

**REGULATIONS
FOR THE DISPATCH OF WRECKER COMPANIES BY
THE KANAWHA COUNTY COMMISSION**

I. POLICY

- A. It is the policy of the Kanawha County Commission (Commission) through the cooperation of the Kanawha County Sheriff's Office (KCSO) to dispatch wrecker companies in a safe, efficient and equitable manner. The primary responsibility of the Kanawha County Commission is the administrative implementation of this policy. The primary concern of KCSO is the practical application of this policy as it affects public safety.

II. AUTHORITY

- A. Pursuant to WV Code § 24-6-12, the Commission hereby promulgates the following regulations for the dispatch of wrecker companies in Kanawha County. These regulations apply only to the request for wrecker companies by KCSO and do not alter or amend any towing regulations promulgated by the Department of Public Safety (West Virginia State Police) or any other municipal agency.

III. EFFECTIVE DATE

- A. These regulations are effective upon entry of an appropriate Order from the Kanawha County Commission.

IV. DEFINITIONS

- A. For purposes of these regulations, the following definitions shall apply:
 - 1. "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon the highway, except devices moved by human power or used exclusively upon stationary rail or tracks, as defined by WV Code §17C-1-2.

2. "Wrecker company" means a business engaged in the transportation upon the public streets and highways of the state of West Virginia any damaged, disabled, unattended, or abandoned vehicles together with their personal effects and/or cargo, by the use of wreckers as defined in the "Wrecker Company Requirements" section of this regulation. The terms wrecker company, wrecker service, tow truck service and towing company are synonymous.
3. "Wrecker company location," "wrecker location" and "location" means any and all physical locations maintained by a wrecker company from which it operates.

V. DISPATCH LIST

- A. KCSO shall maintain a Dispatch List, provided by the Kanawha County Planning Office, of the wrecker companies and locations that meet the requirements of this policy and are to be utilized, along with their designated areas of responsibility. KCSO shall determine each wrecker company location's designated area of responsibility based upon the driving distance from that location, will provide Metro Communications and the Kanawha County Planning Office with a current copy of the Dispatch List, and will notify Metro Communications and the Kanawha County Planning Office of all Dispatch List updates in a timely manner.

The purpose of the Dispatch List is to assist KCSO with smooth operation of road patrol duties as it relates to the dispatch of wreckers. In the event that a Deputy Sheriff mistakenly requests a wrecker company or location to be dispatched for an area to which it is not assigned, it shall not be incumbent upon the Deputy Sheriff to correct the dispatch if exigent circumstances exist.

- B. The Dispatch List shall include the name, physical address and dispatch area (as determined by KCSO) of each location and storage lot if different than the location, that receives and responds to dispatch calls, telephone number(s) and name(s) of the owner(s), or at least 50% interest owner(s), of the wrecker company.

Dispatch areas are not "owned" by wrecker companies, but are geographical areas designated to assist in the timely dispatch of wrecker services.

- C. The number of wrecker company locations on the Dispatch List will be frozen at the current level and allowed to decrease by attrition to ten. When the number of wrecker company locations on the Dispatch List falls below ten, the Kanawha County Planning Office, based upon need, may add the number of wrecker companies and/or locations necessary to maintain the Dispatch List at ten wrecker company locations. Should exigent circumstances arise, the Kanawha County Planning Office shall maintain the right to exceed the maximum number of ten wrecker companies and/or locations. Such exigent circumstances might include, but will not be limited to, the lack of wrecker company locations in a geographical area that would cause an unreasonable delay in wrecker response.

VI. WRECKER COMPANY AND LOCATION REQUIREMENTS

In order to be included on the Dispatch List, a wrecker company must conform with all federal, state and local laws, rules and regulations; must be licensed to conduct business within the State of West Virginia and Kanawha County; be in good standing with all Kanawha County Agencies; meet and agree to comply with the following requirements.

- A. Submit a properly completed application with legible copies of all required documents to the Kanawha County Planning Office on an application provided by the Kanawha County Planning Office.

