

**ORDINANCE NO. 032023**

**AN ORDINANCE OF THE CITY OF FISHERS, HAMILTON COUNTY, INDIANA,  
AMENDING CHAPTERS 36 AND 118 OF THE CITY OF FISHERS CODE OF  
ORDINANCES**

WHEREAS, pursuant to Indiana Code §36-8-3-10, the City of Fishers’ Police Department has authority to develop a list of businesses to provide towing services in the event there is a vehicle on the streets of the city that impedes the orderly flow of traffic, that needs to be towed for an investigation or that is in violation of state or local laws;

WHEREAS, the City has established, pursuant to Indiana Code §33-36-3-1 et seq. an Ordinance Violations Bureau (OVV) and a schedule of ordinance provisions that may be paid into the OVV;

WHEREAS, the City desires to amend its Chapter 118, Towing for Disabled Vehicles to reflect law and policy updates; and

WHEREAS, the City desires to amend Section 36.08 to allow payment of violations of Chapter 118 to be paid into the OVV.

NOW, THEREFORE, BE IT RESOLVED, by the Common Council for the City of Fishers, Hamilton County, Indiana, meeting in regular session as follows:

**Section 1.** Chapter 36 is amended to add the following:

**§ 36.08 SCHEDULE OF FINES.**

- (A) Fines or fees imposed by reason of a violation of any of the following ordinances shall be eligible for disposition at the Ordinance Violations Bureau established within the city.

Violation – Towing for Disabled Vehicles	Code Section	First Violation	Second Violation
All Sections	118.99	\$150	\$250

**Section 2.** Chapter 118 is amended as follows:

**§ 118.01 DEFINITIONS AND GENERAL PROVISIONS.**

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CLEANUP.** The act of removing debris, fluids, and related items resulting from an accident or disabled vehicle.

~~—**CONTRACT TOWER(S).** Those towing businesses that are selected pursuant to a request for proposal ("RFP") issued by the Fishers Police Department and enter into an agreement with the city to provide towing services.~~

**DISABLED VEHICLE.** A motor vehicle, as defined by IC 9-13-2-105, that has been damaged or rendered permanently or temporarily inoperative as a result of a collision or accident, wear and tear, mechanical failure or any other cause, for which a law enforcement agency has requested removal. **DISABLED VEHICLE** shall also include all motor vehicles, as defined above, that necessitate towing services, due to violation of state statute(s), local ordinance(s), or other applicable laws.

**EQUIPMENT FEES.** The fees charged for use of equipment and other tangible goods necessary to effect the removal of a disabled vehicle and debris from the roadway.

**LABOR.** The work required to effectuate the towing service.

**LARGE SCALE ACCIDENTS.** Any incident that involve four or more disabled vehicles or any incident that involves a vehicle that weighs 14,500 pounds or more.

**LIEN FEE.** All fees associated with lien services the tow business is required to perform pursuant to IC 9-22 et seq.

~~**MILEAGE.** The distance the contract tower tows a disabled vehicle after a police initiated tow.~~

**RECOVERY FEE.** All fees associated with winching, rolling, dragging, and moving a vehicle onto the roadway.

**STORAGE FEE.** A fee charged to store a disabled vehicle in a storage location.

**STORAGE LOCATION.** A secure facility or location that acts as a repository for towed vehicles.

**TOWING LIST.** A list of towing businesses that have timely responded to the Fishers Police request for proposal requesting towing services and have met Fishers Police's request for proposal requirements.

**TOWING SERVICES.** The act of removing a disabled vehicle from a public or private road area by attaching, lifting, pulling or dragging and storing such vehicles in a secure facility or location, and shall also include, but not be limited to, all labor, ~~mileage~~, equipment, and cleanup required to effectuate the tow.

**TOW VEHICLE.** Any motor vehicle used for the purpose of towing or moving vehicles.

**TOWING BUSINESSES.** A person or commercial entity that is engaged in, or offers the service of moving vehicles from one place to another by the use of a tow truck and has been selected for placement on the Towing List.

