

## Division 2. - Comprehensive Parking Code

*Footnotes:*

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**Editor's note**— Ord. No. 91-10, adopted July 23, 1991, amended the Code by the addition of provisions which have been designated at the discretion of the editor as div. 2, §§ 51.31—51.46.

### Sec. 51.31. - Title of division.

This division shall be known as the Alachua County Comprehensive Parking Code.

(Ord. No. 91-10, § 1, 7-23-91)

### Sec. 51.315. - Hearing officer.

The civil traffic infraction hearing officer for the county is authorized to conduct hearings resulting from violations of this division in accordance with the jurisdictional provisions of F.S. § 318.32

(Ord. No. 98-4, § 1, 3-10-98)

### Sec. 51.32. - Definitions.

The following words and phrases, when used in this division, shall have the meaning ascribed to them in this section, except where the context otherwise requires:

*Board of county commissioners* shall mean the Board of County Commissioners of Alachua County, Florida.

*Clerk* shall mean the clerk of the circuit and county courts of Alachua County, Florida.

*County* shall mean Alachua County, Florida.

*County property* shall mean any property owned or leased by Alachua County under the jurisdiction of the board of county commissioners, except roads and bridges, upon which vehicles may be driven or placed.

*Designated public parking space* shall mean any public parking space marked in accordance with and conforming to the minimum requirements of F.S. §§ 316.1955 and 316.1956.

*Fire lane* shall mean any area adjacent to a structure, whether such area is on public or private property, which has been designated by the appropriate officials as a fire lane pursuant to the National Fire Protection Association codes, as adopted by the board of county commissioners and as amended from time to time, and which is clearly marked as such.

*Intersection* shall mean the general area where two or more highways join or cross, including the roadway and roadside facilities for traffic movements within it.

*Law enforcement officer* shall mean any officer authorized to direct or regulate traffic or make arrests for violations of traffic regulations, including the Sheriff of Alachua County, deputy sheriffs, the Florida Highway Patrol, and municipal police officers.

*Official traffic control device* shall mean all signs, signals, markings, and devices placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

*Official traffic control signal* shall mean any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

*Owner* shall mean a person who holds the legal title of a vehicle, or, in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of the vehicle is entitled to possession, then such conditional vendee, lessee, or mortgagor shall be deemed the owner for the purposes of this division.

*Park* or *parking* shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and which is actually engaged in loading or unloading of merchandise or passengers as may be permitted by law under this division.

*Parking citation* shall mean an official form used to notify the owner of a vehicle that the vehicle is parked, stopped, or standing in violation of the terms of this division.

*Person* shall mean any natural person, firm, partnership, association, or corporation.

*Private road or driveway* shall mean any privately owned way or place for vehicular travel by the owner and not open to travel by the public.

*Public parking space* shall mean any parking space which the owner, lessee, or person in control of such property provides for use of members of the public other than employees of such owner, lessee, or person, including, but not limited to, parking spaces at shopping centers, stores, offices, motels, malls, restaurants, and marinas.

*Right-of-way* shall mean the area of a street or road adjacent to the roadway, including drainage swales and areas, clear zones, and all lands owned by or under the control of the county.

*Roadway* shall mean that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately, but not to all such roadways collectively.

*Safety zone* shall mean the unobstructed, relatively flat area provided beyond the edge of the traveled way for the recovery of errant vehicles.

*Sheriff* shall mean the Sheriff of Alachua County, Florida.

*Sheriff's office* shall mean the Alachua County Sheriff's Office.

*Sidewalk* shall mean that portion of a street between the curblines, or the lateral lines, of a roadway and the adjacent property lines intended for use of pedestrians.

*Signs* or *signals* shall mean the official traffic control devices or markings placed, erected, or painted on the surface of an object upon which there is information setting forth the lawful use, restrictions, prohibition, or regulations regarding vehicular parking, erected by authority of the board of county commissioners under this division.

*Stand* or *standing* shall mean the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actively engaged in receiving or discharging passengers, as may be permitted by law under this division.

