

102-O-01

AN ORDINANCE

**Amending Title 3 of the Evanston City Code
To Add Chapter 33, Establishing a Trial Period
to Regulate Private Vehicle Immobilization
("Booting") Within the Central Business District**

WHEREAS, it is desirable for all areas of the City of Evanston to have legal and convenient access to vehicle parking; and

WHEREAS, the illegal parking of vehicles on private property in all areas of the City of Evanston has resulted in economic hardship for property owners, which in turn, negatively impacts the surrounding community; and

WHEREAS, it is in the best interest of the City of Evanston to protect the property rights of its residents and business owners; and

WHEREAS, the City of Evanston has determined that the services provided by the vehicle immobilization or "booting" industry deters illegal parking and may be a proper means of protecting these property rights; and

WHEREAS, the vehicle immobilization or "booting" industry is not currently regulated in the State of Illinois or the City of Evanston; and

WHEREAS, the City Council of the City of Evanston has determined that it is in the best interest of all citizens that for a period of six (6) months the City establish a trial period within the Central Business District to evaluate the necessity and efficacy of licensing the service of vehicle immobilization ("booting") on private property by private operators within the Central Business District;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: That the City Code of the City of Evanston of 1979, as amended, is hereby further amended by repealing the former Section 9-5-29, and replacing it with the following section, which reads:

CHAPTER 33: BOOTING OF MOTOR VEHICLES:

3-33-1: DEFINITIONS: For purposes of this Section, the following terms shall have the following meanings:

BOOT OR BOOTING: Immobilization of a parked motor vehicle by attaching a mechanical device to the wheel or tire of such vehicle so as to prohibit its usual manner of movement or operation.

CENTRAL BUSINESS DISTRICT: The area bounded by Ridge Avenue to the west, Hinman Avenue to the east, Lake Street to the south, and Emerson Street and Elgin Road to the north.

LICENSEE: A person licensed pursuant to this chapter.

PERSON: Any individual, partnership, corporation, association, firm or other business entity.

PRIVATE PARKING LOT: Any area of private property near or contiguous to premises having one or more stores or business establishments, which is used for the parking of motor vehicles of customers or patrons, which shall be limited to such areas as are provided to the public without charge.

3-33-2: LICENSE REQUIRED: No person shall engage in booting within the Central Business District without having first obtained a license pursuant to this Chapter. Booting operations are prohibited in all other areas of the City, except for operations authorized by the City of Evanston Police Department, pursuant to this Code. No licensee shall boot, permit or authorize booting in violation of the provisions of this Chapter or any rule promulgated pursuant to this Chapter.

3-33-3: APPLICATION FOR LICENSE.

- (A) An application for any license shall be made in conformance with general requirements of this code relating to application for license. The applicant shall include: the name, business address and telephone number of the applicant; if the applicant is other than a natural person, the name, residence address and age of each person having at least ten percent beneficial ownership of the business; and the name, residence address and age of the manager of each location; payment of a license fee as defined in subsection 3-33-5; and such other information as the City Manager or his designee may require to secure compliance with this section.
- (B) Applicants shall be required to provide proof of liability insurance in the amount of \$500,000 per person and not less than \$1,000,000 per incident, issued by an insurer authorized to underwrite risks of this state; Any such policy shall name both the applicant as well as the owner of any lot upon which a booting operation is conducted, as named insured, and shall name the City of Evanston as an additional insured.
- (C) Applicants shall provide evidence satisfactory to the City Manager or his designee demonstrating the existence of an independent place of business. Said place of business shall maintain minimum office hours of Monday through Friday, 9:00 a.m. to 5:00 p.m. Applicants shall further maintain a 24 hour a day, 365 days per year phone number that is staffed by a live operator.

3-33-4: ELIGIBILITY FOR LICENSE.

- (A) No applicant shall be eligible to receive, and no licensee shall be eligible to retain, a license hereunder if the applicant or any of its owners or principal operators has been convicted of a felony within three years prior to the application of a license.

3-33-5: APPLICATION AND LICENSE FEES:

- (A) Upon the filing of a completed application, the non-refundable application fee for all applicants seeking a booting license shall be one hundred dollars (\$100.00).
- (B) Upon approval of an application, the annual fee for a booting license shall be one thousand dollars (\$1,000.00).

