

NEWPORT ROTATION WRECKER POLICY

In order to perform its traffic safety functions, the Newport Police Department is routinely required to use wrecker services to tow disabled, seized, wrecked and abandoned motor vehicles. The purpose of this policy is to regulate on-call wrecker service providers who have been approved for inclusion on the "Rotation Wrecker List" so that the public, and qualified wrecker services, are treated in a uniform, fair and reasonable manner.

A. Definitions:

1. **Applicant.** A person or business entity owning a wrecker service and applying for inclusion on the Rotation Wrecker List.
 2. **Wrecker Service.** A person or entity engaged in the business of, or offering the services of, or owning a wrecker service or towing service whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle manufactured and designed for the primary purpose of removing and towing motor vehicles. A "rotation wrecker service" is one on the Rotation Wrecker List.
 3. **Car carrier or "Rollback."** A car carrier or rollback is a vehicle designed to tow or carry vehicles damage-free. The truck chassis shall have a minimum gross vehicle weight rating (GVWR) of 14,500 pounds. The truck shall include: two lift cylinders with a minimum two and one-half-inch bore; individual power winch pulling capacity of not less than 8,000 pounds; a length of wire rope (cable) on a winch drum with a working load limit (WLL) that meets or exceeds the pulling capacity of the power winch utilized; and four tie-down hook safety chains. The carrier bed shall be a minimum of 16 feet in length and a minimum of 84 inches in width inside side rails. A cab protector, constructed of aluminum or steel, must extend a minimum of ten inches above the height of the bed. A "rollback" is not considered a small or large wrecker.
- 3A. **Chief of Police.** Chief of the Newport Police Department
4. **Debris.** Includes any parts of a vehicle or material that may be strewn upon the surface of the roadway or highway right of way as a result of an incident/collision, and which may reasonably be cleared or removed. For this definition, "debris" shall also include any mud, soil, antifreeze, transmission, brake or other liquids/fluids that have been deposited onto the surface of the roadway as a result of a vehicle collision. Debris does not include cargo from property hauling vehicles or hazardous materials that are required to be handled by hazardous materials teams.
 5. **Department.** The Newport, North Carolina, Police Department.

6. **Rotation Wrecker List (Sometimes also Rotation List).** A list of wrecker services which have applied and been approved by the Chief of Police to be placed on the rotation list for the purpose of towing vehicles at the direction of law enforcement or other emergency organizations. The Newport Police Department shall utilize rotation wrecker list services in those instances in which the owner or person in control of a vehicle is unable or not permitted to determine the disposition or custody of the vehicle, or otherwise has no preference as to what wrecker service tows the vehicle.
7. **Officer.** All sworn personnel of the Newport Police Department who are charged with law enforcement duties.
8. **Storage Facility.** An off-street storage facility, located within 30 minutes of the Police Department, secured by a minimum six (6) foot-high chain-link fence (or a fence of similar strength), a wall or building, or other barrier or fence of sufficient height or design to reasonably secure towed vehicles from unauthorized access or removal and to deter trespassing or vandalism, and where all entrances and exits are secure from public access. It is recommended, but not required, that storage facilities be properly lighted. Such facility shall include a parking area that shall be of sufficient size to accommodate all vehicles towed by the wrecker service for the Department.
9. **Wrecker or Tow Truck.** A wrecker means a truck chassis having: a) a minimum gross vehicle weight rating (minimum gross vehicle weight rating, or GVWR, consists of the unloaded/curb weight of the vehicle plus the maximum carrying capacity recommended by the vehicle's manufacturer) of 10,000 pounds, and a maximum GVWR that does not exceed 26,000 pounds; (b) a boom assembly having a minimum lifting power of 8,000 pounds as rated by the manufacturer; (c) an 8,000 pound-rated winch with a length of cable on a winch drum with a working load limit that meets or exceeds the pulling capacity of the power winch utilized; d) a belt-type tow plate or tow sling assembly; e) a wheel life with a retracted lifting capacity of no less than 3,500 pounds; f) dual rear wheels; and g) any additional safety equipment specified by this policy.

B. Newport Rotation Wrecker Policy

1. The Chief of Police shall include on the Rotation Wrecker List only those wrecker services which complete a written application (see the Town's Rotation Wrecker Application), meet the minimum standards set forth herein, and agree in writing to adhere to the provisions in this policy.
 - (a) Within five (5) business days after receipt of each application, the Chief of Police (or his designee) shall initiate an investigation of the applicant's operation and storage yard. Such investigation shall be completed for the purpose of verifying the information in the application, and to determine whether the applicant is in compliance with the provisions of this Policy. If the Chief of Police (or his designee) determines that a wrecker service fails to satisfy one or more of the requirements set forth in this Policy, the Chief (or his designee) shall notify the wrecker service owner of the reason(s) for refusing inclusion on the

Rotation Wrecker List. Any wrecker service that fails to maintain compliance with the requirements of this policy may be removed by the Chief of Police from the Rotation Wrecker List.

