



ORDINANCE NO. #O23-02-01

AN ORDINANCE AMENDING TITLE 8 – HEALTH AND SAFETY, CHAPTER 8.53 – TOWING
OF THE VILLAGE OF CARY MUNICIPAL CODE

ADOPTED BY THE MAYOR AND BOARD OF TRUSTEES
OF THE VILLAGE OF CARY THIS 7th DAY OF FEBRUARY 2023

Published in pamphlet form by
authority of the Mayor and
Board of Trustees of the Village
of Cary, McHenry County, Illinois
this 7th day of February 2023.

WHEREAS, the Illinois Vehicle Code (625 ILCS 5/4-203.5 – Tow Rotation List) mandates that law enforcement agencies that patrol highways in the State of Illinois must maintain a tow rotation list of towing services capable of providing services within the jurisdiction of the law enforcement agency; and

WHEREAS, Title 8 – Health and Safety, Chapter 8.53 – Towing, Section 8.53.350 – Program Review requires the Cary Police Department to conduct yearly reviews of the towing program and make any revision recommendations as necessary; and

WHEREAS, Title 8 – Health and Safety, Chapter 8.53 – Towing, Section 8.53.280 – Fees and Charges (G)(1) authorizes the Village Board, upon recommendation of the Chief of Police, may determine the maximum chargeable fee and rates for towing services summoned by Cary Police Department personnel; and

WHEREAS, the Mayor and Village Board of Trustees have determined it is appropriate to amend various sections of Title 8 – Health and Safety, Chapter 8.53 – Towing, as recommended by the Chief of Police and to revise the Fees and Charges after review by the Village Board.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Cary as follows:

SECTION 1: That the above recitals are incorporated as if fully set forth herein.

SECTION 2: The following amendments are made to Title 8 – Health and Safety, Chapter 8.53 – Towing as suggested by the Cary Police Department and reviewed by the Village Board. [deletions are indicated by ~~strikeout~~ and additions are indicated by underline]

Sec. 8.53.010. Definitions.

For the purposes of this chapter, the following words shall have the meaning ascribed to them in this section:

Business hours. For the purposes of establishing fees, regular business hours are considered from 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding observed Village holidays. All other times are considered after hours.

Heavy duty tow truck (HD) means every tow truck having over a twenty-six thousand (26,000) pound gross vehicle weight with a twenty-five thousand (25,000) pound boom capacity with wheel lift capabilities.

Light duty tow truck (LD) means every tow truck having a ten thousand (10,000) to twelve thousand (12,000) pound gross vehicle weight with an eight thousand (8,000) pound boom capacity with wheel lift capabilities.

Medium duty tow truck (MD) means every tow truck having a twelve thousand and one (12,001) to twenty-six thousand (26,000) pound gross vehicle weight with a ten thousand (10,000) pound boom capacity with wheel lift capabilities.

SEECOM means South East Emergency Communications and refers to the emergency dispatch and communication center utilized by the Cary Police Department.

Tow operator means a person who owns or operates a tow truck or a wrecker.

Tow truck means every truck designed or altered and equipped for and used to push, tow, carry upon, or draw vehicles by means of a crane, hoist, tow bar, towline, or auxiliary axle, or carried upon to render assistance to disabled vehicles, except for any truck tractor temporarily converted to a tow truck by means of a portable wrecker unit attached to the fifth wheel of the truck tractor and used only by the owner to tow a disabled vehicle also owned by him or her and never used by hire.

Towing firm means the provision of tow truck services in response to a request from the Cary Police Department.

Sec. 8.53.030. Rotation procedure.

