

FORT WALTON BEACH CODE

CHAPTER 11
TRAFFIC & VEHICLES

11.00 VIOLATIONS 11-3

11.01 HITCHHIKING PROHIBITED 11-3

11.02 TRUCK ROUTES ESTABLISHED 11-3

11.03 COMBAT AUTOMOBILE THEFT (CAT) PROGRAM 11-3

11.04 STOPPING, STANDING, AND PARKING 11-3

 11.04.01 Penalties 11-3

 11.04.02 Evidence of Liability 11-3

 11.04.03 Hearings Before Chief of Police 11-4

 11.04.04 Authority to Impound Vehicles 11-4

 11.04.05 Notice of Impound to Owner 11-4

 11.04.06 Misuse of Parking Violation Tickets 11-4

11.05 VIOLATIONS OF STATE LAW 11-4

11.06 TWO-HOUR PARKING DISTRICT; ENFORCEMENT 11-4

 11.06.01 District Established 11-4

 11.06.02 Two-hour Limitation; Hours 11-5

11.07 PARKING IN EXCESS OF 72 HOURS 11-5

11.08 USE OF MUNICIPAL PARKING LOTS 11-5

11.09 DESIGNATED FIRE LANES 11-5

11.10 PARKING PROHIBITIONS IN PARKS AND PUBLIC RIGHTS-OF-WAY 11-5

11.11 SPEED LIMIT FOR BOATS ON GOOD THING LAKE 11-6

11.12 WRECKERS 11-6

 11.12.01 Definitions 11-6

 11.12.02 Owner, Operator and Vehicle Registration Provisions 11-6

 11.12.03 Wrecker Operator's Permit Violations 11-7

 11.12.04 Storage Area Requirements 11-9

 11.12.05 Conditions of Private Property Wrecker Services 11-9

 11.12.06 Maximum Wrecker Service and Storage Fees; Violation 11-11

 11.12.07 Form of Payment for Charges 11-11

 11.12.08 Release Upon Operator Return 11-11

 11.12.09 Receipt for Wrecker Services 11-12

 11.12.10 Prohibitions; Penalties 11-12

 11.12.11 Owner Requests for Service; Wreck-chasing Prohibited 11-13

 11.12.12 Liens for Recovering, Towing, Storing; Publication of Notice 11-13

 11.12.13 Violations, Penalties 11-13

FORT WALTON BEACH CODE

FORT WALTON BEACH CODE

CHAPTER 11 TRAFFIC & VEHICLES

11.00 VIOLATIONS: Unless stated otherwise, violations of this chapter are punishable as provided in section 1.05.

11.01 HITCHHIKING PROHIBITED: No person shall solicit, by word or sign or by any other means, for himself or for another, a ride from the occupant of any private vehicle. This section shall not be construed to prevent a person on a public highway from soliciting, or to prevent a driver of a vehicle from giving a ride, where an emergency actually exists or in order to prevent a person from signaling or requesting transportation from a passenger carrier for the purpose of becoming a passenger thereon for hire.

11.02 TRUCK ROUTES ESTABLISHED: The major thoroughfares of Eglin Parkway, Miracle Strip Parkway, Hollywood Boulevard, Beal Parkway, Mary Esther Cutoff, Lewis Turner Boulevard and Racetrack Road are hereby established and designated as truck routes. Trucks with dual axles and/or with a gross vehicle weight over 50,000 pounds shall be required to use the truck routes. All restricted trucks traveling in the city shall travel on a designated truck route and shall deviate from the truck route only when their destination is off of a truck route, and then only by the shortest travel distance to their destination from a truck route. When a truck is found off a truck route, it shall be stopped to determine its destination or followed to its destination. If the destination could be reached by the designated truck route or by a shorter route from the truck route, the driver of the truck shall be deemed to be in violation of this section.

