

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
AND
THE HENDERSONVILLE POLICE DEPARTMENT

I. PURPOSE

The purpose of this Memorandum of Understanding between the North Carolina Department of Transportation (NCDOT) and the Hendersonville Police Department (HPD) is to provide guidance for implementation of the Immediate Removal (often referred to as Quick Clearance) provision of N.C.G.S. 20-161(f) on the state highway system.

This MOU reflects the understanding and agreement of the NCDOT and the HPD that public safety must be afforded the highest priority in reopening traffic lanes blocked by motor vehicle crashes or other incidents. Further, utilization of the Quick Clearance procedures authorized by N.C.G.S. 20-161(f) to expeditiously remove vehicles and cargo blocking highways, and thereby creating a safety hazard, may require the utilization of available resources and should immediately be put into effect.

II. AUTHORITY/LEGAL STATUS

North Carolina General Statute G.S. 20-161(f) states an investigating law enforcement officer, with the concurrence of the Department of Transportation, or the Department of Transportation, with the concurrence of an investigating law enforcement officer, may immediately remove or cause to be removed from the State highway system any wrecked, abandoned, disabled, unattended, burned, or partially dismantled vehicle, cargo, or other personal property interfering with the regular flow of traffic or which otherwise constitutes a hazard. In the event of a motor vehicle crash involving serious personal injury or death, no removal shall occur until the investigating law enforcement officer determines that adequate information has been obtained for preparation of a crash report. No state or local law enforcement officer, Department of Transportation employee, or person or firm contracting or assisting in the removal or disposition of any such vehicle, cargo, or other personal property shall be held criminally or civilly liable for any damage or economic injury related to carrying out or enforcing the provisions of this section.

III. ROLES AND RESPONSIBILITIES

A. Hendersonville Police Department (HPD)

Members and officers of the Hendersonville Police Department who respond to any wrecked, abandoned, disabled, unattended, burned, or partially dismantled vehicle, cargo,

or other personal property interfering with the regular flow of traffic, or which otherwise constitutes a hazard on the state highway system must make an initial assessment of the scene and determine if the Immediate Removal provision of N.C.G.S. 20-161(f) is appropriate.

While it is understandable that vehicle and cargo owners may desire extreme measures be taken to protect their property from further damage, such measure may not be prudent if it is a time-consuming endeavor that will require restricting the flow of traffic or may constitute a hazardous situation. In such cases, the authority of N.C.G.S. 20-161(f) should be utilized to get the vehicles and cargo off the road so that the flow of traffic may resume in a timely manner.

Consistent with the need to get the highway open, if required, members and officers of the HPD will conduct their required investigation in as expedient a manner as possible, considering the severity of the collision and the need to maintain a high-quality investigation. This may mean that certain “non-critical” portions of an investigation be conducted later when traffic congestion is non-existent (i.e., non-peak periods). However, in the event of a motor vehicle crash or other occurrence involving death, or serious personal injury, no removal shall occur until the investigating member or officer determines that adequate information has been obtained for preparation of a crash report (DMV-349).

With the concurrence of the Division Engineer or his/her representative, the investigating member or officer may initiate steps to immediately clear the road of vehicles, cargo, or other obstructions and debris consistent with this MOU and N.C.G.S. 20-161(f). In order to accomplish this task, the investigating member or officer may request the assistance of the Division Engineer or his/her representative, IMAP when available, City designated rotation wrecker firms when applicable or State contract tow providers when applicable and/or available DOT resources. For major lane blocking or traffic disruption incidents, such as overturned tractor trailers, hazardous material spills, fatal investigations or multi-vehicle wrecks, contact should be made with the NCDOT Mountain Traffic Management Center (MTMC) at **828-250-3290** for assistance with the coordination of detours, traveler information, traffic conditions and contacting appropriate towing and recovery resources.

B. NCDOT

NCDOT will make every effort to ensure that there are designated on-duty personnel with the authority and expertise available at all times to grant the necessary concurrence to put into effect the Quick Clearance procedures described herein.

NCDOT will make every effort to ensure that HPD’s Communications Center is kept apprised of all necessary recall numbers for on-duty personnel responsible for implementing Immediate Removal procedures. This information will also be readily available at the Mountain Traffic Management Center (MTMC) **828-250-3290**.

NCDOT will make every effort to cooperate with the HPD in responding to all major incidents and in determining whether and to what extent the Immediate Removal procedures authorized by N.C.G.S. 20-161(f) are warranted. For major incidents where Immediate Removal occurs, or other issues arise, NCDOT will perform after incident reviews to discuss positive and/or negative effects of decisions made at the incident scene.

In any case where a determination is made that the use of NCDOT equipment is the most expedient and prudent way to move vehicles, cargo, or other personal property, NCDOT will make every effort to relocate cargo or other personal property in the shortest possible time, using whatever equipment is necessary. All such materials will be relocated as short a distance as necessary to clear the travel lanes or otherwise avoid any traffic hazard.

In any case where NCDOT personnel and equipment are used to clear a highway pursuant to the provisions of this MOU, the Division Engineer or his/her representative shall prepare a list of the personnel, materials, traffic control devices, and equipment used and the work hours involved so that the party responsible or owner of the vehicle and/or cargo can be billed for the work pursuant to N.C.G.S 20-161(g).

IV. MODIFICATIONS

Appropriate NCDOT and HPD personnel shall review this MOU on an as needed basis to determine if any modifications are necessary.

This MOU supersedes any previous agreements between the NCDOT and HPD related to removal of vehicles from the roadway.

Entered into effective the 6th day of March, 2024.

NORTH CAROLINA DEPARTMENT
OF TRANSPORTATION

DocuSigned by:
Wanda H. Payne

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Wanda H. Payne, P.E, Division Engineer

HENDERSONVILLE
POLICE DEPARTMENT



C. Blair Myhand, Chief of Police
Hendersonville, North Carolina

By signing this memorandum of understanding, HPD concurs that for minor incidents, such as abandoned or disabled vehicles and minor crashes that occur on the paved or main-traveled portion of any highway that IMAP service patrols, IMAP, if available, may properly mark the location of vehicles, assist in traffic control and/or relocate vehicles to a non-hazardous location without additional concurrence for Immediate Removal from the HPD.