

ORDINANCE NO: 160936

An ordinance of the City of Gainesville, Florida, amending the Code of Ordinances relating to towing or immobilizing vehicles on private property by amending section 14.5-25 as to definition of normal business hours; amending section 14.5-27 to clarify language on permit terms; amending section 14.5-30 clarifying language as to forms of payment; amending section 14.5-40 as to definition of normal business hours; amending section 14.5-41 removing the requirement to file weekly immobilization logs with the towing administrator; amending section 14.5-42 to state permits are valid for one year from date of issuance; amending section 14.5-43 clarifying language as to forms of payment; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, at least 10 days' notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of public hearings to be held in the City Commission Auditorium, City Hall, City of Gainesville; and

WHEREAS, the Public Hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact heard.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. Section 14.5-25, Definitions, of Division 1 of Article III, Chapter 14.5, is amended to read as set forth below. Except as amended herein, the remainder of Section 14.5-25 remains in full force and effect.

Chapter 14.5 – MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE III. - TOWING OR IMMOBILIZING VEHICLES ON PRIVATE PROPERTY

DIVISION 1. - TOWING OF VEHICLES ON PRIVATE PROPERTY

Sec. 14.5-25. - Definitions.

1 As used in this article:

2 *Applicant* means the person applying for a permit under this division. For purposes of a
3 trespass towing service permit, the term applicant includes all owners of the towing service.

4 *Call in towing* means towing or removal of a vehicle that is parked on private real property,
5 without the consent of the vehicle's registered owner or other legally authorized person in control
6 of the vehicle, when done so at the specific request of the private property owner or designee.

7 *Emergency towing* shall only include circumstances where the usual operation of a business
8 is impeded by the blocking of entrances, exits or access to operational equipment, but
9 specifically shall not include tows for the purpose of clearing parking areas.

10 *Major credit card* means a Visa or MasterCard.

11 *Normal business hours* means Monday through Saturday, 8:00 a.m. to 11:00 p.m., excluding
12 State of Florida holidays, and on any Sunday the tow service tows any vehicles. The trespass
13 towing service must be open from 8:00 a.m. to 11:00 p.m. on State of Florida holidays and
14 Sundays, if the trespass towing service tows any vehicles on those days.

15 *Owner(s)* means the natural person(s) that own, hold, control, or have beneficial interest in a
16 trespass towing service.

17 *Person* shall mean and include, but shall not be limited to, any natural person, sole
18 proprietor, firm, legal entity, partnership, joint venture, syndicate or other group, or combination
19 acting as a unit, association, corporation, estate, trust, trustee, executor, administrator, receiver,
20 or other fiduciary, and shall include the plural as well as the singular.

21 *Physically connected* means that at least two of the vehicle's wheels are raised from the
22 ground and the connection is in compliance with the requirements of F.S. § 316.222 (related to
23 stop lamps and turn signals) and F.S. § 316.525 (requirements for vehicles hauling loads).

24 *Property owner* means the person who exercises dominion and control over the real
25 property, including, but not limited to, the legal title holder, lessee, a resident manager, a
26 property manager or other agent who has legal authority to bind the owner. An owner, operator,
27 or other agent or employee of a trespass towing service or immobilization service, may not be
28 appointed as an agent for a property owner, unless the property owner also owns or is employed
29 by the trespass towing service.

30 *Roam towing* means towing or removal of a vehicle that is parked on private real property,
31 without the consent of the vehicle's registered owner or other legally authorized person in control
32 of the vehicle, when the tow was not specifically requested by the private property owner or
33 designee, but was done pursuant to an agreement on the form approved by the towing
34 administrator with a tow company for the tow company to monitor non-permitted parking on
35 said private real property.

36 *Tow* means to haul, carry, pull along, or otherwise transport a connected vehicle by means of
37 another vehicle in a direct and continuous movement to the storage site of the towing or
38 immobilization service and applies only to private property or trespass tows as defined in this
39 article.

40 *Tow operator* means a natural person who is operating a tow truck for a trespass towing
41 service.

1 *Towing administrator* means the person(s) appointed by the city manager, to administer
2 Article III of this chapter.

