

Bill No. 17-15
Concerning: Motor Vehicle Towing and
Immobilization on Private Property –
Amendments
Revised: July 21, 2015 Draft No. 5
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COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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

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

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

[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.

- 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

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

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

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

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

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

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

[[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**

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

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

[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

Georg 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