

**SILVER BAY POLICE DEPARTMENT  
TOWING AND/OR PLACING VEHICLES IN CUSTODY**

Minnesota Statutes, Section 168B.011, 168B.03, 168B.035,  
168B.04, 168B.045, 169.042, 169.33, 169A.48, 169A.63,  
609.531 – 609.5318 and 626.04  
City of Silver Bay

**POLICY #D-10**

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**I. PURPOSE**

The purpose of this policy is to establish uniform guidelines, which Silver Bay Police Officers shall follow when towing and/or placing vehicles in custody.

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**II. POLICY**

It is the policy of the Silver Bay Police Department to provide guidelines for the towing and placing vehicles in custody, while respecting the property rights of and expense to vehicle owners.

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**III. DEFINITIONS**

**A. ABANDONED VEHICLE:** "Abandoned vehicle" means a motor vehicle, as defined in section 169.011, that:

1. Has remained illegally:
  - a. for a period of more than 48 hours on any property owned or controlled by a unit of government, or more than four hours on that property when it is properly posted; or
  - b. on private property for a period of time, as determined under section 168B.04, subdivision 2, without the consent of the person in control of the property; and
2. Lacks vital component parts or is in an inoperable condition such that it has no substantial potential for further use consistent with its usual functions unless it is kept in an enclosed garage or storage building.
3. THE FOLLOWING ARE NOT ABANDONED VEHICLES:
  - a. A classic car or pioneer car, as defined in section 168.10, is not considered an abandoned vehicle.
  - b. A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order and said vehicle may not be processed as an abandoned vehicle while the police hold, writ or court order is in effect.

**B. INOPERABLE VEHICLE:** “Inoperable vehicle” means any motor vehicle that, as defined in City of Two Harbors Ordinance #74, Second Series that:

1. is not in operating condition by virtue of missing drive train components, tires or other parts; or
2. is incapable of performing the transportation function for which it was manufactured by virtue of missing drive train components, tires or other parts.

**C. JUNK VEHICLE:** “Junk Vehicle” means a vehicle that:

1. Is three years old or older;
2. Is extensively damaged, with the damage including such things as broken or missing wheels, motor, drive train, or transmission;
3. Is apparently inoperable;
4. does not have a valid, current registration plate; and
5. has an approximate fair market value equal only to the approximate value of the scrap in it.

**C. UNAUTHORIZED VEHICLE:** “Unauthorized Vehicle” means a vehicle that is subject to removal and impoundment pursuant to Minnesota Statute 168B.035 or 168B.04, subdivision 2, but is not a junk vehicle or an abandoned vehicle.

**D. MOTOR VEHICLE:** "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires. Motor vehicle does not include an electric personal assistive mobility device or a vehicle moved solely by human power.

**E. TOWING AUTHORITY:** “Towing authority” means any local authority authorized by Minnesota Statute 169.04 to enforce the traffic laws, and a private towing company authorized by a local authority.

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#### **IV. TOWING NOT PERMITTED**

**A.** A motor vehicle may NOT be towed:

1. For the sole reason of NO PROOF OF INSURANCE. (Minnesota Supreme Court – State v. Gauster – July 10, 2008)

NOTE: There is no statutory requirement or duty for a law enforcement agency to remove a parked vehicle from the roadway simply because it is not insured. State law provides that it is illegal to operate or permit a vehicle to be operated without insurance (Minnesota Statute 169.797 subd.

2); however, case law infers that operation of a vehicle requires some action on the part of the driver. Therefore it is reasonable to conclude that it is illegal to drive

(operate) the vehicle without insurance, but it is not illegal for the vehicle to remain parked on the street or highway without insurance, as long as it is not a safety hazard or in violation of parking restrictions.

2. with expired registration tabs less than 90 days

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## **V. AUTHORITY TO TOW AND HOLD IN CUSTODY**

A motor vehicle may be towed or removed and held in custody, from public streets and highways for, including but not limited to, the following circumstances:

- A.** The vehicle is parked in violation of snow emergency regulations
- B.** The vehicle is parked in a rush-hour restricted parking area
- C.** The vehicle is blocking a driveway, alley or fire hydrant
- D.** The vehicle is parked in a bus lane, or at a bus stop, during hours when parking is prohibited
- E.** The vehicle is parked within 30 feet of a stop sign and visually blocking the stop sign
- F.** The vehicle is parked in a disability transfer zone or disability parking space without a disability parking certificate or disability license plates
- G.** The vehicle is parked in an area that has been posted for temporary restricted parking at least twelve (12) hours in advance
- H.** The vehicle is parked in the right-of-way of a controlled-access highway or within the traveled portion of a public street when travel is allowed
- I.** The vehicle is unlawfully parked in a zone that is restricted by signs to use by fire, police, public safety or emergency vehicles
- J.** A law enforcement official has probable cause to believe that the vehicle is stolen, or that the vehicle constitutes or contains evidence of a crime and impoundment is reasonably necessary to preserve the evidence
- K.** The driver, operator or person in physical control of the vehicle is taken into custody and the vehicle is impounded for safekeeping
- L.** A law enforcement official has probable cause to believe that the owner, operator, or person in physical control of the vehicle has failed to respond to five or more citations for parking or traffic offenses
- M.** The vehicle is unlawfully parked and prevents egress by a lawfully parked vehicle
- N.** The vehicle is parked, on a school day during prohibited hours, in a school zone on a public street where official signs prohibit parking; or

