

ORDINANCE NO. 13-08

**AN ORDINANCE TO AMEND WEST LAFAYETTE CITY
CODE CHAPTER 44 CONCERNING THE OPERATION OF
TOWING SERVICE IN THE CITY OF WEST LAFAYETTE**

WHEREAS, the City of West Lafayette has determined that there is a need for private property owner desiring to tow a vehicle to first establish that a vehicle is illegally parked;

WHEREAS, the City of West Lafayette has recognized that there needs to be established a mechanism for determining fair and equitable charges that towing services impose;

WHEREAS, the City of West Lafayette has determined that there is a need for vehicle owners or lien holders to have a mechanism to quickly determine the location of vehicles towed;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE that:

SECTION 1. West Lafayette City Code Chapter 44 Section 8 is amended to read as follows:

Sec. 44.08. Unauthorized parking on private property.

(a) Private Property. Private property is defined as any property that is not a dedicated public right of way.

(b) Unauthorized parking prohibited. It is unlawful for any person to park any motor vehicle, house trailer, one, two or three wheel trailers, tractor trailer or any other type of motorized or non-motorized conveyance ordinarily pulled or attached to a motor vehicle, on any private property without the express or implied consent or authorization of the owner, holder, occupant, lessee, agent or trustee of such property. ~~A complaint for the violation of this section shall be made by the owner, holder, occupant, lessee, agent or trustee of such property to City of West Lafayette Police Department.~~ Towing or other removal of a vehicle without the approval of the vehicle's owner or lien holder can not in any circumstances be initiated until a complaint for the violation of this section is made by the owner, holder, occupant, lessee, agent or trustee of such property on the form prescribed by the police chief, signed by the complainant, and received by the West Lafayette Police Department. The owner, holder, occupant, lessee, agent or trustee of the property must not be affiliated, employed, or hold an ownership interest in the towing company, or otherwise receive compensation in any manner from the towing of the vehicle. The owner, holder, occupant, lessee, agent or trustee of the property can not delegate their authority under this section to a towing operator by contract.

(c) All towing from private property without the consent of the owner of the vehicle, except as expressly allowed by this section or ordered by the West Lafayette Police Department, is prohibited.

~~(c) Complaints. Towing. A complaint for violation of this section shall be made on the form prescribed by the police chief and signed by the complainant. The vehicle shall be ticketed for a violation of this section and/or other ordinances of this city.~~

(gd) Towing From Single Family Residential Property. A vehicle may not be towed from single family residential property until the complaint procedure outlined in § 44.08 (b) is completed. Towing, Other Bases. The investigating officer may also direct the removal of the vehicle if the vehicle remains illegally parking on private property for more than four (4) hours after the vehicle was ticketed for unauthorized parking.

(e) Towing From Multi-Tenant Residential Property. A vehicle may not be towed from multi-tenant residential property until all of the following three conditions are satisfied (i) the complaint procedure outlined in § 44.08 (b) is completed (ii) all vehicular entrances to the parking lot have signs posted prohibiting such unauthorized parking, in a form prescribed by the West Lafayette Engineering Department (iii) the vehicle license plate is compared with a list of vehicles authorized to park on the property. ~~(f) Towing, Retail and Other Parking. The investigating officer may direct the vehicle to be removed immediately if: (i) the illegally parked vehicle is in a parking lot used for retail establishments, professional offices, a house of worship or a public building and (ii) all vehicular entrances to the parking lot have signs posted prohibiting such unauthorized parking, in a form prescribed by the West Lafayette Engineering Department.~~

(f) Towing From Commercial Property. A vehicle may not be towed from commercial property until all of the following two conditions are satisfied (i) the complaint procedure outlined in § 44.08 (b) is completed (ii) all vehicular entrances to the parking lot have signs posted prohibiting such unauthorized parking, in a form prescribed by the West Lafayette Engineering Department

(g) Drop Fees. If the owner of a vehicle returns to their vehicle while it is in the process of being towed then the owner of the vehicle shall be allowed to remove the vehicle by paying a fee but may not be required to release the towing company from liability or otherwise sign.

~~(h) Removal of Illegally Parked Vehicle. An investigating officer who directs the removal of an illegally parked vehicle under this section shall arrange for the same to be removed by a reputable towing company and placed in a reputable storage or parking facility.~~

(h) The maximum rate limits for towing a vehicle established under §44.13 apply for any vehicle removed under this section.

(i) A violation of § 44.08 by a company engaged in towing in the City of West Lafayette shall result in a fine of \$100 for the first offense, \$500 for the second offense and \$1000 for each subsequent offense.

(j) A violation of § 44.08 by an individual working independently or by an individual working for a company engaged in towing in the City of West Lafayette shall result in a fine of \$100.

SECTION 2. West Lafayette City Code Chapter 44 Section 13 is amended to read as follows:

Sec. 44.13. Maximum towing and storage charges.