3 *Trespass towing* means towing or removal of a vehicle that is parked on private real
4 property, without the consent of the vehicle's registered owner or other legally authorized person
5 in control of the vehicle. "Trespass towing" includes roam towing and call in towing.

6 *Trespass towing service* includes any person, whether licensed or not, that engages in or that
7 owns or operates a business which engages, in whole or in part, in the towing of vehicles for
8 compensation from private property and does not apply to repossessions, or to the towing or
9 removal of any privately owned vehicle by the operator or of any vehicle towing or removal
10 service when such service is performed at the request of the registered owner of the vehicle, for
11 money or other goods of value.

12 *Violation* shall mean an uncontested citation, conviction of, or a plea of nolo contendere to
13 violating this article, regardless of adjudication of guilt.

14

15 **Section 2.** Section 14.5-27 of Division 1 of Article III, Chapter 14.5, is amended to read
16 as set forth below. Except as amended herein, the remainder of Section 14.5-27 remains in full
17 force and effect.

18 **Chapter 14.5 – MISCELLANEOUS BUSINESS REGULATIONS**

19 **ARTICLE III. - TOWING OR IMMOBILIZING VEHICLES ON PRIVATE PROPERTY**

20 **DIVISION 1. - TOWING OF VEHICLES ON PRIVATE PROPERTY**

21 **Sec. 14.5-27. - Tow operator permit and trespass tow service permit; violations.**

22 (a) No tow operator shall engage in trespass towing without first having obtained authorization
23 from the towing service by whom such tow operator is employed, and then obtaining a tow
24 operator permit from the towing administrator.

25 If the permit is lost, damaged, stolen, becomes illegible or the permit holder changes towing
26 services, the permit must be replaced. The replacement permit shall be valid only for the
27 remainder of the time period for which the initial permit was valid.

28 Each trespass towing operator shall wear a uniform which shall state the name of the
29 trespass towing service and the first name and first initial of the last name of the trespass towing
30 operator along with the unique identification number assigned to that operator by the towing
31 administrator. The name of the trespass towing service visible on the outer garment and uniform
32 must be the same as the name on the vehicle being operated by the trespass towing operator. In
33 addition, the trespass tow operating permit must be worn on the outer garment, so as to be visible
34 to a person speaking with the operator. The permit must be shown upon request to the person
35 whose car is being towed.

36 (b) It shall be unlawful for the trespass towing service to:

- 1 (1) Operate within the city without having first obtained a trespass towing service permit
2 issued by the towing administrator.
- 3 (2) Allow any person to conduct trespass towing for the trespass towing service within the
4 city unless such person has been granted a tow operator permit issued by the towing
5 administrator.
- 6 (c) Upon issuance of the permits, the trespass towing service and/or tow operator is granted the
7 privilege of engaging in trespass towing within the city limits of the City of Gainesville,
8 Florida, unless such permit expires or is suspended or revoked, as provided in this article.
9 Each trespass towing service permit shall be valid for no more than one year and shall expire
10 on September 30 of each year. Each tow operator permit shall be valid for ~~no more than two~~
11 ~~years and shall expire on September 30 of the second year.~~ Permits are not transferable or
12 assignable.
- 13 (d) In order to secure a trespass towing service permit or trespass tow operator permit, an
14 applicant must provide the following information on a form provided by the tow
15 administrator:
- 16 (1) A certified copy from the Florida Department of Law Enforcement of his/her criminal
17 history and a certified copy of his/her driving record from the Florida Department of
18 Highway Safety and Motor Vehicles.
- 19 (2) Possess a valid Florida Class E and/or commercial driver's license, and provide a
20 photocopy to the towing administrator.
- 21 (3) Not have been convicted of, found guilty of, or pled guilty or nolo contendere to,
22 regardless of the adjudication of guilt, for any of the following:
- 23 a. Any capital felony, any first degree felony, sexual battery, or any violent felony
24 involving the use of a firearm or weapon, as defined in F.S. § 790.01, or which
25 results in great bodily harm.
- 26 b. Any violent felony which occurred within ten years of the application date.
- 27 c. Any felony or first degree misdemeanor directly related to the business of towing
28 motor vehicles; repossession of motor vehicles; motor vehicle theft; carjacking;
29 chop shops; or liens for recovering, towing, or storing vehicles and vessels (F.S. §
30 713.78), which occurred within ten years of the application date.
- 31 d. Driving under the influence or driving with an unlawful blood alcohol level, in
32 violation of F.S. § 316.193, which occurred within five years of the application
33 date, unless the applicant demonstrates evidence of the successful completion of a
34 substance abuse treatment program approved by the city.
- 35 All timeframes referenced in subsection (d)(3) shall be calculated and run from the date
36 of the offense, as reflected in the charging documents.
- 37 (4) The applicant shall submit to a background investigation in order for the towing
38 administrator to determine that:
- 39 a. The applicant does not have a currently suspended permit, has not had its permit
40 revoked by action of the city within two years of the date of application, or has no
41 outstanding and unsatisfied civil penalties imposed for violations of this article.

