



WRITTEN DIRECTIVE	No. PD18-0801	Page: 1 of 13
Subject: TOWING OF VEHICLES	Effective Date:	01-30-18
	Supersedes/ Amends:	PD13-0801
	Reference:	61.4.3, 1.2.4



I. Purpose

The purpose of this directive is to establish guidelines and responsibilities regarding the towing of vehicles under the direction of officers of the Lynchburg Police Department.

II. Policy

It shall be the policy of the Lynchburg Police Department that officers follow established procedures when ordering the towing of vehicles.

III. Procedure

A. DEFINITIONS

For the purposes of this directive, the following definitions shall apply:

1. *Vehicle* -- a device which is self-propelled or designed for self-propulsion.
 - a. Any structure designed, used or maintained primarily to be loaded or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office or commercial space, shall be considered a part of a motor vehicle.
 - b. Bicycles and any devices used exclusively upon stationary rails or tracks will not be considered "vehicles" under the provisions of this directive.
2. *Vehicle Operator* --
 - a. a person who drives or is in actual physical control of a vehicle, or
 - b. a person steering or exercising control over a vehicle being towed.
3. *Vehicle Owner* --
 - a. a person who holds the legal title of a vehicle, or

- b. a person who is the conditional vendee, lessee or mortgagor of the vehicle (i.e. who will acquire the title of such vehicle upon the fulfillment of certain stipulated payments or conditions).

4. *Abandoned Vehicle* --

- a. a motor vehicle, trailer or semitrailer, or part thereof that has been in a specific location on public property or privately owned property for *four* days without being moved, *and*
- b. lacks any of the following:
 - 1) a current license plate, *or*
 - 2) a valid state inspection certificate or sticker.

5. *Public property* -- publicly owned streets or grounds.

6. *Private property* -- privately owned property other than that of the vehicle owner or operator.

7. *Property Owner* -- the owner, lessee, occupant or operator of such property, or the authorized agent of the person having control of such property.

B. AUTHORITY TO ORDER VEHICLES TOWED

1. The authority for officers to order a vehicle towed must be:

- a. *statutory*, specifically provided by law, *or*
- b. *inherent*, clearly implied as a matter of duty.

2. *Statutory Authority* -- is provided, from a variety of sources, through legislative acts of both the State and the City.

- a. Such authority:
 - 1) is provided for a variety of specific circumstances, and
 - 2) may be expressed as a mandatory duty, but is usually worded as being discretionary in nature.

- b. In any event, all conditions set forth under statutory guidelines for the towing of a vehicle under particular circumstances must be met for such action to be considered lawful.
3. *Inherent Authority* --
 - a. the authority to order a vehicle towed in the absence of specific written authority, when
 - b. such action is necessary for the proper performance of the officer's duty, such as:
 - 1) taking custody of a stolen vehicle
 - 2) safekeeping of a vehicle whose operator has been arrested
 - 3) securing a vehicle for evidentiary processing.
 4. It will be left to the discretion of the officer at the scene as to whether an illegally parked vehicle will be ticketed or towed.
 - a. A vehicle that is illegally parked on public property (overtime parking, no parking zone, permit parking zone, etc.) should be ticketed, but should not be immediately towed unless parked in such a manner that it constitutes:
 - 1) a traffic hazard, *or*
 - 2) a hindrance to police, fire or rescue operations in an emergency situation.
 - b. A vehicle that is illegally parked on privately owned property may be ticketed or towed (see III,C, 5), depending on the wishes of the property owner, lessee or authorized agent.
 - c. Prior to ordering the towing of a vehicle which does not involve confiscation, evidence processing or emergency situation removal, an officer should make a reasonable effort to:
 - 1) contact the vehicle owner, *and*
 - 2) allow the owner an opportunity to move the vehicle within a reasonable amount of time.

