

ORDINANCE NO. BL2009-525

An ordinance amending Title 6 of the Metropolitan Code to regulate the "booting" of vehicles within the area of the Metropolitan Government.

BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Section 6.80.450 of the Metropolitan Code is hereby amended by deleting subsection J. in its entirety.

Section 2. That Title 6 of the Metropolitan Code is hereby amended by adding the following new Chapter 6.81:

**Chapter 6.81 BOOTING SERVICES**

**Article I. Definitions**

**6.81.010 Definitions.**

For the purpose of this chapter, the words and phrases used in this chapter shall have the following meanings, unless otherwise clearly indicated by the context:

"Attended commercial parking lot" means a lot or garage used for the temporary storage of passenger cars or trucks either for a fee or for use by customers of the business(es) served by the lot, and that is staffed by an attendant at all times vehicles are parked.

"Booting" means the attachment of any device to a vehicle that prevents the vehicle from being driven.

"Booting license" means a license issued by the transportation licensing commission authorizing the holder thereof to engage in the business of booting within the area of the metropolitan government."

"Booting service" means a person, business, or firm engaged in the practice of booting for a fee or other compensation within the area of the metropolitan government, provided that the vehicle's owner/lien holder, a metropolitan police officer in the performance of his/her official duty, or a parking patrol officer for a college or university engaging in the practice of booting shall not be considered a booting service.

"Unattended commercial parking lot" means a lot or garage used for the temporary storage of passenger cars or trucks either for a fee or for use by customers of the business(es) served by the lot, and that is not staffed by an attendant.

## **Article II. License for Operation**

### **6.81.010 License required to provide booting service.**

No person shall engage in the business of providing booting services within the area of the metropolitan government without first obtaining and keeping in force a license from the commission to operate a booting service pursuant to Section 6.81.050.

### **6.81.020 Applications--Conditions.**

A. Any person desiring to engage in the business of providing booting services within the area of the metropolitan government shall make application to the commission, which application shall be upon forms to be adopted and provided by the commission. The completed application must contain all the information required by such form and must be verified under oath.

B. The form to be adopted and provided by the commission shall require such information as the commission determines to be necessary and proper, including, but not limited to, the following:

1. The full name and address of the person, firm or corporation desiring to obtain a license and whether he is the owner, lessee or bailee of the proposed booting operation;
2. The location and description of the place and premises from which the applicant intends to operate a booting service;
3. The names and addresses of at least two references as to the applicant's financial responsibility;
4. That the applicant is of good moral character and is ready, willing and able to comply with all the laws of the metropolitan government, the State of Tennessee, the United States and the rules and regulations of the commission;
5. That the applicant will list with the commission the names, home addresses and ages of all employees to be used or employed by the applicant in the business of providing a booting service, with the exception of part-time or emergency employees whose names will be furnished once a month. The applicant will update the list upon each renewal of his/her license;
6. That the applicant will take out and maintain in full force and effect such policies of insurance as are herein required;
7. The applicant will comply with the mandatory rates and charges as herein provided and as may hereafter be adopted by the commission.

### **6.81.030 Making false statement--Power not to grant application.**

Any person making a false statement in any application required by the commission shall forfeit his/her license or permit and shall not be eligible to receive or hold a license or permit from the commission for a period of ten years. The commission shall have the power to not issue any license or permit when it finds that such issuance would interfere with the public health, safety and welfare of this community.

### **6.81.040 Liability insurance required.**

No license to operate a booting service shall be issued, become effective or continue in force and effect unless there is in full force and effect a liability insurance policy covering the licensee and his/her booting operation with not less than a five hundred thousand dollar single limit, naming the metropolitan government as an additional insured. Such

liability insurance policy shall be with an insurance company authorized to do business in Tennessee and approved by the commission and shall be filed with the secretary of the commission.

**6.81.050 License--Issuance and contents.**

A. If, after the hearing provided for in Section 6.81.190, the commission finds upon examination that the applicant is capable, willing and qualified to provide a booting service and can conform to the laws of the metropolitan government, the State of Tennessee, the United States and the rules and regulations of the commission; then, the commission may grant and issue to such applicant a license to operate a booting service; otherwise, the application shall be denied.

B. Such license shall state the name and address of the licensee, the date of issuance, and such other information as the commission determines to be necessary and proper.

**6.81.060 License--Fees, expiration, transfer and display.**

A. A license issued by the commission to any person permitting such person to operate a booting service shall be issued for a period of one year at a fee of five hundred dollars.

