

Bill No. 17-15  
Concerning: Motor Vehicle Towing and  
Immobilization on Private Property –  
Amendments  
Revised: July 21, 2015 Draft No. 5  
Introduced: April 14, 2015  
Enacted: July 21, 2015  
Executive: July 31, 2015  
Effective: November 30, 2015  
Sunset Date: None  
Ch. 40, Laws of Mont. Co. 2015

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Berliner  
Co-Sponsors: Councilmembers Rice, Katz, Navarro, Hucker, Riemer, Elrich, Council Vice  
President Floreen and Council President Leventhal

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**AN ACT** to:

- (1) ~~[[authorize]]~~ require the County Executive to set flat rates for certain towing services;
- (2) add certain notice and towing procedure requirements;
- (3) provide certain additional enforcement powers for the Office of Consumer Protection;
- (4) prohibit the immobilization of certain vehicles; and
- (5) generally amend the law governing motor vehicle towing and immobilization on private property

By amending

Montgomery County Code  
Chapter 30C, Motor Vehicle Towing and Immobilization on Private Property  
Sections 30C-1, 30C-2, 30C-3, 30C-4, 30C-5, 30C-6, 30C-7, 30C-8, 30C-9, 30C-10, and  
30C-11

By adding

Montgomery County Code  
Chapter 30C, Motor Vehicle Towing and Immobilization on Private Property  
Sections 30C-2 and 30C-12

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<del>[Single boldface brackets]</del>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<del>[[Double boldface brackets]]</del>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1           **Sec. 1. Sections 30C-1, 30C-2, 30C-3, 30C-4, 30C-5, 30C-6, 30C-7, 30C-8,**  
 2 **30C-9, 30C-10, and 30C-11 are amended, and Sections 30C-2 and 30C-12 are**  
 3 **added, as follows:**

4 **30C-1. ~~[[Definitions; scope]]~~ Scope; purpose.**

5           (a) ~~[[Definitions.~~ As used in this Chapter, unless the context indicates  
 6 otherwise;

7           (1) *Office* means the Office of Consumer Protection.

8           (2) *Immobilize* means to use any method, object, or device, including  
 9 a clamp or lock, to prevent or inhibit the movement of a motor  
 10 vehicle.

11           (3) *Owner* includes any person in lawful possession or control of a  
 12 property or a motor vehicle. The “owner” of general common  
 13 elements of a condominium is the council of unit owners, or the  
 14 council’s agent for parking management. The “owner” of limited  
 15 common elements of a condominium is the unit owner or owners  
 16 who have the exclusive right to use the common elements, or the  
 17 agent of that unit owner or owners.

18           (4) *Redemption area* means any area or building where a vehicle  
 19 owner may pay any charges necessary to redeem a vehicle.

20           (5) *Storage site* means any land or building used by a towing service  
 21 to store towed vehicles.

22           (6) *Towing* means the removal, or preparation to remove, any motor  
 23 vehicle by another motor vehicle for compensation.

24           (7) *Trespass towing service or towing service* means any person who  
 25 tows any motor vehicle from private property for compensation  
 26 without the consent of the vehicle owner

27 (8) *Tow truck* includes any motor vehicle used to tow, or attempt to  
 28 tow, a motor vehicle from private property.

29 (9) *Unauthorized vehicle* means any motor vehicle which a property  
 30 owner has not consented to have parked on the property.

31 (b)]] *Scope.*

32 (1) This Chapter applies to the towing of a motor vehicle from private  
 33 property, or the immobilization of a motor vehicle on private  
 34 property, without the consent of the vehicle owner.

35 (2) This Chapter does not apply to:

36 [a.](A) [[Towing]] towing initiated by the vehicle owner;

37 [b.](B) [[Towing]] towing approved or requested by a police  
 38 officer, firefighter, or rescue squad member in the course of  
 39 [[duty]] a criminal investigation or under [[the state]] State  
 40 law [[on]] regulating abandoned vehicles; or

41 [c.](C) [[Towing]] towing a [[motor]] vehicle while  
 42 repossessing it.

43 (D) towing from the yard or driveway of a single-family  
 44 dwelling; or

45 (E) towing from land immediately adjoining an electric or  
 46 telephone utility building or structure that is not open to  
 47 the general public.

48 (3) [[Sections 30C-4 and 30C-6 do]] Section 30C-5 does not apply  
 49 to[[:

50 [a.](A) Towing]] towing from designated handicapped  
 51 parking spaces[[;

52 [b.](B) Towing from the yard or driveway of a one-family  
 53 dwelling; or

54 [c.](C) Towing from land immediately adjoining an electric  
 55 or telephone utility building or structure that is not open to  
 56 the general public]].

57 ~~[(c)](b)~~ *Purpose.* The purpose of this Chapter is to protect the health,  
 58 safety, and welfare of County residents and to regulate and authorize the  
 59 County Executive to set maximum rates for the towing of vehicles from  
 60 private property without the consent of the vehicle owner. This Chapter  
 61 does not authorize the immobilization, towing or holding of any vehicle.  
 62 To the extent that legal authority to immobilize, tow or hold a vehicle  
 63 without the consent of its owner exists, that authority must be derived  
 64 from other statutes or the common law. [This] ~~[[The purpose of this]]~~  
 65 This Chapter ~~[[is to protect public safety by restricting]]~~ [restricts]  
 66 restricts the exercise of any such legal authority.

67 **30C-2. Definitions.**

68 In this Chapter:

69 Commercial property means real estate approved and designed for retail  
 70 or wholesale trade, hotel, restaurant, offices, clinics, warehouses, light  
 71 manufacturing, and other such uses but not for residential purposes.

