


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		REVISION DATE	August 10, 2020
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 hereinafter referred to shall mean any device by which persons or things may be transported upon a public roadway and is of the type subject to registration in Arkansas.
- B. TOW VEHICLE hereinafter referred to shall mean any motor vehicle and/or related equipment subject to registration in the State of Arkansas which is used to tow, recover, upright, transport or otherwise facilitate the movement of vehicles on public roadways.
- C. EQUIPMENT hereinafter referred to shall mean any vehicle and/or related equipment used by a member of the towing industry to recover, upright, transport, or to otherwise facilitate movement of vehicles on public roadways.
- D. NON-CONSENT hereinafter referred to shall mean the towing, storage, or recovery of any unattended or abandoned vehicle, or any disabled or inoperative vehicle for which the owner preference is waived by the owner or person in charge thereof.
- E. CONSENT means towing, storage, or recovery of any vehicle, which towing, storage or recovery is done with the permission of the owner or other person in charge of the vehicle.
- F. TOW VEHICLE SAFETY PERMIT hereinafter referred to shall mean a decal issued by the Arkansas Towing & Recovery Board to be affixed to the windshield of any tow vehicle operated by a member of the towing industry.
- G. STORAGE a daily fee required by a towing company to secure and safely store a vehicle.
- 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 specifications. Failure to conform to these regulations and specifications will constitute grounds for summary removal of a tow company from the Fort Smith Police Department Tow Company Rotation List.

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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 owners 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 the Chief of Police or his authorized representative. 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.
- 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 should be applied to the lower inside portion of the windshield on the driver's side.
 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 have 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 tendering service at the request of the Fort Smith Police Department in compliance with Rule 9 of the Arkansas towing and Recovery Board's *Rules and Regulations*.
 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.
 1. 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.

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H. Equipment

1. Tow vehicles used by participating tow companies shall be equipped with the equipment required by Rule 7 (“Equipment Requirements”) as promulgated by the Arkansas Towing and Recovery Board’s *Rules and Regulations* (Arkansas Code Annotated § 27-50-1201 et seq.), and those additional items commonly used in towing and recovery identified by the Fort Smith Police Department, including the following:
 - a. All tow vehicles must be equipped with rotating or flashing amber lights, visible for five hundred (500) feet from both the front and rear to warn approaching traffic as required by Arkansas Code Annotated § 27-36-305.
 - b. All tow vehicles must be equipped with a fire extinguisher, ABC type, of not less than nine (9) pounds in size.
 - c. Each tow vehicle shall be equipped with sufficient tools and accessories to efficiently perform its service including a broom, shovel, 36” crow bar, a five gallon trash receptacle with a lid, as a minimum, or heavy duty garbage bags and a flashlight or portable work lights that can be detached from the tow vehicle.
 - d. Equipment associated with the towing and/or recovery of a vehicle including but not limited to additional chain, tie downs and straps, snatch blocks, wheel chocks and tow dolly.
 - e. 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.
 - f. Any equipment employed in the tow and/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 is expected to 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 and/or the Internet. This telephone number must be answered twenty-four hours a day. Tow companies must

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respond to calls for service from the Police Department at any hour. Failure to respond to 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 company's 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 should 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 the Chief of Police or his authorized representative 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 and/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*

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Company Rotation List. Should a tow company or any of its employees receive 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 § 27-31-1405. 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 strands of barbed or razor wire.
 - c. STORAGE AREA SURVEILLANCE - Tow companies who maintain storage areas equipped with video surveillance capabilities shall make available 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

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shall continue to update the list upon the hiring or termination of any employees. The 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 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 and/or storage fees, alleged violations of applicable state law, and/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 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 continual 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.

J. Tow Company Rotation List Application and Approval

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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 Fort Smith Police Department's Chief of Police or his authorized representative.
2. The Application shall consist of the following documents to be completed and/or 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 Vehicle Inspection Report (pages 1-2; completed for each tow vehicle) along with a copy of the North American Level 1 DOT Inspection Form.
 - c. Fort Smith Police Department Tow Company Operations and Storage Facility Inspection Report
3. Upon receipt of the completed Application, the Chief of Police or his designee 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 and equipment, the Department's designee shall indicate on the Tow Company Rotation List Application whether to recommend adding the Applicant to the Department's Rotation List.
 - a. If the Department's designee does not recommend adding the Applicant to the Department's Rotation List, the designee shall articulate the reason(s) why.
5. The Department's designee 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 Office of the Chief of Police shall ensure that the letter is mailed to the Applicant via regular mail, or at the discretion of the Applicant, to the Applicant's email address.

K. Additions and Changes to the Policies and Procedures

1. At least sixty days notice will be given to participants on the rotation list of any anticipated additions or deletions to the rules governing the rotation list or policies relating to tow vehicles. A comment period on any proposed change or additional would be included in that sixty day time frame.

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