

1 (a) Except as provided in subsection (b) below, it shall be unlawful for any trespass towing
2 service, tow operator or any person to trespass tow or cause to be towed any vehicle
3 parked on private real property unless the provisions of F.S. § Section 715.07, Florida
4 Statutes, have been strictly complied with together with the following requirements:

5 (1) The owners of the real property shall have executed, and filed with the towing
6 administrator, at least 24 hours prior to the towing or removal of any vehicle, a
7 written agreement for trespass towing with a towing service, which agreement
8 shall contain the following provisions:

- 9 a. The duration of the agreement;
- 10 b. The time of day that such towing or removal is authorized;
- 11 c. The days of the week that such towing or removal is authorized;
- 12 d. The fees to be paid for the towing or removal;
- 13 e. The signatures of both the property owner or the authorized representative,
14 and the owner, or authorized representative of the towing service,
15 certifying that each has read and is in compliance with all of the
16 provisions of F.S. § Section 715.07, Florida Statutes.
- 17 f. A legal description or sketch of the private real property from which
18 vehicles may be towed.

19 The form for such agreement shall be provided by the towing administrator police
20 department, and may not be amended or modified in any manner that provides for
21 terms or activities that violate the provisions of this article or F.S. § Section
22 715.07, Florida Statutes and Article III, Chapter 14.5, Gainesville Code.

1 (2) ~~A copy of the completed agreement is on file with the Gainesville Police~~
2 ~~Department.~~ A new completed agreement is submitted each time a property
3 owner changes trespass towing services, ~~tow vendors~~ or the ownership or
4 ~~management~~ of the property changes. ~~A completed agreement is resubmitted~~
5 ~~annually, one year from the date of last submittal.~~ The property owner shall pay
6 the fee set forth in Appendix A upon filing a new trespass towing agreement and
7 then again annually for each property which is included in a trespass towing
8 agreement. If a private real property owner is terminating an agreement with a
9 trespass towing service, 72 hours advance written notice must be given to the
10 trespass towing service whose agreement is being terminated before any trespass
11 towing can be done by a different trespass towing service.

12 (3) Where the private real property is ~~provided~~ used for residential parking, other
13 than for a single-family residence, the agreement, except as provided in
14 subsection (a)(4) below, shall not authorize the trespass towing service to tow
15 away or remove any vehicle without a verified request to remove the specific
16 vehicle by the property owner ~~or an authorized representative.~~ A property owner's
17 ~~representative may include a resident manager, a property manager or other agent~~
18 ~~who has the legal authority to bind the owner, but may not be an officer,~~
19 ~~employee or agent of a towing service.~~

20 (4) An Owners owner of ~~properties~~ private real property used for residential or
21 business purposes may elect to authorize the trespass towing service to tow away
22 or remove vehicles without a verified request to remove a specific vehicle

1 provided that the ~~owner first complies with the~~ following requirements are
2 complied with:

3 a. Signage shall be added to each of the existing tow away signs with letters
4 of the same size as the "tow away" language, which provides the
5 following words: "roam towing." The sign shall state the specific hours of
6 roam towing or state ~~24 hours~~ "24-hours", if that is applicable.

7 b. Towing contract on file with the ~~Gainesville Police Department~~ towing
8 administrator as required by subsection (a)(1) shall ~~be amended to provide~~
9 for roam towing.

10 c. Photograph(s) of the "offending" vehicle shall be taken prior to its
11 removal and shall be of sufficient detail to demonstrate the violation of
12 rule or regulation for which the vehicle is being towed. The photograph(s)
13 must be date and time stamped and maintained by the ~~wrecker company~~
14 trespass towing service for a minimum period of ~~one year~~ six (6) months.
15 Photos will be available for viewing during normal business hours,
16 commencing the following business day at 8:00 a.m. ~~Normal hours for~~
17 ~~viewing the photographs will be Monday through Saturday, 8:00 a.m. to~~
18 ~~5:00 p.m.~~ There can be no charge for viewing the photographs. ~~when such~~
19 ~~is done during the first available business day as referenced above~~

20 d. Lease, rental or property owners' association documents shall contain a
21 notice provision indicating that the residential property utilizes roam
22 towing. In the case of properties with existing leases, rental agreements or
23 property owners' association documents, it shall be sufficient to notify by

1 regular mail, at the last known address, each of the tenants/owners of the
2 property prior to the initiation of roam towing. All new leases, rental
3 agreements or property owners' association documents, or amendments
4 thereto, shall contain the provision giving notice that the property owner
5 intends to utilize roam towing.

