

SALINA POLICE DEPARTMENT				Number
GENERAL ORDER				O2409
SUBJECT: VEHICLE TOWING AND IMPOUNDMENT				
EFFECTIVE: 11/15/23 ISSUED: 11/15/23 REVIEW: Annual				
CANCELS:				
AMENDS: O2409 issued 9/9/22				Distribution  A
CALEA References: 61.1.10., 61.4.3.				

## **PROCEDURE**

1. Officers shall request the Department's on-call tow service on all tows other than accident or service tows where the owner or operator of a vehicle has indicated a tow service preference.
  - 1.1. Officers shall not recommend a tow service to anyone desiring an accident or service tow or in any way be a party to a towing or storage agreement. If an owner or operator of a vehicle has no preference, the officer shall inform such person of the Department's contract service and location of the storage lot.
2. Officers are authorized to have removed and towed away by a commercial towing service to an impound lot or other safe place designated by the city, without notice to the owner or lawful custodian of such vehicle, all motor vehicles found under any of the following circumstances:
  - 2.1. When any vehicle upon a street is so disabled or unattended so as to constitute an obstruction to traffic and the person or persons in charge of the vehicle cannot safely operate the vehicle or are unable to provide for its timely removal;
  - 2.2. When any vehicle is parked in such a manner as to constitute a hazard or obstruction to the safe movement of traffic;
  - 2.3. When any vehicle creates an emergency situation in which damage to property or personal injury is likely to occur if the vehicle is not removed;
  - 2.4. When the operator of any vehicle is arrested and taken into custody and such vehicle would thereby be left unattended and create a hazard or obstruction to the safe movement of traffic;
  - 2.5. When any vehicle is found being driven on the streets and is not in proper or safe condition to be driven and cannot be safely removed by the owner or operator;
  - 2.6. When the driver is injured in an accident and is unable to provide for its removal;
  - 2.7. When any vehicle has accumulated three (3) or more parking citations under City Ordinance Section 38-45 and the fines are more than thirty (30) days past due;
  - 2.8. When any vehicle is reported or determined to be stolen and is recovered;
  - 2.9. When any vehicle is subject to seizure as evidence in a criminal prosecution; or
  - 2.10. When any vehicle is subject to seizure or forfeiture under the laws of this state or federal law.
    - 2.10.1. Vehicles towed for evidentiary or forfeiture purposes are to be towed to a police department approved storage facility. Vehicles towed for other than evidentiary reasons are to be stored on the contractor's storage lot.

**3. PUBLIC NUISANCE VEHICLES**

- 3.1. A vehicle is declared to be a public nuisance and an officer may cause such vehicle to be removed and impounded under the following circumstances:
  - 3.1.1. When any unoccupied or inoperable vehicle is left parked continuously upon any street for forty-eight (48) hours or more.
  - 3.1.2. When any unoccupied vehicle is found parked in or upon any regularly designated parking space, or in or upon any street, sidewalk or alley in violation of any of the provisions of City Ordinance Chapter 38 or any other traffic ordinance.
- 3.2. Vehicles that do not constitute an obstruction to the safe movement of traffic or create an emergency situation in which damage to property or personal injury is likely to occur if the vehicle is not removed immediately, shall not be removed and impounded without either:
  - 3.2.1. Personally notifying the owner of the violations and giving the owner a reasonable time to move said vehicle or pay all outstanding fines; or
  - 3.2.2. Placing nuisance vehicle sticker of the violation on the windshield or in a noticeable place on the vehicle indicating the vehicle is in violation and it will be removed at the owner's cost after forty-eight (48) hours from the time the sticker was attached to the vehicle.

- 4. On all vehicles, citations must be issued at the time of towing for the violation on which the vehicle(s) are being towed.

