

FORT SMITH POLICE DEPARTMENT

POLICIES AND PROCEDURES

SUBJECT	Regulations, Specifications, & Authorizations for Approved Tow Company Rotation List Participants		
NUMBER	1107.11	EFFECTIVE DATE	October 6, 2014
Scheduled Review Date	Annually beginning February 1	ISSUE DATE	October 6, 2014
Date Reviewed	May 12, 2025	REVISION DATE	May 12, 2025
APPROVED BY		CALEA STANDARDS	

I. Purpose and Scope

- A. The purpose of this policy is to set forth regulations required of tow companies to participate in the Department's Tow Company Rotation List and articulate specifications that must be met by tow companies who are authorized to participate in the Tow Company Rotation List.
- B. The scope of this policy affects the following written directives:
 - 1. Policies & Procedures:
 - a. 1107.08 Assistance to Motorists
 - b. 1107.09 Vehicle Inventory
 - c. 1107.10 Towing Procedures
 - 2. Operational Memorandums:
 - a. 04-01 Towing Company Inquiries
 - 3. Communications Unit Standard Operating Procedures:
 - a. 2-06 Tow Call Procedures

II. Policy

- A. It is the policy of the Fort Smith Police Department to utilize services of licensed and permitted non-consent tow companies who are in compliance with Arkansas state statutes pertaining to towing and who abide by rules and regulations promulgated by the Arkansas Towing and Recovery Board. Compliance with these regulations and requirements will provide a level of safety to the motoring public, law enforcement and first responders on the scene as well as the tow operator. These standards are also intended to protect motorists from potential unethical or unfair business practices.

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III. Definitions

- A. VEHICLE means a device by which persons or things may be transported upon a public highway and which is of the type subject to registration in Arkansas.
- B. TOW VEHICLE means a motor vehicle or related equipment subject to registration in the State of Arkansas that is used to tow, recover, upright, transport, or otherwise facilitate the movement of vehicles on public highways.
- C. EQUIPMENT means any vehicle or related equipment used by a tow business or tow vehicle to perform towing or storage services; or personal property commonly used to facilitate a business or farming operation for which a possessory lien is granted to a tow business under Arkansas Code §27-50-1208 through §27-50-1210.
- D. NON-CONSENT means the towing, storage, or recovery of any unattended or abandoned vehicle, any disabled or inoperative vehicle or a vehicle subject to impound or removal by law enforcement without the expressed or implied permission of the vehicle owner, operator, agent or person in charge of the vehicle.
- E. CONSENT means towing, storage, or recovery of a vehicle, which towing, storage, or recovery is done with the permission of the owner or other person in charge of the vehicle. Consent does not include the repossession of a vehicle by the vehicle lienholder, agent, or other person working on behalf of the lienholder.
- F. TOW VEHICLE SAFETY PERMIT means a decal issued annually by the Arkansas Towing & Recovery Board to be affixed to the windshield of any tow vehicle operated by a licensed tow business displaying the annual period by year and month for which the permit is valid.
- G. STORAGE means a daily fee charged by a towing business to secure and safely store a vehicle, and includes the release of a vehicle during normal or reasonable business hours.
- H. PERSON means any individual, partnership, corporation, association, or other entity.

IV. Regulations and Specifications

- A. This policy reflects requirements of the Arkansas Towing and Recovery Board rules and regulations, insofar as establishing reasonable licensing, safety equipment requirements, and insurance for any person, individual, firm, association, company, partnership, corporation, non-profit organization, institution, or other similar legal entity engaging in towing and/or related services and participating in the Department's Tow Company Rotation List.
 - 1. The Arkansas Towing and Recovery Board receives its authority from A.C.A. §§ 27-50-1201 *et seq.*
- B. These regulations and specifications are not intended to limit application to the list by any towing company; however the Fort Smith Police Department reserves the sole right to determine which regulations and specifications are in the best interest of the citizens of the City of Fort Smith, and to exclude those which are not deemed suitable. It is the responsibility of all interested tow company owners to be knowledgeable of all pertinent State and City laws and current regulations of the Arkansas Towing and Recovery Board.
- C. Each towing company who wishes to apply for inclusion to the Fort Smith Police Department's "Tow Company Rotation List", must agree to conform to the following regulations and

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specifications. Failure to conform to these regulations and specifications within this policy will constitute grounds for removal of a tow company from the Fort Smith Police Department Tow Company Rotation List.

