

1                   **ORDINANCE NO.**  
2                    0-07-121

3                   An ordinance of the City of Gainesville, Florida, amending section  
4                   26-2 by providing a definition for owner/vehicle owner; amending  
5                   section 26-75 of the Gainesville Code of Ordinances by creating a  
6                   new subsection (d) making it a violation to damage an entrance or  
7                   exit control device of a municipal parking garage; creating a new  
8                   subsection (e) making it a violation to enter or exit a municipal  
9                   parking garage without paying appropriate fees; creating a new  
10                   subsection (f) providing affirmative defenses for damaging an  
11                   entrance or exit control device or entering or exiting without  
12                   paying appropriate fees; creating a new subsection (g) regarding  
13                   proof of affirmative defenses; amending Appendix A, Schedule of  
14                   Fees, Rates and Charges, establishing penalties; providing  
15                   directions to the codifier; providing a severability clause; providing  
16                   a repealing clause; and providing an immediate effective date.  
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18                   **WHEREAS**, at least 10 days notice has been given once by publication in a newspaper  
19                   of general circulation notifying the public of this proposed ordinance and of a Public Hearing in  
20                   the City Commission Auditorium in City Hall, City of Gainesville; and

21                   **WHEREAS**, a Public Hearing was held pursuant to the published notice described at  
22                   which hearing the parties in interest and all others had an opportunity to be and were, in fact,  
23                   heard;

24                   **NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**  
25                   **CITY OF GAINESVILLE, FLORIDA;**

26                   **Section 1.** Section 26-2 of the Gainesville Code of Ordinances is hereby amended by  
27                   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

1           (2) the motor vehicle was a stolen vehicle and operated by a person other than the  
2           owner without consent; or  
3           (3) the license plate displayed on the motor vehicle was a stolen plate; or  
4           (4) the driver of the vehicle was stopped and ticketed by an officer of the Gainesville  
5           Police Department for a violation of subsections (d), (e), or both.

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

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

13           **TRAFFIC AND MOTOR VEHICLES:**

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

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

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

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

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

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

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

6                   **PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

7  
8  
9 PEGEEN HANRAHAN, MAYOR  
10  
11 ATTEST APPROVED AS TO FORM AND LEGALITY

13  
14 KURT M. LANNON  
15 CLERK OF THE COMMISSION  
16  
17 MARION J. RADSON  
CITY ATTORNEY  
18  
19

17 This Ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2008.

18 This Ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2008.