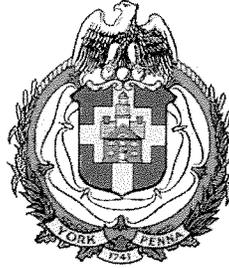


# Council of the City of York, Pennsylvania

Carol Hill-Evans, President of Council  
Henry Hay Nixon, Vice President of Council  
Renee S. Nelson, Member of Council  
Michael Helfrich, Member of Council  
David Satterlee, Member of Council

Dianna L. Thompson-Mitchell, City Clerk  
Email: [dthompso@yorkcity.org](mailto:dthompso@yorkcity.org)



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## AGENDA

March 18, 2014

Public Comment 6:30 p.m.  
Legislative Session 7:00 p.m.

I. Public Comment: 6:30 p.m. to 7:00 p.m.

***Disclaimer:** Pursuant to the Sunshine Act, the City of York will only record citizens' names and the subject of testimony provided during the public comment period. Should you request information or desire a response to your testimony, you must provide the City Clerk or Council President with your contact information. Information you provide will be used by City of York agents to process your request. Your name, address and request for information may be entered into the City of York complaint tracking system.*

City Council welcomes public comment on agenda items and on City-related issues not on the agenda. Under Council's adopted Rules and Procedures, comment on agenda items occurs during Council's regular 7:00 p.m. meeting. Comment on non-agenda items begins at 6:30 p.m., with Council sitting as a General Committee. Persons wishing to speak on non-agenda items should sign up with the City Clerk before the 6:30 Public Comment period. Each speaker shall have up to five minutes to speak. To assure access to all participants, the presiding officer may reduce the time limit down to three minutes if the number of speakers who have signed up would extend the total comment period beyond 30 minutes and/or may resume public comment after Council's legislative session has adjourned. Council's Rules, available from the City Clerk, are also on display in Council Chambers and on Council's web page at [www.yorkcity.org](http://www.yorkcity.org).

II. Call Legislative Meeting to Order: 7:00 p.m.

III. Roll Call

IV. Pledge of Allegiance

V. Moment of Silence

VI. Action on previous meeting Minutes of **March 4, 2014**.

VII. Presentations, Proclamations and Awards

**MS4 Program** – Jim Gross, Director of Public Works, and Jeff Shue, City Engineer, will give background on the Municipal Separate Storm Sewer System.

VII. Committee Meeting(s) Scheduled

**Committee Work Session** – Scheduled for Wednesday, March 26, 2014 at 6:00 p.m. in Council Chambers. Committee items due by 12 noon on March 19<sup>th</sup>.

IX. Status of Prior Committee Referrals: No new reports.

- X. **Legislative Agenda:** (Order of Business – Action on Subdivision/Land Development & HARB Resolutions; Final Passage of Bills/Resolutions; New Business.)

**Subdivision / Land Development / HARB**

1. Resolution No. 31 \_\_\_\_\_ - A Resolution  
Accepting the recommendations of HARB.  
Introduced by: Henry Hay Nixon  
Originator: Historic York
2. Resolution No. 32 \_\_\_\_\_ - A Resolution  
Approving a final land development plan submitted by Cellco. (Verizon Wireless – to construct a cell tower at 390 Wheatfield St.)  
Introduced by: Renee S. Nelson  
Originator: Economic & Community Development (PP&Z)

**New Business**

3. Resolution No. 33 \_\_\_\_\_ - A Resolution  
Reappointing/Appointing members to various boards.  
Introduced by: Henry Hay Nixon  
Originator: Mayor

**Final Passage of Bills / Resolutions**

4. Final Passage of Bill No. 5 (Forthcoming) \_\_\_\_\_ – A Bill  
Approving the inclusion of 2013 ordinances into the Codified Ordinance book.  
Introduced by: Carol Hill-Evans  
Originator: Council
5. Final Passage of Bill No. 6 (Forthcoming) \_\_\_\_\_ – A Bill  
Amending Article 185 “Human Relations” of the Codified Ordinances. (To add a process for receiving cost of living adjustments)  
Introduced by: Carol Hill-Evans  
Originator: Mayor
6. Final Passage of Bill No. 8 (Forthcoming) \_\_\_\_\_ – A Bill  
Amending Article 1763 “Property Maintenance Code” of the Codified Ordinances. (To clarify ambiguous language and responsibility)  
Introduced by: Henry Hay Nixon  
Originator: Economic & Community Development (PP&Z)
7. Final Passage of Bill No. 7 (FAILED) \_\_\_\_\_ – A Bill  
Amending Article 507 “Booting” of the Codified Ordinances. (To add specific requirements for booting in the City of York)  
Introduced by: Henry Hay Nixon  
Originator: Police

- XI. Requests for Future Meetings
- XII. Council Comment
- XIII. Administration Comment
- XIV. Adjournment
- XV. Resumption of Public Comment Period (at the discretion of the presiding officer)



This agenda is subject to change before and during the meeting for consideration of such other business Council may desire to act upon including items of business deferred from previous Council meetings. If you are a person with a disability and plan to attend the public meeting, please call 849-2883 if any accommodations are needed to participate in the proceedings. Persons with hearing impairments may contact the Deaf Center at TDD 848-6765 for assistance.

