

AN ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA, AS REVISED 1988, CHAPTER 26 PERTAINING TO WRECKERS AND BOOTING, AND FOR OTHER PURPOSES

WHEREAS, the Governing Authority of DeKalb County is authorized to adopt such ordinances or regulations for the governing and policing of the county for the purpose of protecting and preserving the health, safety, and welfare of the citizens of the county; and

WHEREAS, the Governing Authority has determined that these regulations will help regulate businesses operating booting devices in DeKalb County.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING AUTHORITY OF DEKALB COUNTY, GEORGIA, AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF SAME, that Chapter 26 of the Code of DeKalb County, as Revised 1988, is hereby amended to read as follows:

PART I. ENACTMENT

Sec. 26-16 - 26-39. Reserved

* * *

ARTICLE II.

Booting of Automobiles on Private Property Ordinances

Sec. 26-40. Title and Purpose.

This article shall be known as the Booting of Automobiles on Private Property Ordinance. This article shall specifically apply to businesses operating booting or vehicle immobilization devices on private property, as defined herein. It shall be unlawful for any person, business, principal, agent, employee or independent contractor to use, operate, charge for, or retain services for the use of any booting device or vehicle immobilization device on private property located within the unincorporated areas of DeKalb County without complying with the provisions of this article.

Sec. 26-41. Definitions.

- (a) Wherever the term "county" is used in this article, it shall be construed to mean the unincorporated area of DeKalb County, Georgia.

- (b) Words or phrases not defined in this chapter, but defined in applicable state law or the code of DeKalb County, as Revised 1988, shall be given that meaning. All other words or phrases shall be given their common ordinary meaning unless the context requires otherwise. The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them below except where the text clearly indicates a different meaning:
- (1) *Business, operator or attendant*, shall mean the business, operator, independent contractor, or employee of the operator of the boot who remains on-site at the property on which the booting device is being used.
 - (2) *Business License* means a business occupation tax certificate issued pursuant to applicable law.
 - (3) *Boot, booting, mechanical locking device, or vehicle immobilization device* as used in this article are interchangeable and mean any mechanical device or boot that is designed or adopted to be attached to a wheel, tire, or other part of a parked motor vehicle so as to prohibit the motor vehicle's usual manner of movement or operation.
 - (4) *Occupant* means any person, entity, business, or individual(s) that is occupying the premises or property where vehicle is parked or located, whether or not that occupant has a formal lease. (*may delete, already defined in Section 1-2, see Tenant, occupant*)
 - (5) *Operator* means any person, including a sole proprietor, independent contractor, partnership or similar business entity, operating vehicle immobilization devices for a vehicle immobilization service.
 - (6) *Parking lot, premises, property and area* mean the location and real property at which the vehicle is located, with or without permission of the property owner, and continue to retain their ordinary meaning.
 - (7) *Private property owner* means any person, entity, business, or individual(s) that is the record owner of the real property on which a vehicle is located.
 - (8) *Towing and wrecker services* as ordinarily defined are not interchangeable with booting and shall be governed separately by Article I of Chapter 26 of the County Code, as amended.
 - (9) *Vehicle immobilization or booting service or business* means a business, person, including a sole proprietor, independent contractor, partnership or similar business entity, offering services anywhere in the unincorporated portions of the County whereby vehicles are immobilized by the installation of a vehicle immobilization device.

Sec. 26-42. Booting requirements, generally.

Booting is permitted on private property subject to the following requirements.

- (a) No fee shall be assessed for the removal of a booting device in excess of \$75.00 for each incident involving the use of a boot or vehicle immobilization incident. No vehicle shall be booted or attached to a vehicle immobilization device more than two (2) times

in one 24-hour period. No fee shall be assessed for the removal of a booting device when the owner or operator of the vehicle can immediately show a receipt and proof of parking fees for permitted parking within the time their vehicle is located on the premises.

- (b) Booting devices shall be removed within one (1) hour of the initial request and payment of the permissible fee.
- (c) Property owners or occupants that assess a charge for parking may use booting devices only when a paper or electronic receipt for each paid parking charge is provided at the time of payment. The receipt shall include the address of the lot and the time and date of payment, and if applicable, any time limitations to which the parking charge applies. Properties, parking lots or areas that assess a charge for parking and allow the operation of a booting device must provide parking payment options that include both cash and credit card options.
- (d) Motor vehicles remaining on the private property for more than twenty-four (24) hours after immobilizing may also be charged an additional fee of \$25.00 per day that such motor vehicle remains on such property without having paid for the removal of any vehicle immobilization devices. This section shall not prohibit the towing of vehicles left or abandoned on property for more than twenty-four (24) hours, pursuant to Chapter 26 of the Code of DeKalb County, as Revised 1988, and subject to all other applicable laws.
- (e) The operator or attendant of the boot shall remain on-site at the parking facility, lot or area at all times when a boot is in use and affixed to a vehicle. The operator or attendant shall have immediate access to equipment to remove or release the booting device. The operator or attendant shall have the means to accept and receive payment in cash, debit, and by at least two (2) major credit cards.
- (f) The operator of the booting device must wear an identification badge listing the name and address of the company employing the operator, the operator's first name, and a passport sized photo of the operator.
- (g) Where parking is permitted, equipment used to collect payment for permitted parking must be on-site and able to accept both cash, debit and credit card payments at all times within the preceding twelve (12) hour period of booting.
- (h) It shall be unlawful for any person to operate or cause to be operated any business using booting or vehicle immobilization devices within the unincorporated boundaries of the county without first having obtained a business license from the County. As set forth in section 15-38 of the Code, the business license shall not be transferable.
- (i) It shall be unlawful for an operator or any partner, member, officer, employee, or contractor of such operator to immobilize vehicles on any private property without having entered into a valid written contract for vehicle immobilization or booting services with the private property owner, lawful lessee, managing agent, or other person or occupant in control of the property.

