

1. POLICY

This policy sets guidelines for the towing, notification, storage, and inventory of vehicles. It shall also set for the guidelines for the management of wrecker services.

It is the policy of the Chadbourn Police Department to remove all vehicles, parked, disabled, or left standing on the roadway or main-traveled portion of the highway and vehicles left on the highway right-of-way that present a hazard or potential hazard as authorized by State law. If the towing, storage, or removal of a vehicle is necessary, every effort should be made to ascertain the owner, operator, or legal possessor's preference with regard to towing. The last registered owner of a vehicle towed and/or stored shall be provided with the towing notification information required by State law.

2. VEHICLE REMOVAL PROCEDURES

Vehicles on the Paved or main-traveled Portion of the Highway

An Officer who encounters a vehicle parked, disabled from a collision or otherwise left standing on the paved or main-traveled portion of the highway shall:

Remove the vehicle to a position off the roadway

With consent of the owner, operator, or legal possessor, transport and store the vehicle

Without consent from the owner, operator, or legal possessor, transport and store the vehicle if the vehicle presents a hazard, a potential hazard or otherwise as authorized by State law

An Officer shall permit an objecting owner, operator, or legal possessor to remove a vehicle to a safe position off the roadway, if the driver is competent and licensed to drive the vehicle. A Officer may transport and store a vehicle, which cannot be safely parked off the roadway as authorized in this directive.

Vehicles off the Paved or Main-Traveled Portion of the Highway

A Officer investigating an accident or collision in which a disabled vehicle is located off the paved or main-traveled portion of the highway may transport and store the vehicle. If the owner, operator, or legal possessor objects, a Officer shall not transport and store a vehicle unless, as standing, the vehicle creates a hazard.

A Officer who observes a vehicle unlawfully parked or disabled on the right-of-way, which does not interfere with the regular flow of traffic or otherwise constitutes a hazard until the vehicle remains on the highway right-of-way for a period of twenty-four (24) hours or more, has been vandalized, or is otherwise abandoned. The vehicle can then be stored.

3. SECURING VEHICLES WHEN OPERATOR IS ARRESTED

Upon arresting or placing a vehicle operator in custody a Officer shall:

With consent of the owner, operator, or legal possessor, allow another licensed, competent individual to drive or move the vehicle to a position off the roadway.

If no licensed, competent operator is present, or if the owner, operator, or legal possessor will not consent to such removal.

Move the vehicle, if necessary, to a position of the roadway, lock the vehicle, and return the key to the owner, operator or legal possessor, except that, in any case where the operator of the vehicle is arrested for DWI, a Officer shall either turn the keys over to the magistrate/jailer or to a sober, responsible person; or

With or without consent of the owner, operator, or legal possessor, transport and store vehicle.

Vehicles Subject to Seizure

Vehicles, which are authorized by law to be seized, or which may be evidence in a criminal proceeding may be towed and stored.

4. VEHICLES TRANSPORTED AND STORED OVER OBJECTION OF OWNER

A Officer may transport and store a vehicle over the objection or without the consent of the owner, operator, or legal possessor when;

The vehicle cannot be lawfully parked off the roadway

The vehicle is lawfully parked off the roadway but creates a hazard

The owner, operator, or legal possessor refuses or is unable to remove the vehicle from the roadway

The vehicle is subject to a seizure pursuant to N.C.G.S. 20-28.3 or other lawful authority

5. PARKING VEHICLES OFF THE ROADWAY

A Officer who removes or allows a vehicle to be removed to a position off the roadway shall:

Lawfully park the vehicle in apparently safe and secure location off the main-traveled portion of the highway

Place the vehicle in a position that creates no apparent hazard or other interference with the regular flow of traffic

A Officer shall take reasonable precautions to secure the vehicle and its contents against theft, vandalism, and other damage by locking the vehicle (if possible) and returning the keys to the owner, operator, or legal possessor. In any case where the operator of the vehicle is arrested for driving while impaired (DWI), a Officer shall either turn the keys over to the magistrate/jailer or, when appropriate, to a sober, responsible person.