(a) The maximum amount that a towing service may charge for hooking up, towing or removing a vehicle from public or private property may not exceed the lesser of (i) the base towing rate contacted by the City of West Lafayette under § 44.15 (ii) the average base towing rate charged under competitive bid by towing services operating at Purdue University and in the City of Lafayette. ~~eighty-five dollars (\$85.00), except where special equipment may be required.~~

(b) The maximum amount that a towing service may charge for ~~s~~Special equipment, including dollying and go jacks, may not exceed the lesser of (i) the special equipment fee contacted by the City of West Lafayette under § 44.15 (ii) the average special equipment fee charged under competitive bid by towing services operating at Purdue University and in the City of Lafayette ~~an additional thirty dollars (\$35.00) except for~~

(c) The maximum amount that a towing service may charge for special for wreck or crash recovery services that require winching ~~in which case the maximum charge may not exceed the~~ lesser of (i) the winch recovery fee contacted by the City of West Lafayette under § 44.15 (ii) the average special equipment fee charged under competitive bid by towing services operating at Purdue University and in the City of Lafayette ~~one hundred twenty dollars (\$120.00).~~ ~~Motorcycles are not included in the above-mentioned maximums.~~

(d) Because of their special handling, the maximum charge for the hooking up, towing or removal of a motorcycle may not exceed the lesser of (i) the motorcycle towing fee contacted by the City of West Lafayette under § 44.15 (ii) the average motorcycle towing fee charged under competitive bid by towing services operating at Purdue University and in the City of Lafayette ~~at any time for a motorcycle may not exceed eighty-five dollars (\$85.00). The maximum amount that the service may charge for an arrival on the scene in response to a request by a police officer is thirty-five dollars (\$35.00).~~

(~~e~~) Should the owner or lien holder wish to retrieve the vehicle from the towing service ~~during night~~between the hours of 10:00 P.M. and 8:00 A.M., in addition to any towing and storage charges, a night retrieval fee may be charged. The night retrieval fee may not exceed the lesser of (i) the night retrieval fee contacted by the City of West Lafayette under § 44.15 (ii) the average night retrieval fee charged under competitive bid by towing services operating at Purdue University and in the City of Lafayette ~~an amount not to exceed forty five dollars (\$45.00) may be charged.~~

(~~e~~) The maximum amount that may be charged for storage shall not exceed ~~twenty dollars (\$20.00) per day~~ the lesser of (i) the daily storage fee contacted by the City of West Lafayette under § 44.15 (ii) the daily storage fee charged under competitive bid by towing services operating at Purdue University and in the City of Lafayette. The daily storage charge may only be charged for each twenty four hour period that the vehicle remains after an initial twenty four hour period.

(g) The maximum amount that may be charged as a Drop Fee may not exceed the lesser of (i) the Drop Fee rate contacted by the City of West Lafayette under § 44.15 (ii) the average

Drop Fee rate charged under competitive bid by towing services operating at Purdue University and in the City of Lafayette.

(h) Overriding maximum on all towing operator fees. At no point should the combined charges or individual charges associated with hooking up, towing or removing a vehicle from public or private property exceed the maximum charge for those services established by the Indiana Department of Motor Vehicles for the removal of vehicles at the direction of the Indiana Department of Motor Vehicles.

(i) The maximum charges detailed in this ordinance shall be aggregated by the City of West Lafayette – Common Council Public Safety Ordinance Committee on an annual basis and posted on the City of West Lafayette website and published in local newspapers sixty days before they become effective.

(j) This ordinance regulating maximum towing and storage charges applies to vehicles towed from public and private property.

(k) The maximum towing and storage charges do not apply ~~This ordinance does not apply~~ to towing or storage charges for commercial vehicles.

(l) The maximum towing and storage charges do not apply when the owner of the vehicle requests the vehicles removal.

(m) The owner or lien holder of a vehicle shall have the option to receive an itemized receipt of charges assessed under this section up to one year after the date the vehicle was towed.

(n) A violation of § 44.13 by a company or individual engaged in towing in the City of West Lafayette shall result in a fine of \$100 for the first offense, \$500 for the second offense and \$1000 for each subsequent offense.

SECTION 3. West Lafayette City Code Chapter 44 Section 14 is added and reads as follows:

Sec. 44.14. Reporting of vehicle towing.

(a) Before a vehicle may be hooked up to be towed the operator of the vehicle that will do the towing must report the intent to tow a vehicle and the vehicles license plate number and state of issue to the City of West Lafayette Police Department in a manner prescribed by the West Lafayette Police Department.

(b) A violation of § 44.14 by a company or individual engaged in towing in the City of West Lafayette shall result in a fine of \$100 for the first offense, \$500 for the second offense and \$1000 for each subsequent offense.

(c) This ordinance regulating the reporting of vehicle towing applies to vehicles towed from public and private property.

(d) The City of West Lafayette Police Department shall make report to the Common Council aggregate data on the number of vehicles towed each month.

SECTION 4. West Lafayette City Code Chapter 44 Section 15 is added and reads as follows:

Sec. 44.15. Establishment of Preferred Towing Operator for Police Initiated Towing.

(a) Annually the City of West Lafayette Police Department shall solicit proposals to contract with the City of West Lafayette as the preferred towing operator for police initiated towing.

(b) Valid proposals received by the West Lafayette Police Department should include specific individual dollar amounts that will be charged for the following services (i) base towing (ii) impound towing fee (iii) special equipment fee (iii) wreck or crash recovery winching (iv) motorcycle towing (v) night retrieval fee (vi) daily storage fee (vii) drop fee.

(c) The towing operator that submits the lowest towing charge calculated as the sum of three parts (i) base towing rate (ii) special equipment fee rate (iii) daily storage fee rate, shall have the opportunity to enter into a preferred towing operator contract with the City of West Lafayette.

(d) The preferred towing operator contracted with the City of West Lafayette shall be the first towing operator contacted for all police initiated towing in the City of West Lafayette.

(e) If the preferred towing operator is unable to fulfill the towing needs of the City of West Lafayette Police in a timely manner towing operators from a rotating list kept by the City of West Lafayette Police may be contacted.

(f) All towing initiated under this section is subject to the maximum towing rates contracted with the City of West Lafayette by the preferred towing operator.

SECTION 4. This ordinance shall be in full force and effect from and after its passage, signing by the Mayor and publication as provided by law.