C. TOWING SITUATIONS

1. Impeding or posing danger to traffic (Lynchburg City Code, 25-250):
 - a. No vehicle shall be stopped in such a manner as to impede or render dangerous the use of the highway to others, except in cases of mechanical breakdown or accident.
 - b. If such disabled vehicle is not promptly removed from the roadway, an officer may order the vehicle towed at the owner's expense.
 - c. Any vehicle owned or controlled by the state or local unit of government while actually engaged in highway construction or maintenance is *exempted* from these provisions.
2. Emergency situations (Lynchburg City Code, 25-250):
 - a. An officer may order towed, at the vehicle owner's expense, any vehicle:
 - 1) found in the vicinity of:
 - a) a fire,
 - b) a traffic or an airplane crash, or
 - c) an area of emergency, *and*
 - 2) such vehicle creates a traffic hazard or interferes with police, fire or rescue operations.
 - b. Vehicles being used by news media representatives are exempt from emergency situation removal, *unless* such vehicles obstruct police, fire or rescue operations.
3. Blocking of driveways or parking areas (Lynchburg City Code, 25-256):
 - a. An officer may order towed, at the vehicle owner's expense, any vehicle which is discovered or reported to him as:
 - 1) blocking a driveway or parking area, *or*
 - 2) interfering with the movement on any driveway or parking area, without the property owner's permission.

61.4.3 A, B

4. Unattended or abandoned vehicles on *public property* (Lynchburg City Code, 25-275):
 - a. An officer may order towed, at the vehicle owner's expense, any vehicle found on public property unattended by the owner/operator that:
 - 1) constitutes a traffic hazard, *or*
 - 2) is parked in such a manner as to be in violation of a state or local law, *or*
 - 3) has been left unattended for more than ten (10) days, *or*
 - 4) is stalled or rendered immobile as the result of adverse weather conditions or other emergency situations.
 - b. An officer may order towed, at the vehicle owner's expense, any motor vehicle, trailer or semi-trailer found *abandoned* on public property in accordance with section III, A, 4.
5. Vehicles left unattended or abandoned on *privately owned property* (Lynchburg City Code, sections 25-267 and 25-275 as amended):
 - a. A property owner may act to have towed from their property, at the vehicle owner's expense, any vehicle parked on such property without their permission, provided that:
 - 1) the property owner notifies a local law enforcement officer of their intention to tow the vehicle, *and*
 - 2) the owner of the vehicle is liable for only those towing and storage fees deemed reasonable for such service.
 - b. *In lieu of having such vehicle removed*, the property owner may request an officer to ticket the vehicle for being illegally parked on private property (City Code, 25-257); the property owner will not have the option of having such vehicle ticketed and towed.
 - c. Officers may order the towing of any such vehicle from private property:
 - 1) only after such vehicle:
 - a) has been parked thereon for more than 10 days, *or*
 - b) is abandoned as stated in section III, A, 4 *and*

- 2) only on the written request of the property owner, lessee or occupant thereof.
 - a) Such request to have an unattended vehicle towed from private property will be documented by means of a *Property Owner Tow Request*.
 - b) After the *Property Owner Tow Request* is completed and signed, the officer may order the vehicle towed at the expense of the vehicle's owner.
6. Recovered stolen vehicles:
 - a. An officer recovering a stolen vehicle will follow appropriate procedures for crime scene processing.
 - b. An officer recovering a stolen vehicle will, as soon as possible and prior to ending their tour of duty, notify Information Desk personnel to cancel the existing VCIN/NCIC stolen vehicle entry.
 - c. Generally, a recovered stolen vehicle will be released to the vehicle owner upon completion of evidentiary processing.
 - d. If the officer is unable to release the recovered stolen vehicle to the owner, the vehicle will be treated as seized evidence, stored by LPD at their facility and entered into the Voucher System to be properly released to the owner when available.
7. Confiscations:
 - a. State law provides for the seizure with intent to confiscate vehicles under the following circumstances:
 - 1) A.B.C. violations -- vehicles used illegally to acquire or transport alcohol (Code of Virginia, 4.1-339).
 - 2) Certain equipment -- vehicles equipped with gas, flame or "smoke screen" emitting device (Code of Virginia, 46.2-1087).
 - 3) Gambling operations -- vehicles used in the promotion, operation or conduct of private lotteries or gambling (Code of Virginia, 18.2-336).
 - 4) Narcotics violations -- vehicles used in connection with the illegal manufacture, sale or distribution of controlled substances (Code of Virginia, 19.2-386.22).

