

Vehicle Towing and Release

502.1 PURPOSE AND SCOPE

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

502.2 DEFINITIONS

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

Impound 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.

502.3 IMPOUNDS AND STORAGE

When circumstances permit the handling employee should, prior to having a vehicle towed; 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). Employees 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 exists.

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

The responsibilities of those employees storing or impounding a vehicle are as follows.

502.3.1 VEHICLE IMPOUND REPORT

Department members requesting towing, seizure, or impound of a vehicle shall complete a Vehicle Impound Report in Aegis Mobile and must be approved by a department supervisor before the Records Unit can merge the form into the RMS. The contract tow company will have access to the Vehicle Impound Report through authorized access to the RMS.

502.3.2 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 will ask the driver if they prefer a private tow or city contract tow, and shall relay the request for the specified towing company to Dispatch. When there is no preferred company requested, the city contracted tow company will be selected. In most cases, crash vehicles will be towed to the contract tow company accident lot for storage and no further documentation is required.

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If the owner is incapacitated or unavailable for any reason and it is necessary for the Department to assume responsibility for a vehicle involved in an accident, the officer shall impound the vehicle. The officer will then conduct an impound inventory using the Vehicle Impound Report in Aegis Mobile.

Some crash vehicles have evidentiary value for a traffic crash reconstruction. In these instances, the crash vehicles will be impounded, an impound inventory completed using a Vehicle Impound Report, and categorized as an impounded vehicle with an evidence hold and logged into the evidence processing software.

502.3.3 STORAGE AT 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, 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.

Situations where consideration should be given to leaving a vehicle at the scene in lieu of towing, provided the vehicle can be 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 valid licensed passenger of any vehicle that was not involved in criminal activity.
- Whenever the vehicle does not need 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.

502.3.4 IMPOUND VEHICLE WITH EVIDENCE HOLD PROCEDURES

Any vehicle taken into custody for evidentiary purposes or for pending civil forfeiture proceedings will adhere to the following:

- (a) Prior to the vehicle being towed, the employee will run a check through NCIC and CJIS to determine if the vehicle has been reported stolen.
- (b) The vehicle will be transported to the City of Fargo impound lot by the contracted tow company.

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- (c) The vehicle will be stored in the impound lot, unless it is necessary to preserve evidence on the exterior of the vehicle, in which case it may be stored inside the impound lot garage.
 - 1. Vehicles which are leaking fluids cannot be stored inside the impound lot garage.
- (d) The investigating officer will complete the impound section of Aegis Mobile, which includes an impound inventory. In the reason for impound section the officer will select "evidence."
- (e) The investigating officer will enter the vehicle and the vehicle keys as separate items in Tracker (only the vehicle keys should be seized; all irrelevant keys should be removed and left with owner if possible).
- (f) The keys will 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 will 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 will 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 will lock the vehicle.
- (j) The investigating officer will send an email to the property unit staff notifying them of the vehicle seizure and reason for seizing (evidence or pending civil forfeiture).
- (k) The investigating officer will ensure the evidence processing is done in a timely manner.
- (l) When impounding two or more vehicles for investigative purposes officers need to refer to the Property and Evidence Processing Manual for instructions on entering the second and subsequent vehicles.
 - 1. The software does not normally allow more than one vehicle to be entered and the manual will instruct the officers on how to enter the vehicles.

502.3.5 IMPOUND VEHICLE PROCEDURES

Any vehicle taken into police custody for violations of city ordinance, state law, recovered stolen vehicle, or an unauthorized-use vehicle of which no evidence processing will adhere to the following:

- (a) Prior to the vehicle being towed, the employee will run a check through NCIC and CJIS to determine if the vehicle has been reported stolen.
- (b) The vehicle will be towed to the City of Fargo impound lot by the contracted tow company.
- (c) The vehicle will be stored in the impound lot.
- (d) The investigating officer or non-sworn employee will complete the impound section of Aegis Mobile.

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- (e) The investigating officer or non-sworn employee will lock the vehicle.
- (f) No holds will be recorded in the impound record.

502.3.6 DRIVING A NON-CITY VEHICLE

Vehicles that have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant, or to comply with parking regulations. Generally, officers should gain permission from the person in charge of the vehicle prior to moving it.

502.3.7 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 following shall apply:

- (a) The impound officer will verify the vehicle to be impounded and the reason for impound with the respective case agent.
- (b) Impound officer will 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.
 - 1. The impound officer will 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.
 - 2. An internal search of the vehicle may compromise any subsequent evidence collection conducted by the case agency.

502.3.8 RECORDS DIVISION RESPONSIBILITY

Vehicle Impound Reports shall be promptly processed so that they are immediately available for release or review should inquiries be made.

