

Vehicle Towing

502.1 PURPOSE AND SCOPE

This policy provides guidance related to vehicle towing. Nothing in this policy shall require a member of this department to tow a vehicle.

502.2 POLICY

The Forest Heights Police Department will tow vehicles when appropriate and in accordance with the law.

502.3 REMOVAL OF VEHICLES DUE TO HAZARD

When a vehicle should be towed because it presents a hazard, the owner or operator should arrange for the towing. Department members may assist by communicating requests through Prince George's County Public Safety Communications to expedite the process.

If the owner or operator is unable to arrange for towing and the vehicle presents a hazard, the vehicle may be towed at the direction of the department member.

Vehicles that are not the property of the Town should not be driven by department members unless it is necessary to move the vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

502.4 ARREST SCENES

Whenever the owner or operator of a vehicle is arrested, the arresting officer should provide reasonable safekeeping by leaving the vehicle secured and lawfully parked at the scene or when appropriate, by having the vehicle towed, such as when the vehicle presents a traffic hazard or the vehicle would be in jeopardy of theft or damage if left at the scene.

Officers are not required to investigate whether alternatives to towing a vehicle exist after an arrest. However, a vehicle should not be towed if reasonable alternatives exist. When considering whether to leave a vehicle at the scene, officers should take into consideration public safety as well as the reasonable safety of the vehicle and its contents.

The following are examples of situations where a vehicle should not be towed:

- The vehicle can be legally parked, left in a reasonably secure and safe location and the vehicle is not needed as evidence.
- The vehicle is parked on private property, on which the arrestee or owner is legally residing, or the property owner does not object to the vehicle being parked at that location.
- The arrestee or owner of the vehicle requests that it be released to a person who is present, willing and able to legally take control of the vehicle.

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- The vehicle is legally parked and the arrestee or owner requests that it be left at the scene. In such cases the requestor should be informed that the Department will not be responsible for theft or damages.

502.5 VEHICLES RELATED TO CRIMINAL INVESTIGATIONS

Officers should tow vehicles that are needed for the furtherance of an investigation or prosecution of a case, or that are otherwise appropriate for seizure as evidence. Officers should make reasonable efforts to return a recovered stolen vehicle to its owner rather than have it towed, so long as the vehicle is not needed for evidence.

502.6 RECORDS

Administrative Services Bureau members shall ensure that pertinent data regarding a towed vehicle is promptly entered into the appropriate database.

502.6.1 NOTICE OF TOW

As soon as reasonably possible and within seven days of a vehicle being towed, it shall be the responsibility of the Administrative Services Bureau to send a notice of tow to all registered owners and others having a recorded interest in the vehicle. Notice shall be sent to all such individuals by certified mail. The notice shall include (Md. Code TR § 25-204; Md. Code TR § 16-303.1):

- (a) A statement that the vehicle has been taken into custody.
- (b) The location of the vehicle.
- (c) A description of the vehicle, including the following:
 1. Color
 2. Manufacturer year
 3. Make and model
 4. License plate number and/or Vehicle Identification Number (VIN)
 5. Mileage
- (d) The authority and purpose for the removal of the vehicle.
- (e) An explanation of the procedure for release of the vehicle and for obtaining a vehicle tow hearing.
- (f) Information for the owner, or others having a recorded interest in the vehicle, of the right to reclaim the vehicle within three weeks after the date of the notice, on payment of all towing, preservation and storage charges resulting from taking or placing the vehicle in custody.
 1. For vehicles impounded pursuant to Md. Code TR § 16-303.1, the owner or others having a recorded interest in the vehicle shall be notified that the vehicle

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must be reclaimed within 10 days after the date specified in the applicable court order.

- (g) A statement that the failure of the owner, or others having a recorded interest in the vehicle, to exercise this right to reclaim the vehicle in the time provided is:
 - 1. A waiver to right, title and interest in the vehicle.
 - 2. Consent to the sale of the vehicle at public auction.
 - 3. Consent by the owner, other than a lessor, to the retention of the vehicle for public purposes as provided by state law (Md. Code TR § 25-207).

If the identity or address of the last registered owner, or others having a recorded interest in the vehicle, cannot be determined or the certified notice is returned as undeliverable, the Administrative Services Bureau shall post the notice where the abandoned vehicle was found as provided by state law (Md. Code TR § 25-205(c)).

502.7 TOWING SERVICES

Members shall not show preference among towing services that have been authorized for use by the Department. A rotation or other system established by the Department for tow services should be followed.

502.8 VEHICLE INVENTORY

The contents of all vehicles towed at the request of department members shall be inventoried and listed on the inventory report. When reasonably practicable, photographs may be taken to assist in the inventory.

- (a) An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, any unlocked glove box, other accessible areas under or within the dashboard area, any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats.
- (b) In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in any other type of unlocked compartments that are a part of the vehicle, including unlocked vehicle trunks and unlocked car top containers.
- (c) Any locked compartments including, but not limited to, locked glove compartments, locked vehicle trunks, locked hatchbacks and locked car-top containers should be inventoried, provided the keys are available and released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.
- (d) Closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes except for the following: wallets, purses, coin purses, fanny packs, personal organizers, briefcases or other closed containers designed for carrying money, small valuables or hazardous materials.

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Members should ask the occupants whether the vehicle contains any valuables or hazardous materials. Responses should be noted in the inventory report. If the occupant acknowledges that any closed container contains valuables or a hazardous material, the container shall be opened and inventoried. When practicable and appropriate, such items should be removed from the vehicle and given to the owner, or booked into property for safekeeping.

