

**LEGISLATIVE #**

**120206c**

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1        trespass towing service ~~tow owner~~ or tow operator where vehicles are normally stored.  
2        Temporary storage is prohibited.

### **Sec. 14.5-34. - Vehicles subject to criminal investigation.**

4            Trespass towing services ~~Tow owner~~ shall not refuse to relinquish to the police a  
5        vehicle which is the subject of a criminal investigation. Relinquishment of the vehicle to the  
6        police for impoundment at its contract site shall not affect the trespass towing service's ~~tow~~  
7        ~~owners~~ right to payment for services rendered and payment for those services shall be made  
8        to the trespass towing service ~~tow owner~~ by the registered owner of the vehicle or his/her  
9        representative, or other arrangements shall be made with the trespass towing service ~~tow~~  
10       ~~owner~~ to receive payment before the vehicle is released to the registered owner or his/her  
11       representative.

### **Sec. 14.5-35. - Civil citation; violation of ordinance.**

13           Police officers and code enforcement officers may issue a civil citation to trespass  
14        towing services, ~~tow owners~~ or their authorized representatives, tow operators and property  
15        owners or their authorized representatives, for violations of any section of this article.

### **Sec. 14.5-36. - Receipt from towing service to be furnished to owner when vehicle claimed.**

17           When a towed vehicle is claimed, the trespass towing service ~~towing service~~ shall  
18        furnish the registered owner or other legally authorized person with a receipt which shall  
19        include the name of the person or management entity who authorized the towing. The receipt  
20        shall also include the following language:

21           "Notice: Towing from private property is regulated by the provisions of F.S.—§  
22        Section 715.07, Florida Statutes and Chapter 14.5, Article III City of Gainesville  
23        Code of Ordinances."

### **Sec. 14.5-37. - Prohibitions.**

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- 1 (a) It shall be a violation of this article for a trespass towing service or tow operator to  
2 charge any additional fee which is based on police response to a call by the owner of  
3 a vehicle, who is contesting the towing of the owner's vehicle on scene.
- 4 (b) It shall be a violation of this article for any person other than the real property owner  
5 or an authorized representative of the owner, or the trespass towing service tow  
6 owner or authorized representative of the trespass towing service tow owner (if the  
7 signs are placed by the trespass towing service) ~~tow company~~, to move, remove, or  
8 deface any ~~tow-away~~ sign relating to towing.

9 **Sec. 14.5-38. - Penalties.**

10 In addition to those penalties imposed by F.S. § Section 715.07, Florida Statutes,  
11 violation of any provisions of this article, including any of the requirements of F.S. § Section  
12 715.07, Florida Statutes, shall be subject to the following civil penalties:

- 13 (1) Any trespass towing service, tow operator or person who violates this article  
14 shall be liable to the registered owner or lessee of the vehicle for all costs of  
15 recovery (including all towing and storage fees) plus attorney's fees and court  
16 costs, and shall in addition be liable to the registered owner or lessee of any  
17 towed or removed vehicle for damages resulting directly or indirectly from  
18 the removal, transportation or storage of the vehicle.
- 19 (2) Any trespass towing service, tow operator or person who violates any of the  
20 provisions of this article shall, upon conviction, be fined not more than  
21 \$500.00 per violation. Each violation shall be considered a separate offense.
- 22 (3) A trespass towing service and/or its officers and owners shall be responsible  
23 for the payment of all outstanding civil penalties, restitution, fines and/or city  
24 or court imposed fees of the trespass towing service relating to the improper  
25 or unlawful operation of the trespass towing service. Such civil penalties,

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



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### DIVISION 2. - IMMOBILIZATION OF VEHICLES ON PRIVATE PROPERTY

Sec. 14.5-39. - Intent and purpose; applicability and exemptions.

Sec. 14.5-40. - Definitions.

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

Sec. 14.5-42. - Operator's permits; application requirements; violations.

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

Sec. 14.5-44. - Enforcement and inspection; disclaimer.

Sec. 14.5-45. - Revocation of immobilization or immobilization operator permit, appeal.

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

Secs. 14.5-47—14.5-51. - Reserved.

#### **Sec. 14.5-39. - Intent and purpose; applicability and exemptions.**

(a) *Intent and purpose.* The intent of this division is to protect and safeguard the safety, property and welfare of the public and businesses by providing for the licensure and regulation of business enterprises engaged in the practice of immobilization of vehicles. The purpose of this division is to provide a uniform system for the licensure and regulation of persons and immobilization services who are engaged in or who intend to engage in the practice of immobilization of vehicles which are parked on private property without the permission or authorization of the owner of the private property.

