

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2009 Legislative Session

Bill No. CB-40-2009

Chapter No. 36

Proposed and Presented by Council Members Exum, Dernoga and Knotts

Introduced by Council Members Exum, Dernoga, Knotts, Dean and Bland

Co-Sponsors _____

Date of Introduction October 20, 2009

BILL

1 AN ACT concerning

2 Towing Regulations

3 For the purpose of amending provisions of the Code relating to towing regulations and towing of
4 vehicles from private property, establishing license fees and penalties, and transferring certain
5 responsibilities regarding towing regulations from the Police Department to the Department of
6 Environmental Resources.

7 BY repealing and reenacting with amendments:

8 SUBTITLE 5. BUSINESS AND LICENSES.

9 Sections 5-264, 5-265, 5-266, 5-267, 5-268, 5-270,
10 5-272, 5-273, and 5-274,

11 The Prince George's County Code
12 (2007 Edition, 2008 Supplement).

13 SUBTITLE 26. VEHICLES AND TRAFFIC

14 Sections 26-142, 26-142.01, 26-142.02, 26-142.03,
15 26-142.04, 26-142.05, 26-142.06, 26-142.08, 26-
16 142.09, 26-142.10, 26-142.11, 26-142.12, 26-142.13
17 and 26-142.14,

18 The Prince George's County Code
19 (2007 Edition, 2008 Supplement).

20 BY adding:

21 SUBTITLE 5. BUSINESS AND LICENSES.

Sections 5-268.01 and 5-274.01
The Prince George's County Code
(2007 Edition, 2008 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 5-264, 5-265, 5-266, 5-267, 5-268, 5-270, 5-272, 5-273, 5-274, 26-142, 26-142.01, 26-142.02, 26-142.03, 26-142.04, 26-142.05, 26-142.06, 26-142.08, 26-142.09, 26-142.10, 26-142.11, 26-142.12, 26-142.13, and 26-142.14 of the Prince George's County Code be and the same are hereby repealed/repealed and reenacted with the following amendments:

SUBTITLE 5. BUSINESS AND LICENSES.
DIVISION 21. TOWING REGULATIONS.

Sec. 5-264. Definitions.

(a) For the purpose of this Division the following words and phrases shall have the meanings respectively ascribed to them by this Section.

(1) **Department** means the Department of Environmental Resources.

(1.1) **Director** means the Director of Environmental Resources, or the Director's designee.

(2) License means the license to engage in the business of towing vehicles within the boundaries of Prince George's County, Maryland, and issued pursuant to this Division.

(2.1) **License number** means the number of the license issued by the Department.

* * * * *

(5) **Police Department** includes all [police departments – State, Count, Municipal or Park Police] law enforcement agencies authorized to enforce laws within the geographical boundaries of Prince George's County, Maryland, and those special police who have been appointed pursuant to the provisions of Title 4, Subtitle 9, Article 41, Annotated Code of Maryland.

(6) **Storage** means the holding, accommodation and protection of all motor vehicles.

(7) **Towing** means the moving or removing of a vehicle by [another motor vehicle] a tow truck.

(8) **Towing Company** means a person or entity that provides towing services.

(9) **Towing Service** means the operation of removing or towing motor vehicles.

(10) **Tow Truck** means a vehicle capable of lifting or transportation a motor vehicle.

1 (11) Tow Truck Medallion Number means the number assigned by the Department
 2 to each tow truck operating under a license.

3 (12) Tow Truck Operator means a person who is the operator of a [towing vehicle]
 4 tow truck.

5 **Sec. 5-265. License required; penalty.**

6 (a) Except as provided in Section 5-266 of this Division, it [It] shall be unlawful for any
 7 person[, firm, association, partnership or corporation] to [engage in] provide a towing service in
 8 Prince George's County, Maryland, without first having obtained a license from the [Director]
 9 Department.

10 (b) [Said] Each license shall be renewed on an annual basis.

11 (c) A person who provides a towing service in Prince George's County without a license is
 12 guilty of a misdemeanor and on conviction is subject to a fine not exceeding One Thousand
 13 Dollars (\$1,000.00) or imprisonment not to exceed six (6) months, or both.

14 (d) Any tow truck providing towing services without a license shall be subject to
 15 impoundment in accordance with regulations issued by the Director and may only be retrieved
 16 upon presentation to the Department of proof of license and/or payment of a fine of One
 17 Thousand Dollars (\$1,000.00).

18 **Sec. 5-266. Exemptions.**

19 (a) The provisions of this Division shall not apply to the following:

20 (1) Persons towing their own motor vehicles;

21 (2) A towing [service] company that tows without any charge, fees, or dues
 22 connected therewith and with permission of the owner or operator of a motor vehicle;

23 (3) A towing [service] company that tows a motor vehicle into or through Prince
 24 George's County, Maryland, from a point outside the County;

25 (4) The transportation of motor vehicles for sale to and from licensed automobile
 26 dealers;

27 (5) A towing [service] company licensed in another jurisdiction responding to a call
 28 from the owner or operator for the removal of a motor vehicle from the County into such other
 29 jurisdiction;

1 (6) A towing [service] company owned or operated by the government of the United
2 States, State of Maryland, Prince George's County, or any municipality within Prince George's
3 County.

4 **Sec. 5-267. Application; information required; signature required.**

5 (a) Application for a towing service license shall be made upon a form prescribed by the
6 Director.