(b) In order to promote continuing compliance, the Chief of Police (or his designee) may conduct unannounced inspections of operations and storage facilities during normal business hours. Any wrecker service operator who himself or by his employee, agent, servant or representative interferes with the above-described inspections, including withholding records and/or denying access to facilities, shall be removed from the Rotation Wrecker List.

(c) All applicants must complete a Rotation Wrecker Application (see attached).

2. A wrecker service must have a full-time business office that is staffed and open during normal business hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, excluding holidays, and a storage facility. A representative from the wrecker service must be available on call on a 7-day, 24-hour basis to accept telephone calls from officers and to allow access to towed vehicles. Also, the wrecker service must have someone available, at a minimum from 8:00 A.M. to 5:00 P.M. Monday through Saturday, excluding holidays, to allow vehicles to be retrieved by registered owners, operators, and persons legally entitled to possession. In order to ensure that the person(s) is entitled to possession, the wrecker service shall require sufficient identification, vehicle registration and any other pertinent information from such person(s) seeking to claim a towed vehicle, and immediately upon release of a towed vehicle, the wrecker service shall contact the Department to inform it that the vehicle has been released and to whom the vehicle was released. An individual (registered owner, legal possessor, or operator) shall not be charged a storage fee for days that he/she could not retrieve his/her vehicle as a result of an action or omission on the part of the wrecker service (such as where the wrecker service was not open, did not answer the telephone or a representative was not available to release the vehicle). A wrecker service is responsible for the collection of fees and costs for providing towing and storage services. When a vehicle that has been towed is evidence of or involved in a crime or criminal investigation or has otherwise been impounded or is subject to forfeiture, the Town shall so notify the wrecker service when the vehicle is towed of any available, unclassified information it has about such crime, impoundment or forfeiture, and the wrecker service shall not thereafter release the vehicle without the Town's written authorization. Nothing herein shall mean that the Town will release information concerning a criminal investigation.
3. Only one wrecker owned by the same person, persons, or entity will be allowed on the rotation list. An entity in which a person or a person and family members own a twenty-five (25%) percent or more interest shall be deemed to be the same as the person. "Family Members" shall include spouses, children, parent, uncles, aunts, nieces and nephews. Subsidiaries of an entity or an entity wholly owned by another entity or owned or operated by the same persons or a person or entity

using the same wrecker or wreckers as another person or entity on the rotation list shall be considered as a single entity and shall not be entitled to a separate place on the rotation list.

4. Vehicles towed at the request of the Department must be placed in a storage facility as defined in Section A.8 above.
5. Each wrecker must be equipped with legally required lighting and other safety equipment to protect the public, and such equipment must be in good working order.
6. Each wrecker service vehicle must be equipped with a dolly, amber or yellow revolving light (which must be operating during any tow), and other equipment (as required by the laws of the State of North Carolina) to clean debris from the roadway and to maintain safety at the scene of an incident. Such other equipment must include a heavy duty push broom, dust pan (or shovel), flares, fire extinguisher, scotch blocks, and recovery lights or spot lights on the rear of the truck.
7. The wrecker service operator must remove all debris (see the definition of "debris" at Section A.4 above), other than hazardous materials, from the highway and the right of way prior to leaving the incident/collision scene. This debris removal must be completed as a part of the required service and shall not be charged as an extra service. Hazardous materials consist of those materials and amounts that are required by law to be handled by Hazardous Materials Teams.
8. The wrecker service must be available to the Department for rotation service on a 24-hour per day and seven (7) days a week basis. Calls for service must not go unanswered for any reason.
9. Under normal conditions, the wrecker service shall respond in a timely manner and in any event within 30 minutes of receiving the call for service. Failure to respond in a timely manner may result in a second rotation wrecker service being requested. If because of a failure to respond in a timely manner a second wrecker service is requested before the arrival of the first rotation wrecker service, then the initially requested wrecker shall forfeit the call, shall immediately leave the collision/incident scene, and shall not receive compensation. A wrecker service shall not proceed to the scene of an incident without being called by the Department or by the Carteret County Communication Center. "Running wrecks" or solicitation of business at an incident scene is prohibited.
10. Each wrecker service driver shall have a valid driver's license for the type of vehicle driven to an incident. A limited driving privilege shall not be sufficient.
11. The wrecker service shall adhere to all Federal and State laws and local ordinances and regulations related to registration and operation of wrecker service vehicles, and all wrecker drivers must observe all traffic laws while responding to an incident.
12. The wrecker service shall employ only wrecker operators who demonstrate an ability to perform required services in a safe, timely efficient and courteous manner and who satisfy all of the requirements for wrecker drivers established or referenced herein. Wrecker owners, operators and employees shall not be abusive or disrespectful and shall not use vulgar or profane language

when dealing with the public or any member of the Department and shall cooperate at all times with officers of the Department. All wrecker drivers must be experienced and knowledgeable as to the proper and safe operation of wreckers and of the towing of vehicles such that dependable service is delivered without damage caused to the vehicle in tow.

