



AGENDA ITEM EXECUTIVE SUMMARY

Agenda Item number: 5.a

Title:

Recommendation to Approve Modifications to Fees Related to Towing and to Amend Ordinance Title 10 – Vehicles and Traffic, Section 10.58 – Towing Services

Presenter:

Chief Keegan

Meeting: Government Services Committee

Date: November 28, 2016

Proposed Cost: \$N/A

Budgeted Amount: \$N/A

Not Budgeted:

Executive Summary *(if not budgeted please explain):*

The Police Department conducts an annual review of the fees for towing and related services as required under Title 10.58.020. A review was completed in September 2016. For purposes of this review, comparisons were made with towing services in the following municipalities: Geneva, Batavia, West Chicago, Elburn, Winfield, Wheaton, and South Elgin.

The Police Department is also recommending changes to the Towing Services ordinance. Effective January 1, 2016, a new state law, 625 ILCS 5/4-203.5 (Tow Rotation List), was enacted requiring all law enforcement agencies to establish and maintain a Tow Rotation List. The Police Department already has an established Tow Rotation List; however, this new legislation requires that modifications be made.

Attachments *(please list):*

- *Memo regarding the annual review of tow fees
- *Summary of recommended fee changes
- *Summary update of new state towing law
- *Revised fee structure and ordinance

Recommendation/Suggested Action *(briefly explain):*

The Police Department recommends approval of outlined changes to the tow fees and the modifications to the Tow Rotation List as required by state statute.



Memo

Date: 9/8/2016
To: Chief Keegan
From: Ofc. B. Devol #339
CC: D.C. Kintz, Cmdr. Mahan, Traffic File
Re: Annual Review of Tow Fees

The traffic unit has conducted an annual review of the fees related to towing as required under ordinance 10.58.200.

The review was conducted by comparing the current fee schedule to fee schedules of several surrounding municipalities. Input was also sought from the three agencies currently on our tow roster.

Fee schedules were reviewed from the following municipalities:

Geneva, Batavia, West Chicago, Elburn, Winfield, Wheaton, and South Elgin.

Our tow fees were found to be fairly consistent with those of surrounding municipalities except for fees related to the following services:

1. Standard Tow

Average Rate = \$142.27

St. Charles Rate \$140.00

2. 12,000-40,000 Tow

Average Rate = \$163.33

St. Charles Rate = \$150.00

3. 40,000+ Tow

Average Rate = \$266.25

St. Charles Rate = \$250.00

4. Clean Up (removal of debris in the roadway combined with the use of necessary oil-dry substance)

Average Rate = \$37.33

St. Charles Rate = \$30.00

5. Mileage

A. In Town:

Average Rate = \$2.73/mile

St. Charles Rate = \$2.50/mile

B. Out of town:

Average Rate = \$3.83/mile

St. Charles Rate = \$3.50/mile

6. Winching or other special handling charges

Average minimum rate = \$80.00

St. Charles Rate is \$125/hr. and shall be measured in 30-minute increments. Therefore the minimum rate is \$62.50

*It should be noted that changes to the current fee schedule were last made during the **2012** fiscal year.

Based on those findings I recommend the following changes to the fee roster be considered:

- Standard Tow fee be increased to \$145.00 (standard), \$160.00 (12k-40k), and \$260.00 (40k+)
- Clean up fee be increased to \$40.00
- Service fee be increased to \$65.00
- Mileage rate be increased to \$3.00/mile (in town) and \$4.00/mile (out of town)
- Winching/Special handling charge to change to flat rate of \$75.00 (eliminating timed increment language)

BD #339

2016 Annual Tow Fee Review
Summary of Recommended Changes

Current fees were found to be consistent with the other municipalities, with the following recommended changes:

1. Standard tow fee to be increased from \$140.00 to \$145.00;
2. Tow fee for vehicles with a weight between 12,000 and 40,000 lbs. to be increased from \$150.00 to \$160.00;
3. Tow fee for vehicles with a weight over 40,000 lbs. to be increased from \$250.00 to \$260.00;
4. Clean up fee (removal of debris combined with use of oil-dry type substance) to be increased from \$30.00 to \$40.00;
5. Mileage rates to be increased to from \$2.50/mile in town and \$3.50/mile out of town to \$3.00 and \$4.00/mile, respectively;
6. Special handling charges (such as vehicle rollover) to be changed to a flat rate of \$75.00 rather than the current hourly rate of \$125.00/ hour billable in thirty (30) minute increments.

