

City of Bloomington Common Council

Legislative Packet

Wednesday, 15 January 2020

Regular Session

Starting at 6:30 PM and to be immediately followed by a

Land Use Committee

Starting no earlier than 8 PM

For legislation and background material regarding Ordinance 20-01 and Ordinance 20-02, please see the [08 January 2020 Legislative Packet](#).

For legislation and background material on Ordinance 20-03 are contained herein.

For a schedule of upcoming meetings of the Council and the City's boards and commissions, please consult the City's [Calendar](#).

Office of the Common Council
P.O. Box 100
401 North Morton Street
Bloomington, Indiana 47402
812.349.3409
council@bloomington.in.gov
<http://www.bloomington.in.gov/council>

City of
Bloomington
Indiana



City Hall
401 N. Morton St.
Post Office Box 100
Bloomington, Indiana 47402

Office of the Common Council
(812) 349-3409
Fax: (812) 349-3570
email: council@bloomington.in.gov

To: Council Members
From: Council Office
Re: Weekly Packet
Date: 10 January 2020

LEGISLATIVE PACKET AGENDA ITEMS & PACKET CONTENT

MEETINGS ON WEDNESDAY, 15 JANUARY 2020

- REGULAR SESSION [6:30 PM] FOLLOWED BY A
- LAND USE COMMITTEE [TO BEGIN NO EARLIER THAN 8:00 PM]

- Memo from Council Office
- Regular Session Agenda & Land Use Committee Agenda
- Minutes – *See included message on scheduling approval of minutes from UDO deliberations in 2006*
- Notices
 - Meeting on Convention Center Project – January 13, 2020 at 5:00 PM
 - Land Use Committee Meetings – January 15, 2020 to start no earlier than 8:00 pm and January 29, 2020 (time not yet determined)
 - Special Session of the Common Council – January 29, 2020 at 6:30 pm

Regular Session – Wednesday, 15 January 2020

- Second Readings and Resolutions

- **Ordinance 20-02** - Final Approval to Issue Economic Development Notes and Lend the Proceeds for the Renovation of Affordable Housing -Re: Walnut Woods, 818 E. Miller Drive, and Reverent Butler Apartments, 1202 W. 11th Street (Bloomington RAD I, LP, Petitioner)
Contact: Larry Allen at 812-349-3426 or allenl@bloomington.in.gov
→ Please see the weekly Council Legislative Packet issued for the [January 8, 2020 Organizational Meeting](#) for the above legislation, material, and summary.

- First Readings

- **Ordinance 20-03** - To Amend Title 4 of the Bloomington Municipal Code Entitled “Business Licenses and Regulations” - Re: Adding Chapter 4.32 (Non-Consensual Towing Businesses)
 - In lieu of a typical memo that would be provided by the sponsor of the legislation, please see the description of the ordinance contained within this memo from the Council Office.

Contact: Stephen Lucas at 812-349-3565 or lucass@bloomington.in.gov

Land Use Committee – Wednesday, 15 January 2020

- **Ordinance 20-01** To Amend the City of Bloomington Zoning Maps by Rezoning a 3.2 Acre Property from Commercial Limited (CL) to a Planned Unit Development (PUD) and to Approve a District Ordinance and Preliminary Plan - Re: 105 S. Pete Ellis Drive (Curry Urban Properties, Petitioner)

→ Please see the weekly Council Legislative Packet issued for the [January 8, 2020 Organizational Meeting](#) for the above legislation, material, and summary.

→ Please note that the Land Use Committee may decide to schedule an additional meeting, if necessary, to be held on January 29, 2020 (for which additional notice will be provided). The Committee is scheduled to report back to the Council no later than the February 5th Regular Session meeting and that the 90-day timeframe for Council action on this PUD expires on Wednesday, February 12, 2020

Contact: Jackie Scanlan, 812-349-3423, scanlanj@boomington.in.gov

PRELIMINARY MATTERS

Schedule Approval of Minutes from UDO Deliberations in 2006

In 2018, in anticipation of the Council consideration of the repeal and re-enactment of the UDO in 2019, the City Clerk had minutes prepared for the Council deliberations on the previous repeal and re-enactment in 2006. Those minutes cover eight meetings held in November and December of that year and amount to about 70 pages of text. They were distributed in the weekly Council [Legislative Packet](#) issued for the Regular Session and Committee of the Whole on 08 August 2018, well ahead of the next round of deliberations, but have yet to be approved by the Council. If you have not done so already, please spend some time reviewing those minutes and suggest to the president or staff when you may be ready to approve them. One possibility would be the Special Session currently scheduled for January 29.