*Stop* or *stopping* shall mean any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or to comply with the directions of a law enforcement officer or traffic control sign or signal.

*Street* or *highway* shall mean the entire width between the boundary lines of every way or place of whatever nature when any part thereof is open to the use of the public for purposes of vehicular traffic.

*Traffic* shall mean pedestrians, ridden or herded animals, vehicles, and other conveyances, either singly or together, while using any street or highway for the purposes of travel.

*Traffic infraction enforcement person* shall mean an individual who has been approved by the sheriff's office and has met the requirements of F.S. § 318.141(2)(a).

*Vehicle* shall mean any device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except personal delivery devices, mobile carriers, and devices used exclusively upon stationary rails or tracks.

(Ord. No. 91-10, § 2, 7-23-91; Ord. No. 2023-05, § 1, 3-28-23)

**Cross reference**— Definitions and rules of construction generally, § 10.02.

Sec. 51.33. - Stopping, standing or parking prohibited in certain places.

Within the unincorporated area of the county, and within the corporate limits of the City of Hawthorne, except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a law enforcement officer or official traffic control device, no person shall:

- (1) Stop, stand, or park a vehicle:
  - a. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
  - b. On a sidewalk, bike path, or bike lane.
  - c. Within an intersection.
  - d. On a crosswalk.
  - e. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the Alachua County Public Works Department indicates a different length by signs or markings.
  - f. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic.
  - g. Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
  - h. On any railroad tracks.
  - i. At any place where official signs or yellow curb markings prohibit stopping, standing, or parking.
  - j. Alongside or adjacent to any curb painted yellow.
  - k. On a public right-of-way or private lawn without the permission of the owner.
  - l. Within the area between the street curb and sidewalk or designated sidewalk area.
  - m. In such a manner as to block a traffic lane, or interfere with the orderly flow of traffic or so as to constitute a hazard to passage of emergency vehicles.
- (2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge passengers:
  - a. In front of or within five feet of a public or private driveway.
  - b. Within 15 feet of a fire hydrant.
  - c. Within 20 feet of a crosswalk at an intersection.
  - d. Within 30 feet upon the approach to any flashing signal, stop sign, or official traffic control signal located at the side of a roadway.
  - e. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance (when properly sign-posted).
  - f. At any place where official signs prohibit standing.
- (3) Park a vehicle, whether occupied or not, except temporarily for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers:
  - a. Within 50 feet of the nearest rail of a railroad crossing.
  - b. At any place where official signs prohibit parking.

- (4) No person shall move a vehicle that is not lawfully under his or her control into any prohibited area as listed above or more than 12 inches away from a curb.

(Ord. No. 91-10, § 3, 7-23-91; Ord. No. 94-31, § 1, 10-25-94)

Sec. 51.34. - Parking in fire lanes.

Within the unincorporated area of the county, and within the corporate limits of the City of Hawthorne, no person shall stop, stand, or park a vehicle on or otherwise obstruct a fire lane, except for an emergency vehicle. The requirements for fire lanes are set forth in chapter 362 of the Alachua County Code.

(Ord. No. 91-10, § 4, 7-23-91; Ord. No. 94-31, § 2, 10-25-94)

**Cross reference**— Fire prevention and protection, ch. 362.

Sec. 51.35. - Parking in spaces designated for disabled individuals.

- (a) Within the unincorporated area of the county, and within the corporate limits of the City of Hawthorne, it shall be unlawful for any person to stop, stand, or park a vehicle within any specially designed and marked handicap parking space provided for disabled individuals in accordance with F.S. § 316.1955 or 316.1956, whether located on private or public property, unless such vehicle displays a parking permit issued pursuant to F.S. § 316.1958 or 320.0848, or a license plate issued pursuant to F.S. § 320.084, 320.0842, 320.0843, or 320.0845, and such vehicle is transporting a person eligible for the parking permit or license plate. However, any person who is chauffeuring a disabled person shall be allowed, without need for an identification parking permit or special license plate, to momentarily park in any such parking space for the purpose of loading or unloading such disabled person.
- (b) All fine money collected by the county for violations of this section shall be deposited in a separate county fund to be used in the following manner:
- (1) One-third to be used to defray expenses for the administration of the provisions of this section, with the first \$10.00 collected for each violation under this section to be deemed court costs collectable by the clerk.
  - (2) Two-thirds to be used to provide funds to improve accessibility and equal opportunity to qualified, physically disabled persons in the county and to provide funds to conduct public awareness programs in the county concerning physically disabled persons.

