

St. Joseph, Missouri Police Department



DIRECTIVE TYPE: GENERAL ORDER		INDEX NUMBER: GO0119
SUBJECT: Abandoned Property/Police Towing Procedure		
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I. POLICY:

It is the policy of the Department to impound abandoned property and other personal property within the provisions of City and State Law. Additionally, members will only cause abandoned property to be impounded by police tow when such abandoned property is evidence in a criminal case or impounding of such abandoned property is authorized by City, State, and Federal Law. This Special Order is based upon the provisions outlined under Sections 304.155 to 304.158, RSMo.

II. DEFINITIONS:

1. **Abandoned Property:** Section 304.001(1), RSMo defines "abandoned property" as any unattended motor vehicle, trailer, all-terrain vehicle, outboard motor, or vessel removed or subject to removal from public or private property as provided in section 304.155 and 305.157, whether or not operational. Property belonging to the St. Joseph Public School District is private property and applicable state statutes relating to private property tows shall apply.
2. **Custody Tow:** A vehicle that is towed because:
 - a. It is parked illegally, stolen and recovered, abandoned, disabled on a public street, and/or ordered removed by the Department or other authorized agent of the City because of a violation of law (including trespass to private property);
 - b. It is impounded by the Department (i.e. the vehicle is needed as evidence, secured in a search warrant, was used for use in transporting a controlled substance with intent to manufacture, distribute, deliver, or dispense, the driver is unable to produce valid proof of ownership, the driver/owner was driving while suspended/revoked, etc.).
 - c. It is ordered removed from private or public property by the Municipal Court under the nuisance ordinances of the City; and
 - d. It has been in an accident and the operator is arrested or incapacitated to the extent that he/she is unable to request a tow service (See also Section IIIC below).

- e. The costs of the tow are the responsibility of the driver/owner, unless extenuating circumstances apply. Tow companies are only required by state law to accept cash (they do not have to accept credit cards).
3. **Non-Custody Tow:** A vehicle that is towed pursuant to a citizen's request for assistance in the removal of his/her vehicle. The costs of the tow are the responsibility of the driver/owner. The method of payment as stated above also applies.
4. **Private Property Owner:** The owner of real property or renter in lawful possession of the real property or the property or security manager of the real property. Any of these subjects may authorize a tow company to remove abandoned property or property parked in a restricted or assigned area.

III. PROCEDURE:

A. Tow Charges Imposed:

1. The City of St. Joseph may enact an ordinance specifying maximum reasonable towing, storage, and other charges that can be imposed by tow companies within the City (this provision applies to NEXT UP and/or CITY CONTRACT tows only).
2. A towing company may charge no more than one-half the regular rate if the owner claims the abandoned property before it is actually towed from private property. The regular rate may be charged only after the abandoned property has been removed and is in transit.

B. Police Towing of Vehicles from Public Property (Custody Tow):

1. Police towing of a vehicle from public property is authorized under the following conditions:
 - a. Section 304.155, RSMo allows any law enforcement officer of a government agency to authorize a towing company to remove abandoned property to a place of safety when:
 - a1) Any abandoned property on the right of way of:
 - Any interstate highway or freeway in an urbanized area, is left unattended for 10 hours;
 - Any state highway other than an interstate highway or freeway in an urbanized area is left unattended for more than 10 hours.

NOTE: Commercial motor vehicles NOT hauling hazardous waste may only be removed to a place of safety after the owner or owner's representative has had a reasonable opportunity to contact a towing company of his/her choice.
 - a2) Any unattended abandoned property illegally left standing upon any highway or bridge in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal.
 - a3) Any abandoned property which has been reported as stolen, or taken without the consent of the owner.
 - a4) Any abandoned property that because of any other state law or City ordinance is subject to towing because of the owner's outstanding traffic or parking violations.

