

March 16, 2009

Mr. Gary W. Titlow, Manager
Transportation Regulation
Public Works & Transportation
City of Dallas
1500 Marilla
Dallas, TX 75201

Dear Mr. Titlow,

Thank you for the opportunity to comment on the proposed City of Dallas Booting Ordinance. Though we are concerned about the short period of time in which we have had to review the extensive document, we have included a general discussion of the key issues of concern.

Hawkeye Parking Enforcement, Premier Parking Enforcement, Parking Company of America – Dallas, Inc. and LAZ Parking are pleased to participate in a thoughtful discussion with the City of Dallas with the hopes of creating an ordinance that not only protects the City and its' citizens, but also allows small business' like ourselves to continue to operate and protect our personal investments. While we are competitors in the market place, we share a common interest in creating an ordinance that protects all interested parties.

We recognize that the general objective of this ordinance is to disallow booting in a lot where an electronic payment machine or parking lot attendant is not present. We concede that this may be an ideal policy for future parking lots where the number of spaces and volume make economic sense; however, requiring parking lot managers to install this expensive equipment on all current lots, regardless of size, or forfeit their right to enforce payment, is extremely onerous on small business' that operate and manage these lots.

The ordinance as currently written, places a higher burden on enforcement by booting than enforcement by towing. As you are aware, towing actually removes the car from the lot, is more than twice the cost, and has the potential to damage the vehicle.

With regard to the news story, in short, all of the individuals that were interviewed for the news story, did not pay to park. This is the reason that their vehicles were immobilized. The individual that indicated he had a pass to park in the facility did indeed have the pass, however, it was in a different vehicle and was not displayed in the car that was immobilized. Mr. Annino, did not pay to park, which is why his vehicle was immobilized. The third individual that was interviewed admitted that he did not pay to park, he just wanted to complain, on camera.

We understand protecting business' interest. A restaurant owner does not enjoy listening to an irate customer who has just had their car booted. But, a company that relies on parking revenue must have an avenue to protect their investment. If a restaurant patron attempted to walk out on a check, how does the restaurant owner respond? How is not paying for parking any different?

Again, we thank you for this opportunity to participate and hope you will continue to include us in the discussion. We have attached a brief summary of our concerns regarding the ordinance as currently written. Please do not hesitate to contact either of us with any questions or further discussion.

Sincerely,

Jeff Klundt, Hawkeye Parking Enforcement
Lukas Pope, Premier Parking Enforcement
Erik Ward, Parking Company of America
Gina Brown, LAZ Parking

Attachments

Audit and Immobilization Process
Detailed Booting Ordinance Discussion

Processes and Procedures

Parking Enforcement a thorough four-point audit system.

1. Upon arrival to the honor box(es) on a parking lot, an auditor opens the door at the rear or the front of the box. Inside, numbered bins corresponding with the numbers at the front of the box are exposed for the auditor to view. Note, any money inside the box cannot physically be touched or handled by the auditor due to plexi-glass shield riveted to the frame. The auditor marks all payments in the bins on a numbered meter sheet corresponding to that given parking lot's numbered spaces.
2. The auditor re-examines the box and all bins for any double payments in any given bin. These payments are notated on the meter sheets as well.
3. Walkthrough of the lot. Along with the meter sheet, the auditor walks through every portion of the parking lot (small and large) and places a chalk mark on one tire of every vehicle that has proper parking fee (lot rate) indicated on the meter sheet. If a vehicle is found that does not have a payment showing on the sheet, it means one of two things. Either that vehicle has a monthly parking permit displayed hanging on the rear-view mirror, or it is a parking violator. If the vehicle has a proper parking permit properly displayed, the meter sheet is notated accordingly, and one of the tires is chalked on that particular vehicle. If there is no payment in the bin for that space, and there is no proper monthly parking permit, this is indicative of a non-payment violation and justification for vehicle immobilization as a means of enforcement. The meter sheet is marked accordingly for the boot as well.
4. Once all vehicles in the parking lot are checked in and chalked, the auditor re-examines the box once again to verify his findings.