(Ord. No. 91-10, § 5, 7-23-91; Ord. No. 94-31, § 3, 10-25-94)

Sec. 51.36. - Parking on property owned or leased by county.

- (a) *Findings of fact.*

(1)

The board of county commissioners finds that it is authorized by F.S. § 316.006(3) to regulate parking of vehicles on property owned or leased by the county whether or not such areas are located within the boundaries of chartered municipalities, and may regulate the parking of vehicles by the adoption of resolutions and the erecting of signs.

- (2) The board of county commissioners finds that, in order to accommodate the needs of the public and preserve and protect county property, it is necessary to regulate vehicles in and upon county property, including the removal of vehicles when found to be in violation of posted parking regulations.
- (b) *Existing regulations and signs continued.* Each and every official traffic control device, sign, or marking erected or painted on any surface or object under the authority of the board of county commissioners, which official traffic control device, sign, or marking has been erected to regulate, limit, prohibit, or set aside any property owned or leased by the county for the purpose of vehicular parking, shall remain in full force and effect and shall not be affected by the provisions of this section until or unless such regulation, prohibition, or limitation of vehicular parking is changed on such property that is owned or leased by the county under the provisions of this section. All such existing regulations, prohibitions, and limitations shall be enforced as provided in this section.
- (c) *Erecting of signs authorized.* Whenever the county determines, upon investigation and study, that it is necessary to erect signs and post any county property to regulate, restrict, limit, or prohibit parking of vehicles on county property, the board of county commissioners may determine and declare by resolution such to be necessary and order the erecting of signs and posting as may be required to regulate parking on any county property. Signs shall conform to the manual and specifications of the Manual for Uniform Traffic Control Devices.
- (d) *Area affected.* This section shall be effective upon property owned or leased by the county, whether or not such areas are located within the boundaries of chartered municipalities, where appropriate signs are erected or posted by the county pursuant to this section.
- (e) *Violations.* The parking areas so regulated, assigned, or limited in use shall be clearly posted sufficient to give notice of the prohibition, lawful use or limited use thereof, including employee parking, and no person shall park a vehicle in violation of or contrary to the instructions on such signs or posting. Any person violating this section and issued a notice of violation as provided herein shall be deemed charged with a parking violation and shall comply with the instruction on the notice.

(Ord. No. 91-10, § 6, 7-23-91)

Sec. 51.37. - Schedule of administrative fines.

The board of county commissioners shall adopt, by resolution, a schedule of administrative fines for parking violations pursuant to this division. In any case in which the court finds that a person has committed a violation of this division by illegally parking in a space provided for a disabled person, the court may assess the maximum fine for such violation as shall be set forth in the resolution.

(Ord. No. 91-10, § 7, 7-23-91)

Sec. 51.38. - Owner's liability for illegal parking; notice of violation; payment of fine.

