

Article 7A.

Post-Towing Procedures.

**§ 20-219.9. Definitions.**

As used in this Article, unless the context clearly requires otherwise:

- (1) "Tow" in any of its forms includes to remove a vehicle by any means including towing and to store the vehicle;
- (2) "Towner" means the person who towed the vehicle;
- (3) "Towing fee" means the fee charged for towing and storing. (1983, c. 420, s. 2.)

**§ 20-219.10. Coverage of Article.**

(a) This Article applies to each towing of a vehicle that is carried out pursuant to G.S. 115C-46(d) or G.S. 143-340(19), or pursuant to the direction of a law-enforcement officer except:

- (1) This Article applies to towings pursuant to G.S. 115D-21, 116-44.4, 116-229, 153A-132, 153A-132.2, 160A-303, and 160A-303.2 only insofar as specifically provided;
- (2) This Article does not apply to a seizure of a vehicle under G.S. 14-86.1, 18B-504, 90-112, 113-137, 20-28.2, 20-28.3, or to any other seizure of a vehicle for evidence in a criminal proceeding or pursuant to any other statute providing for the forfeiture of a vehicle;
- (3) This Article does not apply to a seizure of a vehicle pursuant to a levy under execution.

(b) A person who authorizes the towing of a vehicle covered by this Article, G.S. 115D-21, 116-44.4, 116-229, 153A-132, 153A-132.2, 160A-303 or 160A-303.2 is a legal possessor of the vehicle within the meaning of G.S. 44A-1(1). (1983, c. 420, s. 2; 1989, c. 743, s. 3; 1997-379, s. 1.7.)

**§ 20-219.11. Notice and probable cause hearing.**

(a) Whenever a vehicle with a valid registration plate or registration is towed as provided in G.S. 20-219.10, the authorizing person shall immediately notify the last known registered owner of the vehicle of the following:

- (1) A description of the vehicle;
- (2) The place where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to have the vehicle returned to him; and
- (5) The procedure the owner must follow to request a probable cause hearing on the towing.

If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within 24 hours; if the vehicle is not registered in this State, notice shall be given to the owner within 72 hours. This notice shall, if feasible, be given by telephone. Whether or not the owner is reached by telephone, notice shall be mailed to his last known address unless he or his agent waives this notice in writing.

(b) Whenever a vehicle with neither a valid registration plate nor registration is towed as provided in G.S. 20-219.10, the authorizing person shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information listed in subsection (a). Unless the owner has

otherwise been given notice, it is presumed that the authorizing person has not made reasonable efforts, as required under this subsection, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at least seven days before the towing actually occurred; except, no pretowing notice need be given if the vehicle impeded the flow of traffic or otherwise jeopardized the public welfare so that immediate towing was necessary.

(c) The owner or any other person entitled to claim possession of the vehicle may request in writing a hearing to determine if probable cause existed for the towing. The request shall be filed with the magistrate in the county where the vehicle was towed. If there is more than one magistrate's office in that county, the request may be filed with the magistrate in the warrant-issuing office in the county seat or in any other office designated to receive requests by the chief district court judge. The magistrate shall set the hearing within 72 hours of his receiving the request. The owner, the person who requested the hearing if someone other than the owner, the tower, and the person who authorized the towing shall be notified of the time and place of the hearing.

(d) The owner, the tower, the person who authorized the towing, and any other interested parties may present evidence at the hearing. The person authorizing the towing and the tower may submit an affidavit in lieu of appearing personally, but the affidavit does not preclude that person from also testifying.

(e) The only issue at this hearing is whether or not probable cause existed for the towing. If the magistrate finds that probable cause did exist, the tower's lien continues. If the magistrate finds that probable cause did not exist, the tower's lien is extinguished.

(f) Any aggrieved party may appeal the magistrate's decision to district court. (1983, c. 420, s. 2.)

#### **§ 20-219.12. Option to pay or post bond.**

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of his vehicle by:

- (1) Paying the towing fee, or
- (2) Posting a bond for double the amount of the towing fee. (1983, c. 420, s. 2.)

#### **§ 20-219.13. Hearing on lien.**

The tower may seek to enforce his lien or the owner may seek to contest the lien pursuant to Chapter 44A. (1983, c. 420, s. 2.)

#### **§ 20-219.14. Payment to tower guaranteed.**

Every agency whose law-enforcement officers act pursuant to this Article, G.S. 115D-21, 116-44.4, 116-229, 153A-132, or 160A-303 shall by contract or rules provide compensation to the tower if a court finds no probable cause existed for the towing. (1983, c. 420, s. 2.)

**§ 20-219.15:** Reserved for future codification purposes.

**§ 20-219.16:** Reserved for future codification purposes.

**§ 20-219.17:** Reserved for future codification purposes.

**§ 20-219.18:** Reserved for future codification purposes.

§ 20-219.19: Reserved for future codification purposes.