

ORDINANCE NO. 3850

**AN ORDINANCE MODIFYING CHAPTER 115
OF THE NEW CASTLE CITY CODE**

WHEREAS, the City of New Castle has previously adopted Chapter 115 of the City Code, which regulates the non-consensual towing of vehicles; and,

WHEREAS, the fee schedule and other provisions of the Ordinance have not been amended since at least 2007; and,

WHEREAS, the City believes it is in the best interest of the citizens of New Castle that the Ordinance regulating the non-consensual towing of vehicles be amended.

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of New Castle, Indiana, as follows:

Chapter 115 of the City Code is hereby repealed in its entirety and replaced with the following text:

§ 115.01 DEFINITIONS

The terms below that are used in this Chapter shall have the following definitions:

Non-consensual Tow: The towing of a vehicle without the prior consent or authorization of the vehicle's owner.

Police Directed Tow: A Non-consensual Tow that is initiated as a result of a call for service by the New Castle Police Department.

vehicle: A machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides and shall include, without limitation, automobiles, motorcycles, trucks or trailers that are capable of transporting one or more persons or property.

tow truck: A truck used by a licensee to tow or pick up damaged or disabled vehicles.

tow service provider: Any person that owns and operates a business that as its principal activity tows and stores vehicles.

person: Any individual, corporation, limited liability company, partnership, trust, or other legal entity or organization.

Rotation List: A list, developed by the Chief of Police, of one or more tow service provider(s) who are authorized to perform a Police Directed Tow.

§ 115.02 LICENSE REQUIRED.

Any tow service provider operating in the City that provides a Police Directed Tow or performs a Non-consensual Tow must hold a license as required by this Chapter, must maintain all required licensure from the state of Indiana and at all times comply with the provisions of this Chapter.

A person shall not perform a Police Directed Tow or Non-consensual Tow within the City of New Castle unless the person holds a license issued pursuant to this Chapter and performs the Police Directed Tow or Non-consensual Tow in accordance with the provisions of this Chapter.

§ 115.03 REQUIRED INSURANCE

All persons licensed under this Chapter must at all times maintain one or more policies of insurance with the following minimum limits of liability:

- (A) Vehicular Liability Insurance in an amount of no less than \$1,000,000.00 per accident for each truck used in the towing of a vehicle.*
- (B) General Liability Insurance in an amount of no less than \$1,000,000.00 per occurrence covering the licensed person.*
- (C) "On hook" coverage on vehicles being towed in the amount of no less than \$100,000.00.*
- (D) "Garage-keepers" insurance covering stored vehicles and the contents of stored vehicles in an amount of no less than \$300,000.00.*

§ 115.04 RECORD KEEPING AND OPERATION.

Each licensee shall:

(A) Comply with any order or direction of the New Castle Police Department to hold a vehicle that is towed as a result of a Police Directed Tow until such time as the release of the vehicle is authorized by the New Castle Police Department.

(B) Release vehicles at any time, twenty-four (24) hours per day seven (7) days per week, upon the payment of towing and storage charges.

(C) Upon payment of authorized towing and storage fees, provide a receipt to the vehicle's owner that contains the following information:

- (1) the name and address of the tow service business;*
- (2) the address from which the vehicle was towed;*
- (3) the date and time that the vehicle was towed;*
- (4) a description of the reason why the vehicle was towed;*

- (5) *the date and time that the vehicle entered the facility at which it was placed for storage; and,*
- (6) *an itemized list of all fees that are being charged.*

(D) *Maintain records of all inspections of tow trucks and service performed on tow trucks for a period of at least three (3) years after the inspection or service.*

(E) *Allow the owner of a vehicle, or the owner's agent, at all times to remove children's car seats, medications, wallets, purses, cell phones and firearms, regardless of whether the vehicle owner has paid the fees and charges necessary to remove the vehicle from storage.*

§ 115.05 CRITERIA FOR ISSUANCE OF LICESNE.

To obtain and hold a license, a tow service provider must:

(A) *Complete any application for license developed by the Chief of Police and pay an application fee in the sum of One Hundred Dollars (\$ 100.00) to the City of New Castle;*

(B) *Maintain a storage lot or garage within two miles of the City that is surrounded by a secure fence and is located on a parcel that has a zoning classification that allows for the storage of towed vehicles. The fence must have signage indicating the name of the person or entity operating the storage lot or garage, the normal hours of operation and a phone number at which a person can be reached after normal hours of operation to allow for the release of vehicles;.*

(C) *Provide the Chief of Police with evidence of insurance as required by this Chapter;*

(D) *Provide a list to the Chief of Police of all individuals who operate tow trucks that are employed by, or performing service for, a licensee. Each person operating a tow truck must be properly licensed to operate the vehicle he or she is driving. Proof of licensure of each person operating a tow truck must be provided to the Chief of Police at the time of application for a license and for each person hired after the issuance of a license, within five (5) days after the person is hired;*

(E) *Provide a Limited Criminal History Background Check and abstract of driving record for each person operating a tow truck at the time of application for a license and for each person hired after the issuance of a license, within (5) days after the person is hired; and*

(F) *Commit no more than three (3) violations of this Chapter during the two (2) years preceding the date of application.*

§ 115.06 ISSUANCE OF LICENSE.