EXCEPTION: Wrecker companies and locations on the Dispatch List at the time this policy goes into effect shall not be required to submit an application unless they have been removed from the Dispatch List and are requesting to be reinstated or are requesting the approval of additional locations to be added to the Dispatch List.

- 1. Prior to making application, be licensed to do business as and have been doing business as a wrecker company in Kanawha County for no less than six months.

2. Have had no pending or substantiated complaints filed by either the Public Service Commission, any law enforcement agency or any member of the public in the six months immediately prior to making application.
 3. The Kanawha County Planning Office will notify the applicant of the results of his/her request within thirty days, by certified mail.
 4. The Kanawha County Planning Office will notify KCSO of those applicants who are approved for inclusion on the Dispatch List. KCSO will determine the applicant's dispatch area within ten business days of approval and notify them of same.
- B. Be in full compliance with Title 50 Public Service Commission Series 9, § 150-9-1 through 150-9-5.11, setting forth all the requirements for training, equipment, insurance and licensing.
- C. Maintain a physical location within the geographical boundaries of Kanawha County, WV, that is operated as a wrecker company and is available on a twenty-four (24) hour basis, from which wreckers may respond to calls for service and at which towed vehicles are stored . Only those locations within the geographical boundaries of Kanawha County and so approved by the Kanawha County Planning Office will be eligible for inclusion on the Dispatch List. Pagers, answering machines, and answering services do not qualify as "staffed" or "responding."
1. Each location shall have adequate facilities to keep, maintain and preserve records, papers and documents necessary to carry on the business, and shall be available for inspection by the Kanawha County Planning Office and/or the Sheriff or his designated representative at any time.
 2. Each location shall maintain a storage lot for towed vehicles that shall comply with Public Service Regulations 150 CSR 9, 5.9 through 5.9.d, as summarized below.
 - a. Shall be completely enclosed by a fence or other suitable barrier;

- b. Said fence or barrier shall be at least six feet in height and constructed of an opaque material;
- c. Any vehicle stored or placed in said facility or place of storage shall be stored or placed within the legal boundaries of the property owner.
- d. All vehicles stored or placed in said facility or place of storage shall be completely hidden from lateral public view.
- e. In the event that vehicle storage needs become greater than an approved lot's capability, additional storage lots may be utilized upon approval of the Planning Office. Such lots shall be within that Wrecker Company's dispatch area and shall be utilized only for vehicle storage and shall meet the requirements set forth in this policy.

EXCEPTION: Approved storage lots at the time this policy goes into effect are exempt from the location requirements of this section.

- 3. No wrecker company may consider an individual driver's place of residence as a substation or extension of the wrecker company, nor shall any other location be considered as the wrecker company's place of business.
- D. Respond to calls for wrecker service in a reasonable time on a 24 hour basis including weekends and holidays, regardless of weather conditions. A reasonable response time will be that time that an average wrecker location would receive a call for wrecker service and arrive on the scene.
- 1. In every case, the wrecker company shall advise Metro Communications to notify the requesting deputy sheriff of an estimated response time. If the response time is acceptable as judged by the requesting deputy sheriff and the KCSO shift supervisor, the estimated response time will be allowed. In every instance that the estimated response time is determined to

be unacceptable by the requesting deputy sheriff and the KCSO shift supervisor, the requesting deputy sheriff and the KCSO shift supervisor shall have the authority to cancel the wrecker company and have another one dispatched.

- E. Answer all calls for wrecker, towing and recovery services, and shall not refuse to remove any vehicle, if capable.
- F. Comply with WV Code 17C-14-11(c) as summarized below, on all calls for which they are dispatched.

17C-14-11(c) "Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle."

