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# City of Detroit

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**TO:** The Honorable Detroit City Council

**FROM:** David Whitaker, Director   
Legislative Policy Division Staff

**DATE:** July 23, 2021

**RE:** **LOW INCOME HARDSHIP POLICY FOR TOW RATES**

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Council President Brenda Jones asked the Legislative Policy Division (LPD) to “provide an opinion on the legality of requiring tow rate fees be submitted with a low income hardship policy”. Without determining the scope of application of such an amended towing ordinance, including basic issues like application to non-city contract towing companies, thresholds for applicability, extent of the discount in various circumstances, and before defining criteria for implementation, as well as enforcement of such a policy, requires a much larger analysis. This is LPD’s response to the question of legality, in principle.

### Hardship Policies Generally

Review of the City Charter is fundamental to any analysis of a City low income hardship policy. The 2012 Charter of the City of Detroit begins with a Declaration of Rights, including the basic statement of purpose for government: “The City shall provide for the public peace, health and safety of persons and property within its jurisdictional limits.” The Declaration of Rights further provides:

The People have a right to expect City government to provide for its residents, decent housing; job opportunities; reliable, convenient and comfortable transportation; recreational facilities and activities; cultural enrichment,

including libraries and art and historical museums; clean air and waterways, safe drinking water and a sanitary, environmentally sound city.

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The City has an affirmative duty to secure the equal protection of the law for each person and to insure equality of opportunity for all persons. No person shall be denied the enjoyment of civil or political rights or be discriminated against in the exercise thereof because of race, color, creed, national origin, age, disability, sex, sexual orientation, gender expression or gender identity.

Recognizing the profoundly destabilizing effect the loss of a vehicle can have on the safety and well-being of low-income residents, the benefit of a policy to prevent such an impact is obvious. The above-quoted provisions of the Charter support such policies and they have been implemented in a variety of instances. For example, City Code Section 42-2-73 provides for a reduction in the City's solid waste collection fee for qualifying low income residents. The Homeowners Property Tax Assistance Program (HPTAP), enabled by State law, provides property tax relief based upon appropriate criteria for qualifying homeowners. So long as assistance programs are based upon neutral, income based criteria, they generally do not run afoul of equal protection provisions in local, State, and Federal law.

## **Towing**

It is well settled that removing abandoned or dangerous or stolen vehicles from public, and sometimes private, places is a public safety issue. State law provides that "a police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping at the expense of the last-titled owner of the vehicle . . . "under a variety of circumstances including being parked in a tow-away zone, in a condition that constitutes a public hazard, obstructing traffic, etc. MCL 257.252d.

Vehicles may be subject to towing for a variety of reasons affecting who the towing entity might be, *e.g.*, police authorized tows, tows by private towers from private property, non-consensual tows, etc. Circumstances differ as do fee schedules, complicating the City's ability to create a uniform hardship policy. For example, traditionally, the City's Municipal Parking Department (MPD) has contracted with multiple towers to carry out its "Abandoned Vehicle Program". (ABAN). Creation and implementation of a hardship policy, while legal, would necessitate not only developing appropriate criteria for determining need, but also a means to apply the policy equitably and in a manner that allows private towers to meet insurance and other requirements imposed by the City ordinance.

Should the Council have further questions, LPD will respond.