

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: \_\_\_\_\_  
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Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## 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>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<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

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

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

(b)]] *Scope.*

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

(2) This Chapter does not apply to:

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

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

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

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

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

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

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

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

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

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

**30C-2. Definitions.**

In this Chapter:

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

GVWR means gross vehicle weight rating for the vehicle.

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

Office means the Office of Consumer Protection.

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

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

the Council of unit owners or the Council's agent for parking management. 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, or the agent of that unit owner or owners.

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

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

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

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

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

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

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

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

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

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

(a) When [[charging for]] towing a motor vehicle from private property without the consent of the owner, a towing [[service]] company must [not] not charge[:

(1) a flat rate established by the Executive under this Section; or

(2) a rate that is not]] more than a maximum rate [which the county executive must establish by regulation under method (2)]  
[[established by the Executive under this Section]] which the County Executive must establish by regulation under method (2).  
[The executive must review the rates at least every two (2) years.]  
The Executive must review the rates at least every two (2) years.

(b) The [executive] Executive must set [[by method (2) regulation, and review at least every two years, either]] fair and reasonable [[flat rates or]] maximum rates for each of the following acts:

(1) towing, which includes [[Attaching]] attaching the vehicle to be towed to the tow truck, towing the vehicle to a storage site, and the first 24 hours of storage;

(2) [[Towing the vehicle to a storage site. This rate must be based on the distance the vehicle is towed;

(3)] [[Storing]] storing the vehicle until it is redeemed; and

[[4]](3) [[Any]] any other service needed to safely remove a vehicle.

(c) The fee for releasing a vehicle under section [[30C-7]] 30C-8 must not exceed [[one-half the attachment fee set under subsection (b)(1)]] \$25.

(d) A towing company may charge a vehicle owner a fee for providing notice under section 30C-6(e) only if the vehicle has not been reclaimed within 48 hours after the towing or removal of the vehicle; the fee must not 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

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

Any new written contract must include:

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

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

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

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

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

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

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

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

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

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

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

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

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

[c.](C) [[The]] the notice informs the vehicle owner that:

(i) the violation must be corrected or the vehicle may be towed at the vehicle owner's expense 48 hours after the notice is attached; and

(ii) an unauthorized vehicle that has received a notice of the same violation under this Section on the same property within the previous 180 days may be towed without any further notice; and

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

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

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

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

[c.](C) [[The]] the notice informs the vehicle owner that:

- (i) the violation must be corrected or the vehicle may be towed at the vehicle owner's expense 24 hours after the notice is attached; and
- (ii) an unauthorized vehicle that has received a notice of the same violation under this Section on the same property within the previous 180 days may be towed without any further notice; and

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

(c) *Tow procedures.*

- (1) Except as provided in subsection (c)(10), a [[property owner]] towing company must not tow a motor vehicle from [[the owner's]] private property unless the property owner has, directly or through an agent, expressly authorized the towing of the particular vehicle.
- (2) [[The authorization to tow may take the form of a tow slip.]] The property owner must authorize the towing of a vehicle in writing via tow authorization form in person, or via fax, email, or other

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

321 (3) The Office may issue a model tow [[slip]] authorization form.

322 (4) [[If a tow slip is used, the property owner or the owner's agent must  
 323 sign the slip immediately before the vehicle is towed. A legible  
 324 copy of the slip must be securely attached to the vehicle.

325 (5)] Any property owner or any person acting as an agent of a property  
 326 owner, must not:

327 [a.](A) [[Falsely]] falsely state that a property owner  
 328 authorized the towing of a particular vehicle; or

329 [b.](B) [[Record]] record any false information about the  
 330 towing of a particular vehicle~~[[; or~~

331 [c.](C) Sign a tow slip before all of the information relating  
 332 to the towing of a particular vehicle is recorded on the slip]].

333 ~~[[ (6) ]]~~ (5) A towing [[service]] company must not charge a vehicle  
 334 owner any fee for the services of another agent of the property  
 335 owner.

336 ~~[[ (7) ]]~~ In this subsection, "owner" means the person in whose name title  
 337 to the property is registered. The "owner" of general common  
 338 elements of a condominium is the council of unit owners. The  
 339 "owner" of limited common elements of a condominium is the unit  
 340 owner or owners who have the exclusive right to use the common  
 341 elements. "Property manager" means a person who generally  
 342 manages the property on behalf of the owner.

343 ~~[[ (8) ]]~~ (6) A person must not act as a property owner's agent for the  
 344 purpose of ordering the towing of an unauthorized vehicle, unless

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

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

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

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

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

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

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

b. If[;

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

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

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

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

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

(A) blocking a clearly marked fire lane;

(B) blocking access to another vehicle;

(C) blocking access to the property or a building on the  
property; or

(D) parked in a parking space reserved for disabled persons  
without a valid handicapped registration plate or valid  
disabled person's parking permit.]]

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

[a.](A) [[Remove]] remove large quantities of snow or  
debris;

[b.](B) [[Repair]] repair the parking lot; or

[c.](C) [[Respond]] respond to a threat to a person's safety or  
health.