6 (5) For private real property located within the boundaries of the community
7 redevelopment areas as defined in ~~d~~Division 9 of eChapter 2 of the Gainesville
8 Code of Ordinances, signage as required by ~~F.S.~~§ Section 715.07, Florida
9 Statutes and subsection (a) above, shall use reflective white lettering on a non-
10 reflective black background. ~~All existing signs within the redevelopment areas~~
11 ~~referenced herein shall be replaced on or before January 1, 2004.~~

12 ~~(6) Upon filing the written agreement with the police department as required herein,~~
13 ~~the property owner or the authorized representative of the property owner, shall~~
14 ~~simultaneously submit an administrative fee to process the trespass towing~~
15 ~~application in the amount set forth in appendix A. The administrative fee shall be~~
16 ~~applicable to all trespass towing agreements filed with the police department after~~
17 ~~the adoption of this section and shall be paid each time a trespass towing~~
18 ~~agreement is filed with the police department as required herein.~~

19 (b) The provisions of this section ~~article~~ shall not apply to:

20 (1) The towing of vehicles pursuant to ~~section 3-116, authority to remove vehicles,~~
21 ~~and s~~Section 26-136 et. seq. "Abandoned, Wrecked and Non-operating Vehicles,"
22 City of Gainesville Code of Ordinances.

1 (2) The towing of vehicles from property appurtenant to and obviously a part of a
2 single-family residence.

3 (3) When notice is personally given to the registered owner or other legally
4 authorized person in control of the vehicle that the area in which that vehicle is
5 parked is reserved or otherwise unavailable and that the unauthorized vehicle will
6 be removed at the registered owner's or operator's expense.

7 (c) The 24-hour notice requirement of this section shall not apply where the tow is of an
8 emergency nature ~~that~~ that threatens public safety and the property owner or authorized
9 representative of the trespass towing service ~~tow owner~~ or tow operator has notified the
10 Gainesville Police Department prior to removing the vehicle.

11 (d) Each trespass towing service shall staff or monitor ~~its telephones~~ the telephone number
12 that is listed on the roam towing signs at all times (pager only does not satisfy this
13 requirement) and immediately advise any registered vehicle owner or authorized
14 representative who ~~calls by telephone of~~ communicates with the trespass towing service,
15 the following:

16 (1) Each and every document or other item which must be produced to retrieve the
17 vehicle.

18 (2) Exact charges as of the time of the ~~telephone call~~ communication, and the rate at
19 which charges will accumulate thereafter.

20 (3) The acceptable methods of payment. If the trespass towing service ~~owner~~ or tow
21 operator cannot, or will not provide change to a registered vehicle owner or
22 authorized representative, the trespass towing service ~~owner~~ or tow operator shall

1 (4) You may pay the towing charges using cash, debit card, or major credit card (Visa
2 or MasterCard). A fee may be charged to use the debit card. No additional fee can
3 be charged for use of a credit card.

4 (5) A detailed, signed receipt showing the legal name of the person or entity
5 authorizing the tow and the legal name of the trespass towing service company,
6 and tow operator ~~or person towing the vehicle~~ must be given to you at the time of
7 payment, whether requested or not. The receipt will also include the following
8 statement: "Notice: Towing from private property is regulated by F.S. § Section
9 715.07, Florida Statutes and Chapter 14.5. Article III, City of Gainesville Code of
10 Ordinances."

11 (6) Trespass towing services ~~tow companies~~ are required to take photos of your
12 vehicle prior to tow, documenting the violation for which the vehicle was towed.
13 You can make arrangements with the tow company to see the photographs at no
14 charge. Photos will be available for viewing during the normal business hours
15 commencing the following business day after the tow at 8:00 a.m.. ~~Normal hours~~
16 ~~for viewing the photographs will be Monday through Saturday, 8 to 5 p.m.~~ It is a
17 good idea to make an appointment in advance with the ~~office staff~~ trespass towing
18 service.

