

CITY OF SPOKANE SPOKANE POLICE DEPARTMENT ADMINISTRATIVE POLICY AND PROCEDURE	ADMIN 0680-12-01 LGL 2012-0058
TITLE: <b>TOWING</b> EFFECTIVE DATE: July 24, 2012 REVISION EFFECTIVE DATE: N/A	

1.0 GENERAL

1.1 The provisions of chapter 46.55 RCW, chapters 204-91A and 308-61 WAC govern towing and storage services in Washington State. The City of Spokane Police Department uses a rotational list of registered tow truck operators for towing services.

1.2 TABLE OF CONTENTS

- 1.0 GENERAL
- 2.0 DEPARTMENTS/DIVISIONS AFFECTED
- 3.0 REFERENCES
- 4.0 DEFINITIONS
- 5.0 POLICY
- 6.0 PROCEDURE
- 7.0 RESPONSIBILITIES
- 8.0 APPENDICES

2.0 DEPARTMENTS/DIVISIONS AFFECTED

This policy shall apply to the City of Spokane Police Department regarding tow operators providing towing services to the Department.

3.0 REFERENCES

SMC 16A.61.589

4.0 DEFINITIONS

- 4.1 "Chief" means the chief of the City of Spokane Police Department.
- 4.2 "Department" means the City of Spokane Police department.
- 4.3 "Designee" means a person designated by the Chief.

- 4.4 "Letter of appointment and contract" means a letter issued by the Department that authorizes a registered tow truck operator to tow and store vehicles for the Department on a rotational and contractual basis.
- 4.5 "Registered tow truck operator" or "operator" means a person who engages in the impounding, transporting, or storage of unauthorized vehicles, or in the disposal of abandoned vehicles as licensed by the Washington State Department of Licensing.
- 4.6 "Tow truck" means a motor vehicle that is equipped for and used in the business of towing or otherwise transporting other vehicles with specific equipment approved by the Washington State Patrol.

## 5.0 POLICY

- 5.1 All registered tow truck operators providing service as a result of being appointed by the City of Spokane Police Department must conduct all operations in accordance the provisions of chapter 46.55 RCW, chapters 204-91A and 308-61 WAC.
- 5.2 Towing operators shall have an approved letter of appointment and contract issued by the Department before the operator is authorized to provide towing services for the Department. However, nothing prohibits the Department from calling a towing business upon the specific request of a person responsible for a vehicle or his / her agent.
- 5.3 For purposes of convenience and consistency, the Department adopts chapter 46.55 RCW, chapters 204-91A and 308-61 WAC as they apply to the general duties and responsibilities of towing companies.

## 6.0 PROCEDURE FOR OBTAINING LETTER OF APPOINTMENT

### 6.1 Letter of Appointment and Contract.

#### 6.1.1 The tow owner / operator must:

- a. contact the Department requesting to be put on the rotational tow list; and
- b. be a registered tow truck operator licensed by the Washington State Department of Licensing; and

- c. complete, sign and return the letter of appointment and contract.

6.1.2 Upon receipt by the Department of the signed letter of appointment and contract:

- a. The Chief or designee will approve or disapprove the letter of appointment and contract.
- b. If approved, the Chief or designee shall sign the letter of appointment and contract.
  - i. The signed letter of appointment and contract will be forwarded to the Chief's designee administering the tow program.
  - i. The Department will send the tow operator applicant a copy of the signed letter of appointment and contract.
  - iii. The tow company will be admitted to the Department's call list for the appropriate tow category on the effective date of the letter.
- c. If disapproved, the Department will notify the requestor of its decision in writing by certified mail. The Department will provide the applicant an opportunity for the applicant to have a hearing as provided in section 6.3.

6.1.3 The Department may refuse to issue or may revoke a letter of appointment and contract if the owner / operator:

- a. has demonstrated a willful disregard for complying with ordinances, statutes, administrative rules or court orders, whether at the local, state or federal level; or
- b. fails to demonstrate character and general fitness sufficient to command the confidence of the Department and warrant a belief that the business will be operated honestly, fairly and efficiently in the conduct of towing, impound, and vehicle auction activities. In determining character and general fitness, the Department may consider:
  - i. prior contacts with law enforcement; and
  - ii. criminal record; and

- iii. reputation in the community; and
- iv. associations.

6.1.4 Only one application per year to tow on the Department's rotational tow list will be accepted and considered for an applicant who has had his / her previous application denied or had his / her letter of appointment or contract revoked. The year will run from the date of application denial or the date of revocation of the letter of appointment.

6.1.5 A letter of appointment will be valid for one (1) business. Requests for additional letters of appointment must be based on a complete and separate place of business capable of independent operation.