13. Each wrecker driver employed by a wrecker service on the rotation list shall:

- (a) be at least eighteen (18) years of age, and eligible to work in the United States.
- (b) have possessed a driver license for the past twelve (12) months issued by any state of the United States.
- (c) have not committed an offense of driving while subject to an impairing substance or with an alcohol concentration of 0.08, or more, within five (5) years.
- (d) not have committed a felony unless his/her citizenship has been restored.
- (e) not have committed an offense relating to controlled substances within five (5) years and not be a habitual motor vehicle law offender.
- (f) not have been convicted of more than two (2) motor vehicle moving violations in any twelve (12) month-period during the past five calendar years.
- (g) A wrecker driver must not be physically or mentally incapable of operating a wrecker. Upon request by the Chief of Police or his designee, the wrecker driver employed by a wrecker service on the rotation list must submit a written opinion from a physician stating that the applicant is physically capable and/or mentally competent to operate a wrecker.

14. Every wrecker service on the Rotation Wrecker List shall have insurance as required by N.C.G.S.20-309(a), and shall maintain the following with one or more insurance companies licensed to do business in North Carolina:

Garage Keepers Policy: A garage keeper's legal liability policy covering fire, theft, windstorm, vandalism, and explosion in the minimum amount of \$100,000 with each vehicle suffering damage being deemed a separate claim.

Garage Liability Policy: A garage liability policy covering the operation of the owner's business and vehicles or other equipment for any bodily injury or property damage for which the operator may be held responsible. This policy shall have minimum limits of \$300,000 for injuries or death and a minimum of \$50,000 for property damage arising out of a single incident.

Hook or Cargo Policy: Each wrecker service on the Rotation Wrecker List shall have in effect a valid hook or cargo insurance policy, in the amount of \$50,000.

Notice Endorsement: All insurance policies must contain an endorsement by carriers providing ten days notice to the Town and insured in the event of any change in coverage. Each wrecker service must immediately notify the Chief of Police of any insurance lapse or change. Each wrecker service shall ensure that the Town is listed as "Certificate Holder" or named insured on the Certificate of Liability Insurance.

15. A wrecker service shall notify the Department without delay whenever the wrecker service is unable to respond to calls.
16. Notification of rotation wrecker calls shall be made by the Department or Carteret County Communication Center to the owner/operator or employee of the wrecker service. Notification shall not be made to any answering service, pager or answering machine.
17. Wrecker service vehicles shall be marked on each side by printing the wrecker service name, city, and state in at least two and one-half- inch letters. No magnetic or stick-on signs shall be used. Decals are permissible. Before leaving the incident scene, the wrecker service shall provide a business card to the investigating Officer and owner or person in apparent control of the vehicle.
18. Each wrecker service vehicle must be registered with the Division of Motor Vehicles in the name of the wrecker service, and each vehicle must be insured by the wrecker service. Dealer tags shall not be displayed on wreckers that respond to rotation calls.
19. Wrecker service operators to the extent practicable shall retrieve, secure and preserve, all personal property falling from or in a vehicle involved in an incident which vehicle is one to be towed.
20. Upon request or demand, unless impounded or subject to an order not to do so, the wrecker service shall return personal property stored in, with or from a vehicle, whether or not the towing, repair, or storage fee on the vehicle has been or will be paid. Personal property, for purposes of this provision, includes any goods, purses, wallets, cash, identification, credit and debit cards, licenses, photographs, checks, deposit slips, bank records, and any other property having any value whatsoever other than items directly related to the functioning of the vehicle itself.
21. After financial obligations have been agreed upon between the wrecker service and the owner(s), or appropriate party, of the disabled vehicle(s), the wrecker service shall tow such vehicle(s) to any destination requested by the vehicle owner, or other person with apparent authority.
22. Unless the vehicle is being preserved by the Department as evidence, the wrecker service shall allow insurance adjusters access to and allow inspection of the vehicle at any time during normal business hours.

