

Abandoned Vehicle Hearing Checklist¹

Hearings upon the filing of a petition prescribed in [MCL 257.252a](#) (abandoned vehicles), [MCL 257.252b](#) (registered abandoned scrap vehicles), or [MCL 257.252d](#) (immediate removal of vehicles from property) are governed by [MCL 257.252f](#) and must be conducted by a district court magistrate if one has been appointed by the court.² [MCL 257.252f\(4\)](#). An appeal of a magistrate's decision is heard by a district court judge. *Id.*

Administrative Issues:

- An individual requesting a hearing pursuant to [MCL 257.252a](#) must “post[] a bond equal to \$40.00 plus the amount of the accrued towing and storage fees.” [MCL 257.252a\(6\)](#).³
- Petitions should be assigned the case code “GZ.” See [MCR 8.117](#) and the [Michigan Trial Court Records Management Standards - Case Type Codes](#), Section (B)(4)(b).⁴

¹ See the Michigan Judicial Institute's [District Court Magistrate Manual](#), Chapter 1, regarding a magistrate's authority to conduct abandoned vehicle hearings and the [Traffic Benchbook](#), Chapter 3, for information on abandoned vehicles offenses.

² As authorized by the court's local administrative order.

³ The vehicle must be released to the owner pending hearing if the owner posts the required bond or pays “a fee of \$40.00 to the court and the accrued towing and storage fees instead of posting the towing and storage bond.” [MCL 257.252a\(6\)](#). See also [MCL 257.252b\(8\)](#); [MCL 257.252d\(5\)](#). The court may receive a fee waiver request under MCR 2.002 for abandoned vehicle proceedings brought under MCL 257.252a. See *Brite Fin Servs, LLC v Bobby's Towing Serv, LLC*, ___ F Supp 3d ___ (ED Mich, 2021) (ordering that “each and every vehicle owner and lessee shall have the right to apply to the state court for a waiver of the fees required by [MCL 257.252a(6)] pursuant to the provisions of [MCR 2.002]”). But see *Noll v Ritzer*, 317 Mich App 506, 516, 516 n 5 (2016) (holding the lower courts “erred by determining that MCL 257.252a allowed a hearing challenging the reasonableness of towing and storage fees when petitioner did not post a bond in the amount of those towing and storage fees” but noting that “[n]o constitutional challenge or argument concerning indigency was raised” during the case). Additionally, *Brite* appears to broaden the scope of MCR 2.002. See MCR 2.002(A)(2) (identifying statutes that qualify for a fee waiver under the court rule, but not including MCL 257.252a). Decisions of lower federal courts, although they may be persuasive, are not binding on Michigan courts. See *Abela v Gen Motors Corp*, 469 Mich 603, 606-607 (2004).

⁴ The filing fee for a general civil action other than for a money judgment is \$65.00. [MCL 600.8371\(8\)](#).

- A hearing must be scheduled within 30 days upon the filing of a petition. [MCL 257.252f\(1\)\(a\)](#).
- Notice of the hearing must be given to the owner and/or secured party, towing agency or custodian, and the police agency (and the property owner if the vehicle was removed from private property). [MCL 257.252f\(1\)\(b\)](#).

During the Hearing⁵:

- Determine whether the police agency, towing agency or custodian, or private property owner has demonstrated by a preponderance of the evidence that they have complied with the requirements of the Special Anti-Theft Laws Act ([MCL 257.252 et seq.](#)) in reporting or processing the vehicle. [MCL 257.252f\(2\)](#).

After the Hearing:

Make a decision that includes 1 or more of the following⁶:

- The police agency complied with the procedures for processing an abandoned vehicle or a vehicle removed under [MCL 257.252a](#), [MCL 257.252b](#), or [MCL 257.252d](#). If found:**
 - Order that the owner or secured party may redeem the vehicle within 10 days from entry of the order (the police agency must dispose of the vehicle pursuant to [MCL 257.252b](#) or [MCL 257.252g](#) if the vehicle is not timely redeemed).
 - Forward \$25.00 of the fee collected under [MCL 257.252b](#) or [MCL 257.252g](#) to the Secretary of State within 30 days of the decision.
 - Forward the towing and storage fees and \$15.00 of the fee collected under [MCL 257.252b](#) or [MCL 257.252g](#) to the towing agency.
- The police agency did not enter the vehicle as abandoned into LEIN within 24 hours after the vehicle was taken into custody as required by [MCL 257.252a\(5\)\(b\)](#) or [MCL 257.252a\(12\)](#). If found:**
 - Order the immediate release of the vehicle to the owner or secured party, and direct one of the following:

⁵The Michigan Rules of Evidence apply. See [MRE 101](#).

⁶See [MCL 257.252f\(3\)](#).

- If the owner or secured party *has* paid the accrued storage charges, that the police agency reimburse the owner or secured party for storage charges accrued before the police agency entered the vehicle into LEIN, or
- If the owner or secured party *has not* paid the accrued storage fees but has posted a fee or bond with the court, that the police agency pay directly to the owner or secured party the amount of the storage charges accrued before the police agency entered the vehicle into LEIN, plus interest, within 10 days of entry of the order. The bond posted by the owner or secured party must be released in full to the custodian once the court receives notice that the police agency has issued the payment required.
- The police agency improperly determined the vehicle was abandoned. If found:**
 - Order the immediate release of the vehicle to the owner, and direct one of the following:
 - If the owner *has* paid the accrued towing and storage charges, that the custodian reimburse the owner for these charges, and also that the police agency reimburse the custodian for accrued towing and storage charges paid to the owner, or
 - If the owner *has not* paid the accrued towing and storage charges, order the police agency to pay the accrued towing and storage charges.
 - Further order the police agency to pay any other fees associated with recovering the vehicle, or to reimburse the owner for any other fees associated with recovering the vehicle paid by the owner.
 - Also order that any fee or bond posted by the owner be returned to the owner.
- The towing and daily storage fees were reasonable.**
- The towing and daily storage fees were unreasonable. If found:**
 - Order the towing agency or custodian of the vehicle to provide the last titled owner of the vehicle or the secured party with an appropriate reduction or refund.
- The owner of the real property complied with the provisions of [MCL 257.252k](#) or [MCL 257.252l](#).**

- The owner of the real property did not comply with the provisions of [MCL 257.252k](#) or [MCL 257.252l](#). If found:**
 - Order the owner of the real property to reimburse the last titled owner of the vehicle or the secured party for the accrued towing and storage charges.
- The towing agency did not comply with the procedures for proper removal and reporting of an abandoned vehicle removed under [MCL 257.252a\(11\)](#), [MCL 257.252b](#), or [MCL 257.252d](#). If found:**
 - Order the immediate release of the vehicle to the owner or secured party, and direct one of the following:
 - If the owner or secured party *has* paid the accrued storage charges, that the towing agency reimburse the owner or secured party for those charges accrued before the police agency entered the vehicle into LEIN, or
 - If the owner or secured party *has not* paid the accrued towing and storage charges, but has posted a fee or bond with the court, that the bond and charges accrued before the police agency entered the vehicle into LEIN be returned to the owner or secured party, and that the remainder of any fee posted with the court be paid to the custodian.
- The towing agency complied with the procedures for proper removal and reporting of an abandoned vehicle removed under [MCL 257.252a\(11\)](#), [MCL 257.252b](#), or [MCL 257.252d](#).**