11.03 COMBAT AUTOMOBILE THEFT (CAT) PROGRAM: A "combat automobile theft" (CAT) program, as authorized under the Florida Uniform Traffic Control Law is hereby established in Fort Walton Beach, Florida. Vehicle owners may enroll their vehicles giving advance written consent to law enforcement officers to stop their enrolled vehicles if they are being operated between the hours of 1:00 a.m. and 5:00 a.m., provided the CAT decal is properly displayed in the lower left corner of the vehicle's rear window. The police chief shall administer the program. The city council shall establish in the general fee schedule the fee to be charged for participation in the program

11.04 STOPPING, STANDING, AND PARKING

11.04.01. Penalties: Whoever causes, allows, permits or suffers any vehicle registered in the name of or operated by such person to be parked in violation of any of the provisions of this chapter shall be fined for each offense. The fine to be imposed for all parking violations, to include the unauthorized use of specially designated and marked motor vehicle public parking spaces reserved for the exclusive use of disabled individuals, and for the unauthorized use of specially designated fire lanes reserved for the use of emergency vehicles, shall be established by resolution of the city council in the general fee schedule.

11.04.02 Evidence of Liability: If a vehicle is found upon a street or highway in violation of any provision of this traffic code regulating the standing, stopping, parking or operating of vehicles, and the identity of the driver cannot be determined, proof that the particular vehicle described in the citation was standing, stopped, parked or operated in violation of any provision of this traffic code, together with proof that the defendant was at the time of the violation the registered owner of the vehicle (or the lessee of the vehicle, if such vehicle is a leased vehicle) shall constitute prima-facie evidence that the defendant was the person who stood, stopped, parked or operated the vehicle at the point where, and for the time during which, the violation occurred.

11.04.03. Hearings Before Chief of Police: A hearing may be had before the chief of police or a

FORT WALTON BEACH CODE

designee, if requested, within three days of the issuance of a parking violation ticket. If a hearing is requested, the hearing shall be held within seven days of the request. The chief of police or a designee may upon good cause shown, modify the fine to be paid or dismiss the violation ticket.

11.04.04 Authority to Impound Vehicles: Officers of the police department are hereby authorized to have a vehicle removed from a street to a local garage or other place of safety, or a garage or lot designated or maintained by the police department, under the following circumstances.

- (1) When any vehicle is left unattended upon any bridge, where such vehicle constitutes an obstruction to traffic.
- (2) When a vehicle upon a street is so disabled as to constitute an obstruction to traffic, or the person in charge of the vehicle is physically or mentally incapacitated to such an extent as to be unable to provide for its custody and removal.
- (3) When a vehicle is found being operated on streets and constitutes a safety hazard.
- (4) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a hazard obstruction to normal movement of traffic or is blocking a driveway.
- (5) Any unattended vehicle parked in violation of this chapter, may, in addition to fines, be removed and the expense of said removal charged to the owner of the vehicle.
- (6) The expense of towing, removing, and storing the vehicle will be paid by the owner, or owner's designee, before the vehicle will be released.

11.04.05 Notice of Impound to Owner: When any vehicle has been found to be in violation of any of the parking ordinances of the city, and the owner or operator thereof has failed to pay the fines, the police department shall notify the registered or titled owner thereof, by registered mail, of the issuance of the violation notice(s), and, further, that such owner may request a hearing before the chief of police or his or her/her designee within ten days of the date the notice was mailed. If the owner does not pay the fines or request a hearing within such ten days, the vehicle may be impounded by officers of the police department. The cost of towing, removing, and storing the vehicle and the amount of fines shall constitute a lien on the vehicle. The owner must pay all of the charges and fines before the vehicle will be released. If a hearing is requested, the hearing shall be held within seven days of the request thereof. The chief of police or his or her/her designee may, upon good cause shown, modify the fines or extend the time within which they may be paid prior to impoundment of the vehicle.

11.04.06 Misuse of Parking Violation Tickets: No person shall use any lawfully issued parking violation ticket for the purpose of misleading, deceiving or impeding a police officer in the pursuit of his or her official duties.

11.05 VIOLATIONS OF STATE LAW: No person shall commit, within the city, any parking violation recognized by the laws of the state.

11.06 TWO-HOUR PARKING DISTRICT; ENFORCEMENT

11.06.01 District Established: There is hereby created the two-hour parking district in the downtown district of the city which shall consist of the public on-street parking spaces on the following streets and segments of streets which are hereafter designated thereon by the city:

FORT WALTON BEACH CODE

Street	From	To
South side of U.S. 98	Brooks Street	Perry Avenue
West side of Perry Ave.	US 98	Brooks Street
Brooks Street	US 98	Perry Avenue

11.06.02 Two-hour Limitation; Hours: Excluding Sundays but including Saturdays and legal holidays it shall be unlawful to park a vehicle in any public on-street parking space in the two-hour parking district for longer than two continuous hours between the hours of 9:00 a.m. and 6:00 p.m. without completely removing the vehicle from all public parking spaces within the two-hour parking district for a period of not less than one hour.

