

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

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

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

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

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

17 Recover means to take possession of a vehicle and its contents and to exercise control and
18 supervision over the vehicle.

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

21 (a) Immobilization service permit required. No person, ~~entity or immobilization service~~ shall
22 engage in the ~~act, practice or~~ business of immobilization of unauthorized motor vehicles
23 that are parked on private property unless such ~~person, entity or~~ immobilization service

1 has obtained an immobilization service permit. An application for an immobilization
2 service permit shall be submitted to the towing administrator ~~at the city police~~
3 ~~department~~. Immobilization service permits shall be issued on an annual basis and will
4 expire on September 30 of each year. ~~An annual permit fee as provided in Appendix A,~~
5 ~~Schedule of Fees, Rates and Charges, shall be charged for the cost of review and~~
6 ~~administration of issuance of immobilization permits.~~ Permits are not transferable or
7 assignable.

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

11 (1) *Proof of insurance.* Every applicant for an immobilization service permit shall file
12 with the ~~city's business tax division office~~ towing administrator a certificate of
13 insurance or other proof of insurance providing coverage for all liability claims
14 and claims of damage to property resulting from any action or operation in
15 connection with the immobilization service, in an amount not less than
16 \$100,000.00 for each incident, \$50,000.00 of such coverage allocated for property
17 damage.

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

1 additional local business tax for the privilege of engaging in immobilization
2 services.

3 (2) Fixed Office Location. Each immobilization service shall have a fixed physical
4 office within the Gainesville city limits registered with the towing administrator.
5 The office shall be open and staffed with personnel during normal business hours.

6 (3) Permit fee. Every applicant shall pay the annual permit fee as set forth in
7 Appendix A, Schedule of Fees, Rates and Charges.

8 (4) An immobilization service shall be responsible for the payment of all outstanding
9 civil penalties, restitution, fines and city or court imposed fees relating to the
10 improper or unlawful operation of the immobilization service. Such civil
11 penalties, restitution, fines and/or fees shall remain the liability of the
12 immobilization service. The purchaser of all, or substantially all, of the assets or
13 business entity, may not obtain an immobilization service permit if the selling
14 immobilization service has outstanding civil penalties, restitution, fines and/or
15 fees.

16 (c) Authorization of the real property-owner. ~~No immobilization service shall immobilize a~~
17 ~~vehicle on private property unless such immobilization service has written authorization~~
18 ~~or permission of the owner of the real property upon which the immobilization will~~
19 ~~occur.~~

20 (4) Prior to immobilization of any vehicle, the immobilization service shall have
21 executed a written agreement with the owner of the real property upon which the
22 immobilization will occur, and shall file ~~and maintain on record at all times~~ with
23 the towing administrator, ~~at the city police department~~ a copy list of any and all

1 such agreements for immobilization services on private property within the city
2 limits. The ~~list~~ copies of agreements shall be kept current and shall include at a
3 minimum, ~~provide the city with~~ (a) the address and legal description or sketch of
4 the real property; (b) the date of the agreement; (c) the property owner's name, a
5 contact name and a telephone number; (d) the duration of the agreement; ~~(de)~~ the
6 days of the week and time of day that such immobilization is authorized; ~~(2)~~
7 The rebate or payment of money or any other valuable consideration, directly or
8 indirectly from the ~~person~~, immobilization service ~~that is immobilizing vehicles~~ to
9 the owners or operators of the property upon which the vehicles are immobilized,
10 for the privilege of immobilizing those vehicles, is prohibited.

