

Section 82-5-32. Removal and disposition of vehicles unlawfully parked on private or County property.

(a) It shall be lawful for any owner, operator, lessee, or authorized agent of the one having control of the premises of any parking area or space therein or part thereof, or of any other lot or building, including the County, to have any motor vehicle occupying such lot, area, space or building or part thereof without the permission of such owner, operator, or authorized agent of the one having control of such premises removed by towing or otherwise to a storage site which meets the requirements of this Section until called for by the owner or his agent; provided, that the following conditions are met:

(1) A property owner shall erect and maintain a permanent sign, readable during daytime and nighttime hours, conspicuously posted at all entrances or otherwise so located as to be visible to any person parking a vehicle on the property, notifying the public of parking restrictions and that towing is enforced. The signs must have wording that indicates "private property," "reserved parking," or otherwise reasonably informs the public of parking restrictions and that towing of vehicles may occur. The words "If towed, call 691-2131" must be affixed to the front of each sign; provided, however, that the requirement for signs shall not apply on any property used at the time of removal for one single-family residence or one two-family residence.

(2) A tow truck operator who tows a trespassing vehicle, parked in violation of the posted parking restrictions, from private or County property shall immediately notify the Fairfax County Public Safety Communications Center (PSSC); provided, however, whenever a vehicle is towed from locations within the Town of Herndon or the Town of Vienna, the tow truck operator shall notify the law enforcement agency in that jurisdiction.

It shall be unlawful to fail to report such tow as required by this Section, and violation of the reporting requirement of this Section shall constitute a traffic infraction punishable by a fine of not more than \$100.00. Such failure to report shall limit the amount which may be charged for the storage and safekeeping of the towed vehicle to an amount no greater than that charged for one day of storage and safekeeping. The tow truck operator shall inform the law enforcement agency personnel of: (i) the name of the tow truck operator and the tow company removing the vehicle; (ii) the make, model, color, year, vehicle identification number and the license plate of the towed vehicle; (iii) the address the vehicle was towed from; (iv) the time that the vehicle was towed; and (v) the storage site where the vehicle is located.

(3) The property owner, operator or lessee has directly or through an agent, expressly authorized the towing of the particular vehicle, or has by a written agreement or contract, delegated to a tow company and such company's tow truck operators, the authority to make the decision to remove a trespassing vehicle without express authorization. For each vehicle towed, a tow company shall maintain, for a period of six months, a record of the authorization to tow, including: (i) the information required to be provided to the PSSC or other state or local law enforcement agency pursuant to subsection (a)(2) of this Section; (ii) the reason for the tow; (iii) the name, address, telephone number and authority of the person authorizing the tow, and that individual's signature, if expressly authorized; or (iv) reference to the written agreement delegating authority to the tow company and its tow truck operators to tow vehicles from the premises.

(4) Notwithstanding the foregoing provisions of this Section, if the owner or operator of the trespassing vehicle is present and removes the trespassing vehicle from the premises before it is connected to the towing vehicle, the owner or operator shall not be charged any fee; if the towing vehicle has been connected to the trespassing vehicle, the trespassing vehicle shall not be towed, but the owner or operator of the trespassing vehicle shall be liable for a reasonable fee, not to exceed \$25.00, in lieu of towing, provided that the owner or operator of the trespassing vehicle forthwith removes the trespassing vehicle from the premises.

(5) In lieu of having a trespassing vehicle removed by towing or otherwise, the owner, operator, lessee, or other authorized agent of the premises on which the trespassing vehicle is parked may cause the vehicle to be immobilized by a boot or other device that prevents a vehicle from being moved by preventing a wheel from turning, provided that the boot or other device does not damage the vehicle or wheel. The charge for removal of such device shall not exceed \$25.00.

(6) In lieu of having such vehicle removed by towing or otherwise, or causing the vehicle to be immobilized, the owner, operator, lessee or other authorized agent of the premises on which the trespassing vehicle is parked may request that a duly authorized local government official or law enforcement officer issue, on the premises, a notice of the violation of a parking ordinance to the registered owner of the vehicle.

(b) This Section shall not apply to police, fire or public health vehicles or when a vehicle shall, because of a wreck or other emergency, be parked or left temporarily upon the property of another.

(c) The provisions of this Section shall not be construed to prohibit vehicles from being towed when otherwise permitted by law.