Upon the request of the contracted impound agent, the Records Division shall:

- (a) Determine the names and addresses of any individuals having an interest in the vehicle through North Dakota Department of Transportation (NDDOT) or CJIS databases. Within 10 days of the impoundment by department personnel, the contracted impound agent shall notify any individual identified as having an interest in the vehicle of the impoundment unless all of the following apply (N.D.C.C. § 39-26-05):
 - 1. The vehicle is more than seven model years of age.
 - 2. The vehicle lacks vital component parts.
 - 3. The vehicle does not display a current valid license plate for North Dakota or any other state or foreign country.

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- (b) Send notice by mail 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. The notice shall include (N.D.C.C. § 39-26-06):
 - 1. The date and place where the vehicle was taken into custody.
 - 2. The year, make, model, and serial number of the abandoned 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 is deemed a waiver of all right, title and interest in the vehicle and a consent to sell the vehicle at a public auction.
- (c) Not place holds on any vehicle which has not been marked as evidence.

502.4 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 will 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.

502.5 VEHICLE INVENTORY

All property in a stored or impounded vehicle shall be inventoried and listed on the Impound Vehicle form located in the impound section of Aegis Mobile. This includes 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 practicable 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.

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 access to the locked container from the owner, placing the locked

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container into safekeeping or obtaining a written waiver of responsibility for the contents of the locked container.

502.6 PRESERVATION OF EVIDENCE

An officer removing a vehicle who has probable cause to believe the vehicle or its contents constitute any evidence which tends to show a criminal offense has been committed, or tends to show a particular person has committed a criminal offense, should ensure all legally required and reasonably necessary efforts to preserve the evidence are taken until the evidence is released to the owner or otherwise disposed of according to law.

502.7 SECURITY OF VEHICLES AND PROPERTY

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, 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 should take alternative methods of securing and/or preserving the vehicle or property. North Dakota Century Code does not grant specific authority to seize property from another for the purpose of safekeeping, and doing so could create an unnecessary liability for the department and officer. Property may be taken and logged in as safekeeping when:

- (a) All other options for alternative storage have been exhausted AND
- (b) The owner has given permission for the property to be placed in police custody AND
- (c) A report has been completed documenting the reason for police custody and consent from the owner AND
- (d) A safekeeping receipt has been issued to the owner.

When in doubt contact a supervisor for guidance.

502.8 RELEASE OF IMPOUNDED VEHICLES

Impounded Vehicle with Evidence Hold will 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, will be responsible for notifying the property room staff via email that the vehicle can be released and the identity of the person it can be released to. The officer or supervisor will update the disposition in the departments CAD/RMS to "LE holds removed".
- (c) The property room staff will notify the impound agent that the vehicle can be released unless arrangements are made for the investigating officer, detective, or property room staff to do the release.

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- (d) The releasing party (impound agent, investigating officer, or property room staff) will 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 will also verify current insurance, registration, and licensed driver.

Impound Vehicle will be released in the following manner:

- (a) The contracted towing agent will 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 will verify ownership of the vehicle.
- (d) If the vehicle is to be driven from the lot, the releasing party will also verify current insurance, registration, and licensed driver.

502.8.1 WAIVER OF FEES

Waiving of impound fee is possible and appropriate in some circumstances. Storage fees will be waived for any period of time in which a vehicle is not authorized for release. If impound fees are contested by the vehicle owner, the owner should be referred to the Office of Professional Standards (OPS), 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 OPS, and a determination as to whether or not fees will be waived will be decided on a case-by-case basis.

- (a) Fees acquired on vehicle which was impounded while on city property can be waived if determined appropriate by OPS.
- (b) Fees acquired on a vehicle which was impounded while on private property cannot be waived by OPS since those fees must be paid to the contracted tow company.
- (c) Towing fees cannot be waived by OPS since those fees must be paid to the contracted tow company.
- (d) Vehicle seized as evidence, which in some way have accumulated impound fees, can be waived by OPS if deemed appropriate.
- (e) Towing fees, along with storage fees from private property impounds, could 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 would be rare and would have to be authorized by the Administrative Services Division commander.
- (f) All transactions and determinations pertaining to impound and towing fees will be initially handled by OPS. OPS will be responsible for communicating with the contracted tow company and the property room staff regarding these issues.

502.8.2 LIEN CHECKS

The Fargo Police Department will conduct lien checks on impounded vehicles. The checks will be completed by a Police Support Specialist when notice is received from the contract tow

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company, but within 10 days as specified under state law. The Police Support Specialist will submit a lien holder request, once a month, for all vehicles still stored in the impound lot with North Dakota and Minnesota plates.

The Police Support specialist will forward the lien holder information received from the North Dakota or Minnesota to the impound agent, who will notify the lien holder of the vehicle in impound.

Whenever police department personnel conduct a lien check on a vehicle for the purpose of seizing or auctioning a vehicle they will be required to file that paperwork in the Records office. The lien holder information is kept on file in Records for six (6) years. After six (6) years, the paperwork will be purged.