



**ORDINANCE NO. 10-826**

**Amend the Code of Ordinances,**

**Chapter 9 Motor Vehicles and Traffic,**

**Article VII Wrecker/Towing Service & Impoundment**

The Town Council of the Town of Carolina Beach hereby amends the Carolina Beach Code of Ordinances, Chapter 9 Motor Vehicles and Traffic, Article VII Wrecker/Towing Service & Impoundment, as follows:

**Sec. 9-140. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Highway:* The entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic. The terms "highway" and "street" and their cognates are synonymous.

~~*Rotation list:* The list of eligible wrecker or towing services or persons who meet the criteria of this chapter.~~

*Winching fee:* A charge when a vehicle leaves the street or highway or overturns and requires use of winch and a cable to recover the vehicle to the highway for removal.

*Wrecker applicant:* Any person or company that can provide wrecker and towing service within the Town of Carolina Beach.

(Ord. No. 07-711, 10-9-07)

**Sec. 9-141. Administrative responsibility.**

The chief of police or his designee is hereby designated as a responsible agent for maintaining a list of eligible wrecker/towing services and ensuring that criteria as set out in this chapter is strictly adhered to both initially and following execution of the agreement.

(Ord. No. 07-711, 10-9-07)

**Sec. 9-142. Wrecker service application/agreement.**

It is the policy of the town that any applicant desiring to perform wrecker/towing service at the police request shall submit a wrecker service application/agreement in duplicate to the Town of Carolina Beach. The application form shall be obtained from the town hall. Failure to accept this

chapter or to adhere to it at any time shall enable the town manager or his designee to rescind or nullify this agreement. The annual business application fee as set by town council must be paid prior to processing. Each driver of wreckers will be required to submit an application for an operators permit with fees set by town council.

(Ord. No. 07-711, 10-9-07)

Sec. 9-143. Duties and requirements of wrecker tow services.

It will be the responsibility of any applicant to assure continued compliance with all provisions and requirements set forth in the agreement and this chapter.

(Ord. No. 07-711, 10-9-07)

Sec. 9-144. Availability and storage requirements; location and towing.

The applicant shall provide continuous twenty-four-hour on duty or on call at all times for the purpose of receiving vehicles. The applicant must at his/her garage, or in its immediate vicinity, provide sufficient fenced storage space with security lights for storage of vehicles and indoor storage for motorcycles.

Towing firms and wreckers must be located within New Hanover County.

In no case shall a vehicle be towed outside New Hanover County or its extra-territorial jurisdiction without prior consent of the vehicle owner or operator.

(Ord. No. 07-711, 10-9-07)

Sec. 9-145. Liability; insurance.

The applicant shall assume all liability and shall indemnify and save the city harmless from such liability for damages sustained by vehicles while being towed or stored and for all personal injuries occurring to any of the applicant's employees and other persons and maintain a minimum of forty-five thousand dollars (\$45,000.00), or other amount as determined by the chief of police, liability insurance to cover damage, personal injury, or loss of property while the vehicles are in the applicant firm's custody.

(Ord. No. 07-711, 10-9-07)

Sec. 9-146. Wrecker equipment.

Each wrecker shall be a truck chassis having a minimum gross vehicle weight of six thousand five hundred (6,500) pounds and boom assembly having a lift capacity of not less than eight thousand (8,000) pounds as rated by the manufacturer and equipped with dollies on each tow truck.

~~A car carrier or "rollback" may be used as the rotation wrecker.~~ A car carrier or rollback is defined as a vehicle designed to tow or carry vehicles damage free. The truck chassis shall have a minimum gross vehicle weight rating (GVWR) of fourteen thousand five hundred (14,500) pounds. Two (2) lift cylinders, minimum two and one-half-inch bore; individual power winch pulling capacity of not less than ten thousand (10,000) pounds; fifty (50) feet of 5/16-inch cable on winch drum; and four tie down hook safety chains. The carrier bed shall be a minimum of eighteen (18) feet in length and a minimum of eighty-four (84) inches in width inside side rails. A cab protector constructed of aluminum or steel must extend a minimum of ten (10) inches above the height of the bed.

The following equipment shall be on the wrecker, carrier or rollback:

(1) Brakes (G.S. § 20-124).

- (2) Glasses (G.S. §§ 20-127, 20-135).
- (3) Horn (G.S. § 20-125).
- (4) Lights (G.S. §§ 20-129, 20-129.1, 20-130, 20-131).
- (5) Mirrors (G.S. §§ 20-126, 20-117.1).
- (6) Mufflers (G.S. § 20-128).
- (7) Reflectors (G.S. § 20-129.1).
- (8) Turn signals (G.S. § 20-125.1).
- (9) Windshield wipers (G.S. § 20-127).
- (10) Tires (G.S. § 20-122.1).