Public Act 099-0438

625 ILCS 5/4-203 (f) 9.5 NEW *Effective Date: 1/1/2016*

✧ **Removal of motor vehicles or other vehicles; towing or hauling away**

- *Tow driver will not move a commercial vehicle unless told to by PD:*

9.5 Except as authorized by a law enforcement officer, no towing service shall engage in the removal of a commercial motor vehicle that requires a commercial driver's license to operate by operating the vehicle under its own power on a highway.

625 ILCS 5/4-203.5 NEW *Effective Date: 1/1/2016*

✧ **Tow Rotation List**

- *Every PD must keep a tow rotation list:*

(a) Each law enforcement agency whose duties include the patrol of highways in this State shall maintain a tow rotation list which shall be used by law enforcement officers authorizing the tow of a vehicle within the jurisdiction of the law enforcement agency. To ensure adequate response time, a law enforcement agency may maintain multiple tow rotation lists, with each tow rotation list covering tows authorized in different geographic locations within the jurisdiction of the law enforcement agency. A towing service may be included on more than one tow rotation list.

- *Tow companies can apply to PD to be on rotation list:*

(b) Any towing service operating within the jurisdiction of a law enforcement agency may submit an application in a form and manner prescribed by the law enforcement agency for inclusion on the law enforcement agency's tow rotation list. The towing service does not need to be located within the jurisdiction of the law enforcement agency. To be included on a tow rotation list the towing service must meet the following requirements:

- *For list, tow company required to possess license to tow:*

(1) possess a license permitting the towing service to operate in every unit of local government in the law enforcement agency's jurisdiction that requires a license for the operation of a towing service;

- *For list, tow company owner and drivers may be fingerprinted for criminal check:*

(2) if required by the law enforcement agency for inclusion on that law enforcement agency's tow rotation list, each owner of the towing service and each person operating a vehicle on behalf of the towing service shall submit his or her fingerprints to the Department of State Police in the form and manner prescribed by the Department of State Police. These fingerprints should be transmitted through a live scan fingerprint vendor licensed by the Department of Financial and Professional Regulation. These fingerprints shall be checked against the fingerprint records now and hereafter filed in the Department of State Police and Federal Bureau of Investigation criminal history records databases. The Department of State Police shall charge a fee for conducting the criminal history record check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the State and national criminal history record check. The Department of State Police shall furnish, pursuant to positive identification, all Illinois conviction information to the law enforcement agency maintaining the tow rotation list and shall forward the national criminal history record information to the law enforcement agency maintaining the tow rotation list. A person may not own a towing service or operate a vehicle on behalf of a towing service included on a tow rotation list if that person has been convicted during the 5 years preceding the application of a criminal offense involving one or more of the following:

 - (A) bodily injury or attempt to inflict bodily injury to another person;
 - (B) theft of property or attempted theft of property; or
 - (C) sexual assault or attempted sexual assault of any kind;
- *For list, tow company drivers must have proper DL classification:*

(3) each person operating a vehicle on behalf of the towing service must be classified for the type of towing operation he or she shall be performing and the vehicle he or she shall be operating;
- *For list, tow company must have proper insurance:*

(4) possess and maintain the following insurance in addition to any other insurance required by law:

 - (A) comprehensive automobile liability insurance with a minimum combined single limit coverage of \$1,000,000;

(B) commercial general liability insurance with limits of not less than \$1,000,000 per occurrence, \$100,000 minimum garage keepers legal liability insurance, and \$100,000 minimum on-hook coverage or cargo insurance; and

(C) a worker's compensation policy covering every person operating a tow truck on behalf of the towing service, if required under current law;

- *For list, tow company must have secure vehicle storage:*

(5) possess a secure parking lot used for short-term vehicle storage after a vehicle is towed that is open during business hours and is equipped with security features as required by the law enforcement agency;
- *For list, tow company must have valid vehicle registrations:*

