

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2002 Legislative Session

Bill No. CB-85-2002

Chapter No. _____

Proposed and Presented by The Chairman (by request – County Executive)

Introduced by Council Members Shapiro and Wilson

Co-Sponsors _____

Date of Introduction October 7, 2002

BILL

1 AN ACT concerning

2 Towing Regulations

3 For the purpose of amending various provisions of the County Code relating to the notification
 4 process on private property tows, impoundments, and abandoned vehicle impoundments,
 5 transferring certain responsibilities regarding towing regulations from the Prince George's
 6 County Police Department to the Department of Environmental Resources, updating the County
 7 Code to make it consistent with the Maryland Motor Vehicle Laws, and making certain technical
 8 corrections.

9 BY repealing and reenacting with amendments:

10 SUBTITLE 26. VEHICLES AND TRAFFIC.

11 Sections 26-142.02, 26-142.03, 26-142.04, 26-142.05,
 12 26-142.06, 26-142.07, 26-142.10, 26-162, 26-166, and
 13 26-168,

14 The Prince George's County Code
 15 (1999 Edition, 2001 Supplement).

16 BY repealing:

17 SUBTITLE 26. VEHICLES AND TRAFFIC.

18 Section 26-142.08, 26-142.09, 26-142.11, 26-142.12, and
 19 26-142.13,

20 The Prince George's County Code
 21 (1999 Edition, 2001 Supplement).

1 BY adding:

2 SUBTITLE 26. VEHICLES AND TRAFFIC.

3 Sections 26-167.01 and 26-171.01,

4 The Prince George's County Code

5 (1999 Edition, 2001 Supplement).

6 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
7 Maryland, that Sections 26-142.02, 26-142.03, 26-142.04, 26-142.05, 26-142.06, 26-142.07,
8 26-142.10, 26-162, 26-166, and 26-168 of the Prince George's County Code be and the same
9 are hereby repealed and reenacted with the following amendments:

10 **SUBTITLE 26. VEHICLES AND TRAFFIC.**

11 **DIVISION 10. TOWING AND IMPOUNDMENT OF MOTOR**

12 **VEHICLES FROM PRIVATE PROPERTY.**

13 **Sec. 26-142.02. Obtaining of signs; execution of agreement.**

14 (a) Any property owner desiring to utilize the procedures provided by this Division shall
15 obtain from the [Chief of Police] Department of Environmental Resources approval for signs
16 which shall be posted on said owner's property. Before erecting said sign or signs, a property
17 owner shall execute an indemnification and save harmless agreement which shall provide that
18 the property owner shall indemnify and save harmless the County against any claim of damage
19 resulting from the towing and impoundment of vehicles removed from said private property
20 pursuant to this Division.

21 (b) Any permits or stickers or other method indicating authorized parking on posted
22 property must be approved by the [Chief of Police] Department of Environmental Resources as
23 to design and content.

24 **Sec. 26-142.03. Content and location of signs.**

25 (a) Signs as described in Section 26-142.02 shall state that unauthorized parking is
26 prohibited and that vehicles parked without authorization may be towed and impounded without
27 notice at the vehicle owner's expense. Said signs shall be posted in such a manner and in such
28 location as to be clearly visible from [the area] each entrance to the property where parking is to
29 be prohibited and subject to prior approval [by] of the [Chief of Police] Department of
30 Environmental Resources.

31 (b) On the same sign or a separate sign posted in the same manner, the property owner

1 shall post the telephone number and name of each towing company hired to tow unauthorized
 2 vehicles from the property.

3 **Sec 26-142.04. Complaint by property owner.**

4 (a) Any property owner or property owner's agent may, when a vehicle is parked without
 5 authorization upon his private property without his consent, make a complaint to an authorized
 6 towing company stating that he requests that said vehicle be removed from his property. Said
 7 complaint shall be on a form approved by the [Chief of Police] Department of Environmental
 8 Resources and shall contain a statement made by the property owner or property owner's agent,
 9 under oath, that the vehicle which he seeks to have removed was parked on his property without
 10 his consent and that the vehicle was parked in an area from which a sign prohibiting
 11 unauthorized parking was clearly visible from each entrance to the property.