19 The ~~document~~ poster shall also contain contact information to report violations.

20 **Sec. 14.5-30. - Authorized fees and charges.**

21 (a) Any trespass towing service firm ~~firm~~ engaged in the business of trespass towing shall not
22 charge the owner of any towed vehicle or personal property in excess of the fees set by
23 the eCity eCommission by resolution. The fees set by resolution shall be all inclusive

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 during the first 24-hour period following notification of vehicle tow to the Gainesville
2 Police Department; no additional fees or charges whatsoever may be charged unless
3 specifically established and authorized herein or by state statute. The eCity eCommission
4 shall establish, by resolution, a maximum fee for specific classes of vehicles as identified
5 in the Towing and Recovery Association of America's TRAA Vehicle Identification
6 Guide. ~~After maximum fees are initially established using the TRAA Vehicle~~
7 ~~Identification Guide, such maximum fees will be subject to rate review as provided in~~
8 ~~subsection 14.5 30(e) notwithstanding that such review may occur less than annually for~~
9 ~~the first instance.~~

10 (b) A trespass towing service person, operator, firm, or corporation that provides trespass
11 towing and storage services pursuant to Article III, sSection 14.5-25, et. seq. of the
12 Gainesville Code of Ordinances shall accept payment for charges from the registered
13 vehicle owner or authorized representative in any of the following forms:

- 14 (1) Cash;
- 15 (2) Major credit card; and/or
- 16 (3) Debit card.

17 (c) ~~Maximum trespass towing fees shall be established no more than annually by the city~~
18 ~~commission after receiving a request for fee modification by the towing company owners~~
19 ~~and staff recommendations based on financial information, submitted by the trespass~~
20 ~~towing companies as to their costs for the removal of vehicles and on other information.~~
21 ~~The required information shall be submitted by the towing company owners by~~
22 ~~September 30th of each year. The maximum fees shall be set by resolution to be adopted~~
23 ~~by the city commission. prior to December 31st of each year in which a request for~~

1 ~~modification has been made. Such maximum fees shall be effective during the following~~
2 ~~calendar year and until changed by subsequent resolution.~~

3 **Sec. 14.5-31. - Vehicle not connected upon ~~operator~~ owner or other person in control of**
4 **the vehicle returning.**

5 The ~~trespass towing service~~ owner or operator of any ~~towing service vehicle~~ which is
6 summoned to trespass tow away any vehicle on private real property, or stops to tow any vehicle
7 under a valid "Roam Towing" provision on private real property, shall not remove or tow the
8 vehicle away and shall not charge any fee if the registered owner or other person in control of the
9 vehicle ~~operator~~ returns to the vehicle prior to the ~~towing service~~ operator having physically
10 connected the vehicle to the tow vehicle towing apparatus, and the owner or person in control of
11 the vehicle moves the vehicle from the private real property.

12 **Sec. 14.5-32. - Vehicle not towed upon owner or other person in control of the vehicle**
13 **~~operator~~ returning.**

14 If the registered owner or other ~~legally authorized~~ person in control of the vehicle arrives
15 at the scene prior to removal or towing of the vehicle, the vehicle shall be disconnected from the
16 towing or removal apparatus, and that person shall be allowed to remove the vehicle without
17 interference upon the payment of a reasonable service fee of not more than one-half of the posted
18 rate for such towing service for which a receipt shall be given, unless that person refuses to
19 remove the vehicle which is ~~otherwise~~ unlawfully parked from the private real property .

20 **Sec. 14.5-33. - Point of tow to point of storage.**

21 Except as provided in section 14.5-32 above and except for bona fide emergencies, a
22 vehicle in tow shall be taken from the point of tow to the permanent business address of the

1 ~~trespass towing service tow owner or operator~~ where vehicles are normally stored. Temporary
2 storage is prohibited.

3 **Sec. 14.5-34. - Vehicles subject to criminal investigation.**

4 Trespass towing services ~~Tow owner~~ shall not refuse to relinquish to the police a vehicle
5 which is the subject of a criminal investigation. Relinquishment of the vehicle to the police for
6 impoundment at its contract site shall not affect the trespass towing service's tow owners right to
7 payment for services rendered and payment for those services shall be made to the trespass
8 towing service ~~tow owner~~ by the registered owner of the vehicle or his/her representative, or
9 other arrangements shall be made with the trespass towing service ~~tow owner~~ to receive payment
10 before the vehicle is released to the registered owner or his/her representative.

11 **Sec. 14.5-35. - Civil citation; violation of ordinance.**

12 Police officers and code enforcement officers may issue a civil citation to trespass towing
13 services, ~~tow owners~~ or their authorized representatives, tow operators and property owners or
14 their authorized representatives, for violations of any section of this article.