(6) utilize only vehicles that possess a valid vehicle registration, display a valid Illinois license plate in accordance with Section 5-202 of this Code, and comply with the weight requirements of this Code;
- *For list, tow company drivers must have training as required per law:*

(7) every person operating a towing or recovery vehicle on behalf of the towing service must have completed a Traffic Incident Management Training Program approved by the Department of Transportation;
- *For list, tow company must have ICC authority:*

(8) hold a valid authority issued to it by the Illinois Commerce Commission;
- *For list, tow company must comply with all laws:*

(9) comply with all other applicable federal, State, and local laws; and
- *For list, tow company must comply with PD requirements:*

(10) Comply with any additional requirements the applicable law enforcement agency deems necessary. The law enforcement agency may select which towing services meeting the requirements of this subsection (b) shall be included on a tow rotation list. The law enforcement agency may choose to have only one towing service on its tow rotation list. Complaints regarding the process for inclusion on a tow rotation list or the use of a tow rotation list may be referred in writing to the head of the law enforcement agency administering that tow rotation list. The head of the law enforcement agency shall make the final determination as to which qualified towing services shall be included on a tow rotation list, and shall not be held liable for the exclusion of any towing service from a tow rotation list.

- *PD to call for tow from next on rotation list:*

(c) Whenever a law enforcement officer initiates a tow of a vehicle, the officer shall contact his or her law enforcement agency and inform the agency that a tow has been authorized. The law enforcement agency shall then select a towing service from the law enforcement agency's tow rotation list corresponding to the geographical area where the tow was authorized, and shall contact that towing service directly by phone, computer, or similar means. Towing services shall be contacted in the order listed on the appropriate tow rotation list, at which point the towing service shall be placed at the end of that tow rotation list. In the event a listed towing service is not available, the next listed towing service on that tow rotation list shall be contacted.
- *PD may deviate from next tow company on rotation list as needed:*

(d) A law enforcement agency may deviate from the order listed on a tow rotation list if the towing service next on that tow rotation list is, in the judgment of the authorizing officer or the law enforcement agency making the selection, incapable of or not properly equipped for handling a specific task related to the tow that requires special skills or equipment. A deviation from the order listed on the tow rotation list for this reason shall not cause a loss of rotation turn by the towing service determined to be incapable or not properly equipped for handling the request.
- *PD may deviate from next tow company on rotation list in emergency:*

(e) In the event of an emergency a law enforcement officer or agency, taking into account the safety and location of the situation, may deviate from the order of the tow rotation list and obtain towing service from any source deemed appropriate.
- *PD may comply with vehicle owner request for different tow company:*

(f) If the owner or operator of a disabled vehicle is present at the scene of the disabled vehicle, is not under arrest, and does not abandon his or her vehicle, and in the law enforcement officer's opinion the disabled vehicle is not impeding or obstructing traffic, illegally parked, or posing a security or safety risk, the law enforcement officer shall allow the owner of the vehicle to specify a towing service to relocate the disabled vehicle. If the owner chooses not to specify a towing service, the law enforcement agency shall select a towing service for the vehicle as provided in subsection (c) of this Section.

- PD will tell tow company to leave scene if they weren't called:
(g) If a tow operator is present or arrives where a tow is needed and it has not been requested by the law enforcement agency or the owner or operator, the law enforcement officer, unless acting under Section 11-1431 of this Code, shall advise the tow operator to leave the scene.
- Only applies to under 1 million population:
(h) Nothing contained in this Section shall apply to a law enforcement agency having jurisdiction solely over a municipality with a population over 1,000,000.

625 ILCS 5/11-1431 (b) NEW *Effective Date: 1/1/2016*

⌘ **Solicitations at accident or disablement scene prohibited**

- Penalties for soliciting tows:
(b) A person who violates this Section is guilty of a business offense and shall be required to pay a fine of more than \$500, but not more than \$1,000. A person convicted of violating this Section shall also have his or her driver's license, permit, or privileges suspended for 3 months. After the expiration of the 3 month suspension, the person's driver's license, permit, or privileges shall not be reinstated until he or she has paid a reinstatement fee of \$100. If a person violates this Section while his or her driver's license, permit, or privileges are suspended under this subsection (b), his or her driver's license, permit, or privileges shall be suspended for an additional 6 months, and shall not be reinstated after the expiration of the 6 month suspension until he or she pays a reinstatement fee of \$100.