NEW MATERIALS – FIRST READINGS

**Item One – Ord 20-03 –
To Amend Title 4 of the Bloomington Municipal Code Entitled
“Business Licenses and Regulations”
- Re: Adding Chapter 4.32 (Non-Consensual Towing Businesses)**

The ordinance included herein is the result of efforts that began at least as early as 2018 by former Councilmembers Andy Ruff and Dorothy Granger. In lieu of a memo from the former sponsors, the summary contained herein serves as a description of the ordinance and an explanation for the reasons behind it. Meant to curb the harmful effects associated with non-consensual predatory towing, the ordinance provides for the licensing and regulation of towing companies that perform non-consensual tows originating within the City of Bloomington. For additional background, and to see a short news segment featuring an interview with Andy Ruff, please visit <https://fox59.com/2019/12/23/bloomington-city-council-considers-private-towing-ordinance-after-complaints-downtown/>.

In broad overview, the ordinance:

- Defines certain key terms;
- Requires a non-consensual tow business license for companies performing such tows originating within the city and specifies information required on the license application, along with the license fee;
- Requires a licensed company to maintain insurance pursuant to minimum insurance limits and to list the city as an additional insured;
- Provides that non-consensual tows may only be performed by licensed companies that comply with certain requirements and restrictions, including:
 - obtaining a contemporaneous written authorization specifying certain information from the property owner before towing;
 - only towing from parking lots with signage posted at each entrance and exit that provide certain information;
 - towing vehicles directly to the storage facility, which must be located within Monroe County; and
 - ensuring towed vehicles are available for release within 60 minutes of arrival, and releasing towed vehicles upon payment of all fees or upon payment 20% of the fees and execution by the owner of a payment agreement for the balance.
- Limits the maximum fees that a towing company can charge for non-consensual tows and storage;
- Specifies that a towed vehicle must be available for retrieval within certain timeframes;
- Includes provisions related to receipts and record-keeping requirements;
- Provides for fines for non-compliance with the ordinance;
- Allows for appeals of adverse decisions.

Given the complexity of implementing a new licensing scheme, both for the city departments involved and for companies attempting to comply with any newly-enacted requirements, the ordinance provides that it would take effect beginning on July 1, 2020. This would provide the city time to prepare the license application, along with possible templates of other forms companies might find useful in complying with new requirements. It would also give companies time to make any necessary adjustments to their business practices to ensure compliance with the ordinance.

Authority to enact safety-based licensing requirements and regulations

Federal and state preemption limits cities' ability to directly regulate towing companies. Federal law allows states or political subdivisions thereof to enact safety regulations with respect to motor vehicles (carriers), to enact provisions relating to the price of nonconsensual transportation by a tow truck, and to require, in the case of a motor vehicle to be towed from private property without the consent of the owner, that the towing operator have prior written authorization from the property owner and/or that the property owner be present at the time of the tow.¹

¹ 49 U.S. Code § 14501(c)(2)

State law, under Indiana Code (“IC”) Title 9 and Title 24, also regulates towing. House Enrolled Act 1183 took effect on July 1, 2019 and added a new article to state law, codified at IC 24-14. IC 24-14, along with provisions in IC 9-22-1 et seq. provide regulations related to towing services that this ordinance cannot countermand. Local code cannot conflict with the provisions of state law or prohibit anything allowed under state law, but a local government may “impose additional, reasonable regulations, and ... supplement burdens imposed by non-penal state law, provided the additional burdens are logically consistent with the statutory purpose.”² Consistent with the city’s authority under Indiana’s Home Rule provisions³, this ordinance is intended to impose additional, reasonable regulations consistent with the purpose and provisions of applicable state law.

Key Definitions

The ordinance defines key terms, such as non-consensual tow, parking lot, tow business license, license administrator and vehicle owner, while referencing state code for other definitions.

License Requirements

The ordinance requires towing companies that perform non-consensual towing originating within the city to obtain a tow business license prior to engaging in such tows. The information required on the license application is spelled out under BMC 4.32.060. The cost of such a license is proposed to be \$350 for a one-year license, which matches the cost of a one-year license for mobile food vendors under BMC 4.28.060. The fee charged for the license may not exceed an amount that is reasonably related to the administrative cost of the city exercising this regulatory power.⁴ The Department of Economic and Sustainable Development would administer the licensing process.

Insurance

As a condition of receiving a license, towing companies must provide the city with a Certificate of Insurance that names the city as an additional insured. It must also show proof of certain minimum insurance limits. The minimum insurance limits were partly modeled off of a similar towing ordinance in effect in Indianapolis, along with requirements that match insurance limits in the city’s police tow contracts.

