



Cambridge Police Department

Effective Date: March 2, 2001

NEW POLICY # 605
Policy and Procedures

2001-3

GUIDELINES FOR THE REMOVAL/TOWING OF VEHICLES

I. Purpose

This Procedure will establish proper procedures when towing a vehicle from a public street for governmental purposes, such as violations of city ordinances, regulating stopping, standing or parking, stolen or abandoned vehicles, and vehicles associated with an arrest.

II. Policy

It is the policy of the Cambridge Police Department to tow vehicles that are creating a hazard to public safety or are impeding the efficient operation of city services. Additionally, the following circumstances may justify the removal/towing of vehicles:

- A. Recovery of a stolen vehicle or a vehicle that was taken from its owner without authority.
- B. Vehicle is disabled and is impeding the free flow of traffic.
- C. Driver is incapacitated and there is no other alternative driver available.
- D. Vehicle is being driven on the street and is not in proper working condition.
- E. In order to protect public safety, or in the event of a fire, flood, storm, snow, or other emergency that requires the removal of the vehicle.
- F. Vehicle is left unattended upon a street continuously for more than 24 hours without proper residential parking permit.
- G. When the vehicle is involved in an arrest and other reasonable alternatives have been considered.
- H. When the vehicle or its contents are evidence in a criminal investigation
- I. Street Cleaning and Snow Emergencies.
- J. Obstructing Handicapped Access.
- K. Vehicle is parked in a posted "Temporary Tow Away Zone," where the notice of such designation was posted properly and within a reasonable amount of time.

III. AUTHORITY TO TOW VEHICLES – APPLICABLE LAW

- A.** Massachusetts General Laws, Chapter 40, § 22D authorizes sergeants or other officers of higher rank to tow any vehicle parked or standing on any part of any way under control of the municipality which obstructs a handicapped ramp, or occupies a handicapped parking spot, or impedes the removal or plowing of snow or ice, or in violation of any rule or regulation which prohibits the parking or standing of all vehicles on such way.

- B.** 720 CMR 9.04(1) authorizes a sergeant or higher rank to tow a vehicle parked or standing within the limits of a State Highway, which is under their police jurisdiction, in violation of any of the parking provisions set forth:
 - 1) Within a crossover
 - 2) Within an intersection
 - 3) Upon any sidewalk
 - 4) Upon any crosswalk
 - 5) Upon the roadway in a rural or sparsely settled district
 - 6) Upon the roadway in a business or residential district where parking is permitted unless both wheels on the right side of the vehicle are within twelve inches of the curb or edge of the roadway, except where angle parking is permitted.

- C.** Massachusetts General Laws, Chapter 90, §20A1/2 establishes the authority and obligation of a police officer to enforce rules, regulations, orders, ordinances or by-laws regulating the parking of motor vehicles.

- D.** City of Cambridge Massachusetts Traffic Regulations, Section 19.3 authorizes Police Officers to remove or cause to be removed any vehicle parked or standing within the limits of any street under the jurisdiction of the City of Cambridge in violation of any of the provision set forth in
 - 1) Section 14.1 (*Stopping, Standing, or Parking Prohibited*)
 - (a) Stop, Stand or Parking Prohibited
 - 1. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
 - 2. Within an intersection;
 - 3. On a safety zone or channelizing island;
 - 4. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
 - 5. Upon any bridge or other elevated structure, or within a highway tunnel;
 - 6. On any railroad tracks;
 - 7. Adjacent to a safety zone, median island, traffic island or

channelizing island;

(b) Stand or Park a Vehicle, Whether Occupied or Not, Except Momentarily to Pick Up or Discharge a Passenger or Passengers;

1. On a sidewalk;
2. On a crosswalk;
3. In front of a public or private driveway, private road, or private way or alley;
4. Within 10 feet of a fire hydrant;
5. Within 20 feet of an intersection;
6. Within 20 feet of a crosswalk on the side from which traffic approaches, when properly signposted;
7. Within 30 feet upon the approach to any flashing signal, stop sign or traffic-control signal located at the side of a roadway, when properly signposted;
8. Within 20 feet of the driveway entrance to any fire station; and on the side of a street opposite the entrance to any fire station, within 75 feet of said entrance, when properly signposted;
9. Upon a street, other than an alley or private way, in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for free movement of vehicular traffic;
10. Upon or within an alley or private way in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for the free movement of vehicular traffic, or in such position as to block the driveway entrance to any abutting property.
11. In any street or part thereof where signs have been placed for the purpose of facilitating the cleaning of streets, the maintenance of streets, the plowing of snow or the removal of snow.