Upon satisfying the criteria for issuance of a license in this Chapter and paying the required application fee, a tow service provider shall be issued a license. The license shall remain in effect for a period of one (1) year after its issuance and shall not be transferrable.

§ 115.07 TOWING AND STORAGE CHARGES

(A) A licensee may impose the following charges for performing a Police Directed Tow or Non-Consensual Tow:

(1) For the towing of a passenger vehicle (cars, trucks, SUV's, etc) motorcycle or moped, the sum of \$100.

(2) For the towing of a vehicle from an accident site, the removal of a vehicle from an embankment or in deep snow or mud, the licensee may impose an additional charge at the rate of \$50 dollars per hour for each hour involved in completing the tow, with a minimum additional charge of \$ 150.

In calculating the amount of time for performing a tow under this section, the computation shall begin when the licensee first arrives at the location where the vehicle to be towed is located and shall end when the towed vehicle arrives at the licensee's storage location. The additional charges set forth in this § 115.07 (A) (2) shall be imposed at the rate set forth above for the total time in completing the tow regardless of whether more than one vehicle is involved in the incident or more than one vehicle is required to be towed and shall not be imposed on a per vehicle basis.

(3) For the towing of bicycles, the sum of \$50.

(4) For a Police Directed Tow as a result of the utilization of a vehicle in a criminal offense, or as a result of the driver being arrested or committing an infraction, the owner of the vehicle shall pay an additional \$20 fee to the New Castle Police Department. The fee shall be paid at the Department Headquarters. A licensee must be provided with a receipt evidencing payment of the fee prior to releasing a vehicle to the owner.

(5) For the towing of a semi tractor or semi trailer, the sum of \$500 per hour.

(B) A licensee may impose storage charges as follows:

(1) The rate of \$35 for each calendar day a vehicle is stored on a licensee's lot or garage.

(2) The rate of \$100 for each calendar day a semi-tractor or semi-trailer is stored on a licensee's lot or garage.

An additional charge of \$30 may be imposed if a vehicle is released to its owner after 6 p.m. or before 6 a.m.

No later than November 1 of each year, the Special Issues Committee of the Common Council shall meet with the Chief of Police to review the rates and charges permitted under this Chapter. After conferring with the Chief of Police, the Special Issues Committee may make recommendation to the Common Council regarding any adjustments to the allowable rates and charges and any other modifications to this Chapter 115.

§ 115.08 IDENTITY OF WRECKER

A tow truck driver shall, whenever practical, provide a business card or other contact information to the owner or occupant of a towed vehicle at the time the vehicle is towed.

§ 115.09 INSPECTION OF RECORDS

Upon request, the Chief of Police, or his designee, shall be entitled to inspect receipts and other records that a licensee is required to maintain pursuant to this Chapter.

§ 115.10 ROTATION OF TOW TRUCK OPERATORS FOR POLICE DIRECTED TOWS

The Police Chief may develop a list of licensed tow truck service providers that will receive calls for Police Directed Tows. Tow truck services providers that are placed on the Rotation List shall receive calls to perform Police Directed Tows. The Police Department shall maintain records of calls for towing service and shall endeavor to allocate calls to all persons on the rotation list in an equitable manner. The Police Chief may, in his or her discretion, remove a tow truck service provider from the Rotation List or add one or more tow truck service providers to the Rotation List.

§ 115.11 PENALTIES

(A) A person who violates this section shall be fined in an amount of up to one hundred dollars (\$100.00) for the first offense.

(B) For each subsequent offense during a calendar year, a person violating this section shall be fined in an amount of no less than two hundred fifty dollars (\$250.00) and no more than five hundred dollars (\$500.00).

(C) Each day a violation occurs shall be deemed a separate offense.

(D) A licensee that violates the provisions of this Chapter may, in the discretion of the Police Chief, be removed from the Rotation List.

(E) The license of a person that commits three (3) or more violations of this Chapter during a two (2) year period, from the date of the first violation, shall be suspended for the remainder of the term of the license.

REPEALER: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SEVERABILITY: Any provision herein contained which is found by a court of competent jurisdiction to be unlawful or which by operation shall be inapplicable, shall be deemed omitted but the rest and remainder of this ordinance, to the extent feasible, shall remain in full force and effect.

EFFECTIVE DATE: This Ordinance shall become effective upon passage and publication as provided for by law.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF NEW CASTLE THIS
4th DAY OF January, 2021.

Greg York, Presiding
Officer, Common Council, City
of New Castle, Indiana

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NAY

ATTEST:

Brenda Grider, Clerk-Treasurer

APPROVED BY ME THIS ____ DAY OF _____, 2021.

Greg York, Mayor of the City
of New Castle, Indiana