**WINDOW WRAP FEE.** Any fee associated with covering windows on a vehicle.

**§ 118.02 AUTHORITY TO REMOVE AND STORE VEHICLES.**

When a disabled vehicle is found upon the highways or streets in the city and impedes the orderly flow of traffic, needs to be towed for law enforcement investigation(s), or needs to be towed due to violation of state statute(s), local ordinance(s), or other applicable laws, Fishers Police Department ("Fishers Police") may have the disabled vehicle towed to a storage location. Tows initiated under this chapter shall be considered ~~non-consensual~~ involuntary.

**§ 118.03 REQUEST FOR PROPOSALS.**

Fishers Police may issue Request for Proposals (RFPs) pursuant to IC 5-22-9 et seq. to solicit towing businesses to provide towing services. The ~~city~~ Board of Public Works & Safety may ~~place on a list award agreements to any~~ place on a list award agreements to any towing businesses ~~whose proposals are determined in writing to be the most advantageous to the city, taking into consideration price and the other evaluation factors set forth in this chapter and a RFP that meet the requirements of this Chapter.~~ whose proposals are determined in writing to be the most advantageous to the city, taking into consideration price and the other evaluation factors set forth in this chapter and a RFP that meet the requirements of this Chapter. The number of companies selected through a RFP process shall be based upon the need of the Fishers Police. Fishers Police may select as many or as few companies as it needs to fulfill its requirements as long as the companies chosen are selected through the evaluation factors set forth in this chapter and a RFP. Selection of a business for inclusion on the towing list does not create a license within the meaning of IC §36-5-4-11. The Fishers Police Chief, or his designee, have the discretion to remove towing businesses from the list if at any time they violate this Chapter, if the towing business no longer fulfills the Fishers Police requirements or if Fishers Police no longer needs the towing business.

**§ 118.04 USE OF ~~CONTRACT TOWERS~~ TOWING BUSINESSES.**

~~Contract towers~~ Towing businesses may be used by Fishers Police on a rotational basis until ~~the agreement between the contract tower and the city terminates a towing business is removed from the Fishers Police towing list, either voluntarily or involuntarily.~~ the agreement between the contract tower and the city terminates a towing business is removed from the Fishers Police towing list, either voluntarily or involuntarily.

**§ 118.05 REMOVAL AND STORAGE OF TOWED DISABLED VEHICLE.**

(A) *Consultation with officer.* ~~Contract towers~~ Towing businesses shall consult the investigating officer prior to removing a disabled vehicle.

(B) *Accident cleanup.* The ~~contract tower~~ towing business shall cleanup the accident site. Local, state and federal regulations shall govern the use and disposal of absorbent use to remove oil, antifreeze or other chemicals.

(C) *Disabled vehicle removal.* Upon approval of the investigating officer, ~~contract tower~~ towing businesses shall immediately move disabled vehicles to the ~~contract tower's~~ towing businesses' storage location, or to the Police Department as directed by the officer on the scene, unless the ~~contract tower~~ towing business ~~enters into a signed~~

~~agreement, has with written approval from the officer's written approval, with~~ the owner or operator of the disabled vehicle and the officer to move it to another location.

(D) *Storage location.* Towed disabled vehicles shall be secured inside the storage location until the owner or owner's authorized agent secures possession of the disabled vehicle. It shall be a violation of this section to leave a disabled vehicle unattended outside a storage location.

(E) *Stolen vehicles.*

(1) If any disabled vehicle is damaged or stolen while located at or about a storage location, the ~~contract tower~~towing business shall notify the appropriate law enforcement agency immediately upon discovery and shall file a report.

(2) For security purposes motorcycles, mopeds, all-terrain vehicles and disabled vehicles of a similar nature may be secured within a building owned or leased by the police initiated licensed towing company at the registered business address.