12 (a) Notwithstanding any other provision of this Division, the Department of
 13 Environmental Resources may tow any vehicle defined as abandoned from any privately owned
 14 property, upon written request of such property owner, provided that such property is owner-
 15 occupied or with the written concurrence of any tenant. This limited authority shall not require
 16 signs pursuant to Section 26-142.02 or the attachment of a notice to the vehicle for forty-eight
 17 (48) hours pursuant to Section 26-167.

18 **Sec. 26-142.05. Tow slip.**

19 (a) The towing company shall cause to be presented to the property owner or property
 20 owner's agent a tow slip, approved by the [Chief of Police] Department of Environmental
 21 Resources as to form and content, which shall consist of one (1) original and three (3) copies.
 22 The towing company shall cause said tow slip to be completed by filling in all pertinent data.
 23 Before towing or removing the subject vehicle, the towing company shall cause the property
 24 owner or property owner's agent to sign said tow slip in the place provided. The towing
 25 company cannot be the property owner or act as agent for the property owner in signing the tow
 26 slip. The towing company shall then cause a copy of the towing slip to be securely affixed to the
 27 subject vehicle.

28 (b) The tow slip shall provide, as a minimum, spaces for filling in pertinent data as make
 29 and model of the vehicle, vehicle identification number, date and time of towing, license plate
 30 number, location towed from, name of complaining party, and name of towing company.

31 (c) If the property owner has a written contract with the towing company, the property

owner or property owner's agent shall not be required to either sign a complaint or tow slip prior to the towing or removal of an unauthorized vehicle from his property in the following instances:

(1) If the towing occurs during the hours of 10:00 P.M. and 7:00 A.M.; or

(2) If the vehicle is directly blocking a clearly marked fire lane, a handicapped parking space or access to the property or a building on the property.

Sec. 26-142.06. Towing of vehicle.

(a) After completion of the requirements of Section 26-142.05 of this Division, the towing company may proceed to tow the subject vehicle to an impoundment facility maintained by the County Police or by an authorized towing company.

(b) Within one (1) hour after completion of the removal of the subject vehicle, the authorized towing company shall notify the County Police of the location and [identification] description including but not limited to make, model, year and vehicle identification number of the vehicle pursuant to regulations of the Chief of Police.

(c) A towing company that undertakes the towing or removal of a vehicle from private property may not employ individuals, commonly referred to as "spotters", whose primary task is to report the presence of unauthorized parked vehicles for the purposes of towing or removal, and impounding.

Sec. 26-142.07. Maintenance during impoundment.

The impoundment custodian shall [keep] retain the keys to the vehicle[, if same are therein, in his possession] at all times while the vehicle is impounded. [He] Without gaining access, the impoundment custodian shall make a visual inventory of the vehicle's possessions and condition of the vehicle at the time of impoundment. The impoundment custodian shall keep the impounded vehicle secure and make periodic inspections of all impounded vehicles.

* * * * *

Sec. 26-142.10. Hearing; determination; appeals.

(a) [Within twenty-one (21) days from the date notice is mailed by the County Police pursuant to Sections 26-142.08 or 26-142.09 of this Division, t] The owner or secured party of a vehicle which has been impounded may request that a hearing be held to determine whether the vehicle was properly towed and impounded under the provisions of this Division. The request for a hearing shall be made by filing a request-for-hearing form with the County Police.

(b) The hearing shall be held within three (3) working days after the request for a hearing is filed with the County Police. The hearing shall be before a hearing officer designated by the County Attorney of Prince George's County. Such hearing officer shall not be a member of any state or local police department.

(c) Determination as to whether vehicle was parked illegally.