15 **Sec. 14.5-36. - Receipt from towing service to be furnished to owner when vehicle claimed.**

16 When a trespass towed vehicle is claimed, the trespass towing service ~~towing service~~
17 shall furnish the registered owner or other legally authorized person with a ~~receipt which shall~~
18 ~~include~~ detailed, signed receipt showing the legal name of the person or entity authorizing the
19 tow and the legal name of the trespass towing service and the tow operator ~~the name of the~~
20 ~~person or management entity who authorized the towing~~. The receipt shall also include the
21 following language:

1 "Notice: Towing from private property is regulated by the provisions of ~~F.S.~~ § Section
2 715.07, Florida Statutes and Chapter 14.5, Article III City of Gainesville Code of
3 Ordinances."

4 **Sec. 14.5-37. - Prohibitions.**

5 (a) It shall be a violation of this article for a trespass towing service or tow operator to charge
6 any additional fee which is based on police response to a call by the owner of a vehicle
7 who is contesting the towing of the owner's vehicle on scene.

8 (b) It shall be a violation of this article for any person other than the real property owner or
9 an authorized representative of the owner, or the trespass towing service ~~tow owner~~ or
10 authorized representative of the trespass towing service ~~tow owner~~ (if the signs are placed
11 by the trespass towing service) ~~tow company~~, to move, remove, or deface any ~~tow away~~
12 sign relating to towing.

13 **Sec. 14.5-38. - Penalties.**

14 In addition to those penalties imposed by ~~F.S.~~ § Section 715.07, Florida Statutes,
15 violation of any provisions of this article, including any of the requirements of ~~F.S.~~ § Section
16 715.07, Florida Statutes, shall be subject to the following civil penalties:

17 (1) Any trespass towing service, tow operator or person who violates this article shall
18 be liable to the registered owner or lessee of the vehicle for all costs of recovery
19 (including all towing and storage fees) plus attorney's fees and court costs, and
20 shall in addition be liable to the registered owner or lessee of any towed or
21 removed vehicle for damages resulting directly or indirectly from the removal,
22 transportation or storage of the vehicle.

1 (2) Any trespass towing service, tow operator or person who violates any of the
2 provisions of this article shall, upon conviction or entry of a civil judgment, be
3 fined not more than \$500.00 per violation. Each violation shall be considered a
4 separate offense.

5 **Section 14.5-38.1 - Fraudulent Transfer of company**

6 For purposes of denial or revocation of a permit under this article, it shall be a violation
7 of this article for the owner(s) to fraudulently transfer a trespass towing service. For purposes of
8 this section, fraudulent transfer is one made by the owner(s) for the purpose of evading civil
9 penalties, restitution, fines and/or fees imposed pursuant to this article. In determining whether a
10 transfer is fraudulent, consideration may be given among other factors, to whether:

- 11 (1) The transfer was an arm's length transaction;
12 (2) The trespass towing service retained possession or control of the
13 property transferred after the transfer;
14 (3) The transfer was disclosed or concealed;
15 (4) Before the transfer was made or obligation was incurred, the trespass towing
16 service had been sued or threatened with suit;
17 (5) The transfer was of substantially all the trespass towing service's assets;
18 (6) The value of the consideration received by the trespass towing service was
19 reasonably equivalent to the value of the asset transferred or the amount of the
20 obligation incurred;
21 (7) The trespass towing service was insolvent or became insolvent shortly after the
22 transfer was made or the obligation was incurred; and

- 1 a. At the direction of a law enforcement officer, police service technician,
2 traffic enforcement technician or any individual who successfully
3 completes a training program established and approved by the Criminal
4 Justice Standards and Training Commission for parking enforcement
5 specialists and, whose current duties with the city include parking
6 enforcement; or
- 7 b. With the consent of the vehicle's registered owner or ~~operator~~ other legally
8 authorized person in control of the vehicle.

9 **Sec. 14.5-40. - Definitions.**

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

13 *Immobilization, immobilize or immobilizing*, also known as boot or booting shall mean
14 the act of placing, on a parked vehicle, a "boot" or other device which causes a vehicle to be
15 immobile or prohibits its usual manner of movement or otherwise disables a vehicle from
16 operation.

17 *Immobilization operator* shall mean the actual person who is applying the "boot" or other
18 device which causes a vehicle to be immobile or prohibits its usual manner of movement or
19 otherwise disables a vehicle from operation.

20 *Immobilization service(s)* shall include any person, ~~company, corporation or other entity,~~
21 whether licensed or not, who engages in or owns or operates a business which engages, in whole
22 or in part, in the immobilization or booting of vehicles on private property.