- O.** The vehicle is junk, abandoned, or unauthorized vehicle, as defined in Minnesota Statute 168B.011, or an inoperable vehicle, as defined by City of Silver Bay Ordinance #74, Second Series and subject to immediate removal under this chapter.
- P.** When proof of ownership or identification of the vehicle must be established
- Q.** The vehicle is held pursuant to a forfeiture proceeding, Minnesota Statutes 169A.63, 609.531 – 609.5318

A motor vehicle may only be towed or removed and held in custody, from private property for the following circumstances:

- A.** The driver, operator, or person in physical control of the vehicle is taken into custody and the vehicle is impounded for safekeeping.
- B.** The vehicle is held pursuant to a forfeiture proceeding, Minnesota Statutes 169A.63, 609.531 – 609.5318.
- C.** A law enforcement official has probable cause to believe that the vehicle is stolen, or that the vehicle constitutes or contains evidence of a crime and impoundment is reasonably necessary to preserve the evidence.

NOTE: When a stop concludes on private property (private property parking lot) and no custodial arrest occurs, law enforcement officials may permit the owner/driver to obtain permission from the owner of the property to park the vehicle on the private property.

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## **VI. IMPOUND, STORAGE AND RELATED FEES**

A motor vehicle towed or removed and held for custody, for one of the above allowed circumstances, and is impounded or stored at the Silver Bay Police Department impound and storage facility/area is subject to impound and storage fees. Impound and Storage fees shall be \$10.00 per day. All fees related to the towing, impound or storage of said motor vehicle shall be paid prior to the release of the motor vehicle.

Payment shall be made at the Silver Bay Police Department for all fees associated with the motor vehicle.

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## **VII. PROCEDURES**

### **A. OFFICER RESPONSIBILITIES**

- 1.** A law enforcement official should allow the driver or owner, if available, and when practical, an opportunity to contact a towing agency of their choice; or be given assistance through Lake County Dispatch.

NOTE: This does NOT apply to situations involving a custodial arrest of the driver, when the vehicle is subject to forfeiture, when probable cause exists that the vehicle may be stolen, or when the vehicle is required to be held for evidence.

2. A law enforcement official shall complete a “Towed Vehicle Report”, as required by Minnesota Statute 168B.035, in all events where a vehicle is placed in custody, including when towed without the knowledge or consent of the owner/driver.
3. In an effort to safeguard the contents of all legally impounded vehicles, the Two Harbors Police Department, requires all officers to inventory the contents found there in. The inventory shall include a record of all items present in the vehicle. This record will include all items located in the front area, back area, trunk/bed and/or other areas (tool boxes, boxes, safe, containers, attached trailers, campers, or other locked object.).

If a law enforcement official encounters a locked tool box, box, safe, container, attached trailer, camper or other locked object the law enforcement official shall attempt to gain entry into the locked item with any keys and/or lock combinations that the law enforcement official has available or the owner/operator of the motor vehicle provides to law enforcement. If no keys or lock combinations or other like items are, or are made available by the owner/operator, the law enforcement official shall document such findings on the “Inventory Report”.

NOTE: A copy of the “Inventory Report” shall be included in the agency case file, a copy given to the towing agency and a copy given to the property owner/claimant.

4. Do NOT place a hold on a towed vehicle without proper authority.
  - a. A law enforcement official placing a hold on a vehicle must indicate on the “Towed Vehicle Report”, the reason for the hold and conditions of release, as well advise Lake County Dispatch of the hold and conditions of release.
5. Video record the original position of the vehicle prior to its removal when possible.
6. When practical, a law enforcement official should remain with the vehicle until the tow truck has arrived. If a vehicle is to be left unattended, an officer should document in his/her report the reason for leaving the vehicle unattended.
7. When a vehicle is towed for evidentiary purposes, the law enforcement officer or another law enforcement officer shall remain with the motor vehicle until it is transported to and stored in the impound garage or other authorized location used by the Silver Bay Police Department.

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**VII. SUPERVISORS SIGNATURES**

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Cole W. Ernest  
Chief of Police

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Sergeant

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**VIII. EFFECTIVE DATE:**

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**IX. REVISED DATE:**

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**DATE REVIEWED**

**SIGNATURE**