Council of the City of York, PA
Session 2014
Bill No. 7
Ordinance No. FAILED

INTRODUCED BY: Henry Hay Nixon DATE: **March 4, 2014**

AN ORDINANCE

Amending Article 507 "Booting" of the York City Codified Ordinances to include specific requirements regarding booting in the City of York, PA.

BE IT ORDAINED, by the Council of the City of York, Pennsylvania, that Article 507 "Booting" of the York City Codified Ordinances" is hereby amended as attached hereto and made a part hereof.

~~PASSED FINALLY~~ FAILED: March 18, 2014 BY THE FOLLOWING VOTE:

YEAS: Helfrich, Satterlee - 2, _____, _____, _____

NAYS: Nixon, Nelson, Hill-Evans - 3

Carol Hill-Evans, President of Council

ATTEST:

Dianna L. Thompson-Mitchell, City Clerk

Presented to the Mayor for approval this --- day of --------.

Approved: _____ _____
Mayor Date

Vetoed: _____ _____
Mayor Date

Morpheus/Bills2014/BootingRev

ARTICLE 507

Booting

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CROSS REFERENCES

Power to establish removal and impounding procedures - see Vehicle Code (75 Pa. C.S.A. §6109(a)(22))
Removal of vehicle - see Vehicle Code (75 Pa. C.S.A. §3352)
Public/Private Towing – see TRAF.Art. 507

507.01 Definitions.

For the purpose of this article, the following definitions shall apply:

(a) "Unsettled parking violation" means any outstanding violations of the parking, standing or stopping regulations of the City Traffic Code or Pennsylvania Motor Vehicle Code for which citations have been filed with a District Magistrate and a summons has been issued to which either no response has been made or for which a warrant has been issued and including adjudicated citations where the fine and costs imposed are unpaid.

(b) "Boot, booting or booted, booting services" means the act of immobilizing a motor vehicle in such a manner as to prevent its operation with a device or by means which shall cause no damage to such vehicle unless it is moved while such device is in place or such means are employed. (Ord. 72-1989 §1. Passed 7-18-89.)

(c) "Booting company" means any business engaged in booting vehicles at the request of the City of York or private property owners. This includes the booting company owner and its employees and agents.

507.02 Boot Installation.

PUBLIC PROPERTY
A motor vehicle found parked within the City upon any public ground at any time may, by or under the direction of an officer or member of the City Police Department, be booted if there are three or more unsettled parking violations pending against the owner of the motor vehicle. (Ord. 72-1989 §1. Passed 7-18-89.)

PRIVATE PROPERTY
Any motor vehicle left unattended on private property within the City may be booted under the provisions of this regulation. The decision to boot any such motor vehicle shall be made by either the property owner or the booting company. Where the decision to boot any such motor vehicles is made by the licensed booting company, the decision shall be made in accordance with 507.12 of this Chapter. Booting of such vehicle may be done only by booting companies licensed by the City as designated in 507.08 of this Chapter.

507.03 Notice of booting.
Upon booting of such motor vehicle, the officer, employee, or booting service shall cause to be placed on the vehicle, in a conspicuous manner, notice sufficient to warn any individual that the vehicle has been immobilized, and that any attempt to move the vehicle might result in damage to the vehicle. The notice shall also outline the procedure for obtaining removal of the boot. If the booting is on public property, the officer or employee shall, as soon as practicable, provide the owner of the booted vehicle, at his request, with a list of the prior unsettled parking violations for which, or on account of which, such vehicle was booted. (Ord. 72-1989 §1. Passed 7-18-89.)

507.04 Boot Removal; Hearing.

PUBLIC PROPERTY
The owner of a booted vehicle, or other authorized person, shall be permitted to secure release of vehicle upon:

(a) Depositing of the collateral required for his appearance before a District Magistrate to answer for each unsettled parking violation;

(b) Paying the amount of the fine, penalty and court costs, if any, for each unsettled parking violation; and

(c) The payment of the fees as required by Section 507.06.