11 (d) *Record keeping procedures.* Every ~~person~~, immobilization service, and immobilization
12 operator ~~contractor who immobilizes a vehicle~~ shall keep and maintain an immobilization
13 log with the following information:

- 14 (1) Date and time the vehicle was observed illegally parked;
- 15 (2) The date and time of immobilization and the name of the immobilization operator;
- 16 (3) The location/address of the real property where the immobilization took place;
- 17 (4) The description of the vehicle including make, model, ~~year~~, color, vehicle
18 identification number, and license plate number;
- 19 (5) The date and time the request for removal of the immobilization device was
20 received and the date and time of response and removal of the immobilization
21 device; ~~;~~
- 22 (6) The amount and method of payment for release of the immobilization device;

1 (7) The name of the ~~person~~ immobilization operator removing the immobilization
2 device; and

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

4 All ~~persons and~~ immobilization services shall file a copy of ~~their~~ all immobilization logs
5 with the towing administrator every Thursday, for the immediately preceding week ~~at the city~~
6 ~~police department~~ and shall also keep all such immobilization logs on file at the immobilization
7 service office registered with the tow administrator for a period of one year and shall make such
8 logs and receipts available for immediate inspection ~~to~~ by any law or code enforcement officer or
9 designee ~~assigned to investigate the complaints and enforcement during regular business hours.~~

10 (e) *Identification.*

11 (1) ~~All employees or agents of every immobilization service or immobilization~~
12 ~~contractor, and every person who immobilizes a vehicle~~ Each immobilization
13 operator shall wear the immobilization operator permit, as provided in section
14 14.5-42 below, on the outer garment and uniforms which shall state the full name
15 of the immobilization service and the immobilization operator's first name and
16 first initial of last name along with the unique identification number assigned to
17 that operator by the towing administrator. The name of the immobilization service
18 on the outer garment and uniform must be the same as the name on the vehicle
19 being operated by the immobilization operator.

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

1 ~~joint venture, or individual owner or other entity ownership~~) and telephone
2 number of the immobilization service shall be displayed on the driver and
3 passenger side of the vehicle in letters at least one inch high. Lettering on the
4 vehicle shall be permanently applied. Temporary lettering or magnetic
5 lettering/signs are prohibited. All vehicles used in providing immobilization
6 services shall be inspected for compliance with this article and must display a
7 medallion issued by the towing administrator to evidence such compliance. The
8 annual fee for the medallion is set forth in Appendix A and shall be paid by
9 September 30 of each year.

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

11 (a) It is unlawful for any immobilization operator to engage in the immobilization of
12 vehicles without first having obtained an immobilization operator's permit from the
13 towing administrator. ~~at the city police department~~ Upon issuance of the permit, the
14 immobilization operator is granted the privilege of engaging in immobilization services
15 within the city limits, unless such permit expires or is suspended or revoked, as provided
16 in this article. Each immobilization operator permit shall expire on September 30 of each
17 year and the fee set forth in Appendix A shall be paid to renew the immobilization
18 operator permit. Each permit will meet the following specifications:

19 (1) — ~~Be not less than 2 1/8 inches by 3 3/8 inches.~~

20 (2) — ~~Contain a photograph of the operator that is not less than one inch by 1 1/2 inches in~~
21 ~~size.~~

22 (3) — ~~Provide the name of the immobilization service and the operator's first name in~~
23 ~~letters that are not less than 1/4 inch by 1/4 inch.~~

- 1 ~~(4) Provide a control number that is linked to the operator's personal information.~~
- 2 ~~(5) Provide a place for the towing administrator to validate the permit.~~
- 3 ~~a. After the permit is validated it shall be laminated to protect the~~
- 4 ~~information on the permit.~~
- 5 b. If the permit is lost, damaged, stolen, becomes illegible or the permit
- 6 holder changes immobilization services, the permit must be replaced. The
- 7 replacement permit shall be valid only for the remainder of the time period for
- 8 which the initial permit was valid.
- 9 (b) It shall be unlawful for the owner of any immobilization service to permit any person to
- 10 be employed as an immobilization operator conducting immobilization within the city
- 11 unless such person has been issued an immobilization operator's permit to engage in
- 12 immobilization services which has been validated by the towing administrator. ~~Upon~~
- 13 ~~issuance of the permit, the immobilization operator is granted the privilege of engaging in~~
- 14 ~~immobilization services within the city limits of the City of Gainesville, Florida, unless~~
- 15 ~~such permit expires or is suspended or revoked, as provided in this article. Each permit~~
- 16 ~~shall be valid for two years from date of issuance.~~
- 17 (c) In order to secure and maintain ~~remain eligible to hold~~ an immobilization operator
- 18 permit, the ~~person~~ applicant must meet the following requirements: ~~provide the following~~
- 19 ~~information on a form provided by the city~~
- 20 (1) Submit to the tow administrator a certified copy from the Florida Department of
- 21 Law Enforcement of his/her criminal history and a certified copy of his/her
- 22 driving record from the Florida Department of Highway Safety and Motor
- 23 Vehicles;