Council of the City of York, PA  
Session 2014  
Resolution No. 31

Introduced by:   
Henry Hay Nixon

Date: **March 18, 2014**

**BE IT RESOLVED**, by the Council of the City of York, Pennsylvania, and it is hereby resolved by the authority of the same as follows:

Council hereby approves a Certificate of Appropriateness to be certified to and forwarded by the City Clerk to the York City Building Inspector who is hereby authorized to issue permits for work to be covered in the following application(s) as recommended and approved by the Historical Architectural Review Board:

1. **Thomas Warner** for work to be done at **315 W. Princess St.**
2. **Toni Calderone** for work to be done at **108 N. George St.**

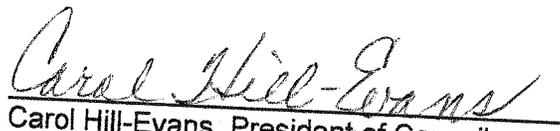
The foregoing work to be done in accordance with plans and specifications approved by the Historical Architectural Review Board.

Passed Finally: **March 18, 2014**

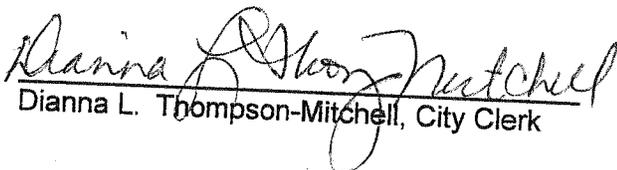
By the following vote:

YEAS: Helfrich, Nixon, Satterlee, Nelson, Hill-Evans - 5

NAYS: None

  
Carol Hill-Evans, President of Council

ATTEST:

  
Dianna L. Thompson-Mitchell, City Clerk

CERTIFICATE of APPROPRIATENESS  
RECOMMENDATION to YORK CITY COUNCIL

APPLICATION FOR PROPERTY ADDRESS: 108 North George Street, York, PA

APPLICANT: Toni Calderone

At the public meeting held on Wednesday, March 5, 2014 the Board of Historical Architectural Review considered an application for a permit for work to be performed on the above-identified property located with the Historic District.

Proposed Work:

- To install an awning to the street from the front entrance.

Photos/Plans Attached:

Effect of the proposed change upon the general historic and architectural nature of the district [1731.09(a) of the Codified Ordinances of York, Pennsylvania]:

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Appropriateness of exterior architectural features which can be seen from a public street or way only [1731.09(b)]:

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General design, arrangement, texture, material and color of building or structure and relation of such factors to similar features of other buildings or structures in the district [1731.09(c)]:

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Other relevant findings of fact:

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WHEREUPON THE BOARD VOTED TO RECOMMEND APPROVAL OF THE APPLICATION:

       AS PRESENTED IN THE ATTACHED PRELIMINARY REVIEW SHEET.

       AS AMENDED FROM THE PRELIMINARY REVIEW SHEET AS FOLLOWS:

BRICK POSTS / DARK POSTS. NO ATTACHMENT TO BRICK.

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DISSENTING VOTES AND RATIONALE: \_\_\_\_\_

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(over)

WHEREUPON THE BOARD VOTED TO RECOMMEND DENIAL OF THE APPLICATION BECAUSE:

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DISSENTING VOTES AND RATIONALE:

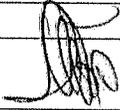
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John Fox, HARB Chair

This application was reviewed by City Council on 3-18-14 and has been X APPROVED \_\_\_\_\_ DENIED

  
Carol Hill-Evans, President of City Council

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The Secretary of the Interior's Standards for Rehabilitation

The Standards (Department of Interior regulations, 36 CFR Part 67) pertain to historic buildings of all materials, construction types, sizes and occupancy and encompass the exterior and the interior, related landscape features and the building's site and environment as well as attached, adjacent or related new construction. HARB applies these Standards to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archaeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

CERTIFICATE of APPROPRIATENESS  
RECOMMENDATION to YORK CITY COUNCIL

APPLICATION FOR PROPERTY ADDRESS: 315 West Princess Street, York, PA

APPLICANT: Thomas Warner

At the public meeting held on Wednesday, March 5, 2014 the Board of Historical Architectural Review considered an application for a permit for work to be performed on the above-identified property located with the Historic District.

