicle is towed improperly;
  - (6) A brief written statement describing why the vehicle is subject to tow; and
  - (7) Any other information deemed necessary by the City.
- (c) For purposes of subsection (a) of this section, a towing company owner or employee, or tow truck operator, may not act as the parking lot owner's authorized agent.
- (d) Notwithstanding the provisions of (c) above, a towing company owner or employee, or tow truck operator, may act as the parking lot owner's authorized agent if:
  - (1) The parking lot is for a multifamily rental dwelling which provides permit parking twenty-four (24) hours a day, seven days a week for its tenants or guests;
  - (2) Tenant parking permits and/or guest parking permits, to be placed in vehicles, are provided to tenants at lease signing. The towing company shall obtain an affidavit from the property owner stating the same;
  - (3) The parking permits are made to be easily identifiable and observable from outside the vehicle; and
  - (4) Video or photographic documentation to attest to the propriety of the tow is made and kept for at least two (2) years as part of the authorization required under subsection (b) above.
- (e) A property owner and/or towing company shall also comply with any additional reporting requirements imposed by the City of Bloomington.

**4.32.110 Signs Required to Be Posted at Parking Lot; Exception**

- (a) It shall be unlawful for any tow business or tow truck operator to tow a vehicle unless the parking lot in which the vehicle is parked has signage, posted in plain view and visible to the public at each entrance and exit. The signs must be installed for a minimum of twenty-four (24) hours prior to any vehicle being removed. Such signage shall provide the following information:
  - (1) a statement that the area in the immediate vicinity of the sign is a tow-away zone;
  - (2) a 24-hour phone number vehicle owners may call to locate their vehicle; and
  - (3) a description of persons permitted to park in the affected area, if applicable.
- (b) Pursuant to Indiana Code § 24-14-4-2 and notwithstanding the provisions of subsection (a) above, a private property owner may have a motor vehicle towed from the owner's commercial private property without first displaying signage if the vehicle is removed under Indiana Code § 9-22-1-16.

**4.32.120 Additional Requirements.**

- (a) A towing company and a tow truck operator must comply with all applicable federal, State of Indiana, and City of Bloomington laws.
- (b) The practice of booting or otherwise disabling a vehicle to hold it for towing is prohibited.
- (c) All vehicles that are towed under this chapter shall be towed directly to a vehicle storage facility leased or owned by the towing company, and shall not be placed or kept in any temporary holding area.
- (d) All vehicles towed must be stored within Monroe County.
- (e) A towed vehicle shall be available to be claimed within sixty (60) minutes of its arrival at a vehicle storage facility, and the vehicle shall be released promptly upon demonstration of proof of ownership, such as title or registration of vehicle and either:
  - (1) payment of fees; or
  - (2) payment of 20% of the fees and execution of a payment agreement for the fee balance.
- (f) A towing company and tow truck operator shall allow the vehicle's owner a reasonable amount of time to inspect the vehicle or to remove or retrieve personal property or possessions that are not affixed from a vehicle. The inspection or retrieval of possessions may be at the scene of the tow or at the vehicle storage facility prior to payment. A towing company or tow truck operator is prohibited from charging a fee for this inspection or retrieval as prohibited under Indiana Code § 24-14-9-2 or from refusing to allow retrieval of such possessions.
- (g) A release or waiver of liability of any kind is prohibited as a condition of the release of the vehicle. A tow business may require proof of identification of the person retrieving a vehicle. The person retrieving the vehicle shall be the Vehicle's Owner, as defined in 4.32.030.

**4.32.130 Towing and Storage Fees**

- (a) It shall be unlawful to charge any fee associated in any way with the towing and storage of a vehicle under this chapter, except as follows:
  - (1) For the towing of a vehicle, the maximum fee shall be one hundred and twenty-five dollars (\$125.00);
  - (2) Fees for special treatment, including dollying, shall not exceed an additional twenty-five dollars (\$25.00);
  - (3) For the storage of a towed vehicle, the maximum fee for each twenty-four-hour period of storage shall be twenty-five (\$25.00); provided, however, that a storage fee may not begin to accrue until twenty-four (24) hours have passed since the vehicle arrived at the storage facility.
- (b) This fee limitation does not restrict fees being charged for other services, provided that said other services are requested by the vehicle's owner.
- (c) Notwithstanding the provisions of subsection (a) of this section, the fee limitation does not apply to a towed vehicle having a gross vehicle weight of thirteen thousand (13,000) lbs. or greater.
- (d) If it is determined that a vehicle is towed in violation of this chapter, towing and storage fees which have been paid may be recovered by the vehicle's owner. Liability for damage to a towed vehicle is not limited by the provisions of this chapter.
- (e) It is unlawful for a person, including a towing company or tow truck operator to offer, pay, or rebate money or other valuable consideration to the owner of a parking lot for the authority to tow vehicles from that owner's parking lot.

- (f) When the owner or operator of a motor vehicle is present and desires to instead personally operate and remove his/her own vehicle from a parking lot before the vehicle is in the process of being towed, the vehicle shall not be towed nor shall any fee be charged. However, when the owner or operator of a motor vehicle arrives at the location of the motor vehicle when it is already in the process of being towed, the towing company shall, pursuant to Indiana Code § 24-14-4-4, give the owner or operator either oral or written notification that the owner or operator may pay a fee in the amount that is not greater than half of the amount of the fee the towing company may normally charge for the immediate release of a motor vehicle. For purposes of this section, a motor vehicle is in the process of being towed when it is attached to the tow truck and at least two tires of the vehicle are off the ground.