1. This rule applies to all tow requests except requests that arise as a result of an owner's private request of tow services, when allowed by time and circumstances.
 2. Any tow vehicle responding to an owner's request must be properly licensed and permitted through the Arkansas Towing and Recovery Board.
- D. Prior to being included on the Fort Smith Police Department's Tow Company Rotation List, all tow company facilities, vehicles and equipment shall be subject to inspection by an officer assigned to the Special Operations Division. All requirements pertaining to the operation of the tow service as detailed in the regulations or those requirements mandated by state law or local ordinances will be considered during this inspection.
1. Proof of having successfully passed the State of Arkansas Towing & Recovery Board's "Tow Vehicle Safety Equipment Inspection Form" completed by the Arkansas State Police shall suffice as having had all vehicles and equipment inspected. A completed inspection form for each vehicle intended for use on the Fort Smith Police Department's Tow Company Rotation List must be provided.
- E. Each tow company at the time of application to the Police Department shall provide the Police Department with telephone number(s), at least one of which is answered 24-hours a day, and a physical address within the corporate city limits of Fort Smith, Arkansas at which representatives of their firm can be contacted. Each tow company shall provide a valid email address through which notices can be communicated.
- F. Licensing and Permitting
1. Before tow vehicles are eligible to participate in the TOW COMPANY ROTATION LIST, they must display a valid Tow Vehicle Safety Permit issued by the Arkansas Towing and Recovery Board for that vehicle. Tow vehicles displaying a non-consent permit may also perform consent tow services.
 - a. The Tow Vehicle Safety Permit shall be displayed in the lower left corner of the windshield and a business license number permanently placed on both sides of the tow vehicle near the business name issued by the Arkansas Towing & Recovery Board.
 2. All tow companies participating in the Tow Company Rotation List must possess a valid City business license.
 3. All tow vehicles shall be properly licensed as a motor vehicle and have the Motor Vehicle Registration Certificate available for inspection.
- G. Insurance
1. Tow companies must obtain and keep in continuous effect insurance in sufficient amounts to cover any claim against them resulting from property damage or injury to persons occurring while they are rendering service at the request of the Fort Smith Police Department in compliance with Rules 9 through 9.6 of the Arkansas Towing and Recovery Board's *Rules and Regulations*.

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2. Prior to the inclusion of the tow company to the rotation list, the tow company must present to the Fort Smith Police Department insurance certificates demonstrating the tow company is carrying the above described insurance. This certificate shall further provide that said insurance will not be canceled or other material changes made to the policy by the operator without the insurer first giving written notice to the Fort Smith Police Department.
3. Tow companies shall hold the City of Fort Smith harmless for damages to towed vehicles, theft of towed vehicles, and items missing from towed vehicles from the time that the tow company takes control of the vehicle. The tow company agrees to hold the City of Fort Smith harmless of and from any and all liability negligence or from any damage occurring to towed vehicles while the vehicles are in the tow company's possession or control regardless of tow company's negligence.

H. Equipment

1. Tow vehicles used by participating tow companies shall meet the equipment requirements established by the Arkansas Towing and Recovery Board. Tow vehicles shall have successfully passed the State of Arkansas Towing & Recovery Board's "Tow Vehicle Safety Equipment Inspection Form" completed by the Arkansas State Police. Proof of the passed inspection must be provided for each vehicle intended to be used by the participating tow company.
 - a. Each tow vehicle shall have permanent lettering on both sides showing the name, address, and phone number of the towing company. Lettering shall be no less than three (3) inches in height and shall have a professional appearance. Magnetic signs are prohibited.
 - b. Any equipment employed in the tow or recovery of a vehicle shall be in good working condition and free of excessive wear, leaks, or breaks and must bear a current vehicle inspection certification when required by law.
2. Any operator of a tow vehicle is expected to have the working knowledge necessary to operate safely and maintain all equipment required in this section.
3. Any tow vehicle driver or employee of the tow company working outside of the tow vehicle shall wear high visibility safety vests or clothing and gloves, leather or mechanics type that resist oil and grease.

