

Request For City Council Action

Date: March 24, 2015

Agenda Section: General Business No. 6	Originating Department: City Manager's Office
Item: Ordinance Amending Title Five (5) of the Carbondale Revised Code as it Relates to Nonconsensual Towing Fees No. 6.2	Approved:

Background:

In 1997, the City Council adopted an ordinance that initiated the City's regulation of the nonconsensual towing of vehicles within the City limits. Nonconsensual towing is defined as the towing or removal of any vehicle from private property without the consent of the owner or operator of the vehicle. The regulations contained in Title Five (5), Chapter Thirteen (13) of the Carbondale Revised Code do not pertain to the towing of vehicles from the public right of way or from City of Carbondale controlled property. In 2005, the fees were reviewed and increases made as noted in the chart below.

Representatives from the towing companies presented information to the City Council on February 10, 2015, outlining the need and justification to increase fees. Staff has contacted other communities within the area as well as other university communities to determine if they regulate the rates for nonconsensual tows. The cities of Anna, Benton, Centralia, DuQuoin, Harrisburg, Herrin, Marion, Mt. Vernon, Murphysboro, and Pinckneyville do not regulate towing fees of any kind. West Frankfort is the only city in the immediate area found to regulate tow fees.

Cape Girardeau (home of Southeast MO University), Macomb (home of Western IL University), Champaign (home of the University of IL) and Charleston (home of Eastern IL University) do not regulate nonconsensual tows but do set maximum fees for all towing activities initiated by the City. Edwardsville (home of Southern IL University - Edwardsville) does not regulate tow fees. Paducah, KY and DeKalb, IL did not respond to the inquiry. Normal (home of Illinois State University) is the only university community that regulates nonconcensual tows. The City of Normal code is identical to the Carbondale code, including notification and signage requirements.

Comparison Chart

Towing Fees	West Frankfort	Cape Girardeau	Macomb	Charleston	Champaign	Normal
	\$75 7a-5p \$100 5p-7a	\$24.50	\$75 7a-5p \$150 5p-7a and weekends	\$95	\$130 (\$5 increase per year through 2017)	\$85
Use of dolly		29.50			50	25
Use of winch		24.50				
Outside storage after 24 hours	25 per day	14.50		30	40	12
Inside storage after 24 hours					45	
After hours release of vehicle				25		20
Interrupted tow						25

Engineering Approval Obtained	Finance Approval Obtained	Legal Approval Obtained	Approval Obtained	Manager's Approval Obtained
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Council Action: Motion by _____ 2nd by _____ to _____

Staff has reviewed the information obtained from other communities and the recommendations of the local towing companies and believe it would be in the best interest of the City to set the fees for 2015-2016 and 2017-2018 as indicated below.

Modified Chart for Carbondale

Towing Fees	1997-2004 Rates	2005-2015 Rates	Rates Proposed by Tow Companies	2015-2016 Recommendations by Staff	2017-2018 Recommendations by Staff
	\$55	\$65	\$85	\$75	\$80
Use of special equipment (dolly, winch)		10	30	30	30
Outside storage after 24 hours	10	10	25	20	20
Inside storage after 24 hours	10	10	35	30	30
After hours release (including weekends)			25	20	25
Interrupted tow	20	25		25	25

Recommended Action:

The City Council is requested to approve an Ordinance amending Title Five (5) of the Carbondale Revised Code as it relates to nonconsensual towing fees.

CITY OF CARBONDALE, ILLINOIS

ORDINANCE NO. 2015- ____

**AN ORDINANCE AMENDING TITLE FIVE OF THE CARBONDALE REVISED
CODE AS IT RELATES TO NONCONSENSUAL TOWING FEES**

**ADOPTED BY THE CITY COUNCIL
OF THE CITY OF CARBONDALE, ILLINOIS
THE 24TH DAY OF MARCH, 2015**

**Published in pamphlet form by authority of the City Council of the City of Carbondale,
Jackson County, Illinois, this 25th day of March, 2015.**

CERTIFICATE OF PUBLICATION

**I, Jennifer R. Sorrell, the duly qualified City Clerk of the City of Carbondale,
Illinois, and the official custodian of the records of said City, do hereby certify that this
ordinance was published in pamphlet form by authority of the City Council on the 25th day
of March, 2015.**

Jennifer R. Sorrell, City Clerk

ORDINANCE NO. 2015-____

AN ORDINANCE AMENDING TITLE FIVE OF THE CARBONDALE REVISED CODE AS IT RELATES TO NONCONSENSUAL TOWING FEES

WHEREAS, the City of Carbondale, Illinois, is a home rule unit of local government under the Illinois Constitution, 1970, Article VII, Section 6; and

WHEREAS, pursuant to Article VII, Section 6(a), of the Illinois Constitution, 1970, the City of Carbondale may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS, the City Code of the City of Carbondale, Illinois, under Title 5 outlines nonconsensual towing services within the City of Carbondale; and

WHEREAS, fees previously established in the Revised Code, have not been amended since their adoption in 2005; and