- G. Provide the Kanawha County Planning Office with a current, written list of the types and quantities of wreckers in their inventory on a form provided by the Kanawha County Planning Office for that purpose.
- H. Cooperate with all law enforcement officers on the scenes of calls for which the wrecker company has arrived. Law enforcement officers are the final authority in all on-scene matters, other than recovery and towing issues.
 - 1. Under no circumstances will arguing or being otherwise argumentative, creating/causing a disturbance or conflict, berating, taking issue with, making lewd/obscene/derogatory hand gestures on the scene of an incident over Dispatch List policy and/or application be tolerated. Such incidents will be investigated and if substantiated, the wrecker company will be subject to corrective action, up to and including, removal from the Dispatch List.
 - 2. In the event a wrecker driver feels that he or she has been dealt with improperly by a deputy sheriff, he or she shall have the right to file a complaint against that deputy through KCSO.
- I. Required Equipment:

All wrecker company locations will have the following minimum equipment as required by federal and state law, and by regulations set forth by the Department of Motor Vehicles, the Division of Highways, the Public Service Commission, and by any local, state or federal regulatory agency.

1. At least one fully operational truck with a minimum manufacturer's rated capacity of at least 10,000 lbs. gross vehicle weight with dual wheels; with a complete and commercially manufactured crane and winch having a minimum manufacturer's capacity of at least 8,000 lbs. securely mounted on the chassis. Electric or hand crank winches do not satisfy this requirement.
 - a. At least one hundred feet (with a tolerance of 25%) of 3/8 inch cable securely attached to the wrecker winch;
 - b. A wheel lift which must be commercially manufactured to prevent damage to vehicles;
2. At least one fully operational truck chassis with a manufacturer's rated capacity of at least 10,000 lbs., gross vehicle weight with 102" CA dimension. Mounted on the chassis must be a complete, commercially manufactured hydraulically operated slide (roll) back carrier with a manufacturer's capacity rating of at least 8,000 lbs. and a minimum length of 17 feet;
 - a. One hydraulic winch of not less than 8,000 lbs. capacity;
 - a2. A minimum of 30 feet of 3/8" diameter cable;
3. At least one fully operational large truck with a manufacturer's rated capacity of at least 40,000 lbs. with dual wheels and a commercially manufactured 20 ton unit (bed, winch, and having at least 150 feet of 5/8 inch cable); or having an agreement with one or more wrecker companies on the Dispatch List to provide said equipment.

- a. Agreements in force at the time of the implementation of these regulations shall be held in full force and effect provided that the agreeing wrecker companies notify the Kanawha County Planning Office of the existence of such agreement(s) via certified mail, utilizing a form provided for that purpose, within five business days of said implementation.
 - b. Approval of future such agreements shall be dependent upon the agreeing wrecker companies notifying the Kanawha County Planning Office of the existence of such agreement(s) via certified mail, utilizing a form provided for that purpose, within five business days of the signing of the agreement.
 - c. In the event of the dissolution of any of the above agreements, the involved wrecker companies shall notify the Kanawha County Planning Office of the dissolution of such agreement(s) via certified mail, utilizing a form provided for that purpose, within five business days of the dissolution of the agreement.
 - d. Upon dissolution of the above described agreements, the wrecker company which no longer meets the requirement of number 3 above shall be suspended from the Dispatch List. That wrecker company will then have thirty calendar days to obtain a new agreement with one or more wrecker companies on the Dispatch List that meet the requirement of number 3 above. Approval of the new agreement(s) shall be dependent upon the agreeing wrecker companies notifying the Kanawha County Planning Office of the existence of such agreement(s) via certified mail, utilizing a form provided for that purpose, within five business days of the signing of the agreement.
 - e. The suspended wrecker company will be removed from the Dispatch List if it fails to meet the above requirements.
4. On each truck shall be:

- a. One charged fire extinguisher;
 - b. One push broom;
 - c. One shovel;
 - d. One complete set of wooden, metal, or rubber blocks;
 - e. Two "J" hooks;
 - f. Twenty, twenty-minute flares or reflectors;
 - g. One First Aid Kit
5. All wrecker company employees, while on any KCSO incident that occurs on a public street, road, or highway, shall wear reflective apparel as set forth in Federal Department of Transportation regulation 23CFR Part 634.