- 1 b. Each legal entity applicant is registered and active under the laws of Florida to do
2 business under the name for which it has applied for a permit.
- 3 c. No fraud or willful or knowing misrepresentation or false statement is made in the
4 application.
- 5 d. No judgment against the applicant arising out of the activity of recovery, towing or
6 removing a vehicle or providing storage in connection therewith remains
7 unsatisfied, unless a stay or reversal of the judgment was issued through the courts.
- 8 e. There are no outstanding warrants of arrest against the applicant.
- 9 f. The applicant, or the trespass towing service purchased by the applicant or the
10 trespass towing service from which all or substantially all of its business assets
11 were purchased by the applicant, has no (i) unpaid civil penalties; (ii) unpaid
12 administrative costs of hearing; (iii) unpaid city investigative, enforcement, testing,
13 or monitoring costs; or (iv) unpaid liens, any or all of which are owed to the City of
14 Gainesville pursuant to the provisions of the Code of Ordinances.
- 15 g. There has been no fraudulent transfer of the company as described in section 14.5-
16 39.1 of this Code.
- 17 (e) A complete application for permit shall be reviewed and granted or denied in writing within
18 ten calendar days. If the permit is denied, the reason for such denial shall be provided in
19 writing and shall also advise that the applicant may correct deficiencies in the application
20 within seven calendar days of the notice of denial without incurring an additional application
21 fee.
- 22 (f) Every applicant for a trespass towing service permit shall file with the towing administrator
23 a certificate of insurance or other proof of insurance providing coverage for all liability
24 claims and claims of damage to property resulting from any action or operation in
25 connection with the trespass towing service, in an amount not less than \$100,000.00 for each
26 incident, \$50,000.00 of such coverage allocated for property damage.
- 27 (g) Each trespass towing service shall have a fixed physical office within the Gainesville city
28 limits registered with the towing administrator. The office shall be open and staffed with
29 personnel during normal business hours, as defined in this chapter, allowing for the recovery
30 of towed vehicles and the inspection of the premises and records by the towing
31 administrator.
- 32 (h) Permit fees shall be as provided in Appendix A, Schedule of Fees, Rates and Charges.

33

34 **Section 3.** Section 14.5-30 of Division 1 of Article III, Chapter 14.5, is amended to read
35 as set forth below. Except as amended herein, the remainder of Section 14.5-30 remains in full
36 force and effect.

37 **Chapter 14.5 – MISCELLANEOUS BUSINESS REGULATIONS**

1 **ARTICLE III. - TOWING OR IMMOBILIZING VEHICLES ON PRIVATE PROPERTY**

2 **DIVISION 1. - TOWING OF VEHICLES ON PRIVATE PROPERTY**

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

- 4 (a) Any trespass towing service engaged in the business of trespass towing shall not charge the
 5 owner of any towed vehicle or personal property in excess of the fees set by the city
 6 commission by resolution. The fees set by resolution shall be all inclusive during the first
 7 24-hour period following notification of vehicle tow to the Gainesville Police Department;
 8 no additional fees or charges whatsoever may be charged unless specifically established and
 9 authorized herein or by state statute. The city commission shall establish, by resolution, a
 10 maximum fee for specific classes of vehicles as identified in the Towing and Recovery
 11 Association of America's TRAA Vehicle Identification Guide.
- 12 (b) A trespass towing service that provides trespass towing and storage services pursuant to
 13 Article III, section 14.5-25 et seq. of this Code shall accept payment for charges from the
 14 registered vehicle owner or authorized representative in ~~any~~ all of the following forms:
- 15 (1) Cash;
- 16 (2) Major credit card; ~~and/or~~
- 17 (3) Debit card.