In the event that the owner of any vehicle(s), involved in an applicable incident within the Village or associated with a police investigation, which must be towed or otherwise serviced is at the scene or can be contacted, except in cases where the driver of the vehicle has been placed under arrest and the vehicle is being towed pursuant to provisions of the Illinois Compiled Statutes related to towing and impounding of vehicles, the vehicle was used in the course of a violation(s) of the Illinois Criminal Code or Illinois Vehicle Code or the vehicle is subject to forfeiture due to a violation(s) of the Illinois Criminal Code or Illinois Vehicle Code, the owner may state a preference concerning which towing firm is requested, provided the firm can respond to the call within a reasonable amount of time as determined by the police patrol supervisor in charge. In all other cases, the following procedure shall apply:

- A. The towing firm, which is scheduled as the primary response firm, shall be contacted by the Cary Police Department through SEECOM following the SEECOM policy on requests for Towing Services. If that firm is unable to respond, or eventually do not respond within the terms of this chapter, then the secondary response firm shall be contacted, followed by the third response firm, and so on if necessary. If the primary response firm is able to respond but requires additional equipment, the primary response firm may summon assistance through a mutual cooperative agreement between the cooperating Towing Services firms.
- B. The designation of "primary," "secondary," etc. response firm is established by means of a list of eligible towing firms maintained by the Cary Police Department and administered through SEECOM. The primary response position shall rotate through the list on a call-to-call basis. Officers may bypass the list should the situation require an immediate response or the use of ~~heavy-duty tows~~ specialized removal equipment not in the inventory of the primary tow firm.
- C. The towing firm whether the primary or secondary response firm shall respond with equipment owned and operated by that towing firm only, following the tow truck requirements outlined in Section 8.53.170. If the primary response firm does not have available equipment the secondary firms will be contacted as stated in Subsection A of this section. ~~At no time shall a designated tow firm that was not the scheduled tow firm or any other subcontracted tow firm respond and tow any vehicle for any~~

~~designated tow firm that was unable to provide equipment owned and operated by that tow firm which was scheduled as either the primary or secondary response tow firm.~~

Sec. 8.53.040. Unlawful solicitation.

- A. Any and all towing firms not selected and designated pursuant to this chapter are hereby prohibited from removing from public streets and towing away any vehicles involved in the situations as set forth in this chapter; provided, however, that the owner or operator of the vehicle not subject to towing as defined in Section 8.53.030, involved in the aforesaid situations may designate any towing service to be used at their discretion for the towing of said vehicle and/or may designate the destination of the towed vehicle.
- B. It shall be unlawful for any tow operator, his agent, or employee to solicit any tow service under this chapter at the scene of a traffic crash or disabled vehicle without having first been called by the owner or operator of the disabled vehicle or by the Cary Police Department.

Sec. 8.53.050. Number of agencies.

The Chief of Police shall determine the number of towing agencies used by the Department based on calls for service, as well as the ability of the approved towing firms to provide any and all services ~~and requirements~~ identified in this chapter.

Sec. 8.53.070. Review of applications.

It shall be the duty of the Chief of Police, or his designee, to ~~investigate~~ review all applications submitted. The Chief of Police may deny any application if, after due investigation, he finds that the applicant does not meet the minimum requirements set forth in the chapter.

Sec. 8.53.080. Roster.

All towing firms selected and designated to provide towing services hereunder shall be listed on a roster to be kept by the Cary Police Department or the Department's emergency dispatch service. The roster of towing firms shall, at all reasonable times, be open to public inspection.

Sec. 8.53.090. Eligibility for roster.

Any towing firm shall become eligible to be listed on the roster and participate in the assignment of service calls by the Police Department if it meets all requirements specified in this chapter and maintains its primary tow operation and storage facility within a five (5) mile radius of the ~~Municipal Complex Center, 655 Village Hall Drive~~ 755 Georgetown Drive, of the Village of Cary.

Sec. 8.53.110. Business operation on application.

Applying towing firms shall provide the following business information:

- A. Name of firm. Indicate whether a corporation or partnership, list all parties having an interest in said towing firm, including names and addresses, number of years business has been established in the Village of Cary or surrounding area, and number of years that those persons holding such ownership in said firm have been doing business in the Village of Cary or surrounding area.
- B. Primary business location, list location of primary business operation.
- C. Storage lot. List location of storage lot(s) and the type of protection at said lot(s).
- D. Experience. List number of years and locations of participation in similar police towing services, together with any commendations or written complaints received from governmental agencies in conduct of said business within the last five (5) years.
- E. Stability. State business activities of firm aside from participation in police towing activities.

- F. Each towing firm must be a member in good standing of ~~the~~ a Professional Towing and Recovery Operators of Illinois or similar professional trade association.