Each wrecker, carrier or rollback must be equipped with the following:

- (1) Ax.
- (2) Large broom.
- (3) Fire extinguisher. Five-pound multi-purpose dry chemical.
- (4) Shovel.
- (5) Flares, eight (8) or traffic cones, twenty-eight (28) inches in height.
- (6) Two (2) snatch blocks.
- (7) Two (2) scotch blocks.
- (8) Dollies (except rollback wreckers).
- (9) Twenty (20) pounds of Stay-Dry or similar type of absorbent material.
- (10) Cable. One (1) spool having at least one hundred (100) feet and measuring three-eighths (3/8) inches in diameter.
- (11) Bolt cutters.
- (12) Safety vest.

In general, an applicant must assure the city that they will have available equipment capable of towing any automobile or truck from the streets and other public or private places upon request by the police department. All wreckers must be kept in good working condition and meet the minimum safety requirements, not only as specified above and elsewhere, but in all applicable sections of chapter 20, motor vehicles, or the North Carolina General Statutes. A safety vest will be worn at all times when out at the scene of a collision.

(Ord. No. 07-711, 10-9-07)

#### Sec. 9-147. Inspections.

The applicant will agree to permit periodic inspections by the chief of police or his designee to assure that all criteria of this chapter are met.

(Ord. No. 07-711, 10-9-07)

#### Sec. 9-148. Regulations governing wrecker operations.

(a) *Driver's license:* Any individual operating a wrecker must have in his possession a valid Class A, B or C driver's license, must be eighteen (18) years of age or older and must have a Town of Carolina Beach permit in their possession at all times.

(b) *Registration plate:* Each wrecker vehicle must conform to G.S. § 20-50 or 20-79 in that each wrecker is required to have a proper registration plate. No dealers' plates may be displayed on wreckers.

(c) *Applicant's name on both sides of vehicle; cleanup:* All wreckers must have the name of the towing service (applicant) clearly printed on both sides of the wrecker. The wrecker operator or driver will be responsible for clearing debris from the street or highway. This not only means

large obstacles but also glass and small fragments. ~~An applicant that refuses a call and/or fails to respond to pick up vehicles when called may be removed from the rotation list.~~ Wreckers must be at the scene within thirty (30) minutes from the time called. ~~If not, the next on the rotation list will be dispatched.~~

(d) *Chasing or running wrecks:* Wreckers are specifically prohibited from "chasing or running wrecks" or soliciting business at accident scenes. ~~Any violator will be immediately removed from the rotation list.~~

(e) *City business license:* Each towing firm shall be required to obtain a city business license for towing and ensure drivers hold current town permit.

(f) *Response to calls:* ~~Wreckers on the rotation list are expected to respond to calls. The police department shall notify the towing firm after the second call with no response. If the towing firm does not respond to the third consecutive rotation call without prior notification to the police department, the towing firm shall be automatically removed from the Town of Carolina Beach rotation list until further notice from the chief of police or his designee.~~

(Ord. No. 07-711, 10-9-07)

Sec. 9-149. Rate schedule and responsibility for charges.

All costs incident to towing and storage shall be paid by the owner or person in charge or possession of the towed and stored vehicle to the owner of the wrecker company, and a receipt for payment shall be issued to such person. The town shall assume no liability or responsibility for any vehicle removed from an owner's premises without the city's authority or the collection of the established fee. It is the responsibility of any applicant under agreement with the city that it notify the police department prior to removing a vehicle not authorized by the police department from private property.

Each applicant will agree to the standard as may be prescribed by the town council.

RECOMMENDED MAXIMUM FEES FOR WRECKER SERVICES IN CAROLINA BEACH  
TABLE INSET:

|    |                                    |                                |
|----|------------------------------------|--------------------------------|
| 1. | Standard <del>Rotation</del> Calls | \$120.00                       |
| 2. | Beach Recovery (Stuck)             | \$175.00                       |
| 3. | Special Recovery                   |                                |
|    | a. Submerged on North End          | \$175.00<br>(Plus \$50 per hr) |
|    | b. Overturned/In Ditch             | \$120.00<br>(Plus \$50 per hr) |
|    | c. Winching Fee                    | \$50.00                        |
| 5. | Dolly of Vehicle                   | \$35.00                        |
| 6. | Drop Without Tow (Contract)        | \$50.00                        |
| 7. | Release Vehicle                    | \$25.00                        |

(Ord. No. 07-711, 10-9-07)

Sec. 9-150. Duties and responsibilities of police officers--Wrecker and tow services rotational list.

