

LEGISLATIVE #

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1 DIVISION 1. – TOWING OF VEHICLES ON PRIVATE PROPERTY

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19 **Sec. 14.5-25. - Definitions.**

20 As used in this article:

21 Call in towing shall mean towing or removal of a vehicle that is parked on private
22 real property, without the consent of the vehicle's registered owner or other legally

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1 authorized person in control of the vehicle, or when done so at the specific request of the
2 private property owner or designee, who does not have a prior contractual, oral or written,
3 arrangement is not affiliated with a trespass towing service tow company.

4 *Emergency towing* as used in this article shall only include circumstances where the
5 usual operation of a business is impeded by the blocking of entrances, exits or access to
6 operational equipment, but specifically shall not include tows for the purpose of clearing
7 parking areas.

8 *Major credit card* means a Visa and MasterCard.

9 *Normal business hours* shall be from 7:00 a.m. to 11:00 p.m.

10 *Physically connected* as used in this article shall mean that at least two of the
11 vehicle's wheels are raised from the ground and the connection is in compliance with the
12 requirements of F.S.—§ Section 316.222, Florida Statutes (related to stop lamps and turn
13 signals) and F.S.—§ Section 316.525, Florida Statutes (requirements for vehicles hauling
14 loads).

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

21 *Roam towing* shall mean shall mean towing or removal of a vehicle that is parked on
22 private real property, without the consent of the vehicle's registered owner or other legally
23 authorized person in control of the vehicle, when the tow was not specifically requested by
24 the private property owner or designee pursuant to an agreement with a tow company for the
25 tow company to monitor non-permitted parking on said private property.

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1 Tow shall mean to haul, carry, pull along, or otherwise transport a connected vehicle
2 by means of another vehicle in a direct and continuous movement to the storage site of the
3 towing or immobilization service and applies only to private property or trespass tows as
4 defined in this Article.

5 Tow business shall mean the owner, whether individual, partner, shareholder, or
6 corporation, which manages or owns a business which engages in offering wrecker services
7 and/or towing of vehicles for money or other goods of value.

8 Tow Operator shall mean a person who is operating a tow truck for hire to tow
9 vehicles from one place to another, at a cost to either the requesting party or the registered
10 owner of the vehicle.

11 Towing administrator shall mean the person(s) appointed by the chief of police City
12 Manager or his designee, to administer Article III of this chapter, ~~regulating towing or~~
13 immobilization on private property.

14 Trespass towing shall mean towing or removal of a vehicle that is parked on private
15 real property, without the consent of the vehicle's registered owner or other legally authorized
16 person in control of the vehicle operator. Trespass towing includes "roam" towing and "call
17 in" towing.

18 Trespass towing service includes any person, owner, whether individual, partner,
19 shareholder, corporation, company corporation, or other entity, whether licensed or not, who
20 engages in or who owns or operates a business which engages, in whole or in part, in the
21 towing of vehicles for compensation from private property and does not apply to
22 repossessions, or to the towing or removal of any privately owned vehicle by the operator or
23 of any vehicle towing or removal service when such service is performed at the request of the
24 registered owner of the vehicle, for money or other goods of value.

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1 ~~Violation as used in this article~~ shall mean an uncontested citation, ~~or the conviction~~
2 ~~of,~~ or a plea of nolo contendere to a ~~violation~~ violating ~~of~~ this article, regardless of
3 adjudication of guilt.

4 **Sec. 14.5-26. - Owner, operator and vehicle registration provisions.**

5 1. It shall be unlawful for ~~Prior to performing any trespass towing, the trespass towing~~
6 ~~service shall any person, either as principal, agent or employee, to perform any trespass~~
7 ~~towing without having first registered the owner, wrecker tow operators and towing service~~
8 ~~vehicles with the police department towing administrator, using a format approved by the~~
9 ~~police department towing administrator.~~ The information for registration shall contain the
10 make, model and manufacturer's serial number of the vehicle; date the vehicle was put into
11 service; the driver's license number of the owner and the name of the insurance company or
12 companies with which the owner and operators have liability insurance for the operation of
13 the vehicle as required by law; and the name and driver's license number of all employees
14 involved in the towing of vehicles as defined in the trespass tow ordinance.