Sec. 8.53.130. Scope of services provided.

Every towing firm participating in this program shall be required to perform the following police-directed services, labor, equipment, facilities, and materials for towing and servicing vehicles:

- A. Vehicles involved in traffic crashes;
- B. Abandoned vehicles in the roadway;
- C. Disabled vehicles;
- D. Minor emergency repairs on disabled vehicles, including providing fuel, changing a tire, jump starts, and dislodging joined vehicles as a result of a traffic crash;
- E. Abandoned, Inoperative or unclaimed vehicles on private property;
- F. Vehicles seized or impounded as evidence in a criminal or traffic investigation;
- G. Recovered stolen vehicles;
- H. Vehicles involved in crimes;
- I. Vehicles as may be requested to be relocated during a declared Village emergency;
- J. Other vehicles as requested by the Cary Police Department.

Sec. 8.53.140. Hours of service and access to vehicles.

- A. The towing firm shall maintain one (1) facility with equipment and labor forces adequate to ~~supply~~ fulfill the demand for police-directed towing services, on a full twenty-four (24) hour per day basis every day of the year.
- B. The towing firm shall maintain ~~office~~ direct contact hours available to citizens to make inquiries and obtain vehicles in accordance with the following schedule:
 - 1. Monday to Friday: minimum eight (8) hours per day.
 - 2. Saturday: minimum four (4) hours per day.
- C. The towing firm will have an agent available at all other hours to allow police access to all vehicles towed and stored at their facility pursuant to this chapter, and under emergency situations to release a vehicle. A release fee may be applied during non-business hours. All business hours will apply to the storage facility, which will be the central contact point for both citizens and Police Department personnel.

Sec. 8.53.150. Response times.

- A. The towing firm shall arrive at the scene of a requested tow service with the requested equipment within twenty (20) minutes after the Police Department has made notification. If an agency arrives after the 20-minute response time, but before another agency that has been summoned arrives, the on-scene police supervisor may elect to allow the first agency summoned remove the vehicles subject to towing. The failure of the agency to respond in a timely fashion to the scene will be reported to the office of the Chief of Police by the on-scene supervisor.
- B. When it becomes evident the towing firm will be unable to respond within the required time period, the towing firm shall immediately notify the Cary Police Department Communications Center, SEECOM. At that time, the Cary Police Department reserves the right to request the services of the next towing firm on the towing rotation schedule.

Sec. 8.53.160. Drivers/operators.

- A. Only competent, courteous, trustworthy, sober, and properly licensed employees will be employed to perform the services required under this chapter. Towing firms shall ensure that all tow operators have the experience and training necessary to perform the tasks outlined in this chapter.
- B. All tow truck operators are subject to investigatory background checks and driver's license checks. Such background checks will be accomplished by submitting the operator's fingerprints to the Illinois State Police and any costs associated with the background check will be paid by the operator or towing service owner as identified in Appendix "A" of this Code.
- C. Tow truck operators must not have been convicted of any felony violation within the past five (5) years.
- D. Tow truck operators convicted of misdemeanor violations of the Illinois Vehicle Code anti-theft laws, or similar statutes of other states, within the past five (5) years will be prohibited from operating tow trucks under the terms of this chapter.
- E. At the time the towing firm enters into the program, the towing firm shall provide the Cary Police Department with a tow truck operator roster, which includes identifying information on each tow truck operator currently employed.
- F. Upon ~~acquiring~~ employing new tow truck operators, the towing firm will immediately provide the Cary Police Department with the tow truck operator's identifying information.
- G. Because tow truck operators join the towing firm and others leave, the towing firm will provide the Cary Police Department with a current roster of tow truck operators ~~every six (6) months~~ each January.
- H. The following tow truck operator identifying information will be provided:
 - 1. Last name, first name, and middle initial;
 - 2. Home address;
 - 3. Date of birth;
 - 4. Driver's license number, state, and classification;
 - 5. Years employed with the firm.

Sec. 8.53.280. Fees and charges.