I. Operations

1. The tow company shall be in possession of a current "Non-Consent Permit" as issued by the Arkansas Towing and Recovery Board, as mandated by Arkansas Code Annotated § 27-50-1201. The tow company shall also hold any and all permits that may be required by other state laws or city ordinances. A copy of the Non-Consent Permit shall accompany the tow company's application to the Police Department. Such permits shall be displayed at the place of business or on the tow truck as prescribed by law.
2. Each tow company must provide twenty-four hour continuous *priority* service for all requests for service by the Fort Smith Police Department. All tow companies must have a telephone number in the name of the business published in the local telephone directory or that number must be accessible through directory assistance or the internet. This telephone number must be answered twenty-four hours a day. Tow companies must respond to calls for service from the Police Department at any hour. Failure to respond to

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the Police Department's requests for service or refusal to respond to a request without a reasonable explanation shall be considered grounds for removal from the Tow Company Rotation List.

3. All tow companies participating in the Tow Company Rotation List must carry valid insurance for all tow vehicles in compliance with this rule and the Arkansas Towing and Recovery Board requirements.
4. All tow companies participating in the Tow Company Rotation List shall have a base of operations and a storage lot facility located within the corporate City limits of Fort Smith, Arkansas, which shall be easily accessible to the public.
 - a. Each tow company shall have a separate and distinct place of business and be properly licensed by the City of Fort Smith.
 - b. Appropriate signage identifying the tow company by name and address shall be easily visible from the road on which the business is located, notwithstanding City zoning requirements. Business hours and telephone numbers shall be identified on the sign.
 - c. Storage facilities shall be in compliance with these rules as outlined in Section I.15.a-c.
5. Each tow company must be a distinct business entity with separate City issued business licenses. Their base of operations must be distinctly separate from the base of operations of any other tow service on the Tow Company Rotation List. Insurance policies and any permits must be issued to the individual tow company.
6. Any tow company appearing on the Fort Smith Police Department's Tow Company Rotation List shall be subject to inspection at any time by an officer of the Fort Smith Police Department to ensure compliance with all regulations contained in this policy or in applicable state laws or local ordinances.
7. Beyond normal business hours, which shall be defined as Monday through Friday between 8:00 am and 5:00 pm, the tow company must allow for the release of vehicles towed for the Fort Smith Police Department seven days per week. The tow company must have a telephone number in the name of their business published in the local telephone directory or accessible through directory assistance or the internet. This number must be answered twenty-four hours a day.
8. Tow operators shall make all reasonable efforts to be at the location requested by the Police Department within twenty-five (25) minutes of the time the Police Department request is received. If for any reason the tow vehicle is delayed in route due to traffic, weather or other adverse highway conditions police dispatch shall be contacted immediately. The response time begins upon notification by the Fort Smith Police Department that tow services are needed. In the event the tow vehicle does not arrive in a timely manner, the Fort Smith Police Department may, at its discretion, call another tow company of its choosing from the Towing Company Rotation List. During emergencies, disasters, inclement weather, or other times when the tow company is unable to provide timely service, the City reserves the right to use an alternate tow service.
9. No tow vehicle shall proceed to the scene of an accident unless requested to do so by the Fort Smith Police Department or by the owner or driver of the wrecked or disabled vehicle. *Violations of this regulation are grounds for immediate removal from the Tow Company Rotation List.* Should a tow company or any of its employees receive

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notification of an accident from a source other than the Fort Smith Police Department, they shall immediately notify the proper police agency.