72 GVWR means gross vehicle weight rating for the vehicle.

73 Immobilize means to use any method, object, or devise, including a clamp  
 74 or lock, to prevent or inhibit the movement of a vehicle.

75 Office means the Office of Consumer Protection.

76 Property manager means any person who manages real property on  
 77 behalf of the owner.

78 Property owner means the person in whose name the property is  
 79 titled[[.]], or any other person in lawful possession or control of the  
 80 property. The owner of general common elements of a condominium is

81 the Council of unit owners or the Council's agent for parking  
82 management. The owner of limited common elements of a condominium  
83 is the unit owner or owners who have the exclusive right to use the  
84 common elements, or the agent of that unit owner or owners.

85 Redemption area means an area or building where a vehicle owner may  
86 pay any charges necessary to redeem a vehicle.

87 Residential property means real estate containing either a single family  
88 or multifamily structure that is available for occupation for non-business  
89 purposes.

90 Storage site means any land or building used by a towing service to store  
91 towed vehicles.

92 Tow or towing means use of a tow truck to remove a vehicle from private  
93 property for compensation without the consent of the vehicle owner.

94 Tow truck includes any vehicle which may tow or attempt to tow a vehicle  
95 from private property.

96 Trespass towing company or towing company means any person who  
97 tows any vehicle from private property for compensation without the  
98 consent of the vehicle owner.

99 Unauthorized vehicle means any vehicle which a property owner has not  
100 consented to have parked on the property owner's property.

101 Vehicle means a device that is able to transport persons or property on a  
102 public highway and is required to be registered pursuant to Title 13 of the  
103 Transportation Article of the Annotated Code of Maryland.

104 Vehicle Owner means the person in whose name the title to a vehicle is  
105 registered.

106 **[[30C-2]] 30C-3. Maximum rates.**

- 107 (a) When [[charging for]] towing a motor vehicle from private property  
 108 without the consent of the owner, a towing [[service]] company must  
 109 [not] not charge[[:
- 110 (1) a flat rate established by the Executive under this Section; or  
 111 (2) a rate that is not]] more than a maximum rate [which the county  
 112 executive must establish by regulation under method (2)]  
 113 [[established by the Executive under this Section]] which the  
 114 County Executive must establish by regulation under method (2).  
 115 [The executive must review the rates at least every two (2) years.]  
 116 The Executive must review the rates at least every two (2) years.
- 117 (b) The [executive] Executive must set [[by method (2) regulation, and  
 118 review at least every two years, either]] fair and reasonable [[flat rates  
 119 or]] maximum rates for each of the following acts:
- 120 (1) towing, which includes [[Attaching]] attaching the vehicle to be  
 121 towed to the tow truck, towing the vehicle to a storage site, and the  
 122 first 24 hours of storage;
- 123 (2) [[Towing the vehicle to a storage site. This rate must be based on  
 124 the distance the vehicle is towed;
- 125 (3)]] [[Storing]] storing the vehicle until it is redeemed; and  
 126 [[4]](3) [[Any]] any other service needed to safely remove a vehicle.
- 127 (c) The fee for releasing a vehicle under section [[30C-7]] 30C-8 must not  
 128 exceed [[one-half the attachment fee set under subsection (b)(1)]] \$25.
- 129 (d) A towing company may charge a vehicle owner a fee for providing notice  
 130 under section 30C-6(e) only if the vehicle has not been reclaimed within  
 131 48 hours after the towing or removal of the vehicle; the fee must not  
 132 exceed the actual cost of providing that notice.

133 (e) A towing [[service]] company must not charge for any act not listed in  
 134 this section unless that act was expressly requested by the vehicle owner.

135 **[[30C-3]] 30C-4. Administration; rates.**

136 (a) Each tow truck operated by a trespass towing company must be  
 137 identified, registered, and insured as required under State law, except that  
 138 any required lettering must be placed on both sides of the truck. Each  
 139 driver employed by a trespass towing service must be at least 18 years of  
 140 age and must have a valid license to operate a tow truck.

141 (b) Every trespass towing [[service]] company must [[file]] register with the  
 142 Office and must file a schedule of its rates for each action connected with  
 143 the towing or storage of unauthorized vehicles. The Office may  
 144 disapprove a rate that~~[[:~~

145 (1) is different from a flat rate set under Section 30C-2; or

146 (2)]] exceeds [the] a maximum rate set under Section 30C-2.

147 (c) A trespass towing [[service]] company must not charge a rate that is  
 148 higher than the rate on file with the Office for any action in connection  
 149 with the towing or storage of any unauthorized vehicle.

150 (d) Each trespass towing [[service]] company must furnish the Office proof  
 151 that it carries the insurance required under Section 31A-15(b). Each  
 152 trespass towing [[service]] company must inform the Office of the type  
 153 of business organization or ownership in which the [[service]] company  
 154 operates and the names and current addresses of all owners or, if the  
 155 [[service]] company is a corporation, of the officers of the corporation  
 156 and the name and address of a person authorized to accept service of  
 157 process.

158 (e) A property owner must not order the towing of an unauthorized vehicle  
 159 unless the property owner has entered into a written contract that

160 authorizes a towing [[service]] company to tow vehicles from the owner's  
161 property. This provision does not apply if the towing [[service]] company  
162 is the record owner of the property from which a [[motor]] vehicle is  
163 towed. The property owner and the towing company must keep on file  
164 each contract that is in effect, or that was terminated within the previous  
165 12 months. The Office, the Police Department, and the owner of any  
166 vehicle towed by the [[service]] company may inspect and copy any  
167 contract during normal business hours. The Office may issue model  
168 contracts that meet the requirements of this Chapter.