18

19 **Section 4.** Section 14.5-40 of Division 2 of Article III, Chapter 14.5, is amended to read
 20 as set forth below. Except as amended herein, the remainder of Section 14.5-40 remains in full
 21 force and effect.

22 **Chapter 14.5 – MISCELLANEOUS BUSINESS REGULATIONS**

23 **ARTICLE III. - TOWING OR IMMOBILIZING VEHICLES ON PRIVATE PROPERTY**

24 **DIVISION 2. - IMMOBILIZATION OF VEHICLES ON PRIVATE PROPERTY**

25 **Sec. 14.5-40. - Definitions.**

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

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

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

1 *Immobilization service(s)* shall include any person, whether licensed or not, who engages in
 2 or owns or operates a business which engages, in whole or in part, in the immobilization or
 3 booting of vehicles on private property.

4 ~~*Normal business hours* means Monday through Saturday, 8:00 a.m. to 11:00 p.m., regardless~~
 5 ~~of whether the immobilization service is actively immobilizing vehicles or not, excluding State~~
 6 ~~of Florida holidays.~~

7 *Normal business hours* means Monday through Saturday, 8:00 a.m. to 11:00 p.m., excluding
 8 State of Florida holidays. The immobilization service must be open from 8:00 a.m. to 11:00 p.m.
 9 on State of Florida holidays and Sundays, if the immobilization service immobilizes any vehicles
 10 on those days.

11 *Owner(s)* means the natural person(s) that own, hold, control, or have beneficial interest in
 12 an immobilization service.

13 *Parked* means the state of a vehicle being temporarily left and unattended by its registered
 14 owner or other legally authorized person in control of the vehicle.

15 *Person* shall mean and include, but shall not be limited to, any natural person, sole
 16 proprietor, firm, legal entity, partnership, joint venture, syndicate or other group, or combination
 17 acting as a unit, association, corporation, estate, trust, trustee, executor, administrator, receiver,
 18 or other fiduciary, and shall include the plural as well as the singular.

19 *Property owner* means the person who exercises dominion and control over the real
 20 property, including, but not limited to, the legal title holder, lessee, a resident manager, a
 21 property manager or other agent who has legal authority to bind the owner. An owner, operator,
 22 or other agent or employee of a trespass towing service or immobilization service may not be
 23 appointed as an agent for a property.

24 *Recover* means to take possession of a vehicle and its contents and to exercise control and
 25 supervision over the vehicle.

26
 27 **Section 5.** Section 14.5-41 of Division 2 of Article III, Chapter 14.5, is amended to read
 28 as set forth below. Except as amended herein, the remainder of Section 14.5-41 remains in full
 29 force and effect.

30 **Chapter 14.5 – MISCELLANEOUS BUSINESS REGULATIONS**

31 **ARTICLE III. - TOWING OR IMMOBILIZING VEHICLES ON PRIVATE PROPERTY**

32 **DIVISION 2. - IMMOBILIZATION OF VEHICLES ON PRIVATE PROPERTY**

33 **Sec. 14.5-41. - Permit required; prerequisites to immobilization on private property and**
 34 **responsibilities of immobilization service; exceptions.**

