

## Vehicle Towing

### 410.1 VERSION

Review Date	Effective Date	Approving Authority
04/06/2021	07/09/18	Gabriel Camacho, Interim Chief of Police

### 410.2 POLICY AND PURPOSE

This policy provides guidance related to vehicle towing. The Harrisonburg Police Department will tow vehicles when appropriate and in accordance with the law.

### 410.3 ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this policy. Responsibility rests with the supervisor to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated. This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

### 410.4 TOWING CRITERIA

The towing of motor vehicles at the direction of a police officer falls into broad categories, designated for the purpose of this order as impoundments and seizures:

- (a) Removal due to hazard
- (b) Arrests
- (c) Criminal Investigations
- (d) Parked in violation of law (towed only as a last resort)
- (e) Parked without permission on City-owned property
- (f) A vehicle parked on City property whose owner has three or more unpaid parking tickets
- (g) An abandoned vehicle as described by Virginia Code §46.2-1200

### 410.5 REMOVAL OF VEHICLES DUE TO HAZARD

When a vehicle should be towed because it presents a hazard, the owner or operator should arrange for the towing. Officers may assist by communicating requests through Emergency Communications Center to expedite the process.

If the owner or operator is unable to arrange for immediate towing, and the vehicle presents a hazard, the vehicle should be towed at the direction of the officer (Va. Code § 46.2-1209; Va. Code § 46.2-1211; Va. Code § 46.2-1212; Va. Code § 46.2-1212.1; Va. Code § 46.2-1213).

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

Vehicles that are parked in violation of law or that are parked without permission on city-owned property may be towed or impounded.

#### **410.6 ARREST SCENES**

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

Officers are not required to investigate whether alternatives to towing a vehicle exist after an arrest. However, a vehicle should not be towed if reasonable alternatives exist. When considering whether to leave a vehicle at the scene, officers should take into consideration public safety as well as the reasonable safety of the vehicle and its contents (Va. Code § 19.2-80.1).

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

- The vehicle can be legally parked, left in a reasonably secure and safe location and is not needed as evidence
- The vehicle is parked on private property, on which the arrestee or owner is legally residing, or the property owner does not object to the vehicle being parked at that location
- The arrestee or owner of the vehicle requests that it be released to a person who is present, willing and able to legally take control of the vehicle
- The vehicle is legally parked and the arrestee or owner requests that it be left at the scene. In such cases the requester should be informed that the Department will not be responsible for theft or damages

#### **410.7 VEHICLES RELATED TO CRIMINAL INVESTIGATIONS**

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

When a vehicle is seized, the seizing officer or the asset seizure officer shall have the vehicle towed to the Harrisonburg Police Department impound lot. The vehicle keys and a copy of the Incident Report will be submitted to the Evidence Unit. The incident number will be noted on a piece of paper and prominently displayed on the front dash of the vehicle.

#### **410.8 ABANDONED VEHICLES**

An abandoned vehicle (motor vehicle, trailer or semi-trailer) is defined as one that:

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- (a) Is inoperable and is left unattended on public property for more than 48 hours.
- (b) Has remained illegally on public property for more than 48 hours.
- (c) Has remained for more than 48 hours on private property without the consent of the property's owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property.
- (d) Is inoperable, left unattended, or both on an interstate highway or on the shoulder of a primary highway.

Officers will query DMV and other records and attempt to notify the owner of the vehicle status.

If no contact can be made with the owner, officers shall affix a tow notification tag to the vehicle to notify the driver/owner of the potential removal of their vehicle and/or document the time the vehicle was found abandoned. A future call with all information about the vehicle will be created by ECC. The follow up officer will determine if the vehicle is still abandoned and act accordingly, to include having the vehicle towed if necessary.

#### 410.8.1 NOTICE OF TOW

When a vehicle is removed from public or private property by HPD, the Department shall contact the DMV (by entering the vehicle as stored in VCIN) and all registered owners, and provide them notice of towing ( Vehicle Tow Form.pdf ) in accordance with (Va. Code § 46.2-1209; Va. Code § 46.2-1211).