- a) An officer seizing a vehicle under the authority of this code section will follow the guidelines set forth in directive PD-1202 *Drug Related Asset Seizure and Forfeiture*.
 - b) The Narcotics/Vice Unit Lieutenant will be responsible for determining if pursuing asset forfeiture of such vehicle is appropriate.
- 5) Racing -- vehicles used in prearranged, organized and planned speed competition on a street or highway (Code of Virginia, 46.2-867).
 - 6) When used in the commission of certain other crimes. (Code of Virginia, 19.2-386.16).
- b. Limitations of forfeiture:
- 1) The officer confiscating a vehicle *must* have probable cause to believe that:
 - a) the vehicle was being used for illegal purposes
 - b) the owner was the operator of the vehicle, *or* the owner was aware of the illegal activity
 - c) there is no innocent third party holding a lien on the vehicle.
 - 2) The Commonwealth's Attorney will make final determination on disposition of a seized vehicle, through:
 - a) the filing of a forfeiture petition with the Circuit Court, *or*
 - b) directing the return of a seized vehicle, *or*
 - c) specifying other action be taken regarding vehicle disposition.
- c. Procedures upon seizure of vehicles:
- 1) The officer seizing a vehicle shall complete a *Notice to the Commonwealth's Attorney of Seized Property* (available from the office of the Commonwealth's Attorney), to be forwarded as follows:
 - a) The *original* copy of this form will be attached to the Incident Report.
 - b) The second copy of this form will be forwarded to the Commonwealth's Attorney, as a means of:

- (1) notification of vehicle seizure, and
 - (2) determination of vehicle disposition.
 - 2) An officer ordering a vehicle seized will:
 - a) complete required reports, which will include an inventory of the contents of the vehicle as indicated in section D-5 of this directive.
 - b) have such vehicle towed to the designated department vehicle storage area.
 - c) Enter the vehicle information in the Evidence Voucher system.
8. Vehicle operator physically arrested:
 - a. A vehicle that has been legally parked by a subsequently arrested operator may be locked and allowed to remain at that location, if the arrestee and the property owner consent; *or*
 - b. the arrestee may turn the keys over to a person of their choice, who:
 - 1) possesses a valid drivers license, *and*
 - 2) is not intoxicated; *or*
 - c. the arrestee may request the vehicle to be towed by a towing firm of their choice at the arrestees expense; *or*
 - d. if the arrestee does not consent to any option specified above, the officer may order the vehicle towed for safekeeping at the owner's expense (Code of Virginia, 19.2-80.1).
 - e. complete required reports which will include an inventory of the contents of the vehicle as indicated in section D-5 of this directive.
9. Inoperative vehicles on private property:
 - a. Due to City Code requirements on written notice prior to towing inoperative vehicles from private property:
 - 1) Officers will notify the City Department of Community Planning and Development of all inoperative vehicles reported to them.
 - 2) Such notification will be by *Memorandum* format, through interdepartment mail, e-mail or voice-mail.

- b. According to Lynchburg City Code, Section 21-61, an "inoperative vehicle" is one which:
 - 1) is not in operating condition, *or*
 - 2) for a period of 90 days or longer, has been partially or totally disassembled by removal of tires and wheels, the engine or other essential parts required for operating the vehicle, *or*
 - 3) has no valid license plates or inspection decal displayed.
- c. Lynchburg City Code Sections 21-62 through 21-64 generally prohibit inoperative vehicles from being kept:
 - 1) on any property zoned for:
 - a) residential purposes,
 - b) business purposes, *or*
 - c) agricultural purposes
 - 2) when such inoperative vehicles are not:
 - a) within a fully enclosed building or structure, *or*
 - b) shielded or screened from view.
- d. Lynchburg City Code Section 21-62 provides exemption from such inoperative vehicle zoning and storage restrictions for licensed businesses which, effective January 1, 1976, have been regularly engaged in business as:
 - 1) an automotive dealership,
 - 2) a salvage dealer, *or*
 - 3) a scrap processor.

10. Evidence processing:

- a. Vehicles that must be processed for evidence may be towed to a location specified by the processing officer to facilitate such evidence collection.
 - 1) The towing of a vehicle to a location to facilitate evidentiary processing will be at the expense of the department.

- 2) Any other towing of a vehicle (storage after evidentiary processing, return to owner, etc.) will be at the expense of the owner.
- b. When all evidence processing has been completed, the vehicle may be released to the owner if not being stored for evidentiary purposes.
- c. The vehicle owner will be required to sign for the vehicle as required by Property and Evidence

11. Administrative Impoundment

- a. Code of Virginia Section 46.2-301.1 provides for the 30 day impoundment of motor vehicles being driven by any person whose driver's license, learner's permit or privilege to drive a motor vehicle has been suspended or revoked for:
 - 1) driving while intoxicated in violation of Section 18.2-266, 46.2-341.24 or a substantially similar ordinance or law in any other jurisdiction, *or*
 - 2) driving after adjudication as an habitual offender, where such adjudication was based in whole or in part on an alcohol-related offense, or where such person's license has been administratively suspended under the provisions of Section 46.2-391.2.
- b. The arresting officer will complete the *Notice of Vehicle Impoundment/Immobilization* form each time a vehicle is impounded.
 - 1) The operator will be requested to sign the original form certifying that a copy of the notice has been received.
 - 2) The operator will be given the yellow copy of the completed form regardless of whether it has been signed or not.
 - 3) The tow truck driver will be given the pink copy of the completed form.
 - 4) The original will be forwarded to the General District Court and a copy will be forwarded to the Report Review Office.
 - 5) The required reports associated with the vehicle tow will be completed by the end of the reporting officer's shift.