(1) If it is determined at the hearing that the vehicle was not parked on private property in violation of this Division, then the hearing officer shall issue an order that the vehicle be returned to the owner and that such owner is not liable for any of the towing, storage, or other charges incurred by the County Police in connection with the impoundment. If the owner has already paid such towing, storage, and other charges to the County Police, he shall be entitled to receive reimbursement of all such payments from the County Police which, in turn, shall be entitled to payment of all such charges from the property owner who filed the complaint which caused the towing and impoundment of the vehicle.

(2) If the hearing officer shall determine that the vehicle was illegally parked on private property in violation of this Division, then the owner of the vehicle may not reclaim it until he has paid to the County Police all towing and storage charges and costs of notice incurred by the County Police.

* * * * *

DIVISION 14. ABANDONED VEHICLES

Sec. 26-162. Abandoned vehicles prohibited.

* * * * *

(b) **Abandoned vehicle** means any motor vehicle, trailer, or semitrailer:

(1) That is left inoperable [and] or left unattended on public property for more than forty-eight (48) hours:

* * * * *

(3) That has remained on public property for more than forty-eight (48) hours; and

(A) Is not displaying currently valid registration plates; or

(B) Is displaying registration plates of another vehicle; or

(C) Is inoperable in that one or more of its major mechanical components, including but not limited to the engine, transmission, drive train, wheels, is missing or not functional or the vehicle is elevated from the ground by jack stands, blocks, car ramps or other

measures; or

(4) That has remained on private property for more than forty-eight (48) hours; and

(A) Is inoperable in that one or more of its major mechanical components, including but not limited to the engine, transmission, drive train, [and] wheels, is missing or not functional, or the vehicle is elevated from the ground by jack stands, blocks, car ramps or other measures unless such vehicle is kept in an enclosed building or as permitted by Subtitle 13 or Subtitle 27 of the Code; or

* * * * *

DIVISION 18. IMPOUNDMENT.

Subdivision 1. Prior Notice Requirements.

Sec. 26-166. Impoundment without prior notice.

(a) A vehicle subject to impoundment under any provision of Federal, State, or local law may be impounded without giving prior notice to its owner under the following circumstances:

* * * * *

(7) When the vehicle is both:

(A) An abandoned vehicle as defined by Section 26-162(b); and

(B) Located on any public street, highway, roadway, shoulder, other public property or public utility right of way, provided that any impoundment from public property must be at the direction of the Police Department or Department of Environmental Resources; or

(8) When the vehicle is parked on posted private property in violation of Section 26-142.01 of the Code.

* * * * *

Sec. 26-168. Impoundment; notice to owner.

(a) Within [two (2)] seven (7) full County working days after impoundment of any vehicle pursuant to Section 26-166 (a) (1) through (7) or Section 26-167 of this Code, the Police Department or Department of Environmental Resources shall mail a notice by registered mail to the last known registered or titled owner of the vehicle and to each secured party [as may be disclosed by the vehicle license number, if such be obtainable, and to any other person who claims the right to possession of the vehicle, if such a claim is actually known to an officer, agent, or employee of the Police Department who has knowledge of the impoundment. If a police officer who has knowledge of the impoundment] or lienholder shown on the records of the

1 Motor Vehicle Administration. If an officer, agent, or employee of the Police Department or
 2 Department of Environmental Resources has reason to believe that an owner or one who claims
 3 the right to possession of the vehicle is residing or is in custody at some different address which
 4 is known to the officer, agent, or employee, a copy of the notice shall also be mailed by regular
 5 mail to such owner or claimant at the known address. Notice shall not be required if an
 6 abandoned vehicle is impounded by the Department of Environmental Resources upon the
 7 written request of a single-family homeowner pursuant to Section 26-142.04 (b) when such
 8 homeowner is also the owner of the vehicle. If a vehicle is redeemed prior to the mailing of such
 9 notice, then notice need not be mailed.