7 (b) In addition to such other information as the Director may reasonably deem necessary
8 for purposes of the implementation, administration, and enforcement of this Subtitle, the
9 application shall state the following:

10 (1) The name, address and telephone number of the applicant; and if the applicant is a
11 partnership, the name, address and telephone number of each partner, or if the applicant is a
12 corporation, the names, addresses and telephone numbers of the principal officers of the
13 corporation and the state in which incorporated; [and] the name and address of the authorized
14 designated representative in the State of Maryland and the state in which incorporated; the tow
15 truck's Vehicle Identification Number (VIN); proof of state registration and tag number; United
16 States or Maryland Department of Transportation identification number and proof of insurance;
17 and

18 (2) The business location from which towing services shall be provided and the
19 location of any storage facilities. It shall be the duty of every licensee to inform the Department
20 of any changes in business location or storage facility prior to the relocation from the business
21 location listed on the application.

22 (c) Every application shall be signed and certified that the information given thereon is
23 true and correct. The signature shall be that of the applicant if the applicant is an individual; or if
24 the applicant is a partnership or corporation, the signature shall be that of an officer or partner or
25 designated agent thereof.

26 **Sec. 5-268. Issuance of license; categories of license.**

27 (a) [Prior to the issuance of a license the Director shall determine the qualifications of each
28 applicant to be licensed as hereinafter provided.

29 * * * * *

30 (j) Each towing service licensed under the provisions of this Division which provides
31 towing services shall have personnel present on its business premises at all times when towing

1 services are available for the purpose of releasing vehicles impounded pursuant to State or
2 County law.] The Director shall issue regulations specifying the prerequisites, qualifications and
3 procedure for the issuance of two categories of license to provide towing services in the County.

4 (1) Level 1: Consensual Towing, the towing of a motor vehicle at the request of the
5 owner or the owner's agent, insurer, primary lienholder or law enforcement officer;

6 (2) Level 2: Non-Consensual Towing, the towing of a motor vehicle from private
7 property at the request of the owner of the property, the owner's designee, or law enforcement
8 officer, and Consensual Towing.

9 (b) The annual license fee for each category of license shall be as follows:

10 (1) Level 1: Consensual Towing: \$1,000;

11 (2) Level 2: Non-Consensual and Consensual Towing: \$2,000.

12 (c) Each licensee shall be assigned a license number which shall be displayed on each
13 licensed tow truck in accordance with subsection (g) of this section or the regulations issued by
14 the Director.

15 (d) Each tow truck operating under a license shall be assigned a tow truck medallion
16 number, which must be displayed on the tow truck in accordance with subsection (g) of this
17 section or the regulations issued by the Director. A licensee shall be subject to a truck fee of
18 twenty-five dollars (\$25) per tow truck medallion issued by the Director.

19 (e) The Department is authorized to conduct an investigation prior to issuing a towing
20 license as it deems necessary to determine the applicant's qualifications for each license, ability
21 to engage in the licensed activity without detriment to the public and compliance with the
22 regulations issued by the Director. The investigation shall include a determination of whether
23 there is adequate storage and/or repair facilities at the locations specified on the application.
24 Each storage facility listed on the application shall be in a place that is properly zoned for that
25 use, allow entry and exit in a fashion not to jeopardize the safety of any operator or vehicle, and
26 be readily available for the recovery of towed motor vehicles in a safe manner. The Director
27 shall also provide for the inspection of licensed tow trucks to determine whether the towing
28 apparatus is safe and capable of providing towing services.

29 (f) The license issued under this Division shall be prominently displayed at the licensee's
30 established place of business. In case of loss, mutilation or destruction of a license, a duplicate
31 may be issued at a cost of twenty-five dollars (\$25) per license.

1 (g) Each tow truck shall have permanent signs or markings on both sides of the vehicle, in
2 a color that contrasts with the color of the body paint and in letters not less than three (3) inches
3 in height, the name, telephone number, and license number of the licensee for that tow truck.
4 Each tow truck shall also display on the driver side fender a tow truck medallion number issued
5 by the Department that contains the license number of the licensee for that tow truck.

6 (h) The licensee shall file with the Director a towing service price list. The licensee shall
7 not make any changes in the towing service price list without first submitting revised price lists
8 with the Director.

9 (i) Before providing any consensual towing service, each tow truck operator shall inform
10 the owner or operator of the motor vehicle or the owner's representative of the towing service
11 charges and provide an itemized Towing Service Work Order Statement, except no Towing
12 Service Work Order Statement shall be required where the owner or operator of the motor
13 vehicle or the owner's representative is not reasonably available or otherwise consents to the
14 tow. In addition to such items as the Director deems appropriate by regulation, each Towing
15 Service Work Order Statement shall contain the following:

16 (1) The name, business address, license number, and telephone number of the towing
17 company, and the License Number and Tow Truck Medallion Number assigned to the tow truck;

18 (2) A brief description of the motor vehicle including the Vehicle Identification
19 Number (VIN) and the motor vehicle license plate number;

20 (3) The location from which the vehicle is being towed and the location where the
21 vehicle will be towed;

22 (4) The towing charge except in those cases where it is impractical under the
23 circumstances to give a fixed charge, the Towing Service Work Order Statement shall describe
24 the basis for such charge and provide an estimate of the anticipated cost;

25 (5) If appropriate, the rate chargeable per day for storage where the motor vehicle is
26 to be stored.