169 Any new written contract must include:

- 170 (1) a statement that the property owner is responsible for posting  
171 proper and sufficient signage to notify the public of parking  
172 restrictions;
- 173 (2) a statement that the property owner is responsible for expressly  
174 authorizing the towing of a particular vehicle, except as allowed  
175 under 30C-5(c)(10), and that the existence of this contract does not  
176 constitute express authorization;
- 177 (3) a statement that a property owner or towing company is liable for  
178 a violation of any duty imposed on the property owner or towing  
179 company by Chapter 30C, and the damages payable are three times  
180 the amount of any towing, release or storage fees charged; [[and]]
- 181 (4) a statement that a property owner and a towing company are jointly  
182 and severally liable for a violation of any duty imposed on the  
183 towing company by Chapter 30C, with a right of contribution or  
184 indemnification; and
- 185 (5) a statement that any violation of any duty imposed on the property  
186 owner or towing company by Chapter 30C subjects the property

187 owner or towing company to a potential fine of ~~[\$500.00]~~ up to  
 188 \$1,000.00.

189 (f) [[The Office may issue subpoenas to compel the production of  
 190 documents, papers, books, records, and other evidence in any matter to  
 191 which this Chapter applies.]] Any property owner wishing to engage in  
 192 the non-consensual towing of vehicles from their property must first  
 193 register each commercial parking lot with the Office of Consumer  
 194 Protection using an electronic registration program. The property owner  
 195 must provide:

- 196 (1) the name and contact information for the property owner;
- 197 (2) the name and contact information of all individuals who may  
 198 authorize the towing of each vehicle;
- 199 (3) a copy of the contract between the property owner and the towing  
 200 firm; and
- 201 (4) a diagram of the dimensions of the parking lot including a mark  
 202 indicating the locations of each sign stating the parking restrictions  
 203 and disclosures required by County and State law.

204 (g) [[Any violation of this chapter is a class A violation.]] A property owner  
 205 must update the information provided to the Office of Consumer  
 206 Protection within 24 hours of any changes to the information provided  
 207 under subsection (f).

208 (h) A property owner must provide ~~[[quarterly]]~~ annual reports regarding the  
 209 number of vehicles towed and the reason why each vehicle was towed,  
 210 unless the Director of the Office of Consumer Protection waives the  
 211 requirement after finding that Police Department records meet the  
 212 Office's needs for enforcement of this Chapter.

213 ~~[[30C-4]]~~ 30C-5. Public notice; tow procedures.

214 (a) *Requirement.* Before towing a motor vehicle from private property  
 215 without the consent of the vehicle owner, the property owner and the  
 216 towing ~~[[service]]~~ company must comply with all applicable provisions  
 217 of this section.

218 (b) *Signs.*

219 (1) A property owner must post a sign, notifying the public of parking  
 220 restrictions, at least 24 hours before towing or ordering the towing  
 221 of an unauthorized vehicle.

222 (2) ~~[[Sufficient numbers of signs must be posted permanently so that  
 223 at least one sign is clearly readable from each parking area and  
 224 each vehicle entrance to the property at all times.]] [Alternatively]  
 225 [[Additionally, in a parking lot with more than 100 parking spaces,  
 226 at least one sign must be posted in a conspicuous place for each  
 227 [75] 25 parking spaces, and each sign must be readable from all  
 228 affected spaces.]] The property owner must post a sufficient  
 229 number of signs so that:~~

230 (A) at least one sign is clearly readable from each parking area  
 231 and each vehicle entrance to the property at all times; or

232 (B) in a parking lot with more than 45 parking spaces, at least  
 233 one sign must be posted in a conspicuous place for each 45  
 234 parking spaces and each sign can be read from all affected  
 235 spaces.

236 (3) Each sign must:

237 [a.](A) be at least 24 inches high by 30 inches wide;

238 (B) ~~[[Summarize]]~~ summarize all parking restrictions on the  
 239 property enforced by towing unauthorized vehicles,  
 240 including time and area restrictions;

241 [b.]~~[(B)]~~[(C)] [[Indicate]] state that a [[vehicles violating]]  
 242 vehicle parked in violation of the restrictions may be towed  
 243 at the vehicle owner's expense; [[and]]

244 [c.]~~[(C)]~~[(D)] state that County and State law require that  
 245 towed vehicles be available for redemption 24 hours per  
 246 day, seven days per week;

247 (E) state the maximum amount that the owner of the vehicle  
 248 may be charged for the towing or removal of an  
 249 unauthorized vehicle;

250 (F) [[List]] list the name and telephone number of each towing  
 251 [[service]] company hired to tow unauthorized vehicles  
 252 from the property, [[or a telephone number that is answered  
 253 personally at all times of the day and night by the property  
 254 owner or an agent of the owner who is informed of each  
 255 vehicle towed from the property]] and the location to which  
 256 the vehicle will be towed;

257 (G) be sized [[and made of reflective material that can be seen  
 258 in low light,]] and located so that it is able to be read by  
 259 motorists in daylight and at night; and

260 (H) be maintained in a legible and unobstructed condition.

261 [(4) Each sign must be sized, printed and located so that it is readable  
 262 by motorists in daylight and at night.

263 (5) The property owner must maintain each sign in legible and  
 264 unobstructed condition.

