

1 (4) Photograph(s) of the "offending" vehicle shall be taken and shall be of sufficient
2 detail to demonstrate the violation of rule or regulation for which the vehicle is
3 being immobilized. The photograph(s) must be date and time stamped and
4 maintained by the immobilization service for a minimum period of ~~one year~~ six
5 (6) months. Photos must be available for viewing during normal business hours
6 commencing the following business day after the immobilization by 8:00 a.m.
7 ~~Normal hours for viewing the photographs are Monday through Saturday 8:00~~
8 ~~a.m. to 5:00 p.m. at the immobilization service's office registered with the towing~~
9 ~~administrator.~~ There shall be no charge for viewing the photographs. ~~when such is~~
10 ~~done during the first available business day as referenced above~~

11 (b) *Sign posting.* Prior to immobilizing, in any manner, any vehicle parked on a private
12 property, a separate/individual sign meeting the following requirements shall ~~be~~ have
13 been posted on the private property:

14 (1) The sign shall be prominently placed at each driveway access or curb cut allowing
15 vehicular access to the property, within five feet from the public right-of-way. If
16 there are no curb cuts or access barriers, sign(s) must be posted for each 25 feet of
17 property abutting public right-of-way, with a minimum of at least one sign;

18 (2) The sign must clearly indicate, in not less than two-inch high, light reflective
19 letters on contrasting background, that unauthorized vehicles will be immobilized
20 at the owner's expense. The words "vehicle immobilization area" must be
21 included on the sign in not less than four-inch high letters;

22 (3) The sign structure containing the above notices must be permanently installed
23 with the words "vehicle immobilization area" not less than three feet and not more

1 than six feet above ground level and must be continuously located on the property
2 for not less than 24 hours prior to immobilization of any vehicles;

3 (4) The sign must also provide the name and current telephone number of the
4 immobilization service which placed the immobilization device on the vehicle;
5 and

6 (5) The sign shall state whether public parking is permitted and the hours of operation
7 that the property is utilized for public parking.

8 (e6) Where property is posted for trespass towing and the immobilization service will
9 be performed by the same entity or company, the signage requirements may be
10 met by adding "vehicle immobilization area" to existing trespass towing signage.

11 (e~~c~~) *Removal of immobilization device; release of vehicle; availability and response time.*

12 (1) When a vehicle has been immobilized, the immobilization device shall be
13 removed and the vehicle shall be released or returned to its owner or ~~eustodian~~
14 other legally authorized person within one hour upon request for removal and
15 payment of the immobilization charge.

16 (2) Any ~~person~~, immobilization service which places an immobilization device on an
17 unauthorized vehicle parked on private property shall operate a 24-hour, seven-
18 day-a-week answering service, and shall make available on a 24-hour, seven-
19 days-a-week basis, attendants and equipment for the release of the immobilization
20 device within one hour of request for removal and payment of the immobilization
21 charge.

22 (e~~d~~) *Maximum immobilization charge.* No ~~person~~ or immobilization service may charge an
23 immobilization charge or fee for removal of an immobilization device on an unauthorized

1 vehicle parked on private property in excess of the fee ~~provided in Appendix A, Schedule~~
2 ~~of Fees, Rates and Charges, of this Code of Ordinances~~ authorized by resolution of the
3 city commission. Proof of ownership of the vehicle shall not be required of any person
4 who is paying a fee for the removal of the immobilization device. An immobilization
5 service shall accept payment for charges ~~from the vehicle owner or authorized~~
6 ~~representative~~ in any of the following forms:

- 7 (1) Cash;
- 8 (2) Major credit card; and/or
- 9 (3) Debit card.

10 The immobilization service is required to be able to accept payment at the site of the
11 immobilization, and shall accept any lawfully tendered payment.

12 (e) *Required receipt.* Any ~~person,~~ immobilization service ~~which places an immobilization~~
13 ~~device on an unauthorized vehicle parked on private property~~ shall provide, at the time of
14 payment, a written receipt for all charges imposed and received from the owner or
15 ~~operator of a~~ other person in control of a vehicle. ~~resulting from the immobilization of a~~
16 ~~vehicle.~~ Said receipt shall be made and maintained in duplicate and shall include at a
17 minimum:

- 18 (1) The date, time, and location of the immobilization;
- 19 (2) The total charges listed individually and specifically;
- 20 (3) The date and time of the request for removal of the immobilization device;
- 21 (4) The date and time of payment of the charges; and
- 22 (5) The following disclosure in bold capitalized letters of at least 12-point type:

1 IF YOU HAVE ANY QUESTION OR COMPLAINT, PLEASE CONTACT
2 THE CITY OF GAINESVILLE'S TOWING ADMINISTRATOR AT THE
3 GAINESVILLE POLICE DEPARTMENT, 413 NW 8th Avenue,
4 GAINESVILLE, FL 32601;

5 (f) *Return of registered vehicle owner ~~prior to immobilization~~. No ~~person~~; immobilization*
6 *operator or immobilization service shall immobilize a vehicle or charge for its services*
7 *where the registered owner or other ~~legally authorized~~ person in control of the vehicle*
8 *arrives at the scene prior to affixing the immobilization device, unless: (1) ~~¶~~the registered*
9 *owner or other ~~legally authorized~~ person in control of the vehicle refuses to remove the*
10 *vehicle. ~~;~~ ~~or~~ (2) ~~If~~ ~~¶~~the vehicle has already been completely connected to the*
11 *immobilization device, ~~and~~ the registered owner or other person in control of the vehicle*
12 *~~refuses to~~ shall pay a service fee of not more than one-half of the rate ~~contained in~~*
13 *~~Appendix A, Schedule of Fees, Rates and Charges~~ set by resolution by the city*
14 *commission for such immobilization service. (3) The immobilization service or ~~person~~*
15 *~~immobilizing the vehicle~~ immobilization operator shall wait a minimum of twenty (20)*
16 *minutes to allow the ~~vehicle's~~ registered owner or person in control of the vehicle*
17 *~~operator~~ to secure cash or other acceptable payment of the fees enumerated herein.*

18 (g) ~~Proof of ownership of the vehicle shall not be required of any person who is paying a fee~~
19 ~~for the removal of the immobilization device.~~

20 (h) The registered owner or other ~~legally authorized~~ person in control of the vehicle
21 shall not be prevented from accessing any of the vehicle's interior compartments by the
22 immobilization service or immobilization operator.

1 (g) *Towing/removal requirements.* An immobilized vehicle shall not remain immobilized on
2 private property for more than 24 hours. After such period of time has expired, the
3 vehicle shall be released from the immobilization device and the vehicle may be towed or
4 removed pursuant to this article, and no fee shall be assessed for placement or release of
5 the immobilization device.

6 **Sec. 14.5-44. - Enforcement and inspection; ~~disclaimer.~~**

7 (a) ~~*Enforcement and inspection.*~~ The towing administrator shall enforce the provisions set
8 forth in this division. This shall not preclude other law or code enforcement personnel
9 from conducting any action as deemed necessary to assure compliance with all applicable
10 laws. To determine compliance and enforce the provisions of this division, ~~the towing~~
11 ~~administrator~~ any law or code enforcement official shall have the right of entry upon real
12 property during ~~the operating~~ normal business hours ~~of the subject business~~ and shall be
13 immune from civil or criminal prosecution for trespass upon real property while in the
14 discharge of his/her duties of enforcing the provisions of this division.

15 (b) ~~*Disclaimer of immobilization methods.*~~ ~~The imposition of the vehicle immobilization~~
16 ~~regulations set forth herein is solely intended for the public's protection from vehicle~~
17 ~~immobilization without adequate notice. Nothing herein shall be construed as~~
18 ~~authorization or permission to immobilize vehicles on private parking lots open to the~~
19 ~~public. Any person immobilizing vehicles on private parking lots open to the public shall~~
20 ~~be subject to citation under this division and any other remedies available to the City of~~
21 ~~Gainesville.~~

22 **Sec. 14.5-45. - Revocation of immobilization service or immobilization operator permit,**
23 **appeal.**

1 (a) ~~In addition to the penalties set forth above, three~~ Three violations of the provisions of this
2 article by an immobilization service or immobilization operator within ~~a one year period~~
3 a 12-month period shall result in the revocation of the ~~privilege permit~~ to engage in ~~the~~
4 immobilization services ~~business~~. An immobilization service permit shall not be revoked
5 for acts of an employee/operator in violation of this section unless the owner or officers
6 of the immobilization service actively participated in or had knowledge of the violation
7 and took no corrective action against the employee/operator or unless repeated violations
8 by an employee did not result in progressive discipline. The immobilization service shall
9 maintain written documentation of all corrective action taken against an
10 employee/operator for a minimum period of one year. In addition to the corrective action
11 taken, the documentation shall detail the type and date of the specific ordinance/statutory
12 violation. ~~An operator permit may be revoked notwithstanding that the operator's~~
13 ~~violations may not be applicable against the immobilization service for purposes of the~~
14 ~~immobilization service's revocation. To revoke a permit:~~

15 (b) If it is found that the immobilization service or operator meets the requirements for
16 permit revocation, the permit shall be revoked for the following time periods:

- 17 1. First revocationSix months from the final date of the revocation.
18 2. Second and subsequent revocationsOne year from the final date of the
19 revocation.