#### **§ 118.06 OFFICE REQUIREMENTS.**

(A) Each ~~contract tower~~towing business shall maintain an office area where business can be conducted and records maintained.

(B) The office address shall be the same as the towing business' storage location.

(C) The office shall be readily identifiable and name of the business and hours of operation shall be conspicuously posted.

#### **§ 118.07 STORAGE FACILITY REQUIREMENTS.**

All ~~contract tower~~towing businesses shall:

(A) maintain a storage location in Hamilton County.

(B) maintain an onsite attendant at the storage location 24 hours per day, seven days per week excluding holidays, to return any vehicle claimed by the vehicle's owner, upon the payment of towing and storage charges; or

(C) ~~—(B)—~~ Post a conspicuous and well-lit sign at the storage location that lists the telephone number where the owner, manager, or attendant of the storage location may be reached at any time 24 hours per day, seven days per week, excluding holidays, so that a towed vehicle may be claimed in a minimum amount of time, not to exceed 60 minutes.

#### **§ 118.08 HOLIDAYS.**

For disabled vehicles towed not more than 24 hours before Christmas, Easter, Memorial Day, Fourth of July, Labor Day or Thanksgiving, storage fees shall not accrue while the storage facility is not open for vehicle redemption.

#### **§ 118.09 CONTINUOUS SERVICE.**

Towing services shall be provided by the ~~contract tower~~towing business 24 hours per day unless a tow vehicle is unavailable. If a tow vehicle is unavailable, the tow business shall immediately notify the law enforcement agency making the tow request.

**§ 118.10 STORAGE CAPACITY.**

If a ~~contract tower's~~towing businesses' storage Hamilton County location is at maximum capacity, the ~~contract tower~~towing business shall immediately advise the law enforcement agency and shall not accept a request for towing services from a law enforcement agency; at which time the law enforcement agency shall make other arrangements with a separate contract tower.

**§ 118.11 TOWING CAPACITY.**

~~Contract towers~~Towing businesses shall respond with one towing vehicle for each disabled vehicle reported by the law enforcement agency, unless the responding towing vehicle is designed to move more than one disabled vehicle at a time. If the ~~contract tower~~towing business does not have enough available towing vehicles for the call, the ~~contract tower~~towing business may seek assistance from another towing company that is also selected through a RFP. All towing companies contacted for assistance shall have the equipment needed to effectuate the tow. If the towing company contacted to assist with the tow does not have the required equipment for the situation and responds, it shall be a violation of this chapter and the towing company may be removed from the rotation list. The towing company shall notify the calling officer of this situation at the time the officer calls.

**§ 118.12 SUBCONTRACTORS.**

A ~~contract tower~~towing business shall not subcontract any portion of towing services described by this chapter, unless expressly authorized by the Police Department.

**§ 118.13 FEES.**

(A) ~~Subject to §§ 118.17 and 118.21, i~~It shall be a violation of this chapter for ~~contract towers~~a towing business to charge more than the following rates for a tow initiated pursuant this chapter:

- (1) Towing a disabled vehicle/hook up fee ~~\$150~~195
- (2) Recovery fee \$75
- (3) Storage fee ~~\$30~~35 for each 24-  
hour period of storage; provided, however that a storage fee may not begin to accrue until the next business day after the vehicle arrives at the storage facility. Provided however, that if a vehicle arrives to the storage facility on or after 9:00 p.m., the

storage fee shall not begin to accrue until the day after the next business day the vehicle arrives.

- (4) Removing a vehicle from storage \$25
- (5) Lien fee ~~\$50~~ \$75
- (6) Window wrap fee \$50 total

~~(B)~~ ~~(B)~~ The maximum allowable rates apply to towing services requested by a law enforcement agency and provided within the city's' municipal boundaries regardless of the disabled vehicle's location and/or physical condition. The towing business shall only charge for the specific services provided. The towing business shall not charge any additional fees for clean up, mileage, equipment fees, labor, or any other fee, for towing services initiated under this chapter.