265 (6)](4) An owner of residential property, including a condominium,  
 266 cooperative or homeowners' association, may also have an  
 267 unauthorized vehicle towed from that property [[without posting

268 the signs required by this subsection if]] by posting the signs  
 269 required in subsection (b)(2) only at the entrances to that property  
 270 and:

271 [a.](A) [[A]] a notice specifying a violation of an applicable  
 272 rule or covenant is securely attached to the vehicle in a  
 273 conspicuous place;

274 [b.](B) [[The]] the date and time the notice was attached is  
 275 written on it;

276 [c.](C) [[The]] the notice informs the vehicle owner that:  
 277 (i) the violation must be corrected or the vehicle may  
 278 be towed at the vehicle owner's expense 48 hours  
 279 after the notice is attached; and  
 280 (ii) an unauthorized vehicle that has received a notice  
 281 of the same violation under this Section on the same  
 282 property within the previous 180 days may be towed  
 283 without any further notice; and

284 [d.](D) [[The]] the vehicle is not towed until at least 48 hours  
 285 after the notice is attached unless the unauthorized vehicle  
 286 received a notice of the same violation under this Section on  
 287 the same property within the previous 180 days.

288 [[(7)]] (5) An owner of a commercial parking lot [[with more than 100  
 289 spaces]] may have an unauthorized vehicle towed from that  
 290 property [[without posting the signs required by this subsection if]]  
 291 by posting the signs required in subsection (b)(2) only at the  
 292 entrances to that property and:

293 [a.](A) [[A]] a notice specifying a violation of an applicable  
 294 rule or covenant is securely attached to the vehicle in a  
 295 conspicuous place;

296 [b.](B) [[The]] the date and time the notice was attached is  
 297 written on it;

298 [c.](C) [[The]] the notice informs the vehicle owner that:  
 299 (i) the violation must be corrected or the vehicle may  
 300 be towed at the vehicle owner's expense 24 hours  
 301 after the notice is attached; and  
 302 (ii) an unauthorized vehicle that has received a notice  
 303 of the same violation under this Section on the same  
 304 property within the previous 180 days may be towed  
 305 without any further notice; and

306 [d.](D) [[The]] the vehicle is not towed until at least 24 hours  
 307 after the notice is attached unless the unauthorized vehicle  
 308 received a notice of the same violation under this Section on  
 309 the same property within the previous 180 days.

310 (c) *Tow procedures.*

311 (1) Except as provided in subsection (c)(10), a [[property owner]]  
 312 towing company must not tow a motor vehicle from [[the  
 313 owner's]] private property unless the property owner has, directly  
 314 or through an agent, expressly authorized the towing of the  
 315 particular vehicle.

316 (2) [[The authorization to tow may take the form of a tow slip.]] The  
 317 property owner must authorize the towing of a vehicle in writing  
 318 via tow authorization form in person, or via fax, email, or other

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electronic means approved by the Director of the Office of Consumer Protection.

- (3) The Office may issue a model tow [[slip]] authorization form.
- (4) [[If a tow slip is used, the property owner or the owner's agent must sign the slip immediately before the vehicle is towed. A legible copy of the slip must be securely attached to the vehicle.
- (5) Any property owner or any person acting as an agent of a property owner, must not:
  - [a.](A) [[Falsely]] falsely state that a property owner authorized the towing of a particular vehicle; or
  - [b.](B) [[Record]] record any false information about the towing of a particular vehicle~~[[; or~~
  - [c.](C) Sign a tow slip before all of the information relating to the towing of a particular vehicle is recorded on the slip~~]].~~
- ~~[[6]](5)~~ A towing [[service]] company must not charge a vehicle owner any fee for the services of another agent of the property owner.
- ~~[[7]]~~ In this subsection, "owner" means the person in whose name title to the property is registered. The "owner" of general common elements of a condominium is the council of unit owners. The "owner" of limited common elements of a condominium is the unit owner or owners who have the exclusive right to use the common elements. "Property manager" means a person who generally manages the property on behalf of the owner.
- ~~(8)](6)~~ A person must not act as a property owner's agent for the purpose of ordering the towing of an unauthorized vehicle, unless

345 the owner or property manager has expressly authorized in writing  
 346 the person to so act.

347 ~~[(9)]~~(7) An agent of a property owner, for the purpose of ordering  
 348 the towing of an unauthorized vehicle, must not:

349 [a.](A) ~~[[Be]]~~ be employed by, or have any member of his or  
 350 her immediate family employed by, any towing ~~[[service]]~~  
 351 company; or

352 [b.](B) ~~[[Have]]~~ have any financial interest in any towing  
 353 ~~[[service]]~~ company or the towing of any motor vehicle.

354 This provision does not apply if the towing ~~[[service]]~~ company is the  
 355 record owner of property from which a motor vehicle is towed.

356 ~~[(10)]~~(8) An unauthorized vehicle may be towed from private  
 357 property without the express authorization of the property owner  
 358 or the owner's agent only[;

359 a. Between 2:00 a.m. and 9:00 a.m.; or

360 b. If[;

361 (A) Between 2:00 a.m. and 9:00 a.m.; or

362 (B) if the vehicle is ~~[[directly]]~~ blocking a clearly marked fire  
 363 lane or access to another vehicle, the property or a building  
 364 on the property.

365 ~~[(11)]~~(9) Before towing or authorizing the towing of an unauthorized  
 366 vehicle from private property ~~[[, a person]]~~ under this Section, ~~[[the~~  
 367 towing company]] a person must obtain photographic evidence of  
 368 the violation or event that precipitated the towing of the vehicle.  
 369 The photograph must be available for inspection by any interested  
 370 party for at least one year, and a copy of the photograph must be

371 provided to the vehicle owner along with the receipt required under  
 372 Section 30C-9.