23. The placement of a wrecker service on the rotation list does not guarantee a particular number or quantity of calls, or an equivalent number of calls to every wrecker service on the Rotation Wrecker List. If a wrecker service responds to a call, said wrecker service shall be placed at the bottom of the rotation list unless the wrecker service, through no fault of its own, is not used or is not entitled to receive compensation for the call. In that event, such wrecker service shall be placed back at the top of the rotation list. Each wrecker service agrees to charge reasonable towing fees and storage fees commensurate with fees charged to other customers, and on or before July 1 of each year, each service will furnish the Chief of Police with a schedule of all fees. The Chief of Police has the right to disapprove any fees that in his or her judgment are excessive based upon the prevailing fees in the community. The placement of a wrecker service on the rotation list does not entitle any wrecker service to compensation as a consequence of a failure to call the wrecker service in accordance with the list or as a consequence of the removal of the wrecker service from the rotation list.
24. A rotation wrecker service, upon accepting a call for service from the Department, must use its own wrecker. Wrecker companies shall not refer a call to another wrecker company or substitute for each other.
25. If a rotation wrecker service moves its business location or has a change of address, the owner of the wrecker service must notify the Chief of Police of the new address or location. Notification shall be made in writing no later than ten days prior to the projected move. The wrecker service shall not be entitled to receive rotation calls prior to inspection of the new facility.
26. A wrecker service may dispatch either a wrecker or a car carrier "rollback" in response to a rotation wrecker call, except where the wrecker service is advised that a particular type of recovery vehicle is needed due to existing circumstances.
27. A rotation wrecker service driver or employee shall not respond to a Department-initiated call for wrecker service with the odor of alcohol on his/her breath, or while under the influence of alcohol, drugs, or any impairing substance.
28. Storage fees shall not begin to accrue until the next calendar day following the towing of a vehicle.
29. The operator of a vehicle, if present and not incapacitated, shall have the right to select a wrecker service of his choice, provided, however, that the requested wrecker service is located within a reasonable distance of the incident site. Newport Police Department personnel at the scene shall determine the reasonableness of the distance from the incident site, and their decision shall be final. If the operator of a vehicle to be towed is not present, is incapacitated, or has no preference for a specific wrecker service, Department personnel shall determine the wrecker service per the Wrecker Rotation List. When emergency circumstances prevail, the Department officer may request wrecker services from the entity service closest to the scene. A Department Officer may also request wrecker services from an entity operating large cranes

or other heavy recovery equipment when the same is necessary to remove traffic obstacles such as large trucks or heavy equipment. The determination regarding whether an emergency exists, or whether a specialized recovery service is required, shall be in the sole discretion of the Department on-duty supervisor.

30. In no event shall any Officer, in the performance of his duties, recommend any wrecker service, motor club, or automobile membership service to the owner or driver of a wrecked or disabled vehicle, nor shall any officer, in the performance of his duties, recommend the services of a particular wrecker service, motor club, or automobile membership service. Officers shall, whenever possible and practicable, dispatch the wrecker service requested by the motorist requiring such services.
31. An Officer who notices a violation of the provisions of this Policy shall notify the Chief of Police in writing as soon as practicable. The Chief shall notify, in writing, said wrecker service about the violation(s) and of any planned corrective actions. A wrecker service that is dissatisfied with the rotation system, or with the requirements of this policy, shall file a written statement to the Chief of Police. If the Chief cannot satisfy such complaint, a statement shall be filed with the Town Manager whose decisions will be final.
32. By submitting an application and accepting placement on the Rotation Wrecker List, each wrecker service agrees to forever hold harmless and to fully indemnify the Town of Newport and its personnel, agents, officials, and Town Council Members, in both their official and individual capacities, from any and all judgments, liens, claims, assessments, demands, attorney fees, actions, and causes of action of any sort arising out of any damage or injury sustained by any person, property or entity by reason of any negligent or willful act or omission of the wrecker service or its officers, employees, agents, or contractors in connection with rendering services.
33. Wrecker services on the Rotation Wrecker List shall not employ any person who is also employed by the Town of Newport. The Town will not approve an application for the rotation wrecker list for any wrecker service that employs a full or part-time employee of the Town.
34. Upon ten days notice, the Chief of Police may remove any wrecker service from the Rotation Wrecker List for any reason. However, such termination shall not affect the responsibilities of the parties relating to vehicles that have been towed as of the termination date. Any wrecker service so removed from the Rotation Wrecker List may file with the Chief of Police a written appeal stating the reason therefor. This appeal must be filed within ten days of the date when removed from the Rotation Wrecker List. Appeals will be heard by the Town Manager within fourteen days of the date that the appeal is filed with the Chief of Police. Decision of the Town Manager shall be final.