- (a) Any and all violations of this division relating to the parking of vehicles are hereby declared to be a public nuisance and trespass.
- (b) In any prosecution involving a violation of any of the parking regulations specified in this division, the registered owner of a motor vehicle, when the vehicle is parked or left standing in violation of these regulations, is hereby declared to be directly responsible to the county for the payment of the fine for the vehicle being so parked or left standing. The term "registered owner" is the person or entity who is lawfully registered with the Florida Department of Highway Safety and Motor Vehicles as provided by state law on the day the violation occurs.
- (c) When any law enforcement officer or traffic infraction enforcement person finds a vehicle parked in violation of any of the parking regulations specified in this division:
  - (1) The officer or traffic infraction enforcement person shall issue a notice of violation to the vehicle and shall place the notice in a conspicuous place on the vehicle. The notification form shall contain language informing the registered owner of the vehicle of which section of this division has been violated; of the procedures available to the registered owner under this division; of the amount of the administrative fine; and of the potential civil penalty provided in F.S. § 316.1967 for such nonmoving, noncriminal violation.
  - (2) The administrative fine shall be due and payable within 72 hours of the date of citation. If payment of the fine is received within ten days of the date of the citation, no additional delinquency fee shall be assessed. For purposes of this subsection, time computations of hours and days shall not include weekends and legal holidays as defined in Florida Statutes.
  - (3) If payment of the fine is not made as specified in subsection (c)(2) above, the sheriff's office shall mail a copy of the notice of violation, together with the information specified in subsection (c)(1) above, to the registered owner of the vehicle, informing the owner that a delinquency fee of \$10.00 has been assessed for the violation. The registered owner is directed to pay the administrative fine and the delinquency fee within ten days. Any person who fails to respond to the original parking violation notice within the time period specified

shall be deemed to have waived the right to contest the merits of such parking violation. The sheriff, or his designee, may waive the specified administrative fine, after receipt of an affidavit of explanation, under the following circumstances:

- a. Police vehicles on emergency police business;
  - b. Law enforcement personnel on emergency duty;
  - c. Valid and verifiable emergencies;
  - d. Situations similar to those enumerated above, including human errors on the part of the issuance of the citation when an affidavit of explanation is filed, and the sheriff, or his designee, determines that no traffic infraction proceeding should issue.
- (4) If the specified administrative fine and the delinquency fee is not paid within ten calendar days after the date said notice is mailed, the sheriff's office shall mail a second notice of violation to the registered owner with an additional delinquency fee of \$10.00 assessed to the fees described in subsection (c)(2) above. If the total administrative and delinquent fees are not paid within ten calendar days, the entire administrative fine and delinquent fees owed, including any and all collection costs, will be referred for collection to a collection agency designated by the board of county commissioners.
- (d) At any hearing of the case involving illegal parking in which the owner of the motor vehicle is being tried under this division, it shall be sufficient evidence on which the court may rely to establish the name of the registered owner of such vehicle if a law enforcement officer or traffic infraction enforcement person shall state on oath that he or she has made inquiry of the Florida Department of Highway Safety and Motor Vehicles and has been advised by it of the identity of the registered owner. However, if the person on trial denies that he or she is the registered owner, and such fact cannot be otherwise established, the court may defer the final determination of the case until a certified record or appropriate certificate can be obtained from the office of the Florida Department of Highway Safety and Motor Vehicles showing the record in this office on the date in question.
- (e) At any hearing of a case involving illegal parking in which the owner of a motor vehicle is being tried under this division, the judge may, in his or her discretion, allow any person, whether the registered owner or not, to testify or otherwise give evidence if the person admits under oath or affirmation to have parked the vehicle at the time and place of the alleged offense.
- (f) Any person cited for a violation of this section or of the sections specified in this division shall be deemed to be charged with a nonmoving, noncriminal violation.
- (g) The first \$10.00 collected for each violation shall be deemed court costs collectable by the clerk.

(Ord. No. 91-10, § 8, 7-23-91)

Sec. 51.39. - Impoundment or immobilization of vehicles—authorized; payment of fees and charges.

(a) *Removal of illegally parked vehicles.*

- (1) When any vehicle is parked or left standing in violation of this division on any county or publicly owned property, including county streets, highways, roads, rights-of-way, parks, alleys, parking lots, or any other premises of the county, any law enforcement officer is authorized to cause such vehicle or vessel to be towed or removed from such property and to store and possess such vehicle in conformity with this section.
- (2) The owner or lessee of real property, or any person authorized by the owner or lessee, or any law enforcement officer after receiving a complaint from the owner or lawful possessor of the real property, is authorized to cause any vehicle or vessel parked on such property without her or his permission to be towed or removed from the private property by a towing business, as provided in F.S. 715.07.