² Town of Avon v. West Central Conservancy District, 957 N.E. 2d 598 (2011)

³ IC 31-1-3-4

⁴ IC 36-1-3-8(a)(5)

Tow restrictions/requirements

Once obtaining a license, tow companies would have to comply with certain restrictions or requirements as follows:

- Display an identification number issued by the city in a visible location on all tow vehicles – BMC 4.32.080
- Obtain a written authorization from the parking lot owner prior to towing a vehicle that would contain information about the vehicle, location of tow, date and time of tow, and a statement explaining the reasons for the tow – BMC 4.32.100
- Booting or disabling a vehicle to hold it for towing would be prohibited – BMC 4.32.120
- Tow a vehicle directly to the vehicle storage facility, which must be located within Monroe County – BMC 4.32.120
- Make towed vehicles available for retrieval within 60 minutes of arriving at the storage facility and allow, consistent with state law⁵, the inspection of the vehicle or retrieval of personal possessions from the vehicle – BMC 4.32.120
- Release towed vehicles upon demonstration of proof of ownership and either:
 - Payment of all applicable fees; or
 - Payment of 20% of the fees and execution of a payment agreement for the balance – BMC 4.32.120
- Provide either an on-site attendant who would be available 24 hours per day, seven days per week, excluding federal holidays, or a number where the owner, manager, or attendant can be reached 24/7 excluding holidays so that a towed vehicle may be claimed within 60 minutes – BMC 4.32.140

Signage

The ordinance would prohibit tow companies from towing from a parking lot unless that lot had signage posted at each entrance and exit that contained:

- (1) a statement that the area in the immediate vicinity of the sign is a tow-away zone;
- (2) a 24-hour phone number vehicle owners may call to locate their vehicle; and
- (3) a description of persons permitted to park in the affected area, if applicable.
– BMC 4.32.110

⁵ IC 24-14-9-2, which reads in relevant part: A towing company or storage facility shall not do any of the following:

(2) Refuse to permit:

(A) a properly identified person who owns...a motor vehicle...to inspect the motor vehicle during regular office hours before all costs incurred against the motor vehicle are paid or the motor vehicle is released. An inspection fee may not be charged for an inspection that occurs during regular office hours.

Fees

The ordinance limits the fees a tow company may charge for non-consensual tows, subject to certain exceptions, as follows:

- (1) For the towing of a vehicle, the maximum fee shall be one hundred and twenty-five dollars (\$125.00);
- (2) Fees for special treatment, including dollying, shall not exceed an additional twenty-five dollars (\$25.00);
- (3) For the storage of a towed vehicle, the maximum fee for each twenty-four-hour period of storage shall be twenty-five (\$25.00); provided, however, that a storage fee may not begin to accrue until twenty-four (24) hours have passed since the vehicle arrived at the storage facility.

The ordinance would prohibit a towing company from paying a parking lot owner for the authority to tow from that lot. – BMC 4.32.130

The ordinance also tracks state law⁶ by requiring the release of a vehicle that is in the process of being towed when the owner pays an amount not greater than half of the amount of the fee the towing company normally charges for the release of a vehicle. The ordinance further defines when a vehicle is “in the process of being towed” by stating that a motor vehicle is in the process of being towed when it is attached to the tow truck and at least two tires of the vehicle are off the ground. – BMC 4.32.130(f)

Penalties

Penalties for violating the ordinance would be as follows:

- (1) Engaging in non-consensual towing within the City of Bloomington corporate boundaries without a Non-Consensual Tow Business License:
 - (A) First offense within a 12-month period: \$2,500.00
 - (B) Second offense within any 12-month period: \$5,000.00
 - (C) Third offense, or each thereafter, within any 12-month period: \$7,500.00
- (2) Failure to comply with any other provision of this chapter:
 - (A) First offense: \$1,250.00
 - (B) Second offense within any 12-month period: \$2,500.00
 - (C) Third offense, or each thereafter, within any 12-month period: \$5,000.00

The ordinance also allows for the revocation of a license under certain circumstances. –BMC 4.32.160

Appeal

The ordinance includes a process for appealing the denial, suspension, or revocation of a license or for appealing a citation for violating the ordinance to the Board of Public Works. – BMC 4.32.170

⁶ IC 24-14-4-4

**NOTICE AND AGENDA
THE BLOOMINGTON COMMON COUNCIL**

**REGULAR SESSION
TO BE FOLLOWED BY THE
LAND USE COMMITTEE**

**WEDNESDAY, 15 JANUARY 2020
COUNCIL CHAMBERS SHOWERS BUILDING,
401 N. MORTON ST.**

REGULAR SESSION – 6:30 P.M.

I. ROLL CALL

II. AGENDA SUMMATION

III. APPROVAL OF MINUTES

None

IV. REPORTS *(A maximum of twenty minutes is set aside for each part of this section.)*

- 1. Councilmembers**
- 2. The Mayor and City Offices**
- 3. Council Committees**
- 4. Public***

V. APPOINTMENTS TO BOARDS AND COMMISSIONS

VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS

1. Ordinance 20-02 Final Approval to Issue Economic Development Notes and Lend the Proceeds for the Renovation of Affordable Housing – Re: Walnut Woods, 818 E. Miller Drive, and Reverend Butler Apartments, 1202 W. 11th Street (Bloomington RAD I, LP, Petitioner)

Committee of the Whole Recommendation:

8 – 0 – 0

VII. LEGISLATION FOR FIRST READING

1. Ordinance 20-03 To Amend Title 4 of the Bloomington Municipal Code Entitled “Business Licenses and Regulations” - Re: Adding Chapter 4.32 (Non-Consensual Towing Businesses)

VIII. ADDITIONAL PUBLIC COMMENT*

(A maximum of twenty-five minutes is set aside for this section.)