27 (j) Upon payment of any fees for towing services, the tow truck operator shall sign and
28 deliver a receipt for any payment to the owner and/or operator of the motor vehicle. The receipt
29 shall be signed in a legible manner and be accompanied with a printed signature or a tow
30 company issued employee identification number, as well as the license number of the towing
31 company and the tow truck medallion number of the tow truck providing the towing service.

1 (k) The motor vehicle shall be moved to the licensee's storage or repair facility within
 2 Prince George's County unless directed otherwise by the Police Department or the owner of the
 3 vehicle, or the owner's authorized agent. The storage or repair facility shall not under any
 4 circumstances be any area other than his established place of business as designated in the
 5 license issued by the Department of Environmental Resources. Supplementary or overflow
 6 storage shall require separate offices, must be within Prince George's County and comply with
 7 all applicable zoning requirements. Any motor vehicle so moved shall only be stored and no
 8 work shall be done on such motor vehicle without the consent of the owner or operator. Storage
 9 charges may only commence eighteen (18) hours after the motor vehicle is towed.

10 (l) Each towing company licensed under the provisions of this Division shall be required
 11 to maintain a daily towing log. Such daily towing log shall be maintained by the licensee for one
 12 (1) year. The daily towing log shall include the following:

13 (1) The license plate number of the motor vehicle towed;

14 (2) The location the motor vehicle was towed to and from;

15 (3) The reasons for towing;

16 (4) The name and telephone number of the person authorizing the towing of the
 17 motor vehicle;

18 (5) The year, make and model of the vehicle towed.

19 (6) Additional pertinent information, other than financial, as required by the Director.

20 (m) Each towing company licensed under the provisions of this Division shall be required
 21 to make available for inspection by the Department of Environmental Resources or the Police
 22 Department such daily towing log as provided for in Subsection (l), above, and shall make
 23 available for inspection by the Police Department those motor vehicles so listed in the daily
 24 towing log which have been impounded or stored upon the storage or repair facility of the towing
 25 company.

26 (n) Each towing company licensed under the provisions of this Division which provides
 27 towing services shall have personnel present at its storage yard at all times when towing services
 28 are available for the purpose of releasing vehicles impounded pursuant to State or County law.

29 **Sec. 5-270. Insurance requirement.**

30 (a) Each person obtaining a towing license under the provisions of this Division shall
 31 forthwith file with the Department of Environmental Resources a copy of his insurance policy or

1 a certificate of insurance demonstrating coverage for losses sustained by the owner of any motor
 2 vehicle due to negligence occurring during the time that the vehicle is in the custody of the
 3 towing service.

4 (b) Each person who registers a tow truck under Section 13-920 of the Transportation
 5 Article of the Maryland Annotated Code shall obtain commercial liability insurance in the
 6 amount of at least One Million [Hundred Thousand] Dollars [(\$100,000)] \$1,000,000 [per
 7 person, Three Hundred Thousand Dollars (\$300,000)] per occurrence bodily injury liability, and
 8 [One] Three Hundred Thousand Dollars [(\$100,000)] (\$300,000) per occurrence property
 9 damage liability. In addition, each person shall provide proof of insurance for cargo, unhook and
 10 garageman operations as required by State law. Each person obtaining a towing license under
 11 the provisions of this Division shall also list Prince George's County as an additional insured.

12 (c) Each licensee shall also maintain worker's compensation coverage for the operators of
 13 it tow trucks.

14 **Sec. 5-272. Prohibited acts.**

15 (a) It shall be unlawful for any towing [service] company or tow truck operator licensed
 16 under the provisions of this Division to move, tow, or store any motor vehicle to a place more
 17 than fifteen (15) miles from the place of removal or to a location outside of Prince George's
 18 County without the consent of the owner [or], operator, insurer or primary lienholder.

19 (b) It shall be unlawful for any towing [service] company or tow truck operator by any
 20 statement or action, to make any false representation to the effect that such person conducting the
 21 towing service represents or is approved by any organization which provides emergency road
 22 service for motor vehicles, or to make false representation as to the name of the towing [service]
 23 company.

24 (c) It shall be unlawful for any towing [service] company or tow truck operator at the
 25 scene of an accident or breakdown to require the execution of an agreement to have repair work
 26 performed as a condition to providing towing service.

27 (d) It shall be unlawful for any towing [service] company or tow truck operator to use any
 28 public space for the accommodation of a motor vehicle removed from the scene of an accident or
 29 breakdown, or impoundment, except as the use of any such space may be directed by a member
 30 of the Police Department.

1 (e) It shall be unlawful for any tow truck operator to furnish any towing service at the
 2 scene of an accident or breakdown unless he has been authorized or called to such scene by the
 3 owner or operator of the motor vehicle or by a member of the Police Department. The Police
 4 Department shall only contract and use towing companies licensed by the Department. If the
 5 tow is at the request of the [County] Police Department, the motor vehicle shall be removed by
 6 the towing company so called by the [County] Police Department. In all cases of [County]
 7 Police Department requested tows, the Police Officer requesting the towing service shall affix a
 8 sticker to the upper left-hand corner, rear window, of the motor vehicle designating the name of
 9 the towing service called to the scene of the accident or breakdown. Any violation of this
 10 Section by the towing [service] company or tow truck operator shall be [punishable by fine in the
 11 amount of One Thousand Dollars (\$1,000)] guilty of a misdemeanor and on conviction is subject
 12 to a fine not exceeding One Thousand Dollars (\$1,000.00) or imprisonment not to exceed six (6)
 13 months, or both for each offense.