B. A license issued hereunder shall not be sold, assigned, mortgaged or otherwise transferred without commission approval and shall expire immediately upon the licensee terminating the booting service or upon revocation by the commission.

C. A current license issued by the commission shall be prominently and conspicuously displayed at all times upon the premises from which the licensee operates his booting service.

**6.81.070 Payment of fee.**

The licensee shall provide a vehicle owner the option of paying the fee to remove the boot from the vehicle by cash, debit card or major credit card. In addition to the aforesaid payment options, a licensee may accept payment by check. For purposes of this subsection, the term "major credit card" means a Visa, MasterCard, American Express, Discover and Diner's Club card.

**Article II. Employees**

**6.81.080 Permit required for employees – Permit fee – Identification badge.**

A. Each employee of a booting service that engages in the practice of installing and removing booting devices from vehicles shall possess a permit issued by the commission and meet such requirements, qualifications and training as the commission deems necessary for the proper and safe installation and removal of booting devices within the area of the metropolitan government.

B. A permit issued by the commission to an employee of a booting service permitting such person to engage in the practice of booting shall be issued for a period of two years at a fee of one hundred fifty dollars, plus an additional forty dollars for an investigation of the person applying for the permit. The commission shall have the authority to adopt future increases in the fee to pay for the cost of the investigation of the permit applicant, subject to approval of the metropolitan council by resolution.

C. A permit issued hereunder shall not be sold, assigned, mortgaged or otherwise transferred from one person to another and shall expire immediately when the permittee is no longer employed by a booting service or upon revocation by the commission.

D. A current permit issued by the commission shall be carried by the employee at all times he/she is engaged in the act of booting.

E. All persons engaged in the act of booting shall wear an identification badge including the person's first and last name, the name of the company, and the permit number of the employee.

**6.81.090 Licensee responsibilities--Compliance required.**

A. No licensee shall permit any of its employees while engaged in the practice of booting to engage in activities or practices contrary to the public safety or welfare or contrary to the proper discharge of their duties in the course of their employment.

B. Each licensee shall be responsible for its employees complying with the laws of the metropolitan government, the State of Tennessee, the United States and the rules and regulations of the commission which reflect on the fitness of such employees to be employed in the operation of a booting service, and violations by the employees of a licensee shall be cause for revocation, suspension, probation or failure to renew the license of the licensee and the permits of the employees.

**Article III. Equipment and Operation**

**6.81.100 Information required on vehicle.**

Each vehicle operated by a booting company shall bear on each side of the vehicle in painted letters or decals not less than five inches nor more than seven inches in height, the name of the entity operating the booting service.

**6.81.110 Minimum equipment required.**

A. Each vehicle used by a booting company shall be equipped with and have available at all times all of the equipment which the commission may reasonably require by its rules and regulations to ensure the safe operation of the booting service.

B. At the time of application for a license, the commission shall furnish to the applicant in writing a list of such equipment as the commission deems to be the minimum requirements for each vehicle and the licensee shall carry and have available at all times and in good working order in each of his/her vehicles such required equipment until a new list is furnished the licensee by the commission. The commission may furnish such new or revised list of such equipment from time to time as it deems necessary, and each licensee after being furnished same shall comply therewith.

**6.81.120 Operating records.**

Each licensee shall maintain or cause to be maintained such records as the commission may, by rules and regulations, require for the purpose of enforcing the provisions of this chapter and the rules and regulations of the commission.

**6.81.130 Notices at time booting device is installed.**

A. A notice must be affixed using a temporary adhesive to the driver side window of every vehicle for which a booting device is installed.

B. Such notice shall measure not less than five inches in width and seven inches in height, and shall include the following information:

1. A warning not to move the vehicle. Such warning shall expressly state that movement of the vehicle may cause damage to the vehicle.
2. The reason for and time of immobilization.
3. The name of the booting service and a twenty-four hour telephone number at which the booting service can be reached.
4. The fee required for removal of the booting device.
5. A reference to chapter 6.81 of the Metropolitan Code regulating the booting of vehicles.
6. The phone number of the transportation licensing commission.

**6.81.140 Booting fees.**

The maximum fee which may be charged for boot removal shall not exceed fifty dollars.

**6.81.150 Receipts.**

The booting service shall render to the operator or owner of any vehicle for which a boot is removed a receipt for the amount charged, either by a mechanically printed receipt or by a specially prepared receipt on which shall be the name of the licensee, amount of charges and appropriate taxes, date of transaction and the type of vehicle towed. The licensee shall keep a copy of such receipts which shall be made available to the commission or its inspectors at all times.