D. PROCEDURES ON TOWING OF VEHICLES

1. Choice of firms used for towing:

- a. When practical, the officer should have the vehicle owner or custodian select the towing firm to be notified.
 - 1) The officer will not be required to document a vehicle towed at the request of the vehicle owner or operator.
 - 2) The officer may remain at the scene until the towing firm arrives, should conditions warrant such action.
 - 3) If the owner or custodian wishes to have the vehicle towed to a particular automobile dealership or body shop, the towing company that has the towing contract with the automobile dealership or body shop will be used, if available.
- b. If the vehicle's owner or custodian cannot or does not wish to specify a towing firm and does not have a particular dealership or body shop where the individual would like the vehicle towed, the officer will:
 - 1) request LynComm to notify the City's towing contractor, and
 - 2) document the towing through the Vehicle Tow Module in the Mobile Field Reporting System (MFR).
2. An officer ordering a vehicle towed will not be required to issue a parking ticket prior to towing. Should a parking ticket be issued, the officer will affix the violator's copy of the parking ticket to the towed vehicle.
3. Officers should request the current contracted vendor for inoperable, abandoned vehicles on city property.
4. On ordering a vehicle towed, the officer will make a reasonable effort to contact the vehicle owner in order to advise:
 - a. that the vehicle has been towed, *and*
 - b. how the owner may reclaim it.
5. An officer will have appropriate information entered into VCIN computer files, in all cases where:
 - a. on ordering a vehicle towed, the officer is unable to advise the vehicle owner
 - b. the officer is advised by a property owner of the intent to tow a vehicle parked on their property.

1.2.4 F, 61.4.3 C

6. The officer ordering a vehicle towed will complete the required reports by the end of the officer's shift without exception.
 - a. The officer will inventory all items of value located in unsecured readily accessible areas within the vehicle and will include this inventory listing in the notes section of the Vehicle Tow Module in MFR.
 - 1) The inventory will be conducted to protect:
 - a) the department against claims of lost or stolen property;
 - b) the department and the public from physical harm from potentially dangerous contents of a seized vehicle;
 - 2) A locked trunk, glove compartment or storage area will be within the scope of an inventory only if the keys to those areas are in the possession of the officer.
 - 3) The scope of an inventory may include a closed container when the contents of the container cannot be ascertained from examining the container's exterior.
 - 4) Closed containers which are locked or otherwise sealed may be opened with the minimal amount of force necessary, when the facts and circumstances at the time would lead an officer to believe that opening the container was reasonable within the purpose of an inventory.
 - b. The officer will document on the Incident Report:
 - 1) why the vehicle was ordered towed, and
 - 2) whether or not the vehicle owner was notified of the towing, and what efforts were made to make the notification.
 - 3) if a VCIN entry was requested:
 - a) the name of the Information Desk personnel to whom the request was made
 - b) the date and time of the request.
7. Written notification of towed vehicle:
 - a. If the officer is unable to contact the owner of the towed vehicle, the Records Unit personnel will notify the vehicle's owner by certified letter:

- 1) that the vehicle has been towed, and
 - 2) what actions the owner must initiate to reclaim the vehicle.
8. Release of Vehicles (by towing firm currently holding the contract with the city for PD initiated tows)
- a. A vehicle towed at an officer's request will only be released to:
 - 1) the vehicle owner with photo identification or proof of ownership, or
 - 2) a person who is the conditional vendee, lessee or mortgagor of the vehicle (i.e. who will acquire the title of such vehicle upon the fulfillment of certain stipulated payments or conditions), or
 - 3) a person who provides a power of attorney or notarized statement as proof of authority.
 - b. Towed rental vehicles are to be released only to an official of the rental agency, unless the agency authorizes the renter to obtain a vehicle.

Original Signed

Raul M. Diaz
Chief of Police

January 30, 2018

Date