- 1 (a) *Immobilization service permit required.* No person shall engage in the business of
 2 immobilization of unauthorized motor vehicles that are parked on private property unless
 3 such immobilization service has obtained an immobilization service permit. An application
 4 for an immobilization service permit shall be submitted to the towing administrator.
 5 Immobilization service permits shall be issued on an annual basis and will expire on
 6 September 30 of each year. Permits are not transferable or assignable.
- 7 (b) *Requirements for issuance of immobilization service permit.* No person shall be issued an
 8 immobilization service permit under this division unless the applicant complies with the
 9 following requirements:
- 10 (1) *Proof of insurance.* Every applicant for an immobilization service permit shall file with
 11 the towing administrator a certificate of insurance or other proof of insurance providing
 12 coverage for all liability claims and claims of damage to property resulting from any
 13 action or operation in connection with the immobilization service, in an amount not less
 14 than \$100,000.00 for each incident, \$50,000.00 of such coverage allocated for property
 15 damage.
- 16 (2) *Fixed office location.* Each immobilization service shall have a fixed physical office
 17 within the Gainesville city limits registered with the towing administrator. The office
 18 shall be open and staffed with personnel during normal business hours.
- 19 (3) *Permit fee.* Every applicant shall pay the annual permit fee as set forth in Appendix A,
 20 Schedule of Fees, Rates and Charges.
- 21 (4) An immobilization service shall be responsible for the payment of all outstanding civil
 22 penalties, restitution, fines and city or court imposed fees relating to the improper or
 23 unlawful operation of the immobilization service. Such civil penalties, restitution, fines
 24 and/or fees shall remain the liability of the immobilization service. The purchaser of all,
 25 or substantially all, of the assets or business entity, may not obtain an immobilization
 26 service permit if the selling immobilization service has outstanding civil penalties,
 27 restitution, fines and/or fees.
- 28 (c) *Authorization of the real property-owner.* Prior to immobilization of any vehicle, the
 29 immobilization service shall have executed a written agreement with the owner of the real
 30 property upon which the immobilization will occur, and shall file with the towing
 31 administrator, a copy of any and all such agreements for immobilization services on private
 32 property within the city limits. The copies of agreements shall be kept current and shall
 33 include at a minimum, (a) the address and legal description or sketch of the real property; (b)
 34 the date of the agreement; (c) the property owner's name, a contact name and a telephone
 35 number; (d) the duration of the agreement; (e) the days of the week and time of day that
 36 such immobilization is authorized. The rebate or payment of money or any other valuable
 37 consideration, directly or indirectly from the immobilization service to the owners or
 38 operators of the property upon which the vehicles are immobilized, for the privilege of
 39 immobilizing those vehicles, is prohibited.
- 40 (d) *Record keeping procedures.* Every immobilization service and immobilization operator shall
 41 keep and maintain an immobilization log with the following information:
- 42 (1) Date and time the vehicle was observed illegally parked;
- 43 (2) The date and time of immobilization and the name of the immobilization operator;

- 1 (3) The location/address of the real property where the immobilization took place;
- 2 (4) The description of the vehicle including make, model, color, vehicle identification
- 3 number, and license plate number;
- 4 (5) The date and time the request for removal of the immobilization device was received
- 5 and the date and time of response and removal of the immobilization device;
- 6 (6) The amount and method of payment for release of the immobilization device;
- 7 (7) The name of the immobilization operator removing the immobilization device; and
- 8 (8) The name of the person to whom the vehicle was released.

9 All immobilization services shall ~~file a copy of all immobilization logs with the towing~~
 10 ~~administrator every Thursday, for the immediately preceding week and shall also keep all such~~
 11 immobilization logs on file at the immobilization service office registered with the tow
 12 administrator for a period of one year and shall make such logs and receipts available for
 13 immediate inspection by any law or code enforcement officer or designee.

14 (e) *Identification.*

- 15 (1) Each immobilization operator shall wear the immobilization operator permit, as
- 16 provided in section 14.5-42 below, on the outer garment and uniforms which shall state
- 17 the full name of the immobilization service and the immobilization operator's first name
- 18 and first initial of last name along with the unique identification number assigned to that
- 19 operator by the towing administrator. The name of the immobilization service on the
- 20 outer garment and uniform must be the same as the name on the vehicle being operated
- 21 by the immobilization operator.
- 22 (2) All immobilization service vehicles shall be equipped with an amber light bar and shall
- 23 display the name of the immobilization service on the driver and passenger side of the
- 24 vehicle in letters at least three inches high. The address and telephone number of the
- 25 immobilization service shall be displayed on the driver and passenger side of the
- 26 vehicle in letters at least one inch high. Lettering on the vehicle shall be permanently
- 27 applied. Temporary lettering or magnetic lettering/signs are prohibited. All vehicles
- 28 used in providing immobilization services shall be inspected for compliance with this
- 29 article and must display a medallion issued by the towing administrator to evidence
- 30 such compliance. The annual fee for the medallion is set forth in Appendix A and shall
- 31 be paid by September 30 of each year.