(b) *Applicability and exemptions.* Any person who utilizes any vehicle immobilization method for unauthorized vehicles parked on private property shall comply with the regulations set forth herein below. ~~Provided h~~However, this section shall not apply to the following:

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- 1 (1) Towing of vehicles; or
- 2 (2) Vehicles on property appurtenant to and ~~obviously~~ a part of a single-family
- 3 residence.
- 4 (3) Immobilization of a vehicle which occurs:
  - 5 a. At the direction of a law enforcement officer, police service
  - 6 technician, traffic enforcement technician or any individual who
  - 7 successfully completes a training program established and approved
  - 8 by the Criminal Justice Standards and Training Commission for
  - 9 parking enforcement specialists and, whose current duties with the
  - 10 city include parking enforcement; or
  - 11 b. With the consent of the vehicle's registered owner or ~~operator~~ other
  - 12 legally authorized person in control of the vehicle.

13 **Sec. 14.5-40. - Definitions.**

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

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

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

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

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

6            *Person* shall mean and include, but shall not be limited to, any individual, firm,  
7 partnership, joint venture, syndicate or other group, or combination acting as a unit,  
8 association, corporation, estate, trust, trustee, executor, administrator, receiver, or other  
9 fiduciary, and shall include the plural as well as the singular.

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

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

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

19           (a) *Immobilization service permit required.* No person, entity or immobilization service  
20 shall engage in the act, practice or business of immobilization of unauthorized motor  
21 vehicles that are parked on private property unless such person, entity or  
22 immobilization service has obtained an immobilization service permit. An  
23 application for an immobilization service permit shall be submitted to the towing  
24 administrator ~~at the city police department~~. Immobilization service permits shall be  
25 issued on an annual basis and will expire on October first (1<sup>st</sup>) of each year. An

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1 annual permit fee as provided in Appendix A, Schedule of Fees, Rates and Charges,  
2 shall be charged for the cost of review and administration of issuance of  
3 immobilization permits.

4 (b) *Requirements for issuance of immobilization service permit.* No person or  
5 immobilization service shall be issued an immobilization service permit under this  
6 division unless ~~they comply~~ the applicant complies with the following requirements:

7 (1) *Proof of insurance.* Every applicant for an immobilization service permit  
8 shall file with the city's business tax division office a certificate of insurance  
9 or other proof of insurance providing coverage for all liability claims and  
10 claims of damage to property resulting from any action or operation in  
11 connection with the immobilization service, in an amount not less than  
12 \$100,000.00 for each incident, \$50,000.00 of such coverage allocated for  
13 property damage.

14 (2) *Local business tax.* No immobilization service shall engage in the business of  
15 immobilization of unauthorized vehicles parked on private property unless  
16 such immobilization service shall first obtain a local business tax receipt in  
17 accordance with the provisions set forth in Chapter 25, Article III of this  
18 Code. Trespass towing services, current in their local business tax, are not  
19 required to pay an additional local business tax for the privilege of engaging  
20 in immobilization services.

21 (c) *Authorization of the real property-owner.* No immobilization service shall  
22 immobilize a vehicle on private property unless such immobilization service has  
23 written authorization or permission of the owner of the real property upon which the  
24 immobilization will occur.



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- 1 (1) Prior to immobilization of any vehicle, the immobilization service shall have  
2 executed a written agreement with the owner of the real property upon which  
3 the immobilization will occur, and shall file and maintain on record at all  
4 times with the towing administrator, ~~at the city police department~~ a list of any  
5 and all such agreements for immobilization services on private property  
6 within the city limits. The list shall be kept current and shall provide the ~~city~~  
7 towing administrator with (a) the address of the real property; (b) the date of  
8 the agreement; (c) the property owner's name, a contact name and a telephone  
9 number, the duration of the agreement; (d) the days of the week and time of  
10 day that such immobilization is authorized;
- 11 (2) The rebate or payment of money or any other valuable consideration, directly  
12 or indirectly from the ~~person~~, immobilization service that is immobilizing  
13 vehicles to the owners or operators of the property upon which the vehicles  
14 are immobilized, for the privilege of immobilizing those vehicles, is  
15 prohibited.
- 16 (d) *Record keeping procedures.* Every person, immobilization service, and  
17 immobilization contractor who immobilizes a vehicle shall keep and maintain an  
18 immobilization log with the following information:
- 19 (1) Date and time the vehicle was observed illegally parked;  
20 (2) The date and time of immobilization;  
21 (3) The location/address of the real property where the immobilization took  
22 place;  
23 (4) The description of the vehicle including make, model, year, color, vehicle  
24 identification number, and license plate number;

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1 (5) The date and time the request for removal of the immobilization device was  
2 received and the date and time of response and removal of the immobilization  
3 device.

