# Vehicle Towing and Release

## 502.1 POLICY

The Fargo Police Department will tow vehicles when appropriate and in accordance with the law.

## 502.2 PURPOSE AND SCOPE

This policy provides the procedures for towing and impounding a vehicle by or at the direction of the Fargo Police Department.

## 502.3 DEFINITIONS

**Impounded vehicle with evidence hold** - Vehicle taken into police custody for evidentiary purposes or for pending civil forfeiture proceedings.

**Impounded vehicle -** Vehicle taken into police custody for violations of city ordinance and state law to include: recovered stolen vehicles, unauthorized-use vehicle of which no evidence processing is necessary, vehicles which constitute an obstruction to the roadway, hazard, detriment to public safety, snow removal operations, public safety, public health or morals, or vehicles which may be damaged, disabled or otherwise involved in an accident, or unclaimed within the city are declared to be nuisance.

## 502.4 IMPOUNDS AND STORAGE

Prior to having a vehicle towed, members should make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone or by leaving a notice attached to the vehicle at least 48 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately (N.D.C.C. § 39-10-47; N.D.C.C. § 39-10-48). Members do not have to make an effort to notify a registered owner of a vehicle of the intent to impound if excessive parking ticket fees exist.

If any personal property or cargo spilled from a vehicle is presenting a hazard, the property or cargo may also be removed immediately (N.D.C.C. § 39-10-47).

### 502.4.1 VEHICLE IMPOUND REPORT

Department members requesting towing, seizure or impound of a vehicle shall complete a department vehicle impound form located in New World. The form serves as written authorization for the tow truck operator to possess the vehicle and a description of property within the vehicle. Subsequent to the inventory search of the vehicle, a copy shall be given to the tow truck operator and the original submitted to the Records Unit as soon as practicable after the vehicle is towed or stored.

Supervisor approved impound forms shall be promptly merged by the Records Unit into the Department's record management system so that they are immediately available for release or for information should inquiries be made.

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### 502.4.2 REMOVAL FROM A TRAFFIC ACCIDENT SCENE

When a vehicle has been involved in a traffic accident and must be removed from the scene, the officer shall have the driver select a towing company, if reasonably possible, and shall relay the request for the specified towing company to the dispatch center. When there is no preferred company requested, the contracted towing company for the City shall be requested. Tow requests should be done through dispatch.

If the owner is incapacitated or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in an accident, the officer should request dispatch call the contracted towing company for the City. The officer shall then conduct an inventory search and store the vehicle using a vehicle impound and inventory report.

If the vehicle itself is evidence and/or needed for crash reconstruction it shall be towed to the impound lot via flatbed tow to preserve any evidence. It shall be categorized with an evidence hold and logged into the Department's evidence processing software.

### 502.4.3 VEHICLES IMPOUNDED FROM AN ARREST SCENE

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by towing the arrestee's vehicle subject to the exceptions described below. The vehicle shall be towed whenever it is needed for the furtherance of an investigation or prosecution of the case, is not legally parked or when the community caretaker doctrine would reasonably suggest that the vehicle should be towed (e.g., traffic hazard, high crime area).

If a vehicle is impounded due to the arrest of the driver, the officer shall complete an impound inventory by completing the vehicle impound report in Aegis Mobile. A vehicle parked on a private lot, in which the owner consents to its presence,shall be considered legally parked. If the owner of the private lot does not consent to the vehicle being left there, it shall be towed in accordance with this policy.

Situations where consideration should be given to leaving a vehicle at the scene in lieu of towing, provided the vehicle is lawfully parked and left in a reasonably secured and safe condition, include:

- A traffic-related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the registered owner of the vehicle is present, and is willing and able to take control, or relinquish control to a validly licensed person that was not involved in criminal activity.
- Whenever the vehicle is not required to be towed and the owner requests that it be left at the scene. In such cases, the owner shall be informed that the Department will not be responsible for theft or damages.