IX. COUNCIL SCHEDULE

X. ADJOURNMENT

(followed by a meeting of the Land Use Committee, starting no earlier than 8PM)

(next page for the Land Use Committee agenda)

** Members of the public may speak on matters of community concern not listed on the agenda at one of the two public comment opportunities. Citizens may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak.*

Auxiliary aids are available upon request with adequate notice. Please call (812)349-3409 or e-mail council@bloomington.in.gov.

**NOTICE AND AGENDA
THE BLOOMINGTON COMMON COUNCIL**

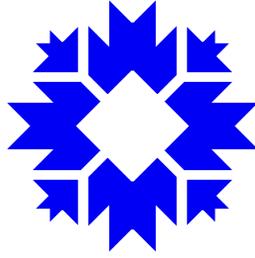
**LAND USE COMMITTEE
STARTING DIRECTLY AFTER THE REGULAR SESSION,
BUT NO EARLIER THAN 8 PM**

**WEDNESDAY, 15 JANUARY 2020
COUNCIL CHAMBERS SHOWERS BUILDING, 401 N. MORTON ST.**

1. Ordinance 20-01 To Amend the City of Bloomington Zoning Maps by Rezoning a 3.2 Acre property From Commercial Limited (CL) to a Planned Unit Development (PUD) and to Approve a District Ordinance and Preliminary Plan – Re: 105 S. Pete Ellis Drive (Curry Urban Properties, Petitioner)

Asked to attend: Jacqueline Scanlan, Development Services Manager, Planning and
 Transportation Department
 Representative for Curry Urban Properties, Petitioner

Note: The Committee is scheduled to meet tonight and on 29 January 2020 (time yet to be determined) to discuss Ordinance 20-01. The Committee must report back to the Council no later than the Regular Session on 05 February 2020 when the ordinance will be scheduled for Second Reading. If the Committee fails to report, the Council will consider the Committee to have made no recommendation.



**City of Bloomington
Office of the Common Council
NOTICE OF MEETING**

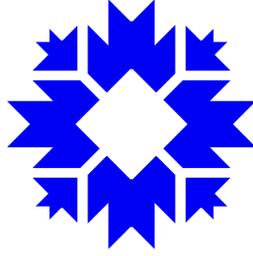
**THE MONROE COUNTY COMMISSIONERS
HAVE INVITED THE
MONROE COUNTY COUNCIL,
CITY OF BLOOMINGTON MAYOR &
COMMON COUNCIL
TO CONTINUE DISCUSSION
OF THE CONVENTION CENTER PROJECT AS INDICATED
BELOW:**

**MONDAY, JANUARY 13, 2020
5:00 PM
MONROE COUNTY COURTHOUSE
(NAT U. HILL ROOM - 3rd Floor)
101 W. KIRKWOOD AVENUE
BLOOMINGTON, IN, 47404**

Notice has already been posted on behalf of the County Commissioners and County Council. This notice is being posted on behalf the City of Bloomington Common Council, in the event a quorum of the City Council attends this meeting.

Pursuant to Indiana Open Door Law (IC 5-14-1.5), this notice informs the public that this meeting will occur and is open for the public to attend, observe, and record what transpires.

Posted By: 4:00 pm, Thursday, 09 January 2020



**City of Bloomington
Office of the Common Council**

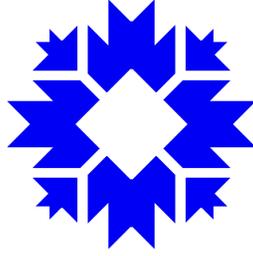
NOTICE

**The Council has scheduled
Land Use Committee meetings
for the following dates.**

15 January 2020	29 January 2020
Beginning directly after the Regular Session but no earlier than 8 PM.	The time will be determined at the 15 January 2020 Land Use Committee meeting and a <i>Notice</i> of the meeting time will be published after the decision is made.
Council Chambers (Suite #115) City Hall, 401 North Morton	Council Chambers (Suite #115) City Hall, 401 North Morton

As a quorum of the Council may be present, these gatherings constitute a meeting of the Common Council under Indiana Open Door Law (I.C. § 5-14-1.5). For that reason, this statement provides notice that these meetings will occur and are open for the public to attend, observe, and record what transpires.

Posted: Friday, 10 January 2020



**City of Bloomington
Office of the Common Council**

NOTICE

**The Council has decided to hold
a Special Session on
29 January 2020
beginning at 6:30 PM**

**Council Chambers (Suite #115)
City Hall, 401 North Morton**

As a quorum of the Council may be present, this gathering constitutes a meeting of the Common Council under Indiana Open Door Law (I.C. § 5-14-1.5). For that reason, this statement provides notice that this meeting will occur and is open for the public to attend, observe, and record what transpires.