4 (6) The amount and method of payment for release of the immobilization device;

5 (7) The name of the person removing the immobilization device; and

6 (8) The name of person to whom the vehicle was released.

7 All persons and immobilization services shall file a copy of their immobilization log  
8 with the towing administrator ~~at the city police department~~ and shall also keep all such  
9 immobilization logs on file for a period of one year and shall make such logs available for  
10 inspection to any law or code enforcement officer or designee assigned to investigate the  
11 complaints and enforcement during regular business hours.

12 (e) *Identification.*

13 (1) All employees or agents of every immobilization service or immobilization  
14 contractor, and every immobilization operator ~~person who immobilizes a~~  
15 ~~vehicle~~ shall wear the immobilization operator ~~permit~~ identification, as  
16 provided in section 14.5-42 below, on the outer garment and uniforms which  
17 shall state the full name of the immobilization service. The name of the  
18 immobilization service on the outer garment and uniform must be the same as  
19 the name on the vehicle being operated by the person immobilizing the  
20 vehicle.

21 (2) All immobilization service vehicles shall be equipped with an amber light bar  
22 and shall display the name (or name of joint venture or individual owner or  
23 other entity ownership) on the driver and passenger side of the vehicle in  
24 letters at least three inches high, ~~and~~ ~~the~~ The address (or address of joint  
25 venture, or individual owner or other entity ownership) and telephone number

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1 of the immobilization service shall be displayed on the driver and passenger  
2 side of the vehicle in letters at least one inch high. Lettering on the vehicle  
3 shall be permanently applied. Temporary lettering or magnetic lettering/signs  
4 are prohibited. All vehicles used in providing immobilization services shall be  
5 inspected for compliance with this article and must display a medallion issued  
6 by the towing administrator to evidence such compliance.

### **Sec. 14.5-42. - Operator's permits; application requirements; violations.**

8 (a) It is unlawful for any person or immobilization operator to engage in the  
9 immobilization of vehicles without first having obtained an immobilization operator's  
10 permit from the towing administrator, ~~at the city police department~~. Each permit will  
11 meet the following specifications:

- 12 (1) Be not less than 2½ inches by 3¾ inches.
- 13 (2) Contain a photograph of the immobilization operator that is not less than one  
14 inch by 1½ inches in size.
- 15 (3) Provide the name of the immobilization service and the immobilization  
16 operator's first name in letters that are not less than ¼-inch by ¼-inch.
- 17 (4) Provide a control number that is linked to the immobilization operator's  
18 personal information.
- 19 (5) Provide a place for the towing administrator to validate the permit.

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

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

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1 (b) It shall be unlawful for the owner of any immobilization service to permit any person  
2 to be employed as an immobilization operator conducting immobilization within the  
3 city unless such person has been issued an immobilization operator's permit to engage  
4 in immobilization services which has been validated by the towing administrator.  
5 Upon issuance of the permit, the immobilization operator is granted the privilege of  
6 engaging in immobilization services within the city limits of the City of Gainesville,  
7 Florida, unless such permit expires or is suspended or revoked, as provided in this  
8 article. Each permit shall ~~be valid for two years from date of issuance~~ expire on  
9 October first (1<sup>st</sup>) of every year.

10 (c) In order to secure and remain eligible to hold an immobilization operator permit, the  
11 person must meet the following requirements and provide the following information  
12 on a form provided by the ~~city~~ towing administrator:

13 (1) Possess a valid Florida Class E and/or commercial driver's license and  
14 provide a photocopy to the towing administrator.

15 (2) Not have been convicted of, found guilty of, or pled guilty or nolo contendere  
16 to, regardless of adjudication of guilt, ~~pled no contest to, or had adjudication~~  
17 ~~withheld for or been incarcerated after any conviction, plea of no contest or~~  
18 ~~adjudication withheld~~ for any of the following:

19 a. Any capital felony, any first degree felony, sexual battery, or any  
20 violent felony involving the use of a ~~gun~~ firearm, or knife weapon, as  
21 defined in Section 790.01, Florida Statutes (2011), or which results in  
22 great bodily harm.