14 **Sec. 5-273. Denial, revocation, suspension, refusal to renew license.**

15 (a) The Director is hereby authorized to deny, suspend, revoke, or refuse to renew any
 16 licenses issued under this Division if the Director finds that:

17 (1) The applicant or licensee has failed to comply with any provision contained in
 18 [this Division or Section 26-142 of] the Prince George's County Code.

19 (2) The applicant or licensee furnished or made misleading or false statements on
 20 reports, certifications and written documents required by this Division.

21 (3) A court of competent jurisdiction has found an applicant for a license or a licensee
 22 guilty of criminal activity during the preceding three (3) years directly relating to the operation
 23 or business of towing or for a crime involving theft or a related crime involving dishonesty or
 24 theft of property or constitutes a series of crimes which include receiving or the sale of stolen
 25 motor vehicles. A plea of nolo contendere shall be deemed to be the equivalent of a conviction
 26 of guilty plea for purposes of this Division.

27 (4) A court of competent jurisdiction has found any tow truck operator guilty of a
 28 criminal act authorized by the licensee.

29 (5) A motor vehicle has been towed by a towing [service] company without the
 30 consent of the owner or operator of the motor vehicle or without the direction of the Police
 31 Department or authorized under some authority of law.

1 (6) A tow truck operator has knowingly failed to comply with the specific
2 requirement of any laws regulating the towing of motor vehicles.

3 (7) The licensee has failed to make available for inspection by the Director or the
4 Police Department such daily towing log as required by Section 5-268[(i)] (m).

5 (8) The licensee has failed to allow the Police Department reasonable access to
6 inspect any motor vehicle listed in the daily log that has been impounded or stored upon the
7 storage facility of the towing [service] company.

8 (9) The licensee has willfully and deliberately engaged in a course of conduct which
9 is in violation of any provision of Division 8 of Subtitle 2 of the Prince George's County Code or
10 the consumer protection laws of the State, or has repeatedly demonstrated a disregard for
11 compliance with any provision or provisions of Division 8 of Subtitle 2 of the Prince George's
12 County Code or the consumer protection laws of the State.

13 (10) The licensee has failed to comply with an order to reimburse the owner of a motor
14 vehicle that was deemed improperly towed within fifteen (15) days of the order or failed to
15 comply with any other order of a hearing officer resulting from a proceeding under this Code or
16 such regulations as the Director may issue.

17 (11) The licensee has failed to accept a credit card for payment at its business location
18 or storage facility more than five (5) times in a year.

19 (12) The licensee has failed to appear at a hearing three (3) times in a three (3) month
20 period.

21 (b) No license shall be denied, suspended, revoked, or not renewed hereunder without the
22 Director first [affording the licensee an opportunity for a hearing thereon] notifying, in writing,
23 the licensee and its resident agent, and providing the reasons for said denial, suspension,
24 revocation or refusal to renew a license. The written notice shall be served by delivery of said
25 notice to all parties by registered or certified mail. Any party aggrieved by a decision or action
26 of the Director shall have the right to request a hearing within ten (10) calendar days after the
27 date of such decision or action. At least fifteen (15) calendar days prior to the date set for the
28 hearing, the Director shall notify the licensee to the proceeding and its resident agent in writing
29 of the date, time and place set for the hearing and the charge made, and afford all parties the
30 opportunity to be heard in person and by counsel in reference thereto. The written notice shall be
31 served by the delivery of the notice to all parties by registered or certified mail. Within ten (10)

1 working days following the hearing, the Director shall render a final decision and the reasons
 2 therefor in writing and shall forward a copy of the same to all parties by certified or registered
 3 mail.

4 (c) The Director may deny, suspend, revoke, or refuse to renew any license issued under
 5 this Division for a period of time determined by the Director to be just and reasonable in relation
 6 to the severity of the violations found to exist under [Subsection (a)(1), (2), (3), (4), (5), (6), (7),
 7 (8), (9) of] this Section. If a license has been denied, revoked, or not renewed, the applicant shall
 8 not be eligible to apply for another license for a period of twelve (12) months after the date on
 9 which the Director rendered a denial, revocation or refusal to renew decision.

10 **Sec. 5-274. Appeals.**

11 (a) Any party aggrieved by a final decision of the Director with respect to the denial,
 12 suspension, revocation, or refusal to renew a license shall have the right to appeal any such
 13 decision to the Board of Appeals for Prince George's County, Maryland, within ten (10) calendar
 14 days after receipt of a denial, suspension, revocation or refusal to renew decision rendered by the
 15 Director. Appeals to the Board of Appeals from denial, suspension, revocation, or refusal to
 16 renew decision of the Director shall be on the record of the hearing before the Director. The
 17 Board may only reverse, modify, or remand the decision of the Director only if the decision of
 18 the Director is clearly erroneous, illegal, arbitrary or capricious, or unsupported by any
 19 substantial evidence. The Board shall not have the authority to issue an order which is in conflict
 20 with a lawful order of the Director, the requirements and provisions of this Division, federal or
 21 State law. The Board of Appeals shall render a final decision within forty (40) calendar days
 22 after receiving the notice of appeal.