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### 502.4.4 IMPOUND VEHICLE WITH EVIDENCE HOLD PROCEDURE

Any member taking a vehicle into custody for evidentiary purposes or for pending civil forfeiture proceedings shall adhere to the following:

(a) Prior to the vehicle being towed, the member shall run a check through the National Crime Information Center (NCIC) to determine if the vehicle has been reported stolen.

(b) The vehicle shall be transported to the City of Fargo impound lot by a contracted tow company.

(c) The vehicle shall be stored in the impound lot, unless it is necessary to preserve evidence on the exterior of the vehicle, in which case it should be stored inside the impound lot garage. Vehicles which are leaking fluids cannot be stored inside the impound lot garage.

(d) The investigating officer shall complete the impound section of Aegis Mobile, which includes an impound inventory. In the reason for impound section the officer shall select "evidence."

(e) The investigating officer shall enter the vehicle and the vehicle keys as separate items into Evidence Tracker. Only the vehicle keys should be seized. All irrelevant keys should be removed and left with owner if possible.

(f) The keys shall be logged into evidence at the police department during the work period in which they are seized.

(g) If access to the interior of the vehicle is legal and available, the evidence bar code label for the vehicle shall be placed on a wire tag, attached to the steering wheel, and the "Evidence" or "Seized" placard will be placed on the dash.

(h) If access to the interior of the vehicle is not allowable, the evidence bar code label shall be affixed to the lower exterior of the driver's side windshield, and the "Evidence" or "Seized" placard will be placed under the windshield wiper.

(i) The investigating officer shall lock the vehicle.

(j) The investigating officer shall send an email to the evidence and property unit notifying them of the vehicle seizure and reason for seizing (evidence or pending civil forfeiture).

(k) The investigating officer shall ensure the evidence processing is done in a timely manner. Once evidence processing is completed, unless the vehicle is required as evidence by a prosecutor, it shall be released to the owner as soon as practicable.

(l) A vehicle towed as evidence shall be accompanied by a sworn member to the impound lot. If the vehicle is unable to be properly secured in inside storage, a sworn member shall safeguard it until such time as evidence processing has been completed.

(m) When impounding two or more vehicles for evidentiary purposes officers should refer to the Evidence Manual Standard Operating Procedure (SOP 801) for guidance.

### 502.4.5 IMPOUNDED VEHICLE PROCEDURES-NO EVIDENCE HOLD PROCEDURE

Any member taking a vehicle into police custody for violations of city ordinance, state law, recovered stolen vehicle, or an unauthorized-use vehicle, of which no evidence processing is needed, shall adhere to the following:

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(a) Prior to the vehicle being towed, the member shall run a check through NCIC to determine if the vehicle has been reported stolen.

(b) The vehicle shall be towed to the City of Fargo impound lot by a contracted tow company.

(c) The vehicle shall be stored in the impound lot.

(d) The member shall complete the impound section of Aegis Mobile.

(e) The member shall lock the vehicle.

(f) No holds shall be recorded in the impound record.

### 502.4.6 DRIVING A NON-CITY OR PERSONAL VEHICLE OF ANOTHER

To prevent liability and potential injury to department members, vehicles that are subject to or have been towed by or at the direction of the Department shall not be driven by police personnel.

### 502.4.7 IMPOUND FOR OTHER AGENCY

In the event another agency requests a member of this department to impound a vehicle as a result of their criminal investigation the impounding member shall:

(a) Verify the vehicle to be impounded and the reason for impound with the respective case agent.

(b) Coordinate with the requesting agency to determine the appropriate towing company and location where the impounded vehicle is to be transported.

(c) Determine any special considerations and complete an "Assist Other Agency" report.

(d) Document in the "Assist Other Agency" report the condition of the vehicle at the time of impound and any contents of the vehicle which are visible.

(e) Ensure an internal search of the vehicle is not conducted without first consulting with and acquiring the consent of the case agency, as it may compromise any subsequent evidence collection conducted by the case agency.

### 502.4.8 RECORDS UNIT RESPONSIBILITY

Vehicle impound forms shall be promptly filed so that they are immediately available for release or review should inquiries be made.