- a5) Any abandoned property for which the person operating such property is arrested for an alleged offense for which the officer is required to take the person into custody and/or where such person is unable to arrange for the property's timely removal.
- a6) Any abandoned property illegally left standing on the waters of this state where the abandoned property is obstructing the normal movement of traffic, or where the abandoned property is unattended for more than 10 hours or floating loose on the water.
- a7) The State Transportation Department may immediately remove any abandoned, unattended, wrecked, burned or partially dismantled property, spilled cargo or other personal property from the roadway of any state highway if it is creating a traffic hazard because of its position in relation to the state highway.
- b. When impounding of such property is authorized under the provisions of the municipal ordinances of the City of St. Joseph (i.e. Code Enforcement violation).
- c. When an officer has probable cause to believe the property is evidence in a crime.
- d. Upon a lawful demand order from another law enforcement or governmental agency.
- e. When exigent circumstances exist where the failure to remove said vehicle would constitute a hazard to public safety, upon emergency proclamation by a lawful authority to impound vehicles for certain conditions is issued (i.e. snow routes), or where signs are posted giving notice of the law (i.e. Trespassing Ordinance).
- 2. Cities/Counties with local ordinances that regulate the removal and sale of abandoned property may sell the same by issuing a bill of sale.

C. Accident Tows:

1. Non-Custody Tows:

- a. Vehicles may be legally parked, if operable.
- b. If a vehicle is disabled, the driver may select the tow company of his/her choice, or members may offer the NEXT-UP tow from the appropriate tow list.
- c. The driver shall be informed that the street must be cleared of obstruction.
- d. The tow companies involved are responsible for clearing the roadway of debris.
- e. When a driver is taken from the scene, the member shall ensure the vehicle is secured/towed and valuable contents are placed in safekeeping.

2. Custody Tows:

Vehicles which may be of evidentiary value (i.e. serious injury accidents, fatalities, stolen vehicles, etc.) shall be towed by the City Contract Tow Company.

D. Arrest from Vehicle (Custody Tow):

- 1. Vehicles left in the roadway after the arrest of a driver may be:
 - a. Released to an unimpaired licensed passenger, with the suspect's permission; or
 - b. Legally parked and secured, with the suspect's permission.

2. If neither of these options is practical, or if the vehicle is needed for evidentiary purposes, the vehicle shall be towed by City contract tow.
- E. Police Towing of Vehicles from Private Property (Custody Tow) :**
1. Police Towing of vehicles without consent or warrant from private property is authorized only under the following conditions:
 - a. When the member has probable cause to believe that the vehicle is evidence in a crime or contains evidence in a crime and the vehicle is in plain view.
 - b. When the member takes the driver of the vehicle into custody, and such vehicle would thereby be left unattended on private property to which it is not registered; and the owner or other responsible party, not impaired by either alcohol or drugs, cannot take immediate custody of it, it shall be towed by the City contract tow company.
 2. **Police Towing of Vehicles from Private Property when Consent or a Warrant is Required (Custody Tow):**
 - a. When a member has probable cause to believe that a vehicle is evidence in a crime and said vehicle is not in plain view (i.e., in a garage, covered, or fenced in), the member shall obtain a warrant authorizing the seizure of the vehicle. If another law enforcement agency requests a vehicle on private property to be impounded as evidence, the same rules shall apply. In the event the situation demands that a warrant be obtained, it is the responsibility of the other agency to obtain the warrant. Upon approval of the appropriate Shift Supervisor/Watch Commander, security will be provided until such a warrant can be obtained.
 3. **Police Towing of Vehicles from Private Property where Exigent Circumstances Exist (Custody Tow):**

In some situations the existence of exigent circumstances may give members standing on private property the right to seize a vehicle used in a crime. This situation **ONLY** occurs when there is a substantial risk that evidence will be destroyed by fire, water, or other emergency if the member would fail to **immediately** impound and protect the vehicle as evidence.
 4. **Other Towing of Vehicles from Private Property:**

When responding to a complaint of a vehicle abandoned on private property (i.e. business lot, church lot, etc.), members will follow the procedures listed below:

 - a. Conduct a computer records check of the license and VIN number on the vehicle to ascertain if the vehicle is stolen or wanted in connection with a crime.
 - b. Inspect the interior of the vehicle for contraband, evidence of a crime or hazard to public safety.
 - c. If upon completion of his/her investigation, the member has no reason to impound the vehicle for law enforcement purposes, the following action may be taken:
 - c1) The member will attempt to contact the registered owner and ascertain if the vehicle has been stolen without the owner's knowledge. He/she will also inform the vehicle's owner that the property owner is requesting that the vehicle be immediately removed.

c2) If the owner cannot be contacted or refuses to remove the vehicle, the private property owner (or renter/agent) may request that law enforcement remove the vehicle from his/her property. Officers may ONLY authorize the removal of the vehicle under the following conditions: (RSMo 304.157)

- The abandoned property is left unattended for more than 48 hours; or
- If, in the judgement of the law enforcement officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.
- Members shall fill out the appropriate "Tow Sheet".

