

IMPOUNDMENT RELEASES, HOLDS AND HEARINGS

1. **PURPOSE:** To establish guidelines for conducting impoundment hearings and for releasing impounded vehicles.
2. **POLICY:** Impoundments will be handled consistent with applicable City Ordinances and Departmental directives.
3. **SCOPE:** This directive is applicable to sworn supervisors conducting impoundment hearings and any employee involved with impounding or releasing impounded vehicles.
4. **RESPONSIBILITY:** All personnel falling under the scope of this directive will be held responsible for compliance with its provisions.
5. **DEFINITION: “Notification”** shall be defined as the date on which the letter is mailed to the registered owner stating that the vehicle has been impounded and that contact should be made with the impoundment contract holder concerning release. The owner will begin paying storage fees from the date of release or the date Records mailed the notification, whichever comes first.
6. **PROCEDURES**
 - A. **IMPOUNDMENT HEARINGS:** City of Huntsville Ordinance 05-654, Section 25-81 states that any person disputing or objecting to the imposition of charges resulting from the impoundment of a vehicle or property is entitled to an immediate due process hearing. The local zone listed on the impoundment form will determine which precinct is responsible for the hearing. Communications only needs to notify a supervisor from the responsible precinct that an impoundment hearing has been requested. It will be the notified supervisor’s responsibility to respond or to find a suitable supervisor to respond to the hearing. Police supervisors conducting impoundment hearings will use the following guidelines to determine responsibility for towing and storage fees.
 1. **VEHICLES HELD SOLELY FOR EVIDENCE PURPOSES:** The City must pay fees for towing and storage in situations where the vehicle is held solely for evidence purposes. When property must be held as evidence, the City must pay the impoundment fees because such fees are incurred as a direct result of a municipal exercise of the law enforcement function.
 - a. If increased fees result from delays due to evidence processing, the amount of the increase must be borne by the City because it directly emanates from an exercise of its police function.
 - b. When the vehicle is no longer needed for evidentiary purposes and can be released, and the owner has been notified, he or she is responsible for the storage fees incurred after such notification.

EXCEPTION: When the registered owner has been charged with an offense that

directly caused impoundment of the vehicle and it has been held solely for evidence purposes, the owner must pay the fees for towing and storage. If the registered owner is seeking the release of the vehicle and did NOT directly cause its impoundment, the City must pay the fees for towing and storage.

2. **LOST, STOLEN OR ABANDONED VEHICLES:** City Ordinance 05-654, Section 25-80, which authorizes the impoundment of lost, stolen or abandoned vehicles, gives the City a lien on an impounded vehicle “for the amount of the cost of removing and impounding such a vehicle, plus such reasonable amount as may be charged by the depository for storing such vehicle.” The owner of a lost, stolen or abandoned vehicle under this ordinance may redeem his/her property at any time before sale upon paying the “reasonable expense of taking the property in charge, and its maintenance and storage.” This also includes vehicles impounded as a result of an automobile accident wherein the owner was injured and the vehicle was causing an obstruction of traffic. [NOTE: Regarding stolen vehicles, these are vehicles where all evidentiary responsibilities (i.e., fingerprinting) have taken place at the scene and the Department has made contact with the owner prior to impoundment but the owner has not, for whatever reason, taken possession of the vehicle. **OFFICERS SHOULD NOTE, ON THE IMPOUNDMENT FORM, WHETHER OR NOT CONTACT WAS MADE WITH THE OWNER AND WHETHER OR NOT ALL EVIDENTIARY REQUIREMENTS HAVE BEEN MET.**
3. **MISTAKE ON THE PART OF THE IMPOUNDING OFFICER, INVESTIGATOR, OR RECORDS PERSONNEL:** If an officer improperly impounds a vehicle (no legal justification), or if an Investigator or Records personnel fail to perform established procedures for the prompt notification and release of the vehicle, the City will assume the costs caused by the mistake. Increased fees resulting from reasonable, normal and customary delays in paperwork, identification, or contact would be borne by the owner of the vehicle as incident to the recovery process. However, increased fees due to error on the part of HPD should be borne by the City.
4. **DOCUMENTATION:** After thoroughly evaluating all the circumstances of the impoundment, the hearing officer (sworn supervisor) should complete the following forms:
 - a. **IMPOUNDMENT HEARING FORM:** In the lower portion of the form he/she should briefly state the reasons for the decision, indicate who is responsible (City or owner) for payment of fees, and sign the form.
 - b. **AUTHORIZATION FOR BILLING:** The decision of the hearing officer as to the City’s responsibility for payment should be indicated on this form. The hearing officer will then sign the form, authorizing payment. For processing purposes, a brief statement should be included as to why the City is responsible for payment of the fees.

