

MEMORANDUM

Office of the City Attorney

Legistar No.: 050064

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

FIRST-READING

TO: Mayor and Commissioners

DATE: ~~June 27, 2005~~

SECOND READING July 11, 2005

FROM: Marion J. Radson, City Attorney

SUBJECT: **ORDINANCE NO.: 0-05-70**

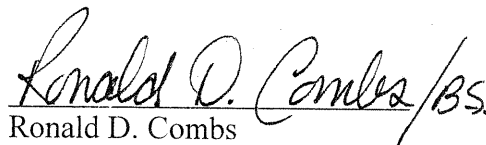
TRESPASS TOWING ADMINISTRATIVE FEE

An ordinance of the City of Gainesville, Florida, amending section 14.5-26(a) of the Code of Ordinances, to clarify that the administrative fee for processing towing applications applies to all trespass towing regulated by ordinance; applies whenever a property owner changes towing vendor and is an annual fee; amending the Police section of Appendix A, Schedule of Fees, Rates and Charges to specify an administrative fee for processing trespass towing applications; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing a retroactive effective date of July 1, 2005.

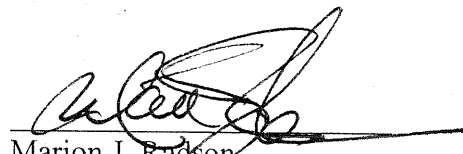
RECOMMENDATION: The City Commission adopt the proposed ordinance.

On June 13, 2005, the City Commission voted to authorize the City Attorney to draft, and the Clerk of the Commission to advertise an ordinance to provide that the administrative fee is required annually for all current and future non-consensual, trespass towing contracts.

Prepared by:


Ronald D. Combs
Sr. Assistant City Attorney

Approved and
Submitted by:


Marion J. Radson
City Attorney

RDC/bs

PASSED ON FIRST READING BY A VOTE OF 4-0.

D R A F T

ORDINANCE _____
0-05-70

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4 An ordinance of the City of Gainesville, Florida, amending
5 section 14.5-26(a) of the Code of Ordinances, to clarify that the
6 administrative fee for processing towing applications applies to
7 all trespass towing regulated by ordinance; applies whenever a
8 property owner changes towing vendor and is an annual fee;
9 amending the Police section of Appendix A, Schedule of Fees,
10 Rates and Charges to specify an administrative fee for processing
11 trespass towing applications; providing directions to the codifier;
12 providing a severability clause; providing a repealing clause; and
13 providing a retroactive effective date of July 1, 2005.
14

15 **WHEREAS**, at least 10 days notice has been given once by publication in a newspaper
16 of general circulation notifying the public of this proposed ordinance and of a Public Hearing in
17 the City Commission Auditorium in City Hall, City of Gainesville; and

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

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

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

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

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

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

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

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

16 (2) A copy of the completed agreement is on file with the Gainesville Police Department.

- 17 a. A new completed agreement is submitted each time a property owner changes
18 tow vendors.
- 19 b. A completed agreement is resubmitted annually, one year from the date of last
20 submittal.

21 (3) Where the private real property is provided for residential parking other than for a
22 single-family residence, the agreement, except as provided in section 14.5-
23 26(a)(4), shall not authorize the towing service to tow away or remove any

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1 vehicle without a verified request to remove the specific vehicle by the property
2 owner or an authorized representative. A property owner's representative may
3 include a resident manager, a property manager or other agent who has the legal
4 authority to bind the owner, but may not be an officer, employee or agent of a
5 towing service.

6 (4) Owners of properties used for residential purposes may elect to authorize the
7 towing service to tow away or remove vehicles without a verified request to
8 remove a specific vehicle provided that the owner first complies with the
9 following requirements:

10 a. Signage shall be added to each of the existing tow away signs with letters
11 of the same size as the "tow away" language, which provides the
12 following words: "Roam towing." The sign shall state the specific hours
13 of roam towing or state 24 hours, if that is applicable.

14 b. Towing contract on file with the Gainesville Police Department as
15 required by section 14.5-26(a)(1) shall be amended to provide for roam
16 towing.

17 c. Lease, rental or property owners' association documents shall contain a
18 notice provision indicating that the residential property utilizes roam
19 towing. In the case of properties with existing leases, rental agreements or
20 property owners' association documents, it shall be sufficient to notify by
21 regular mail, at the last known address, each of the tenants/owners of the
22 property prior to the initiation of roam towing. All amendments to or new
23 leases, rental agreements or property owners' association documents shall

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1 contain the provision giving notice that the property owner intends to
2 utilize roam towing.

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

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

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

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

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

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

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

8 **Section 2.** The "Police" section of Appendix A, Schedule of Fees, Rates and Charges, of
9 the Code of Ordinances, City of Gainesville, is amended to read as follows (all other sections and
10 paragraphs remain unchanged):

11 **POLICE:**

12 *Roam Towing:*

13 ~~Roam~~ Trespass Towing Application process fee (14.5-26(a)(6))47.00

14 **Section 3.** It is the intention of the City Commission that Section 1 and Section 2 of this
15 ordinance shall become and be made a part of the Gainesville Code of Ordinance, of the City of
16 Gainesville, Florida, and that the Sections and Paragraphs of this ordinance may be renumbered or
17 relettered in order to accomplish such intentions.

18 **Section 4.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or
19 unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the
20 validity of the remaining portions of this ordinance.

21 **Section 5.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
22 such conflict hereby repealed.

23

**ADVERTISEMENT
NOTICE OF PROPOSED
ENACTMENT OF
ORDINANCE
BY CITY COMMISSION,
GAINESVILLE, FLORIDA**

Notice is hereby given that the proposed ordinance, whose title appears below will be considered for First Reading on the 27th day of June, 2005, at the City Commission meeting and if then adopted on First Reading will be considered for Second and Final Reading and adoption on the 11th day of July, 2005, at the City Commission meeting. The meetings begin at 6:00p.m. and the ordinances will be read as soon thereafter as may be heard. The meetings are held in the City Commission Auditorium, on the First Floor of City Hall, 200 East University Avenue, Gainesville, Florida. A copy of said ordinance may be inspected by any member of the public at the office of the Clerk of the Commission on the First Floor of City Hall during regular business hours located at 200 East University Avenue, Gainesville, Florida, and at the Public Library, Main Branch, located at 401 East University Avenue. On the dates mentioned above all interested parties may appear at the meeting and be heard with respect to the proposed ordinance. Persons with disabilities, who require assistance to participate in the meetings, are requested to notify the Equal Opportunity Office at 334-5051 or call the TDD phone line at least 2 business days in advance.

**ORDINANCE TITLE
ORDINANCE NO. 050064
WORKING NO. 0-05-70**

An ordinance of the City of Gainesville, Florida, amending section 14.5-26(a) of the Code of Ordinances, to clarify that the administrative fee for processing towing applications applies to all trespass towing regulated by ordinance; applies whenever a property owner changes towing vendor and is an annual fee; amending the Police section of Appendix A, Schedule of Fees, Rates and Charges to specify an administrative fee for processing trespass towing applications; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing a retroactive effective date of July 1, 2005.

Note: "All persons are advised that, if any person decides to appeal any decision made at any of these meetings, they will need a record of the proceedings and, for such purpose, they need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based."

July 1, 2005
Publish Date

Clerk of the Commission
27682, 7/1/05
#A000019303