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

[a.](A) [[Take]] take reasonable care not to damage the  
vehicle;

[b.](B) [[Pay]] pay any cost of moving the vehicle; and



[c.](C) [[Inform]] inform the vehicle owner where the vehicle was relocated or return the vehicle to its original location as soon as possible.

(e) A vehicle must not be towed from private property solely for a violation of failure to display a valid current registration under Section 13-411 of the Transportation Article of the Annotated Code of Maryland until 72 hours after a notice of violation is placed on the vehicle.

(f) [[A property owner or towing]] [[service]] [[company must not employ or use the services of an individual commonly referred to as a “spotter,” whose primary task is to report the presence of unauthorized parked vehicles for the purpose of towing or removal. For the purposes of this subsection, “primary task” means an individual’s job function that accounts for more than 50% of the individual’s compensation or hours worked.]] Except between 2:00 a.m. and 9:00 a.m., a towing company must not monitor, patrol, or otherwise surveil [[private]] commercial property for the purposes of identifying unauthorized parked vehicles for towing and removal.

**[[30C-5]] 30C-6. Notice [[to police]].**

(a) **[[If a]] A towing [[service]] company that tows an unauthorized vehicle from private property[[, the property owner or the owner's agent]] must notify the County or municipal Police Department with jurisdiction over the site of the tow before the towing [[service]] company leaves the property. The [[owner or agent]] towing company must tell the Police Department:**

(1) ~~[[The]]~~ the name of the towing ~~[[service]]~~ company;

(2) ~~[[The]]~~ the make, model, color, year ~~[[if known]]~~, vehicle identification number and registration plate number of the towed vehicle;

(3) ~~[[The]]~~ the address the vehicle was towed from;

(4) ~~[[The]]~~ the time the vehicle was towed; ~~[[and]]~~

(5) the reason the vehicle was towed; and

(6) ~~[[The]]~~ the storage site where the vehicle will be stored.

(b) The ~~[[property owner or the owner's agent]]~~ towing company must promptly notify the police department if the towing ~~[[service]]~~ company moves the vehicle to another storage site.

(c) The property owner ~~[[or]]~~ [the owner's agent] ~~[[property manager]]~~ and the towing company must retain each tow ~~[[slip]]~~ authorization form ~~[[and, for those vehicles towed without a tow slip, a record of the information furnished to the police,]]~~ and, for those vehicles towed without a tow authorization form, the towing company must retain a record of the information furnished to the police for one year after the tow. ~~[[For each vehicle towed without a tow slip, the property owner or [agent] property manager must record and retain the name of the owner of the property and, if the tow was authorized by an agent, the name of the agent.]]~~ The Police Department, the Office, and the owner of any vehicle towed by the service may inspect and copy ~~[[this information]]~~ tow authorization forms at any time during normal business hours.

(d) The ~~[[property owner or the owner's agent]]~~ towing company must promptly notify the County Police Department by telephone of each vehicle that has remained in a towing ~~[[service's]]~~ company's possession for 72 hours. The ~~[[property owner or the owner's agent]]~~ towing company must tell the Police Department:

(1) ~~[[All]]~~ all information required under subsection (a); and

(2) ~~[[The]]~~ the vehicle identification number of the towed vehicle.

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

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

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

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

(a) ~~[[The]]~~ the tow is expressly authorized by a police officer at the request of the property owner; or

(b) ~~[[The]]~~ the vehicle is blocking a clearly marked fire lane or access to another vehicle, the property or a building on the property.

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

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

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

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

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

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

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

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

(1) A storage site must not be more than [[12]] 15 miles from the origin of the tow. [[Each vehicle must be towed to the nearest 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.

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

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

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

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

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

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

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

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

[(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,



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

(1) inspection; or

(2) retrieval from the vehicle of personal property that is not attached to the vehicle.

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

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

(1) [[Any]] any towing of a vehicle that does not comply with this [[chapter]] Chapter;

(2) [[Any]] any towing of a vehicle in the mistaken belief that the vehicle was not authorized to park in the place from which it was towed; and

(3) [[Any]] any damages to a towed vehicle incurred during the tow or storage and caused by a lack of reasonable care by the towing [[service]] company, the property owner or an agent of either.

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

(c) Except as provided in subsection (b), a [[A]] property owner and a towing [[service]] company are jointly and severally liable for the violation of any duty imposed by this Chapter on the towing [[service]] company, 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

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

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

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

- (1) in cash, or by a traveler's check accompanied by reasonable identification;
- (2) by a personal check, accompanied by reasonable identification, if the vehicle is registered in Maryland; or
- (3) by the 2 most widely used major credit cards, as defined by the Department of Housing and Community Affairs. In addition, if the person, or the business which employs the person, accepts any other credit card for any other purpose, the person must accept that credit card for this purpose.

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

(h) *No lien.* This section does not create or imply a lien in favor of any person when such a lien would not otherwise exist. This section does not give any person a right to retain possession of any vehicle it would otherwise 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, County Executive

Date

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

765

Linda M. Lauer, Clerk of the Council

Date

766