6.1.6 Every letter of appointment will be issued in the name of the applicant and the holder thereof must not allow any other person or business to use the letter of appointment.

6.1.7 The letter of appointment will only be valid for the place of business named on the application and will not apply to any other place of business.

6.1.8 A letter of appointment will be valid for the calendar year in which issued until suspended, superseded, or revoked by the Department.

## 6.2 Suspension Or Revocation Of Letter Of Appointment.

6.2.1 The Department may deny, suspend, or revoke a letter of appointment and contract:

- a. Upon receiving evidence that any applicant or appointee has failed to comply or no longer complies with any requirement or provision of law or the letter of appointment, the following process will be used:
  - i. The Department must give the applicant or appointee notice of the action and an opportunity to be heard as prescribed in section 6.3, prior to denial, suspension, or revocation of the letter of appointment and contract.
  - ii. Upon receiving notice of the action, the appointee may, within twenty (20) days from the date of the notice of action, request in writing to the City Hearing

Examiner Office a hearing on the denial, suspension or revocation of the letter of appointment. An adjudicative proceeding will be commenced within ninety (90) days of the receipt of a hearing request. Failure to request a hearing, or failure to appear at a requested hearing, a prehearing conference, or any other stage of an adjudicative proceeding, will constitute default and may result in the entry of a final order

- iii. An informal settlement or mitigation conference may be held by the Chief or designee at the request of the appointee, which will be without prejudice to the rights of the parties. The informal settlement conference will be held at a mutually agreed upon time and may result in a settlement agreement. If no agreement is reached, a hearing will be scheduled as outlined in section 6.3.
- b. Without prior notification if it finds that there is danger to the public health, safety, or welfare which requires immediate action. In every summary suspension of a letter of appointment, an order signed by the Chief or designee must be entered. Administrative proceedings for revocation or other action shall be promptly instituted and determined. The Department must give notice as is practicable to the appointee.
- c. Immediately if the Washington State Department of Licenses revokes or cancels the registered tow truck operator license or if the tow company's insurance / bond is canceled.
- d. If violations of the terms and conditions of the letter of appointment are subject to suspension for the first violation, any subsequent or continuing violation may be cause for termination unless the Department imposes additional suspensions for longer periods, if deemed appropriate.
- e. When considering punitive action for a violation of the letter of appointment and contract, the Chief or designee may take into consideration all violations that occurred within thirty-six (36) months prior to the date of the current violation.

6.2.2 Examples of grounds for suspension include:

Note: The Department will exercise reasonable standards in evaluating the following standards for suspension.

- a. violations of law (must relate to towing business);
- b. Court or DOL ruling that tow company improperly impounded a vehicle.
- c. overcharging impound fees;
- d. destruction of evidence in / on impounded vehicles;
- e. impoundment of stolen vehicles without Department authorization;
- f. failure to follow approved letter of appointment and contract;
- g. failure to provide documentation with submitted billing statements;
- h. disorderly or improper conduct (ie: intimidation, threats, disorderly conduct, prevention of free movement, etc.)
- i. three (3) or more reports of improper or slow response over thirty (30) minutes;
- j. three (3) refusals (non-response or not available) in a one (1) month period.

6.2.3 Examples of grounds for revocation include:

- a. loss of registered tow truck operator status by Washington State Department of Licensing;
- b. continuous and / or flagrant overcharging impound fees;
- c. criminal conviction for violation of state statutes or local ordinances (must relate to towing business); or
- d. failure to follow applicable state laws or regulations or directives from the Washington State Department of Licensing.

6.2.4 The holder of a letter of appointment and contract may voluntarily terminate the letter of appointment and contract. If the owner/operator requests reissuance of a letter of appointment, the Department may require a new application.

6.2.5 Terms of disciplinary action - minor violations of the terms and conditions of the letter of appointment may be cause for disciplinary action in the following manner:

- a. First violation within a twelve (12) month period - letter of written reprimand;
- b. Second violation within a twelve (12) month period - thirty (30) day suspension;
- c. Third violation within a twelve (12) month period - sixty (60) - ninety (90) day suspension;
- d. Fourth violation within a twelve (12) month period - termination of the letter or appointment.

6.3 Hearing Procedure.

6.3.1 The City Hearing Examiner shall conduct the hearing and any prehearing conference(s).

6.3.2 The burden of proof in any hearing will be on the applicant seeking a letter of appointment, or the person or agency seeking the suspension or revocation of a letter of appointment, or other action by the Chief or designee. The hearing officer will make written findings of facts and conclusions based on evidence presented.

6.4 Appeal.

6.4.1 Any person aggrieved by a decision of the hearing officer denying, suspending, or revoking a letter of appointment or letter of contractual agreement may appeal the decision to the superior court under the provisions of chapter 34.05 RCW.