VII. REMOVAL/SUSPENSION FROM DISPATCH LIST

- A. Those wrecker companies and/or locations that have been suspended from the Dispatch List will be reinstated when the terms of the suspension have been met. Repeated suspensions may result in removal from the Dispatch List.
- B. Those wrecker companies and/or locations who have been removed from the Dispatch List who wish to be reinstated must meet all of the criteria for and make new application for inclusion on the Dispatch List. Application after removal does not guarantee inclusion on the Dispatch List.
- C. Any wrecker company and/or location may be suspended and/or removed from the Dispatch List for the following reasons:
 1. Failing to comply with any of the requirements of these regulations

2. Failing to respond to a call for wrecker services, including failing to answer the telephone when called for wrecker services
3. Dishonesty
4. Causing damage by negligence or other acts that are determined to be inappropriate
5. Pending any complaint filed against it either by the Public Service Commission, any law enforcement agency, or any member of the public
 - a. wrecker companies and/or locations that have been so suspended may be reinstated upon resolution of the complaint
 - a1. resolution includes, but is not limited to, a finding of less than guilty; or if found guilty, payment of fines, correction of deficiencies, etc.
6. Pending the outcome of a criminal investigation
7. Responding to any situation requiring law enforcement presence to which they are not so requested as per this policy to respond
8. Creating any hazardous situation/condition on the scene of any incident called to under the terms of this policy
9. Arguing or being otherwise argumentative, creating/causing a disturbance or conflict, actions/interaction with other person(s) on scene which require a law enforcement officer to intervene, berating, taking issue with, making lewd/obscene/derogatory hand gestures on the scene of any incident called to under the terms of this policy
10. Failing to respond to requests for information and/or failing to cooperate with investigations within the specified time frame

- a. wrecker companies and/or locations that have been so suspended will have thirty calendar days to comply
 - b. wrecker companies and/or locations that have been so suspended that have not complied by end of last business day before the thirty days has transpired, shall be removed
11. The Kanawha County Planning Office will have the authority to suspend or remove a wrecker company and/or location for reasons not listed above, depending on the seriousness of the incident

D. In addition to the relief established in "VIII.A.1." below, any wrecker company who feels that it or one of its locations has been wrongfully suspended or removed from the Dispatch List shall have the right to appeal its case to the Kanawha County Commission for a public hearing.

1. Wrecker companies wishing to appeal such cases must make their intentions known by notifying the Kanawha County Planning & Development Office, Post Office Box 3627, Charleston, WV 25336, by certified letter, return receipt requested, and/or by email to towingissues@kanawha.us, within ten business days of the start of the suspension or removal.

VIII. COMPLAINT PROCEDURE

A. Complaints Filed By Wrecker Companies

1. If a wrecker company reasonably believes it or one of its locations has been wrongfully removed or suspended from the Dispatch List, or has not received dispatch calls for wrecker service at locations within its designated area (collectively "adverse action"), the wrecker company shall provide within ten business days of the alleged adverse action, by email to towingissues@kanawha.us, and/or by certified mail, return receipt requested, a written notice to the Kanawha County

Planning Office, and shall provide, by certified mail, return receipt requested, a copy of the written notice to KCSO that states the following information:

- a. The date and time of the adverse action;
 - b. A detailed description of the adverse action along with any supporting documents;
 - c. The name, address and telephone number of any witnesses who may support its claim of adverse action;
 - d. The person(s) the wrecker company believes is or may be responsible for the adverse action; and
 - e. The notice must be signed by the authorized representative of the wrecker company.
2. In response to such notice, the Kanawha County Planning Office shall investigate such claim and provide the wrecker company with a response within thirty days of receipt of the notice. Complaints that are not fully documented as reasonably as possible or are so vague that a proper investigation of the material facts cannot be credibly conducted, will not be honored until a reasonable amount of information can be provided to the Kanawha County Planning Office.
- B. Complaints Filed Through the Public Service Commission
1. All wrecker companies must notify the Kanawha County Planning Office via certified mail, of any complaint(s) filed against them through the Public Service Commission within five business days of the receipt of same. When a disposition on the complaint is received from the Public Service Commission, said wrecker company shall notify the Kanawha County Planning Office, via certified mail, of the disposition within five business days of the receipt of same.
- C. Complaints Filed by Citizens