15 2. It shall be unlawful for any person, either as principal, agent or employee:

16 (a) to perform any trespass towing without having first registered as required in
17 section 1 above, and or

18 (b) to operate a trespass tow service or act as a trespass tow operator, without
19 having first obtained either a trespass tow business owner permit and/or
20 trespass tow operator permit.

21 3. Registration fees shall be as provided in aAppendix A, Schedule of Fees, Rates and
22 Charges.

23 **Sec. 14.5-27. - ~~Application for~~ Tow wrecker operator's permit and trespass towing service**
24 **permit; violations.**

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1 (a) No ~~wrecker tow~~ operator shall engage in trespass towing without first having
2 obtained a ~~wrecker~~ trespass tow operator authorization permit from the
3 towing service by whom ~~owner of the company~~ such tow operator is
4 employed, or such towing service's ~~owner's~~ authorized designee, and then
5 obtaining a tow operator permit from the towing administrator.

6 (b) No tow business shall engage in trespass towing without having first obtained
7 a trespass towing service permit.

8 (c) The trespass towing service permit and tow operator permit ~~Each permit~~ will
9 meet the following specifications:

10 (1) Be not less than 2 $\frac{1}{8}$ inches by 3 $\frac{3}{8}$ inches.

11 (2) Contain a photograph of the tow ~~wrecker~~ operator that is not less than
12 one inch by 1 $\frac{1}{2}$ inches in size.

13 (3) Provide the name of the ~~wrecker~~ trespass towing service and ~~wrecker~~
14 tow operator's first name in letters that are not less than $\frac{1}{4}$ -inch by $\frac{1}{4}$ -
15 inch.

16 (4) Provide a control number that is linked to the driver's personal
17 information.

18 (5) Provide a place for the towing administrator or designee to validate
19 the permit.

20 a. After the permit is validated it shall be laminated to protect
21 the information on the permit.

22 b. If the permit is lost, damaged, stolen, becomes illegible or the
23 permit holder changes trespass tow ~~wrecker~~ services, the
24 permit must be replaced. The replacement permit shall be

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valid only for the remainder of the time period for which the initial permit was valid.

(bd) It shall be unlawful for the tow business owner ~~of any wrecker service~~ to:

1. operate a trespass towing service ~~permit any person to be employed as a wrecker operator conducting trespass towing~~ within the city unless such ~~person~~ tow business has been granted a ~~wrecker operator~~ trespass towing service permit issued by the towing administrator to engage in trespass towing, ~~which has been validated by the chief of police or designee.~~
2. permit any person to be employed as a tow operator conducting trespass towing within the city unless such person has been granted a tow operator permit issued by the towing administrator.

(e) Upon issuance of the permits, the tow business and/or tow ~~wrecker~~ operator is granted the privilege of engaging in trespass towing within the city limits of the City of Gainesville, Florida, unless such permit expires or is suspended or revoked, as provided in this article. Each permit shall ~~be~~ expire on September 30th of each year, valid for two years from date of issuance

(f) Any permit issued prior to October 1, 2013 shall be valid until September 30, 2013 unless it expires, is suspended or revoked prior to that date. The cost of the permit issued on October 1, 2013, shall be waived if the applicant has a valid trespass towing service or tow operator permit which was issued on or between September 1, 2012 and September 30, 2013.