Posted: Friday, 10 January 2020

ORDINANCE 20-03

**TO AMEND TITLE 4 OF THE BLOOMINGTON MUNICIPAL CODE
ENTITLED “BUSINESS LICENSES AND REGULATIONS”
- Re: Adding Chapter 4.32 (Non-Consensual Towing Businesses)**

- WHEREAS, non-consensual towing is the towing of a vehicle from a parking lot at the lot owner’s request without the consent of the vehicle’s owner; and
- WHEREAS, while many companies engage in non-consensual towing in a fair and ethical way, others, especially in communities such as Bloomington where parking is limited, engage in non-consensual towing practices that might be deemed predatory. This includes, but is not limited to, refusing to release a vehicle to the owner before it has been removed from the private property; towing the vehicle a great distance to a storage facility, engaging in kick-back arrangements, and charging exorbitant towing and storage fees; and
- WHEREAS, these predatory towing practices disproportionately harm the community’s most vulnerable residents; and
- WHEREAS, the City of Bloomington (“City”) has a significant governmental interest in protecting the health, welfare, and safety of the community; and
- WHEREAS, regulating non-consensual towing activities could limit the harmful effects associated with predatory commercial private property towing while increasing community safety; and
- WHEREAS, Indiana Code §24-14-1-1 *et seq.* regulates towing services in the State of Indiana; and
- WHEREAS, under Indiana Home Rule law, local units are authorized to enact ordinances that are stricter and more protective than state statute, but may not conflict with statute; and
- WHEREAS, for that reason, the City wishes to enact requirements regarding the licensing of non-consensual tow businesses, signage at private lots at which non-consensual towing may take place, reasonable fees that may be associated with non-consensual towing and storage of vehicles, the maximal distance to which a vehicle can be towed for storage, and anti-kickback provisions, among other requirements;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. A new Chapter, Chapter 4.32, shall be added to the Bloomington Municipal Code. The Chapter shall be entitled “Non-Consensual Towing Businesses” and shall be inserted into the Table of Contents for the Title 4 and shall read as follows:

Sections:

- | | |
|-----------------|--|
| 4.32.010 | Purpose |
| 4.32.020 | Applicability |
| 4.32.030 | Definitions |
| 4.32.040 | Non-Consensual Tow Business License—Required. |
| 4.32.050 | Non-Consensual Tow Business License—Non-Transferability |
| 4.32.060 | Non-Consensual Business License—Application. |
| 4.32.070 | Non-Consensual Business License – Fee and Term |
| 4.32.080 | Tow Truck Identification |
| 4.32.090 | Non-Consensual Business License—Insurance |
| 4.32.100 | Tow Business Fee Schedule |
| 4.32.110 | Display of Business Name and Proof of Licensure |
| 4.32.120 | Non-Consensual Tow Requirements and Restrictions |
| 4.32.130 | Signs Required to Be Posted at Parking Lot; Exception |
| 4.32.140 | Additional Requirements |
| 4.32.150 | Towing and Storage Fees |
| 4.32.160 | Vehicle Storage Facility Requirements; Invoice |
| 4.32.170 | Record-Keeping Requirement |

4.32.180 Penalties, Revocation of License
4.32.190 Appeal

4.32.010 Purpose

The purpose of this chapter is to protect the public from unconscionable practices associated with non-consensual towing by means of the licensure of businesses engaged in this activity together with restrictions and requirements pertaining to the manner in which non-consensual towing shall be performed.

4.32.020 Applicability

The provisions of this Chapter shall apply only to non-consensual tows that originate within the corporate boundaries of the City of Bloomington (hereafter “the City”).

4.32.030 Definitions

When used in this Chapter, the following terms shall have the following meanings:

“**License Administrator**” is the Director of the Department of Economic and Sustainable Development and/or the Director’s designee.

“**Motor vehicle**” has the meaning set forth at Indiana Code § 9-13-2-105.

“**Non-consensual tow**” means the towing, by a tow business, or tow truck operator, of a vehicle trespassing on a parking lot, made at the request of the property owner or the owner’s authorized agent, without prior consent or authorization by the vehicle’s owner. Notwithstanding the foregoing, the following are not included within the definition of a non-consensual tow:

- (1) A tow initiated from a parking lot, as a result of a vehicular accident, as a result of a law enforcement investigation, or initiated in accordance with Bloomington Municipal Code 15.48 or Bloomington Municipal Code 15.52, provided that the tow is initiated by a representative of the city or by any law enforcement officer; or
- (2) A tow initiated by an authorized representative of Indiana University, provided that the University is removing a vehicle from the University’s campus.

“**Parking lot**” means and includes:

- (1) A parking facility built for, or provided to, patrons or staff of a business or other organization;
- (2) A commercial parking facility;
- (3) A parking facility provided for tenants of multifamily dwellings; or
- (4) A parking facility provided by the property owner of a vacant or undeveloped lot.

“**Tow business license**” means a license issued by the City to a business engaged in non-consensual towing of vehicles that originate within the corporate boundaries of the City of Bloomington.