~~(B)~~ (C) The owner of the vehicle shall be responsible for all charges incurred pursuant to this Section.

**§ 118.14 LARGE SCALE ACCIDENT FEES.**

~~Subject to §§ 118.17 and 118.21, t~~The rates and fees charged for large scale accidents shall be reasonable and not in excess of those rates charged for similar services provided in response to requests initiated by any other public agency or private person. The owner of the vehicle shall be responsible for all charges incurred pursuant to this Section.

**§ 118.15 TOW RATE SHEET.**

~~Contract towers~~ Towing businesses shall provide a tow rate sheet, that includes all of the tow business's prices for the towing services, to the ~~person-owner or owner's agent~~ responsible for the disabled vehicle. If a person is not present at the time the towing services are provided, the ~~contract tower~~ towing business shall leave the tow rate sheet with the disabled vehicle.

**§ 118.16 PAYMENT.**

Additional charges shall not be imposed on the owner of the vehicle for the use of a debit or credit card.

**§ 118.17 RECEIPTS.**

Upon payment of towing and storage fees, a ~~contract tower~~ towing business that provides tow services under this chapter shall provide a receipt to the vehicle's owner that contains the following information:

- (A) The name and address of the ~~contract tower~~ towing business;
- (B) The date and time that the vehicle entered the storage facility; and
- (C) An itemized list of the fees being charged.

**§ 118.18 SUBSEQUENT TOWING SERVICES.**

Charges for subsequent towing services after completion of the initial towing service requested by a law enforcement agency are not limited to the maximum allowable rates set forth in § 118.~~10~~13 unless the request:

(A) Is made by a law enforcement agency; and

(B) Is to have the vehicle moved from a facility owned by and operated by the city to the ~~contract tower~~stowing businesses' storage location.

**§ 118.19 EMPLOYEE BACKGROUND CHECKS.**

Companies selected to provide towing services through a RFP process shall perform national background checks on all newly hired employees.

**§ 118.20 IDENTIFICATION OF WRECKERS.**

Companies selected to provide towing services through a RFP process shall have the company name, address and business phone number on the outside of the wrecker, in letters not less than four inches in height. The information shall be reasonably visible.

**§ 118.21 CONTRACTOR'S EMPLOYEES.**

Contractors selected through a RFP shall require employees to wear a uniform that identifies the tow business when responding to a call for towing services under this chapter.

**§ 118.22 ADDITIONAL SERVICES.**

Services different than or in addition to those set forth in § 118.13 or 118.14 and requested by the vehicle's owner are not limited to the maximum allowable rates.

**§ 118.23 PROOF OF INSURANCE.**

A ~~contract tower~~towing business may require proof of insurance if the owner desires to drive the vehicle from the storage facility; however, a ~~contract tower~~towing business may not withhold a vehicle for failure to provide proof of insurance.

**§ 118.24 ACCIDENT RECONSTRUCTION SCENE.**

This chapter shall not be applicable to accident reconstruction(s) conducted by the city.

**§ 118.99 PENALTY.**

Citations for violation of this chapter may be issued by the Fishers Police Department. Each violator of the restrictions and provisions of this chapter shall pay a fine to the city's Ordinance Violations Bureau in the sum and amount set forth in § 36.08. If the violation is not paid, an enforcement action may be filed by the City

~~Attorney's office in the Fishers City Court. Contract towers violating this chapter shall be liable to:~~

~~—(A) The city in the amount of \$250 for the first violation; and~~

~~—(B) The city in the amount of \$350 for each additional violation.~~

Section 3. All other provisions of the City's ordinances not in conflict with or specifically changed by this amendment shall remain in full force and effect.

Section 4. This Ordinance shall be of full force and effect from and upon its adoption and in accordance with Indiana law.

SO ORDAINED by the Common Council of the City of Fishers, Indiana on this \_\_\_ day of \_\_\_\_, 2023.