NOTE: By responding to the complaint location you ARE NOT automatically authorizing the removal of a vehicle/abandoned property. You are providing a public service.

d. **Towing of Vehicles from Private Property Without Police Authorization** (RSMo 304.157):

d1) The owner of private property may authorize the towing of a vehicle from his/her property without law enforcement authorization ONLY when the owner is present and ONLY under the following circumstances (state statute):

- There is displayed, in plain view at all entrances to the property, a sign not less than 17x22 inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that unauthorized abandoned property or property parked in a restricted or assigned area will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage and containing the telephone number of the Department whereby the vehicle's owner may call to receive information regarding the location of the property (i.e. large apartment complex); or
- The abandoned property is left unattended on owner occupied residential property with four residential units or less, and the private property owner has notified the Department, and **ten hours** have elapsed since that notification (i.e. small duplex/apartment unit or single family dwelling); or
- The abandoned property is left unattended on private property and the private property owner has notified the Department, and **96 hours** have elapsed since that notification (i.e. business lot open to the **public**).

d2) When a private property owner tows a vehicle without law enforcement authorization, the private property owner AND tow driver shall complete the Missouri Abandoned Property Report (MO 860-2736/DOR-4669) WITHIN ONE HOUR of the tow. The tow driver shall deliver a copy of the report to the Department within two hours of the tow if the property had displayed a 17x22 inch sign as previously stated. Otherwise, the report will be delivered within 24 hours of the tow.

- * The Towing Company shall fill out the applicable section and shall obtain a copy of the Abandoned Property Report signed by a

department member. The tow company MUST NOT remove abandoned property from private property without first obtaining written authorization from the private property owner (Abandoned Property Report).

* The member shall acknowledge receipt of this Abandoned Property Report by filling out the applicable section. The member shall provide the Tow Company with a signed copy of this completed report and shall search the Department of Revenue Records and provide the tow company with the latest owner and/or lien-holder information.

* If no member was present at the scene of the "Abandoned Property Report" tow, the private property owner may call the Department and request assistance in filling out the report from an appropriate member.

NOTE: The owner of the abandoned property has a right to request a hearing if he/she feels the towing was improper or illegal. The owner must file a petition in the Buchanan County Associate Circuit Court for the hearing. The petition must be filed within 10 days after notification of the tow and a copy must be sent to the Department of Revenue.

F. Impounding Vehicles in Violation of 48 Hour Parking Restriction (Custody Tow):

1. Upon complaint or observation of a vehicle that is in violation of the 48 hour parking restriction, a member will:
 - a. Place a Police Tow Warning on the vehicle in violation and notify the owner or operator of the vehicle, if possible. The member should attempt to mark the tires of the vehicle to show if it had been moved after being "tagged".
 - b. Upon completing the assignment, the member will notify the Communications Center that a Police Tow Warning was issued. The Dispatcher will enter a disposition into the CAD system that the Police Tow Warning was issued. This disposition shall include the member involved, vehicle description, location, reason for the Police Tow Warning, and the time/date of the vehicle's "tagging".
 - c. If the violation has not been corrected within 48 hours, the responding member will confirm that a Police Tow Warning was issued with the Communications Center and impound the vehicle within provisions of Department policies and procedures. The member that placed the Police Tow Warning on the vehicle(s) will check his/her own Police Tow Warnings, when possible.
 - d. If there are extenuating circumstances concerning the pertinent facts of the towed vehicle/incident, the member will make out an information report and attach the same to the Tow Sheet. When such an information report is made, the impounding member will obtain a printout (of the incident in which the Police Tow Warning was issued) from the Communications Center and will attach the computer printout to the Information Report.

G. City Contracted Tow Service:

1. The City contracts with a towing service to be utilized for Department ordered tows.

2. All vehicles towed will be taken to the contract tower's storage facility unless otherwise directed by investigating members.

EXCEPTION: Vehicles that must first be processed for evidentiary purposes shall be towed to the Law Enforcement Center.