10. Upon arrival at an accident scene, the tow operator will stand by so as not to disturb the scene of an accident during the investigative process and will not proceed to work on or remove any vehicle until authorized to do so by a police officer. All tow operators shall conduct themselves in a professional manner.
11. It shall be the responsibility of every tow operator to remove or provide for the removal of all debris from the street before leaving an accident scene in accordance with Arkansas Code Annotated § 27-51-1405. If vehicle parts or debris are left at the scene of an accident the tow company will be notified and will be required to dispatch a clean-up crew immediately at no additional cost to the vehicle owner or the insurance company.
12. Each tow company shall maintain a record of all vehicles towed at the request of the Fort Smith Police Department. Every tow record shall include the date, time, location, make, model, license, vehicle identification number (VIN), and police officer's name who authorized the tow. Tow records shall be made available at any time upon request by a Fort Smith Police Department employee.
13. All tow companies shall obey all traffic regulations unless otherwise directed to do so by a police officer. All tow operators shall possess a valid motor vehicle driver's license with the proper commercial driver's license designation required by law to operate the tow vehicle in use.
14. Any tow vehicle utilizing a platform based tow surface such as a rollback or car carrier must comply with the four-point tie down law, excluding use of a winch.
15. All tow companies must maintain a lighted and fenced storage area within the corporate City limits of Fort Smith (as specified below) to prevent entrance by unauthorized person(s) and must hold itself responsible for any theft or vandalism to vehicles or other property within its control. The storage area shall be kept free from obstacles and hazards so as to provide safe access to the stored vehicles. The tow company shall ensure that all storage lots remain in compliance with the City of Fort Smith Building and Zoning Codes, as well as any other applicable law or ordinance. This storage area may not be shared with any other company or individual.
 - a. STORAGE AREA LIGHTING - Storage areas must be equipped with sufficient lighting so as to allow adequate security at all times. Lighting fixtures must be placed so that the entire storage is evenly illuminated.
 - b. STORAGE AREA FENCING - The perimeter of all storage areas used by the tow company shall have fencing installed. The fencing shall be of a chain-link type or equivalent six (6) feet or higher in height and mounted on standard steel pipe with a steel pipe top rail and topped by no fewer than three (3) strands of barbed or razor wire.
 - c. STORAGE AREA SURVEILLANCE - Tow companies shall maintain storage areas equipped with video surveillance capabilities and shall make available all video surveillance recordings to any Fort Smith Police Department officer upon request.
16. The owner of the towing service shall provide to the Fort Smith Police Department a list of all employees and their dates of birth that will have access to the storage facility and shall continue to update the list upon the hiring or termination of any employees. The

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City of Fort Smith shall reserve the right to reject individuals for hire by tow companies who have been convicted of a felony or a misdemeanor involving theft, fraud, or false statement.

17. All requests for tows received from a Fort Smith Police Department employee will be at no charge to the City of Fort Smith from the scene of the accident or hook-up point to the final disconnect location. All fees are to be collected from the vehicle owner, his agent, or representative. This section is not intended to conflict with Arkansas Motor Vehicle and Traffic Laws and State Highway Commission Regulations § 27-50-1204 (C)(2)(b).
18. Each tow company must, upon request for service by the Police Department, either immediately make available a suitable tow vehicle and qualified operator, or else immediately inform the requesting police department employee that no suitable tow vehicle is available so that service may be obtained from another participating tow company if necessary. A tow company may not summon the services of another tow company to respond to a police call.
19. The Fort Smith Police Department reserves the right to summon the nearest Tow Company Rotation List participant to an incident when a police officer at the scene deems the need to be an emergency. In such cases, the Police Department will call any tow companies that were bypassed when tow services are required.
20. A price sheet, with large and legible print, for all services charged in the towing or recovery of a vehicle must be placed in a conspicuous place in the office area where a customer would commonly be present. An 8½" X 11" copy on company letterhead must be provided each year (January 1st) to the Fort Smith Police Department. The police department should be notified immediately of any changes in pricing before the new fees are employed. All fees for towing and storage must be reasonable and reflect the market. Charging a fee higher than what is posted will result in termination from the rotation list.
21. Any change of ownership or change in company name shall require the company to reapply for inclusion to the Tow Company Rotation List.
22. Complaints from the public concerning overcharging for non-consensual towing or storage fees, alleged violations of applicable state law, or alleged violations of the provisions of the Arkansas Towing and Recovery Board *Rules and Regulations* will be referred immediately to the Arkansas Towing and Recovery Board for investigation. Sustained complaints against a participant of the Tow Company Rotation List by the Arkansas Towing and Recovery Board may be cause for removal of the tow company from the list.
23. Any tow company found in violation of any provisions of this policy may be immediately removed from the Tow Company Rotation List after being notified by the Fort Smith Police Department. This notification may take place via telephone, but shall immediately be followed up in writing (letter or email) by the Fort Smith Police Department specifying the reason(s) the tow company has been removed. If the tow company corrects deficiencies and comes into compliance with these requirements, the Fort Smith Police Department may re-inspect the tow company to ensure full compliance with regulations before consideration for reinstatement will be given. A pattern of falling out of compliance may result in the permanent removal of the tow company's name from the Fort Smith Police Department Tow Company Rotation List.