3-33-6: LICENSE ISSUANCE TERMS:

- (A) The City Manager or his designee shall direct the issuance of booting licenses to such applicants as shall meet all the terms of the application and produce evidence satisfactory of eligibility for the license.

- (B) The City Manager or his designee shall notify the Police Department of all licenses issued under this Chapter.
- (C) A licensee shall only conduct a booting operation on private property, and only upon the entry of a written agreement with the owner of such private property. All such written agreements shall set forth that the licensee acknowledges that it is bound by, and agrees to operate in accordance with the terms of this Chapter. This document shall be made available to the City Manager or his designee upon request of individual booted.

3-33-7: SUSPENSION, REVOCATION AND RENEWAL OF LICENSE:

- (A) After due notice and opportunity to be heard, the City Manager or his designee may suspend, revoke or refuse to renew any license required by this Section upon a determination that the licensee or any employee or agent of such licensee has violated any provision of this Section, or any rule promulgated pursuant to this Section.

3-33-8: REGULATION OF BOOTING OPERATIONS:

- 3-33-8-1: It shall be a violation of this ordinance to place a boot upon any occupied motor vehicle or upon any motor vehicle parked in accordance with the terms of use for the subject property.
- 3-33-8-2: A boot may not be placed upon any motor vehicle unless more than ten (10) minutes have elapsed from the time the owner or operator of the motor vehicle has left the property.
- 3-33-8-3: A booted motor vehicle shall be released without being assessed a fee if owner or operator of such motor vehicle returns to the vehicle before the attachment of the boot has been completed.
- 3-33-8-4: Licensee must maintain sufficient copies of the relevant portions of this Section and shall provide a copy to any individual requesting the same.
- 3-33-8-5: The fee to release a motor vehicle that has been booted on private parking lot shall be no more than ninety dollars (\$90.00).
- 3-33-8-6: The fee for boot removal may be paid at the location where such vehicle was booted and the licensee, or other person authorized to accept payment, shall accept such payment via cash or by credit card in accordance with generally accepted business practices. No boot shall be left unattended for any reason or any amount of time.
- 3-33-8-7: A boot must be removed within ten (10) minutes after the vehicle owner has paid the fee.

3-33-8-8: A booted motor vehicle shall be subject to a tow if left over two (2) hours on the private parking lot. Where a motor vehicle has been booted on a private parking lot and eventually towed from such parking lot, no additional charge may be imposed for the booting of such vehicle.

3-33-8-9: Signs:

- (A) No fewer than 14 days prior to the first commencing of a booting operation at each and every location where a booting operation is to be conducted, the licensee shall post and maintain in a conspicuous location a minimum of two signs setting forth: the date upon which a booting operation shall commence, the terms of use of the subject property; the fee for removal of a boot; the name, address and a 24-hour telephone number for the licensee; and the name and telephone number of the property owner or manager.
- (B) Such signs shall be at least 4 feet from the ground but no less than 8 feet from the ground, and shall be no smaller than 36 inches in height and 48 inches in width. The signs shall remain in place as long as a booting operation is being conducted. In addition, the licensee shall hand out flyers to the neighboring businesses within two (2) city blocks of each private parking lot subject to booting operations and patrons parking on the private parking lot for fourteen days, setting forth the date upon which a booting operation shall commence and terms of use of the subject property.
- (C) Such signs shall contain the word "warning" in red letters at least 5 inches high, and shall state in letters at least 2 1/2 inches high that "this is private property." Such signs shall also state the following:
1. Parking is prohibited, or parking is permitted from (applicable time) to (applicable time) for (specific location), whichever applies;
 2. Vehicles are subject to booting;
 3. The fee to unboot a vehicle is \$90.00;
 4. The name, address and 24-hour telephone number for the licensee;
 5. Any vehicles left more than 2 hours shall be subject to tow. Vehicles will be towed to (location and phone number);
 6. Fee is payable by cash or credit card;
 7. Complaints may be made by calling the City Collector's Office at (847) 866-2926.

3-33-8-10: Vehicle Window Sticker:

The licensee shall cause a sticker, as described below, to be posted on all motor vehicles booted.