(eg) In order to secure a trespass towing service permit or trespass tow ~~wrecker~~ operator permit, an applicant must provide the following information on a form provided by the ~~city~~ tow administrator. The applicant must:

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- 1 (1) Submit to the tow administrator ~~chief of police or designee~~ a certified
2 copy from the Florida Department of Law Enforcement of his/her
3 criminal history and a certified copy of his/her driving record from
4 the Florida Department of Highway Safety and Motor Vehicles;
- 5 (2) Possess a valid Florida Class E and/or commercial driver's license,
6 and provide a photocopy to the towing administrator ~~chief of police or~~
7 ~~designee~~.
- 8 (3) Not have been convicted ~~of, found guilty of, or pled guilty or nolo~~
9 ~~contendere to, regardless of the adjudication of guilt, , pled nolo~~
10 ~~contendere to, or had adjudication withheld for or been incarcerated~~
11 ~~after any conviction, plea of nolo contendere or adjudication withheld~~
12 for any of the following:
- 13 a. Any capital felony, any first degree felony, sexual battery, or
14 any violent felony involving the use of a gun firearm or knife
15 weapon, as defined in Section 790.01, F.S. Florida Statutes
16 (2011) or which results in great bodily harm.
- 17 b. ~~Within the previous ten years, a~~ Any violent felony including
18 ~~not referenced in subsection a above~~ which occurred within
19 ten (10) years of the application date.
- 20 c. ~~Within the previous ten years, a~~ Any felony or first degree
21 misdemeanor directly related to the business of towing motor
22 vehicles; repossession of motor vehicles; motor vehicle theft;
23 carjacking; or chop shops; or liens for recovering, towing, or
24 storing vehicles and vessels (F.S. § Section 713.78, Florida

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1 Statutes), which occurred within ten (10) years of the
2 application date.

3 d. ~~Within the previous five years, of either: (1) dDriving under~~
4 ~~the influence of alcohol, a controlled substance, or a chemical~~
5 ~~substance, to the extent that normal faculties are impaired; or~~
6 ~~(2) driving with an unlawful blood alcohol level in violation~~
7 ~~of Section 316.193, Florida Statutes within five (5) years of~~
8 ~~the application date.~~

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

11 (4) Submit to a background investigation resulting in a determination by the
12 towing administrator that:

13 a. Neither the applicant, nor any relative, as defined in Section
14 112.312(21), Florida Statutes (2011), officer, director or partner of the
15 applicant, nor any stockholder owning, holding, controlling or having
16 a beneficial interest in five (5) percent or more of the issued and
17 outstanding stock of a corporate applicant or of a corporate general
18 partner of a partnership applicant, has a currently suspended license,
19 has had its license revoked by action of the City within two (2) years
20 of the date of application, or has outstanding and unsatisfied civil
21 penalties imposed on account of violations of this article.

22 b. Each corporate or partnership applicant is qualified under the laws of
23 Florida to do business under the trade name or names under which it
24 has applied for a license.

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1 c. No fraud or willful or knowing misrepresentation or false statement is
2 made in the application.

3 d. No judgment against the applicant arising out of the activity of
4 recovery, towing or removing a vehicle or providing storage in
5 connection therewith remains unsatisfied, unless a stay or reversal of
6 the judgment is procured through the courts.

7 e. There are no outstanding warrants of arrest against the applicant nor
8 any officer, director or partner of the applicant, nor any stockholder
9 owning, holding, controlling or having a beneficial interest in five (5)
10 percent or more of the issued and outstanding stock of a corporate
11 general partner of a partnership applicant.

12 f. There are no (i) unpaid civil penalties; (ii) unpaid administrative costs
13 of hearing; (iii) unpaid City investigative, enforcement, testing, or
14 monitoring costs; or (iv) unpaid liens, any or all of which are owed to
15 the City of Gainesville pursuant to the provisions of the Code of
16 Ordinances.

17 (d) A complete application for permit shall be reviewed and granted or denied in writing
18 within fourteen (14) two business days. If the permit is denied, the reason for such
19 denial shall be provided in writing and shall also advise that the applicant may correct
20 deficiencies in the application within seven (7) days of the notice of denial without
21 incurring an additional application fee.