(d) A tow truck operator shall not tow a motor vehicle from private property unless the property owner has, directly or through an agent, expressly authorized the towing of the particular vehicle. However, a tow company or tow operator, to whom the authority to make the decision to remove a trespassing vehicle has been delegated by the property owner or the owner's agent, may remove the trespassing vehicle at any time. Such operator must comply with all the requirements of this Article. A tow company or tow truck operator to whom the authority to make a decision to remove a trespassing vehicle has been delegated, shall not tow or remove a vehicle from private property unless the vehicle is parked in violation of restrictions posted on the sign required by subsection (a) of this Section.

(e) Every site to which trespassing vehicles are towed shall comply with the following requirements:

(1) A tow truck operator must tow each vehicle to a storage site located within the boundaries of Fairfax County.

(2) A storage site shall be lighted during the hours of darkness to afford distinct visibility to all portions of the facility.

(3) A towed vehicle shall not be stored more than a reasonable walking distance from the area where towing and storage fee payments are received.

(4) The town operator shall exercise reasonable care to keep the towed vehicle and its contents secure at all times.

(5) Personal property in the vehicle must be released in accordance with State law.

(6) No tow truck operator may take a vehicle to a storage lot which does not meet these standards:

(A) Whenever a storage lot is closed, a conspicuous sign must be posted at the entrance of the storage lot which provides instructions and a local telephone number for obtaining release of a vehicle when the lot is not open;

(B) The local telephone number posted in the notice required by the preceding subsection shall be answered 24 hours a day; and

(C) The towed vehicle shall be available for release within two hours from the time the owner calls for the vehicle.

(f) All towing companies engaged in the business of towing vehicles from private property without the consent of the vehicle owner shall register with the Department of Cable Communications and Consumer Protection. Such registration shall contain the following information:

(1) Name, business address and telephone number of the towing company; and

(2) Address of each storage site to which trespassing vehicles are towed.

(g) Every tow company which engages in the towing of trespassing vehicles shall prominently display at its main place of business a comprehensive list of all its fees for towing, recovery and storage services and the company's normal business hours. A tow operator shall not collect from the owner of a towed vehicle charges in excess of those posted.

This section shall not apply to vehicles towed, stored, or both towed and stored at the request of a law enforcement officer.

(1) The maximum fees allowed to be charged are:

(A) Initial hookup and tow fee not to exceed \$50.00.

(B) Vehicle storage at a rate not to exceed \$25.00 for up to the first 24-hour period and shall not exceed \$25.00 for each subsequent 24-hour period or any portion thereof for the safekeeping of vehicles or trailers.

(C) Release fees may be charged for vehicles claimed by the owner after normal business hours. No release fee may be more than \$15.00. No other fees for release or administration may be charged.

(2) Tows may not charge additional fees for the use of a cable, flatbed, or dolly. Fees for extensive and unusual recovery and towing operations, including but not limited to the use of specialty equipment, may be charged at a reasonable rate.

(3) In all cases where a fee is paid, the tow truck company must provide the vehicle owner with a receipt that bears the complete name and address and telephone number of the tow truck company. Such receipt shall itemize all fees assessed in the towing, storage, and release of said vehicle. Such receipt shall include a printed notice stating that tows shall agree to mediate all complaints submitted to the Department of *Cable Communications and Consumer Protection* for resolution.

(h) A tow company or tow truck operator shall not require a vehicle owner to sign any waiver of the owner's right to receive compensation for damages to the owner's vehicle as a condition of the owner retrieving the towed vehicle.

(i) A tow company shall prominently display at the storage site, in a conspicuous place in that portion of the premises normally issued for receipt of payment, a sign which is readily noticeable and readable. The sign shall be furnished by the Department of Cable Communications and Consumer Protection, listing the Department's telephone number and informing consumers that they may contact the Department for assistance.

(j) A tow company or tow truck operator shall neither offer nor give any rebate, payment, or other compensation to a property owner or other person contracting for, authorizing or requesting the towing or removal of a vehicle.

(k) Except as otherwise provided by this Section, any violation of Fairfax County Code § 82-5-32 shall be punishable as a Class 3 misdemeanor. (3-13-63; 1961 Code, § 16-135; 34-78-82; 19-79-82; 30-89-82; 1-94-82, § 1; 19-06-82)