1. Any citizen who has a complaint regarding a towing company may file such complaint, in writing, with the following public agencies:

Kanawha County Planning & Development Office
Post Office Box 3627
Charleston, WV 25336

Kanawha County Sheriff's Office
301 Virginia Street, East
Charleston, WV 25301

2. The agency with whom a complaint is filed shall notify the other potentially affected agencies for input on a response. The response shall be provided to the citizen within fifteen days by the agency that has primary responsibility over the issue raised in the complaint. In the event the agencies cannot agree or cannot decide who has primary responsibility to respond, the Kanawha County Planning Director shall choose the appropriate party to respond to the complaint.

D. Complaints Filed by Deputy Sheriffs

1. Any Deputy Sheriff who wishes to report a violation of this policy or otherwise file a complaint regarding a towing company shall do so via departmental email or memorandum to the Wrecker Liaison Officer within seven calendar days of the incident. Such reports shall include the Metro Incident number and details of the alleged policy violation.

IX. REQUESTS FOR WRECKER SERVICES

- A. The owner/operator of the vehicle(s) needing wrecker company services may request a specific wrecker company that is either on the Dispatch List or is not, provided that the requested wrecker company can remove the vehicle(s) in a timely, safe, and efficient manner, as determined by the on-scene deputy sheriff.

1. At no time will a deputy sheriff directly or indirectly make recommendation for or against the use of a particular wrecker company.
- B. In the event that the owner/operator is not present, is present but has no preference for a wrecker company, or is unable to request a specific wrecker company due to illness, injury, or lack of competency, the on-scene deputy sheriff will request that Metro Communications dispatch the designated wrecker company for that location per the Dispatch List.
1. Only wrecker companies on the Dispatch List will be utilized unless exigent circumstances necessitate otherwise.
 2. Under no circumstances shall a deputy sheriff circumvent the designated wrecker company or location based solely on his or her experience with or knowledge of the wrecker company or location. (E.g., a heavy wrecker is needed and the deputy sheriff knows that the designated wrecker company or location has none.)
 3. Once dispatched, the designated wrecker company or location shall have the responsibility to summon other resources as it deems necessary in order to accomplish the incident goals, provided that all other wrecker companies summoned are on the Dispatch List.
 4. If the designated wrecker location is not available to respond to the call for service, it shall notify Metro Communications who in turn shall notify the requesting deputy sheriff or if unavailable, his or her supervisor, who shall then direct Metro Communications to dispatch the next closest wrecker location. Wrecker companies with multiple locations shall not accept the call and then dispatch a wrecker from another of their locations.
- C. In the event a vehicle is towed and the owner/operator is not aware that the vehicle has been towed, KCSO shall make a reasonable attempt to contact the last known registered owner and advise the owner that the vehicle was towed, the reason it was towed, and the wrecker company which towed the vehicle. KCSO shall document

that the owner was contacted or that attempts to contact the owner were made.

- D. No wrecker company will respond to any situation requiring law enforcement presence until it has been notified to do so by Metro Communications, or in exigent circumstances, by the authority of the responding deputy sheriff or KCSO shift supervisor. If any wrecker company responds to any such situation to which they are not so requested to respond, the wrecker company may be removed, without notice, from the Dispatch List.
- E. Under emergency circumstances, deputy sheriffs will have the authority to circumvent the dispatch procedures and/or the Dispatch List in order to protect life and/or property and/or to prevent further hazards by utilizing a wrecker company that is either not on the Dispatch List, or one that is from a dispatch area other than that in which the emergency is occurring.

X. INSPECTIONS

- A. The Kanawha County Commission, the Sheriff, or his authorized agent may conduct random, surprise inspections without notice on a 24-hour basis of all wreckers and facilities that are authorized to participate in serving as a wrecker company in order to determine conformance with these regulations.