11.07 PARKING IN EXCESS OF 72 HOURS: No person shall park a vehicle on any city street in excess of 72 hours without an intervening period of movement.

11.08 USE OF MUNICIPAL PARKING LOTS: The municipal parking lot located at 107 Miracle Strip Parkway, S.W., shall, on dates and times posted, be used solely for the purpose of city related activities. Upon such designated and posted dates, such parking lot shall be used only by persons who have tickets to a current activity at the Civic Center, or who are attending a meeting at city hall, or who have other authority for the use of the parking lot for scheduled events. The use of such parking lot on designated and posted dates by any other person is prohibited.

In addition to other applicable penalties, the offending vehicle of any person violating this subchapter may be towed away by the police department or its authorized representative at the expense of the owner of such vehicle.

11.09 DESIGNATED FIRE LANES: No person shall park a vehicle, whether occupied or not, except temporarily for the purpose of, and while actively engaged in, loading or unloading merchandise or passengers at any place or area designated as a fire lane. A designated fire lane shall mean any place or area posted with a sign that reads "No Parking Fire Lane." The sign shall be a minimum size of 12 inches by 18 inches with a white background and red lettering. Such lettering shall be a minimum of three inches high. The sign shall be posted between 36 inches and 48 inches high.

11.10 PARKING PROHIBITIONS IN PARKS AND PUBLIC RIGHTS-OF-WAY: The following parking, stopping, and standing is prohibited.

- (1) To park, stop, or stand in any location, the public right-of-way, or city property in violation of any official sign that prohibits such parking, stopping or standing.
- (2) Any vehicle stopped, standing or parked in any city park shall do so only in designated parking spaces.
- (3) To stop, stand or park, drive or cause to be driven any vehicle off the designated parking lots and roadways of any city park.
- (4) To park a vehicle on city property overnight for the purpose of camping, sleeping in vehicle, or storage of a vehicle. It is permitted to park a vehicle and/or a boat trailer in a designated parking space overnight for the purpose of boating or fishing on property that provides fishing docks, boat ramps, or boating facilities.
- (5) The parking spaces of any city park are for the sole use and purpose of those individuals who are at that time utilizing the park for leisure or recreational activities. It shall be unlawful to

FORT WALTON BEACH CODE

park any vehicles in a city park to supplement commercial, business, or other parking purposes except those designated by ordinance

11.11 SPEED LIMIT FOR BOATS ON GOOD THING LAKE: No person shall operate a boat in excess of idle speed, no wake on Good Thing Lake, located within the city.

11.12 WRECKERS

11.12.01 Definitions: The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned vehicle. Any vehicle which has not been moved in 72 hours and is located on public property, including, but not limited to a city street or right-of-way.

Class A vehicles. Cars, motorcycles, light duty trucks, boats, campers, and other vehicles weighing 10,000 pounds (gross vehicle weight) or less.

Class B vehicles. Medium duty trucks, motor homes, camper trailers, and other vehicles weighing between 10,001 and 20,000 pounds (gross vehicle weight).

Class C vehicles. Heavy duty trucks, house trailers, buses, and other vehicles weighing more than 20,001 pounds (gross vehicle weight).

Contracted wrecker. The city pull-in wrecker service which is negotiated by the city to provide certain towing services for the city.

Private property towing. Towing or removal of a vehicle that is parked on private real property, at the property owner's direction.

Rotation wrecker. A wrecker meeting the requirements of this chapter, properly permitted, licensed, and registered with the police department as a rotation wrecker.

Rotation wrecker towing system. A system whereby a group of wrecker companies have agreed to take turns answering calls for towing and storage services when requested by a police officer at the scene of an accident or disabled vehicle. The wrecker companies are placed on a list, called consecutively as the need arises, and then rotated to the bottom of the list.

Wrecker. Any truck or other vehicle which is used to tow, carry, or otherwise transport motor vehicles or vessels upon the streets and highways of this state and which is equipped for that purpose with a boom, winch, car carrier, or other similar equipment.

Wrecker operator. Any person engaged in any manner in owning, operating, having a license for or driving a wrecker for the purposes of providing wrecker services.