20 (c) The procedure for revoking a permit is as follows:

- 21 (1) The towing administrator shall ~~inform~~ provide written notice to the
22 immobilization service or immobilization operator, as applicable, in person by
23 hand delivery or by certified or registered mail ~~within~~ at least seven fifteen (15)

1 calendar days prior to the effective date of the ~~suspension~~ revocation. The written
2 notice shall contain notice that the establishment may contest the revocation by
3 requesting a hearing as provided below. Service shall be deemed complete if
4 personally delivered upon the owner or an employee of the immobilization
5 service or immobilization operator, as applicable, by any officer authorized by
6 law to serve process or a duly appointed law enforcement officer of the city police
7 department. The person serving process shall make proof of service within the
8 time during which the person served must respond to the process. If service
9 cannot be personally made within the city, then service may be made by notice to
10 a registered agent of the immobilization service or immobilization operator , as
11 applicable.

12 (2) The immobilization service or immobilization operator may file a written request
13 for a hearing ~~within ten calendar days of the date~~ prior to the effective date of the
14 ~~suspension~~ revocation with the ~~towing administrator office of the~~ city manager, or
15 his designee. Failure to timely request a hearing ~~within the ten calendar day~~
16 ~~period~~ shall constitute a waiver by the immobilization service or immobilization
17 operator of any rights to a hearing. Upon request for a hearing, the revocation
18 shall be stayed until final administrative action has been effected.

19 (3) At the ~~due~~ hearing, the immobilization service or operator shall have the
20 opportunity to present ~~any~~ evidence (consisting of testimony and/or written
21 documentation) he/she believes negates or mitigates the revocation.

22 (4) In conducting the hearing, the city manager or designee shall have the power to
23 take testimony under oath, require the production of books, paper, and other

1 documents, and receive evidence. Should a party refuse to provide documents as
2 directed by the city manager or designee, then there may be an adverse inference
3 against the party who failed to produce said documents. All parties shall have an
4 opportunity to respond, to present evidence and argument on all issues involved,
5 to conduct cross-examination and submit rebuttal evidence, and to be represented
6 by counsel. Hearsay evidence may be used for the purpose of supplementing or
7 explaining other evidence, but it shall not be sufficient in itself to support a
8 finding unless it would be admissible over objection in civil actions. Any party
9 desiring the hearing be recorded, shall be responsible for arranging and paying the
10 cost of a court reporter's attendance and services.

11 (5) If the city manager or designee finds, by a preponderance of the evidence, that the
12 immobilization service or immobilization operator meets the requirements for
13 permit revocation, then the city manager or designee shall uphold the suspension
14 of the immobilization service or immobilization operator permit and set the
15 revocation date to begin fifteen (15) from the date of the final administrative
16 order, subject to a writ of certiorari being filed pursuant to paragraph (8) below.

17 (6) If the city manager or designee finds that the immobilization service or
18 immobilization operator does not meet the requirements for permit revocation,
19 then the city manager or designee shall rescind the revocation of the
20 immobilization service or immobilization operator permit.

21 (7) The city manager or designee shall provide written notice of the final order to the
22 immobilization service or immobilization operator as applicable. The decision of
23 the city manager or designee shall be the final administrative action.

1 (8) Right to appeal: The final administrative order of the city is subject to certiorari
2 review in a court of competent jurisdiction in Alachua County, Florida by the
3 timely filing of a petition. Upon the filing of a petition in the Circuit Court, the
4 revocation of the permit shall be stayed pending final disposition of the civil case.

5 (4)(9) Upon the completion of the administrative hearing process and the final
6 determination of the city manager or designee, the city manager or designee
7 ~~review of the evidence presented at the hearing, the towing administrator may~~
8 shall revoke the immobilization service permit or immobilization operator's
9 permit to engage in immobilization for up to one year, if it is found that the
10 immobilization service or immobilization operator meets the requirements for
11 permit revocation for the following time periods: as follows:

- 12 a. First revocationSix months from the date of the revocation.
- 13 b. Second and subsequent revocationsOne year from the date of the
14 revocation.