A copy of the impoundment hearing form and the authorization for billing form will be faxed by records personnel to the impoundment contract holder. The original forms will be attached and filed with the original impoundment sheet. If it

is determined that the City will not be responsible for any charges, no copies will be faxed to the impoundment contract holder. The original forms will be attached and filed with the original impoundment sheet.

B. **VEHICLE RELEASES:** Records personnel will refer any citizen request for a vehicle release to the impoundment contract holder.

1. **LIEN HOLDER OR TITLE BROKER:** An impounded vehicle will not be released to a lien holder or title broker unless the lien holder or title broker meets the requirements of either paragraphs (a) or (b), and the requirements of paragraph (c), immediately below:

- a. The lien holder or title broker presents either a court order, rendered by an Alabama Court, or a court order rendered by a court in another State, accompanied by a Notice of Filing Judgment issued by an Alabama court. The court order should either (1) order release of the vehicle to the lien holder or title broker, (2) permit repossession by the lien holder or title broker, or (3) vest title, interest and/or right to possession in the lien holder or title broker. A hold will be placed on the vehicle so that it will not be included in an authorized sale if the lien holder or title broker presents a file-stamped copy of his complaint commencing an action to obtain a court order or if so advised by the Legal Department. If a lien holder or title broker presents a file-stamped copy of his complaint commencing an action to obtain a court order, Records will forward a copy of this material to the Legal Department.
- b. The lien holder or title broker presents a power of attorney executed by the registered owner of the vehicle giving permission to the lien holder or title broker to redeem or recover the impounded vehicle. The power of attorney may be executed for the single purpose of redeeming or recovering the vehicle or for several purposes, one of which must be redeeming or recovering the vehicle from impoundment. However, a power of attorney which permits the lien holder or title broker to perform acts necessary to secure title is not sufficient unless it also contains language specifically allowing the lien holder or title broker to redeem or recover a vehicle picked up by law enforcement. A sample power of attorney may be supplied by Records to a lien holder or title broker attempting to pick up a vehicle. All power of attorney must be signed by the registered owner and notarized.
- c. A completed, signed and witnessed hold harmless agreement, supplied by Records, will be required from any lien holder or title broker recovering or redeeming a vehicle based upon presentation of power of attorney, and requested from any lien holder or title broker recovering or redeeming an impounded vehicle based upon presentation of a court order. The City cannot refuse to release a vehicle which the court has ordered released if the lien holder or title broker refused to sign a hold harmless agreement. The lien holder or title broker must also present the certificate of title to Records for verification of ownership.

- d. A lien holder or title broker who is listed as the owner on the front of the certificate of title may seek to redeem an impounded vehicle under paragraph 5(B) (3) of this directive. A lien holder or title broker who is listed as the owner (buyer) on the back of a certificate of title may seek to redeem an impounded vehicle under paragraph 1(b) above.
2. INSURANCE COMPANIES: An impounded vehicle will not be released to an insurance company unless the insurance company meets the requirements of either paragraphs (a) or (b), and the requirements of paragraph (c), immediately below:
 - a. The insurance company presents either a court order, rendered by an Alabama Court, or a court order rendered by a court in another State, accompanied by a Notice of Filing Judgment issued by an Alabama court. The court order should either (1) order release of the vehicle to the insurance company, (2) permit repossession by the insurance company, or (3) vest title, interest and/or right to possession in the insurance company. A hold will be placed on the vehicle so that it will not be included in an authorized sale if the insurance company presents a file-stamped copy of its complaint commencing an action to obtain a court order or if so advised by the Legal Department. If an insurance company presents a file-stamped copy of its complaint commencing an action to obtain a court order, Records will forward a copy of this material to the Legal Department.
 - b. The insurance company presents a power of attorney executed by the registered owner of the vehicle giving permission to the insurance company to redeem or recover the impounded vehicle. The power of attorney may be executed for the single purpose of redeeming or recovering the vehicle or for several purposes, one of which must be redeeming or recovering the vehicle from impoundment. However, a power of attorney which permits the insurance company to perform acts necessary to secure title is not sufficient unless it also contains language specifically allowing the insurance company to redeem or recover a vehicle picked up by law enforcement. A sample power of attorney may be supplied by Records to an insurance company attempting to pick up a vehicle. All power of attorney must be signed by the registered owner and notarized.
 - c. A completed, signed and witnessed hold harmless agreement, supplied by Records, will be required from any insurance company recovering or redeeming a vehicle based upon presentation of power of attorney, and requested from any insurance company recovering or redeeming an impounded vehicle based upon presentation of a court order. The City cannot refuse to release a vehicle which the court has ordered released if the insurance company refused to sign a hold harmless agreement. The lien holder or title broker must also present the certificate of title to Records for verification of ownership.
 - d. An insurance company that is listed as the owner on the front of the certificate of title may seek to redeem an impounded vehicle under paragraph 5(B) (3) of this directive. An insurance company that is listed as owner (buyer) on the back of a certificate of title may seek to redeem an impounded vehicle under paragraph 1(b)