Wrecker service. Any service provided by a person that is related to wrecker operations, including but not limited to maintaining an office, place of business, or storage lot in the city, contracting for towing from or immobilizing vehicles on private property within the city, removing and storing wrecked or disabled vehicles from an accident scene or private property, or removing and storing vehicles in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle.

FORT WALTON BEACH CODE

11.12.02 Owner, Operator and Vehicle Registration Provisions: It shall be unlawful for any person, either as principal, agent or employee, to provide any wrecker service without having first registered the company, owner, wrecker operators and towing service vehicles with the police department, using a format approved by the police department. The information for registration shall contain the make, model and manufacturer's serial number of the vehicle; date the vehicle was put into service; the driver's license number of the owner and of all towing service vehicles; the name of the insurance company or companies with which the owner and operators have liability insurance coverage for the operation of the vehicle as required by law; the name and driver's license number of all employees involved in the towing of vehicles from public and private property, and such other information as may be required.

11.12.03 Wrecker Operator's Permit Violations:

11.12.031 Operator's Permits: No wrecker operator shall provide any wrecker service without first having obtained a written permit from the owner of the company such operator is employed by or such owner's designee. Each permit will meet the following specifications.

- (1) Each card shall be not less than 2 1/8 inches by 3 3/8 inches.
- (2) Each card shall contain a photograph of the wrecker operator that is not less than one inch by 1 1/2 inches.
- (3) Each card shall contain the name of the wrecker service and wrecker operator's first name in letters that are not less than one-fourth inch by one-fourth inch.
- (4) Each card shall contain a control number that can be linked back to the driver's personal information.
- (5) Each card shall contain a place for the wrecker administrator to validate the card. After the card is validated it shall be laminated to protect the information contained on the card. If the permit is lost, damaged, stolen or becomes illegible the card will be immediately replaced.

11.12.032 Wrecker Service Owner Responsibility: It shall be unlawful for the owner of any wrecker service to permit any person to be employed as a wrecker operator within the city unless such person has been granted a written permit to engage in private property or rotation towing by the police chief. Each permit shall be valid for two years from date of issuance.

11.12.033 Permit: To secure a wrecker operator permit, an applicant must provide the following information on a form provided by the city manager.

- (1) Provide the wrecker administrator a certified copy from the Florida Department of Law Enforcement of his criminal history and a certified copy of his driving record from the Florida Department of Highway Safety and Motor Vehicles;
- (2) Be at least 18 years of age;
- (3) Possess an appropriate valid Florida driver's license for the wrecker and provide a photocopy to the wrecker administrator;
- (4) Not have been convicted of the following:
 - a. Any felony if the applicant's civil rights have not been restored;

FORT WALTON BEACH CODE

- b. Any felony or first degree misdemeanor directly related to the business of towing motor vehicles; or
- c. Within the previous five years, of driving under the influence of alcohol, a controlled substance, or a chemical substance, to the extent that normal faculties are impaired; driving with an unlawful blood alcohol level; or any other criminal traffic offense.

11.12.034 Revocation of Permit: The police chief may revoke the privilege of any person to do private property towing on any of the following grounds:

- (1) If the towing service owner or operator fails to register as required by this chapter;
- (2) If the registration contains false statement of a material fact;
- (3) If the towing service owner or wrecker operator provides monetary or other compensation to the private property owner for the privilege of towing vehicles from the property under contract;
- (4) The towing service owner or operator provides monetary compensation to the private property owner for each individual vehicle towed from the property;
- (5) If the towing service owner or wrecker operator charges fees in excess of those set by council resolution;
- (6) If the towing service owner or wrecker operator violates any of the provisions of § 715.07, F. S., as amended, or this chapter; or
- (7) If a wrecker operator fails to display on or about his person or on the dashboard of the wrecker, easily visible to the public, the wrecker operator permit while performing a private property or rotation tow.

11.12.035 Violations; Penalty: Complaints regarding any violation of the provisions of this chapter shall be referred to the police chief. Three violations of the provisions of this chapter by any owner or operator of a wrecker service or wrecker service vehicle shall result in the automatic suspension of the owner's or operator's privilege to engage in the business of providing wrecker services on private property. An owner shall not be suspended for acts of an employee/operator in violation of this section unless the owner actively participated in or had knowledge of the violation and took no corrective action against the employee/operator.