Proposed Work:

- To replace the second floor balcony at the rear of the property.

Photos/Plans Attached:

Effect of the proposed change upon the general historic and architectural nature of the district [1731.09(a) of the Codified Ordinances of York, Pennsylvania]:

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Appropriateness of exterior architectural features which can be seen from a public street or way only [1731.09(b)]:

---

General design, arrangement, texture, material and color of building or structure and relation of such factors to similar features of other buildings or structures in the district [1731.09(c)]:

---

Other relevant findings of fact:

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WHEREUPON THE BOARD VOTED TO RECOMMEND APPROVAL OF THE APPLICATION:

AS PRESENTED IN THE ATTACHED PRELIMINARY REVIEW SHEET.

AS AMENDED FROM THE PRELIMINARY REVIEW SHEET AS FOLLOWS:

IN KIND REPLACEMENT. COMPOSITE MATERIALS CAN BE  
USED FOR FASCIA & TRIM PIECES. 4"x6" WILL BE REMOVED  
& REPLACED w/ 4"x4" TO MATCH ORIGINAL POSTS.

DISSENTING VOTES AND RATIONALE: \_\_\_\_\_

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(over)

WHEREUPON THE BOARD VOTED TO RECOMMEND DENIAL OF THE APPLICATION BECAUSE:

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DISSENTING VOTES AND RATIONALE:

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John Fox, HARB Chair

This application was reviewed by City Council on 3-18-14 and has been  APPROVED  DENIED



Carol Hill-Evans, President of City Council

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The Secretary of the Interior's Standards for Rehabilitation

The Standards (Department of Interior regulations, 36 CFR Part 67) pertain to historic buildings of all materials, construction types, sizes and occupancy and encompass the exterior and the interior, related landscape features and the building's site and environment as well as attached, adjacent or related new construction. HARB applies these Standards to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

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5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archaeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.



**York Historical Architectural Review Board  
Agenda  
5:30 PM Wednesday, March 5, 2014  
101 South George Street, York, PA 17401**

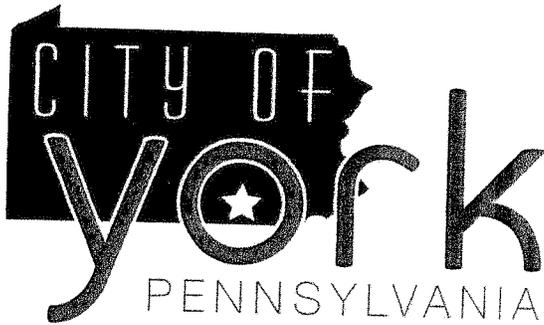
- I Welcome (5:30pm):** John Fox, HARB Chair
- II Agenda (5:31 – 5:32pm):** Additions or changes to the agenda
- III Minutes (5:33 – 5:35pm):** Approve minutes from February 24, 2014 HARB meeting
- IV Cases (5:36 – 7:00pm):**

*\* a w/ cond*  
315 West Princess Street – A request by Thomas Warner for a Certificate of Appropriateness to rebuild the second story rear porch.

*Denied*  
114 West Philadelphia Street – A request by Joseph Mula on behalf of the White Rose Bar & Grille for a Certificate of Appropriateness to demolish the building. *- deferred to a future mtg.*

- V Other Business**
- VI Adjourn (7:00pm)**

*\* a \** Additional Item added  
108 N. George St - A request by Toni Calderone for a Certificate of Appropriateness to install an awning from the front entrance to the street.



**York Historical Architectural Review Board**  
Meeting Minutes  
March 5, 2014  
DRAFT

A meeting of the York Historical Architectural Review Board was held on Wednesday, March 5, 2014 at 5:30 PM at 101 South George Street, York, PA.

Members in attendance included John Fox, Chair; Dennis Kunkle, Vice Chair; Mark Shermeyer; Matt Argabright; Genevieve Ray; Craig Zumbun, and HARB Consultant Alycia Reiten.

Absent: Dave Redshaw, Robyn Pottorff, Justine Landis, Teresa Johnescu

On a motion by Mark Shermeyer, second by Dennis Kunkle, the board voted 6-0 to *Approve* the minutes of the February 24, 2014 HARB meeting.

The following cases are forwarded to York City Council with the recommended actions:

1. 315 West Princess Street – A request by Thomas Warner for a Certificate of Appropriateness to rebuild the second story rear porch.