WHEREAS, the City Council of the City of Carbondale finds that it is in the best interest of the City of Carbondale to amend the nonconsensual towing fees established in Section 5-13-2 of Title 5 of the Carbondale Revised Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARBONDALE AS FOLLOWS:

SECTION 1. That Section 5-13-2 of Title 5 of the Carbondale Revised Code is hereby amended to read as follows:

5-13-2: **FEES:** The following schedule of maximum fees, effective ~~September 1, 2005~~ upon adoption of this ordinance, shall be in effect for all nonconsensual tows:

<u>Service Description</u>	<u>Price</u>
Towing from tow truck (any vehicle size)	\$65.00

Use of dolly	0.00
Use of winch	0.00
Outside storage (after 24 hours)	10.00
Inside storage (after 24 hours)	10.00
After hours release of vehicle	0.00
Interrupted tow	20.00
Excessive work or waiting	0.00
Service fee	0.00
Mileage (in or outside city limits)	0.00

A. For a period from the adoption of this code, and until April 30, 2016, the following fees are in effect:

<u>Service Description</u>	<u>Price</u>
Towing from tow truck (any vehicle size)	\$75.00
Use of dolly	30.00
Use of winch	30.00
Outside storage (after 24 hours)	20.00
Inside storage (after 24 hours)	30.00
After hours release of vehicle	20.00
Interrupted tow	25.00
Excessive work or waiting	0.00
Service fee	0.00
Mileage (in or outside city limits)	0.00

B. Upon May 1, 2016, the following fees are in effect:

<u>Service Description</u>	<u>Price</u>
Towing from tow truck (any vehicle size)	\$80.00
Use of dolly	30.00
Use of winch	30.00
Outside storage (after 24 hours)	20.00
Inside storage (after 24 hours)	30.00
After hours release of vehicle	25.00
Interrupted tow	25.00
Excessive work or waiting	0.00
Service fee	0.00
Mileage (in or outside city limits)	0.00

C. Any other service provided during the nonconsensual tow shall be at no additional cost to the owner or operator of said vehicle, unless said owner or operator agrees upon the additional fee in advance.

SECTION 2. All of the remaining sections of Title 5, Chapter 13 of the Carbondale Revised Code shall remain in full force and effect.

SECTION 3. That all ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

SECTION 4. That repeal of any ordinance by this Ordinance shall not affect any rights accrued or liability incurred under said repealed ordinance to the effective date hereof. The provisions of this Ordinance insofar as they are the same or substantially the same as those of any prior ordinance, shall be construed as a continuation of said prior ordinances.

SECTION 5. That it is the intention of the City Council of the City of Carbondale that this Ordinance and every provision thereof shall be considered separable, and the invalidity of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

SECTION 6. That the City Council of the City of Carbondale finds that the subject matter of this Ordinance pertains to the government and affairs of the City of Carbondale and is passed pursuant to authorities granted it by State statutes and the Home Rule powers of the City of Carbondale pursuant to the provisions of Article VII, Section 6(a) of the Illinois Constitution.

SECTION 7. That this Ordinance shall take effect upon its passage, approval, recording, and publication in pamphlet form in accordance with law.

APPROVED: _____
Donald D. Monty, Acting Mayor

ATTEST: _____
Jennifer R. Sorrell, City Clerk

APPROVED AS TO LEGALITY AND FORM:

P. Michael Kimmel, City Attorney

5-13-2: **FEES:** The following schedule of maximum fees, effective September 1, 2005, shall be in effect for all nonconsensual tows:

<u>Service Description</u>	<u>Price</u>
Towing from tow truck (any vehicle size)	\$65.00
Use of dolly	0.00
Use of winch	0.00
Outside storage (after 24 hours)	10.00
Inside storage (after 24 hours)	10.00
After hours release of vehicle	0.00
Interrupted tow	20.00
Excessive work or waiting	0.00
Service fee	0.00
Mileage (in or outside city limits)	0.00

Any other service provided during the nonconsensual tow shall be at no additional cost to the owner or operator of said vehicle, unless said owner or operator agrees upon the additional fee in advance. (Ord. 2005-53)

5-13-3: **REMOVAL OF VEHICLE FROM PRIVATE PROPERTY:** The towing or removal of any vehicle from private property without the consent of the owner or operator of the vehicle is subject to compliance with the following conditions and restrictions, in accordance with 625 Illinois Compiled Statutes 5/4-201 et seq.:

- A. **Tow Truck And Towed Vehicle Rear Lights:** Any tow truck operating within the city of Carbondale shall have rear lights that comply with all requirements of the state of Illinois. In addition, where a towed unit, behind a towed vehicle or any load thereon partially or totally obscures the rear lamps displaying red lights to the rear of the tow truck, the rearmost towed unit shall be equipped with two (2) portable lamps, temporarily attached to the towed vehicle, displaying red lights visible from a distance of not less than one thousand feet (1,000') to the rear of the such towed unit which are positioned in such a manner as to not obstruct the visibility of the red light as to any vehicle operator approaching from the rear of such vehicle or combination of vehicles, and with appropriate cable, and with cushions to protect the towed vehicle's finish. In addition, all tow trucks operating within the city of Carbondale, shall utilize straps and tie downs as specified by the tow truck manufacturer.