The owner of a booted vehicle, or other authorized person, shall have the right to a post immobilization hearing limited to the determination of the validity of the booting. Such hearing shall be requested within fifteen days after the vehicle is booted and shall be conducted by a hearing officer appointed by the Mayor. The hearing shall be held during normal business hours within twenty business days of the demand therefor, giving the

owner of the booted vehicle at least 10 days' notice. The post-immobilization hearing shall not be determinative of or adjudicate the merits of any citation issued relative to any immobilized vehicle but shall be limited solely to whether the vehicle was properly subject to booting under the provisions of this article. (Ord. 72-1989 § 1. Passed 7-18-89.)

PRIVATE PROPERTY

The owner of a booted vehicle, or other authorized person, shall be permitted to secure release of the vehicle upon the payment of fees as required by Section 507.06.

507.05 Towing and Storage of Vehicles.

The boot shall remain in place for forty-eight hours unless the owner has complied with Section 507.04. If such compliance has not occurred within forty-eight hours, the vehicle may be towed or impounded. If the booting occurs when a vehicle is parked in any zone regulated by towing provisions, then such vehicle is subject to immediate towing and impounding. Towing and storage fees, as set by administrative order, as specified in Article 513, shall be paid, along with fees specified in Section 507.06 before the owner of such vehicle, or authorized person, shall be permitted to repossess or secure the release of the vehicle. ~~Vehicles unclaimed within sixty days of towing and storage shall be deemed abandoned and subject to disposal as such in the manner authorized by law. (Ord. 72-1989 § 1. Passed 7-18-89.)~~

507.06 Booting Fee.

PUBLIC PROPERTY

The owner of a booted vehicle shall be subject to a fee of fifty dollars ($50.00) for such immobilization. (Ord. 72-1989 §1. Passed 7-18-89.)

PRIVATE PROPERTY

a. Privately Owned Metered Parking. The owner of a motor vehicle booted on private property that utilizes coin-operated parking meters shall be subject to a reasonable fee of $25.00 or the fee charged by the City of York for a parking citation at city owned meters, whichever is higher, for such immobilization.

b. Non-Metered Private Parking. The owner of a booted vehicle illegally parked or disabled on non-metered private property shall be subject to a reasonable fee of not more than ~~$75.00~~ $60.00 for such immobilization. The fee shall be reviewed not less than every two years by City Council to adjust in accordance with market rates, costs, and inflation.

507.07 Implementation and Enforcement.

PUBLIC PROPERTY
This article shall be enforced by the Police Department which shall have authority for implementing the parking enforcement provisions thereof and to promulgate such rules and regulations as are necessary therefor, which regulations shall become effective upon approval by Council. (Ord. 72-1989 §1. Passed 7-18-89.)

PRIVATE PROPERTY
This article will be enforced by the City of York and owners of private property in accordance with the entirety of Article 507.

507.08. Annual License Required. There are two separate licenses available, a private booting license and a public booting license: The Public Booting License is required for any booting company engaged in the business of booting vehicles at the request of the City from highways, public rights-of way or other public property in the City shall be licensed annually in accordance with the provisions of this Section. The Private Booting License is required for any booting company engaged in the business of booting vehicles from private property in the City shall be licensed annually in accordance with the provisions of this Section.

a. Application for License. Applications for license shall be submitted to the Chief of Police upon forms prepared and made available by the City. The application form(s) shall be properly completed, signed and accompanied by the application and license fee.

b. Issuance of License(s). A private and/or public booting license shall be issued only to booting companies that comply with the provisions of this ordinance.

c. License Fee. The license fee under this ordinance for the original application shall be $750.00 for the public booting license and $750.00 for the private booting license. These are nonrefundable application fees. If the booting service is also applying for or already has been approved for a towing license the application fee shall be $200 for a booting license.

d. Multiple Licenses. The application fee for a second license for any booting company currently licensed (either public or private) at the time of original application shall be $200.00.

e. License Renewal. All licenses, except those terminated for just cause as provided herein, are subject to an annual renewal fee of $400.00 for a single license and $700.00 for both a public and private license. This renewal fee shall be paid within the first quarter of each calendar year. If the booting service is also renewing a towing license there is no additional fee for the booting license.