- (1) The owner or operator shall be informed in person or by certified or registered mail within seven days prior to the effective date of the suspension.
- (2) The owner or operator may make a written request for a due process hearing within 15 calendar days of the date of the suspension. Failure to request a hearing within the 15 calendar-day period shall constitute a waiver by the owner or operator of any right to a hearing.
- (3) The city council shall establish by resolution rules governing the conduct of the hearing to ensure the due process of law.
- (4) Upon a review of the evidence presented at the hearing, the police chief may revoke the owner's or operator's privilege to engage in the business of private property towing for up to one year.

FORT WALTON BEACH CODE

11.12.036 Length of Revocation: Any wrecker service owner or operator whose privilege to engage in the provision of wrecker services has been revoked shall not be eligible to again register with the police department for private property towing for a period of one year from the date of revocation.

11.12.037 Appeal: Any wrecker service owner or operator whose privilege to engage in the business of wrecker services has been revoked may file an appeal within ten days of the date of revocation pursuant to the hearing officer appeals process as specified in rules established by the city manager and city attorney, subject to approval of city council.

11.12.038 Rotation Wrecker Towing System: The police chief is authorized to establish a rotation wrecker towing system utilizing qualified, reputable wrecker operators for the removal and storage of wrecked or disabled vehicles when the owner or operator of the vehicle leaves the procurement of a wrecker service to an investigating police officer. The city manager and police chief shall be authorized to promulgate rules and regulations for the administration of the rotation wrecker towing system.

11.12.04 Storage Area Requirements: In addition to the requirements of § 715.07, F. S., as amended, storage sites utilized by wrecker owners for the storage of motor vehicles towed pursuant to private property or rotation towing must be within the city limits; manned during regular business hours; capable of being securely locked; be surrounded by a chain link or solid wall type fence at least six feet in height; and be illuminated with lighting of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet during nighttime.

11.12.05 Conditions of Private Property Wrecker Services.

11.12.051 Approval of Private Property Wrecker Services Signs: It shall be unlawful for a person hired by the owner of private property within the city to do any private property wrecker services without having first obtained approval from the police department of the signs posted on the property. In addition to the requirements of section 715.07, F. S., as amended, the wording on the sign shall indicate if towing or immobilizing is conducted other than normal business hours by the posting of a sign indicating "24 hours per day."

11.12.052 Requirements for Private Property Wrecker Services: It shall be unlawful for any person to immobilize, tow or cause to be towed any vehicle parked on private real property unless the provisions of section 715.07, F. S., as amended, and the following requirements are met:

- (1) The owners of the real property and the wrecker service shall have executed, at least 24 hours prior to the towing or removal of any vehicle, a written agreement for private property towing. The form for such agreement shall be provided by the police department, and may not be amended or modified in any manner, to provide for terms or activities that violate the provisions of this chapter or section 715.07, F. S., as amended. The agreement shall contain: the duration of the agreement; the time of day that such immobilization, towing or removal is authorized; the days of the week that such immobilization, towing or removal is authorized, the fees to be paid for the wrecker service, and the signatures of both the property owner, or the authorized representative, and the owner, or authorized representative, of the wrecker service, certifying that each has read and is in compliance with all of the provisions of section 715.07, F. S., as amended.
- (2) A copy of the completed agreement is on file with the police department.