23 (b) Any party aggrieved by a final decision by the Board of Appeals, including the
 24 Director, shall be entitled to file an appeal within thirty (30) days to the Circuit Court for Prince
 25 George's County, Maryland. Such appeals shall be governed by the provisions of the Maryland
 26 Rules pertaining to administrative appeals.

27 **SUBTITLE 26. VEHICLES AND TRAFFIC.**

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

1 **Sec. 26-142. Definitions.**

2 (a) For the purposes of this Division, the following words and phrases shall have the
3 meanings assigned below, except in those instances in which the context clearly indicates a
4 different meaning:

5 (1) **Authorized towing company** means a towing company duly licensed by Prince
6 George's County, Maryland, pursuant to the provisions of Subtitle 5, Division 21, of this Code.

7 (2) **County** means Prince George's County, Maryland.

8 (3) **County Police** means the County Police of Prince George's County, Maryland.

9 (3.1) **Director** means the Director of Environmental Resources.

10 (4) **Impounding** means the temporary storage of a vehicle that has been removed
11 from private property, as herein defined, at a facility maintained by the County.

12 (5) **Motor Vehicle Administration** means the Motor Vehicle Administration of the
13 State of Maryland.

14 (6) **Motor Vehicle Law of Maryland** means Titles 11 through 27 of the
15 Transportation Article of the Annotated Code of Maryland (1977), as may be amended from time
16 to time.

17 (7) **Private property** means private property which has been posted by the owner of
18 the property against unauthorized parking pursuant to the provisions of this Division.

19 (8) **Property owner** includes the owner of property or any person having a
20 possessory interest in such property.

21 (9) **Towing** means the moving or removing[, and the preparation therefor, of an
22 impoundable vehicle by another vehicle for which a service charge is made either directly or
23 indirectly. A charge made indirectly refers to dues or other charges of bona fide clubs or
24 associations which provide towing services] of a vehicle by a tow truck.

25 (10) **Towing company** means [a natural person, partnership, corporation, fiduciary,
26 association, or other entity owning, operating, or conducting the business of towing or removing
27 illegally parked vehicles from private property] person or other entity that provides towing
28 services.

29 (11) **Vehicle** means a vehicle as defined in Section 11-176 of the Transportation
30 Article of the Annotated Code of Maryland (1977) as amended from time to time, which includes
31 but is not limited to motor vehicles, motorcycles and trailers.

1 **Sec. 26-142.01. Parking on posted property; determination of owner.**

2 It shall be unlawful for any person to park or cause to be parked a vehicle on private
3 property which has been posted against parking pursuant to this Division without the consent of
4 the owner of said property. The last owner of record of a vehicle found parked illegally on
5 private property, as shown by the files of the Motor Vehicle Administration, a comparable
6 agency in any other state or by any other evidence, shall be [deemed prima facie] presumed to
7 have been the owner of such vehicle at the time it was parked and the person who parked or
8 caused to be parked said vehicle. Any property owner desiring to utilize the procedures provided
9 by this Division shall enter into a contract for such towing service with a towing company
10 licensed by the Department.

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

12 (a) Any property owner desiring to utilize the procedures provided by this Division shall
13 obtain from the [Chief of Police] Director approval for signs which shall be posted on said
14 owner's property, pursuant to 26-142.03 of the section. Before erecting said sign or signs, a
15 property owner shall execute an indemnification and save-harmless agreement which shall
16 provide that the property owner shall indemnify and save harmless the County against any claim
17 of damage resulting from the towing and impoundment of vehicles removed from said private
18 property pursuant to this Division.

19 (b) Any signs, permits or stickers or other method indicating authorized parking on posted
20 property must be approved by the [Chief of Police] Director as to design, size and content.

21 (c) Any property owner or management company that fails to comply with this section
22 shall be subject to a fine of \$250 for the first offense and \$500 for any subsequent offense.

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

24 (a) Signs as described in Section 26-142.02 shall include the international tow truck symbol
25 and state that unauthorized parking is prohibited and that vehicles parked without authorization
26 may be towed and impounded without notice at the vehicle owner's expense. Said signs shall be
27 posted in such a manner and in such location as to be clearly visible from [the area] each
28 entrance to the property where parking is to be prohibited [and subject to prior approval by the
29 Chief of Police], be at least eighteen (18) by twenty-four (24) inches in size, and made of a
30 reflective material that can be seen in low light.

1 (b) On the same sign, the property owner shall post the telephone number and name of
 2 each towing company hired to tow unauthorized vehicles from the property and the address of
 3 the location where the vehicle can be reclaimed. The towing company shall answer this
 4 telephone number twenty-four (24) hours per day, seven (7) days a week.

5 (c) Any tow company, property owner or management company that fails to comply with
 6 this section shall be subject to a fine of \$250 for the first offense and \$500 for any subsequent
 7 offense.

8 **Sec. 26-142.04. Complaint by property owner; penalty.**

9 (a) Any property owner or property owner's agent may, when a vehicle is parked without
 10 authorization upon his private property without his consent, make a complaint to [an authorized]
 11 licensed towing company in Prince George's County stating that he requests that said vehicle be
 12 removed from his property. Said complaint shall be on a tow slip required by Section 26-142.05
 13 [form approved by the Chief of Police] and shall contain a statement made by the property owner
 14 or property owner's agent[, under oath,] that the vehicle which [he] they seek[s] to have removed
 15 was parked on [his] the property without [his] consent, [and] that all required signage was in
 16 place, except in the case of a single family dwelling, and [the vehicle was parked in an area from
 17 which a sign prohibiting unauthorized parking] was clearly visible. A property owner or
 18 property owner's agent who knowingly makes a false statement on the form is guilty of a
 19 misdemeanor and on conviction is subject to a fine not exceeding One Thousand Dollars
 20 (\$1,000.00) or imprisonment not to exceed six (6) months, or both.