above.

3. ALL OTHERS: The release of impounded vehicles under situations other than those described above should be only to the registered owner of the vehicle (see “EXCEPTIONS” following this section).
 - a. A registered owner must present proof of ownership, i.e.; a certificate of title, or tag receipt for the vehicle, and positive identification that he/she is the person named on the proof of ownership.
 - b. The registered owner must produce a valid U. S. driver’s license. If the registered owner does not possess a valid U. S. driver’s license, a licensed driver must be present when obtaining a release for the impounded vehicle. A form must be completed showing the owner’s information and the licensed driver’s information.
 - c. Vehicles cannot be released to anyone without a valid U. S. driver’s license.
 - d. If the Alabama driver’s license presented is suspended, revoked or cancelled, the license must be confiscated and the licensee advised of the status. The Alabama drivers license along with a copy of the NCIC print out will be given to the city magistrate.

4. RETRIEVAL OF PERSONAL PROPERTY / PAPERWORK FROM IMPOUNDED VEHICLES: In any case where a person is permitted to retrieve personal property from an impounded vehicle, documentation, including a copy of the evidence supporting the release of the property should be made and a Hold Harmless Agreement should be obtained from the individual seeking to redeem the personal property. The actual retrieval of property should be monitored and the fact that actual retrieval occurred in accordance with authorization should be documented.

NOTE: No access to a vehicle impounded and being held for evidentiary reasons will be allowed without the authorization of the assigned case investigator.

- a. The majority of individuals coming forward to redeem personal property from an impounded vehicle will fall under paragraph 4. If an owner can show proof of ownership of the vehicle under paragraph 3(a) (but perhaps cannot pay the fee to redeem the car at that time), he/she should be allowed to retrieve his/her personal property.
- b. Similarly, if he/she can present proof of ownership of personal property in the vehicle, even though he/she cannot prove ownership of the vehicle itself, he/she should be permitted to retrieve the personal property. Examples of acceptable evidence of personal property ownership would include, but not be limited to:
 - (1) Receipts (in the person’s name) with full descriptions of particular items that match the items in the impounded vehicle.
 - (2) An insurance listing (in the person’s name) of item serial numbers which match the serial numbers of the items in the impounded vehicle; or