373 [(12) A towing company must not attach to a tow truck or tow an  
 374 unauthorized vehicle from private property that is held open to the  
 375 public for parking within 15 minutes of the vehicle being parked,  
 376 unless the vehicle is:

- 377 (A) blocking a clearly marked fire lane;
- 378 (B) blocking access to another vehicle;
- 379 (C) blocking access to the property or a building on the  
 380 property; or
- 381 (D) parked in a parking space reserved for disabled persons  
 382 without a valid handicapped registration plate or valid  
 383 disabled person's parking permit.]]

384 (d) (1) A property owner may move a vehicle within a parking lot  
 385 without prior notice to the vehicle owner, but must not remove  
 386 the vehicle from the lot, when moving the vehicle is necessary  
 387 to:

- 388 [a.](A) ~~[[Remove]]~~ remove large quantities of snow or  
 389 debris;
- 390 [b.](B) ~~[[Repair]]~~ repair the parking lot; or
- 391 [c.](C) ~~[[Respond]]~~ respond to a threat to a person's safety or  
 392 health.

393 (2) In moving a vehicle within a parking lot, a property owner must:

- 394 [a.](A) ~~[[Take]]~~ take reasonable care not to damage the  
 395 vehicle;
- 396 [b.](B) ~~[[Pay]]~~ pay any cost of moving the vehicle; and



- 422 (2) ~~[[The]]~~ the make, model, color, year ~~[[if known]]~~, vehicle  
 423 identification number and registration plate number of the towed  
 424 vehicle;
- 425 (3) ~~[[The]]~~ the address the vehicle was towed from;
- 426 (4) ~~[[The]]~~ the time the vehicle was towed; ~~[[and]]~~
- 427 (5) the reason the vehicle was towed; and
- 428 (6) ~~[[The]]~~ the storage site where the vehicle will be stored.
- 429 (b) The ~~[[property owner or the owner's agent]]~~ towing company must  
 430 promptly notify the police department if the towing ~~[[service]]~~ company  
 431 moves the vehicle to another storage site.
- 432 (c) The property owner ~~[[or]]~~ [the owner's agent] ~~[[property manager]]~~ and  
 433 the towing company must retain each tow ~~[[slip]]~~ authorization form  
 434 ~~[[and, for those vehicles towed without a tow slip, a record of the~~  
 435 information furnished to the police,]] and, for those vehicles towed  
 436 without a tow authorization form, the towing company must retain a  
 437 record of the information furnished to the police for one year after the  
 438 tow. ~~[[For each vehicle towed without a tow slip, the property owner or~~  
 439 [agent] property manager must record and retain the name of the owner  
 440 of the property and, if the tow was authorized by an agent, the name of  
 441 the agent.]] The Police Department, the Office, and the owner of any  
 442 vehicle towed by the service may inspect and copy ~~[[this information]]~~  
 443 tow authorization forms at any time during normal business hours.
- 444 (d) The ~~[[property owner or the owner's agent]]~~ towing company must  
 445 promptly notify the County Police Department by telephone of each  
 446 vehicle that has remained in a towing ~~[[service's]]~~ company's possession  
 447 for 72 hours. The ~~[[property owner or the owner's agent]]~~ towing  
 448 company must tell the Police Department:

- 449 (1) ~~[[All]]~~ all information required under subsection (a); and  
 450 (2) ~~[[The]]~~ the vehicle identification number of the towed vehicle.

451 (e) Within seven days after the towing or removal of the vehicle, the towing  
 452 company must notify the owner, any secured party, and the insurer of  
 453 record by certified mail, return receipt requested, and first class mail, of  
 454 the same information required to be given to the Police Department under  
 455 subsection (a) of this Section.

456 (f) The towing Company must provide to the owner, any secured party, and  
 457 the insurer of record the itemized actual costs of providing notice under  
 458 this Section.

459 ~~[[30C-6]]~~ 30C-7. Handicapped vehicle owners.

460 A property owner must not authorize a towing ~~[[service]]~~ company to tow a  
 461 vehicle with a valid handicapped registration plate or valid disabled person's  
 462 parking permit conspicuously displayed from private property without the  
 463 consent of the vehicle owner unless:

- 464 (a) ~~[[The]]~~ the tow is expressly authorized by a police officer at the request  
 465 of the property owner; or  
 466 (b) ~~[[The]]~~ the vehicle is blocking a clearly marked fire lane or access to  
 467 another vehicle, the property or a building on the property.

468 ~~[[30C-7]]~~ 30C-8. Incomplete tows.

469 (a) If a vehicle owner returns to an unauthorized vehicle at any time after the  
 470 vehicle is attached to the tow truck but before it is towed from private  
 471 property, the towing ~~[[service]]~~ company must release the vehicle to the  
 472 owner if the owner pays a release fee as provided in Section ~~[[30C-2(c)]]~~  
 473 30C-3(c). The towing service must accept payment by cash or credit card  
 474 as under Section 30C-9(b) and must not charge any other fee for attaching  
 475 or releasing the vehicle.

476 (b) A towing [[service]] company must not charge for releasing an  
 477 unauthorized vehicle unless the service has physically attached the  
 478 vehicle to the tow truck and lifted the vehicle at least 6 inches off the  
 479 ground before the vehicle owner returns. If the towing [[service]]  
 480 company has begun to attach the vehicle to the tow truck but has not  
 481 completed the attachment or lifted the vehicle, the towing [[service]]  
 482 company must release the vehicle without charging the owner any fee.