Points of Discussion

- The application was presented by Thomas Warner. He described his property and the rear second floor porch rotting. He said the vertical support has deteriorated and the board rotten. He said he would like to use a weather resistant composite material for the rotten boards. There are 44 balusters in the railing. Some are rotten.
- John Fox asked if he intends it to look like it does now, when it is all finished. The applicant said yes but wanted to install two extra vertical supports. Discussion of the over bracing continued and the manner to replace in kind should satisfy the needs as it's held that porch since the property was probably built.
- Discussion about rotten decking, footers for the post to keep water from getting on the base of the post should help with future deterioration.
- Further discussion related to the sketch that was provided that showed 2x6 bracing added – the applicant explained that was a temporary measure for safety until he finished the process but they would be removed when the proper repairs occurred.

*On a motion by Mark Shermeyer, second by Genevieve Ray, the board voted 6-0 to replace the rear second floor porch in kind or using composite materials that will provide the same finished appearance as the original materials.*

Addition to the Agenda (out of order due to nature of last item) – The board agreed to hear the request.

2. 108 North George Street – A request by Toni Calderone for a Certificate of Appropriateness to install a canopy from the front entrance to the street.

#### Points of Discussion

- The proposal was presented by Toni Calderone. She explained that she submitted the application on Feb 26, 2014 to the City Office of the Bureau for Permits, Planning and Zoning and found out Historic York had not yet received shortly before the meeting so requested to be added to the agenda to see if the board would consider the request.
- She described the proposal to install a black awning that runs from the front entrance of the building to the street for Valet parking and cover. The awning will be held by metal posts and the fixtures for the building will be attached to an existing piece of wood on the building, not the stone.
- Mark Shermeyer suggested the posts be black to match the awning and not stand out so much. The applicant agreed with this suggestion.
- Genevieve Ray encouraged the applicant to follow up with the City to ensure all permits and requirements are complied with including an encroachment agreement.

*On a motion by Genevieve Ray, second by Craig Zumbrun, the board voted 6-0 to approve the proposal as presented with the stipulation that the posts be black or a dark color to minimize the visual aspect.*

3. 114 West Philadelphia Street – A request by Joseph Mula on behalf of the White Rose Bar & Grille for a Certificate of Appropriateness to demolish the building.

#### Points of Discussion

- The application was presented by Joseph Mula and Jerimiah Anderson. The applicant explained that the company has received an increase in demand for small gatherings and a venue to hold wedding receptions and small events for 50-100 people.
- Joseph Mula handed out a packet of drawing concepts and described the proposal. They propose to demolish the building at 114 W. Philadelphia Street to build an addition that would connect to the existing White Rose Bar and Grille. He explained that the proposal would eliminate the large alley between the existing facility and 114 W. Philadelphia Street and allow them to expand onto the site.
- The board asked if there was anything wrong with 114 W. Philadelphia Street and the applicant indicated no but it could not fit the required number of tables or load for a commercial space. Mark Shermeyer indicated it was a residence and could hold the load it was built for and could be reinforced to satisfy the need for heavier loads.
- Board members asked if other locations were explored.
- Jerimiah Anderson explained that they cannot accommodate using another site because they can't extend their liquor license if it is not attached to the current facility.
- Genevieve Ray asked if they have looked at using the parking lot at the rear to expand. The applicant explained challenges with that option related to the smoking bar and regulations related to food and percentages.
- Mark Shermeyer asked if Stogies could be relocated and the applicant explained that they could not according to the PA Liquor law and the 2008 smoking exemption.
- Dennis Kunkle offered his opinion that the building is really beautiful and historic.
- John Fox made a motion to deny the application, Mark Shermeyer seconded.

#### Further Discussion:

- Craig Zumbrun explained that the building is a contributing architectural resource in the downtown. He acknowledged that the White Rose is a wonderful business but the HARB must preserve the historic fabric that we have to allow future generations to enjoy. The structure at 114 W. Philadelphia is not deteriorated and is a contributing resource on a main thoroughfare with unique features. Its HARB's job to uphold the heritage and integrity of the historic district.
- Jerimiah Anderson said they want to expand because they have to turn away event requests. He offers that they own 122 West Philadelphia Street which is beautiful and they can't see demolishing that.
- John Fox said they all understand commercially where they are coming from but as a Historic Board they must up-hold the standards.
- Mark Shermeyer said that it is obviously a historic structure since Historic York has a Façade Easement on the building. There must be other options. Discussion continued about considerations for other locations and sites and alternate design options within the existing White Rose Bar & Grille footprint.
- Jerimiah Anderson explained that in order to use their liquor license, the expansion must be attached to the property. There is a certain dollar amount that can make the project work.