- A. Tow Service Chart of fees.
 - 1. ~~Tow of a vehicle with a gross vehicle weight rating (GVWR) up to twelve thousand (12,000) pounds involved in a traffic crash, arrest, or other police impoundment:-~~
 - a. ~~One hundred fifty dollars (\$150.00) per hour, port to port, one (1) hour minimum.~~
 - 2. ~~Tow of a disabled vehicle with a GVWR up to twelve thousand (12,000) pounds, a flat rate of:~~
 - a. ~~Seventy five dollars (\$75.00) and three dollars (\$3.00) per towed mile, during regular business hours.~~
 - b. ~~Ninety dollars (\$90.00) and three dollars (\$3.00) per towed mile, after hours.~~
 - 3. ~~Tow of a vehicle with a GVWR between twelve thousand and one (12,001) and twenty six thousand (26,000) pounds involved in a traffic crash, arrest, or other police impoundment:-~~
 - a. ~~Two hundred dollars (\$200.00) per hour, port to port, one (1) hour minimum.~~
 - 4. ~~Tow of a disabled vehicle with a GVWR between twelve thousand and one (12,001) and twenty six thousand (26,000) pounds:-~~
 - a. ~~One hundred fifty dollars (\$150.00) per hour port to port, one (1) hour minimum, during regular business hours.~~
 - b. ~~One hundred seventy five dollars (\$175.00) per hour port to port, one (1) hour minimum, after hours.~~

5. ~~Tow of a vehicle with a gross vehicle weight rating (GVWR) over twenty six thousand (26,000) pounds involved in a traffic crash, arrest, or other police impoundment:-~~
 - a. ~~Two hundred fifty dollars (\$250.00) per hour, port to port, one (1) hour minimum.~~
6. ~~Tow of a disabled vehicle with a GVWR over twenty six thousand (26,000) pounds:~~
 - a. ~~One hundred seventy five dollars (\$175.00) per hour, port to port, one (1) hour minimum.~~
 - b. ~~Two hundred dollars (\$200.00) per hour, port to port, one (1) hour minimum, after hours.~~

B. ~~Service call fee:~~

1. ~~For any service call where no tow is involved:~~
 - a. ~~Seventy five dollars (\$75.00), port to port, one (1) hour minimum, during regular business hours.~~
 - b. ~~Ninety five dollars (\$95.00), port to port, one (1) hour minimum, after hours.~~
2. ~~Actual retail cost for fuel or parts may be charged in addition to the service call fee.~~
3. ~~Winching rates where no tow is involved:~~
 - a. ~~L/D: Seventy five dollars (\$75.00), port to port, one (1) hour minimum.~~
 - b. ~~M/D: One hundred dollars (\$100.00), port to port, one (1) hour minimum.~~
 - c. ~~H/D: One hundred twenty five dollars (\$125.00), port to port, two (2) hour minimum.~~

C. ~~Miscellaneous rates:~~

1. ~~When it is determined that due to a vehicle's condition that a heavy duty under reach is required, the per hour fee shall not exceed:-~~
 - a. ~~One hundred seventy dollars (\$170.00), during regular business hours.~~
 - b. ~~One hundred eighty dollars (\$180.00), after hours.~~
2. ~~Additional charges of eighty dollars (\$80.00) may be charged to cage brakes and/or remove the drive shaft, if necessary, for the removal of the recovered vehicle.~~
3. ~~Special handling charges shall be a rate not to exceed one hundred dollars (\$100.00) per hour and shall be measured in fifteen (15) minute increments. Special handling shall include, but not necessarily be limited to:-~~
 - a. ~~Vehicle roll over.~~
 - b. ~~Vehicle impacted into a building or other structure.~~
 - c. ~~Vehicle immersed in a body of water.~~
 - d. ~~Vehicle that is off the roadway requiring a power winch for retrieval.~~
 - e. ~~Motorcycle or other vehicle requiring special handling considerations.~~
4. ~~Debris cleanup per vehicle: thirty five dollars (\$35.00) plus twenty five dollars (\$25.00) per bag of oil dry used.~~
5. ~~Police vehicles for the Village of Cary will be towed at a fee of forty five dollars (\$45.00) per vehicle plus three dollars (\$3.00) per mile if towed outside of the Village limits.~~
6. ~~Standby time may be billed at a rate of sixty dollars (\$60.00) per hour.~~
7. ~~Any time a firm is required to respond outside the corporate limits of the Village to recover a vehicle for the Police Department, time shall be charged at a rate not to exceed seventy five dollars (\$75.00) per hour, plus mileage at the rate of three dollars and fifty cents (\$3.50) per mile.~~

