

- 1 (a) The city may revoke the ~~privilege permit~~ of any tow operator or trespass towing service  
2 person to perform trespass towing ~~on any of the following grounds~~ as follows:
- 3 (1) ~~If the towing service owner and/or operator fails to register as required by this~~  
4 ~~article;~~
- 5 (1) If the trespass towing service or tow operator violates one or more of the  
6 following:
- 7 (2) (a) ~~If the registration permit application~~ contains a false statement of material  
8 fact;
- 9 (3) (b) ~~If the trespass towing service owner and/or wrecker tow operator provides~~  
10 monetary or other valuable consideration to the private real property  
11 owner for the privilege of towing vehicles from the property under  
12 contract;
- 13 (4) (c) ~~The trespass towing service owner and/or tow operator provides monetary~~  
14 or other valuable consideration to the private real property owner for each  
15 or any individual vehicle towed from the property;
- 16 (5) (d) ~~If the trespass towing service owner and/or wrecker tow operator charges~~  
17 fees in excess of that set out in the current fee resolution adopted by the  
18 city commission; ~~police section of appendix A, Schedule of Fees, Rates~~  
19 ~~and Charges of this Code of Ordinances~~
- 20 (6) (e) ~~If a wrecker tow operator fails to display on or about his/her person or on~~  
21 ~~the dashboard of the wrecker~~, easily visible to the public, the wrecker tow  
22 operator permit while performing a trespass tow.

- 1        ~~(6)~~    (f)    If a tow operator or trespass towing service fails to maintain the  
2                          qualifications and requirements to qualify for a trespass towing permit.
- 3                          (g)    There has been a fraudulent transfer of the company as described in  
4                          Section 14.5-38.1, City of Gainesville Code of Ordinances.
- 5        ~~(b2)~~    Three or more violations of any the other provisions of this article by any trespass  
6                          towing service owner and/or tow operator of a towing service or towing service  
7                          vehicle with the third violation occurring within one (1) year of the first violation  
8                          within a one-year period shall result in the automatic suspension revocation of the  
9                          owner's trespass towing service permit and/or trespass tow operator's privilege to  
10                          engage in the business of trespass towing permit, as applicable, subject to the  
11                          procedures provided in subsection (c) below. An owner trespass towing service  
12                          permit shall not be suspended revoked for acts of an employee/tow operator in  
13                          violation of this section unless the trespass towing service owner actively  
14                          participated in or had knowledge of the violation and took no corrective action  
15                          against the employee/tow operator or unless repeated violations by an employee  
16                          did not result in progressive discipline. The trespass towing service owner shall  
17                          maintain written documentation of all corrective action taken against an  
18                          employee/tow operator for a minimum period of one year from the date of the last  
19                          corrective action. In addition to the corrective action taken, the documentation  
20                          shall detail the type and date of the specific ordinance/statutory violation. ~~An~~  
21                          ~~operator may be suspended or revoked notwithstanding that the operator's~~  
22                          ~~violations may not be applicable against the owner for purposes of the owner's~~  
23                          ~~suspension. In the event of such suspension:~~

1 (b) If it is found that the towing service or operator meets the requirements for permit  
2 revocation, the permit shall be revoked for the following time periods:

3 1. First revocation .....Six months from the final date of the revocation.

4 2. Second and subsequent revocations .....One year from the final date of the  
5 revocation.

6 (c) The procedure for revoking a permit is as follows:

7 (1) The towing administrator ~~chief of police or designee~~ shall ~~inform the~~ provide  
8 written notice to the trespass towing service ~~owner~~ and/or tow operator, as  
9 applicable, ~~shall be informed in person by hand delivery~~ or by certified or  
10 registered mail ~~within~~ at least fifteen (15) calendar days prior to the effective date  
11 of the ~~suspension~~ revocation. The written notice shall contain notice that the  
12 establishment may contest the revocation by requesting a hearing as provided  
13 below. Service shall be deemed complete if personally delivered upon the owner  
14 or an employee of the trespass towing service or tow operator, as applicable, by  
15 any officer authorized by law to serve process or a duly appointed law  
16 enforcement officer of the city police department. The person serving process  
17 shall make proof of service within the time during which the person served must  
18 respond to the process. If service cannot be personally made within the city, then  
19 service may be made by notice to a registered agent of the trespass towing service  
20 or tow operator as applicable.

21 (2) The trespass towing service ~~owner~~ and/or tow operator may file a written request  
22 for a ~~due process~~ hearing ~~within ten calendar days of the date~~ prior to the effective  
23 date of the ~~suspension~~ revocation with the city manager or his designee ~~chief of~~

1 ~~police or designee~~. Failure to timely request a hearing ~~within the ten-calendar-day~~  
2 ~~period~~ shall constitute a waiver by the trespass towing service owner and/or tow  
3 operator of any rights to a hearing. Upon request for a hearing, the revocation  
4 shall be stayed until final administrative action has been effected.

5 (3) At the ~~due process~~ hearing, the trespass towing service and/or tow operator shall  
6 have the opportunity to present ~~any~~ evidence (consisting of testimony and/or  
7 written documentation) he/she believes negates or mitigates the ~~suspension~~  
8 revocation.

9 (4) In conducting the hearing, the city manager or designee shall have the power to  
10 take testimony under oath, require the production of books, paper, and other  
11 documents, and receive evidence. Should a party refuse to provide documents as  
12 directed by the city manager or designee, then there may be an adverse inference  
13 against the party who failed to produce said documents. All parties shall have an  
14 opportunity to respond, to present evidence and argument on all issues involved,  
15 to conduct cross-examination and submit rebuttal evidence, and to be represented  
16 by counsel. Hearsay evidence may be used for the purpose of supplementing or  
17 explaining other evidence, but it shall not be sufficient in itself to support a  
18 finding unless it would be admissible over objection in civil actions. Any party  
19 desiring the hearing be recorded, shall be responsible for arranging and paying the  
20 cost of a court reporter's attendance and services.

21 (5) If the city manager or designee finds, by a preponderance of the evidence, that the  
22 towing service or operator meets the requirements for permit revocation, then the  
23 city manager or designee shall uphold the suspension of the trespass towing

1 services or tow operator permit and set the revocation date to begin fifteen (15)  
2 from the date of the final administrative order, subject to a writ of certiorari being  
3 filed pursuant to paragraph (8) below.

4 (6) If the city manager or designee finds that the towing service or operator does not  
5 meet the requirements for permit revocation, then the city manager or designee  
6 shall rescind the suspension of the trespass towing services or tow operator  
7 permit.

8 (7) The city manager or designee shall provide written notice of the final order to the  
9 trespass towing service and tow operator as applicable. The decision of the city  
10 manager or designee shall be the final administrative action.

11 (8) Right to appeal: The final administrative order of the city is subject to certiorari  
12 review in a court of competent jurisdiction in Alachua County, Florida by the  
13 timely filing of a petition. Upon the filing of a petition in the Circuit Court, the  
14 revocation of the permit shall be stayed pending final disposition of the civil case.

15 (9) Upon the completion of the administrative hearing process and the final  
16 determination of the city manager or designee, the a review of the evidenee  
17 presented at the hearing, the chief of police or designee may city manager or  
18 designee shall revoke the trespass towing service permit owner's and/or tow  
19 operator's privilege permit to engage in the business of trespass towing for up to  
20 one year, if it is found that the towing service or operator meets the requirements  
21 for permit revocation for the following time periods:

22 a. First revocation .....Six months from the final date of the revocation.