483 (c) A towing [[service]] company must not block an unauthorized vehicle  
 484 with a tow truck to obtain payment from the vehicle owner before  
 485 attaching the vehicle to the tow truck.

486 (d) The towing [[service]] company must provide a receipt that includes a  
 487 reference to the County Code provisions setting the release fee and meets  
 488 all of the requirements [[of section 30C- 8(f)] for receipts under Section  
 489 30C-9(e), indicating the release fee paid and the date of the incomplete  
 490 tow.

491 [[e) A police officer or investigator employed by the Office may order a  
 492 towing service to release a vehicle, or to stop attaching a vehicle, at any  
 493 time.]]

494 **[[30C-8]] 30C-9. Redemption and storage procedures.**

495 (a) *Storage of towed vehicles.* A [[property owner must have an authorized  
 496 vehicle towed]] towing company must immediately deliver a towed  
 497 vehicle directly to a storage site that complies with the following  
 498 conditions:

499 (1) A storage site must not be more than [[12]] 15 miles from the  
 500 origin of the tow. [[Each vehicle must be towed to the nearest  
 501 storage site available to the towing service.]] Every storage site

502 must be located in Montgomery County, unless the nearest storage  
 503 site is within one mile of the County line.

504 (2) A storage site must be brightly lit at all times.

505 (3) A towed vehicle must not be stored more than a reasonable  
 506 walking distance from a redemption area.

507 (4) The towed vehicle and its contents must be kept secured at all  
 508 times.

509 (5) The storage site must remain open and have personnel on-site for  
 510 redemption of vehicles at [[least 2 hours after the completion of  
 511 the last tow]] 24 hours per day, seven days a week.

512 (6) The storage site must be identified by a sign at the entrance  
 513 indicating the name and telephone number of the tow service.

514 (b) *Payment and promise to pay.*

515 (1) *Cash payment.* A trespass towing [[service]] company must accept  
 516 payment in cash, or by a traveler's check accompanied by  
 517 reasonable identification.

518 (2) [[Options.

519 [a.](A) Each trespass towing service must accept as full  
 520 payment either a credit card slip or a personal check, at the  
 521 option of the towing service, validly signed by the vehicle  
 522 owner or the owner's agent for the amount of all valid  
 523 charges.

524 [b.](B) Each trespass towing service must notify the Office  
 525 on the rate schedule filed under Section 30C-3 whether it  
 526 opts to accept credit cards or personal checks or both. The  
 527 towing service must notify the Office if it changes that  
 528 option.

529 [c.](C) The option chosen by a trespass towing service must  
 530 be available to the owners of all vehicles towed by that  
 531 service without the consent of their owners.

532 (3)]] *Credit card* ~~[[option]]~~ payment.

533 ~~[[[a.](A)]]~~ Each trespass towing ~~[[service]]~~ company must  
 534 accept the ~~[[2]]~~ two most widely used major credit cards.  
 535 The Office must define, in regulations under method (2),  
 536 which major credit cards are the ~~[[2]]~~ two most widely used.

537 ~~[[[b.](B)]]~~ In addition, if a trespass towing service accepts any  
 538 other credit card for any other purpose, it must accept that  
 539 credit card under this Chapter.

540 (4) *Personal check option*. A trespass towing service must, if it does  
 541 not accept the 2 most widely used credit cards under subsection  
 542 (c)(3), accept a personal check, with reasonable identification, if  
 543 the vehicle is registered in Maryland.

544 (5)]](3) *Withholding payment*. If:

545 [a.](A) ~~[[The]]~~ the vehicle owner withholds payment in a  
 546 credit card transaction with a towing service under this  
 547 Chapter; and

548 [b.](B) ~~[[A]]~~ a court in any subsequent civil action finds that  
 549 the tow was valid and the amount charged was correct; the  
 550 vehicle owner must pay the towing ~~[[service]]~~ company, in  
 551 addition to the amount validly charged, liquidated damages  
 552 of ~~[[2]]~~ two times the amount validly charged (but not more  
 553 than \$1,000.00) and all reasonable costs of collection,  
 554 including court costs and a reasonable attorney's fee.

555 ~~[[6)]]~~ *Stopping payment*. If:

556 [a.](A) The vehicle owner stops payment on a check written  
 557 to a towing service under this chapter;

558 [b.](B) The towing service follows the procedures in state  
 559 law for collection of dishonored checks; and

560 [c.](C) A court in any subsequent civil action finds that the  
 561 tow was valid and the amount charged was correct; the  
 562 vehicle owner must pay the towing service, in addition to  
 563 the amount validly charged, liquidated damages of 2 times  
 564 the amount validly charged (but not more than \$1,000.00)  
 565 and a collection fee of \$25.00.]]

566 ~~[(7)]~~(4) *Applicability.* This subsection applies to payment of any  
 567 charge arising from the towing or storage of a vehicle without the  
 568 owner's consent, and to payment for an incomplete tow under  
 569 Section ~~[[30C-7]]~~ 30C-8.

570 ~~[(8)]~~(5) *Purpose.* This subsection and Section ~~[[30C-7]]~~ 30C-8 do  
 571 not create or imply a lien in favor of a towing ~~[[service]]~~ company  
 572 when such a lien would not otherwise exist. This subsection and  
 573 Section ~~[[30C-7]]~~ 30C-8 do not give a towing ~~[[service]]~~ company  
 574 a right to retain possession of any vehicle it would otherwise have  
 575 to return to the vehicle owner.