(b) *Immobilization of vehicles with three or more outstanding parking violations.*

- (1) Any law enforcement officer who comes into contact with an unoccupied parked vehicle, either on a public street or off-street parking facility, which he or she reasonably believes to be a vehicle for which there are three or more unpaid, recorded parking violations, is authorized to immobilize the vehicle in the manner prescribed in subsection (b)(2).
- (2) Immobilization of vehicles pursuant to subsection (b)(1) shall be accomplished by means of a Denver boot or other nondestructive device which prevents the vehicle from moving under its own power.

(c) *Impoundment of vehicles with five or more outstanding parking violations.*

- (1) Any law enforcement officer who comes into contact with an unoccupied, parked vehicle, either on a public street or off-street parking facility, which he or she reasonably believes to be a vehicle for which there are five or more unpaid, recorded parking violations, is authorized to impound the vehicle in the manner prescribed in subsection (c)(2).
- (2) Impoundment of vehicles pursuant to subsection (c)(1) shall be accomplished by means of removal of the vehicle to the nearest facility or other place of safety, or to a facility designated or maintained by the county.

(d)

*Owner's responsibility for payment of fees and charges.* The cost of towing, booting, or removing a vehicle impounded or immobilized under this section, and the cost of storing the same or removing the immobilization device, shall be chargeable against the owner and shall be a lien upon the vehicle. The owner of the vehicle shall pay these charges and any outstanding administrative delinquency or collection fees owed, which shall include any applicable charges for certified mail and/or service of process, before the vehicle will be released. Any entity or person engaged in the business of towing and storage services shall not charge the owner in excess of the rates, fees and charges set by this chapter, including any of those that may be set by the Board by way of a resolution.

(Ord. No. 91-10, § 9, 7-23-91; Ord. No. 2023-05, § 2, 3-28-23)

Sec. 51.395. - Maximum rates for non-consent towing and storage.

(a) The following maximum rates, applicable until the same are changed by resolution of the board, are to be charged for nonconsensual towing on property when the point of origin of the tow is within the unincorporated area of the county, and shall be assessed by vehicle type as follows. For purposes of this section, nonconsensual towing is the towing or immobilization of a vehicle or vessels on property without the consent of the vehicle owner or operator when such vehicle or vessel is parked or left on private property without authorization of the property owner, or is wrecked or disabled at an accident scene, or the owner or operator is incapacitated, unavailable, or leaves the arrangement for removal and storage to the law enforcement officer on scene, or otherwise does not consent to the removal of the vehicle or vessel.

(1) Class A vehicles (gross vehicle weight through 10,000 pounds or vehicle carrying a vessel 15 feet or less in height): .....

- a. Rotation tow base rate .....\$150.00
- b. Private property/trespass tow base rate .....\$160.00
- c. Mileage rate in addition to base rate, per mile, charge upon hook-up .....\$6.00
- d. Hourly rate, when unusual circumstances such as overturned or unusually positioned vehicle requiring a special apparatus for removal, per hour .....\$125.00
- e. Storage fee (inside), per day .....\$40.00
- f. Storage fee (outside), per day .....\$30.00

(2) Class B vehicles (gross vehicle weight 10,001 pounds or more, but less than 19,500 pounds or vehicle carrying a vessel more than 15 feet, but less than 22 feet in length): .....

- a. Base rate .....\$250.00
- b. Mileage rate in addition to base rate, per mile, charge upon hook-up .....\$7.00
- c. Hourly rate, port to port, when unusual circumstances such as overturned or unusually positioned vehicle requiring a special apparatus for removal, per hour .....\$250.00