10 (b) The notice shall contain the following:

11 * * * * *

12 (4) A statement that the vehicle owner or secured party has the right to a hearing to
 13 contest the validity of the impoundment at any time within twenty-one (21) calendar days of the
 14 date of such notice by filing a request for hearing with the [Police Department] Department of
 15 Environmental Resources on a hearing request form which shall be included with such notice.

16 * * * * *

17 (6) A statement that the failure of the registered/titled owner to exercise this right in
 18 the time provided is:

19 (i) A waiver by the owner of all their rights, title and interest in the vehicle;

20 (ii) A consent to the sale of the vehicle at public auction; and

21 (iii) Deemed a failure to claim the vehicle and may cause continuing liability of
 22 the owner for costs of impoundment, storage and sale of the vehicle and denial of any application
 23 to renew registration of any vehicle.

24 * * * * *

25 SECTION 2. BE IT FURTHER ENACTED, that Sections 26-142.08, 26-142.09 26-
 26 142.11, 26-142.12, and 26-142.13 of the Prince George's County Code be and the same are
 27 hereby repealed:

28 **SUBTITLE 26. VEHICLES AND TRAFFIC.**

29 **DIVISION 10. TOWING AND IMPOUNDMENT OF MOTOR** 30 **VEHICLES FROM PRIVATE PROPERTY.**

Sec. 26-142.08. [Notification to owner.] Reserved.

[(a) Notification after impoundment shall be in accordance with the provisions of Section 26-168 of this Code.

(b) The notice shall:

(1) State that the vehicle has been taken into custody for violation of the County ordinance prohibiting unauthorized parking on private property;

(2) State the year, make, model, and vehicle identification number of the vehicle;

(3) Give the location of the impoundment facility where the vehicle is held;

(4) Inform the vehicle owner that he has the right to contest the validity of the towing and storage of his vehicle at any time within twenty-one (21) days of the date of such notice by filing a request for hearing with the County Police on a request form which shall be included with such notice;

(5) Inform the owner and secured party of his right to reclaim the vehicle within twenty-one (21) days after the date of said notice on payment of all towing and storage charges resulting from the towing and storage of the vehicle;

(6) State that the failure of the owner or the secured party to exercise his right as provided in Subsection (b)(5), above, to reclaim the vehicle in the time provided is a waiver by him of all his right, title and interest in the vehicle and is a consent to the sale of the vehicle at public auction.]

Sec. 26-142.09. [Notification by publication.] Reserved.

[(a) This Section shall apply if:

(1) The identity of the last registered owner of an impounded vehicle cannot be determined;

(2) The registration of the vehicle gives no address for the owner;

(3) It is impossible to determine with reasonable certainty the identity and address of each secured party; or

(4) The registered mail notice required by Section 26-142.08 of this Division is returned as undeliverable.

(b) Under Subsection (a) (1) of this Section, the Police Department shall give the notice provided for in Section 26-142.08 by publication in at least one (1) newspaper of general circulation in Prince George's County, Maryland.

1 (c) The notice by publication:

2 (1) May contain multiple listings of abandoned vehicles;

3 (2) Shall contain the information required by Section 26-142.08 of this Division; and

4 (3) Shall be published within fifteen (15) days of the taking into custody of the vehicle
5 or, if the notice by publication is made because of the return as undeliverable of a prior notice by
6 registered mail, within seven (7) days of the return of that prior notice.]

7 **Sec. 26-142.11. [Payment of charges.] Reserved.**

8 [The owner or secured party of a vehicle which has been impounded may reclaim such
9 vehicle within twenty-one (21) days of the date notice is mailed by the County Police pursuant to
10 Sections 26-142.08 or 26-142.09 by paying all towing and storage charges and costs of notice
11 incurred in connection with said impoundment pursuant to regulations issued by the Chief of
12 Police.]

13 **Sec. 26-142.12. [Failure to reclaim vehicle.] Reserved.**

14 [If the owner or secured party fails to reclaim an impounded vehicle within twenty-one (21)
15 days after notice is mailed by the County Police pursuant to this Division, the owner or secured
16 party is deemed to have waived all of his right, title and interest in the vehicle and to have
17 consented to the sale of the vehicle at public auction.]

