

ORDINANCE NUMBER 18-10969

AN ORDINANCE AMENDING CHAPTER 38, ARTICLE III OF THE SALINA CODE BY AMENDING SECTIONS 38-59 AND 38-62 PERTAINING TO CONTRACTS FOR VEHICLE TOWING AND STORAGE SERVICES.

BE IT ORDAINED by the Governing Body of the City of Salina, Kansas:

Section 1. Section 38-59 of the Salina Code is hereby amended to read as follows:

Sec. 38-59. Contractor selection criteria and quality standards.

- (a) In addition to the proposed maximum fees for towing and storage services, the award of a contract shall be based on, but not limited to, the following factors:
- (1) The service provider's technical skill, experience, and sound business practices in providing towing and storage services;
 - (2) The service provider's previous conduct and performance when towing or impounding vehicles for the city, as relates to integrity, promptness, skill, efficiency, and ability to maintain satisfactory working relationships with vehicle owners;
 - (3) The service provider's existing availability of equipment, facilities and personnel well-suited for providing towing and storage services or the service provider's demonstrated financial ability and willingness to immediately expand or improve available equipment, facilities and personnel if awarded a contract for towing and storage services with the city; and
 - (4) The service provider's ability to meet the minimum quality standards established pursuant to this section.
- (b) No contract shall be awarded to a towing and storage service provider unless all of the following minimum quality standards are satisfied:
- (1) The service provider shall maintain and staff, on a twenty-four (24) hour basis, a telephone to promptly receive requests from the city. The service provider shall respond to the city's request for towing, impound, or storage service within twenty (20) minutes from the time such request is received from the city for vehicles located in the City of Salina, or within forty-five (45) minutes for vehicles located in Saline County and outside the city limits of the City of Salina.
 - (2) The service provider shall give priority to all of the city's requests for service.
 - (3) The service provider shall maintain a physical location for vehicle storage required by the city under the contract, along with an office for payment of fees and vehicle releases, which shall be located within one (1) mile of the corporate limits of the city.
 - (4) The service provider's storage area shall be completely enclosed with a fence at least six (6) feet in height, which is topped with outwardly slanted 3-strand barbed wire. The exterior walls of the fenced area must be of a material sufficient in strength to deter unauthorized entry and shall have a controlled access point that is kept locked when unattended to prohibit unauthorized access. The service provider shall maintain acceptable lighting capable of illuminating vehicles from all directions.
 - (5) In addition to the primary fenced storage area, the service provider shall maintain a separate, fully-enclosed, secured storage enclosure capable of storing at least two (2) vehicles ordered impounded by the city. The city shall have sole access to the separate impound facilities when vehicles are being held for evidence.

- (6) The service provider's place of business and storage facility shall have a sign that clearly identifies it to the public as a towing service. The sign shall have letters that are clearly visible to the public from the street adjacent to or nearest to the service provider's place of business. The sign shall indicate a twenty-four (24) hour telephone number for retrieval of vehicles in storage.
- (7) The service provider's drivers shall be dressed in like uniforms, which shall prominently display the driver's name and the service provider's business name.
- (8) The service provider's site for the storage and return of vehicles must be open for release or appraisal of vehicles, with sufficient staffing on site, as follows:
 - i. On Monday through Friday, inclusive, between the hours of 7:00 a.m. and 7:00 p.m., the site must be staffed for release of vehicles at least 8 ½ hours per day.
 - ii. On Saturday, between the hours of 7:00 a.m. and 7:00 p.m., the site must be staffed for release of vehicles at least 3 hours per day.
 - iii. The service provider shall not be required to staff the site on Sundays and the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
 - iv. At all times during which the service provider does not have staff on site for release of vehicles, the service provider must be available through a central communications service to release or provide access to vehicles. The service provider's business hours shall be posted in plain view to the public, and the service provider shall provide and prominently display a telephone number where a person wishing to claim a towed vehicle may notify the service provider during all hours of the day during which the service provider does not have staff on site for release of vehicles. Vehicles must be released within one (1) hour of notification, provided the claimant has made payment of all outstanding charges at the time of release and the city has lifted any hold order it may have placed on such vehicle. The service provider may charge a reasonable after-hours release fee.
- (9) The service provider shall have in operation at all times sufficient power-operated wreckers to ensure full compliance with the terms of the contract, including, at a minimum, one (1) flatbed (i.e., a "rollback," or a "slide") truck, fitted with a bed that can be hydraulically inclined and moved to ground level to allow the towed vehicle to be placed on it under its own power or pulled by a winch. At least one (1) wrecker must be classified as a medium or heavy-duty wrecker. The balance of the service provider's wreckers may be light-duty wreckers equipped with a proper complement of dollies, chains, slings, bumpers, and other equipment necessary to prevent damage to vehicles. Each wrecker shall also be equipped with a pan and scoop shovel, a broom and receptacle for debris, a minimum 10-pound dry powder fire extinguisher, and a container filled with oil absorbent. Each wrecker vehicle shall prominently display the service provider's name on its side.
- (10) Each wrecker shall also be equipped with radio or telephone equipment that is capable of maintaining continuous communications with the service provider's dispatcher. The service provider shall operate its communications equipment in

accordance with all rules and regulations of the Federal Communications Commission.