“**Tow truck operator**” has the meaning set forth at Indiana Code § 24-14-2-16.

“**Tow truck or tow vehicle**” has the meaning set forth at Indiana Code § 24-14-2-15.

“**Towing company**” has the meaning set forth at Indiana Code § 24-14-2-17.

“**Vehicle’s Owner**” means the motor vehicle’s registered owner, an authorized agent of the registered owner, or an authorized operator of the vehicle.

4.32.040 Non-Consensual Tow Business License—Required.

It shall be unlawful for a towing company to perform a non-consensual tow originating within the City without first having obtained a valid non-consensual tow business license issued by the City pursuant to this chapter. Provided, however, where a tow does not originate within the City and where a tow truck business is merely transporting a vehicle through the City, that towing company shall be exempt from this requirement.

4.32.050 Non-Consensual Tow Business License—Non-Transferability

A non-consensual tow business license shall be non-transferrable.

4.32.060 Non-Consensual Tow Business License—Application.

Any person or towing company who wishes to obtain a license under this chapter must first complete an application prescribed by the Department of Economic and Sustainable Development.

- (a) An application for a non-consensual towing business shall include the following information:
 - (1) The towing company’s taxpayer identification number;
 - (2) Applicant’s full name and current physical address;
 - (3) The telephone number and e-mail address of the primary place of business;
 - (4) The address, telephone number, and hours of operation of any vehicle storage facility where towed vehicles will be towed and stored; and
 - (5) A telephone number where the principal owner(s) of the towing company can be reached in the event of an emergency;
- (b) Insurance Required. Upon application for the tow business license, a towing company shall provide proof of insurance and meet the requirements of Bloomington Municipal Code § 4.32.090.
- (c) Change in Licensee Information. In the event that the information provided by the licensee in the licensee’s application changes during the term of the license, the towing company shall give written notice of such changes to the City within fifteen (15) business days of the occurrence of the change.

4.32.070 Non-Consensual Tow Business License— Fee and Term

- (a) Fee. The Controller shall charge a nonrefundable fee of three-hundred fifty dollars (\$350) to recover the cost of activities associated with the administration, regulation, and issuance of non-consensual tow business licenses.
- (b) Term.
 - (1) A non-consensual tow business license shall be valid for a period of one year from the date of issuance; and
 - (2) Non-consensual tow business licenses shall become invalid immediately if the license is defaced, altered, forged, or counterfeited.

4.32.080 Tow Truck Identification

Upon the issuance of a tow business license, the City shall assign an identification number to the licensed tow truck company. Such identification number as well as the name of the tow company shall be conspicuously affixed to the exterior of each tow truck operated by the tow company so that they may be readily identified by law enforcement personnel.

4.32.090 Non-Consensual Tow Business License—Insurance

- (a) It is unlawful for any person to operate a non-consensual towing company within the City of Bloomington unless, at the time of operation, the owner has in effect valid insurance policies as described in § 4.32.090(b).
- (b) As a condition of receiving a non-consensual tow business license, a towing company shall provide the license administrator with a Certificate of Insurance naming the City of Bloomington as an additional insured and indicating that the company’s insurance is primary. The insurance certificate must show proof of the following minimum insurance limits:

Commercial General Liability	- \$1,000,000 per occurrence
	- \$2,000,000 aggregate
Automobile Liability	- \$1,000,000 per occurrence
Garage Keeper’s Liability	- \$150,000 per occurrence

All policies shall be endorsed to indicate that the City shall receive thirty (30) days' prior written notice of policy cancellation or non-renewal of coverage.

- (c) A non-consensual towing company shall release, hold harmless and indemnify the City of Bloomington from any and all claims which may arise as a result of the company's activities undertaken pursuant to its license.

4.32.100 Non-Consensual Tow Requirements and Restrictions

- (a) It shall be unlawful for a licensed towing company or tow truck operator to tow a vehicle from a parking lot unless the parking lot owner or the owner's authorized agent, present at the time of the tow, signs a contemporaneous specific written authorization for the tow of the vehicle.
- (b) The written authorization shall include the following information:
 - (1) The make, model, year, vehicle identification number, and license plate number of the vehicle to be towed;
 - (2) The address of the parking lot from which the vehicle is to be towed;
 - (3) The signature and printed name of the person authorizing the tow;
 - (4) A written statement indicating the date and time of the authorization and that the person authorizing the tow is the owner of the parking lot or the owner's authorized agent;
 - (5) A written statement affirming that the owner of the parking lot will be liable for any damages which may be awarded to the owner of the towed vehicle if the vehicle is towed improperly;
 - (6) A brief written statement describing why the vehicle is subject to tow; and
 - (7) Any other information deemed necessary by the City.
- (c) For purposes of subsection (a) of this section, a towing company owner or employee, or tow truck operator, may not act as the parking lot owner's authorized agent.
- (d) Notwithstanding the provisions of (c) above, a towing company owner or employee, or tow truck operator, may act as the parking lot owner's authorized agent if:
 - (1) The parking lot is for a multifamily rental dwelling which provides permit parking twenty-four (24) hours a day, seven days a week for its tenants or guests;
 - (2) Tenant parking permits and/or guest parking permits, to be placed in vehicles, are provided to tenants at lease signing. The towing company shall obtain an affidavit from the property owner stating the same;
 - (3) The parking permits are made to be easily identifiable and observable from outside the vehicle; and
 - (4) Video or photographic documentation to attest to the propriety of the tow is made and kept for at least two (2) years as part of the authorization required under subsection (b) above.
- (e) A property owner and/or towing company shall also comply with any additional reporting requirements imposed by the City of Bloomington.