*On a motion by John Fox, second by Mark Shermeyer the Board voted 6-0 to Deny the proposal as presented sighting contributing historic resource, architectural significance, other options were not presented, impact on existing structures within the district and the Façade Easement that is in place.*

#### V Other Business

- Student Bethany Yingling from Shippensburg University attended the meeting as a requirement for class. She shared her supportive thoughts on how the board handled the applications that were presented and that she learned about challenges outside of the historic context that sometimes are present. She observed and recognized the process of governance, the challenges faced when there are multiple regulations and boards that applicants come up against.
- Discussion also was presented about an additional assignment to prepare a national register nomination in the City of York so the board discussed options for consideration. She will contact Historic York for further assistance.

Being no further business, the meeting was adjourned at 6:40pm

Council of City of York, PA  
Session 2014  
Resolution No. 32



INTRODUCED BY: **Renee S. Nelson**

DATE: **March 18, 2014**

WHEREAS, Cellco partnership (b/b/a Verizon Wireless) has submitted a Final Land Development Plan for 390 Wheatfield Street, proposing to construct a cellular tower; and

WHEREAS, the City Zoning Officer, City Planner, and City Engineer have reviewed and recommended approval of the plan; and

WHEREAS, the Final Land Development Plan submitted by the applicant is in general accordance with the City's Zoning and Subdivision and Land Development Ordinances; and

WHEREAS, the York City Planning Commission recommended approval of the Final Land Development Plan at its regularly scheduled meeting held on February 10, 2014 with the following waivers and contingency items:

- 1.) A waiver is requested to permit the plan to be approved as a preliminary/final plan per Section 1333.03a.
- 2.) A waiver is requested from preparing a traffic summary per Section 1333.07.s.
- 3.) A waiver is requested from public improvement per Section 1336.03, 1336.09 & 1336.11.

WHEREAS, the applicant has sufficiently addressed a majority of the items outlined in the Planning Commission recommendation.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of York, Pennsylvania that the action of the York City Planning Commission in recommending approval of the Final Land Development Plan submitted by Cellco Partnership with the above waivers is hereby affirmed, and the President of Council and City Clerk are authorized to certify this approval by affixing their signatures to the Final Land Development Plan.

PASSED FINALLY: **March 18, 2014**

BY THE FOLLOWING VOTE:

YEAS: Helfrich, Nixon, Satterlee, Nelson, Hill-Evans - 5

NAYS: None

  
Carol Hill-Evans, President of Council

ATTEST:

  
Dianna L. Thompson-Mitchell, City Clerk

Council of the City of York, PA  
Session 2014  
Resolution No. 33

INTRODUCED BY:   
Henry Hay Nixon

DATE: March 18, 2014

BE IT RESOLVED, by the Council of the City of York, Pennsylvania, that Council hereby consents to the following:

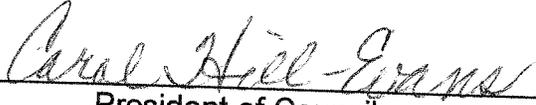
1. Appointment of Dr. Kenneth F. Woerthwein as a member of the York City Human Relations Commission, to fill the unexpired term of Ralph Serpe, which term shall expire July 16, 2014.
2. Appointment of Kittrell A. Barnes as a member of the York City Planning Commission, which term shall expire January 1, 2018.
3. Reappointment of Jamie Smith as a member of the York City Planning Commission, which term shall expire January 1, 2018.

PASSED FINALLY: March 18, 2014

BY THE FOLLOWING VOTE:

YEAS: Helfrich, Nixon, Satterlee, Nelson, Hill-Evans - 5

NAYS: None.

  
President of Council

ATTEST:

  
Dianna L. Thompson-Mitchell, City Clerk

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

## **ARTICLE 507**

### **Booting**

- 507.01 Definitions
- 507.02 Boot installation
- 507.03 Notice of booting
- 507.04 Boot removal; hearing
- 507.05 Towing and storage of vehicles
- 507.06 Booting fee
- 507.07 Implementation and enforcement
- 507.08 Annual License Required
- 507.09 Minimum Requirements/Qualifications
- 507.10 Right to Hearing Not Waived
- 507.11 Prohibited Acts
- 507.12 Authorization for Booting
- 507.13 Notification of Removal or Booting
- 507.14 Booting Time Limitations
- 507.15 Complaints Against Licensed Booting Companies
- 507.16 Financial Interest of Private Property Owner and Booting Company Prohibited
- 507.99 Penalty

### **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.