*The chief of police shall have the right to use a specific wrecker company to perform the duties needed for the police department.*

The chief of police shall ensure that wreckers are called to the scene of an accident on a rotational basis, distributing the calls on an equitable basis from the towing rotation list. The towing list will be composed of the approved applicants under this policy. The chief of police or his designee shall not call or cause to be called any wrecker not having executed an agreement with the city unless he declares that an emergency exists and that all other wreckers are unavailable. In addition, The following specifically regulates the operations, as to tows, by the Carolina Beach Police: Police and accident investigations personnel will ascertain from each owner or operator of the vehicle if he/she desires any particular towing firm. The officer will dispatch the wrecker of the owner's or operator's choice, provided the wrecker driver did not "chase" the accident, is not at the scene and did not solicit the business from the street or highway. Wreckers at the scene will not be permitted to pull a wrecked vehicle unless the officer determines that an emergency exists, a person is trapped in a vehicle or traffic congestion is such that requires immediate service.

If the owner or operator of the vehicle does not request a particular towing firm, then the officer will have the police dispatcher call the next wrecker service on the rotation list *the wrecker service designated by the chief of police.*

The chief of police may remove the name of a towing firm from the rotation list for violations of this chapter, for failure to comply with any provision hereof or any fraudulent information made in the applicant or agreement or a violation of North Carolina Statutes or city ordinances or for a lack of cooperation while rendering service or for other justifiable causes.

(Ord. No. 07-711, 10-9-07)

Sec. 9-151. Same--Impoundments.

In compliance with the policy of the Carolina Beach Police Department, the following procedure shall be followed by all police department personnel when they have a vehicle towed or stored:

(1) The officer causing the vehicle to be towed or stored shall:

a. Complete the storage/towed vehicle report at the scene prior to the vehicle being towed or stored.

b. Fill in all available information including the towing vehicle driver's name on the front part of the stored/towed vehicle report.

c. Conduct a complete inventory of all items in the vehicle (i.e., C.B. radios, tape decks, tools and all other items of value). Make note if AM/FM radio or spare tire is missing, or if there is any damage to the vehicle's interior or exterior.

1. If the vehicle is locked, if possible, open the vehicle; inventory all items inside, including the trunk. If a crime has been committed, all loose items of value shall be turned into the evidence technician as evidence, otherwise for safekeeping.

2. If the vehicle is locked and cannot be opened, list all items that can be seen from the outside of the vehicle to be stored/towed.

3. Have the towing vehicle (wrecker) driver verify and sign the inventory. Provide a copy of inventory to the towing firm.

4. When applicable, the officer will issue a parking citation to each towed vehicle and attach to the stored/towed vehicle report.

(2) When an officer finds that an illegally parked vehicle cannot be identified by registration or by VIN, the officer shall place on the windshield, or other conspicuous place, a notice that the vehicle will be towed in twenty-four (24) hours if not removed prior to that time. After the twenty-four-hour period has expired, the officer may have the vehicle towed. Notice by posting on the windshield or other conspicuous place need not be given when the vehicle is impeding the flow of traffic or otherwise jeopardizing the public welfare so that immediate towing is necessary.

(3) The officer causing the vehicle to be towed or stored shall turn the report into the records center at the first opportunity.

(4) If the vehicle is registered in North Carolina, the officer must, within twenty-four (24) hours after the towing, notify the owner by telephone and provide the following:

- a. A description of the vehicle.
- b. The location of vehicle storage.
- c. The violation with which the owner is charged, if any.
- d. The procedure that the owner must follow to have the vehicle returned.
- e. The procedure that the owner must follow to request a probable cause hearing about the towing.

(5) If the vehicle has an out of state registration, the notice must be given to the owner within seventy-two (72) hours.

(6) If the owner of the vehicle does not have a telephone or contact cannot be made by telephone, no further attempts are required. However, this shall be noted in the remarks section of the stored/towed vehicle report.

(7) Pursuant to G.S. §§ 20-220 and 20-225, if the owner of the vehicle requests a hearing on the probable cause of the towing, he/she shall be requested to contact the magistrate to make the arrangements. The magistrate shall then have seventy-two (72) hours to set up a hearing to determine if the officer had probable cause for the towing. If a hearing is requested, the magistrate shall notify the owner of the vehicle, the law enforcement officer and the person who towed the vehicle of the time, date and location of the hearing.

(8) If the magistrate finds probable cause in the hearing for vehicle towing, the owner is responsible for towing fees to be paid to the tower. If the magistrate finds that there is not probable cause for towing, the officer and the agency are responsible for paying the towing fees.

(9) Release of the stored/towed vehicle when:

- a. The stored/towed vehicle is marked "safekeeping".
  1. The owner shall be required to come to the records center with the proof of ownership of the vehicle and obtain a written release.
  2. The stored/towed vehicle shall be pulled from the store vehicle file, and a copy of the release form shall be attached to the back, and all copies placed in the released vehicle file.
- b. The stored/towed vehicle report is marked "Hold" (meaning the vehicle is being held for investigation, evidence, etc.) and only the storing officer may sign the release form.