D. ~~Storage charges:~~

1. ~~The towing firm will provide Police Department storage at no charge for vehicles stored for evidentiary, impound or seizure purposes. The owner of record for a vehicle impounded pursuant to statutory requirement shall be liable for storage fees commencing from the date the vehicle was available for release.~~

2. No storage charge may be imposed for the first twenty four (24) hours except for vehicles involved in traffic crashes.
3. For any vehicle with a GVWR of twelve thousand (12,000) pounds or less:
 - a. Fifty dollars (\$50.00) per day for outside storage.
 - b. Sixty dollars (\$60.00) per day for inside storage.
4. For a vehicle with a GVWR twelve thousand and one (12,001) pounds or greater:
 - a. Sixty dollars (\$60.00) per day for outside storage.
 - b. Seventy dollars (\$70.00) per day for inside storage.

(NEW)

Service	Definition	Rate	Additional Detail
Vehicle Tow – Arrest/Crash/Impound	Vehicle under 8,000 lbs (GVWR)	\$200.00	N/A
Vehicle Tow – Disabled	Vehicle under 8,000 lbs (GVWR)	\$100.00	\$5.00/mile Business Hours
Vehicle Tow – Disabled	Vehicle under 8,000 lbs (GVWR)	\$125.00	\$6.00/mile – after Business Hours
Vehicle Tow – Arrest/Crash/Impound	Vehicle over 8,001 lbs (GVWR) and under 26,000 lbs (GVWR)	\$225.00/hr.	2-Hour Minimum
Vehicle Tow – Disabled	Vehicle over 8,001 lbs (GVWR) and under 26,000 lbs (GVWR)	\$175.00/hr.	2-Hour Minimum during Business Hours
Vehicle Tow - Disabled	Vehicle over 8,001 lbs (GVWR) and under 26,000 lbs (GVWR)	\$200.00/hr.	2-Hour after Business Hours
Vehicle Tow – Arrest/Crash/Impound	Vehicle over 26,000 lbs (GVWR)	\$275.00/hr.	2-Hour Minimum
Vehicle Tow – Disabled	Vehicle over 26,000 lbs (GVWR)	\$200.00/hr.	2-Hour Minimum during Business Hours
Vehicle Tow – Disabled	Vehicle over 26,000 lbs (GVWR)	\$225.00/hr.	2-Hour Minimum after Business Hours
Public Safety Vehicle	Government Owned	\$100.00	\$3.00/mile if towed outside of Village
Police Recovery	Evidence or victim vehicle (Crime or Traffic Crash Invest.)	\$100.00	\$3.00/mile if towed outside of Village
General Service – No Tow	Add costs of fuel and/or parts	\$100.00	Business Hours
General Service – No Tow	Add costs of fuel and/or parts	\$125.00	After Business Hours
Fuel		Retail Cost	
Winching Rates - No Tow	Vehicle under 8,000 lbs (GVWR)	\$150.00	
Winching Rates – No Tow	Vehicle over 8,001 lbs (GVWR) and under 26,000 lbs (GVWR)	\$175.00	
Winching Rates – No Tow	Vehicle over 26,001 lbs (GVWR)	\$200.00	
Standby Time	Vehicle under 8,000 lbs (GVWR)	\$100.00/hr.	
Standby Time	Vehicle over 8,001 lbs (GVWR) and under 26,000 lbs (GVWR)	\$175.00/hr.	
Standby Time	Vehicle over 26,001 lbs (GVWR)	\$200.00/hr.	
Cage Brakes or Remove Drive Shaft		\$100.00	
Special Handling	Roll over, impact with structure, immersed in water, off roadway (more than 50 feet), Motorcycle or specialty vehicle	\$150.00/hr.	Billed in 15-minute increments (\$37.50/15-minute)
Debris Clean-up	Per vehicle	\$50.00/hr.	Bag of oil dry – retail costs
*** No storage fees incur during first 24-hours of storage after incident excluding traffic crash***			
Storage Rates	Vehicle under 8,000 lbs (GVWR)	\$60.00/day	Outside Storage
Storage Rates	Vehicle under 8,000 lbs (GVWR)	\$70.00/day	Inside Storage
Storage Rates	Vehicle over 8,001 lbs (GVWR)	\$70.00/day	Outside Storage
Storage Rates	Vehicle over 8,001 lbs (GVWR)	\$80.00/day	Inside Storage
Electric/Hybrid	All Vehicles	\$100.00/day	Special Storage Area