- d. Storage fee (outside or inside), per day .....\$50.00
- (3) Class C vehicles (gross vehicle weight 19,500 or more pounds, but less than 25,000 pounds or vehicle carrying a vessel more than 22 feet in length): .....
  - a. Base rate .....\$650.00
  - b. Hourly rate, port to port, when unusual circumstances such as overturned or unusually positioned vehicle requiring a special apparatus for removal, per hour .....\$650.00
  - c. Storage fee (outside or inside), per day and per VIN number .....\$110.00
- (4) Class D vehicles (gross weight more than 25,000 pounds): .....
  - a. Base rate .....\$500.00
  - b. Hourly rate, port to port, when unusual circumstances such as overturned or unusually positioned vehicle a requiring special apparatus for removal, per hour .....\$500.00
  - c. Storage Fee (outside or inside), per day .....\$75.00
- (5) Rotator/50 Ton: Base rate .....\$1,237.86;  
Hourly rate, per hour .....\$1,237.86
- (c) Storage fees as set forth above may only be assessed after the initial six-hour period, beginning with the time the vehicle is delivered to the storage facility. Storage is based on a 24-hour day, each day starting at 12:01 a.m. After the initial six-hour period, the daily rate will apply and any fraction of a day will count as a full day. ....
- (d) An administrative fee in the amount of \$75.00 may be charged after the first 48 hours of storage as long there is compliance with the requirements of F.S. § 713.78, as amended, plus the cost of lien notices, mailings and processing. An additional daily storage rate, as set forth above, may be charged for any vessel, trailer, or mobile item, whether motorized or not, which is mounted on wheels and attached to a towed vehicle. ....
- (e) The following maximum rates for the rendition of other wrecker services apply when the service is performed within an unincorporated area of the county: .....
  - (1) Removal of drive shaft .....Hourly rate as set forth above on class C.
  - (2) Air hook-up .....Hourly rate as set forth above.
  - (3) Removal/pull axle .....Hourly rate as set forth above.
  - (4) Remove bumper .....Hourly rate as set forth above.
  - (5) Remove air foils .....Hourly rate as set forth above.
  - (6) Landoll trailer, semi, roll-back or drop back trailer or truck .....Hourly rate as set forth above.
  - (7) Air bags .....\$1,000.00 per hour, not to exceed \$10,000.00.
  - (8) Crash wrap/tarpaulin coverage .....\$75.00 per window.
  - (9)

A re-hook fee in the amount base rate for the class as set forth above may be charged in the event a re-hook is requested by law enforcement or, in the event of surrender of a vehicle or vessel to the owner or owner's representative, if the towing company must use an apparatus or equipment. This re-hook fee will not be charged if the vehicle can be driven or delivered under vehicle's own power. ....

(10) An access fee, gate fee, or yard fee in the amount of \$100.00 per vehicle may be charged for requests made by a vehicle's owner or the owner's legal representative to have access to the vehicle, other than during normal business hours, for the purposes of removing necessary personal property. ....

(11) The following fees may be charged for extra labor or manpower, per person: if on scene: \$125.00/hour or if in the yard \$50.00/hour. ....

(12) Disposal Fee for hazardous waste, debris, and oil dry .....Prevailing rate.

(13) Any other rates not addressed herein may be modified or added from time to time by a resolution adopted by the board of county commissioners. ....

(g) *Enforcement and Jurisdiction.* It shall be unlawful and a violation of this ordinance for any operator, individual, company, or entity to impose rates, fees or charges in excess of the maximum allowable rates established under this chapter. Law enforcement officers and code enforcement officers may issue citations for violations of any section of this division. The provision and fees set forth in Section 51.47 are not applicable in the limits of a municipality, if such municipality has chosen or later chooses to enact its own ordinance establishing the maximum rates for the towing or immobilization of vehicles or vessels. ....

(Ord. No. 2023-05, § 2, 3-28-23)

Sec. 51.40. - Same—Notice.

A law enforcement officer shall issue a notice to the registered owner of a vehicle being immobilized or impounded under this division consistent with the following: The notice shall state that the vehicle is being immobilized or impounded and removed, that immobilization charges or towing and storage charges will be assessed against the vehicle, that the owner may have the immobilization device removed or claim and regain possession of the vehicle at the location to which it is being removed for storage, and that the owner may request a hearing as to the propriety of the immobilization or impoundment and as to the amount of the owner's liability for immobilization charges or towing and storage charges. The notice shall state the location where the impounded vehicle will be stored and the place where the owner may make a request for a hearing. The notice shall also state, in prominent language, that failure by the owner to request a hearing within five days after receipt of the notice may act as a waiver of the owner's right to a hearing and that such may result in the placing of a lien against the vehicle for immobilization charges or towing and storage charges without further notice to the owner. The owner of the immobilized or impounded vehicle shall sign the notice as an acknowledgment that he or she has received a copy of such notice.