32
 33 **Section 6.** Section 14.5-42 of Division 2 of Article III, Chapter 14.5, is amended to read
 34 as set forth below. Except as amended herein, the remainder of Section 14.5-42 remains in full
 35 force and effect.

36 **Chapter 14.5 – MISCELLANEOUS BUSINESS REGULATIONS**

37 **ARTICLE III. - TOWING OR IMMOBILIZING VEHICLES ON PRIVATE PROPERTY**

1 **DIVISION 2. - IMMOBILIZATION OF VEHICLES ON PRIVATE PROPERTY**

2 **Sec. 14.5-42. - Operator permits; application requirements; violations.**

3 (a) It is unlawful for any immobilization operator to engage in the immobilization of vehicles
 4 without first having obtained an immobilization operator permit from the towing
 5 administrator. Upon issuance of the permit, the immobilization operator is granted the
 6 privilege of engaging in immobilization services within the city limits, unless such permit
 7 expires or is suspended or revoked, as provided in this article. Each immobilization operator
 8 permit shall ~~expire on September 30 of each~~ be valid for one year from the date of issuance
 9 and the fee set forth in Appendix A shall be paid to renew the immobilization operator
 10 permit.

11 If the permit is lost, damaged, stolen, becomes illegible or the permit holder changes
 12 immobilization services, the permit must be replaced. The replacement permit shall be valid only
 13 for the remainder of the time period for which the initial permit was valid.

14 (b) It shall be unlawful for the owner of any immobilization service to permit any person to be
 15 employed as an immobilization operator conducting immobilization within the city unless
 16 such person has been issued an immobilization operator permit to engage in immobilization
 17 services which has been validated by the towing administrator.

18 (c) In order to secure and maintain an immobilization operator permit, the applicant must meet
 19 the following requirements:

20 (1) Submit to the tow administrator a certified copy from the Florida Department of Law
 21 Enforcement of his/her criminal history and a certified copy of his/her driving record
 22 from the Florida Department of Highway Safety and Motor Vehicles.

23 (2) Possess a valid Florida Class E and/or commercial driver's license and provide a
 24 photocopy to the towing administrator.

25 (3) Not have been convicted of, found guilty of, or pled guilty or nolo contendere to,
 26 regardless of adjudication of guilt for any of the following:

27 a. Any capital felony, any first degree felony, sexual battery, or any violent felony
 28 involving the use of a firearm, or weapon, as defined in F.S. § 790.01, or which
 29 results in great bodily harm.

30 b. Any violent felony which occurred within ten years of the application date.

31 c. Any felony or first degree misdemeanor directly related to the business of towing
 32 or immobilization of motor vehicles; repossession of motor vehicles; motor vehicle
 33 theft; carjacking; chop shops; or liens for recovering, towing, or storing vehicles
 34 and vessels (F.S. § 713.78), which occurred within ten years of the application date.

35 d. Driving under the influence or driving with an unlawful blood alcohol level, in
 36 violation of F.S. § 316.193, which occurred within five years of the application
 37 date, unless the applicant demonstrates evidence of the successful completion of a
 38 substance abuse treatment program approved by the city.

39 All timeframes referenced in this subsection (3) shall be calculated and run from the
 40 date of the offense, as reflected in the charging documents.