625 ILCS 5/18a-300 (9) AMENDED & (20) NEW *Effective Date: 1/1/2016*✧ **Commercial Vehicle Relocators - unlawful practices**▪ *Allow CDL driver to disconnect vehicle upon payment:*

(9) To remove a vehicle when the owner or operator of the vehicle is present or arrives at the vehicle location at any time prior to the completion of removal, and is willing and able to remove the vehicle immediately , except for vehicles that require a commercial driver's license to operate. Vehicles that require a commercial driver's license to operate shall be disconnected from the tow truck and the owner or operator shall be allowed to remove the vehicle without interference upon the payment of a reasonable service fee of not more than one-half of the posted rate of the towing service per tow vehicle on the scene and up to a maximum of 2 tow vehicles as provided in paragraph 6 of subsection (f) of Section 4-203 of this Code, for which a receipt shall be given;

▪ *Must have police authorization to drive CDL required vehicle:*

(20) To engage in the removal of a commercial motor vehicle that requires a commercial driver's license to operate by operating the vehicle under its own power on a highway without authorization by a law enforcement officer.

625 ILCS 5/18d-153 AMENDED *Effective Date: 1/1/2016*✧ **Misrepresentation of affiliation**▪ *Tow company/driver may not falsely claim to be on PD tow rotation list:*

Sec. 18d-153. Misrepresentation of affiliation. It shall be unlawful for any tower to misrepresent an affiliation with the State, a unit of local government, an insurance company, a private club, or any other entity, or falsely claim to be included on a law enforcement agency's tow rotation list maintained under Section 4-203.5 of this Code, for the purpose of securing a business transaction with a vehicle owner or operator.

City of St. Charles, Illinois
Ordinance No. 2016-M- _____

**An Ordinance Amending Title 10 “Vehicles and Traffic”,
Chapter 10.58 “Towing Services”, Section 10.58.040 “Selection and
Designation of Towing Services”, Section 10.58.060 “Business Operation”,
Section 10.58.100 “Roster Fee”, Section 10.58.140 “Assignment”, Section
10.58.180 “Dispatching Requirements”, Section 10.58.200 “Fees”, 10.58.280
“Insurance”, 10.58.420 “Failure to Provide Services – Penalty” of the St.
Charles Municipal Code**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES,
KANE AND DUPAGE COUNTIES, ILLINOIS, AS FOLLOWS:**

SECTION ONE: That Title 10 “Vehicles and Traffic” Chapter 10.58 “Towing Services” Section 10.58.040 “Selection and designation of towing services”, of the St. Charles Municipal Code, be and is hereby amended as follows:

- B. ~~Roster-Tow Rotation List~~ - All firms selected and designated to provide towing services hereunder shall be listed on a ~~roster- Tow Rotation List~~ to be kept by the Police Department. Said ~~roster- Tow Rotation List~~ of towing firms shall, at all reasonable times, be open to public inspection.
- C. Eligibility - Any firm shall become eligible to be listed on the ~~roster- Tow Rotation List~~ and participate in the assignment of service calls by the Police Department if it maintains its principal place of business ~~in the City of St. Charles or is within the subdivision control- within five (5) miles of the corporate~~ limits of the City of St. Charles.

SECTION TWO: That Title 10 “Vehicles and Traffic” Chapter 10.58 “Towing Services” Section 10.58.060 “Business operation”, of the St. Charles Municipal Code, be and is hereby amended as follows:

- A. Business Location and Storage Lot:
 - 1. Primary business location - List location of primary business operation, including dimensions and types of facilities available.
 - 2. Storage lot - List location of storage lot(s), zoning classifications, dimensions thereof, relationship to primary business operation, proof of ownership or signed lease agreement, valid for one year, and the type of protection at said lot(s).
 - 3. Minimum business and storage lot requirements:
 - a. Business and storage: The business and storage lot must be within five (5) miles of the corporate limits of the City of St. Charles and must be a reasonable distance from public transportation and the storage lot; must be in close proximity to the place of business; and the storage area, if not located within a building, must be located in an M-1 Manufacturing

District or have the right to the use of the subject property consistent with permitted uses of an M-1 District; provided, that if said area is located on a premise where an already existing principal use authorizes the storage of cars and trucks in the open as accessory to said principal use, the storage lot must have adequate storage space (at least fifty (50) feet by one hundred (100) feet or equivalent area) to accommodate thirty (30) cars either under cover or well fenced. The firm must exercise ordinary care in keeping stored vehicles and contents safe from pilfering as may be required by a bailee or as otherwise required by law.