- ~~E. Business hours. For the purposes of establishing fees, regular business hours are considered from 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding observed Village holidays. All other times are considered after hours.~~
- BF. *Approval required for additional fees.* Neither administrative fees, nor any other fees not otherwise authorized in this chapter may be charged without prior approval of the Chief of Police or his designee.
- CG. *Revision of rate; notice of hearing.*
1. The Village Board shall, upon recommendation from the Chief of Police, determine the maximum chargeable fee and rates for towing services. The fees may be reviewed by the Village Board every two (2) years and may be modified as necessary. For towing services under this chapter, the operator shall not charge more than the amounts set by the Village Board. The tow service operator shall maintain business records of all charges billed and collected for towing services for a minimum period of four (4) years.
 2. Prior to a Village Board hearing on tow fees and rates, there shall be a publication, at least once, of said hearing in a newspaper of general circulation within the Village, at least ten (10) days before the hearing date.

Sec. 8.53.310. Performance evaluation and customer satisfaction.

- A. The satisfaction of the members of the public who utilize the services of the towing firms shall be of primary importance, along with other factors such as response times, condition of equipment, cooperation with the Village and ability to adhere to the conditions of this chapter.
- B. The towing firm shall maintain copies of a customer complaint form, provided by the Cary Police Department ~~personnel~~. The towing firm will provide a customer complaint form to ~~all~~ any unsatisfied customers regarding complaints about the towing firm, employees, or the services provided under the terms of this chapter. At the time of completion, the towing firm shall forward every original completed complaint form to the Chief of Police.
- C. All complaints will be reviewed and investigated by the Cary Police Department and attempts will be made to ~~rationaly and professionally bring to a conclusion~~ resolve the complainant's grievance.
- D. The Cary Police Department may randomly survey individuals whose vehicles were towed or serviced by a towing firm under the terms of this chapter to ascertain whether or not a towing firm is in compliance with the rate structure and all other regulations established in this chapter.

Sec. 8.53.320. Failure to provide services; penalty.

- A. The Village, through the Chief of Police, reserves the right to impose sanctions and or terminate a towing firm's participation in this program for failure to perform any aspect of this chapter properly and or fail to properly respond to calls for service. Any such failure, without good cause, will be cause for sanctions and or termination of participation in this program.
- B. Failure to abide by the terms of this chapter may result in the following:
 1. A first violation of any failure to abide by the terms of this chapter may result in a written warning from the Chief of Police;
 2. A second violation of any failure to abide by the terms of this chapter within a twelve (12) month period may result in a two (2) week suspension from the right to participate in this towing program;
 3. A third violation of any failure to abide by the terms of this chapter within a twelve (12) month period may result in a four (4) week suspension from the right to participate in this towing program;
 4. A fourth violation of any failure to abide by the terms of this chapter within a twelve (12) month period may result in the removal of the towing firm from the towing program.

- C. The towing firm may reapply to participate in the towing program after one (1) year of being removed from the program.

SECTION 3: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 4: If any part or parts of this Ordinance shall be held invalid for any reason such decision shall not affect the validity of the remaining part or parts of this Ordinance.

SECTION 5: This Ordinance shall be in full force and effect from and after its passage and approval according to law.

PASSED THIS 7th DAY OF FEBRUARY 2023

AYES: Collier, Covelli, Dudek, McAlpine, Walrath, Weinhammer

NAYS: None

ABSTAIN: None

ABSENT: None

APPROVED THIS 7th DAY OF FEBRUARY 2023

ATTEST:

Mark Kownick, Mayor

Courtney Sage, Assistant Deputy Village Administrator