FORT WALTON BEACH CODE

- (3) Where the private real property is provided for residential parking other than for a single-family residence, the agreement shall not authorize the wrecker service to immobilize, tow away or remove any vehicle without a verified request to remove the specific vehicle by the property owner or an authorized representative as permitted in subsection (4) below. A property owner's representative may include a resident manager, a property manager or other agent who has the legal authority to bind the owner, but may not be an officer, employee or agent of a towing service.
- (4) Owners of properties used for residential purposes may elect to authorize the wrecker service to immobilize, tow away or remove vehicles without a verified request a specific vehicle between the hours of 12:00 midnight and 7:00 a.m. provided that the owner first comply with the following requirements:
 - a. Signage shall be added to each of the existing tow away signs with letters of the same size as the "tow away" language, which provides the following words: "Roam Towing, 12:00 midnight--7:00 a.m."
 - b. The wrecker services contract on file with the police department shall be amended to provide for roam towing between the hours of 12:00 midnight and 7:00 a.m.
 - c. A photograph of the "offending" vehicle shall be taken prior to its removal and should be maintained by the wrecker company for a minimum period of two years. The photograph shall demonstrate the violation of law, rule or regulation for which the vehicle is being towed.
 - d. Lease, rental or property owners' association documents shall contain a notice provision indicating that the residential property utilizes roam towing or immobilization. In the case of properties with existing leases, rental agreements or property owners' association documents, it shall be sufficient to notify by regular mail, at the last known address, each of the tenants/owners of the property prior to the initiation of roam towing or immobilization. All amendments to or new leases, rental agreements or property owners' association documents shall contain the provision giving notice that the property owner intends to utilize roam towing or immobilization, and a complete and specifically detailed list of all instructions and rules violations that will result in towing or immobilization. A copy of these provisions must be posted in the rental office and the common area. A copy must also be maintained on file in each tow vehicle removing or immobilizing vehicles from the property. The police chief shall review and approve the parking rules. At the entrance or entrances a sign shall be posted stating where the parking rules can be read by residents and guests. The parking rules shall be posted in a public area at the complex. The management, to ensure that they have not been altered, should regularly inspect them; any sign that is removed or defaced shall be replaced within 30 days.
- (5) The provisions of this section shall not apply to:
 - a. The towing of vehicles pursuant to other provisions in this chapter.
 - b. The towing of vehicles from property appurtenant to and obviously a part of a single-family residence.
 - c. When notice is personally given to the owner or other legally authorized person in control of the vehicle that the area in which that vehicle is parked is reserved or otherwise

FORT WALTON BEACH CODE

unavailable and that the unauthorized vehicle will be removed at the owner's or operator's expense.

11.12.053 Notice not Required for Emergency Removal: The 24-hour notice requirement of this section shall not apply where the tow is of an emergency nature and the owner has notified the police department prior to removing the vehicle. The term "emergency" in this section shall only include circumstances where the usual operation of a business is impeded by the blocking of entrances, exits or access to operational equipment, but specifically shall not include tows for the purpose of clearing parking areas.

11.12.054 Delivery to Storage Site Required: All vehicles towed shall be towed directly to the storage site owned or leased by the towing service; a vehicle shall not be kept in any temporary holding area.

11.12.055 Wrecker Service Response Requirements: Each wrecker service shall staff and monitor its telephones at all times (pager only does not satisfy this requirement) and immediately advise any vehicle owner or authorized representative who calls by telephone of the following:

- (1) Each and every document or other item which must be produced to retrieve or release the vehicle.
- (2) The exact charges as of the time of the telephone call, and the rate at which charges will accumulate thereafter.
- (3) The acceptable methods of payment.
- (4) That the vehicle can be picked up within 30 minutes of request during regular business hours, and within one-hour of request at all other times.

11.12.06 Maximum Wrecker Service and Storage Fees; Violation: Maximum wrecker service and storage fees, for private property and rotation system towing and storage shall be established annually prior to December 31 of each year by resolution of the city council, or otherwise as needed. Such maximum fees shall be effective during the following calendar year and until changed by subsequent resolution.

Violation of any maximum wrecker service and storage fees shall constitute a non-criminal offense and shall be grounds for suspension from the rotation system as outlined in the administrative rules and regulations promulgated by the police chief and automatic suspension of the owner's or operator's privilege to engage in the business of private property towing.

11.12.07 Form of Payment for Charges: A person, firm or corporation which provides private property wrecker services in the city shall accept payment for charges from the vehicle owner or authorized representative by cash or valid major credit card or debit card.

11.12.08 Release Upon Operator Return:

(a) The owner or operator of any towing service vehicle which is summoned to tow away any vehicle, whether on a public street, public property, or private property, shall not remove or tow the vehicle away and shall not charge any fee if the vehicle operator returns to the vehicle prior to the towing service operator having physically connected the vehicle to the towing apparatus. "Physically connected" means one-half of the wheel lift apparatus surrounding a tire or the winch hook being properly hooked to

FORT WALTON BEACH CODE

the vehicle in an appropriate place on the vehicle where it can safely be towed or winched. If the vehicle is physically connected but not towed away, the towing company may charge up to one-half of the allowable fees as set forth in this chapter.

(b) If the registered owner or other legally authorized person arrives at the scene prior to the removal or towing of the vehicle, the vehicle shall be disconnected from the towing or removal apparatus, and that person shall be allowed to remove the vehicle without interference upon payment of a reasonable service fee of not more than one-half of the posted rate, for which a receipt shall be given, unless that person refuses to remove the vehicle which is otherwise unlawfully parked. Removal or towing of the vehicle shall be defined as removing the vehicle off of the physical premises that the towing contract encompasses.

