

**AN ORDINANCE OF THE
COUNCIL OF THE CITY OF
KNOXVILLE TO AMEND
CHAPTER 17, ARTICLE VI OF THE
KNOXVILLE CITY CODE, SO AS
TO REGULATE THE BOOTING OF
VEHICLES PARKED WITHIN THE
CITY LIMITS OF KNOXVILLE.**

WHEREAS, the City of Knoxville, through the Knoxville Wrecker Service Commission (hereafter referred to as the “Commission”), has held numerous meetings involving the public over the past several years in order to hear complaints from citizens regarding the use of wheel immobilizers or “boots” on vehicles within the City of Knoxville; and

WHEREAS, the Commission recently conducted a series of meetings to discuss the establishment of an ordinance to regulate wheel immobilization practices, also known as “booting” and on February 28, 2008, voted unanimously to recommend to City Council that the City set a maximum price for booting as well as a requirement that private parking lot owners post signage if they choose to have vehicles booted in their lots; and

WHEREAS, on April 10, 2008, the Governor of the State of Tennessee signed a bill into law providing that all municipalities within the State of Tennessee have the right to regulate wheel immobilization devices; and

WHEREAS, the Council of the City of Knoxville has determined that it is in the public interest, safety, and welfare of the City of Knoxville to amend Chapter 17, Article VI of the Code to regulate these wheel immobilization devices within the city limits of Knoxville.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF
THE CITY OF KNOXVILLE:**

SECTION 1: Chapter 17, of the Code of Ordinances is hereby amended by adding the following language as a new Article XI, Division 1, Sections 17-513 through 17-520:

Article XI. Miscellaneous Provisions

Division 1. Wheel Immobilization Devices

Sec. 17-513. Definitions.

The following words and phrases, when used in this Division, shall, for the purposes of this Division, have the meanings respectively ascribed to them in this section, except when the context otherwise requires. Whenever any words and phrases used in this Division are not defined in this section but are defined in the state laws regulating vehicle immobilization devices, any such definition in the state laws regulating vehicle immobilization devices shall be deemed to apply to such words and phrases used in this Division, except when the context otherwise requires.

Boot shall mean any wheel immobilization device that is attached to a vehicle that prevents the vehicle from being driven.

Private Parking Lot shall mean an off-street parking facility provided for the use of occupants, employees, visitors, patients, patrons, or students, with or without charge for its use, and designed to be usable for the parking of more than six (6) automobiles.

Vehicle shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, whether or not operational.

Vehicle immobilization shall mean the impounding, incapacitating or immobilizing of any vehicle, whether motorized or not, without the permission of the owner or agent of the owner of the vehicle by the use of any device, wheel clamp, object barrel, boot, mechanism or method, either attached to the vehicle or not, by the owner or agent of the property upon which the vehicle is parked, that does not allow the owner of the vehicle, or his or her authorized agent, to freely move the vehicle from the place where it is immobilized.

Sec. 17-514. Immobilizing vehicles on a private lot.

No one shall engage in vehicle immobilization within the city limits without complying with the provisions of this division. However, this division does not apply to any company that is acting on behalf of a governmental agency.

Sec. 17-515 License required to operate a vehicle immobilization service; term of license; fee required.

No one shall engage in vehicle immobilization within the city limits of Knoxville without first obtaining a license from the Knoxville Police Department. The license shall be for the business or individual that requests said license. The license allows the licensee and all of its employees to engage in the business of vehicle immobilization. The Chief of the Knoxville Police Department, or his designee, shall, within fifteen (15) days of date the application is filed, approve or deny the license based on findings concerning the applicant's compliance with the qualifications and conditions of this Article. If the application is denied, the applicant shall have the right to appeal the denial to the wrecker commission pursuant to section 17-521.

- (a) Applications to obtain a license shall be completed and submitted to the Knoxville Police Department with a non-refundable administration fee of twenty-five dollars (\$25.00).
- (b) Fully completed applications shall be accompanied by photo identification cards for each agent (agent identification cards) of the licensee that will be performing immobilization of vehicles or releasing immobilized vehicles. The agent identification cards will be prepared by the licensee.
- (c) Each agent identification card, shall be carried and visibly displayed by the licensee and their employees or agents when engaged in vehicle immobilization at a private parking lot and shall be presented by the licensee,

employee, or agent upon contact with any person. The identification card may not be covered or obscured by any article of clothing.

- (d) Each license issued under this division shall be valid for a period of one (1) calendar year, expiring on December 31st of each year. Licenses may be renewed each year, for an annual fee of twenty-five dollars (\$25.00) so long as the licensee meets all the requirements of this division.
- (e) Licenses issued pursuant to this division are not transferable or assignable.
- (f) The fee for the issuance of a lost, destroyed or mutilated license shall be ten dollars (\$10.00).

Sec. 17-516 Insurance required; amount.