4.32.110 Signs Required to Be Posted at Parking Lot; Exception

- (a) It shall be unlawful for any tow business or tow truck operator to tow a vehicle unless the parking lot in which the vehicle is parked has signage, posted in plain view and visible to the public at each entrance and exit. The signs must be installed for a minimum of twenty-four (24) hours prior to any vehicle being removed. Such signage shall provide the following information:
 - (1) a statement that the area in the immediate vicinity of the sign is a tow-away zone;
 - (2) a 24-hour phone number vehicle owners may call to locate their vehicle; and
 - (3) a description of persons permitted to park in the affected area, if applicable.
- (b) Pursuant to Indiana Code § 24-14-4-2 and notwithstanding the provisions of subsection (a) above, a private property owner may have a motor vehicle towed from the owner's commercial private property without first displaying signage if the vehicle is removed under Indiana Code § 9-22-1-16.

4.32.120 Additional Requirements.

- (a) A towing company and a tow truck operator must comply with all applicable federal, State of Indiana, and City of Bloomington laws.
- (b) The practice of booting or otherwise disabling a vehicle to hold it for towing is prohibited.
- (c) All vehicles that are towed under this chapter shall be towed directly to a vehicle storage facility leased or owned by the towing company, and shall not be placed or kept in any temporary holding area.
- (d) All vehicles towed must be stored within Monroe County.
- (e) A towed vehicle shall be available to be claimed within sixty (60) minutes of its arrival at a vehicle storage facility, and the vehicle shall be released promptly upon demonstration of proof of ownership, such as title or registration of vehicle and either:
 - (1) payment of fees; or
 - (2) payment of 20% of the fees and execution of a payment agreement for the fee balance.
- (f) A towing company and tow truck operator shall allow the vehicle's owner a reasonable amount of time to inspect the vehicle or to remove or retrieve personal property or possessions that are not affixed from a vehicle. The inspection or retrieval of possessions may be at the scene of the tow or at the vehicle storage facility prior to payment. A towing company or tow truck operator is prohibited from charging a fee for this inspection or retrieval as prohibited under Indiana Code § 24-14-9-2 or from refusing to allow retrieval of such possessions.
- (g) A release or waiver of liability of any kind is prohibited as a condition of the release of the vehicle. A tow business may require proof of identification of the person retrieving a vehicle. The person retrieving the vehicle shall be the Vehicle's Owner, as defined in 4.32.030.

4.32.130 Towing and Storage Fees

- (a) It shall be unlawful to charge any fee associated in any way with the towing and storage of a vehicle under this chapter, except as follows:
 - (1) For the towing of a vehicle, the maximum fee shall be one hundred and twenty-five dollars (\$125.00);
 - (2) Fees for special treatment, including dollying, shall not exceed an additional twenty-five dollars (\$25.00);
 - (3) For the storage of a towed vehicle, the maximum fee for each twenty-four-hour period of storage shall be twenty-five (\$25.00); provided, however, that a storage fee may not begin to accrue until twenty-four (24) hours have passed since the vehicle arrived at the storage facility.
- (b) This fee limitation does not restrict fees being charged for other services, provided that said other services are requested by the vehicle's owner.
- (c) Notwithstanding the provisions of subsection (a) of this section, the fee limitation does not apply to a towed vehicle having a gross vehicle weight of thirteen thousand (13,000) lbs. or greater.
- (d) If it is determined that a vehicle is towed in violation of this chapter, towing and storage fees which have been paid may be recovered by the vehicle's owner. Liability for damage to a towed vehicle is not limited by the provisions of this chapter.
- (e) It is unlawful for a person, including a towing company or tow truck operator to offer, pay, or rebate money or other valuable consideration to the owner of a parking lot for the authority to tow vehicles from that owner's parking lot.

- (f) When the owner or operator of a motor vehicle is present and desires to instead personally operate and remove his/her own vehicle from a parking lot before the vehicle is in the process of being towed, the vehicle shall not be towed nor shall any fee be charged. However, when the owner or operator of a motor vehicle arrives at the location of the motor vehicle when it is already in the process of being towed, the towing company shall, pursuant to Indiana Code § 24-14-4-4, give the owner or operator either oral or written notification that the owner or operator may pay a fee in the amount that is not greater than half of the amount of the fee the towing company may normally charge for the immediate release of a motor vehicle. For purposes of this section, a motor vehicle is in the process of being towed when it is attached to the tow truck and at least two tires of the vehicle are off the ground.