23 b. ~~Within the previous ten years, a~~ Any violent felony including not  
24 referenced in subsection a above which occurred within ten years of  
25 the application date.

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- 1 c. ~~Within the previous ten years, a~~ Any felony or first degree  
2 misdemeanor directly related to the business of towing motor  
3 vehicles; repossession of motor vehicles; motor vehicle theft;  
4 carjacking; ~~or~~ chop shops; or liens for recovering, towing, or storing  
5 vehicles and vessels (F.S. § Section 713.78, Florida Statutes), which  
6 occurred within ten (10) years of the application date.
- 7 d. ~~Within the previous five years, of either: (1) d~~Driving under the  
8 influence of alcohol, ~~a controlled substance, or a chemical substance,~~  
9 ~~to the extent that normal faculties are impaired;~~ or (2) driving with an  
10 unlawful blood alcohol level in violation of Section 316.193, Florida  
11 Statutes within five (5) years of the application date.

12 All timeframes referenced in this subsection (2) shall be calculated and run from the date of  
13 the offense, as reflected in the charging documents.

14 (3) Submit to a background investigation resulting in a determination by the  
15 towing administrator that:

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

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- 1                    b. Each corporate or partnership applicant is qualified under the laws of  
2                    Florida to do business under the trade name or names under which it  
3                    has applied for a license.
- 4                    c. No fraud or willful or knowing misrepresentation or false statement is  
5                    made in the application.
- 6                    d. No judgment against the applicant arising out of the activity of  
7                    recovery, towing or removing a vehicle or providing storage in  
8                    connection therewith remains unsatisfied, unless a stay or reversal of  
9                    the judgment is procured through the courts.
- 10                  e. There are no outstanding warrants of arrest against the applicant, nor  
11                  any officer, director or partner of the applicant nor any stockholder  
12                  owning, holding, controlling or having a beneficial interest in five (5)  
13                  percent or more of the issued and outstanding stock of a corporate  
14                  general partner of a partnership applicant.
- 15                  f. There are no (i) unpaid civil penalties; (ii) unpaid administrative costs  
16                  of hearing; (iii) unpaid City investigative, enforcement, testing, or  
17                  monitoring costs; or (iv) unpaid liens, any or all of which are owed to  
18                  the City of Gainesville pursuant to the provisions of the Code of  
19                  Ordinances.
- 20                  (d) A permit shall be reviewed and granted or denied in writing within fourteen (14) ~~two~~  
21                  business days. If the permit is denied, the reason for such denial shall be provided in  
22                  writing and shall also advise that the applicant may correct deficiencies in the  
23                  application within seven (7) days of the notice of denial without incurring an  
24                  additional application fee.

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

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

5 (a) Immobilization criteria. No person shall immobilize a vehicle parked on private  
6 property, unless such immobilization is in accordance with the following  
7 requirements:

8 (1) The vehicle is parked in an unauthorized manner and a sign was posted in  
9 accordance with subsection (b) below;

10 (2) The immobilization device is placed on the front wheel of the driver's side of  
11 the motor vehicle. The device may be placed on any other wheel if placement  
12 on the front wheel of the driver's side is not feasible; and

13 (3) Immediately upon immobilization, the person immobilizing such vehicle,  
14 shall affix on the driver's side window of such vehicle, a warning notice  
15 sticker with a completely removable adhesive, measuring four by seven  
16 inches or larger containing a warning stating that the vehicle has been  
17 immobilized and that any attempt to move the vehicle may result in damage  
18 to the vehicle, and shall provide the name and business address of the person  
19 who immobilized such vehicle, the business telephone number to contact for  
20 release of the immobilization device, and fee for its removal as set forth in  
21 Appendix A, Schedule of Fees, Rates and Charges.

22 (4) Photograph(s) of the "offending" vehicle shall be taken and shall be of  
23 sufficient detail to demonstrate the violation of rule or regulation for which  
24 the vehicle is being immobilized. The photograph(s) must be date and time  
25 stamped and maintained by the immobilization service for a minimum period

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1 of one year. Photos must be available for viewing the following business day.  
2 Normal hours for viewing the photographs are Monday through Saturday,  
3 8:00 a.m. to 5:00 p.m. There shall be no charge for viewing the photographs  
4 when such is done during the first available business day as referenced above.