The Vehicle Immobilization Process:

1. Two boots are used on every vehicle. A warning sticker, vivid in color and clear in print, is placed conspicuously on the driver-side window. The stickers heed warning to not attempt to move the vehicle, and they clearly indicate the fine amount and a phone number to arrange for the removal of the boots.
2. Once the boots have been placed on the tires and lock-secured, the auditor goes back to the appropriate honor box to document the immobilization with video.
3. The video is a process within a process. All video is streaming from step to step. We go first showing which box (or which lot) is being examined/audited. Video then streams to the large signage attached to the top of the box showing the daily or weekend parking rate. From there video goes straight to the bin that is empty or has inadequate payment (i.e. the booted vehicle's space number). Surrounding spaces are video- taped as well. From there, the auditor moves to the front of the honor box and videos the numbered-space in question. They push the slot with the key attached to the side of the box in an effort to show that the slot is clear. The auditor goes back again to the other side of the box and confirms with video that indeed that bin is empty. Still streaming in video the auditor then walks to the immobilized vehicle and videos the space number painted on the ground surface, the license plate number of the vehicle, the two boots placed on separate tires, the warning sticker, and the dash board and mirror of the vehicle. Video is complete as is the process.

Removal of Immobilization Devices:

When a person calls in to Hawkeye Parking Enforcement to notify of their vehicle immobilization, a dispatcher asks for the last three digits of the person's license plate. The person is notified of their fine and of accepted payment methods. A manager is dispatched to the appropriate parking lot. During the normal course of business, the response times do vary and are usually in 20 minutes or less from the time the person called into dispatch. Upon arrival, the manager greets the person, collects a payment in the amount of \$100.00 for the parking fine, and removes the boots.

**City of Dallas Booting Ordinance
March 11, 2009 Draft**

SEC. ??-4. EXCEPTIONS

Appears to indicate that the City will not have to comply with ordinance. Holding a small business to a different standard than the City does not seem logical and is anti-competitive. The company that manages and boots on the City lots would be given an advantage over the competing companies.

SEC. ??-5. DEFINITIONS

(10) ILLEGALLY PARKED – Requires a management company to man lots or install an automated machine that provides a ticket (receipt). Requiring parking lot managers to install this expensive equipment on all current lots, regardless of size or volume, or forfeit their right to enforce payment, is extremely onerous on small businesses that operate and manage these lots.

(14)PARKING LOT – Restricts definition to lots with and electronic pay station. This definition also requires parking management companies to install pay stations on all lots. In addition to the financial burden this places on small business, requiring this expensive equipment on all lots (if a company wishes to enforce parking rates) will never make economic sense on small lots or lots with low volume.

(24)UNAUTHORIZED VEHICLE – Continues requirement of an electronic pay station.

(32)VEHICLE IMMOBILIZATION SERVICE – Mentions towing; believe this is to read booting.

SEC. ??-6 LICENSE REQUIRED; APPLICATION.

(b) (2) – Remove – does not apply to boots.

SEC. ??-8 LICENSE ISSUANCE; FEE; DISPLAY; TRANSFERABILITY; EXPIRATION.

(a) 30 days is excessive.

(c) \$1650 annual fee is excessive. These are small companies working on small margins. Please compare to the towing companies, and find out what they pay. Houston charges \$300.00 for annual licensing of booting companies.

(f) Why would they expire June 30th? Shouldn't this be a yearly renewal?

SEC. ??-10 SUSPENSION OF LICENSE

(c) (1) - 10 days is too short a period of time to appeal.

(c) (2) (A) – 10 days is too short a period of time to appeal. Either 3 or 10 days depending upon who serves the suspension, either the director's representative or the director himself.

(c)(1) allows a suspended licensee to send written request to appeal within 10 days after written notice of suspension. We are now talking about a period of up to 20 days, not to mention the timeframe before the appeal hearing. Am I to understand that upon license suspension a licensee could be out of business for a month or so? This would ruin our business financially.

(c) (2) (B) – 3 days notice is not long enough for a hearing.

SEC. ??-14. APPLICATION FOR VEHICLE IMMOBILIZATION OPERATOR'S PERMIT; FEE.

There is no time frame indicated. Is it possible to have a process where an applicant receives an immediate temporary license if they provide the criminal history report and motor vehicle driving record (not sure why driving record is needed; is this carry over from towing ordinance?) as required under SEC. ??-15.

SEC. ??-15. INVESTIGATION OF APPLICATION

- (a) May be carry over from towing ordinance; not sure why an applicant for a booting license would need to submit to a physical examination.
- (b) Motor vehicle driving record may be carry over from towing ordinance; not certain it is applicable here.

SEC. ??-23 SUSPENSION OF VEHICLE IMMOBILIZATION OPERATOR'S PERMIT

It is unclear what the difference between a Suspension of License and a Suspension of a Permit are.

The issue here is that the suspension seems excessive (maximum 60 days). In comparison to ??-10 where a licensee can be suspended for 3 to 10, why should a permittee be able to be suspended for 60? They should be the same – max 10.