The employee shall provide to the registered owners the following information:

- (a) The name, address and telephone number of the Harrisonburg Police Department
- (b) The location where the vehicle is stored
- (c) A description of the vehicle, including:
  - 1. Color
  - 2. Manufacturer year
  - 3. Make and model
  - 4. License plate number and/or Vehicle Identification Number (VIN)
  - 5. Mileage
- (d) The authority and purpose for the removal of the vehicle
- (e) An explanation of the procedure for release of the vehicle and for obtaining a vehicle tow hearing

#### **410.9 UNPAID PARKING TICKETS**

Vehicles towed due to unpaid parking tickets shall not be released until proof of payment to the city is presented to the Special Operations Commander or his designee.

#### **410.10 DUTIES OF TOWING OFFICER**

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#### 410.10.1 VEHICLE TOW FORMS

- (a) The Vehicle Tow Form is to be completed by the officer assigned to any case where a vehicle is towed at the direction of a police officer and the owner/operator is not readily available (arrest, hospital, etc.).
- (b) When the owner/operator of the vehicle is not present and available at the time of removal, the officer must send copy of tow form to the owner by first class mail or deliver it to the owner/operator, if practical. The towing officer shall ensure that mailing of the form to the registered owner of the towed vehicle is completed in a 24- hour period from the time of the tow.
- (c) The officer shall complete the Vehicle Tow Form at the scene and prior to the removal of the vehicle by the towing company.
- (d) If an officer directs the towing of a vehicle to be held for evidence and determines later that the vehicle may be released, he/she shall notify the registered owner and the appropriate wrecker service so that the vehicle may be released. If wrecker service personnel request personal contact to assure that a valid release is authorized, the notifying officer shall make contact or arrange for another on-duty officer to make contact.
- (e) In cases of administrative impoundments, the officer will forward to Records the original copy of the vehicle tow form. Records will send the form to the appropriate court, (General District or J&D); a copy must also be forwarded to the Records Section.

#### 410.10.2 VEHICLE INVENTORY

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

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

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

- (a) An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, any unlocked glove box, other accessible areas under or within the dashboard area, any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats.
- (b) In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in any other type of unlocked compartments that are a part of the vehicle, including unlocked vehicle trunks and unlocked car top containers.

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- (c) Any locked compartments including, but not limited to, locked glove compartments, locked vehicle trunks, locked hatchbacks and locked car-top containers should be inventoried, provided the keys are available and released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.
- (d) Closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes except for the following: wallets, purses, coin purses, fanny packs, personal organizers, briefcases or other closed containers designed for carrying money, small valuables or hazardous materials.

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

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

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

#### **410.10.3 SECURITY OF VEHICLES AND RETRIEVAL OF PROPERTY**

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

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

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

#### **410.11 TOWING SERVICES**

The City of Harrisonburg may, by ordinance, regulate the selection of one or more businesses to act as the official tow services of Harrisonburg (Va. Code § 46.2-1217).

Employees shall not show preference among towing services that have been authorized for use by the Department. If more than one towing service has been awarded contracts, they shall be placed on a rotation list.

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#### 410.11.1 REQUESTS FOR TOWING SERVICES

After requesting towing services through Emergency Communications Center, an officer shall remain on the scene to ensure that only the towing company summoned by Emergency Communications Center handles the request. If a wrecker responds to the scene without having been requested by Emergency Communications Center, the officer shall request that the wrecker leave. Wrecker services from the Department-approved tow list may designate another approved wrecker to cover their calls during vacation, illness, etc.

#### **410.12 REPORTING**

The Incident Report or Supplementary Incident Report shall be completed when appropriate to record the details of the investigation conducted by the assigned officer. In the report, the officer shall note what action was taken to contact the registered owner and indicate what disposition was made concerning the Vehicle Tow Form and or other reporting forms, which may be required in certain cases.

#### **410.13 RECORDS**

Records Unit employees shall ensure that pertinent data (i.e traffic hazard, abandoned, unattended) regarding a towed vehicle is promptly entered into the Virginia Department of Motor Vehicles (DMV) database (Va. Code § 46.2-1209).

#### **410.14 NOTICE OF JUDICIAL REVIEW**

A copy of the Notice of Right to a Judicial Review of the impoundment shall be given to the operator/owner of a vehicle administratively impounded pursuant to Virginia Code §46.2-302.1.