- 2) Section 14.5 (c,d) (*Storage, Trailer Parking*)
- 3) Section 14.9 (*No Stopping, Standing or Parking Near Hazardous or Congested Places*), as described in Schedule G
- 4) Section 15.2 (*Standing in Curb Loading Zone*) as described in Schedule H
- 5) Section 15.5 (*Restricted Use of Bus and Taxicab Stands*)
- 6) Section 16.5 (*Standing Or Parking During Snow Emergency on Emergency Arteries*), as described in Schedule 8
- 7) Section 16.6 (*Standing or Parking on all Streets not designed as Emergency Arteries*) as described in Schedule L
- 8) Section 16.7 (*Parking Prohibited During Certain Days For Six Hours for Cleaning*)
- 9) Section 16.8 (*Stopping, Standing Or Parking Prohibited During Certain Hours on Certain Sides of Certain Streets*), as described in Schedule 9
- 10) In any place where official traffic signs prohibit the parking of vehicles provided such signs that bear the legend, "Tow Away Zone" as described in Schedule 6A

- E. Massachusetts General Laws, Chapter 266, §29 states, “*whenever a stolen or misappropriated vehicle is recovered by a police officer or other law enforcement officer, the police department shall notify the registry of motor vehicles, the owner of record and the storage facility if any, as soon as possible. Such notification may be made by letter, telephone call or personal visit to the owner and shall include information as to the location of the recovered vehicle.*”

IV. Towing Procedures

A. PARKING OFFENSES

- 1) When an officer observes that a vehicle is left unattended upon a public way in violation of the provisions regulating stopping, standing, or parking and there exists a hazard or obstruction to the normal flow of traffic, officers will attach a parking ticket to the vehicle and should consider towing the vehicle.
- 2) If the hazard created by the parked car is unexpected (*i.e. a water main break, a gas leak*), if time permits, efforts should be made by the officer to locate the owner of the car and have it moved voluntarily.
- 3) Prior to towing a vehicle, officers will conduct a registration check and will obtain authorization from a sergeant or officer of higher rank.
- 4) Officers will attach a parking ticket to the vehicle being towed, if there is a parking violation.
- 5) Officers will complete the claim check as thoroughly as possible, by documenting all visible damage to the vehicle and all valuables inside. Officers will sign their name and badge number to the claim check.
- 6) Once the tow has been completed, the officer will radio the ECC with the pertinent claim check information on Channel 2.
- 7) The ECC dispatcher receiving the claim check information will document the claim check information in the tow log maintained by the ECC.
- 8) Prior to the end of the tour of duty, the officer completing the tow will give the completed claim check to the front desk clerk.
- 9) The front desk clerk will file the claim check according to date in the container marked for the appropriate tow company.

All vehicles towed for parking violations will have a parking ticket issued to the car.

Note: The tow books have been removed from the front desk and have been replaced by the tow log maintained by the dispatcher the ECC

B. RECOVERY OF A STOLEN VEHICLE

- 1) Recovered stolen vehicles will be towed unless the registered owner or his/her agent is present at the scene of the recovery.
- 2) Prior to towing a motor vehicle, officers will request a stolen check of the registration and V.I.N. of the car.
- 3) When it is confirmed that the vehicle being towed has been reported stolen by another agency, the ECC dispatcher will notify that agency as soon as possible of the vehicle's recovery.
- 4) If the vehicle was reported stolen to the Cambridge Police, the officer making the recovery will return the claim check as soon as possible to front desk clerk.
- 5) The front desk clerk will notify the reporting person by telephone as soon as possible of the recovery and the current location of the vehicle. The clerk will also send a Stolen Vehicle Recovery Notification letter to the reporting person, notifying the owner of the vehicle's recovery and location.