**5. PROCEDURE TO FOLLOW WHEN HAVING A VEHICLE TOWED**

- 5.1. On all tows other than accident or service tows, officers shall obtain supervisory approval prior to towing and, upon receiving same, shall request the tow service through the Communication Center on channel 2.
- 5.2. At the time the officer requests the tow, provide the channel 2 operator with the year, make, model, color and license number of the vehicle. The channel 2 operator shall indicate this information in the tow log, and indicate the date and time of the tow, the corresponding case number, the towing company performing the tow, and the location to which the vehicle was towed.
- 5.3. At the scene of the tow, the channel 2 operator shall provide the officer with all registered owner information on the towed vehicle, as well as results of an N.C.I.C. check. The officer shall note this information on the Impounded Vehicle Report (IVR) form.
- 5.4. The vehicle shall be inventoried, as well as examined for damage, and notation made of anything remarkable in the appropriate space on the IVR.
- 5.5. The officer requesting the tow shall have the tow truck driver sign the IVR, provide him with the yellow copy of same, and remain at the scene until vehicle is raised and removed from the scene.
  - 5.5.1. If the tow service is not available to respond within a reasonable amount of time, the vehicle may be left legally parked and locked. The officer may then return to tow the vehicle at the earliest time possible.
  - 5.5.2. If the owner is present, he shall be provided with the pink copy of the IVR.
- 5.6. All inquiries pertaining to tows shall be referred to the towing agency.

- 5.7. All vehicles towed at the request of the Department, when a subject is arrested or a vehicle is being impounded, shall be secured prior to being impounded.

## **6. VEHICLE INVENTORY**

- 6.1. With the exception of accident or service tows, **ALL** motor vehicles towed and/or impounded at the request of the Department **SHALL** be inventoried in accordance with this directive.
- 6.2. The inventory shall consist of a search of the personal property within the vehicle, including the glove box and trunk, provided the search can be accomplished without damage to the vehicle or its contents. The purpose of the inventory search is to provide security for the personal property of the vehicle owner and ensure against false allegations concerning existence and disposition of personal property within the vehicle.
- 6.2.1. Any portion of the vehicle or containers therein not searched shall be specifically identified in the "remarks" sections of the IVR.
- 6.3. The officer conducting the inventory shall list all personal property of value found in the vehicle on the IVR.
- 6.3.1. Billfolds, purses, currency, weapons, contraband, and items having potential evidentiary value, shall be removed from the vehicle and placed in Property for the purpose of safekeeping. These items shall be accompanied by an Evidence Custody Receipt Form.
- 6.4. Articles of personal luggage, or any container that can be opened without being damaged, shall be opened for the purpose of inventorying their contents. Those containers that cannot be opened shall be removed from the vehicle and placed in the property room/locker, accompanied by an Evidence Custody Receipt Form.
- 6.5. Nothing set forth in this directive is intended to hamper or otherwise interfere with the scope of a search which may lawfully be conducted by an officer, when such search is based upon probable cause, consent, exigent circumstances, or a warrant.

## **7. PRIVATE PROPERTY TOWS – PROPERTY OWNER’S REQUEST**

- 7.1. Pursuant to City Ordinance Section 38-42, a private property owner may remove a vehicle that was left on their property without the consent of the owner or lessee of the real property.
- 7.2. Whenever any person complains under oath that a vehicle is standing on private real property in violation of subsection 38-42(a), any police officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety as outlined herein. Absent an emergency situation in which damage to property or personal injury is likely if the vehicle is not removed immediately, no vehicle shall be removed without either:
- 7.2.1. Personally notifying the owner of the violation and giving said person a reasonable time to move said vehicle; **or**, placing notice of the violation in a noticeable place on the vehicle, then waiting forty-eight (48) hours, and making a reasonable attempt to locate the owner of the illegally parked vehicle.
- 7.2.2. The officer will respond and check the vehicle’s tag and VIN to ensure it is not a stolen vehicle. The officer will open a call for service, where he/she will annotate the date/time of marking the vehicle with the appropriate notice, and specify the location of the vehicle.