507.09. Minimum Requirements/Qualifications. Booting companies to be licensed under this ordinance to boot vehicles at the request of the City or private landowners shall maintain the following minimum requirements.

a. General Equipment. Business and equipment shall be located within the City of York, Pennsylvania.

b. Notice to Public. Booting companies must provide notice to the public of the company name, business address, and a business telephone number that is personally answered 24 hours per day. Notice must be posted on all signs as specified in 507.12(c), on any vehicle engaging in booting, and on the notice provided after a boot is installed on a vehicle as designated in 507.03.

c. Insurance.

(1) Booting companies shall be required to carry insurance at the minimum policy limits as follows:

(A) Automobile liability insurance in an amount not less than $1,000,000.00 combined single limits.
(B) Workers' compensation insurance, as required by Statute.
(C) General liability insurance to provide complete protection against any and all risks of loss or liability in an amount not less than $1,000,000.00.

(2) Insurance for booting companies licensed to boot on public or private property shall list the City as an additional insured party on all policies and such policies shall contain a provision requiring notification to the City prior to any policy revision or termination. A copy of the policy shall be provided to the Chief of Police.

d. Criminal Record. No booting company owner shall have any criminal convictions for criminal violations that would preclude an owner from obtaining the required insurance/bonding required by this Chapter. Specifically, no booting company shall have such conviction(s) for the following violations of the Pennsylvania Crimes Code:

Chapter 25 Criminal Homicide
Chapter 29 Kidnapping
Chapter 31 Sexual Offenses
Section 3502 Burglary
Section 3921 Theft by Unlawful Taking or Disposition
Section 3922 Theft by Deception
Section 3925 Receiving Stolen Property
Section 4101 Forgery
Section 4104 Tampering With Records or Identification
Section 4107 Deceptive Business Practices
Section 4117 Insurance Fraud

e. Property, Business Privilege, Mercantile, or Municipal Taxes and Fees. No company shall receive a license or license renewal if the company has not paid its property taxes and/ or business privilege and mercantile Taxes or any other municipal fee as required under York City Ordinance.

507.10 Right to Hearing Not Waived.
Nothing in this article shall be construed to deprive any person of the constitutional right to a hearing or trial as to the violations for which citations have been issued.
(Ord. 72-1989 §1. Passed 7-18-89.)

507.11 Prohibited Acts. It shall be a prohibited act for any booting company to:

a. Sub-contract booting services requested by the City.
b. Boot a vehicle on public property without authorization from the City.
c. Boot a vehicle on private property without authorization from the property owner.
d. Boot a vehicle on private property in violation of the requirements of this ordinance.
e. Use "York" in the name of the booting company.
f. Charge or provide a written quote or invoice, or collect fees in excess of those specifically designated in this ordinance.
g. Falsify any information with regard to the application.

507.12. Authorization for Booting. No motor vehicle shall be booted on private property under the authority of this ordinance unless:

a. Written authorization for a booting company to boot any illegally parked vehicles on a property shall be signed by the owner or agent of the owner or the person having control of the property upon which vehicles may be left unattended to authorize the booting services. The authorization form shall be signed prior to any booting on the private property and shall be valid until the property owner, agent, or person in control of the property provides written documentation to terminate the authorization of booting services.

b. Written authorization for the booted vehicle to be towed in accord with 507.05 shall be similar to the one hereinafter set forth and shall be completed at the time the vehicle is to be towed by the booting company and property owner.