An insurance policy of no less than twenty-five thousand dollars (\$25,000.00) liability coverage, from an insurer authorized to do business in the State of Tennessee, is required.

Sec. 17-517. Immobilizing vehicles on private parking lots; signs required.

- (a) No one shall immobilize a vehicle, of any size or weight, parked in a private parking lot unless there is a sign conspicuously posted and clearly visible at each vehicle entrance to the property, and on or next to any paybox, if applicable. All signs shall be at least 24" x 24" in size and posted so that the bottom of the sign is at least thirty-six (36) inches, but no more than seventy-two (72) inches off the ground. Each sign shall have a white reflective background with red lettering.
- (b) Each sign must provide, at minimum, the following information:
 - 1. In two-inch lettering:
 - i. Property is a Private Lot
 - ii. Vehicles Not Authorized to Park Will Be Booted At Owner's Expense
 - 2. In one-inch lettering:
 - i. Name and telephone number of person or company authorized to remove vehicle immobilization device
 - ii. Boot may be removed at any time, day or night, upon payment not to exceed \$75.00.

Sec. 17-518. Notice of Vehicle Immobilization Device; Conditions.

(a) Notice. Immediately upon attaching a boot to the vehicle, the vehicle immobilization service shall affix a written notice to the driver's side window containing the following:

1. a warning that any attempt to move the vehicle may result in damage to the vehicle;
2. the name and telephone number of the licensee responsible for removing the device;
3. the maximum fee, established by Code Section 17-519, required to remove the vehicle immobilization device;
4. the time and reason the vehicle was immobilized;
5. Any complaints regarding excessive charges should be reported to the Knoxville Police Department Inspections Unit.

(b) Other Conditions. Each licensee or employee or agent of the licensee under this division shall observe the following:

1. All vehicle immobilization devices used within the City shall be in safe and proper working condition.
2. The boot shall be placed on the driver's side of the vehicle, unless it is not reasonably possible to place the boot on the driver's side in which case the boot may be placed on the passenger side of the vehicle.
3. Signs identifying the licensee's name and phone number shall be affixed to both sides of any vehicle used by a licensee or his agent to perform booting services.
4. All licensees shall have twenty-four (24) hour service and access. Licensees shall respond to all calls for release of a vehicle within one hour of a request for response.
5. Charges for damages to booting equipment shall not be governed by this division and shall not prevent the vehicle's release if the removal fee is paid, which is specified in section 17-519.

Sec. 17-519. Fee charged for removing vehicle immobilization device.

(a) The fee for any and all charges to remove a vehicle immobilization device shall not exceed \$ 75.00. The booting service shall accept Visa, Discover, or Master Card in addition to cash. There shall be no additional fee charged for the use of credit cards. The licensee shall provide a receipt upon request of the individual making payment for the removal of the immobilization device, once payment is made.

- (b) It is unlawful for any person or entity or licensee, unless it is acting on behalf of a governmental agency, to place an immobilization device on a motor vehicle parked on the public right-of-way.

Sec. 17-520. Emergency Vehicles.

Emergency vehicles used in police, fire or medical emergencies shall not be immobilized for any reason. Upon proof that an unmarked vehicle is used for the same purpose, the vehicle immobilization device shall be removed immediately at no charge.

Sec. 17-521. Penalty for violation of Division; appeals.

Any violation of the terms of this Division, except as otherwise provided in this Article, shall be punishable as provided in Section 1-9. Failure to comply with any provisions of this division may be cause for denial of a license, a warning, a suspension of the license or revocation of the license.

- (a) *Investigation and notice of violation.* Any violations of this Division may result in an investigation of the violation, and if appropriate, the Inspections Unit will report the violation to the Wrecker Service Commission if further action is appropriate. A notice of the violation and the time and date of a hearing will be provided to the licensee if the violation warrants a review by the commission.
- (b) *Hearing.* If a violation warrants a hearing, the licensee will be provided an opportunity to respond to the alleged violation. At the conclusion of the hearing, the wrecker commission, by majority vote, shall determine whether a violation of this Division has occurred and the appropriate disposition thereof. In the case of an applicant appealing the denial of a license, the wrecker commission shall make a determination as to whether the denial of the license was appropriate under the circumstances.

Sec. 17-522. Severability.

If any provision of this Division is determined to be unenforceable or invalid, such determination will not affect the validity of the other provisions contained in this Division. Failure to enforce any provision of this Division does not affect the rights of the parties to enforce such provision in another circumstance, nor does it affect the rights of the parties to enforce any other provision of this Division at any time.

SECTION 2: If any section or sections of this Ordinance are held invalid, such invalidity shall not affect other provisions or sections of this Ordinance.

SECTION 3: This ordinance takes effect from and after its passage, the welfare of the City requiring it.

Presiding Officer of the Council

City Recorder