Any cash, jewelry or other small valuables located during the inventory process will be held for safekeeping, in accordance with the Administrative Services Bureau Policy. A copy of the property receipt should be given to the person in control of the vehicle, or if that person is not present, left in the vehicle.

A copy of the vehicle inventory will be given to the tow truck operator.

These inventory procedures are for the purpose of protecting the vehicle owner's property, providing for the safety of department members and protecting the Department against fraudulent claims of lost, stolen or damaged property.

Towing a vehicle in order to perform an inventory should not be used as a pretext for an evidence search. Nothing in this policy prevents the towing of a vehicle that would occur for reasons independent of any suspicion that the vehicle may contain evidence if it is otherwise justified by law or this policy.

502.9 SECURITY OF VEHICLES AND RETRIEVAL OF PROPERTY

If the search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, the department member conducting the search shall take such steps as are reasonably necessary to secure or protect the vehicle or property from such hazards.

Unless it would cause an unreasonable delay in towing the vehicle or create an issue of officer safety, reasonable accommodations should be made to permit the owner, operator or occupant to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions), which are not considered evidence or contraband.

Members who become aware that a vehicle may have been towed by the Department in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the owner or his/her agent to request a hearing to contest the tow.

502.10 TOWN OF FOREST HEIGHTS TOWING IMMOBILIZATION AND IMPOUNDING

(A) Violations warranting towing, immobilization and impoundment. The sworn officers of the Forest Heights Police Department are authorized to immobilize, remove and impound any vehicle from the public streets, public property or public rights-of-way within the Town that is the subject of a violation of this Article which authorizes such removal and has been issued an official traffic or municipal infraction citation. In addition to being cited for a violation of Section 15.3.2 or ANY

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relevant provisions of the Maryland Vehicle Law, a vehicle may be immobilized, towed and/or impounded under any of the following circumstances:

- (1) When a vehicle is so disabled or wrecked as to be incapable of being safely driven,
- (2) When the same vehicle, ILLEGALLY PARKED AND CITED AS SUCH, has been previously subjected to two or more unpaid parking and delinquent citations issued by the Town,
- (3) When the person in charge of the vehicle is incapacitated, incarcerated, unlicensed or absent, thereby being unable to provide for its custody or removal,
- (4) When a vehicle is parked illegally so as to constitute a hazard or obstruction to traffic,
- (5) When a vehicle is left unattended on a public street or public right-of-way within an area duly posted with signage so as to prohibit parking during an emergency or special activity declared by the Council or the Mayor as permitted by law,
- (6) When a vehicle remains on a public street or public right-of-way in violation of this Article for a continuous period exceeding 72 hours (i.e., three days), as described in Section 15.3.2,
- (7) When a vehicle is found parked in a reserved parking space such as a handicapped space or a space reserved for Town officials or law enforcement personnel,
- (8) When a vehicle is illegally parked in any zone or area established by law that has been limited to designated classes of vehicles or where parking is prohibited during certain hours, on designated days or at all times, and where such vehicle is interfering with the proper and intended use of such zones or areas,
- (9) When a police officer has probable cause to believe that the vehicle is stolen or contains evidence of a felony, or
- (10) As expressly required by any other provision of this Article or as defined in Subsection 15.2.A, defining an abandoned vehicle.

(B) Notice of Towing, Immobilization, or Impoundment. Whenever a vehicle has been towed, immobilized and/or impounded, the Forest Heights Police Department shall notify the registered owner of any action taken and substantially follow the RELEVANT procedures stated in this Article and particularly as found in Section 15.8, Subsection (G) (Procedures upon immobilizing vehicles), Paragraph (3) et seq. and those provisions regarding the storage and disposal of abandoned vehicles found in Subtitle 2 of Title 25 of the Transportation Article of the State Code.

(C) Hearings for refunds of towing and impoundment charges. An owner of a vehicle aggrieved by any action authorized or described by this Section shall be entitled to an informal hearing before the Mayor or a hearing officer appointed by the Mayor with the consent of Council. Should the Mayor find that the Forest Heights Police Department mistakenly or otherwise wrongfully authorized the towing, impoundment, or storage of a vehicle, the Town shall reimburse the owner of the vehicle for all improper or rescinded towing and storage costs incurred by the owner as a result of the mistaken or wrongful action. The Mayor shall make the final decision of the Town based on recommendations from the hearing officer, if so appointed to hear such case. An appeal of the

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Mayor's decision shall be provided to the Maryland Tax Court as permitted by statute and the rules of procedure governing said tax court. This subsection and the administrative remedies described herein shall only apply to disputes and requests for refunds regarding towing, and impounding fees collected by the Town or its agent when enforcing this Section, and in those cases where Subsection D below does not apply.

(D)

Mandatory refund of towing and impoundment charges upon not-guilty verdict or not liable finding. Should any final adjudication by the District Court of Maryland result in a not guilty verdict or its equivalent entered upon any of the violations resulting in impoundment under this Section, all charges or fees advanced as having accrued upon the vehicle or paid by virtue of its impoundment as a result of a previously alleged and cited violation or violations shall be returned to the person who advanced or paid such sums upon presentation of the official receipt issued at the time said vehicle was released.

(E)

Costs authorized. The costs of the removal, towing, impoundment, immobilization and storage of vehicles or any related service may include the amounts charged by the Town or any independent contractor engaged by the Town for such services as well as the daily storage charges as established by resolution of the Council.