You are hereby authorized to tow the following illegally parked vehicle from the parking lot/space indicated below. This lot is either owned and/or leased by (name of lot owner/manager).
The vehicle and location are described as follows:
*MAKE*_____
*MODEL*_____
*YEAR*_____
*COLOR*_____
*LICENSE NUMBER AND STATE*_____

LOT/LOCATION _____
Name/Address/Phone Number of Towing/Immobilizing Service: _____
authorized signature _____
please print name here _____

c. No vehicle shall be booted from a private parking lot unless the lot is posted at the time the vehicle is booted to notify the public of any parking restrictions and the operator of the vehicle violates those restrictions. Posting shall be in conformance to the Rules and Regulations set forth in Title 67, Transportation, Part I, Department of Transportation, Subpart A, Vehicle Code Provision, Article VIII, Administration and Enforcement, Chapter 212.115, Posting of Private Parking Lots. The booting service is also required to include its telephone number on all signs.

d. Signs as required in Section 507.09(c) of this Chapter and, in addition to the number of signs required by the Pennsylvania Vehicle Code 67 Pa.Code 212.115, shall be in place and evenly spaced in the parking. One additional sign shall be installed for every 10 parking spaces above 25.

507.13 Notification of Removal or Booting.

a. Booting Records and Notification. Booting companies shall retain printed receipts, records of every booted vehicle, license plate number, and the time and place the vehicle was booted. Records shall be kept for two years and upon a reasonable request made by the City or a complaint filed against the company, the booting company shall provide the City of York with the applicable or requested booting records.

b. Notification of Towing. If a vehicle owner fails to secure release of the vehicle, and the property owner decides to have the vehicle towed, in addition to the information contained in the written authorization provided in 507.12(b), the ~~booting~~ towing company, within 1 hour from the time of towing of any vehicle by an authorized towing company, the York County Emergency Communications Center and the City of York Police Department shall be notified, by providing the Center with a copy (or facsimile) of the written authorization and shall include the following information:

a. address from where vehicle was removed
b. date and time of removal
c. towing fee
c. location where the vehicle may be claimed by the owner

507.14. Booting Time Limitations.

a. Non-Metered or Non-Pre-Pay Private Lots. A motor vehicle found to be illegally parked or disabled on private property and the motor vehicle is otherwise authorized to be legally booted or removed may be booted upon discovery of the motor vehicle by either the property owner or the booting company.

b. Metered and Pre-Pay Private Lots. A motor vehicle found to be illegally parked or disabled on a private pre-pay lot and the motor vehicle is otherwise authorized to be legally booted may not be booted for 15 minutes. In this case the booting company shall include the discovered time and the booting time on the "Notification of Booting" as required in Section 507.03 of this Chapter.

507.15. Complaints Against Licensed Booting Companies. The Chief of Police shall notify the booting company owner within 14 days of receipt of any complaint against a booting company that will be investigated by the Police Department. All disputes arising as a result of booting on private property shall be brought in the appropriate magisterial district court or other applicable court to redress any injuries.

507.16. Financial Interests of Private Property Owner and Booting Company Prohibited. Booting companies are prohibited, either directly or indirectly, from giving or furnishing a rebate or payment of money or any other valuable consideration to a property owner from whose premise the booting company has, is about to, or will boot motor vehicles. Property owners are prohibited from accepting or giving, either directly or indirectly, any rebate, payment of money, or any other valuable consideration from or to a booting company in connection with the booting of a motor vehicle from private property except for signs and notices as required in Section 507.12. Property owners are prohibited from having a direct or indirect monetary interest in a booting company that, for compensation, boots motor vehicles on their private property. This section is not intended to prohibit the issuance of parking tickets to illegally parked vehicles.

507.99 Penalties.

(a) Any person who shall tamper with, remove or attempt to remove any device used to immobilize a motor vehicle that has been booted pursuant to this article, or who shall move or attempt to move the vehicle booted before release of the vehicle has been officially secured, shall be guilty of a summary offense and, upon conviction thereof, shall be fined not less than three hundred dollars ($300.00) nor more than one thousand dollars ($1,000), together with cost of prosecution, or imprisoned for not more than ninety days (90 days), or both. (Ord. 1-2009. Passed 1-6-09.)

(b) Any booting service that operates within the municipality of York booting vehicles on private property in accordance with this Ordinance and is not an authorized booting service, as defined within this booting regulation, shall be subject to a fine, upon conviction, of not less than $200.00 nor more than $400.00 for the first violation and not less than $300.00 nor more than $600.00 for each subsequent violation.