22 (i) A trespass towing service and/or its officers and owners shall be responsible for the
23 payment of all outstanding civil penalties, restitution, fines and city or court imposed
24 fees of the tow business relating to the improper or unlawful operation of the tow
25 business. Such civil penalties, restitution fines and/or fees are non-transferable and

1 will remain the liability of the trespass towing service, and/or its officers and owners,
2 regardless of the sale of the trespass towing service or its assets. The successor
3 trespass towing service, successor company owner, or purchaser of assets, may not
4 obtain a trespass towing service permit if the prior trespass towing service has
5 outstanding civil penalties, restitution, fines and/or fees.

6 (e.j) Permit fees shall be as provided in aAppendix A, Schedule of Fees, Rates and
7 Charges.

8 **Sec. 14.5-28. - Revocation; appeal.**

9 (a) The city may revoke the privilege permit of any person, entity or company to perform
10 trespass towing on any of the following grounds:

11 (1) If the trespass towing service owner and/or tow operator fails to register or to
12 obtain the required permits as required by this article;

13 (2) If the registration or permit application contains a false statement of material
14 fact;

15 (3) If the trespass towing service owner and/or wrecker tow operator provides
16 monetary or other valuable consideration to the private property owner for the
17 privilege of towing vehicles from the property under contract;

18 (4) The trespass towing service owner and/or tow operator provides monetary or
19 other valuable consideration to the private property owner for each or any
20 individual vehicle towed from the property;

21 (5) If the trespass towing service owner and/or wrecker tow operator charges
22 fees in excess of that set out in the police section of appendix A, Schedule of
23 Fees, Rates and Charges of this Code of Ordinances current resolution of the
24 City Commission;

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1 (6) If a ~~wrecker~~ tow operator fails to display on or about his/her person or on the
2 dashboard of the wrecker, easily visible to the public, the ~~wrecker~~ tow
3 operator permit while performing a trespass tow.

4 (7) If a tow operator or trespass towing service fails to maintain the qualifications
5 and requirements to qualify for a trespass towing permit.

6 (b) Three violations of any of the provisions of this article by any trespass towing service
7 ~~owner~~ and/or tow operator of a ~~towing service or towing service vehicle~~ within a one-
8 year period shall result in the ~~automatic suspension~~ revocation of the ~~owner's~~ trespass
9 towing service permit and/or trespass tow operator's ~~privilege permit~~, as applicable,
10 to engage in the business of trespass towing, as provided in subsection (c) below. An
11 ~~owner~~ trespass towing service shall not be ~~suspended~~ revoked for acts of an
12 employee/tow operator in violation of this section unless the trespass towing service
13 ~~owner~~ actively participated in or had knowledge of the violation and took no
14 corrective action against the employee/tow operator or unless repeated violations by
15 an employee did not result in progressive discipline. The trespass towing service
16 ~~owner~~ shall maintain written documentation of all corrective action taken against an
17 employee/tow operator for a minimum period of one year. In addition to the
18 corrective action taken, the documentation shall detail the type and date of the
19 specific ordinance/statutory violation. An ~~operator may be suspended or revoked~~
20 ~~notwithstanding that the operator's violations may not be applicable against the owner~~
21 ~~for purposes of the owner's suspension. In the event of such suspension:~~

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

23 (1) The towing administrator ~~chief of police or designee~~ shall inform the trespass
24 towing service owner and/or tow operator, as applicable, ~~shall be informed in~~

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1 person or by certified or registered mail within seven (7) days prior to the
2 effective date of the ~~suspension~~ revocation.

3 (2) The trespass towing service owner and/or tow operator may file a written
4 request for a due process hearing within ten calendar days of the date of the
5 ~~suspension~~ revocation with the towing administrator ~~chief of police or~~
6 ~~designee~~. Failure to request a hearing within the ten (10) calendar-day period
7 shall constitute a waiver by the trespass towing service owner and/or tow
8 operator of any rights to a hearing.