5 (5) An immobilization operator is not permitted to wear a uniform or clothing  
6 purporting to be from a different company or business other than the one the  
7 immobilization operator actually works or drives for, and the company name  
8 must match the name on the vehicle the immobilization operator is operating.  
9 Failure to abide by these requirements is a violation of this section.

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

13 (1) The sign shall be prominently placed at each driveway access or curb cut  
14 allowing vehicular access to the property, within five feet from the public  
15 right-of-way. If there are no curb cuts or access barriers, sign(s) must be  
16 posted for each 25 feet of property abutting public right-of-way, with a  
17 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  
20 immobilized at the owner's expense. The words "vehicle immobilization area"  
21 must be 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  
24 more than six feet above ground level and must be continuously located on



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- 1 the property for not less than 24 hours prior to immobilization of any  
2 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  
5 vehicle; and
- 6 (5) The sign shall state whether public parking is permitted and the hours of  
7 operation that the property is utilized for public parking.
- 8 (c) Where property is posted for trespass towing and the immobilization service will be  
9 performed by the same entity or company, the signage requirements may be met by  
10 adding "vehicle immobilization area" to existing trespass towing signage.
- 11 (d) The use of "spotters" who are employees, private contractors, agents, officers or  
12 owners of an immobilization service or immobilization operator, or are in any way  
13 affiliated with an immobilization service or immobilization operator, is prohibited.
- 14 (e) Removal of immobilization device; release of vehicle; availability and response time.
- 15 (1) When a vehicle has been immobilized, the immobilization device shall be  
16 removed and the vehicle shall be released or returned to its owner or  
17 custodian within one hour upon request for removal and payment of the  
18 immobilization charge.
- 19 (2) Any person, immobilization service which places an immobilization device  
20 on an unauthorized vehicle parked on private property shall operate a 24-  
21 hour, seven-day-a-week answering service, and shall make available on a 24-  
22 hour, seven-days-a-week basis, attendants and equipment for the release of  
23 the immobilization device within one hour of request for removal and  
24 payment of the immobilization charge.

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1 (ef) Maximum immobilization charge. No person, immobilization operator or  
2 immobilization service may charge an immobilization charge or fee for removal of an  
3 immobilization device on an unauthorized vehicle parked on private property in excess of the  
4 fee provided in Appendix A, Schedule of Fees, Rates and Charges, of this Code of  
5 Ordinances. An immobilization service shall accept payment for charges from the registered  
6 vehicle owner or authorized 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 (eg) Required receipt. Any person, immobilization operator or immobilization service  
13 which places an immobilization device on an unauthorized vehicle parked on private  
14 property shall provide, at the time of payment, a written receipt for all charges  
15 imposed and received from the owner or ~~operator of a~~ other legally authorized  
16 representative in control of a vehicle resulting from the immobilization of a vehicle.

17 Said receipt shall be made and maintained in duplicate and shall include at a  
18 minimum:

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

24 IF YOU HAVE ANY QUESTION OR COMPLAINT, PLEASE CONTACT  
25 THE CITY OF GAINESVILLE'S TOWING ADMINISTRATOR ~~AT THE~~

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1                   GAINESVILLE POLICE DEPARTMENT, 413 NW 8<sup>th</sup> Avenue,  
2                   GAINESVILLE, FL 32601;

3           (fh) Return of registered vehicle owner prior to immobilization. No person,  
4           immobilization operator or immobilization service shall immobilize a vehicle or charge for  
5           its services where the registered owner or other legally authorized person in control of the  
6           vehicle arrives at the scene prior to the immobilization, unless:

7                   (1) The registered owner or other legally authorized person in control of the  
8                   vehicle refuses to remove the vehicle; or

9                   (2) The vehicle has already been completely connected to the immobilization  
10                  device and the registered owner or other legally authorized person in control  
11                  of the vehicle refuses to pay a service fee of not more than one-half of the rate  
12                  contained in Appendix A, Schedule of Fees, Rates and Charges for such  
13                  immobilization service.

14                  (3) The immobilization service or person immobilizing the vehicle shall wait a  
15                  minimum of twenty (20) minutes to allow the vehicle's owner or legally  
16                  authorized person in control of the vehicle ~~operator~~ to secure cash or other  
17                  acceptable payment of the fees enumerated herein.