**6.81.160 Disposition of revenue.**

A. The commission shall remit to the metropolitan treasurer all fees and other revenues derived from the license and permit fees collected under the provisions of this chapter and the metropolitan treasurer shall maintain an account thereof.

B. Such fees shall be remitted as required by the director of finance and the amounts so collected shall be used to defray the expenses of the commission including, but not limited to, the payment of the salaries of the commission's inspectors.

C. Payment therefrom shall be upon requisition or voucher executed by a person or persons authorized by the director of finance.

**6.81.170 Prohibited acts.**

It is declared that the following acts are prohibited and unlawful and the license or permit of any person doing any such acts may be revoked, suspended, placed on probation or not renewed:

A. To tow a booted vehicle from any private property, other than from the property of a commercial establishment, if the boot has been on the vehicle less than twenty-four continuous hours. After twenty-four hours, the vehicle may be towed, but only if properly authorized by the private property owner or lessee, which authority may not be delegated by the property owner or lessee to a third person or entity;

B. To tow a booted vehicle from an attended commercial parking lot if the boot has been on the vehicle less than four continuous hours;

C. To tow a booted vehicle from an unattended commercial parking lot if the boot has been on the vehicle less than six continuous hours;

D. To charge a booting fee after the vehicle has been towed;

E. To refuse to remove a booting device because the device is damaged;

F. To fail to remove the boot within one hour of being contacted by the owner or operator of the vehicle that has been booted.

**6.81.180 Booting regulations applicable to commercial parking lots.**

A. No boot shall be placed on a vehicle parked at a commercial parking lot unless a permanently affixed sign measuring not less than twenty-four inches in height and eighteen inches in width is placed at all points of vehicular ingress to the lot, which sign shall include the following information in red lettering on a white background:

Parking Policy Strictly Enforced

Violators will be Booted or Towed at Owner's Expense

\$50.00 Maximum Booting Fee

[Name and 24-hour phone number of booting and/or towing company]

B. Such signs shall be not less than forty-two and not more than seventy-two inches from the ground.

C. No boot shall be placed on a vehicle parked at an unattended commercial parking lot that charges a fee to park unless the vehicle has a minimum of three unpaid parking violations on the company's lot(s). In such case, the owner of the vehicle shall pay the applicable booting removal fee plus all unpaid parking fines in order to have the boot removed.

**Article IV. Hearings**

**6.81.190 Hearing for applicant for license.**

A. Prior to the issuance of any license provided for in this chapter, the commission shall hold a public hearing for the applicant after giving the applicant at least a fifteen-day notice of the time and place of such hearing.

B. The commission is empowered to make all such rules and regulations which it considers necessary and proper for any hearings provided for by this chapter.

**6.81.200 Hearing before suspension, revocation or probation and after refusal to renew license or permit.**

A. No action to suspend, revoke or place on probation any license or permit provided for in this chapter shall be taken by the commission except in emergency situations until the licensee or permittee has been furnished a written statement of the charges and a notice of the time and place of the hearing to be held thereon. The furnishing of such notice and the reasons for the commission's proposed action shall be given to such licensee or permittee at least fifteen days prior to the date of the hearing. If at such hearing, the commission finds the charges against the licensee or permittee to be true, it may suspend, revoke or place on probation the license or permit previously issued by it.

B. Upon the failure to renew any license or permit, the commission shall so notify the licensee or permittee, giving the licensee or permittee the reasons for its failure to renew the license or permit. The licensee or permittee may by a simple written request addressed to the commission, ask for and request a hearing by the commission as to the reasons for the commission's failure to renew the license or permit. The commission shall then grant the licensee or permittee a hearing and shall fix the time and place for such hearing within thirty days and shall promptly notify the licensee or permittee of the

time and place. It shall be incumbent upon the commission at the hearing to substantiate the reasons for its failure to renew the license or permit.

C. At any hearing provided for in this chapter, the licensee or permittee shall have the right to be represented by an attorney of his/her choice, to present evidence, to have witnesses testify under oath on his behalf, and the strict rules of evidence shall not apply.

Section 3. This Ordinance shall take effect from and after its enactment, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

APPROVED AS TO  
AVAILABILITY OF FUNDS:

  
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Richard M. Riebeling  
Director of Finance

INTRODUCED BY:

  
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Michael Craddock  
Member of Council