9 (3) At the due process hearing, the trespass towing service and/or tow operator
10 shall have the opportunity to present any testimony and/or documentation
11 he/she believes negates or mitigates the ~~suspension~~ revocation.

12 (4) Upon a review of the evidence presented at the hearing, the towing
13 ~~administrator~~ ~~chief of police or designee~~ may revoke the trespass towing
14 service permit ~~owner's~~ and/or tow operator's ~~privilege~~ permit to engage in the
15 business of trespass towing for up to one year:

16 a. First revocationSix months from the date of the initial
17 revocation.

18 b. Second and subsequent revocationsOne year from the date of
19 the initial revocation.

20 (ed) Any trespass towing service ~~owner~~ and/or tow operator whose ~~privilege~~ permit to
21 engage in trespass towing has been revoked shall not be eligible to ~~again~~ obtain a
22 trespass towing service permit or tow operator's permit ~~with the police department~~
23 for trespass towing until such revocation period has expired. ~~Any revocation shall~~
24 ~~include the period of suspension which led to the revocation.~~

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1 (de) Any trespass towing service owner and/or tow operator whose permit privilege to
2 engage in the business of trespass towing has been revoked by the towing
3 administrator chief of police or designee may file an appeal within fifteen 15 days of
4 the date of revocation pursuant to the appeals process specified below.

5 (ef) *Right of appeal.* Any trespass towing service owner and/or tow operator whose
6 permit privilege to engage in trespass towing has been revoked by the towing
7 administrator chief of police or designee may appeal such decision to the eCity
8 mManager or designee. Such appeal shall be taken by filing written notice with the
9 towing administrator chief of police or designee within 15 (10) calendar days after
10 the decision by the towing administrator police chief to revoke such permit privilege.
11 The notice of the appeal shall contain the grounds for the appeal and shall contain
12 information showing that either the finding is contrary to the law or is not supported
13 by competent substantial evidence. The towing administrator chief of police or
14 designee shall transmit copies of the appeal to the eCity mManager along with papers
15 constituting the record upon which the action appealed from is based. ~~The filing of a~~
16 ~~notice of appeal will not delay the effectiveness of any revocation.~~ The eCity
17 mManager may decide to uphold or reverse the decision of the towing administrator
18 chief of police. If the eCity mManager reverses the decision of the towing
19 administrator chief of police, the trespass towing permit privilege will be
20 immediately reinstated.

21 **Sec. 14.5-29. - Prerequisites to towing vehicles parked on private property; exceptions.**

22 (a) Except as provided in subsection (b) below, ~~It~~ it shall be unlawful for any trespass
23 towing service, tow operator or any person to tow or cause to be towed any vehicle
24 parked on private real property without the consent of the registered owner or other
25 legally authorized person in control of the vehicle, unless the provisions of F.S. §

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1 Section 715.07, Florida Statutes, have been strictly complied with together with the
2 following requirements:

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

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

15 The form for such agreement shall be provided by the towing administrator
16 ~~police department~~, and may not be amended or modified in any manner that
17 provides for terms or activities that violate the provisions of this article or
18 F.S. § Section 715.07, Florida Statutes.

19 (2) A copy of the completed agreement is on file with the towing administrator
20 Gainesville Police Department.

- 21 a. A new completed agreement is submitted each time a property owner
22 changes trespass towing services, ~~tow vendors~~ or the ownership or
23 management of the property changes.
- 24 b. A completed agreement is resubmitted annually, one year from the
25 date of last submittal.

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1 c. Each time a new or updated agreement is filed, a new
2 application/filing fee must be paid by the private property owner.

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

11 (4) The use of "spotters" who are employees, private contractors, agents, officers
12 or owners of a trespass towing service or tow operator, or are in any way
13 affiliated with a tow business or tow operator, is prohibited.

