

ORDINANCE NO. _____
0-07-121

An ordinance of the City of Gainesville, Florida, amending section 26-2 by providing a definition for owner/vehicle owner; amending section 26-75 of the Gainesville Code of Ordinances by creating a new subsection (d) making it a violation to damage an entrance or exit control device of a municipal parking garage; creating a new subsection (e) making it a violation to enter or exit a municipal parking garage without paying appropriate fees; creating a new subsection (f) providing affirmative defenses for damaging an entrance or exit control device or entering or exiting without paying appropriate fees; creating a new subsection (g) regarding proof of affirmative defenses; amending Appendix A, Schedule of Fees, Rates and Charges, establishing penalties; 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 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 Auditorium in City Hall, City of Gainesville; and

WHEREAS, a Public Hearing was held pursuant to the published notice described at which hearing 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. Section 26-2 of the Gainesville Code of Ordinances is hereby amended by adding the following definition:

1 **Sec. 26-2. Definitions.**

2 Owner/vehicle owner shall mean the person or entity identified by the Florida Department of
3 Motor Vehicles, or other state vehicle registration office, as the registered owner of a
4 vehicle. Such term shall also mean a lessee of a motor vehicle pursuant to a lease of six
5 months or more.

6 **Section 2.** New subsections (d) through (g) of Section 26-75 of the Gainesville Code of
7 Ordinances are hereby created and added to read as follows:

8 **Sec. 26-75. Garage parking.**

9 (d) It shall be a violation to damage an entrance or exit control device of a municipal
10 parking garage. Except as provided in section 26-75(f), the registered owner of the vehicle
11 which damages such entrance or exit control device is declared to be directly responsible to the
12 city for the payment of the fine and fees for violation of this section. The penalty shall be as set
13 forth in Appendix A, Schedule of Fees, Rates and Charges.

14 (e) It shall be a violation for a vehicle to enter or exit a municipal parking garage without
15 rendering full payment of any parking fee due upon entering or exiting the facility. Except as
16 provided in section 26-75(f), the registered owner of a vehicle is declared to be directly
17 responsible to the city for the payment of the fine and fees for the vehicle when the vehicle enters
18 or exits a municipal parking garage in violation of this section. The penalty shall be as set forth
19 in Appendix A, Schedule of Fees, Rates and Charges.

20 (f) It shall be an affirmative defense to a violation of subsections (d) and (e) if the
21 owner/vehicle owner demonstrates that at the time of the violation, that

22 (1) he/she was not, in fact, the registered owner; or

(2) the motor vehicle was a stolen vehicle and operated by a person other than the owner without consent; or

(3) the license plate displayed on the motor vehicle was a stolen plate; or

(4) the driver of the vehicle was stopped and ticketed by an officer of the Gainesville Police Department for a violation of subsections (d), (e), or both.

(g) The owner/vehicle owner must submit proof acceptable to a hearing officer that the theft of the vehicle or license plate had been timely reported to the appropriate law enforcement agency or that the driver of the vehicle was stopped and ticketed by an officer of the Gainesville Police Department for a violation of subsections (d), (e), or both.

Section 3. New paragraphs (7) and (8) are created and added to Appendix A, Schedule of Fees, Rates and Charges, Traffic and Motor Vehicles, Gainesville Code of Ordinances, to read as follows:

TRAFFIC AND MOTOR VEHICLES:

(7) Damaging entrance or exit control device §26-75(d).....75.00

(8) Failure to pay for parking in violation of §26-75(e).....75.00

Section 4. It is the intention that Sections 1 through 3 of this ordinance shall become and be made a part of the Code of Ordinances, of the City of Gainesville, Florida, and that the Sections and Paragraphs of this ordinance may be renumbered or relettered in order to accomplish such intentions.

Section 5. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of the ordinance which can be given

effect without the valid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

Section 6. All ordinances, or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

Section 7. This ordinance shall become effective immediately on adoption.

PASSED AND ADOPTED this ____ day of ____, 2008.

PEGEEN HANRAHAN, MAYOR

ATTEST

APPROVED AS TO FORM AND LEGALITY

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

This Ordinance passed on first reading this ____ day of ____, 2008.

This Ordinance passed on second reading this ____ day of ____, 2008.