6.5 Rotational List Options.

6.5.1 Establishment of Placement on Lists.

List #1 – Primary Tows

The primary tow list shall consist of all tow operators who have signed the letter of contractual agreement with the Department. All

requests for services to the public or blocking, or obstructing vehicles shall be dispatched on a rotational basis from this list. Those operators desiring to be on the Primary list must also be on the Abandoned Vehicle List #6

**List #2 – Roll-bed Tows**

This list is available for tow operators desiring to be assigned to the roll-bed rotational list.

**List #3 – Heavy List Tows**

This list is available for tow operators desiring to be assigned to the heavy list, which requires a class C truck.

**List #4 – Evidence Tows**

This list is available to tow operators agreeing to the tow rate agreement for Department evidence tows.

**List #5 – Department Vehicle Tows**

This list will be available for tow operators agreeing to tow Department and stored vehicles.

**List #6 – Abandoned**

This list will be available for tow operators desiring to be assigned to the abandoned vehicles list. Participation is required on the Abandoned List to be on the Primary Tow List.

6.5.2 The Department shall attempt to call the tow operator on a rotational basis with other tow operators who have an approved letter of appointment and contract. Only tow operators who have signed the letter of appointment and contract will be called by the Department, except for emergencies or when a motorist has a personal preference for another tow operator.

6.5.3 All tow lists shall be maintained separately, and the rotational basis of one list shall have no bearing on the rotation of the others (with the exception of the abandoned vehicle list). Each tow company shall be called in accordance with its placement on the respective list. The Department may deviate from this list when a special circumstance exists and is so deemed and approved by Shift Supervisor.

**6.6 Complaints.**

6.6.1 The Department, when receiving complaints involving registered tow truck operators may forward the complaints, along with all



results from the complaint investigations and other supporting documents, to the Washington State Department of Licenses.

6.6.2 Officers making or receiving complaints, will notify the Chief or designee of the complaint. Complaints investigated by the Department will be reviewed by the Chief or designee before forwarding to the Washington State Department of Licenses.

6.6.3 A complete copy of all complaints investigated by the Department will be kept on file.

## 6.7 Fees.

### 6.7.1 Public.

The tow operator agrees to provide towing services to the public at or less than the rates established by the Washington State Patrol.

### 6.7.2 Department.

a. Trucks (Per Hour) for Department Vehicles and/or Evidence Tows:

i. Class A and B: To be annually established in the letter of appointment and contract.

ii. Class C: One-half (1/2) the State authorized rate of towing services

b. Trucks (Per Hour) For Other Department Requested Tows:  
Class A, B and C, D & E: One-half (1/2) the State authorized rate of towing services

c. Storage (per day):  
One-half (1/2) the State authorized storage rate.

d. Hourly Labor:  
Rate for personnel in excess of one driver per truck to be annually established in the letter of appointment and contract.

6.7.3 The Chief will annually establish maximum hourly towing rates for each class of tow truck and maximum daily storage rates that tow operators may charge for services performed as a result of Department / evidence calls for the following calendar year.

6.7.4 The tow operator may adopt a rate schedule charging less than the maximum rates established by the Chief.

## 6.8 Other Requirements.

- 6.8.1 The registered tow truck operators impounding vehicles from private property are required by contract to notify Crime Check / Police Radio and to wait for clearance to proceed prior to impounding an abandoned motor vehicle that has been reported stolen or otherwise involved in criminal activity. Impoundment of stolen vehicles is only authorized by law enforcement. In the event that the reported stolen vehicle subsequently requires impoundment, the reporting/posted tow company shall receive the tow.
- 6.8.2 The towing business, its owners and employees, will conduct themselves in a manner to reflect professionally upon themselves as well as the City of Spokane and the Spokane Police Department.
- 6.8.3 In the event a vehicle is held for evidence at a tow yard, the tow operator is responsible for contacting the Department and / or investigating officer within three (3) business days (Monday - Friday) to determine the status of the evidentiary hold.
- 6.8.4 Department vehicles:
- a. The tow operator agrees to tow Department vehicles to the City yards, when they break down, are in accidents or other mishaps.
  - b. The tow operator also agrees to move vehicles, when requested, to storage facilities that are used for vehicles retained by the department as evidence.

## 7.0 RESPONSIBILITIES

The Chief or designee is responsible for administering this policy.

## 8.0 APPENDICES

None

APPROVED BY:

B Burns  
City Attorney (ASST)

7-9-12  
Date

Scott A. Stephens  
Chief - Police Department

6-29-12  
Date

Theresa J. Anderson  
City Administrator

7/2/2012  
Date