Records Unit personnel should promptly enter pertinent data from a completed vehicle impound form into the National Crime Information Center (NCIC) and the North Dakota Criminal Justice Information Sharing (CJIS) system to determine if the vehicle has been reported stolen. In addition, Records Unit personnel should report the towing and related information to the North Dakota Department of Transportation (NDDOT). The Records Unit shall also:

(a) Determine the names and addresses of any individuals having an interest in the vehicle through NDDOT or CJIS databases.

(b) Notify the contracted towing company for the City of all impounded vehicles.

The towing company shall then:

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(a) Notify any individual identified as having an interest in the vehicle of the impoundment within the time prescribed by law unless an exception applies as provided in N.D.C.C. § 23.1-15-05).

(b) Send notice by certified mail, return receipt requested, to each individual identified as having an interest in the vehicle. If the identity and address of the registered owner and all lienholders cannot be determined with reasonable certainty, the notice shall be published once in a newspaper of general circulation in the City or placed in a designated area on the Department website for at least 30 days. The notice shall include (N.D.C.C. § 23.1-15-05):

1. The date and place where the vehicle was taken into custody.
2. The year, make, model, and serial number of the motor vehicle.
3. The place where the vehicle is being held.
4. Information for the owner, any lienholders, or secured parties that they have a right to reclaim the vehicle.
5. A statement that failure of the owner, lienholders, or secured parties to exercise their right to reclaim the vehicle within 30 days is deemed a waiver of all right, title, and interest in the vehicle and a consent to disposal of the vehicle in accordance with N.D.C.C. § 23.1-15-07, and that includes the end date of the 30-day period.

## 502.5 TOWING SERVICES

The City of Fargo periodically selects one or more firms to act as official tow services and awards contracts to those firms. Those firms shall be used when:

(a) It is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.

(b) A vehicle is being held as evidence in connection with an investigation.

(c) It is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles and the removal of vehicles obstructing traffic in violation of state or local regulations.

If more than one firm has been awarded contracts, they shall be placed on a rotation list.

Members requesting a tow shall provide the tow company with the following information:

(a) Reason for the impound (evidence, etc.)

(b) Member name and shield number

(c) Case/Incident number

### 502.5.1 VEHICLE UNLOCK REQUESTS

The Department does not generally conduct vehicle unlock requests unless there is an exigent circumstance. However, a Shift Commander may approve a request to unlock a vehicle at department expense as deemed appropriate. Approved requests require the member to provide the following to the contractor:

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(a) Name of the member requesting the service.

(b) Case/Incident number related to the request.

(c) Reason for the service requested.

In addition, the requesting member shall provide incident details in the comments section of the generated run for the incident, including the name of the approving Shift Commander.

## 502.6 VEHICLE INVENTORY SEARCH

Except for situations in which many vehicles are being towed in close time and proximity to alleviate a public safety or traffic issue (e.g. snow emergency), it is the policy of the Fargo Police Department to conduct an inventory search of all vehicles subject to tow in conformity with this policy. All property of significant value in a stored or impounded vehicle shall be properly inventoried within the Department's evidence unit and listed on the impound vehicle form located in the impound section of Aegis Mobile. This includes a search of the trunk and any compartments or containers, even if they are closed and/or locked. Members conducting inventory searches should be as thorough and accurate as possible in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while the owner is in police custody, to provide for the safety of officers and the public, and to protect the Department against fraudulent claims of lost, stolen or damaged property.

Any contraband or evidence of a crime located during an inventory search is seizable and should be appropriately acted upon by sworn members. If contraband or evidence is discovered by a non-sworn member during an inventory search, a sworn member shall be requested to take custody of the items and ensure appropriate enforcement action. An inventory search shall not be used as a ruse to otherwise search a vehicle.