- 1 (4) Submit to a background investigation resulting in a determination by the towing
 2 administrator that:
- 3 a. The applicant does not have a currently suspended permit, has not had its permit
 4 revoked by action of the city within two years of the date of application, or does not
 5 have outstanding and unsatisfied civil penalties imposed for violations of this
 6 article.
- 7 b. No fraud or willful or knowing misrepresentation or false statement is made in the
 8 application.
- 9 c. No judgment against the applicant arising out of the activity of immobilization,
 10 recovery, towing or removing a vehicle or providing storage in connection
 11 therewith remains unsatisfied, unless a stay or reversal of the judgment is procured
 12 through the courts.
- 13 d. There are no outstanding warrants of arrest against the applicant.
- 14 e. The applicant has no (i) unpaid civil penalties; (ii) unpaid administrative costs of
 15 hearing; (iii) unpaid city investigative, enforcement, testing, or monitoring costs; or
 16 (iv) unpaid liens, any or all of which are owed to the city pursuant to the provisions
 17 of the code of ordinances.
- 18 (d) A complete application for permit shall be reviewed and granted or denied in writing within
 19 ten calendar days. If the permit is denied, the reason for such denial shall be provided in
 20 writing and shall also advise that the applicant may correct deficiencies in the application
 21 within seven calendar days of the notice of denial without incurring an additional application
 22 fee.

23

24 **Section 7.** Section 14.5-43 of Division 2 of Article III, Chapter 14.5, is amended to read
 25 as set forth below. Except as amended herein, the remainder of Section 14.5-43 remains in full
 26 force and effect.

27 **Chapter 14.5 – MISCELLANEOUS BUSINESS REGULATIONS**

28 **ARTICLE III. - TOWING OR IMMOBILIZING VEHICLES ON PRIVATE PROPERTY**

29 **DIVISION 2. - IMMOBILIZATION OF VEHICLES ON PRIVATE PROPERTY**

30 **Sec. 14.5-43. - Immobilization; criteria and requirements for immobilizing vehicles; release**
 31 **of vehicle; maximum fee.**

- 32 (a) *Immobilization criteria.* All immobilization services shall be conducted in accordance with
 33 the following requirements:
- 34 (1) The vehicle is parked in an unauthorized manner on property posted in accordance with
 35 subsection (b) below;

- 1 (2) The immobilization device is placed on the front wheel of the driver's side of the motor
2 vehicle. The device may be placed on any other wheel if placement on the front wheel
3 of the driver's side is not feasible; and
- 4 (3) Immediately upon immobilization, the immobilization operator shall affix on the
5 driver's side window of such vehicle a warning notice sticker with a completely
6 removable adhesive, measuring four by seven inches or larger containing a warning
7 stating that the vehicle has been immobilized and that any attempt to move the vehicle
8 may result in damage to the vehicle, and shall provide the name and business address of
9 the person who immobilized such vehicle, the business telephone number to contact for
10 release of the immobilization device, and fee for its removal.
- 11 (4) Photograph(s) of the "offending" vehicle shall be taken and shall be of sufficient detail
12 to demonstrate the violation of rule or regulation for which the vehicle is being
13 immobilized. The photograph(s) must be date and time stamped and maintained by the
14 immobilization service for a minimum period of six months. Photos must be available
15 for viewing during normal business hours commencing the following business day after
16 the immobilization by 8:00 a.m. at the immobilization service's office registered with
17 the towing administrator. There shall be no charge for viewing the photographs.
- 18 (b) *Sign posting.* Prior to immobilizing, in any manner, any vehicle parked on a private
19 property, a separate/individual sign meeting the following requirements shall have been
20 posted on the private property:
- 21 (1) The sign shall be prominently placed at each driveway access or curb cut allowing
22 vehicular access to the property, within five feet from the public right-of-way. If there
23 are no curb cuts or access barriers, sign(s) must be posted for each 25 feet of property
24 abutting public right-of-way, with a minimum of at least one sign;
- 25 (2) The sign must clearly indicate, in not less than two-inch high, light reflective letters on
26 contrasting background, that unauthorized vehicles will be immobilized at the owner's
27 expense. The words "vehicle immobilization area" must be included on the sign in not
28 less than four-inch high letters;
- 29 (3) The sign structure containing the above notices must be permanently installed with the
30 words "vehicle immobilization area" not less than three feet and not more than six feet
31 above ground level and must be continuously located on the property for not less than
32 24 hours prior to immobilization of any vehicles;
- 33 (4) The sign must also provide the name and current telephone number of the
34 immobilization service which placed the immobilization device on the vehicle; and
- 35 (5) The sign shall state whether public parking is permitted and the hours of operation that
36 the property is utilized for public parking.
- 37 (6) Where property is posted for trespass towing and the immobilization service will be
38 performed by the same entity or company, the signage requirements may be met by
39 adding "vehicle immobilization area" to existing trespass towing signage.
- 40 (c) *Removal of immobilization device; release of vehicle; availability and response time.*

