

LEGISLATIVE #

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ORDINANCE NO. 110209

An ordinance of the City of Gainesville, Florida, amending the City of Gainesville, Sec. 14.5-27, relating to wrecker operator's permit; by amending the requirements to obtain or renew a wrecker operator's permit; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, at least 10 days notice has been given of the public hearing once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a public hearing in the City Commission meeting room, first floor, City Hall in the City of Gainesville; and

WHEREAS, the public hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. Subsection (c) of Section 14.5-27, entitled "Application for wrecker operator's permit; violations", of the City of Gainesville, is amended as follows. (Except as amended herein, the remainder of Section 14.5-27 remains in full force and effect.)

Sec. 14.5-27. - Application for issuance of wrecker operator's permit; Renewal; violations.

(c) In order to secure or renew a wrecker operator permit, an applicant must provide the following information on a form provided by the city. The applicant must:

- (1) Submit to the chief of police or designee a certified copy from the Florida Department of Law Enforcement of his/her criminal history and a certified copy of his/her driving record from the Florida Department of Highway Safety and Motor Vehicles;

1 (2) Possess a valid Florida Class E driver's license and provide a photocopy to
2 the chief of police or designee.

3 (3) Not have been convicted, pled nolo contendere to, or had adjudication
4 withheld for or been incarcerated after any conviction, plea of nolo
5 contendere or adjudication withheld for any of the following:

6 a. Any capital felony, any first degree felony, sexual battery, any
7 violent felony involving the use of a ~~gun~~ firearm or ~~knife~~ weapon,
8 as defined in §790.001, F.S. (2011) or which results in great bodily
9 harm.

10 b. Within the previous ten years, any violent felony including not
11 referenced in subsection a above.

12 c. Within the previous ten years, any felony or first degree
13 misdemeanor directly related to the business of towing motor
14 vehicles; repossession of motor vehicles; motor vehicle theft; car
15 jacking or chop shops; or liens for recovering, towing, or storing
16 vehicles and vessels (F.S. § 713.78).

17 d. Within the previous five years, of either: (1) driving under the
18 influence of alcohol, a controlled substance, or a chemical
19 substance, to the extent that normal faculties are impaired; or (2)
20 driving with an unlawful blood alcohol level.

21 All timeframes referenced in this subsection (c)(3) shall be calculated and run from the
22 date of the offense, as reflected in the charging documents.

23 (4) Submit to a background investigation resulting in a determination by the
24 Towing Administrator that:

- 1 a. Neither the applicant, nor any relative, as defined in Section
2 112.312(21), Florida Statutes (2011), officer, director or partner of
3 the applicant, nor any stockholder owning, holding, controlling or
4 having a beneficial interest in five (5) percent or more of the issued
5 and outstanding stock of a corporate applicant or of a corporate
6 general partner of a partnership applicant, has a currently
7 suspended license, has had its license revoked by action of the City
8 within two (2) years of the date of application, or has outstanding
9 and unsatisfied civil penalties imposed on account of violations of
10 this article.
- 11 b. Each corporate or partnership applicant is qualified under the laws
12 of Florida to do business under the trade name or names under
13 which it has applied for a license.
- 14 c. No fraud or willful or knowing misrepresentation or false
15 statement is made in the application.
- 16 d. No judgment against the applicant arising out of the activity of
17 recovery, towing or removing a vehicle or providing storage in
18 connection therewith remains unsatisfied, unless a stay or reversal
19 of the judgment is procured through the courts.
- 20 e. There are no outstanding warrants of arrest against the applicant
21 nor any officer, director or partner of the applicant nor any
22 stockholder owning, holding, controlling or having a beneficial
23 interest in five (5) percent or more of the issued and outstanding
24 stock of a corporate general partner of a partnership applicant.

1 f. There are no (i) unpaid civil penalties; (ii) unpaid administrative
2 costs of hearing; (iii) unpaid City investigative, enforcement,
3 testing, or monitoring costs; or (iv) unpaid liens, any or all of
4 which are owed to the City of Gainesville pursuant to the
5 provisions of the Code of Ordinances.

6 **Section 2.** It is the intention of the City Commission that the provisions of Section 1 of
7 this ordinance shall become and be made a part of the Code of Ordinances of the City of
8 Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be renumbered
9 or relettered in order to accomplish such intentions.

10 **Section 3.** If any word, phrase, clause, paragraph, section or provision of this ordinance
11 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
12 finding shall not affect the other provisions or applications of the ordinance which can be given
13 effect without the invalid or unconstitutional provisions or application, and to this end the
14 provisions of this ordinance are declared severable.

15 **Section 4.** All ordinances or parts of ordinances, in conflict herewith are to the extent of
16 such conflict hereby repealed.

17 **Section 5.** This ordinance shall become effective immediately upon final adoption.

18 **PASSED AND ADOPTED** this ____ day of July, 2012.

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22 _____
23 CRAIG LOWE
24 MAYOR

25 ATTEST:

Approved as to form and legality

26
27
28 _____
29 KURT M. LANNON
30 CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

- 1 This Ordinance passed on first reading this _____ day of July, 2012.
- 2 This Ordinance passed on second reading this _____ day of August, 2012.