11.12.09 Receipt for Wrecker Services: When a towed or immobilized vehicle is claimed, the wrecker service shall furnish the owner or other legally authorized person with a receipt that shall include the name of the person who authorized the towing, or immobilization, the specific, itemized charges for the service and all related fees, and shall include the following language: "Notice: Wrecker services on private property is regulated by the provisions of Section 715.07, Florida Statutes, as amended, and City of Fort Walton Beach Ordinance."

11.12.10 Prohibitions; Penalties: The following activities are prohibited:

- (1) It shall be a violation of this chapter to charge any fee that is based on police response to a call by the owner of a vehicle.
- (2) It shall be a violation of this chapter to charge a release fee for towed vehicles that are released from storage facilities during normal business hours.
- (3) It shall be a violation of this chapter for any person other than the real property owner or an authorized representative of the owner to move, remove or deface any tow away sign.
- (4) It shall be a violation of this chapter for any owner or wrecker employee of a towing or wrecker service to compensate, by cash or in-kind services, a property owner or their agents in exchange for any agreement to tow vehicles from the property owner's property.
- (5) It shall be a violation of this chapter to exceed the fees set by council.
- (6) Except for towing in the normal course of its business, it shall be a violation of this chapter for a towing or wrecker service to tow vehicles from its property or the property of its agents, unless the property is the towing service owner's primary place of business.
- (7) It shall be a violation of this chapter to operate a wrecker without maintaining insurance coverage in the following minimum amounts:
 - a. Garage liability insurance in an amount of not less than \$300,000.00 combined single limit liability.
 - b. Garage keeper's legal liability in an amount of not less than \$50,000.00, covering perils of fire and explosion; theft of a vehicle, its parts, or contents; riot and civil commotion; vandalism, and malicious mischief.
 - c. On-hook coverage in an amount of not less than \$50,000.00 covering damage to a vehicle

FORT WALTON BEACH CODE

or vehicles in tow.

- d. Bodily injury liability insurance and property damage liability insurance in amounts of: not less than \$50,000.00 per occurrence for a wrecker with a gross vehicle weight of less than 35,000 pounds; not less than \$100,000.00 per occurrence for a wrecker with a gross vehicle weight of 35,000 pounds or more but less than 44,000 pounds; and not less than \$300,000.00 per occurrence for a wrecker with a gross vehicle weight of more than 44,000 pounds.
- (8) It shall be a violation of this chapter for any owner or wrecker employee of a towing or wrecker service to attach a towed vehicle in such a manner that it is not traveling in a straight line behind the wrecker (otherwise known as "crabbing"), so that both vehicles fail to remain in a single lane of travel, in violation of F.S. § 316.089(1).
 - (9) It shall be a violation of this chapter for any owner or wrecker employee of a towing or wrecker service to demand a "no tow" fee if the vehicle they are physically connected to exceeds the gross vehicle weight of the wrecker. For example, a Class A wrecker is not capable of towing a Class C vehicle because the combined weight of the two vehicles exceeds the gross vehicle weight capability of the wrecker.

11.12.11 Owner Requests for Service; Wreck-chasing Prohibited: The rotation system rules and fees do not apply to a vehicle owner's request for utilization of a specific wrecker operator or company when such request can be reasonably honored. It is unlawful pursuant to F.S. § 323.002(2)(b), for any person to solicit any wrecker business, directly or indirectly, at the scene of a wrecked or disabled vehicle, regardless of whether the solicitation is for the purpose of towing, repairing, wrecking, storing, trading, or purchasing the vehicle. It is unlawful pursuant to F.S. § 323.002(2)(b) for any person operating a wrecker to bring the wrecker to the scene of an accident unless such wrecker has been called to the scene by the police department or by the owner, operator, or other person responsible for a vehicle involved in the accident.

11.12.12 Liens for Recovering, Towing, Storing; Publication of Notice:

(a) Any person regularly engaged in the business of recovering, towing or storing vehicles who comes into possession of a vehicle pursuant to § 713.78(2), F. S., and who claims a lien for recovery, towing, or storage services, shall give notice to the registered owner and to all persons claiming a lien thereon, as disclosed by the records in the Florida Department of Highway Safety and Motor Vehicles or of a corresponding agency in any other state. The notice shall be as provided in § 713.78(4), F. S., and shall provide a date, time and place for the sale authorized pursuant to § 713.78, F. S.