H. Towing Procedures:

1. Obtain a case number and complete the necessary Department/Missouri report forms.
 - a. Members shall complete the Missouri Crime Inquiry and Inspection Report/Authorization to Tow (DOR-4569) on all applicable Department tows, and have the tow driver and/or the owner, renter, or agent of the real property (when applicable) sign the report in the space provided.
2. **Conduct an inventory of the vehicle:** List any items of nominal value on the Tow Sheet. List if the keys are in the vehicle, Evidence Room, or if there are no keys. High value items should be carefully itemized, tagged, and placed in the Department Evidence Unit for safekeeping. The inventory should include:
 - a. The entire passenger compartment of the vehicle, including any unlocked containers.
 - b. The glove box, console, trunk, and other cargo compartments, if access can be gained without damage.
3. Advise the Communications Center of the following information concerning the tow;
 - a. Description of the vehicle (including VIN # and License Plate #);
 - b. Time, date, and location of the tow;
 - c. Reason for the tow (including any criminal charges pending);
 - d. Member requesting the tow;
 - e. Tow company used; and
 - f. Notification or attempted notification of the registered owner.
4. If the vehicle is held for law enforcement purposes, the member shall clearly mark the tow sheet with "POLICE HOLD FOR..." on the top of the form and include the reason why. The case number, the reason it was towed and/or all pertinent case numbers related to that vehicle shall be included.

NOTE: To expedite the investigative process and the release of the property to its owner, the appropriate investigative personnel will be notified by the towing member (including voice mail, when applicable) of the hold, the report case number and the nature of the incident.

5. Citizen's inquiries should be referred to Tele-serve.
6. Communications Center Responsibilities: Communications Center personnel shall enter the above information (Section IIIH3 a through f) into CAD concerning vehicle tows made by the Department. Tele-serve members **MUST** have this information available to meet state statute requirements concerning owner notification. Communications Center personnel shall make inquiries into the NCIC and any statewide computer system concerning Abandoned Property Reports that are received into the Department.

I. Maintenance of Police Tow Records:

1. **Tele-Serve and Lobby Personnel:**

- a. Members of the Tele-serve Unit and Lobby personnel will maintain records of all vehicles removed, towed, or stored at the direction of a department member.
 - b. Vehicles will be released to the rightful owner or the operator of the vehicle after proving ownership or after appropriate inquiries.
 - c. Tele-Serve and Lobby personnel shall verify that the Communications Center has entered the appropriate "Abandoned Property Report" information for computer data inquiries into NCIC, etc. by regularly comparing received "Abandoned Property Reports" and related NCIC entries (See also IIIH6 above).
 - d. If the abandoned property is not claimed within ten days, the towing company in possession of the abandoned property must notify the Department of the unclaimed abandoned property. The Department will then forward the tow reports (DOR-4569) for unclaimed property to the Department of Revenue.
2. Field Personnel:
- a. The Crime Inquiry and Inspection Report/Authorization to Tow must be used by members when authorizing vehicle/abandoned property tows.

J. Personal Property Within the Abandoned Property:

The Tow Company is not required to release to the owner, any personal property within the abandoned property until reasonable or agreed charges for such recovery, transportation, or safekeeping has been paid or satisfactory arrangements for payment have been made. If the Tow Company does not release the personal property, then they must allow the owner to inspect the property and provide the same with an itemized receipt for the contents. The Tow Company is strictly liable for the condition and safe return of the personal property.

EXCEPTION: Any medication prescribed by a physician must be released to the owner, upon request.

K. Tow Company/Private Property Owner Liability Issues:

1. The Tow Company is not liable for any damage caused by removal of abandoned property from public property when the removal is authorized except for damage caused by negligence or willful or wanton acts or omissions.
2. The Tow Company that lawfully removes abandoned property from private property with written authorization of the private property owner who is present at the time is not responsible in any situation involving the legality of the removal. The Tow Company is responsible for:
 - a. Any damage caused by the Tow Company to the abandoned property during transit; and
 - b. The removal of property other than the property specified by the private property owner.
3. A tow company that removes abandoned property from private property without written authorization from the private property owner will be liable to the abandoned property owner for four times the amount of the towing and storage charges, in addition to any criminal penalties that may apply.
4. The private property owner may be held responsible for any damage done to abandoned property that is caused by its removal.

5. Any person who knowingly violates any provisions of state statute concerning the laws related to towing abandoned property shall be guilty of a Class A Misdemeanor and his/her towing company license may be suspended or revoked.

L. Repossessed Vehicles:

If a lien-holder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel by having such property towed, that person must notify the Department within two hours of the tow and also provide the Department with any additional information requested.

Chris Connally-

Chief of Police

Date