15 (~~b~~d) Any ~~the~~ immobilization service or immobilization operator whose permit has been
16 revoked shall not be eligible to again obtain a permit until such revocation period has
17 expired.

18 (~~e~~) ~~Any immobilization service or operator whose permit has been revoked may file an~~
19 ~~appeal within (15) days of the date of revocation pursuant to the appeals process specified~~
20 ~~below.~~

21 (~~d~~) ~~Right of appeal. The timely filing of an appeal shall stay the revocation of the permit. The~~
22 ~~appeal shall be taken by filing written notice with the chief of police or designee within~~
23 ~~(15) days after the decision by the towing administrator to revoke such permit. The notice~~

1 of the appeal shall contain the grounds for the appeal and shall contain information
2 showing that either the finding is contrary to the law or is not supported by competent
3 substantial evidence. The chief of police or designee shall transmit copies of the appeal to
4 the city manager along with papers constituting the record upon which the action
5 appealed from is based. The city manager may decide to uphold or reverse the decision of
6 the towing administrator. The decision of the city manager shall be the final
7 administrative action by the city.

8 **Sec. 14.5-46. - Violation of ordinance; penalties; civil citation.**

9 It is unlawful to engage in the immobilization of vehicles on private property without
10 compliance with the requirements of this division. Police officers and code enforcement officers
11 ~~Law enforcement officers~~ may issue a civil citation to immobilization services or its authorized
12 representatives, immobilization operators, and property owners or their authorized
13 representatives, for violations of any section of this article.

14 **Section 3.** Appendix A. "Schedule of Fees, Rates and Charges", of the Code of
15 Ordinances of the City of Gainesville, is hereby amended as follows. Except as amended herein,
16 the remainder of Appendix A remains in full force and effect.

17 **APPENDIX A - SCHEDULE OF FEES, RATES AND CHARGES**

18 POLICE:

19 ~~Room~~ Trespass towing:

20 Trespass towing application process fee (section 14.5-29(a)(6))

- 21 a. Properties 1—5, each 57.00
22 b. Properties 6—10, each 42.50
23 c. Properties 11—15, each 36.50

1 d. Properties 16—20, each 30.50

2 e. Properties 20 or more, each 18.00

3 *Registration—Owners, operators and vehicles:*

4 (a) Trespass Towing Service permit Owners and vehicles.....0.00 318.50

5 Late penalty, payment not timely filed, per month 29.00

6 (b) Trespass Towing Operators permit..... 11.50

7 (c) Replacement permits.....1/2 permit fee

8 (d) Trespass Towing vehicle registration, annually per vehicle.... 29.00

9 *Immobilization:*

10 a. Annual permit fee 318.50

11 b. Late penalty, annual payment not timely filed, per month 29.00

12 c. Operator permit, per year..... 11.50

13 d. Replacement permit.....1/2 permit fee

14 e. Vehicle (Medallion) permit, ~~biennially~~ annually per vehicle..... 29.00

15 f. ~~Removal.....69.50~~

16 **Section 4.** It is the intention of the City Commission that the provisions of Sections 1, 2
17 and 3 of this Ordinance shall become and be made a part of the Code of Ordinances of the City
18 of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be
19 renumbered or relettered in order to accomplish such 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 invalid or unconstitutional provisions or application, and to this end the
2 provisions of this ordinance are declared severable.

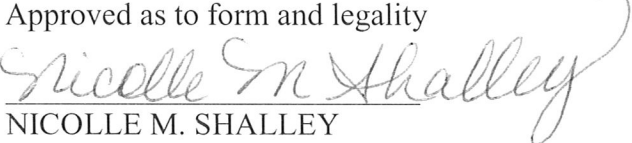
3 **Section 6.** All ordinances or parts of ordinances, in conflict herewith are to the extent of
4 such conflict hereby repealed.

5 **Section 7.** This ordinance shall become effective immediately upon final adoption.
6 However, any permit issued pursuant to this Chapter 14.5, Article III prior to the effective date
7 of this ordinance shall remain valid until October 1, 2014, unless it is suspended or revoked prior
8 to that date.

9 **PASSED AND ADOPTED** this 19th day of June, 2014.

10 
11 EDWARD B. BRADDY
12 MAYOR

13
14 ATTEST: 
15
16
17 KURT M. LANNON
18 CLERK OF THE COMMISSION

Approved as to form and legality

NICOLLE M. SHALLEY
CITY ATTORNEY

19
20 This Ordinance passed on first reading this 1st day of May, 2014.

21 This Ordinance passed on second reading this 19th day of June, 2014.

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