(b) If publication of notice is required, such notice shall be published in a newspaper of general circulation in the county which is published at least one day a week and of general interest and readership in the county pursuant to chapter 50, F. S.

11.12.13 Violations, Penalties: In addition to those penalties imposed by § 715.07, F. S., as amended, violation of any provision of this chapter, including any of the requirements of § 715.07, F. S., as amended, shall be subject to the following civil and criminal penalties:

- (1) Any person who violates this chapter shall be liable to the owner or lessee of the vehicle for all costs of recovery (including all towing and storage fees) plus attorney's fees and court costs, and shall in addition be liable to the owner or lessee of any immobilized, towed or removed vehicle for damages resulting directly or indirectly from the immobilization, removal,

FORT WALTON BEACH CODE

transportation or storage of the vehicle.

- (2) Any person who violates any of the provisions of this chapter may upon conviction be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment.
- (3) Violation of any provision of the maximum charges shall constitute a non-criminal offense and shall be grounds for suspension from the rotation system as outlined in the administrative rules and regulations and automatic suspension of the owner's or operator's privilege to engage in the provision of wrecker services on private property.

FORT WALTON BEACH CODE

**CHAPTER 11
TABLE OF HISTORICAL NOTES AND REFERENCES**

2005 Code Section	1992 Code Section	State Law References/ Other Historical Notes
11.00	32-1	Code 1985, § 440.99
11.01	32-2	Code 1985, § 440.02
11.02	32-3	Code 1985, § 440.03; Ord. 865 (2-11-86)
11.03	32-4	Ord. 1249, § 1 (6-28-94)
11.04.01	32-21	
	§ 316.1945 et seq., F.S.; Code 1985, § 460.99; Ord. 955 (7-28-87); Ord. 1079 (4-10-90); Ord. 1264, § 1 (10-25-94); Ord. 1585, § II (8-10-04)	
11.04.02	32-22	§ 316.1967. F.S.; Code 1985, § 460.05
11.04.03	32-23	Code 1985, § 460.06
11.04.04	32-24	Code 1985, § 460.07; Ord. 1373, § 3 (12-11-01)
11.04.05	32-25	Code 1985, § 460.04
11.04.06	32-25 (in part)	Code 1985, § 460.04
11.05	32-26	§ 316.1945, F.S.; Code 1985, § 460.01
11.06.01	32-27(a)	Code 1985, § 460.02; Ord. 1585 (8-10-04)
11.06.02	32-27(b)	Code 1985, § 460.02; Ord. 1585 (8-10-04)
11.07	32-28	Code 1985, § 460.03
11.08	32-29	Code 1985, § 460.08
11.09	32-30	Code 1985, § 460.09; Ord. 1079 (4-10-90)
11.10	32-31	Ord. 1373, § 4 (12-11-01)
11.11	7-2	§ 327.33, F.S.; Code 1985, § 480.01; Ord. 1190 (4-28-92)
11-12		Ord. 1671, § 4, (6-13-06)
11.12.02		Ord. 1671, § 4, (6-13-06); Ord. 1712, § 3, 12-12-06)
11.12.03		Ord. 1671, § 4, (6-13-06; Ord. 1712, §§ 4--7, (12-12-06)
11.12.04		Ord. 1671, § 4, (6-13-06)
11.12.05		Ord. 1671, § 4, (6-13-06); Ord. 1712, § 8, (12-12-06)
11.12.06		Ord. 1671, § 4, (6-13-06); Ord. No. 1712, § 9, (12-12-06)
11.12.07		Ord. 1671, § 4, (6-13-06); Ord. No. 1712, § 10, (12-12-06)
11.12.08		Ord. 1671, § 4, (6-13-06)
11.12.09		Ord. 1671, § 4, (6-13-06; Ord. 1712, § 11, 12-12-06)
11.12.10		Ord. 1671, § 4, (6-13-06)
11.12.11		Ord. 1671, § 4, (6-13-06)
11.12.12		Ord. 1671, § 4, (6-13-06)
11.12.13		Ord. 1671, § 4, (6-13-06; Ord. No. 1712, § 12, (12-12-06)