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

4 (2) Any immobilization service which places an immobilization device on an unauthorized
 5 vehicle parked on private property shall operate a 24-hour, seven-day-a-week answering
 6 service, and shall make available on a 24-hour, seven-days-a-week basis, attendants and
 7 equipment for the release of the immobilization device within one hour of request for
 8 removal and payment of the immobilization charge.

9 (d) *Maximum immobilization charge.* No immobilization service may charge an immobilization
 10 charge or fee for removal of an immobilization device on an unauthorized vehicle parked on
 11 private property in excess of the fee authorized by resolution of the city commission. Proof
 12 of ownership of the vehicle shall not be required of any person who is paying a fee for the
 13 removal of the immobilization device. An immobilization service shall accept payment for
 14 charges in ~~any~~ all of the following forms:

15 (1) Cash;

16 (2) Major credit card; ~~and/or~~

17 (3) Debit card.

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

20 (e) *Required receipt.* Any immobilization service shall provide, at the time of payment, a
 21 written receipt for all charges imposed and received from the owner or other person in
 22 control of a vehicle. Said receipt shall be made and maintained in duplicate and shall include
 23 at a minimum:

24 (1) The date, time, and location of the immobilization;

25 (2) The total charges listed individually and specifically;

26 (3) The date and time of the request for removal of the immobilization device;

27 (4) The date and time of payment of the charges; and

28 (5) The following disclosure in bold capitalized letters of at least 12-point type:

29 **IF YOU HAVE ANY QUESTION OR COMPLAINT, PLEASE CONTACT THE**
 30 **CITY OF GAINESVILLE'S TOWING ADMINISTRATOR AT THE GAINESVILLE**
 31 **POLICE DEPARTMENT, 413 NW 8th AVENUE, GAINESVILLE, FL 32601;**

32 (f) *Return of registered vehicle owner.* No immobilization operator or immobilization service
 33 shall immobilize a vehicle or charge for its services where the registered owner or other
 34 person in control of the vehicle arrives at the scene prior to affixing the immobilization
 35 device, unless: the registered owner or other person in control of the vehicle refuses to
 36 remove the vehicle. If the vehicle has already been completely connected to the
 37 immobilization device, the registered owner or other person in control of the vehicle shall
 38 pay a service fee of not more than one-half of the rate set by resolution by the city
 39 commission for such immobilization service. The immobilization service or immobilization
 40 operator shall wait a minimum of 20 minutes to allow the registered owner or person in

1 control of the vehicle to secure cash or other acceptable payment of the fees enumerated
2 herein.

3 The registered owner or other person in control of the vehicle shall not be prevented from
4 accessing any of the vehicle's interior compartments by the immobilization service or
5 immobilization operator.

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

11
12 **Section 8.** It is the intention of the City Commission that the provisions of Sections 1
13 through 7 of this Ordinance shall become and be made a part of the Code of Ordinances of the
14 City of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be
15 renumbered or relettered in order to accomplish such intentions.

16 **Section 9.** If any word, phrase, clause, paragraph, section or provision of this ordinance
17 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
18 finding shall not affect the other provisions or application of the ordinance which can be given
19 effect without the invalid or unconstitutional provisions or application, and to this end the
20 provisions of this ordinance are declared severable.

21 **Section 10.** All ordinances or parts of ordinances, in conflict herewith are to the extent of
22 such conflict hereby repealed.

23 **Section 11.** This ordinance shall become effective immediately upon final adoption.
24

25 **PASSED AND ADOPTED THIS _____ DAY OF _____, 2017.**
26

27 _____
28 LAUREN POE
29 MAYOR
30

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ATTEST:

Approved as to form and legality

KURT M. LANNON
CLERK OF THE COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY

This ordinance passed on first reading this ____ day of _____, 2017.

This ordinance passed on second reading this ____ day of _____, 2017.