- a. Once marked, it will be incumbent upon the private property owner to call for the appropriate tow entity and have the vehicle removed from their property after waiting forty-eight (48) hours from the time/date marked.
- 7.2.3. Dispatch will make the effort to attempt contact with the owner of the vehicle, and annotate all attempts in the call for service. These attempts will constitute the reasonable attempts required as mentioned in this policy. If no contact is made, a message will be left for the owner advising them the location of the vehicle and that it will be towed at their expense within 48 hours if not removed. The dispatcher will notate this information in the call for service. If a valid phone number is not located this shall also be notated in the call for service. If the owner is not listed locally in the computer and lives outside our jurisdiction a teletype will be sent to that agency asking them to attempt to make contact with the registered owner and advise them of the 48 hour time frame to remove the vehicle. This shall also be added to the call for service.
- 7.2.4. Once the before mentioned has been completed the call for service will be cleared and there will be no other police involvement as the mark for tow sticker will suffice for police authorization to have the vehicle removed, as it provides the date the vehicle was marked and has the Officer's number on the sticker.
- 7.3. The private property owner, upon waiting the 48-hour period, will be able to remove the vehicle using a tow service of their choosing.
- 7.4. The owner of the vehicle shall have certain privileges in accordance with established law.
  - 7.4.1. The owner of a vehicle towed shall have access to personal property in such vehicle for 48 hours after such vehicle has been towed and such personal property shall be release to the owner.
- 7.5. The tow entity will have certain responsibilities upon towing said vehicle:
  - 7.5.1. The wrecker or towing service shall report the location of such vehicle to local law enforcement within two hours of such tow.
  - 7.5.2. The wrecker or towing service shall not tow a vehicle to a location outside of Saline County Kansas without the consent either;
    - a. The driver or owner of the motor vehicle.
    - b. A motor club or which the driver or owner of the motor club is a member of; or
    - c. The insurance company processing a claim with respect to the vehicle or an agent of such insurance company.
  - 7.5.3. The tow entity will be required to allow access to the vehicle at the request of the owner, to access personal property in such vehicle for 48 hours after such vehicle has been towed and such personal property shall be release to the owner.
- 7.6. If an emergency situation exists, any police officer is authorized to provide for the removal of such vehicle immediately. The owner or other person entitled to the possession of such vehicle shall be required to pay the reasonable costs of such removal and storage before being entitled to possession of such vehicle.
- 7.7. It is declared to be a public offense for any person to violate subsection (a) and any person convicted of such violation thereof shall be punished by a fine of not more than fifty dollars (\$50.00).

- 7.8. If any person contests validity of the towing of his or her vehicle, or contests the costs and fees related to towing his or her vehicle, said person is entitled to a hearing on these issues within seventy-two (72) hours after notifying the clerk of the municipal court of the issue. Said hearing shall be in the municipal court of the city.

**8. ACCIDENT TOWS**

- 8.1. A legally parked vehicle involved in a collision or one that may be legally parked by the owner/operator may remain at the location for the duration of the parking time restriction.
- 8.2. Vehicle owners or operators may select the private tow firm of their preference. However, the street must be cleared of the obstruction within 20 minutes. If the preferred private firm is unable to respond in that time, the officer shall request the Department's on-call tow service.
- 8.3. The clearing of debris is the responsibility of the wrecker driver or parties involved in the accident. Officers shall remain to protect the area from other traffic until such clearing is completed.
- 8.3.1. If the debris causes an immediate hazard and/or prevents the street from being opened to vehicular traffic, officers may attempt to clear the debris.

**9. COMMUNITY SERVICE TECHNICIAN SCOFFLAW TOWS**

- 9.1. When a Community Service Technician (CST) is notified via the electronic parking citation system that a vehicle is on the scofflaw list due to accumulated unpaid parking citations, the CST will initiate the following tow/hold procedure.
- 9.1.1. The CST will contact the Municipal Court to verify the citations have not been paid.
- 9.1.2. The CST will notify the on-duty supervisor for tow approval.
- 9.1.3. The CST will issue the appropriate citation(s) and take photographs of all four (4) sides of the vehicle utilizing the electronic handheld unit.
- 9.1.4. The CST will request the tow service through the Communication Center on channel 2, obtain a case number, and complete a Vehicle Impound sheet indication POLICE HOLD.
- 9.2. If a vehicle is impounded due to being on the scofflaw list for accumulated unpaid citations, a POLICE HOLD will be placed on the vehicle until all fines have been paid.