SECTION THREE: That Title 10 “Vehicles and Traffic” Chapter 10.58 “Towing Services” Section 10.58.100 “Roster fee”, of the St. Charles Municipal Code, be and is hereby amended as follows:

10.58.100—~~Roster~~ [Tow Rotation List](#) fee

- A. All firms listed on the ~~roster~~ [Tow Rotation List](#) shall pay the city of St. Charles a fee in the amount of \$25 for each year, starting May 1 and ending the following April 30, said firm is listed on said ~~roster~~ [Tow Rotation List](#).

SECTION FOUR: That Title 10 “Vehicles and Traffic” Chapter 10.58 “Towing Services” Section 10.58.140 “Assignment”, of the St. Charles Municipal Code, be and is hereby amended as follows:

The Chief of Police may, at his discretion, and upon consent of the City Council Government Services Committee, assign a towing service to operate in conjunction with those firms already on the ~~towing roster~~ [Tow Rotation List](#), in the event that those firms are not available to respond to police or other City Departments’ request for service as outlined in Section 10.58.180 of this chapter.

This towing service shall meet all the requirements set forth in this chapter and have made application and been inspected to insure compliance.

Any firm listed on the ~~roster~~ [Tow Rotation List](#) shall not assign its position in the schedule to other towing concerns, without the written consent of the Chief of Police.

SECTION FIVE: That Title 10 “Vehicles and Traffic” Chapter 10.58 “Towing Services” Section 10.58.180 “Dispatching requirements”, of the St. Charles Municipal Code, be and is hereby amended as follows:

- B. When it becomes evident that there will be more than a 20-minute delay in responding to a request for towing service, the tow car company concerned shall advise the Police Department of this delay. At that time the Police Department reserves the right to request the services of the next towing service on the ~~towing schedule for service~~ [Tow Rotation List](#).

- C. Towing units shall be dispatched from the place of business, or a reasonable distance from the place of business, as determine by the Police Department. The Police Department ~~may, from time to time, establish a policy with regard to~~ shall provide for the distribution of requests for towing service among ~~the successful applicants, provided that said policy is fair and equitable to~~ all firms listed on the ~~roster~~ Tow Rotation List. Dispatching from the Tow Rotation List shall be done in accordance with the requirements outlined in the Illinois Vehicle Code, 625 ILCS 5/4-203.5.

SECTION SIX: That Title 10 “Vehicles and Traffic” Chapter 10.58 “Towing Services” Section 10.58.200 “Fees”, of the St. Charles Municipal Code, be and is hereby amended as follows:

- A. Towing – the maximum fee which may be charged by any towing operation for removing a vehicle from the street in response to a police call shall be as follows:
1. For the towing of any vehicle, for the total gross weight up to 12,000 pounds: a flat rate of one hundred forty ~~five~~ dollars (\$14~~50~~.00).
 2. For any service call where no tow is involved: sixty-five dollars (\$65.00).
 3. All out-of-town mileage charges shall not exceed ~~three-four~~ dollars ~~and fifty cents~~ (~~\$3.50~~~~4.00~~) per mile.
 4. For vehicles with a weight between 12,000 and 40,000: one hundred ~~fifty-sixty~~ dollars (\$1~~65~~~~0.00~~).
 5. Any and all vehicles with a weight over 40,000 pounds: two hundred ~~fifty-sixty~~ dollars (\$2~~65~~~~0.00~~).
 6. Recovery fee: for vehicles with a combined weight of 26,000 pounds and under, the fee shall be no more than one hundred fifty dollars (\$150.00) per hour. For vehicles over 26,000 and where goods need to be secured, a recovery fee not in excess of one hundred eighty-five (\$185.00) per hour.
 7. Charges of thirty dollars (\$30.00) per hour will be charged to cage brakes and/or removing the drive shaft, if necessary, for the removal of a disabled vehicle.
 8. Where a lowboy trailer is required to haul away a vehicle, the rate shall not exceed more than two hundred fifty dollars (\$250.00) per hour.
 9. ~~The maximum fee which may be charged for~~ Special handling charges shall be a flat rate of seventy five dollars (\$75.00), at a rate not to exceed one hundred twenty five (\$125.00) per hour and shall be measured in 30 minute increments. Special handling charges shall include, but not be limited to the following:
 - a. Vehicle rollover;
 - b. Vehicle impacted in a building or other structure;
 - c. Vehicle in river or other body of water;
 - d. Vehicle off the roadway requiring the use of a power winch for retrieval;
 - e. Motorcycle or other vehicle requiring special handling considerations.
 10. Miscellaneous rates.
 11. Police vehicles for the City of St. Charles will be towed at the rate of fifty dollars (\$50.00) per hour.
 12. Removal of abandoned vehicles from city streets to City vehicle impound lot will be towed at the rate of fifty dollars (\$50.00) per vehicle.