21 (b) The tow truck operator that is to tow any vehicle under the provisions of this section
 22 may not sign the required form as an agent of the property owner, except as provided for in
 23 Section 26-142.05(c).

24 (c) It shall be unlawful for a tow truck operator to possess blank forms that have been pre-
 25 signed by a property owner or property owner's agent.

26 (d) It shall be unlawful for a property owner or property owner's agent to authorize a tow
 27 for an expired tags registration for an operable vehicle if the tags have be expired for less than
 28 thirty (30) days, unless there is evidence that the vehicle has been abandoned.

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

30 (a) The towing company shall [cause to be presented] present to the property owner or
 31 property owner's agent a tow slip, approved by the [Chief of Police] Director as to form and

1 content, which shall consist of one (1) original and [three (3)] two (2) copies. The towing
2 company and the property owner or the property owner's agent shall cause said tow slip to be
3 completed by filling in all pertinent data. Before towing or removing the subject vehicle, the
4 towing company shall cause the property owner or property owner's agent to sign said tow slip in
5 the place provided. The [towing company] tow truck operator shall [then cause a copy of the
6 towing slip to be securely affixed to the front window of the subject vehicle] keep the signed tow
7 slip with them while towing the vehicle to the approved tow storage facility, at which time it will
8 be placed with the licensee's daily tow log.

9 (b) The tow slip shall provide, as a minimum, spaces for filling in pertinent data as make
10 and model of the vehicle, vehicle identification number, date and time of towing, license plate
11 number, location towed from, name of complaining party, specific reason for the towing of the
12 unauthorized vehicle, name and phone number of towing company, the tow company's license
13 number, and location where vehicle will be stored.

14 (c) If the property owner has a written contract with the licensed towing company, the
15 property owner or property owner's agent shall not be required to either sign a complaint or tow
16 slip prior to the towing or removal of an unauthorized vehicle from his property in the following
17 instances:

18 (1) If the towing occurs during the hours of [12:00 A.M.] 9:00 P.M. and 6:00 A.M.; or

19 (2) If the vehicle is directly blocking a clearly marked fire lane, no parking zone, a
20 handicapped parking space or access to the property or a building on the property.

21 (d) Prior to the towing or removal of an unauthorized vehicle pursuant to this Section, the
22 towing company shall photograph the vehicle in a manner that clearly documents the
23 unauthorized parking of the vehicle. [The photographs shall be firmly attached to the original
24 tow slip and retained for a period of at least sixty (60) calendar days.] A copy of the photograph
25 shall be kept with the vehicle while being transported and at the location where the vehicle is
26 stored. The photograph shall be available for inspection by any interested party for a period of at
27 least one (1) year. A copy of the photograph shall be provided to the vehicle owner upon
28 request.

29 (e) A receipt shall be provided upon release of the vehicle. The receipt shall specify the
30 name, address and phone number of the towing company, the make, model and Vehicle
31 Identification Number (VIN) of the vehicle, the license plate number, the tow company's license

1 number, the time at which the vehicle was towed, the location from which the vehicle was
2 towed, the reason for the towing, the location where the vehicle was towed and any other
3 location at which the vehicle was stored. The receipt shall also include information on the legal
4 right of the vehicle owner to request a hearing pursuant to Section 26-142.10 of this Code.

5 (f) Each towing company shall provide to the property owner a written list of all vehicles
6 towed for which a signed towing slip was not obtained within twenty-four (24) hours of the tow.
7 The list shall specifically identify each vehicle, including make, model, Vehicle Identification
8 Number (VIN), and license plate number. The property owner shall be responsible for keeping
9 this list for at least ninety (90) days.

10 **Sec. 26-142.06. Towing of vehicle.**

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

14 (b) A towing company may not tow a vehicle defined as abandoned pursuant to Section
15 26-162 of this Code until forty-eight (48) hours after notice of such proposed towing has been
16 securely attached to and conspicuously displayed on the vehicle.

17 (c) Within one (1) hour after completion of the removal of the subject vehicle, the
18 authorized towing company shall notify the County Police of the location and identification of
19 the vehicle pursuant to regulations of the [Chief of Police] Director.

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

23 (e) A towing company shall not pay or offer to pay a property owner or a property owner's
24 agent, and a property owner or his agent shall not solicit or accept payment or services of any
25 kind for authorizing the towing of a vehicle from any private property.

26 (f) A person who violates this Section is guilty of a misdemeanor and on conviction is
27 subject to a fine not exceeding One Thousand Dollars (\$1,000.00) or imprisonment not to exceed
28 six (6) months, or both.

29 **Sec. 26-142.08. Notification to owner.**

30 * * * * *

31 (b) The notice shall:

1 * * * * *

2 (4) Inform the vehicle owner that he has the right to contest the validity of the towing

3 and storage of his vehicle at any time within twenty-one (21) days of the date of such notice by

4 filing a request for hearing with the [County Police] Director on a request form which shall be

5 included with such notice;

6 * * * * *

7 **Sec. 26-142.09. Notification by publication.**

8 * * * * *

9 (b) Under Subsection (a)(1) of this Section, the [Police Department] Director shall give the

10 notice provided for in Section 26-142.08 by publication in at least one (1) newspaper of general

11 circulation in Prince George's County, Maryland.