18 **Sec. 26-142.13. [Sale of vehicle; disposition of proceeds.] Reserved.**

19 [If an impounded vehicle is not reclaimed as provided for in this Division, the vehicle may
20 be sold at public auction. The buyer of the vehicle at auction shall take title to the vehicle free
21 and clear of any claim of ownership or lien, shall be entitled to a sales receipt from the County
22 Police and shall be entitled to obtain a certificate of title of the vehicle and to register it in his
23 own name. The sales receipt shall be sufficient title for transferring the vehicle to a scrap
24 processor for dismantling, destroying or scrapping, in which case only, a certificate of title is not
25 required. The County Police or the authorized towing company shall reimburse itself from the
26 proceeds of the sale of the vehicle for the costs of towing, preserving and storing the vehicle and
27 the expenses of the auction, including all notice and publication costs incurred under this
28 Division. Any remaining proceeds of the sale shall be held for ninety (90) days for the owner of
29 the vehicle and any entitled secured party, after which the remaining proceeds shall revert to the
30 treasury of Prince George's County.]

SECTION 3. BE IT FURTHER ENACTED, that Sections 26-167.01 and 26-171.01 of the Prince George's County Code be and the same are hereby added:

SUBTITLE 26. VEHICLES AND TRAFFIC.

DIVISION 18. IMPOUNDMENT.

Subdivision 2. Procedures After Impoundment.

Sec. 26-167.01. Applicability.

This Subdivision shall apply to the impoundment of any vehicle at the direction of a police officer, or the impoundment of an abandoned vehicle by the Department of Environmental Resources from public property, or from private property upon written request of the property owner or agent.

Sec. 26-171.01 Sale of vehicle; disposition of proceeds.

(a) If an impounded vehicle is not reclaimed as provided for in this Division, the vehicle may be sold at public auction.

(b) No later than twenty-one (21) days prior to the public auction, the Department of Environmental Resources shall cause to be posted a notice of the intended sale in the Circuit Court for Prince George's County of any vehicle if:

(1) The identity of the last registered owner of an impounded vehicle cannot be determined;

(2) The registration of the vehicle gives no address for the owner;

(3) It is impossible to determine with reasonable certainty the identity and address of each secured party; or

(4) The registered mail notice required by Section 26-168 of this Division is returned as undeliverable.

(c) Such posting of notice may contain multiple listings of vehicles and shall include the information required in Section 26-168(b) of this Division.

(d) The buyer of the vehicle at auction shall take ownership of the vehicle free and clear of any claim of ownership or lien, shall be entitled to a sales receipt, and shall be entitled to obtain a certificate of title to the vehicle and to register it in his own name. The sales receipt shall be sufficient for transferring the vehicle to a scrap processor for dismantling, destroying or scrapping, in which case only a certificate of title is required. The County Police or Department of Environmental Resources or the authorized towing service shall reimburse itself from the

1 proceeds of the sale of the vehicle for the costs of towing, preserving and storing the vehicle and
2 the expenses of the auction, including all notice and publication costs incurred under this
3 Division. Any remaining proceeds of the sale shall be held for ninety (90) days for the owner of
4 the vehicle and any entitled secured party to claim any and all excess proceeds. Thereafter the
5 proceeds shall become the property of the County.

6 SECTION 4. BE IT FURTHER ENACTED that the Legislative Officer is authorized to
7 reorder and renumber Divisions 10 and 18 of Subtitle 26 prior to codification to account for
8 deleted sections.

9 SECTION 5. BE IT FURTHER ENACTED that the provisions of this Act are hereby
10 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
11 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
12 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
13 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
14 Act, since the same would have been enacted without the incorporation in this Act of any such
15 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

1 SECTION 6. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
2 calendar days after it becomes law.

Adopted this _____ day of _____, 2002.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Peter A. Shapiro
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Wayne K. Curry
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.