6. TRANSPORTING AND STORING VEHICLES

Officers shall arrange transportation and safe storage of vehicle (s). A Officer who authorizes the transportation and safe storage of a vehicle shall, immediately notify Central Dispatcher (911) and request a wrecker service. A Chadbourn Police Department Storage Report will be made and turned in with all other paper work regarding the incident.

If the vehicle is being stored as a result of a collision involving serious personal injury or fatality, the authorizing Officer shall ensure a next-of-kin has been notified as to the location of the vehicle as soon as possible.

The Officer shall notify Central Dispatch (911) when ever the vehicle is stored if the operator/legal possessor is either not present or is present but is not the registered owner of the vehicle. If the vehicle is towed, stored, or removed to the shoulder of the road, Central Dispatch (911) will be notified.

When necessary for accident reconstruction or a criminal investigation in which multiple vehicles are involved in an incident a single storage location shall be designated. The storage facility of the first wrecker service dispatched shall be used unless otherwise designated by a supervisor.

When necessary for an accident reconstruction or a criminal investigation, a Officer shall designate at which indoor or other storage facility a vehicle shall be stored to ensure preservation of the evidence. The storage facility shall be the first wrecker service dispatched unless otherwise designated by a supervisor.

DWI seized vehicles the Officer will notify the Columbus County Sheriff's Department supervisor on duty to the scene. The Columbus County Sheriff's Department will notify a local contractor to tow the vehicle.

7. RELEASE OF VEHICLES

If no legal justification to hold the vehicle exists, a Officer shall immediately authorize the release of stored vehicle to the owner upon proof of ownership. This information will be placed on the Chadbourn Police Department Vehicle Storage Report.

8. VEHICLE INVENTORY

An Officer who authorizes the transportation and storage of a vehicle in the absence of the owner, driver, or the legal possessor of the vehicle, shall take precautions to protect all property in and on the vehicle prior to removal from the scene.

A vehicle that is left at the scene at owners, drivers, or legal possessor, therefore an inventory is not required by the officer.

The storage and security of the vehicle and its contents become the responsibility of the towing company when the vehicle is towed from the scene and stored at the wreckers storage facility.

All vehicles, which are inventoried pursuant to these rules, shall be inventoried at time of storage unless and emergency situation dictates otherwise.

- . The inventory must be complete, listing all items that are toxic, explosive, flammable, or of monetary value**
- . Unless locked or securely wrapped, all containers in the vehicle (whether opened or closed) shall be opened to determine contents unless evidence is discovered to indicate that opening the container may subject the officer to exposure of toxic, flammable, or explosive substances. Locked or securely wrapped luggage, packages, and containers shall not be opened except as otherwise authorized by law or by owners consent, but shall be indicated on the inventory list as locked or securely wrapped items.**
- . Any evidence found in plain view is admissible. Locked or securely wrapped containers (luggage, attaché cases, etc,) are considered as units of inventory and shall not be searched without obtaining consent or search warrant unless there is evident danger to the officer or public.**
- . The officer shall seek to obtain a search warrant when there is probable cause for a search of the vehicle or its contents when time and conditions permit.**

9. FINANCIAL INTEREST

No officer of the Chadbourn Police Department or any of its civilian employees shall hold interest or any form of ownership interest in any wrecker service. No officer may be employed by a wrecker service while employed by the Chadbourn Police Department.

10. IMPARTIAL USE OF SERVICES

In order to perform its traffic safety functions, the Chadbourn Police Department is required to use wrecker services to tow disabled, seized, wrecked, and abandoned vehicles. Members of the Chadbourn Police Department shall assure the impartial use of wrecker services through strict compliance with these rules. In no event may a member of the Chadbourn Police Department 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 recommend the services of a particular wrecker service, motor club, or automobile membership service in the performance of his/her duties. Officers shall, whenever possible and practicable, dispatch the wrecker services requested by the motorist requiring such services.

