



MEMORANDUM

Office of the City Attorney

Leg # 001338

Phone: 334-5011/Fax 334-2229
Box 46

First Reading:

DATE: September 24, 2001

TO: Mayor and City Commission

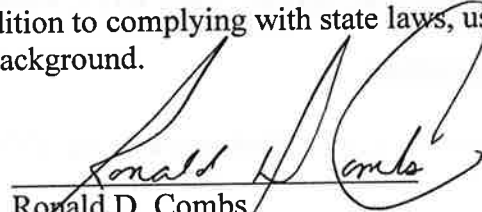
FROM: Marion J. Radson
City Attorney

SUBJECT: Towing Ordinance 0-01-56
An ordinance of the City of Gainesville, Florida, amending section 14.5-26(a) by adding a new subsection (5) related to towing signs on private property located in community redevelopment areas; providing a "phase in" period; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

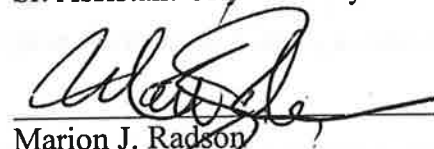
RECOMMENDATION: The City Commission adopt the proposed ordinance.

At its meeting on September 10, 2001, the City Commission authorized the City Attorney to draft and the Clerk of the Commission to advertise an ordinance that regulates tow away signs on private property within the boundaries of any community redevelopment area by requiring that such signs, in addition to complying with state laws, use white reflective lettering on a black non reflective black background.

Prepared by:


Ronald D. Combs
Sr. Assistant City Attorney/Police Legal Advisor

Approved and
Submitted by:


Marion J. Radson
City Attorney

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ORDINANCE 0-01-56

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5 An ordinance of the City of Gainesville, Florida,
6 amending section 14.5-26(a) by adding a new subsection
7 (5) related to towing signs on private property located in
8 community redevelopment areas; providing a "phase in"
9 period; providing directions to the codifier; providing a
10 severability clause; providing a repealing clause; and
11 providing an immediate effective date.
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13
14 **WHEREAS**, at least 10 days notice has been given once by publication in a
15 newspaper of general circulation notifying the public of this proposed ordinance and of a
16 Public Hearing in the City Commission Auditorium in City Hall, City of Gainesville; and

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

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

22 **Section 1.** Section 14.5-26(a), of the Code of Ordinances, City of Gainesville, is
23 amended to read as follows:

24 **Sec. 14.5-26. Prerequisites to towing vehicles parked on private property;**
25 **exceptions.**

26
27 (a) It shall be unlawful for any person to tow or cause to be towed any vehicle
28 parked on private real property unless the provisions of F.S. §715.07, have been complied
29 with together with the following requirements:

30
31 (1) The owners of the real property and the towing service shall have
32 executed, at least 24 hours prior to the towing or removal of any vehicle, a
33 written agreement for trespass towing, with a towing service, which
34 agreement shall contain the following provisions:

35
36 a. The duration of the agreement;

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- 1
- 2 b. The time of day that such towing or removal is authorized;
- 3
- 4 c. The days of the week that such towing or removal is authorized;
- 5
- 6 d. The fees to be paid for the towing or removal;
- 7
- 8 e. The signatures of both the property owner or the authorized
- 9 representative, and the owner, or authorized representative of the
- 10 towing service, certifying that each has read and is in compliance
- 11 with all of the provisions of F.S. §715.07.

12 The form for such agreement shall be provided by the police department, and may
13 not be amended or modified in any manner which provides for terms or activities
14 which violate the provisions of this article or F.S. §715.07.

- 15
- 16
- 17 (2) A copy of the completed agreement is on file with the Gainesville Police
- 18 Department.
- 19
- 20 (3) Where the private real property is provided for residential parking other
- 21 than for a single-family residence, the agreement, except as provided in
- 22 section 14.5-26(a)(4), shall not authorize the towing service to tow away
- 23 or remove any vehicle without a verified request to remove the specific
- 24 vehicle by the property owner or an authorized representative. A property
- 25 owner's representative may include a resident manager, a property
- 26 manager or other agent who has the legal authority to bind the owner, but
- 27 may not be an officer, employee or agent of a towing service.
- 28
- 29 (4) Owners of properties used for residential purposes may elect to authorize
- 30 the towing service to tow away or remove vehicles without a verified
- 31 request to remove a specific vehicle provided that the owner first complies
- 32 with the following requirements:
- 33
- 34 a. Signage shall be added to each of the existing tow away signs with
- 35 letters of the same size as the "tow away" language, which
- 36 provides the following words: "Roam towing." The sign shall state
- 37 the specific hours of roam towing or state 24 hours, if that is
- 38 applicable.
- 39
- 40 b. Towing contract on file with the Gainesville Police Department as
- 41 required by section 14.5-26(a)(1) shall be amended to provide for
- 42 roam towing.
- 43
- 44 c. Lease, rental or property owners' association documents shall
- 45 contain a notice provision indicating that the residential property
- 46 utilizes roam towing. In the case of properties with existing leases,

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

8
9 (5) For private property located within the boundaries of the community
10 redevelopment areas as defined in Division 9 of Chapter 2 of the
11 Gainesville Code of Ordinances, signage as required by F.S. §715.07 and
12 §14.5-26(a) above, shall use reflective white lettering on a non-reflective
13 black background. All existing signs within the redevelopment areas
14 referenced herein shall be replaced on or before January 1, 2004.

15
16 (b) The provisions of this article shall not apply to:

- 17
18 (1) The towing of vehicles pursuant to section 3-116, authority to remove
19 vehicles, and section 26-136 et seq "Abandoned, Wrecked and Non-
20 operating Vehicles," City of Gainesville Code of Ordinances.
21
22 (2) The towing of vehicles from property appurtenant to and obviously a part
23 of a single-family residence.
24
25 (3) When notice is personally given to the owner or other legally authorized
26 person in control of the vehicle that the area in which that vehicle is
27 parked is reserved or otherwise unavailable and that the unauthorized
28 vehicle will be removed at the owner's or operator's expense.

29
30 (c) The 24-hour notice requirement of this section shall not apply where the tow is of
31 an emergency nature and the property owner or authorized representative of the tow
32 owner or operator has notified the police department prior to removing the vehicle.
33

34 **Section 2.** It is the intention of the City Commission that Section 1 of this ordinance
35 shall become and be made a part of the Gainesville Code of Ordinance, of the City of
36 Gainesville, Florida, and that the Section and Paragraphs of this ordinance may be
37 renumbered or relettered in order to accomplish such intentions.

38 **Section 3.** If any section, sentence, clause or phrase of this ordinance is held to be
39 invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in
40 no way affect the validity of the remaining portions of this ordinance.

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1 Section 4. All ordinances, or parts of ordinances, in conflict herewith are to the
2 extent of such conflict hereby repealed.

3 Section 5. This ordinance shall become effective immediately upon adoption.

4 PASSED AND ADOPTED this _____ day of _____ 2001.

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THOMAS D. BUSSING
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 _____, 2001.

This Ordinance passed on second reading this _____ day of _____, 2001.