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

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

23           (ik) Towing/removal requirements. An immobilized vehicle shall not remain immobilized  
24           on private property for more than 24 hours. After such period of time has expired, the  
25           vehicle shall be released from the immobilization device and the vehicle may be

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1           towed or removed pursuant to this article, and no fee shall be assessed for placement  
2           or release of the immobilization device.

### **Sec. 14.5-44. - Enforcement and inspection; disclaimer.**

4           (a)    *Enforcement and inspection.* The towing administrator shall enforce the provisions  
5           set forth in this division. This shall not preclude other law enforcement personnel  
6           from conducting any action as deemed necessary to assure compliance with all  
7           applicable laws.

8           To determine compliance and enforce the provisions of this division, the towing  
9           administrator shall have the right of entry upon real property during the operating  
10          hours of the subject business and shall be immune from civil or criminal prosecution  
11          for trespass upon real property while in the discharge of his/her duties of enforcing  
12          the provisions of this division.

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

### **Sec. 14.5-45. - Revocation of immobilization or immobilization operator permit, appeal.**

21          (a)    In addition to the penalties set forth above, three violations of the provisions of this  
22          article by an immobilization service or immobilization operator within a one-year  
23          period shall result in the revocation of the ~~privilege~~ permit to engage in the  
24          immobilization business. An immobilization service permit shall not be revoked for  
25          acts of an employee/operator in violation of this section unless the immobilization

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1 service actively participated in or had knowledge of the violation and took no  
2 corrective action against the employee/operator or unless repeated violations by an  
3 employee did not result in progressive discipline. The immobilization service shall  
4 maintain written documentation of all corrective action taken against an  
5 employee/operator for a minimum period of one year. In addition to the corrective  
6 action taken, the documentation shall detail the type and date of the specific  
7 ordinance/statutory violation. An immobilization service ~~operator~~ permit may be  
8 revoked notwithstanding that the operator's violations may not be applicable against  
9 the immobilization service for purposes of the immobilization service's revocation.

10 To revoke a permit:

- 11 (1) The towing administrator shall inform the immobilization service or  
12 immobilization operator in person or by certified or registered mail within  
13 seven (7) days prior to the effective date of the suspension.
- 14 (2) The immobilization service or immobilization operator may file a written  
15 request for a hearing within ten (10) calendar days of the date of the  
16 suspension with the towing administrator. Failure to request a hearing within  
17 the ten (10) calendar-day period shall constitute a waiver by the  
18 immobilization service or immobilization operator of any rights to a hearing.
- 19 (3) At the due process hearing, the immobilization service or operator shall have  
20 the opportunity to present any testimony and/or documentation he/she  
21 believes negates or mitigates the revocation.
- 22 (4) Upon a review of the evidence presented at the hearing, the towing  
23 administrator may revoke the immobilization service or immobilization  
24 operator's permit for up to one year, as follows:

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- 1 a. First revocation .....Six months from the date of the initial  
2 revocation.
- 3 b. Second and subsequent revocations .....One year from the date of  
4 the initial revocation.
- 5 (b) Any ~~the~~ immobilization service or immobilization operator whose permit has been  
6 revoked shall not be eligible to again obtain a permit until such revocation period has  
7 expired.
- 8 (c) Any immobilization service or immobilization operator whose permit has been  
9 revoked may file an appeal within fifteen (15) days of the date of revocation pursuant  
10 to the appeals process specified below.
- 11 (d) Right of appeal. The timely filing of an appeal shall stay the revocation of the permit.  
12 The appeal shall be taken by filing written notice with the towing administrator chief  
13 ~~of police~~ or designee within fifteen (15) days after the decision by the towing  
14 administrator to revoke such permit. The notice of the appeal shall contain the  
15 grounds for the appeal and shall contain information showing that either the finding is  
16 contrary to the law or is not supported by competent substantial evidence. The towing  
17 administrator chief of police or designee shall transmit copies of the appeal to the  
18 eCity mManager along with papers constituting the record upon which the action  
19 appealed from is based. The eCity mManager may decide to uphold or reverse the  
20 decision of the towing administrator. The decision of the eCity mManager shall be  
21 the final administrative action by the city. If the City Manager reverses the decision  
22 of the towing administrator, the permit will be immediately reinstated.

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

24 It is unlawful to engage in the immobilization of vehicles on private property without  
25 compliance with the requirements of this division. Law enforcement officers may issue a

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- 1 civil citation to immobilization services or its authorized representatives and property owners
- 2 or their authorized representatives, for violations of any section of this article.
- 3 **Secs. 14.5-47—14.5-51. - Reserved.**

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