C. TOWING VEHICLES OF ARRESTED PERSONS

The following procedures will be adhered to when dealing with vehicles at the time of an arrest when the vehicle cannot be left at the scene:

- 1) When the operator of a vehicle is arrested, the arresting officer will determine if the operator can show ownership of the vehicle.
- 2) If the operator is not incapacitated and able to prove ownership, the arresting officer will advise the operator/arrestee that the vehicle will be towed from the scene unless he/she desires to dispose of the vehicle in a manner that is reasonable and lawful.
- 3) If the operator/arrestee states that he/she desires to dispose of the vehicle in a reasonable and lawful manner, the following standards will apply:
 - a) If the operator desires to leave the vehicle at the scene, the location of the vehicle must not impede traffic flow, nor must the vehicle be illegally parked (*at that time or in the near future*).
 - b) If the vehicle is left at the scene, the officer will ensure that all doors are locked prior to leaving the scene.

- 4) If a vehicle is stopped on private property and an arrest results from the stop, the vehicle may be towed from the private property. Note: In **Commonwealth v. Dunn**, 34 Mass. App. Ct. 702 (1993), the court held that the police may lawfully impound a vehicle where they could reasonably be concerned for their liability in exposing the vehicle to theft or vandalism, as well as the inconvenience to the property owner.

VII. TOWING VEHICLES FOR TRESPASSING ON PRIVATE PROPERTY

When the owner of private property wants a vehicle removed from his/her land, Massachusetts General Laws Chapter 266, §120D governs the procedures for the tow. The Cambridge Police Department will not tow vehicles that are trespassing on private land unless there is a hazard to public safety or the vehicle has been confirmed as stolen.

A. Posted and Direct Notice. *“No person shall remove a vehicle which is parked or standing on a private way or, property unless the operator of such vehicle has been forbidden to park or stand, either directly or by posted notice, by the person who has lawful control of such way or property.”*

B. Written consent of Vehicle Owner or Police Notification Prior to Removal.

No vehicle shall be removed unless the vehicle’s owner consents or the person with lawful control of the way or property notifies the police before any vehicle is removed and *“shall be in writing unless otherwise specified by police regulations.”*

Note: Immediate notification by the tow companies to ECC of a vehicle being towed from private property satisfies this requirement.

C. If the owner appears before the towing is completed, they may be charged ½ of the usual tow charge. *(This applies to private property only)*

VIII. RELEASE OF VEHICLES WHEN OWNER OR AGENT ARRIVES AT SCENE

A. When ever the owner or owner’s agent arrives at the scene of a tow on a **public way** while the tow is in progress, the vehicle will be dropped immediately, and **no request for payment or service charge shall be made to the owner or owner’s agent by the tow company.** The parking ticket, when required, will remain with the vehicle. **EXCEPTION:** according to agreements with the city, tow companies may charge the full contracted fee when the towed vehicle sits completely on a flat- bed tow truck.

B. See VII-C for tow charges from private property.

IX. ABANDONED VEHICLES (72 Hour Rule)

- A.** According to Massachusetts General Laws, Chapter 90, §22C, if the Superintendent of streets (*Traffic & Parking*) or other officer having charge of the public ways of the city reasonably deems that any motor vehicle apparently abandoned by its owner and standing for more than 72 hours upon a public or private way without the permission of the owner or lessee of said property, and the vehicle is worth less than the cost of removal and storage, may take possession of the vehicle and dispose of the vehicle as refuse.
- B.** In the City of Cambridge, officers will assist the Traffic, Parking, and Transportation Department in removing abandoned vehicles upon the request of the Director of Traffic, Parking and Transportation or his/her designee.

X. REPOSSESSION OF VEHICLES

- A.** Pursuant to Massachusetts General Laws, Chapter 255B, §20C, creditors are required to notify the police department of the city or town in which the repossession occurred within an hour after the removal of the vehicle.
- B.** When the creditor notifies the police of such repossession, that notice will be directed to the front desk.
- C.** The Clerk will FAX a copy of the notice to Emergency Communications Center.
- D.** The Emergency Communications Center will enter the vehicle information into the CJIS System, and the tow log.

Police Commissioner