14 (5) An Owners owner of properties property used for residential purposes may
15 elect to authorize the trespass towing service to tow away or remove vehicles
16 without a verified request to remove a specific vehicle provided that the
17 owner first complies with the following requirements:

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

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

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

11 d. Lease, rental or property owners' association documents shall contain
12 a notice provision indicating that the residential property utilizes roam
13 towing. In the case of properties with existing leases, rental
14 agreements or property owners' association documents, it shall be
15 sufficient to notify by regular mail, at the last known address, each of
16 the tenants/owners of the property prior to the initiation of roam
17 towing. All new leases, rental agreements or property owners'
18 association documents, or amendments thereto, shall contain the
19 provision giving notice that the property owner intends to utilize roam
20 towing.

21 (6) For private property located within the boundaries of the community
22 redevelopment areas as defined in ~~d~~Division 9 of ~~e~~Chapter 2 of the
23 Gainesville Code of Ordinances, signage as required by ~~F.S. §~~ Section
24 715.07, Florida Statutes and subsection (a) above, shall use reflective white
25 lettering on a non-reflective black background. ~~All existing signs within the~~

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1 redevelopment areas referenced herein shall be replaced on or before January
2 1, 2004.

3 (7) Upon filing the written agreement with the towing administrator police
4 department as required herein, the property owner or the authorized
5 representative of the property owner, shall simultaneously submit an
6 administrative fee to process the trespass towing application in the amount set
7 forth in ~~a~~Appendix A. The administrative fee shall be applicable to all
8 trespass towing agreements filed with the towing administrator police
9 department after the adoption of this section and shall be paid each time a
10 trespass towing agreement is filed with the towing administrator police
11 department as required herein.

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

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

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

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

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

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1 (d) Each trespass towing service shall staff or monitor its ~~telephones~~ media
2 communications at all times (pager only does not satisfy this requirement) and
3 immediately advise any registered vehicle owner or authorized representative who
4 ~~calls by telephone of~~ communicates with the trespass towing service, the following:

- 5 (1) Each and every document or other item which must be produced to retrieve
6 the vehicle.
- 7 (2) Exact charges as of the time of the ~~telephone call~~ communication, and the rate
8 at which charges will accumulate thereafter.
- 9 (3) The acceptable methods of payment. If the trespass towing service ~~owner~~ or
10 tow operator cannot, or will not provide change to a registered vehicle owner
11 or authorized representative, the trespass towing service ~~owner~~ or tow
12 operator shall advise the registered vehicle owner or authorized representative
13 to bring exact payment.
- 14 (4) That the vehicle can be picked up within one hour of request.

15 **Sec. 14.5-29.1. - Trespass tow bill of rights.**

16 Any trespass towing service firm engaged in the business of trespass towing shall
17 post the trespass tow bill of rights in a clearly visible, prominent position, not more than ten
18 (10) feet from the place where payment for the tow is made. Posters listing the ~~customer~~
19 trespass tow bill of rights shall be supplied by the towing administrator ~~Gainesville Police~~
20 ~~Department~~ at a cost not to exceed the cost of production. The poster shall read the
21 following:

22 **Trespass Tow "Bill of Rights"**

23 Your car has been trespass towed. You have certain rights under Florida State
24 Statutes and City of Gainesville Ordinances:

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- 1 (1) Your vehicle must be released within one hour after requested, provided the
2 towing fees are paid.
- 3 (2) You can retrieve any personal property that is in the vehicle within the first
4 24 hours of the tow prior to paying the towing fees (after the first 24 hours, a
5 fee may be charged).
- 6 (3) You may inspect your vehicle prior to paying the towing fees. The tow
7 company cannot require you to sign a waiver which would release the ~~firm~~
8 trespass tow service from liability for damages noted by you at the time the
9 vehicle is picked up. The tow company is responsible for any damage done
10 by entry into the vehicle if the entry was not done with the "standard of
11 reasonable care". Proper remedy for these damages is through civil court.
- 12 (4) You may pay the towing charges using cash, debit card, or major credit card
13 (Visa or MasterCard). A fee may be charged to use the debit card. No
14 additional fee can be charged for use of a credit card.
- 15 (5) A detailed, signed receipt showing the legal name of the trespass towing
16 service company, tow operator or person towing the vehicle must be given to
17 you at the time of payment, whether requested or not. The receipt will also
18 include the following statement: "Notice: Towing from private property is
19 regulated by F.S. § Section 715.07, Florida Statutes and Chapter 14.5. Article
20 III, City of Gainesville Code of Ordinances."
- 21 (6) Trespass towing services tow companies are required to take photos of your
22 vehicle prior to tow, documenting the violation for which the vehicle was
23 towed. You can make arrangements with the tow company to see the
24 photographs at no charge. Photos will be available for viewing the following
25 business day. Normal hours for viewing the photographs will be Monday