(10) A report shall not have to be made for request tow.

(11) The completion of the stored/towed vehicle report in no way diminishes the requirement of making stolen or recovered vehicle reports and investigative reports.

(Ord. No. 07-711, 10-9-07)

Sec. 9-152. Duties and responsibilities of wrecker firms providing towing for impoundment purposes.

Any individual or wrecker firm (applicant) providing impoundment services for the city under this chapter will execute an agreement with the city similar to the agreement addressed in the accident towing policy with the exception of the following additional requirements:

(1) The applicant will agree to work closely and cooperatively with the Carolina Beach Police Department, and if error is made in the impoundment of a vehicle, to promptly release such vehicle at the order of the police department without financial liability to either the individual vehicle owner or the city.

(2) If an owner of a stored vehicle requests a hearing by a magistrate, and the magistrate does not find probable cause for the vehicle to be stored, the towing firm must release the vehicle to the owner or person in charge of possession of the stored vehicle without any financial liability to the officer or the Town of Carolina Beach or the owner or legal possessor of the vehicle.

(3) Any vehicle seized by the police department as evidence in a crime scene shall be towed to the town storage lot by a regular rotation wrecker. ~~Firms that tow such vehicles will remain on top of the rotation list for the next rotation call.~~ The towing firm shall release any vehicle that is awarded to the police department by the courts without any financial liability to the police department or the Town of Carolina Beach.

(Ord. No. 07-711, 10-9-07)

Sec. 9-153. Pre-towing notice on private lots.

It shall be unlawful to tow or remove a vehicle which is parked on private property without the permission of the owner or lessee of that private property unless:

(1) Immediate notification is given to the police department with the following information:

- a. Description of the vehicle being towed.
- b. The vehicle registration number.
- c. The vehicle identification number.
- d. The date, time and location from which the vehicle was towed.
- e. The location to which the vehicle was towed and the name of the person who requested that the vehicle be towed.

(2) Notice is posted on the private property from which the towing or removal is made. Such notice shall fulfill the following requirements:

a. A notice, in the form of a sign structure, not less than two (2) feet by two (2) feet in size, shall be prominently placed on the private property at each access or curb cut allowing vehicular access to the property, within five (5) feet of the street right-of-way line. If there are no curb or access barriers, signs shall be posted not less than one sign each fifty (50) feet of the frontage to the public street. The maximum size for any sign shall be four (4) square feet.

b. The notice shall clearly display the following:

1. In not less than one and one-half-inch high letters on a contrasting background, the words "tow-away" or "tow-away zone" or "towing enforced."

2. In not less than one (1) inch high letters on a contrasting background, a statement indicating that parking by unauthorized vehicles is prohibited by the use of a phrase such as "private property", "leased parking", "no parking", "parking for customers only", "parking for residents only", or a similar phrase. If parking by unauthorized vehicles is not prohibited on a twenty-four-

hour continuous basis, the days of the week and hours of the day during which unauthorized parking is prohibited shall be posted.

c. In not less than one-half-inch high letters on a contrasting background, the telephone number at which a person available to release the vehicle that has been towed, removed, or immobilized may be contacted at any time. Calls to the telephone number must be answered by a person and a person with the authority and ability to release the vehicle must respond to the location of the vehicle within thirty (30) minutes of a call.

1. The sign structure displaying the required notices shall be permanently installed with the bottom of the sign not less than six (6) feet above ground level and not more than eight (8) feet above ground level. Pedestrian safety should be taken into consideration when locating freestanding signs.

**Applicability.** The provisions of this article shall apply to private property used for commercial or residential parking purposes in all areas of the town.

**Exceptions.** Notwithstanding any other provision of this section, no notice shall be required for the towing or removal or immobilization of a vehicle.

(i) If the vehicle obstructs adequate ingress and egress;

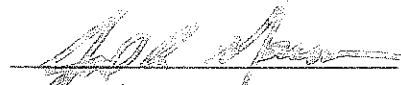
(ii) If the vehicle has been left on the private property for a period of time greater than forty-eight (48) hours; or

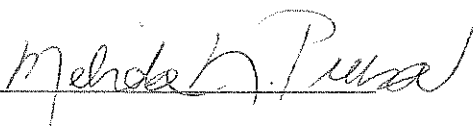
(iii) If the vehicle is being removed pursuant to the direction of a law enforcement officer or other officer in accordance with the provisions of this Code or state law.

(Ord. No. 07-689, 6-12-07; Ord. No. 07-711, 10-9-07)

**Editor's note:** Ordinance No. 07-711, adopted October 9, 2007, renumbered 9-140 as 9-153 and amended such section to read as herein set out.

**Adopted this 13th day of April 2010.**

  
Joel A. Macon, Mayor

Attest:   
Melinda N. Prusa, Town Clerk