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J. Tow Company Rotation List Application and Approval

1. Under no circumstances will tow companies be added as a participant to the Tow Company Rotation List without first completing and submitting an application and receiving written approval by the Special Operations Division Commander.
2. The application shall consist of the following documents to be completed and submitted to the Fort Smith Police Department by a tow company's representative:
 - a. Fort Smith Police Department Tow Company Rotation List Application (pages 1-3).
 - b. Fort Smith Police Department Tow Company Operations and Storage Facility Inspection Report.
3. Upon receipt of the completed application, an officer assigned to the Special Operations Division shall conduct an inspection of the tow company applicant's storage facility, offices (if applicable), and tow equipment to verify the information and compliance with all requirements.
4. Following the onsite inspection of facilities, the officer shall indicate on the Tow Company Rotation List application whether to recommend adding the applicant to the Department's Rotation List.
 - a. If the officer does not recommend adding the applicant to the Department's Rotation List, the officer shall articulate the reason(s) why.
5. The Special Operations Division Commander shall prepare a letter notifying the Tow Company Rotation List applicant whether or not they will be added to the Rotation List and the effective date. The letter shall either be mailed to the applicant via the U.S. Postal Service, or emailed to the applicant's email address.

K. Annual Inspections

1. Annually, the Fort Smith Police Department will ensure that all companies on the Fort Smith Police Department's Tow Company Rotation List be inspected to ensure compliance with these regulations and specifications.
2. The Fort Smith Police Department's Tow Company Rotation Check List shall be utilized by the inspecting officer to ensure that all required documentation is received and that the official representative of that company has received a copy of the above regulations and specifications and has signed acknowledging them.
3. A file shall be maintained for each company on the rotation list which may consist of, but not limited to, all required documentation, applications, yearly inspections, and all complaints made to the State of Arkansas Towing and Recovery Board against that company.

L. Complaints

1. All complaints against companies on the Fort Smith Police Department's Tow Company Rotation List shall be directed to the Arkansas Towing and Recovery Board. All complaints, no matter the finding by the Arkansas Towing and Recovery Board, shall be maintained in the company's file.

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2. Sustained complaints by the Arkansas Towing and Recovery Board shall result in the following:

- a. The first complaint sustained by the Arkansas Towing and Recovery Board shall result in the tow company being suspended from the rotation list for a period of three months.
- b. The second complaint sustained by the Arkansas Towing and Recovery Board shall result in the tow company being suspended from the rotation list for a period of six months.
- c. The third complaint sustained by the Arkansas Towing and Recovery Board shall result in the tow company being suspended from the rotation list for a period of one year.
- d. The fourth complaint sustained by the Arkansas Towing and Recovery Board shall result in the tow company being suspended permanently from the rotation list.

M. Additions and Changes to the Policies and Procedures

- 1. A sixty-day notice will be provided to participants on the rotation list, giving companies adequate time to comply with any updates to the rules governing the rotation list or tow vehicle policies. During this sixty-day period, tow companies may submit feedback to the Special Operations Division Commander.

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