576 (c) *Rates displayed.* Every trespass towing ~~[[service]]~~ company must display  
 577 prominently, at each redemption area, a copy of its current rates and a  
 578 statement that these rates do not exceed the rates filed with the Office.  
 579 Every trespass towing ~~[[service]]~~ company must also display prominently  
 580 a sign, furnished at a reasonable fee by the Office, listing the Office's  
 581 telephone number and summarizing the vehicle owner's rights under this  
 582 Chapter.

- 583 (d) *Storage fee.* A trespass towing [[service]] company must not charge a  
 584 storage fee for any time before the vehicle actually reaches the storage  
 585 site [[or the service notifies the Police Department under Section 30C-5,  
 586 whichever is later]].
- 587 (e) *Receipt.* Upon receiving payment, a towing [[service]] company must  
 588 furnish the vehicle owner a receipt on a form approved by the Office. The  
 589 receipt must:
- 590 (1) [[Record]] record the amount paid to redeem the vehicle, the  
 591 actions for which the vehicle owner paid, and the date and time of  
 592 the redemption;
  - 593 (2) [[Be]] be signed legibly by an agent of the towing [[service]]  
 594 company, and list the name, address and telephone number of the  
 595 towing [[service]] company;
  - 596 (3) identify the violation or event that precipitated the towing of the  
 597 vehicle;
  - 598 (4) include photographic evidence of the violation required under  
 599 subsection 30C-5(c)(11); and
  - 600 (5) [[Briefly]] briefly inform the vehicle owner that the Office can  
 601 explain the vehicle owner's rights and how to enforce them in small  
 602 claims court or another appropriate forum if the vehicle owner  
 603 believes that any provision of County law has been violated, and  
 604 that the owner may obtain a copy of the law from the Office.
- 605 (f) *Damage waiver.* A trespass towing [[service]] company must not require  
 606 a vehicle owner to sign any waiver of the owner's right to receive  
 607 compensation for damages to the vehicle.
- 608 (g) Inspection and retrieval of personal property. A storage site that is in  
 609 the possession of a towed vehicle shall make the vehicle available.

610 without charge, to the owner, the owner's agent, a secured party, or the  
 611 insurer of record, under the supervision of the storage site, for:

- 612 (1) inspection; or  
 613 (2) retrieval from the vehicle of personal property that is not attached  
 614 to the vehicle.

615 **[[30C-9]] 30C-10. Liability for damages.**

616 (a) Any trespass towing [[service]] company, and any private property owner  
 617 who authorizes, expressly or under a standing authorization, the towing  
 618 of a vehicle from private property, are liable for violation of any duty  
 619 imposed on the [[service]] company or owner by this Chapter with regard  
 620 to:

- 621 (1) [[Any]] any towing of a vehicle that does not comply with this  
 622 [[chapter]] Chapter;  
 623 (2) [[Any]] any towing of a vehicle in the mistaken belief that the  
 624 vehicle was not authorized to park in the place from which it was  
 625 towed; and  
 626 (3) [[Any]] any damages to a towed vehicle incurred during the tow  
 627 or storage and caused by a lack of reasonable care by the towing  
 628 [[service]] company, the property owner or an agent of either.

629 (b) A property owner is not liable for the towing of a vehicle if the property  
 630 owner did not expressly authorize the towing, [[expressly or under a  
 631 standing authorization]] and does not otherwise have a business  
 632 relationship with the towing company.

633 (c) Except as provided in subsection (b), a [[A]] property owner and a towing  
 634 [[service]] company are jointly and severally liable for the violation of  
 635 any duty imposed by this Chapter on the towing [[service]] company,  
 636 with a right of contribution or indemnification.

637 (d) A vehicle owner must mitigate any damages recoverable under this  
 638 ~~[[chapter]]~~ Chapter.

639 (e) Damages payable under subsections (a)(1) and (a)(2) are ~~[[3]]~~ three times  
 640 the amount of any towing, release or storage fees charged.

641 ~~[[30C-10]]~~ 30C-11. Rebates prohibited.

642 A towing ~~[[service]]~~ company must not pay or offer to pay a property owner,  
 643 and a property owner must not accept payment, for authorizing the towing of a vehicle  
 644 from any private property.

645 30C-12. Enforcement, police power, subpoena authority.

646 (a) The Office of Consumer Protection and the Montgomery County Police  
 647 Department enforce this Chapter.

648 (b) A police officer or Office of Consumer Protection investigator may order  
 649 a towing company to release a vehicle, or to stop attaching a vehicle, at  
 650 any time to prevent a breach of the peace or if the investigator or officer  
 651 has reasonable cause to believe that the tow would be or was unlawful.

652 (c) The Office may issue subpoenas to compel the production of documents,  
 653 papers, books, records, and other evidence relevant to the investigation of  
 654 a complaint filed with the Office in any matter to which this Chapter  
 655 applies.

656 (1) If any person does not comply with any subpoena issued under this  
 657 Chapter, the County may enforce the subpoena by appropriate  
 658 legal action.

659 (2) Any court with jurisdiction may grant injunctive or other  
 660 appropriate relief to enforce a subpoena.

661 (3) A person must comply with any subpoena issued under this  
 662 Chapter.

663 (d) Any violation of this Chapter is a Class A violation. The maximum civil  
 664 fine is \$500 for a first offense, and \$1,000 for subsequent offenses.

665 **[[30C-11]] 30C-13. Immobilization [restrictions] prohibited.**

666 (a) *Applicability.* A person must not immobilize a motor vehicle owned by  
 667 another person [without complying with all requirements of this section]  
 668 on private property, without the consent of the vehicle owner.