- (3) Valid identification that matches the person's name as it appears on the items in the impounded vehicle.
 - c. If the person does not satisfy the foregoing, he/she should be permitted to retrieve personal property from an impounded vehicle only if he/she obtains authorization from the registered owner for removal of personal property. This authorization should meet the requirements of paragraph 4 and should also specify (with an adequate description) the particular items of personal property authorized to be removed.
 - d. If the registered owner is deceased, injured or ill, the personal property in the impounded vehicle should be released to a third party only if the requirements of 4(b) or (c), as appropriate, are satisfied. However, if the third party can present acceptable evidence of ownership of particular items of personal property in such a vehicle, then he/she should be permitted to retrieve those items, as indicated in the listing above.
5. EXCEPTIONS: As described above, vehicles will ordinarily be released only to the registered owner. The following are exceptions to the rule:
- a. REGISTERED OWNER AUTHORIZING RELEASE TO THIRD PARTY: A registered owner of a vehicle may authorize the vehicle to be released to another party. Such authorization for release can be made on our "Impoundment Release Authorization Form" or by power of attorney and must be signed by the owner and be notarized. In all events, the vehicle must be identified by year, make and VIN. The person authorized to receive the vehicle must be positively identified, and must possess a valid U. S. driver's license. A driver's license, picture ID, or some other valid identification (your discretion) will suffice. The person claiming the vehicle must present a certificate of title or tag receipt showing that the person on whose behalf the vehicle is claimed is indeed the owner.
 - b. DECEASED REGISTERED OWNER: The vehicle of a deceased registered owner should be released only to the executor, administrator or personal representative of the deceased registered owner's estate upon presentation of Letters of Testamentary or Letters of Administration. These letters are obtained through the Probate Court. Letters of Testamentary are obtained when there is a Will, Letters of Administration when there is NOT a Will.
 - c. INJURED OR ILL REGISTERED OWNER: The vehicle of a registered owner who is unable to claim the vehicle due to injury or illness should be released only to the registered owner's conservator (appointed by court), if one exists, or to a person possessing a power of attorney to act on the person's behalf. The power of attorney should state that the attorney-in-fact can act and enter into transactions on behalf of the registered owner with respect to the registered owner's personal property or specifically with respect to the vehicle. If the registered owner does not have a power of attorney, the person claiming the vehicle will be informed that he/she must obtain a limited power of attorney on behalf of the owner on their own in order to secure release.
 - d. LEASED VEHICLES: When a vehicle subject to a long - term lease has been impounded

and the person who has leased the vehicle seeks to redeem it from impoundment, Records personnel will require and make copies of the following:

1. Positive identification that the person seeking the release is the one on the lease;
2. The lease agreement, which should indicate that the vehicle was leased to the person at the time of the impoundment;
3. The current tag receipt, which should have the lessee's name on it; and
4. A hold harmless agreement.

A. HOLDS

1. **MARKING FORMS:** To place a hold on a vehicle, "HOLD" must be written clearly on the impoundment form, along with the name of the investigator authorizing the hold. Simply writing a division name (i.e. CID, THI, or CSI) to place an impounded vehicle on "HOLD" is unacceptable. Records Personnel receiving an impoundment form with a "HOLD" will email the listed Investigator at the time that the impoundment is received to verify the status of the vehicle hold. The listed Investigator will also be reminded to come to Records to release the hold once evidentiary purposes have been satisfied.
2. **HOLDS PLACED BY OFFICERS:** Any officer placing a hold on a vehicle should provide an explanation as to why the vehicle is to be held. If no explanation has been provided, Records personnel should immediately contact the officer to verify the hold and determine justification.
3. **INVESTIGATOR'S AUTHORIZATION FOR RELEASE:** The release of impounded vehicles that have "Holds" placed on them by investigators must be authorized by the investigator before they can be released.
INVESTIGATORS SHALL GO PERSONALLY TO RECORDS AS SOON AS POSSIBLE AND SIGN THE IMPOUNDMENT SHEET, THE HOLD RELEASE NOTIFICATION FORM, AND COMPLETE ANY NECESSARY AUTHORIZATION FOR BILLING FORMS WHEN THE VEHICLE IS ELIGIBLE FOR RELEASE. If release has not been authorized within two days, Records personnel will contact the officer or investigator to verify continuation of the hold.
4. **SUPERVISOR'S RELEASE:** In the absence of the impounding investigator or officer, his or her supervisor can authorize the release of a "held" vehicle.
5. **JUSTIFICATION FOR "HOLDING" VEHICLES:** Vehicles can be held only for evidentiary purposes and when no longer needed must be released. Generally, property cannot be seized and held without statutory authority or a court order. For example, the law forbids property being held simply for the purpose of getting a suspect to come in and identify himself or herself in order

to claim it and be subsequently arrested.

B. UNCLAIMED VEHICLES:

1. After 60 days, vehicles eligible for release but not redeemed by the owner will be sold in accordance with the Code of Alabama 32-13-1 et seq. and 11-47-116 by the City of Huntsville impoundment contractor.