12 * * * * *

13 **Sec. 26-142.10. Hearing; determination; appeals; fines and penalties.**

14 (a) Within twenty-one (21) days from the date notice is mailed by the [County Police]

15 Director pursuant to Sections 26-142.08 or 26-142.09 of this Division, the owner or secured

16 party of a vehicle which has been impounded may request that a hearing be held to determine

17 whether the vehicle was properly towed and impounded under the provisions of this Division.

18 The request for a hearing shall be made by filing a request-for-hearing form with the [County

19 Police] Director. Notice of the hearing shall be sent by certified mail to the address provided by

20 the vehicle owner on his request for hearing and to the tow company. Notice shall be mailed at

21 least seven (7) working days prior to the scheduled hearing date.

22 (b) The hearing shall be held within [three (3)] forty-five (45) working days after the

23 request for a hearing is filed with the [County Police] Director. The hearing shall be before a

24 hearing officer designated by the County Attorney of Prince George's County. Such hearing

25 officer shall not be a member of any state or local police department.

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

27 (1) If it is determined at the hearing that the vehicle was not parked on private

28 property in violation of this Division, then the hearing officer shall issue an order that the vehicle

29 be returned to the owner and that such owner is not liable for any of the towing, storage, or other

30 charges incurred by the [County Police] towing company in connection with the impoundment.

31 If the owner has already paid such towing, storage, and other charges to the [County Police]

1 towing company, he shall be entitled to receive reimbursement of all such payments from the
 2 [County Police which, in turn, shall be entitled to payment of all such charges from the property
 3 owner who filed the complaint which caused the towing and impoundment of the vehicle] towing
 4 company.

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

9 (d) The failure by a tow company to attend a hearing, without just cause, shall result in a
 10 finding for the vehicle owner by the hearing officer. The Director may impose a fine of up to
 11 Fifty Dollars (\$50.00) per hearing on any towing company for failing to attend a hearing under
 12 this Section. The towing company may also be subject to paying the owner's reasonable
 13 attorney fees if the owner retained the services of an attorney for the hearing.

14 (e) The failure by a towing company to pay a reimbursement under subsection (c) and (d)
 15 of this section within fifteen (15) days of notice by the hearing officer, shall result in:

16 (1) a suspension by the Director of the towing company license for a period of no less
 17 than ninety (90) days pursuant to Section 5-273 (a)(10) of the Code; and

18 (2) a court in any subsequent civil action for enforcement of the decision finds the
 19 tow invalid and the amount charged was paid, the towing company shall pay the vehicle owner,
 20 in addition to the amount invalidly charged, liquidated damages of two (2) times the amount
 21 invalidly charged, but not more than One Thousand Dollars (\$1,000), and all reasonable costs of
 22 collection, including court costs and a reasonable attorney's fee.

23 **Sec. 26-142.11. Payment of charges.**

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

29 **Sec. 26-142.12. Failure to reclaim vehicle.**

30 If the owner or secured party fails to reclaim an impounded vehicle within twenty-one (21)
 31 days after notice is mailed by the [County Police] Director pursuant to this Division, the owner

1 or secured party is deemed to have waived all of his right, title and interest in the vehicle and to
2 have consented to the sale of the vehicle at public auction.

3 **Sec. 26-142.13. Sale of vehicle; disposition of proceeds.**

4 If an impounded vehicle is not reclaimed as provided for in this Division, the vehicle may
5 be sold by the towing company at public auction. The buyer of the vehicle at auction shall take
6 title to the vehicle free and clear of any claim of ownership or lien, shall be entitled to a sales
7 receipt from the [County Police] Director and shall be entitled to obtain a certificate of title of
8 the vehicle and to register it in his own name. The sales receipt shall be sufficient title for
9 transferring the vehicle to a scrap processor for dismantling, destroying or scrapping, in which
10 case only, a certificate of title is not required. The [County Police] Director or the [authorized]
11 licensed towing company shall reimburse itself from the proceeds of the sale of the vehicle for
12 the costs of towing, preserving and storing the vehicle and the expenses of the auction, including
13 all notice and publication costs incurred under this Division. Any remaining proceeds of the sale
14 shall be held for ninety (90) days for the owner of the vehicle and any entitled secured party,
15 after which the remaining proceeds shall revert to the treasury of Prince George's County.

16 **Sec. 26-142.14. Fees.**

17 (a) The towing charge is not to exceed:

18 (1) One Hundred Seventy-Five Dollars [(\$100)] (~~\$175~~) for any vehicle up to ten
19 thousand (10,000) pounds gross vehicle weight. The charge includes the first calendar day of
20 storage, mileage, and hook-up fees, which includes the use of a dolly and transportation to a
21 storage facility. The rate chargeable per day for storage where the motor vehicle is to be stored
22 by the towing company is not to exceed Fifty Dollars (\$50). No other fees of any type shall be
23 allowed, including but not limited to administrative fees or additional charges for equipment.