If the apparent potential for damage to a locked container reasonably appears to outweigh the protection of the items inside, other options to consider regarding locked containers include, but are not limited to, obtaining key access to the locked container from the owner or person under arrest if they possess the key, noting the locked container on the impound vehicle form and leaving it in the vehicle or obtaining a written waiver of responsibility for the contents of the locked container. In no circumstances shall an unsearched container be placed in the Department's evidence unit.

Members shall use reasonable discretion in determining items of significant value. Currency less than $100 may be counted in view of the members body-worn camera and secured in the vehicle with the operators permission. When items of significant value are inventoried as a result of the inventory search, member's shall note the items in the vehicle impound report.

## 502.7 PRESERVATION OF EVIDENCE

An officer removing a vehicle who has probable cause to believe that the vehicle or its contents constitute any evidence which tends to show that a criminal offense has been committed, or tends to show that a particular person has committed a criminal offense, should ensure that all legally required and reasonably necessary efforts to preserve the evidence, including but not limited

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to, safe storage, are taken until the evidence is released to the owner or otherwise disposed of according to law.

### 502.8 SECURITY OF VEHICLES AND PROPERTY

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage, create an issue of officer safety or compromise the integrity of any evidence, an officer should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cellular telephone, prescriptions) that are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property. This may include towing the vehicle with the operators consent or documenting the vulnerabilities and operators non-consent via body-worn camera.

### 502.9 RELEASE OF IMPOUNDED VEHICLES

**Impounded Vehicle with Evidence Hold** shall be released in the following manner:

(a) The vehicle is held at the impound lot until any applicable fees are paid, and the investigating officer, or supervisor authorizes its release.

(b) The investigating officer or supervisor, who authorizes the release, shall be responsible for notifying the Evidence and Property Unit via email that the vehicle can be released and the identity of the person it can be released to. The officer or supervisor shall update the disposition in the Department's CAD/RMS to "LE holds removed".

(c) The Evidence and Property Unit shall notify the impound agent that the vehicle can be released unless other arrangements are made for release.

(d) The releasing party shall verify that the person taking possession of the vehicle is the person identified by the investigating officer or supervisor.

(e) If the vehicle is to be driven from the lot, the releasing party shall also verify current insurance, registration, and licensed driver.

**Impounded Vehicle** shall be released in the following manner:

(a) The contracted towing agent shall be responsible for attempting to notify the last known registered owner of the impounded vehicle.

(b) The vehicle is held at the impound lot until all applicable fees and fines are paid.

(c) The impound agent shall verify ownership of the vehicle.

(d) If the vehicle is to be driven from the lot, the releasing party shall also verify current insurance, registration, and licensed driver.

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### 502.9.1 WAIVER OF FEES

Waiving of the impound fee is possible and appropriate in some circumstances. Storage fees shall be waived for any period of time in which a vehicle is not authorized for release due to evidence collection. If impound fees are contested by the vehicle owner, the owner should be referred to the Neighborhood Services Division (NSD), Specialized Services Unit (SSU) administrative sergeant, who shall be the liaison between the Department and the contracted tow company for storage fee issues. Each circumstance of contested impound fees will be evaluated by the SSU supervisor who shall make a determination as to whether or not fees are waived on a case-by-case basis.

(a) Fees acquired on a vehicle which was impounded while on city property may be waived if determined appropriate.

(b) Fees acquired on a vehicle which was impounded while on private property shall not be waived since those fees must be paid to the contracted tow company.

(c) Towing fees shall not be waived since those fees must be paid to the contracted tow company.

(d) Vehicles seized as evidence, which have accumulated impound fees, may be waived if deemed appropriate.

(e) Towing fees, along with storage fees from private property impounds, may be paid by the City of Fargo to the contracted tow company under certain circumstances. This would require the City of Fargo to be billed by the contracted tow company for their fees. This type of circumstance should be rare and shall only be authorized by the appropriate division commander depending on the type of investigation related to the tow.

(f) All transactions and determinations pertaining to impound and towing fees shall be initially handled by the SSU supervisor, who shall be responsible for communicating with the contracted tow company and the evidence and property unit regarding these issues.

## 502.10 REVISION DATE 02/06/2025

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