669 (b) [*Signs.* The owner of the property on which a vehicle is immobilized must  
 670 permanently post a sufficient number of signs which meet all  
 671 requirements of Section 30C-4(b)(1)-(5) on the property at least 24 hours  
 672 before a person immobilizes an unauthorized vehicle. The text of the sign  
 673 must reflect that vehicles may be immobilized rather than, or in addition  
 674 to, being towed, and must specify the rate charged to release a vehicle.  
 675 The Department of Housing and Community Affairs may by regulation  
 676 prescribe the text, graphics, symbols, shape, size, color, or other elements  
 677 necessary for a sign to comply with this section.

678 (c) *Requirements.* A person must not immobilize an unauthorized vehicle  
 679 unless:

680 (1) the owner of the property where the vehicle is located has  
 681 expressly authorized the person to immobilize unauthorized  
 682 vehicles on the property;

683 (2) the person, and any business that employs the person to  
 684 immobilize vehicles, has registered with the Department of  
 685 Housing and Community Affairs under Section 31A-2 as if  
 686 Chapter 31A applies to that person and business;

687 (3) the person has been adequately trained to apply an immobilizing  
 688 device;

- 689 (4) signs meeting all requirements of subsection (b) have been  
690 properly posted on the property;
- 691 (5) the person attaches to the vehicle's front windshield a notice  
692 prominently warning the operator not to move the vehicle;
- 693 (6) the person takes reasonable care not to damage the vehicle; and
- 694 (7) the owner of the property carries at least \$25,000 in liability  
695 insurance which will cover any damage to the vehicle.
- 696 (d) *Entrapment not allowed.* A person must not immobilize a motor vehicle  
697 on private property if:
- 698 (1) the property is a parking garage or lot which is normally used for  
699 paid public parking and operated by an attendant;
- 700 (2) the vehicle entered the garage or lot between 6 p.m. and 8 a.m.;
- 701 and
- 702 (3) the garage or lot was unattended, and access to the garage or lot  
703 was not physically blocked, when the vehicle entered.
- 704 (e) *Release of vehicle.* A person who is authorized to release immobilized  
705 vehicles must:
- 706 (1) arrive as promptly as possible, but in any case within 30 minutes  
707 after the owner or operator of an immobilized vehicle calls the  
708 telephone number listed on the sign posted at the property and  
709 requests the release of the vehicle;
- 710 (2) immediately release the vehicle after a lawful release fee is paid;
- 711 (3) not require the vehicle owner or operator to waive any right to  
712 receive compensation for damages to the vehicle; and
- 713 (4) give the operator of the vehicle a receipt which legibly shows:
- 714 (A) the release fee paid,
- 715 (B) the date, time, and location of the release, and

716 (C) the name of the person who received the payment and any  
 717 business for which the person acted.

718 (f) *Maximum rate.* A person must not charge more to release an unauthorized  
 719 vehicle than a maximum rate set by the County Executive by regulation  
 720 under method (2). The Executive must set a maximum rate which fairly  
 721 compensates the property owner for the reasonable cost of  
 722 immobilization, but which does not exceed \$50, and must review the  
 723 maximum rate at least every 2 years.

724 (g) *Payment and promise to pay.* A person who is authorized to release  
 725 immobilized vehicles must accept payment:

726 (1) in cash, or by a traveler's check accompanied by reasonable  
 727 identification;

728 (2) by a personal check, accompanied by reasonable identification, if  
 729 the vehicle is registered in Maryland; or

730 (3) by the 2 most widely used major credit cards, as defined by the  
 731 Department of Housing and Community Affairs. In addition, if the  
 732 person, or the business which employs the person, accepts any  
 733 other credit card for any other purpose, the person must accept that  
 734 credit card for this purpose.

735 The remedies in Section 30C-8(b)(5)-(6) apply to any payment under this  
 736 section.

737 (h) *No lien.* This section does not create or imply a lien in favor of any person  
 738 when such a lien would not otherwise exist. This section does not give  
 739 any person a right to retain possession of any vehicle it would otherwise  
 740 have to return to the vehicle owner.

741 (i) *Public property.* Only a properly authorized agent of a government  
 742 agency with jurisdiction over a public road or other public property may  
 743 immobilize a motor vehicle on that road or property.

744 (j) *Enforcement; police power.* The Department of Housing and Community  
 745 Affairs and the Police Department enforce this section. A police officer  
 746 may order a person not to immobilize a vehicle, or to release an  
 747 immobilized vehicle without payment, at any time to prevent a breach of  
 748 the peace or if the officer has reasonable cause to believe that the  
 749 immobilization would be or was unlawful.

750 (k) *Civil remedy.* Any person whose vehicle has been unlawfully  
 751 immobilized, unlawfully held after being lawfully immobilized, or  
 752 damaged while immobilized, may recover from the owner of the property  
 753 or any other person responsible for immobilizing the vehicle, in a civil  
 754 action, the greater of:

755 (1) all actual damages sustained; or

756 (2) liquidated damages of \$100.

757 This remedy does not replace or limit any other remedy available by law.

758

759

760 *Approved:*

761 George Leventhal 7/23/15  
George Leventhal, President, County Council Date

762 *Approved:*

763 Isiah Leggett July 31, 2015  
Isiah Leggett, County Executive Date

764 *This is a correct copy of Council action.*

765 Linda M. Lauer 8/5/2015  
Linda M. Lauer, Clerk of the Council Date

766