4.32.140 Vehicle Storage Facility Requirements; Invoice

- (a) It shall be a violation of this Chapter to commit any act in the City that is not in compliance with the provisions of this section.
- (b) A towing company that tows a vehicle under this article shall provide one of the following at the vehicle storage facility to which the vehicle is towed:
 - (1) Either an attendant who is on site twenty-four (24) hours per day, seven days (7) per week excluding federally-observed holidays, to return any vehicle claimed by the vehicle's owner, upon payment of towing and storage charges; or
 - (2) A conspicuously-located and well-lit sign at the vehicle storage facility that states the telephone number where the owner, manager, or attendant of the vehicle storage facility may be reached at any time twenty-four (24) hours per day, seven (7) days per week, excluding federally-observed holidays, so that a towed vehicle may be claimed in a minimum amount of time not to exceed sixty (60) minutes.
- (c) A tow business that tows a vehicle within the twenty-four (24) hours preceding a federally-observed holiday or during a federally-observed holiday must adhere to the provisions of this section to allow a vehicle to be retrieved on a holiday.
- (d) Storage fees shall not accrue for any day in which a storage facility is not open for vehicle redemption.
- (e) A tow business that tows a vehicle under this article shall accept payment for towing and storage fees pursuant to Indiana Code § 24-14-7-2.
- (f) Upon payment of authorized towing and storage fees, a tow business that tows a vehicle under this article shall provide an itemized invoice to the vehicle's owner pursuant to the requirements of Indiana Code § 24-14-5-1.

4.32.150 Record-Keeping Requirement

- (a) A tow business shall maintain a legible record, in either written or electronic form, documenting the following information for each vehicle that is towed under the provisions of this chapter:
 - (1) The written authorization for the tow;
 - (2) The date and time that the vehicle was towed;
 - (3) The date and time that the vehicle entered and left the facility at which it was placed for storage;
 - (4) The towing fees, storage fees, and any other fees actually charged; and
 - (5) Any pictures or other records obtained pursuant to Bloomington Municipal Code § 4.32.100(d)(4).
- (b) Records under subsection (a) shall be maintained for a period of two (2) years from the date of each tow, and shall be made available for inspection by the City during normal business hours.

4.32.160 Penalties, Revocation of License

- (a) Any person, partnership, limited liability company or corporation which violates any provision of this chapter, shall be subject to the following penalties:
 - (1) Engaging in non-consensual towing within the City of Bloomington corporate boundaries without a Non-Consensual Tow Business License:
 - (A) First offense within a 12-month period: \$2,500.00
 - (B) Second offense within any 12-month period: \$5,000.00
 - (C) Third offense, or each thereafter, within any 12-month period: \$7,500.00
 - (2) Failure to comply with any other provision of this chapter:
 - (A) First offense: \$1,250.00
 - (B) Second offense within any 12-month period: \$2,500.00
 - (C) Third offense, or each thereafter, within any 12-month period: \$5,000.00

- (b) In addition, the License Administrator with the City’s Department of Economic and Sustainable Development may, after notice and hearing before the City's Board of Public Works, suspend or revoke, by written order, any license issued hereunder if the Board of Public Works finds:
 - (1) The licensee has violated any provision of this chapter or any rule or regulation lawfully made under and within the authority of this chapter;
 - (2) The licensee is operating the non-consensual towing company licensed under this chapter in a manner contrary to any federal, state or local law; or
 - (3) Any fact or condition exists which, if it had existed at the time of the original application for such license, would have permitted the Controller's Office to refuse originally to issue such license.

- (c) Any person charged with violating the provisions of this chapter may be issued an official warning. If an official warning is issued it shall be considered as affording the violator one opportunity to comply with this chapter's provisions.

4.32.170 - Appeal.

Any applicant or licensee aggrieved by the action of the License Administrator in the denial, suspension or revocation of a license or any person who is issued a citation shall have the right of appeal to the Board of Public Works. Such appeal shall be taken by filing a written statement setting forth fully the grounds for the appeal with the Board of Public Works within ten (10) business days of the action complained of. The decision and order of the Board of Public Works on such appeal shall be final and conclusive.

SECTION 2. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 3. This ordinance shall be in full force and effect beginning on July 1, 2020.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2020.

STEVE VOLAN, President
Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2020.

NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2020.

JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This ordinance, initiated and shaped by the efforts of former Councilmember Andy Ruff and former Councilmember Dorothy Granger, amends BMC Title 4 by adding a new Chapter 4.32 to provide for the licensing and regulation of towing companies that engage in the practice of non-consensual tows. The ordinance includes provisions related to licensing requirements, insurance coverage, signage requirements, fee limitations, and the retrieval of towed vehicles, among other provisions. The purpose of this ordinance is to increase community safety and protect residents from the harmful effects associated with predatory commercial private towing.