11. ROTATION CONTRACT

The Chadbourn Police Department shall arrange with 911 Central Dispatch to maintain a rotation list of wrecker service in Town of Chadbourn, this list will be used for calling for a rotation wrecker by the officer or the owner, driver, legal possessor of the vehicle to be towed.

The Chadbourn Police Department shall use the wrecker service requested by the owner or person in apparent control of the motor vehicle to be towed. Officers shall not attempt to influence the person's choice of wrecker services, but may answer questions and provide factual information. If no such request is made, the Chadbourn Police Department system will be used in the rotation wrecker in Columbus County to be used, absent an emergency. The officer will make the request to the 911 Central Dispatch for the next rotation wrecker to respond to the scene. The 911 Central Dispatch will maintain the list of wrecker service that would be called in order of the list.

12. REMOVAL OF VEHICLES FROM ROADWAY "QUICK CLEARANCE"

Pursuant to N.C.G.S. 20-161 (f), whenever a portion of the state highway system is closed or partially blocked by a wrecked, abandoned, disabled, unattended, burned, or partially dismantled vehicle, cargo, or other personal property interfering with the regular flow of traffic, the priority shall be to clear the roadway as soon as possible.

Investigation officer's are authorized to request the closest available rotation wrecker service and/or Town of Chadbourn vehicle to remove the debris in the roadway. Officers shall ensure that the requested wrecker service is capable of responding without delay, and is properly staffed and equipped to handle the request for service. All requests for assistance for the town of Chadbourn vehicles shall be made by the Senior Officer on the scene or the Police Chief.

13. WRECKER SERVICE REGULATIONS

In order to be listed on a rotation wrecker list within the Town of Chadbourn wrecker service must have a full time business office within Columbus County staffed and open during the normal business hours 8:a.m. to 5:00p.m. Monday through Friday, excluding holidays and must have a storage facility. The wrecker service must have someone available to accept calls from 911 Central Dispatch, and to allow access to towed vehicles, or to retrieve towed vehicles by the requested owner, operator, or legal possessor during business hours. The business office may not be the same physical address as the owners residence unless a zoned commercial purposes and advertised

as a business property. A representative from the wrecker service is required to be on call on a 24-hour basis for emergencies. The wrecker service shall allow vehicles to be retrieved between the hours of 8:00a.m. to 5:a.m., seven days a week, excluding holidays. An individual (registered owner, legal possessor, or operator) shall not be charged a storage fee for days that he/she could to retrieve his/her vehicle as a result of an action or omission on the part of the wrecker service (such where the wrecker service was not open, did not answer the telephone, or a representative was not available to release the vehicle.

Wrecker service facilities and equipment, including vehicles, office, telephone lines office equipment, and storage facilities may not be shared with or otherwise located on the property of another wrecker service and must be independently insured.

The wrecker service must also have a secure storage facility capable of storing any vehicle towed as a result of a Chadbourn Police Department call. Storage facility may not be shared, and vehicles towed at the request of the Chadbourn Police Department must be placed in a secure storage facility. In any case where husband and wife or other family members are engaged in the business of towing vehicles and desire to list each business separately on the Chadbourn Police Department wrecker rotation list, the wrecker service shall establish that it is a separate legal entity for every purpose, including federal and state tax purposes.

Each wrecker must be equipped with legally required lighting and other safety equipment to protect the public, and in such equipment must be in good working order.

The wrecker service operator must remove all debris, other than hazardous materials (those amounts required to be handled by local Hazardous Material Teams) from the highway and the right-of-way prior to leaving the incident/collision scene. (This service must be completed as a part of the required rotation service and shall not be charged as an extra service provided.)

The wrecker service must be available to the Chadbourn Police Department for rotation service on a 24-hour per day basis and accept collect calls (if applicable) from the 911 Central Dispatcher. Calls for service must not go unanswered for any reason; failure to respond to calls for service may result in removal from the rotation wrecker list.

The wrecker service shall respond, under normal conditions, in a timely manner. Failure to respond in a timely manner may result in a second rotation wrecker being requested. If the second wrecker is requested before the arrival of the first rotation wrecker, the initial requested wrecker shall forfeit the call and shall immediately leave the collision/incident scene.