XI. IMPOUNDED VEHICLES

- A. The wrecker company shall obtain authority from a member of the Law Enforcement Division of KCSO before any requested hold is released on any vehicle. In such cases, the wrecker company shall record and provide upon request the name of the member authorizing the release of said vehicle.
 - 1. Releasing any contents of a vehicle for which a hold has been placed is strictly prohibited unless permission has been obtained from a member of the Law Enforcement Division of KCSO. In such cases, the wrecker company shall record and provide upon request the name of the member authorizing the release of said contents.

- B. Notwithstanding applicable Public Service Commission regulations concerning same, vehicles will only be released to the owner(s) or their designated agent(s) that show proof of ownership through a valid title or a valid registration of the vehicle.
1. Vehicles that are to be driven from the location they are stored shall have at a minimum a valid, assigned registration plate, valid proof of insurance, and are to be removed only by a licensed driver.
 - a. when requested to do so, the wrecker company releasing such vehicle shall provide copies of the required documentation listed in B.1. above
 2. Vehicles not so qualified shall only be removed by wrecker or by trailer pulled by a vehicle meeting the requirements of XI.B.1.
- C. A copy of the tow slip shall be provided to the wrecker driver by the deputy sheriff impounding the vehicle as per KCSO Specific Operating Procedure 200.9, documenting the condition of the vehicle and any other information as required by KCSO. The provided copy will be kept on file at the main office of the wrecker company and the original will be kept on file at KCSO headquarters.

XII. COMPANY SALE, TRANSFER, OR NAME CHANGE

- A. Except as outlined in 'B' below, the sale or transfer of controlling interest in a wrecker company and/or location shall immediately remove that company and/or location from the Dispatch List. The new owner or controlling party may apply for inclusion on the Dispatch List upon proof of compliance with all requirements in these regulations. The sale or transfer of a controlling interest of a wrecker company or location that is on the Dispatch List does not guarantee a right or a privilege for that company or location to be placed on the Dispatch List.
1. It shall be the responsibility of the parties involved in such sales, transfers, or name changes to make their

intentions known by notifying the Kanawha County Planning & Development Office, Post Office Box 3627, Charleston, WV, 25336, by certified letter, return receipt requested, and/or by email to "towingissues@kanawha.us", no later than ten business days prior to the effective date of the sale or transfer. Failure to do so may result in the removal of the transferred wrecker company or location from the Dispatch List.

B. Exceptions

1. A wrecker company and/or location already on the Dispatch List that is purchased by the owner(s) of a wrecker company already on the Dispatch List will be exempt from the above restriction.
2. A wrecker company and/or location already on the Dispatch List that is purchased by person(s) related by blood or marriage to the owner(s) of the selling wrecker company will be exempt from the above restriction.
 - a. for the purpose of this regulation, "related by blood or marriage" shall be limited to fathers, mothers, brothers, sisters, sons, daughters, wives, husbands, fathers-in-law, mothers-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law.

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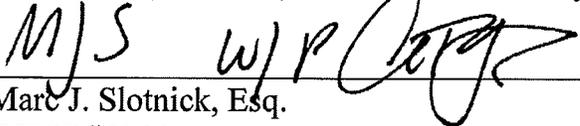
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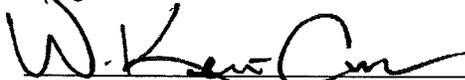
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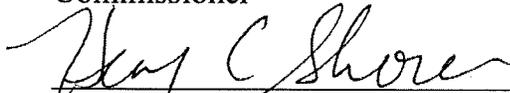


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c/o Kanawha County Commission

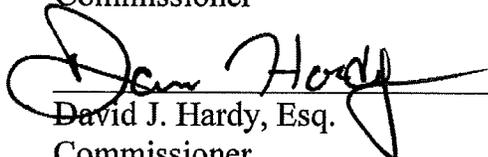
Accepted and Approved by the Kanawha County Commission this 9th day of
October, 2014.



W. Kent Carper, Esq.
Commissioner



Henry C. Shores
Commissioner



David J. Hardy, Esq.
Commissioner