- (A) The word "WARNING!" in capital letters in at least 14-point bold face typed followed by the statement that: " This vehicle was booted because it was parked in violation of rules that are posted on this property. Any attempt to move this vehicle without removing the boot may seriously damage the vehicle."
- (B) A statement reading as follows "Vehicle was booted by: (Insert licensees name and business address). The business is licensed by (Insert name and license number).
- (C) A statement reading as follows: "The vehicle must be released within ten minutes after payment".
- (D) A statement reading as follows: "Vehicle was booted on:" (legibly print the time to the nearest minute and the date).
- (E) The sticker shall be removed by the licensee or the licensee's employee after payment of boot removal fee for no extra charge.

3-33-8-11: Records

- (A) A licensee shall maintain "Time of First Sighting Log" for each property where the parking rules provide for the booting of vehicles parked. The log shall note the exact time, accurate to the nearest minute, when a vehicle was first observed on the property and the owner or operator of said vehicle has left the private property. The initial entry about each such vehicle shall be made in the log at the same time the vehicle is first sighted by the licensee, or his/her employee or agent.
- (B) When the vehicle owner or operator first patronizes the establishment and then leaves the property, a separate entry shall be made recording the time the owner or operator left the property, and the time of his/her return. The vehicle of said owner or operator shall not be booted unless more than ten (10) minutes elapse from the time the owner or operator leaves the property to the time of his/her return.
- (C) Each licensee shall issue to the owner or person in control of a booted vehicle a receipt that contains the information required by the following paragraphs in the form and manner described below and shall retain an identical copy of each such receipt in its records.

1. The booting receipt shall be a printed form that includes such captions and blank spaces as are appropriate to insert the information to be furnished concerning the booting of a vehicle.
 2. The words "**RECEIPT FOR BOOT REMOVAL**" in bold face letters on the top of the receipt.
 3. A receipt identification number which shall be issued in sequence.
 4. A receipt shall indicate the name, business address, business telephone number, and identification number of the licensee who booted or who authorized or directed an employee to boot the vehicle.
 5. A description of the location where the vehicle was booted.
 6. The vehicle license plate number and the make and color of the vehicle.
 7. The words "This vehicle was booted because" followed by a full and accurate description of the facts that substantiate the failure to comply with the parking rules posted on the property; if the failure to comply involves parking longer than the time period permitted, the description shall include the exact time, accurate to the nearest minute, when the vehicle was first observed parked illegally.
 8. The description shall also include: the exact time the person returned to the vehicle; time paid and time released; the amount charged for removing the boot; a statement identifying the credit cards that may be used for payment; and a place for the signature of the party that was booted in agreement of the terms stated.
- (D) All records required hereunder shall be subject to inspection, upon request, by the City Manager or his designee.

3-33-8-12: Identification:

- (A) Each individual who is an employee of the licensee and who is authorized by the licensee to engage in booting, and each person who is authorized to accept payment for releasing vehicles booted by such licensee or such licensee's employees shall prominently display an identification badge.
- (B) There shall be affixed to such a badge a current photograph of the individual to whom it is issued, the name of such individual to whom it was issued and the licensee's business name.
- (C) A licensee shall maintain a current record of all identification badges issued.

3-33-9: ENFORCEMENT AND PENALTIES.

- (A) Any person who violates any provision of this section or any rule promulgated pursuant thereto shall be subject to a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for each day of violation.

3-33-10: APPLICABILITY.

- (A) The provisions of this Section shall not apply to the booting of a motor vehicle by the City, any other governmental entity, or a person acting under the direction of the City or such governmental entity, when such booting is authorized by any other provision of law or any rule or regulation promulgated pursuant thereto.

3-33-11: ADMINISTRATIVE ADJUDICATION.

Jurisdiction over citations issued for violations of the motor vehicle booting provisions of the City Code in Title 3, Chapter 33 shall be exclusively vested in the City of Evanston Administrative Adjudication System.

SECTION 2: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law, provided that this ordinance shall terminate and be of no effect 180 days after its passage, approval, and publication in the manner provided by law, unless affirmatively adopted by City Council action.

Introduced: September 24, 2001

Adopted: October 8, 2001

Approved: October 9, 2001

Lorraine A. Norton
Mayor

ATTEST:

Mary P. Morris
City Clerk

Approved as to form:

[Signature]
Corporation Counsel