For Chadbourn Police Vehicles involved in a traffic crash, the Chief of Police will be notified as soon as possible before any vehicle is moved from the scene of the crash. The North Carolina Highway Patrol will be notified by 911 Central Dispatch to respond to the scene of the traffic crash. The officer involved will activate blue lights and keep the roadway secure by directing traffic until he is relieved from that duty to maintain the safety of the general public. Should a Town Vehicle become involved in a traffic crash, the Town Manager and the Chief of Police will be notified immediately. The responding officer will ensure that all vehicles remain in the location the incident occurred and maintain the safety of the crash scene and the safety of the public.

All wrecker operators SHALL have a valid drivers license for the type of vehicles driven; a limited drivers license privilege shall not be allowed.

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 have insurance as required by N.C.G.S. 20-309 (a).

The wrecker service shall employ only wrecker operators who demonstrate the ability and desire to perform required services in a safe, timely, efficient, and courteous manner and who satisfy all the requirements of a wrecker driver established or referenced herein.

The wrecker service shall notify the Chadbourn Police Department without delay whenever the wrecker service is unable to respond.

Notification of rotation wrecker calls shall be made to the owner/operator or employee of the wrecker service. Notification shall not be made to any answering service, pager, or answering machine.

Pursuant to N.C.G.S. 20-101 (d) Wrecker service vehicles shall be marked on each side with the name and address of the registered owner of the vehicle, and the name and address of the wrecker service if different printed on the side of the vehicle with letters not less than 3 inches in height. No magnetic or stick-on signs shall be used; however decals are permissible. The wrecker service operator shall provide a business card to the investigating officer or person in apparent control of the vehicle before leaving the scene.

Each wrecker service vehicle must be registered with the Division of Motor Vehicles in the name of the wrecker service and must be insured by the wrecker service. Dealer tags shall not be displayed on wreckers that respond to rotation calls.

Secure all personal property at the scene of a collision to the extent possible, and preserve personal property in a vehicle which is about to be towed.

Upon request or demand, the rotation wrecker service shall return personal property stored in or with a vehicle, whether or not towing, repair, or storage fee on the vehicle has been or will be paid. Personal property, for purpose of this provision, includes any goods, wares, freight, or any other property having any value what's so ever other than the functioning vehicle itself.

The wrecker service shall tow disabled vehicles to any destination requested by the vehicle owner or other person with apparent authority, after financial obligations have been finalized.

Unless the vehicle is being preserved by the Chadbourn Police Department as evidence, the wrecker service shall allow insurance adjusters access to and inspection of the vehicle at any time during normal working hours.

Being called by the Chadbourn Police Department to tow a vehicle, does not create a contract with or obligation on the part of the Chadbourn Police Department personnel to pay any fee or towing charge except when towing a vehicle owned by the Town of Chadbourn.

Being placed on the Chadbourn Police Department Rotation Wrecker List, does not guarantee a particular number of quality of calls, does not guarantee an equivalent number of call to every wrecker service on the rotation wrecker list, nor entitle any wrecker service to any compensation as a consequence for not being called in accordance with the list or when removed from the rotation wrecker list.

Failing to respond to any calls by the Chadbourn Police Department shall result in the wrecker service being placed on the bottom of any rotation list.

A rotation wrecker service, upon accepting a call from 911 Central Dispatch must use its own wrecker. Wrecker companies shall not refer a call to another wrecker company or substitute for each other.

If a rotation wrecker service moves its business location or has a change of address, the owner of the wrecker service must notify the Chadbourn Police Department Police Chief of the new location. Notification shall be made in writing no later then ten days prior to the projected move.

A wrecker service may dispatch either a wrecker or a car carrier "rollback" in response to a officers rotation wrecker call, except where the wrecker service is advised by the officer that a particular type of recovery vehicle is needed due to circumstances.

A rotation wrecker driver or employee shall not respond to a patrol officers incident with the odor of alcohol on his/her breath or while under the influence of alcohol, drugs, or any other impairing substance.