**4.32.140 Vehicle Storage Facility Requirements; Invoice**

- (a) It shall be a violation of this Chapter to commit any act in the City that is not in compliance with the provisions of this section.
- (b) A towing company that tows a vehicle under this article shall provide one of the following at the vehicle storage facility to which the vehicle is towed:
  - (1) Either an attendant who is on site twenty-four (24) hours per day, seven days (7) per week excluding federally-observed holidays, to return any vehicle claimed by the vehicle's owner, upon payment of towing and storage charges; or
  - (2) A conspicuously-located and well-lit sign at the vehicle storage facility that states the telephone number where the owner, manager, or attendant of the vehicle storage facility may be reached at any time twenty-four (24) hours per day, seven (7) days per week, excluding federally-observed holidays, so that a towed vehicle may be claimed in a minimum amount of time not to exceed sixty (60) minutes.
- (c) A tow business that tows a vehicle within the twenty-four (24) hours preceding a federally-observed holiday or during a federally-observed holiday must adhere to the provisions of this section to allow a vehicle to be retrieved on a holiday.
- (d) Storage fees shall not accrue for any day in which a storage facility is not open for vehicle redemption.
- (e) A tow business that tows a vehicle under this article shall accept payment for towing and storage fees pursuant to Indiana Code § 24-14-7-2.
- (f) Upon payment of authorized towing and storage fees, a tow business that tows a vehicle under this article shall provide an itemized invoice to the vehicle's owner pursuant to the requirements of Indiana Code § 24-14-5-1.

**4.32.150 Record-Keeping Requirement**

- (a) A tow business shall maintain a legible record, in either written or electronic form, documenting the following information for each vehicle that is towed under the provisions of this chapter:
  - (1) The written authorization for the tow;
  - (2) The date and time that the vehicle was towed;
  - (3) The date and time that the vehicle entered and left the facility at which it was placed for storage;
  - (4) The towing fees, storage fees, and any other fees actually charged; and
  - (5) Any pictures or other records obtained pursuant to Bloomington Municipal Code § 4.32.100(d)(4).
- (b) Records under subsection (a) shall be maintained for a period of two (2) years from the date of each tow, and shall be made available for inspection by the City during normal business hours.

**4.32.160 Penalties, Revocation of License**

- (a) Any person, partnership, limited liability company or corporation which violates any provision of this chapter, shall be subject to the following penalties:
  - (1) Engaging in non-consensual towing within the City of Bloomington corporate boundaries without a Non-Consensual Tow Business License:
    - (A) First offense within a 12-month period: \$2,500.00
    - (B) Second offense within any 12-month period: \$5,000.00
    - (C) Third offense, or each thereafter, within any 12-month period: \$7,500.00
  - (2) Failure to comply with any other provision of this chapter:
    - (A) First offense: \$1,250.00
    - (B) Second offense within any 12-month period: \$2,500.00
    - (C) Third offense, or each thereafter, within any 12-month period: \$5,000.00
- (b) In addition, the License Administrator with the City's Department of Economic and Sustainable Development may, after notice and hearing before the City's Board of Public Works, suspend or revoke, by written order, any license issued hereunder if the Board of Public Works finds:
  - (1) The licensee has violated any provision of this chapter or any rule or regulation lawfully made under and within the authority of this chapter;
  - (2) The licensee is operating the non-consensual towing company licensed under this chapter in a manner contrary to any federal, state or local law; or
  - (3) Any fact or condition exists which, if it had existed at the time of the original application for such license, would have permitted the Controller's Office to refuse originally to issue such license.
- (c) Any person charged with violating the provisions of this chapter may be issued an official warning. If an official warning is issued it shall be considered as affording the violator one opportunity to comply with this chapter's provisions.

**4.32.170 - Appeal.**

Any applicant or license aggrieved by the action of the License Administrator in the denial, suspension or revocation of a license or any person who is issued a citation shall have the right of appeal to the Board of Public Works. Such appeal shall be taken by filing a written statement setting forth fully the grounds for the appeal with the Board of Public Works within ten (10) business days of the action complained of. The decision and order of the Board of Public Works on such appeal shall be final and conclusive.

SECTION 2. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 3. This ordinance shall be in full force and effect beginning on July 1, 2020.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
STEVE VOLAN, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
JOHN HAMILTON, Mayor  
City of Bloomington

#### **SYNOPSIS**

This ordinance, initiated and shaped by the efforts of former Councilmember Andy Ruff and former Councilmember Dorothy Granger, amends BMC Title 4 by adding a new Chapter 4.32 to provide for the licensing and regulation of towing companies that engage in the practice of non-consensual tows. The ordinance includes provisions related to licensing requirements, insurance coverage, signage requirements, fee limitations, and the retrieval of towed vehicles, among other provisions. The purpose of this ordinance is to increase community safety and protect residents from the harmful effects associated with predatory commercial private towing.