- (11) The service provider shall carry cards or brochures in all vehicles, which list the rates and services chargeable pursuant to its contract with the city. The service provider shall provide copies of the same to the owner or operator of each towed vehicle.
- (12) The service provider shall not take photographs at the scene of any accident to which the service provider is dispatched under its contract with the city, except for purposes of documenting damages. In no event shall the service provider publish or post such photographs in any publication, electronic media, or social networking sites.
- (13) The service provider shall procure and maintain in full force, for the duration of the contract, commercial general liability, garage liability, and business automobile liability insurance, with limits of not less than the maximum liability for claims which could be asserted against the city, for any number of claims arising out of a single occurrence or accident under the Kansas tort claims act, as amended (currently five hundred thousand dollars (\$500,000.00)). The service provider shall also procure and maintain in full force, for the duration of the contract, workers' compensation insurance as required by the State of Kansas, and employer's liability insurance with policy limits of not less than \$500,000. The workers' compensation policy to be obtained by Contractor hereunder shall contain a waiver of all rights of subrogation against the City. Proof of coverage for all required insurance policies shall be on file with the city at all times. All insurance policies shall be issued by insurance companies rated no less than A- VII in the most recent "Bests" insurance guide, and licensed in the State of Kansas. All such policies shall be in such form and contain such provisions as are generally considered standard for the type of insurance involved. With the exception of the workers' compensation policy to be obtained by the service provider, all such policies shall name the City of Salina as an additional insured. If the service provider subcontracts any of its obligations under the contract, the service provider shall require each such subcontractor to secure insurance that will protect against applicable hazards or risks of loss as and in the minimum amounts designated herein, and name the service provider and the City of Salina as additional insureds. Failure of the service provider or its subcontractors to comply with these requirements shall not be construed as a waiver of these requirements or provisions and shall not relieve the service provider of liability.
- (14) The service provider shall agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the city, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the service provider, its employees, agents, or any tier of subcontractors in the performance of the contract. The service provider's duty to defend, hold harmless and indemnify the city, its agents, representatives, officers, directors, officials and employees shall arise in connection

with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any acts, errors, mistakes, omissions, work or services in the performance of the contract.

- (c) For purposes of determining a service provider's satisfaction of the minimum quality standards set forth in this section, no towing and storage service provider shall share any equipment, personnel, or facilities required by subsection (b) with any other service provider that is under contract with the city.
- (d) All minimum quality standards shall be identified in the contract between the city and the towing contractor.

Section 2. Section 38-62 of the Salina Code is hereby amended to read as follows:

Sec. 38-62. Suspension or termination of contract.

The city manager is authorized to suspend or terminate the contract with a towing and storage service provider if the contractor:

- (1) Violates the terms of its contract with the city;
- (2) Violates the minimum quality standards set forth in section 38-59; or
- (3) Fails to perform towing and storage services in a manner consistent with the selection criteria set forth in section 38-59.

Any determination of the city manager relating to the status of a contract with a towing and storage service provider shall be subject to appeal to the governing body upon written notice to the city clerk received in the office of the city clerk no more than ten (10) days following notification to the service provider of the city manager's action relating to the contract.

Section 3. That existing Sections 38-59 and 38-62 of the Salina Code are hereby repealed.

Section 4. This ordinance shall be published by the following summary:

Ordinance No. 18-10969 Summary

On September 10, 2018, the City of Salina, Kansas, passed Ordinance No. 18-10969. The ordinance amends Chapter 38, Article III of the Salina Code by amending Sections 38-59 and 38-62 pertaining to contracts for vehicle towing and storage services. A complete copy of the ordinance is available at www.salina-ks.gov or in the office of the city clerk, 300 W. Ash Street, free of charge. This summary is certified by the city attorney.

Section 5. This ordinance shall be in full force and effect from and after its adoption and publication by summary once in the official city newspaper.

Introduced: August 27, 2018
Passed: September 10, 2018

Karl F. Ryan, Mayor

[SEAL]
ATTEST:

Allison Strait, Deputy City Clerk

The publication summary set forth above is certified this ____ day of September, 2018.

Greg A. Bengtson, City Attorney