A wrecker service shall have in effect a valid hook or cargo insurance policy issued by a company authorized to do business in the State of North Carolina in the amount of not less than \$50,000.00 for each small wrecker and \$150,000.00 for each large wrecker. In addition, each wrecker service shall have a garage keepers insurance policy from an insurance company authorized to do business in the State of North Carolina covered towed vehicles in the amount of not less than \$ 100,000.00.

The Police Chief of the Town of Chadbourn or his representative shall conduct an investigation of each wrecker service desiring to be placed on the Chadbourn Police Department's Rotation List and determine if the wrecker service meets the requirements set forth in this policy, the Chief of Police or his Representative shall notify the wrecker service owner of the reason (s) for refusing to place it on the rotation wrecker list. Any wrecker services that fails to comply with the requirements of this policy may be removed from the rotation wrecker list.

The chief of police or designee shall insure that a wrecker service will only be included once on each rotation wreckers list. Exceptions to this requirement may be made for specialized or large capacity wreckers when none are available for Columbus County.

If a wrecker service responds to a call, it shall be placed on the bottom of the rotation wrecker 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, it shall be placed back at the top of the rotation list.

SANCTIONS FOR NOTIFICATION

The chief of Police or his Designee that a violation of these rules has occurred, the Chief of Police may:

Issue a written warning and request for compliance

Remove the wrecker service from the rotation wrecker list until corrective measures have been taken to bring the wrecker service into compliance with these rules and verification of such compliance has been demonstrated; or

If the violation is major or in the case of repeat violations, in consultation with the Chief of Police, remove the wrecker service from the rotation wrecker list for a specific period of time not to exceed one year.

The severity of the sanction imposed shall be commensurate with the nature of the violation and prior record of the wrecker service

If a wrecker service owner commits, is convicted of, pleads guilty to, or receives a prayer for judgment continued for any of the offenses specified on the attached sheet, of this directive, the wrecker service shall be removed from the rotation wrecker list for the designated period of time set out in that section.

A wrecker service shall not employ or continue to employ, as a driver, any person who commits, is convicted of, pleads guilty to, or receives a prayer for judgment continued (PJC) for any of the offenses specified on the attached sheet of this directive. This prohibition is for the designated period of time as set forth in that section. A wrecker service that willfully violates this provision shall be removed from the rotation list for one year.

A wrecker service driver or owner who responds to a Chadbourn Police Officers related incident with an odor of alcohol on his/her breath shall immediately be removed from the rotation list for one year. If the owner was not the driver and had no knowledge that the driver had been drinking, the wrecker service shall not be removed if the driver is prohibited from responding to Chadbourn Police Department calls for one year. This period of removal is in addition to any removal that may result from any violation of attached sheet of this directive.

A Rotation wrecker service driver, owner, or employee shall not respond to a Chadbourn Police Department related incident with an odor or alcohol, on his/her breath or while under the influence or alcohol, drugs or any impairing substance.

For any violation of these rules for which no specific period of removal or disqualifications is established, a wrecker service shall be removed, at a minimum, until the violation is corrected.

A wrecker service which is removed from the rotation wrecker list does not become eligible for reinstatement merely because ownership has been transferred to a family member.

A wrecker service, which is removed from the rotation list, must demonstrate compliance with all the rules in order to be reinstated.

At the conclusion of any suspension, the owner of the affected wrecker service shall reapply for inclusion on the Chadbourn Police Department wrecker list.

RECORDING WRECKER REQUEST

Officers Investigating collisions shall enter on the Collision form (DMV 349) the authorization of removal of vehicle from the scene.

Officers observing any violations of the rotation wrecker rules shall notify the Chief of Police as soon as possible.

Complaints concerning any wrecker service on the rotation wrecker list, whether instituted by the public or by the officer, shall be investigated by the Chief of Police or Designee.

HEARING PROCEDURES

If the Chief of Police refuses to include a wreckers service on the rotation wrecker list, the wrecker service may appeal the Chief of Police's decision, in writing to the Town Manager within 20 calendar days of receipt of the decision. The Town Manager may conduct a hearing or review the record. In either event, the Town Manager shall render a decision, in writing within 10 calendar days of receipt of the appeal. The Town Manager decision, if unfavorable, may be appealed to the Chadbourn Mayor and Town Council for final consideration of the matter.