13. Snow tow removal or snow relocation shall be charged at the rate of one hundred dollars (\$100.00) per hour.
14. Standby time shall be charged at the rate of fifty-five dollars (\$55.00) per hour, up to a maximum of two (2) hours.
15. Any time a firm is required to respond out of the corporate limits of the city to recover a vehicle for the Police Department, time shall be charged at the rate of seventy dollars (\$70.00) per hour plus mileage.
16. Removal of debris in the roadway combined with the use of necessary oil-dry type substance shall charge at a rate of ~~thirty~~ forty dollars (~~\$34~~0.00) per incident.

SECTION SEVEN: That Title 10 “Vehicles and Traffic” Chapter 10.58 “Towing Services” Section 10.58.280 “Insurance”, of the St. Charles Municipal Code, be and is hereby amended as follows:

Each firm listed on said ~~firm roster~~ Tow Rotation List shall have in full force and effect during the period said firm remains on said ~~roster~~ Tow Rotation List, ~~public liability, property damage and fire and theft insurance coverage. Proof of said coverage shall not be less than that specified by Chapter 625 of the Illinois Compiled Statutes, Paragraph 5/12-606, Sub paragraph (d). The following insurance, in addition to any other insurance, are required by law:~~

- A. Comprehensive automobile liability insurance with a minimum combined single limit coverage of \$1,000,000;
- B. Commercial general liability insurance with limits of not less than \$1,000,000 per occurrence, \$100,000 minimum garage keepers legal liability insurance, and \$100,000 minimum on-hook coverage or cargo insurance; and
- C. A worker’s compensation policy covering every person operating a tow truck on behalf of the towing service, if required under current law.

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SECTION EIGHT: That Title 10 “Vehicles and Traffic” Chapter 10.58 “Towing Services” Section 10.58.420 “Failure to provide services - Penalty”, of the St. Charles Municipal Code, be and is hereby amended as follows:

Any person, firm, or corporation whose name is placed on the ~~roster~~ Tow Rotation List maintained by the Chief of Police for calls for the providing of towing services who fails to provide such services in the manner provided by this chapter may be removed from the ~~roster~~ Tow Rotation List and may not be reinstated for a period of one year following removal.

SECTION NINE:

That, after the adoption and approval hereof, this Ordinance shall (i) be printed or published in book or pamphlet form, published by the authority of the City Council of the City of St. Charles, or (ii) within thirty (30) days after the adoption and approval hereof, be published in a newspaper published in and with a general circulation within the City of St. Charles.

SECTION TEN: This Ordinance shall be in full force and effect ten (10) days from and after its passage by a vote of the majority of the corporate authorities now holding office, approval and publication in the manner provided by law.

PRESENTED to the City Council of the City of St. Charles, Illinois, this ____ day of _____, 2016.

PASSED by the City Council of the City of St. Charles, Illinois this ____ day of _____, 2016.

APPROVED by the Mayor of the City of St. Charles, Illinois, this ____ day of _____, 2016.

Raymond P. Rogina, Mayor

ATTEST:

City Clerk

COUNCIL VOTE:

Ayes : _____

Nays : _____

Absent : _____