**10. POLICE HOLDS**

- 10.1. Although limited in scope, Officers may tow and hold vehicles in the following situations:
- 10.1.1. The vehicle is needed as evidence or to secure evidence from the vehicle, e.g., where a search warrant is being obtained. If the vehicle is to be maintained for court proceedings, it shall be moved to the police department's storage facility.
- 10.1.2. The vehicle has been used to transport any controlled substance with the intent to compound, sell, distribute, deliver, dispense, export or import such controlled substance. These vehicles will be stored in the police department's storage facility.

- 10.1.3. The investigating officer questions whether the person operating the vehicle on public property is lawfully in possession of said vehicle and the person is unable to satisfactorily establish "proof of ownership."
- 10.1.4. The owner is not present, cannot be located, or cannot quickly respond to the scene when a stolen vehicle is recovered.  
  
NOTE: Whenever there is a stolen vehicle that is recovered and towed, the investigating officer shall attempt to contact the owner. Whether or not contact was made shall be indicated in the "remarks" section of the IVR. If unable to make contact, the investigating officer shall notify his supervisor who shall ensure that the owner is notified as soon as possible.
- 10.1.5. Approval for a police hold must be made by the patrol supervisor.
  - a. The supervisor will initial the IVR.
- 10.2. When a hold order is placed on a towed vehicle, the officer so ordering the hold shall inform dispatch of the hold and mark the "POLICE HOLD \*\*\* DO NOT RELEASE" box on the IVR. The wrecker driver should be advised of the hold and cautioned if there is a danger of destroying or contaminating evidence. Any pertinent information or special instructions should be noted in the "remarks section" of the IVR.
  - 10.2.1. A 'hold' may be released only by the officer ordering the hold, their supervisor, or another command officer.
- 10.3. The offense report must contain the following information:
  - 10.3.1. Why a hold was placed on the vehicle.
  - 10.3.2. Approving supervisor's name and badge number.
  - 10.3.3. Vehicle requested towed by an outside agency; agency name, telephone number, and officer name and badge number.
  - 10.3.4. Any and all attempts to contact the registered owner of the vehicle.
- 10.4. Dispatch will enter the vehicle into CAD and into LERMS for the impoundment/hold.
  - 10.4.1. All police holds will be noted in the disposition tab in LERMS.
  - 10.4.2. A Police Support Specialist will review and update all impound entries in LERMS once they have received the IVR.

## **11. NOTICE AFTER IMPOUNDMENT**

- 11.1. If reasonably possible, whenever any motor vehicle is towed and impounded, notice shall be given to the owner or person entitled to custody of the motor vehicle that:
  - 11.1.1. such vehicle has been towed and impounded;
  - 11.1.2. the reasons for the tow;
  - 11.1.3. how the vehicle may be recovered, including the right to a hearing, as set out in Section 38-56 of the Salina Code; and
  - 11.1.4. unless the owner takes action within thirty (30) days from the date of receipt or the notice, proceedings may be instituted to sell the motor vehicle.

- 11.2. When feasible, the notice shall be provided to the owner or person entitled to custody of the motor vehicle at the time the vehicle is towed and the officer providing the notice shall obtain written acknowledgment of receipt of the notice. This notice is the pink copy of the IVR form.
- 11.3. If notice cannot be provided to the owner or person entitled to custody of the vehicle at the time the motor vehicle is towed, notice shall be made by certified mail with return receipt requested. This will be performed by the Records Unit upon receiving the IVR.
- 11.3.1. A Police Support Specialist will contact the towing company to see if contact was made the owner or person entitled to custody of the vehicle at the time the motor vehicle was towed.
- b. If no contact was made, the Police Support Specialist shall give written notice by certified mail to the registered owner of the vehicle at the time the motor vehicle was towed within 30 days of contacting the tow company. Notices will not be sent if an owner is unable to be located.

BY ORDER OF

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CHIEF OF POLICE