If the Police Chief or Designee issues a written warning to a wrecker service for a violation of any of the rules, the wrecker service may, within (20) calendar days of receipt of the warning, submit a written response to the Police Chief in mitigation, explanation, or rebuttal. After consideration the mitigation, explanation, or rebuttal, the Chief of Police may reconsider and remove written warning.

Hearings conducted by Chief of Police or Town Manager or their Designee's shall be informal and not party shall be represented by legal counsel.

A wrecker service that is removed from the rotation wrecker list and subsequently placed back on the list, for any reason, shall not be entitled to additional calls, priority listing, or any other form of compensation.

Ordinarily, a wrecker service may remain on the rotation wrecker list pending a final decision of the Town Manager or Designee. A Chief of Police with the concurrence of the Town Manager or Designee, may however, summarily remove a wrecker service from the rotation wrecker list in those cases where there exists reasonable grounds to believe a violation enumerated on attached sheet or any other violation relating to the safe and proper operation of the business or which may jeopardize the public's health, safety, or welfare.

ATTACHED SHEET

Upon application to the Chadbourn Police Department Wrecker List, the owner shall ensure that he/she and each wrecker driver has not been convicted of, plead guilty to, or received prayer for judgment continued (PJC);

* Within the last five (5) years of the following offenses:

- > A first offense under N.C.G.S. 20-138.1, 20-138.2, 20-138.2A or 20-138.2B
- > Any misdemeanor involving an assault, an affray, disorderly conduct, being drunk and disruptive, larceny or fraud
- > Misdemeanor Speeding to Elude Arrest or
- > A violation of N.C.G.S. 14-223, Resist, Obstruct, Delay

* Within the last ten years of:

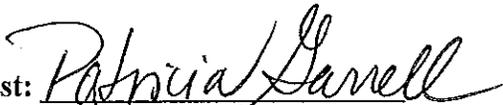
- > Two or more offenses of violation of N.C.G.S. 20-138.1, 20-138.2 20-138.2A, or 20-138.2B
- > Felony speeding to elude arrest or
- > Any Class F, G, H, or I felony involving sexual assault, an assault, affray, disorderly conduct, being drunk and disruptive, fraud, larceny, misappropriation of property, or embezzlement

* At any time of:

- > Class A, B1, B2, C, D, or E felonies.
- > Any violation of N.C.G.S. 14.34.2, assault with deadly weapon on a government officer or employee, 14-34.5 Assault with firearm on a law enforcement officer; or 14-34.7, Assault on law enforcement officer inflicting injury.
- > Any violation of N.C.G.S. 20-138.5, Habitual DWI. For convictions occurring in Federal court, another state or county, or for North Carolina convictions for felonies which were not assigned a class at the time of conviction, the North Carolina offense which is substantially similar to the federal or out of state conviction, or the class of felony which is substantially similar to the North Carolina felony shall be used to determine whether the owner or driver is eligible. Any question concerning a criminal record shall be discussed with the Chief of Police or his/her designee.

* Immediately upon employment or upon the request of the Chief of Police, the owner of the wrecker service shall supply the Chadbourn Police Department with full name, current address, date of birth, last four digits of social security number, and a black and white photocopy of driver's license, and when applicable a black and white copy of a valid work VISA or other INS documentation for all wrecker drivers owner (s) in order for the Chadbourn Police Department to obtain a criminal history information. A certified copy of the wrecker driver and owner (s) shall be obtained from the North Carolina Department of Motor Vehicles. The wrecker service shall inform the Chief of Police if the driver or owner (s) is charged with, convicted of, enters a plea of guilty or no contest to, or receives a prayer for judgment continued (PJC) for any of the crimes listed above for wrecker service to inform the Chadbourn Police Department immediately.


Fay Rector, Mayor

Attest: 
Patricia Garrell, Town Clerk