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1 through Saturday, 8:00 a.m. to 5:00 p.m. It is a good idea to make an
2 appointment in advance with the ~~office staff~~ trespass towing service.

3 The document shall also contain contact information to report violations.

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

5 (a) Any trespass towing service firm engaged in the business of trespass towing shall not
6 charge the owner of any towed vehicle or personal property in excess of the fees set
7 by the ~~eCity eCommission~~ by resolution. The fees set by resolution shall be all
8 inclusive during the first 24-hour period following notification of vehicle tow to the
9 Gainesville Police Department; no additional fees or charges whatsoever may be
10 charged unless specifically established and authorized herein or by state statute. The
11 ~~eCity eCommission~~ shall establish, by resolution, a maximum fee for specific classes
12 of vehicles as identified in the Towing and Recovery Association of America's
13 TRAA Vehicle Identification Guide. After maximum fees are initially established
14 using the TRAA Vehicle Identification Guide, such maximum fees will be subject to
15 rate review as provided in ~~s~~Subsection 14.5-30(c), notwithstanding that such review
16 may occur less than annually for the first instance.

17 (b) A trespass towing service person, operator, firm, or corporation that provides trespass
18 towing and storage services pursuant to ~~a~~Article III, ~~s~~Section 14.5-25, et. seq. of the
19 Gainesville Code of Ordinances shall accept payment for charges from the registered
20 vehicle owner or authorized representative in any of the following forms:

- 21 (1) Cash;
- 22 (2) Major credit card; and/or
- 23 (3) Debit card.

1 (c) Maximum trespass towing fees shall be established no more than annually by the
2 eCity eCommission after receiving a request for fee modification by the trespass
3 towing service towing company owners and staff recommendations based on
4 financial information, including, but not limited to, average cost analysis per trespass
5 tow, submitted by the trespass towing service companies as to their costs for the
6 removal of vehicles and on other information. The required information shall be
7 submitted by the trespass towing service towing company owners by September 30th
8 of each year. The maximum fees shall be set by resolution to be adopted by the eCity
9 eCommission prior to December 31st of each year in which a request for modification
10 has been made. Such maximum fees shall be effective during the following calendar
11 year and until changed by subsequent resolution.

12 **Sec. 14.5-31. - Vehicle not connected upon operator returning.**

13 The trespass towing service owner or operator of any towing service vehicle which is
14 summoned to tow away any vehicle on private property, or stops to tow any vehicle under a
15 valid "Roam Towing" provision on private property, shall not remove or tow the vehicle
16 away and shall not charge any fee if the registered owner or other legally authorized person
17 in control of the vehicle operator returns to the vehicle prior to the towing service operator
18 having physically connected the vehicle to the towing apparatus, and moves the vehicle from
19 the private property.

20 **Sec. 14.5-32. - Vehicle not towed upon owner or other legally authorized person in control of**
21 **the vehicle operator returning.**

22 If the registered owner or other legally authorized person in control of the vehicle
23 arrives at the scene prior to removal or towing of the vehicle, the vehicle shall be
24 disconnected from the towing or removal apparatus, and that person shall be allowed to
25 remove the vehicle without interference upon the payment of a reasonable service fee of not