24 (2) [Two] Three Hundred [Fifty] Dollars [(\$250)] (~~\$300~~) for any vehicle between ten
25 thousand one (10,001) and twenty-six thousand (26,000) pounds gross vehicle weight and [Four]
26 Seven Hundred Fifty Dollars [(\$400)] (~~\$750~~) for any vehicle over twenty-six thousand (26,000)
27 pounds gross vehicle weight. The charge includes winching, unlocking vehicles, go jacks, and
28 dollies[, caging brakes and removal of a drive line]. The maximum storage charge per day
29 allowed shall be Fifty Dollars (\$50).

30 (b) If a vehicle owner returns to an unauthorized vehicle at any time after the vehicle is
31 attached to the tow truck but before it is towed from private property, the towing company shall

1 release the vehicle to the vehicle owner. If all procedures have been followed under Section 26-
 2 142.05 of this Division and the tow truck operator has physically attached the vehicle to the tow
 3 truck and lifted the vehicle at least six (6) inches off the ground before the vehicle owner returns,
 4 a drop fee may be charged not to exceed Fifty Dollars (\$50) for vehicles up to ten thousand
 5 (10,000) pounds gross vehicle weight. A drop fee not to exceed One Hundred Dollars (\$100)
 6 may be charged for vehicles [over ten thousand (10,000) pounds gross vehicle weight] between
 7 ten thousand one (10,001) and twenty-six thousand (26,000) pounds gross vehicle weight and
 8 Three Hundred Fifty Dollars (\$350) for a vehicle for any vehicle over twenty-six thousand
 9 (26,000) pounds gross vehicle weight. The towing company shall provide a receipt indicating
 10 the drop fee paid and the date of the incomplete tow.

11 (c) Storage charges may only commence [after the first calendar day the motor vehicle is
 12 available for recovery by the owner and/or operator of the motor vehicle] eighteen (18) hours
 13 after the time the vehicle was towed.

14 (d) A towing company shall accept payment in cash or by a major credit card with a credit
 15 card slip validly signed by the vehicle owner or the owner's agent for the amount of all valid
 16 charges. The towing company shall accept [the] two (2) [most widely used] major credit cards
 17 [of] that include the following: MasterCard, American Express, Discover and Visa. Credit card
 18 telephone touchtone capture option with signed receipts is allowed. A towing company that
 19 violates this Subsection is guilty of a misdemeanor and on conviction is subject to a fine not
 20 exceeding One Thousand Dollars (\$1,000.00) or imprisonment not to exceed six (6) months, or
 21 both and denial, revocation, or suspension of a license pursuant to Section 5-273(a)(11) of the
 22 Code.

23 (e) If the vehicle owner withholds payment in a credit card transaction with a towing
 24 [service] company and a court in any subsequent civil action finds that the tow was valid and the
 25 amount charged was correct, the vehicle owner shall pay the towing [service] company, in
 26 addition to the amount validly charged, liquidated damages of two (2) times the amount validly
 27 charged, but not more than One Thousand Dollars (\$1,000), and all reasonable costs of
 28 collection, including court costs and a reasonable attorney's fee.

29 (f) The Director shall create uniform signage summarizing tow fees and [A] a licensed
 30 towing company shall display prominently at each storage facility a copy of [its] the current fee

1 schedule, [and] a statement that these fees do not exceed the authorized County amount and its
2 hours of operation.

3 * * * * *

4 SECTION 2. BE IT FURTHER ENACTED by the County Council of Prince George's
5 County, Maryland, that Sections 5-268.01 and 5-274.01 of the Prince George's County Code be
6 and the same are hereby added:

7 **SUBTITLE 5. BUSINESSES AND LICENSES.**

8 **DIVISION 21. TOWING REGULATIONS.**

9 **Sec. 5-268.01. Bond.**

10 As a condition of issuance of a towing service license, each applicant shall furnish a surety
11 bond in the sum of Ten Thousand Dollars (\$10,000.00) payable to the County and executed by
12 the applicant and a surety approved by the Director. Such bond shall be conditioned upon the
13 applicant's compliance with the provisions of this Division and Subtitle 26, Division 10, and
14 upon the condition that the applicant will pay any penalty or other obligation within thirty (30)
15 days of its imposition, including but not limited to orders for reimbursement, issued by a hearing
16 officer under Section 26-142.10. In lieu of a surety bond, the Director may allow a cash deposit
17 equal to Ten Thousand Dollars (\$10,000.00).

18 **Sec. 5-274.01. Penalties.**

19 Except as provided otherwise in this Division, a violation by a person of any of the
20 provisions of this Division is guilty of a misdemeanor and on conviction is subject to a fine not
21 exceeding One Thousand Dollars (\$1,000.00) or imprisonment not to exceed six (6) months, or
22 both.

23 SECTION 3. BE IT FURTHER ENACTED that under Sections 26-142.02 and 26-142.03
24 of this Act a property owner shall have a three (3) months period to meet the requirements for
25 posting of signs approved by the Director and that, at the discretion of the Director for good
26 cause shown, may have one additional three (3) month extension to meet the requirements.

27 SECTION 4. BE IT FURTHER ENACTED that the provisions of this Act are hereby
28 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
29 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
30 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
31 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this

1 Act, since the same would have been enacted without the incorporation in this Act of any such
2 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

3 SECTION 5. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
4 calendar days after it becomes law.

Adopted this 17th day of November , 2009

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Marilynn M. Bland
Chairperson

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Jack B. Johnson
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.