- (1) *When owner present.* When a law enforcement officer intends to immobilize or impound and remove a motor vehicle pursuant to this division and the owner of the vehicle is then present, the law enforcement officer shall, before the vehicle is immobilized or removed, provide the owner with a notice in the form prescribed herein.
- (2) *When owner not present.* When a law enforcement officer immobilizes or impounds a vehicle pursuant to this division and the owner of the vehicle is not present at the time of the immobilization or impoundment, the law enforcement officer shall:
  - a. If the owner resides in the county as appears from the motor vehicle registration, promptly serve upon the owner of the immobilized or impounded vehicle, at the address on the motor vehicle registration, a notice in the form prescribed herein.
  - b. If the owner does not reside in the county as appears from the vehicle registration, the sheriff's office shall, within 24 hours after immobilization or impoundment, mail by certified mail to the addressee only, return receipt requested, at the address on the vehicle registration, a notice in the form prescribed by this section, containing the same information as required by this section. If the notice is mailed to the owner, only the owner's copy shall be mailed; the owner's signature on the return receipt shall constitute an acknowledgment of receipt of a copy of the notice and the return receipt shall be firmly attached to the original notice.
- (3) *Unknown address.* If the owner cannot be found at the address on the vehicle registration and there is no other known address of the owner, such owner shall be deemed to be a resident of the state whose whereabouts are unknown and service shall be made on the secretary of state as provided in F.S. § 48.171. If the owner does not reside in the county as appears from the vehicle registration, the owner shall be deemed to be either a resident of the state whose whereabouts are unknown or a nonresident of the state and service shall be made on the secretary of state as provided in F.S. § 48.171.
- (4) *Failure or refusal to sign notice.* If any person required by this section to sign a notice of immobilization or impoundment willfully fails or refuses to do so, the sheriff's office shall note this failure or refusal on the face of the notice, which shall constitute prima facie evidence of delivery or service of notice upon such person.

(Ord. No. 91-10, § 10, 7-23-91)

Sec. 51.41. - Same—Release of vehicle.

- (a) The owner or authorized agent of an owner of a vehicle which has been immobilized or impounded may secure the release of the vehicle from immobilization or impoundment upon requesting such release and presenting sufficient proof of ownership and, in the case of an agent, providing proof of agency, and by making payment of immobilization charges or towing and storage charges and any outstanding administrative delinquency or collection fees owed. Before

such vehicle is released to the owner or authorized agent of the owner, it must be clearly established that the owner has been provided with the notice as set forth in section 51.40. At the same time as the owner or the authorized agent of the owner requests release of the immobilized or impounded vehicle, and if such request is made within 30 days after the owner receives a copy of the notice of immobilization or impoundment, the sheriff's office shall provide the owner with an opportunity to request a hearing on the propriety of the immobilization or impoundment and the amount of the owner's liability for immobilization or towing and storage charges due. However, if the owner or the owner's authorized agent requests release of the immobilized or impounded vehicle more than 30 days after the owner has received a copy of the notice of immobilization or impoundment, no hearing may be requested on the immobilization or impoundment or charges for immobilization or towing and storage and the owner or the owner's authorized agent shall be conclusively presumed to have consented to the immobilization or impoundment and to the payment of the charges due for immobilization or towing and storage.

- (b) If the ownership of the immobilized or impounded vehicle is evidenced by a title certificate issued by the Florida Department of Highway Safety and Motor Vehicles, the sheriff's office shall give due notice to the holder of such title certificate by certified mail, return receipt requested, as soon as such vehicle has been immobilized or impounded. The notice to be given the holder of a title certificate shall be identical to and be a copy of the notice given to the owner of such vehicle. Should the owner of such vehicle fail, at the expiration of 30 days, to obtain the release of the vehicle, then the holder of such title certificate may, upon payment of all immobilization or storage and towing charges, and any outstanding administrative delinquency or collection fees owed, obtain the release of the vehicle.