- 1 (42) Possess a valid Florida Class E and/or commercial driver's license and provide a
2 photocopy to the towing administrator.
- 3 (23) Not have been convicted of, found guilty of, or pled guilty or nolo contendere to,
4 regardless of adjudication of guilt , ~~pled no contest to, or had adjudication~~
5 ~~withheld for or been incarcerated after any conviction, plea of no contest or~~
6 ~~adjudication withheld~~ for any of the following:
- 7 a. Any capital felony, any first degree felony, sexual battery, or any violent
8 felony involving the use of a ~~gun~~ firearm, or ~~knife~~ weapon, as defined in
9 Section 790.01, Florida Statutes, or which results in great bodily harm.
- 10 b. ~~Within the previous ten years, a~~ Any violent felony including not
11 ~~referenced in subsection a above~~ which occurred within ten (10) years of
12 the application date.
- 13 c. ~~Within the previous ten years, a~~ Any felony or first degree misdemeanor
14 directly related to the business of towing or immobilization of motor
15 vehicles; repossession of motor vehicles; motor vehicle theft; carjacking;
16 ~~or~~ chop shops; or liens for recovering, towing, or storing vehicles and
17 vessels (F.S. § Section 713.78, Florida Statutes), which occurred within
18 ten (10) years of the application date.
- 19 d. ~~Within the previous five years, of either: (1) d~~Driving under the influence
20 ~~of alcohol, a controlled substance, or a chemical substance, to the extent~~
21 ~~that normal faculties are impaired; or (2) driving with an unlawful blood~~
22 alcohol level, in violation of Section 316.193, Florida Statutes, which
23 occurred within five (5) years of the application date, unless the applicant

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

1 demonstrates evidence of the successful completion of a substance abuse
2 treatment program approved by the city.

3 All timeframes referenced in this subsection (~~2~~ 3) shall be calculated and run from the date of the
4 offense, as reflected in the charging documents.

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

7 a. The applicant does not have a currently suspended permit, has not had its
8 permit revoked by action of the city within two (2) years of the date of
9 application, or does not have outstanding and unsatisfied civil penalties
10 imposed for violations of this article.

11 b. No fraud or willful or knowing misrepresentation or false statement is
12 made in the application.

13 c. No judgment against the applicant arising out of the activity of
14 immobilization, recovery, towing or removing a vehicle or providing
15 storage in connection therewith remains unsatisfied, unless a stay or
16 reversal of the judgment is procured through the courts.

17 d. There are no outstanding warrants of arrest against the applicant.

18 e. The applicant has no (i) unpaid civil penalties; (ii) unpaid administrative
19 costs of hearing; (iii) unpaid city investigative, enforcement, testing, or
20 monitoring costs; or (iv) unpaid liens, any or all of which are owed to the
21 city pursuant to the provisions of the code of ordinances.

22 (d) A complete application for permit shall be reviewed and granted or denied in writing
23 within ten (10) ~~two~~ calendar business days. If the permit is denied, the reason for such

1 denial shall be provided in writing and shall also advise that the applicant may correct
2 deficiencies in the application within seven (7) calendar days of the notice of denial
3 without incurring an additional application fee.

4 (e) ~~Permit fees shall be as provided in appendix A, Schedule of Fees, Rates and Charges.~~

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

7 (a) *Immobilization criteria.* ~~No person shall immobilize a vehicle parked on private property,~~
8 ~~unless such immobilization is~~ All immobilization services shall be conducted in
9 accordance with the following requirements:

10 (1) The vehicle is parked in an unauthorized manner ~~and a sign was~~ on property
11 posted in accordance with subsection (b) below;

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

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