Sec. 26-43. Notice.

- (a) It shall be unlawful for any person, except for law enforcement personnel, to affix a booting device to any automobile parked on private property within the unincorporated areas of the County, regardless of whether a charge for parking is assessed, unless the following conditions are met:
- (1) Signs shall be located at each designated entrance and exit to the parking facility, lot or area where such a device is to be used indicating that parking prohibitions are in effect, such signs being erected so as to be clearly visible upon entering and exiting the lot. Signs shall also be erected within the lot, so that a sign can be clearly visible from each and every parking space. For the purpose of this section, the term "clearly visible" shall mean the sign is posted at the property entrance and facing the restricted parking spaces.
 - (2) The sign shall be positioned so that the bottom edge is at least four feet from the ground, but no more than six feet from the ground. Any row of parking spaces in excess of 30 feet shall have one sign posted every 30 feet.
 - (3) Signs shall be a minimum of 18 inches by 24 inches in size and lettering on the sign shall be a minimum of 1 inch in height. Signs larger than the measurements herein shall not be subject to the requirements of the sign ordinance, but shall be approved in writing by the Director of Planning or their designee.
 - (4) The wording on such signs shall contain the following information and as shown below: (a) a statement that any vehicle parked thereon which is not authorized to be parked in such area may be subject to use of a booting device; (b) the names of the businesses served by the parking lot; (c) the maximum fee for removal of the device; and (d) the name, address and current phone number of the operator and contact for removal of the booting device;

Sample sign:

<p>UNAUTHORIZED VEHICLES MAY BE BOOTED BOOTING ENFORCED: [HOURS ___ AM to ___ PM or 24/7] PARKING FOR [Residents, Employees or Customers] ONLY Maximum \$75 fee payable to [Business name] For boot removal, contact: [Business name and contact number]</p>
--

- (5) Phone numbers referenced herein must be operable and answered in person during the hours booting devices are in use.
- (6) Lettering on such signs shall be black on white. If booting devices are to be utilized before 7:00 a.m. or after 6:00 p.m., the signs shall have a reflective grade background, and be illuminated if out of headlight range.

Sec. 26-44. Booting on residential property.

In addition to the requirements in this Chapter, no operator or any partner, member, officer, employee, or contractor of such operator shall immobilize any motor vehicle in a driveway, parking lot, or parking area that is designated for residential parking or residential use unless the owner or driver of the motor vehicle has been provided with posted or written notice of the use of booting devices on said property. Any device applied to any such motor vehicle in violation of this section shall be removed without the payment of any fee.

Sec. 26-45. Violations.

- (a) The provisions of this article may be enforced by authorized county employees, including police officers, code enforcement officers, and/or inspectors.
- (b) Any person who does any anything prohibited or fails to do anything required by this article, upon citation by an authorized county employee, including a police office, a code enforcement officer, or an inspector, and conviction of the violation in a court of competent jurisdiction, which includes the Magistrate or State Courts of DeKalb County, and shall be subject to a fine and/or imprisonment in accordance with Section 1-10, with the following minimum penalties:
 - (1) Upon a first conviction of any violation if this article, the court shall impose a fine of not less than \$200.00 in addition to any other penalty or punishment imposed by the court.
 - (2) Upon a second conviction of violation of this article, within one year measured from the date of any previous conviction of a violation of this article, the court shall impose a fine of not less than \$500.00 in addition to any other penalty or punishment imposed by the court.
 - (3) Upon a third conviction of a violation of this article, within one year measured from the date of any previous conviction of a violation of this article, the court shall impose a fine of not less than \$1,000.00 in addition to any other penalty or punishment imposed by the court.

Sec. 26-46 - 49. Reserved.

* * *

PART II. EFFECTIVE DATE

This article shall become effective upon adoption by the Board of Commissioners and approval by the Chief Executive Officer.

* * *

PART III. SEVERABILITY

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are repealed.

ADOPTED by the DeKalb County Board of Commissioners, this ____ day of _____, 2018.

JEFF RADER
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this ____ day of _____, 2018.

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

BARBARA SANDERS-NORWOOD, CCC
Clerk to the Board of Commissioners and
Chief Executive Officer

APPROVED AS TO FORM:

APPROVED AS TO SUBSTANCE:

VIVIANE H. ERNSTES
Interim County Attorney

Director of _____