(Ord. No. 91-10, § 11, 7-23-91)

Sec. 51.42. - Same—Right to hearing.

If the owner of an immobilized or impounded vehicle, or the owner's authorized agent, requests the release of the vehicle from immobilization or impoundment and also timely requests a hearing on the immobilization and charges or impoundment and charges, as provided in this division, the board of county commissioners' designee shall set a date for the hearing. The board of county commissioners shall designate an individual as a hearing examiner to conduct the hearing as required by this section. At such hearing, the owner, or the owner's authorized agent, or the owner's attorney, shall be given the opportunity to present, by oral testimony or documentary evidence, the owner's objections to the immobilization or impoundment of the vehicle and the amount of the immobilization or towing and storage charges and the owner's liability for payment thereof. If the owner, or the owner's authorized agent, has requested a hearing more than five days, but not more than 30 days, after receipt of a copy of the notice of immobilization or impoundment, the owner, the owner's agent or attorney shall be required to show good cause for the delay in making such request. If good cause for the delay in requesting a hearing cannot be shown, the hearing

examiner shall dismiss the hearing and make the finding that the immobilization or impoundment was proper and the owner is responsible for the payment of immobilization or towing and storage charges. If the hearing examiner determines that there is good and sufficient cause for the delay, he or she shall proceed to hear the owner's objections and shall render his or her decision.

(Ord. No. 91-10, § 12, 7-23-91)

Sec. 51.43. - Same—Findings by hearing examiner.

The hearing examiner may find that the owner was not liable for any towing or storage charges as a result of the impoundment, or for any immobilization charges; he or she may determine whether and to what extent the county shall bear the expense of the immobilization or towing and storage charges; or, if the hearing examiner finds that the impoundment was proper, he or she shall establish the amount of the immobilization or towing and storage charges to be assessed against the immobilized or impounded vehicle. The amount of such charges and any outstanding administrative delinquency or collection fees shall constitute a lien on such vehicle. A copy of the hearing examiner's decision shall be furnished to the owner, or the owner's agent or attorney, and also to the holder of the title certificate of such vehicle. The decision of the hearing examiner shall be final.

(Ord. No. 91-10, § 13, 7-23-91)

Sec. 51.44. - Same—Satisfaction of lien; notice of public sale.

The holder of a lien against an immobilized or impounded vehicle, which lien has not been discharged or paid, may enforce such lien in any manner provided by law. Notice of any sale of the vehicle to satisfy such lien shall be given in writing to the owner or any other lien holder, if known, by certified mail, return receipt requested. Such certified letter shall contain the date, time, and place of such sale; the sale shall be in the name of and on behalf of the county.

(Ord. No. 91-10, § 14, 7-23-91)

Sec. 51.45. - Same—Disposition of proceeds derived from sale.

The proceeds of a public sale held pursuant to this division, whether such sale was conducted by the county or by any other person, after payment of the necessary immobilization or impoundment charges, any administrative delinquency or collection fees, and any other expenses incident to such sale, shall be deposited with the clerk of the board of county commissioners if the owner of the vehicle is absent from the sale and shall be credited to a trust account. The funds deposited in the trust account shall remain in such account subject to the order of the person legally entitled thereto or, if no claim is made for such funds

within a period of one year from the date of such sale, the funds shall become the property of the county and shall be released from the trust account and be paid into the general fund of the county as miscellaneous revenue.

(Ord. No. 91-10, § 15, 7-23-91)

Sec. 51.46. - Notice to department of highway safety and motor vehicles of outstanding parking citations.

The Clerk of the Court of Alachua County, pursuant to F.S. § 316.1967(6), is authorized to supply the Florida Department of Highway Safety and Motor Vehicles with a magnetically encoded tape reel or cartridge which is machine-readable by the installed computer system at the Florida Department of Highway Safety and Motor Vehicles, listing persons who have three or more outstanding parking violations pursuant to this division.

(Ord. No. 91-10, § 16, 7-23-91)