SEC. ??-27. LICENSEE'S AND VEHICLE IMMOBILIZATION OPERATOR DUTY TO COMPLY.

- (a) Section A appears to be for towing companies, not booting companies.
- (b) Section B also appears to be for towing companies, not booting companies, although it does reference both, I believe it is only supposed to reference towing operators.

SEC. ??-29. INSURANCE.

Entire section - Part of towing ordinance not needed for booting.

SEC. ??-30 INFORMATION TO BE SUPPLIED UPON REQUEST OF DIRECTOR

Delete portion of this section with regard to Financial Statements. There is no benefit to either the City or the business by providing financial records to the director.

SEC. ??-31. VEHICLE IMMOBILIZATION SERVICE RECORDS.

This appears to apply to towing. Keeping records on file is fine. The type of records the ordinance draft is requesting should not apply.

SEC. ??-32. APPAREL TO BE WORN BY VEHICLE IMMOBILIZATION OPERATORS.

- (a) (1) (A) The restriction on shorts must be carry over from towing. For our summer weather, does not make sense for a booting operation that spends their time outside. Uniforms ok, but shorts should be acceptable.

SEC. ??-35. FINANCIAL INTERESTS OF A PARKING LOT OWNER AND LICENSEE PROHIBITED.

- (a)(1) & (b)(1) Should be able to provide parking lot owner parking rate for each boot and should be able to contribute to lot maintenance.

SEC. ??-36. REQUIREMENTS FOR POSTING SIGNS.

(a) Regarding the requirement that a sign be posted 24 hours after immobilization; how can the company prevent someone removing a sign?

(c)(2)(A) Applies to towing not booting. There is no international sign for booting.

(g)(2)(A) Should provide exception for cases where lots are manned.

(i) The parking company should be allowed to have a contract with both a booting company and a towing company simultaneously. For example, if a car is abandoned on a parking lot, the operator should be able to have it towed. State law says that there has to be a tow sign in order to tow a vehicle.

SEC. ??-37. AUTHORIZATION FOR IMMOBILIZATION.

(a)(1) should read property owner or parking lot manager or operator.

(a)(2) should read property owner or parking lot manager or operator.

(b) Strike in its entirety; applies to towing not booting.

(d) Sentence restricting enforcement by immobilization only on lots where an electronic pay station should be stricken. Does not allow businesses to protect their interests unless they can afford the expense of an electronic pay station. In addition, these machines will never make economic sense on small lots or lots that have low volume.

(e) May want to consider removing the requirement that the city telephone number be included. We believe Houston has regretted this inclusion.

Non adhesive notice under windshield wiper is not necessary. Adds to business expenses, and all information is clearly stated on the removable window sticker. What notice is left behind for the customer when their car is towed?

(g) May make sense for towing but not booting. Maintaining a 24hr dispatch service, and being accessible to the public 24/7/365 by telephone should be sufficient.

(h) May make sense for towing but not booting. I think this section is fine. We provide all customers with a receipt that includes this information.

(i) This seems to state that a private shopping center, office building or any other real estate type can only enforce their parking rules by towing a car but cannot boot. Towing is much more egregious than booting to the vehicle owner. Property owners should have the right to boot &/or tow if they so wish.

SEC. ??-38. REMOVAL OF A VEHICLE IMMOBILIZATION DEVICE PRIOR TO COMPLETING THE INSTALLATION.

This is actually a grey area, as it does not provide a definition of "complete installation". I think this should be removed from the ordinance.

SEC. ??-39. NOTIFICATION OF POLICE DEPARTMENT; VEHICLE IMMOBILIZATION SLIPS OR TICKETS.

Strike entire section; applies to towing not booting.

SEC. ??-40 NOTIFICATION OF VEHICLE OWNER

Do tow companies have to provide this information? The customer can locate such information on the signage. We should not have to provide additional documentation to encourage them to complain.

SEC. ??-41 MAXIMUM FEE SCHEDULE

(a) Should be able to collect parking rate in addition to \$100 removal fee. Also should be able to collect any past due fees for contract parking.

SEC. ??-41.1 VEHICLE IMMOBILIZATION FEE STUDIES.

(c) \$10,000 to study a \$100 fee is a huge cost to the businesses. Recommend a 5 year review cycle at no significant cost to the company.

SEC. ??-42. EQUIPMENT

Part of towing ordinance; does not apply to booting.

SEC. ??-43. AUTHORITY TO INSPECT

Part of towing ordinance; does not apply to booting.