



Metropolitan Nashville and Davidson County, TN

Legislation Text

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An ordinance amending Chapter 6.81 of the Metropolitan Code of Laws regarding Booting Services.

WHEREAS, the public safety is entrusted to booting services; and

WHEREAS, sections of Chapter 6.81 need to be amended to provide further clarity to the citizens of Nashville and Davidson County subject to booting and the licensees and employees engaged in the act of booting; and

WHEREAS, it is in the best interests of the people of Nashville and Davidson County that the amendments be made.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Section 6.81.005 of the Metropolitan Code of Laws shall be amended by deleting the definitions of “attended commercial parking lot”, “business parking lot”, and “unattended commercial parking lot”.

Section 2. That Section 6.81.015 of the Metropolitan Code of Laws shall be amended by deleting the section in its entirety and replacing it with the following:

6.81.015 License required to provide booting service.

No person shall engage in the business of providing booting services within the area of the metropolitan government without first obtaining and keeping in force a license from the commission to operate a booting service pursuant to Section 6.81.005. The license granted by the commission allows booting services to operate on private property only. It shall be unlawful for a booting service to boot any vehicle located on any portion of a public street within the area of the metropolitan government.

Section 3. That Section 6.81.060(A) of the Metropolitan Code of Laws is amended by deleting it in its entirety and replacing it with the following:

A. A license issued by the commission to any person permitting such person to operate a booting service shall be issued for a period of one year at a fee of five hundred dollars. The commission shall have the authority to adopt future increases in this fee.

Section 4. That Section 6.81.080(B) of the Metropolitan Code of Laws shall be amended by deleting the phrase “twenty-one” and replacing it with “eighteen”.

Section 5. That Section 6.81.080(G) of the Metropolitan Code of Laws shall be amended by deleting it in its entirety and replacing it with the following language:

G. A permit issued by the commission to an employee of a booting service permitting such person to engage in the practice of booting shall be issued for a period of one year at a fee of fifty dollars, plus an additional forty dollars for an investigation of the person applying for the permit. The commission shall have the authority to adopt future increases in the permit fee and the fee

to pay for the cost of the investigation of the permit applicant.

Section 6. That Section 6.81.080 of the Metropolitan Code of Laws shall be amended by adding the new subsection (L) and the following language:

All persons engaged in the act of booting must wear a uniform which contains the name and/or logo of the booting company on the right or left chest of the shirt or jacket the employee is wearing.

Section 7. That Section 6.81.100 of the Metropolitan Code of Laws shall be amended by deleting it in its entirety and replacing it with the following language:

6.81.100 Vehicle Requirements and Damages

- A. Vehicles being used to assist in the operation of a booting service must display on each side, in plain view, the name of the booting service, and the telephone number of the booting service. The lettering shall be in a contrasting color to the color of the vehicle, or if a vehicle magnet is used, the lettering shall be in a contrasting color to the color of the magnet. The lettering shall be at least 1.5 inches in height.
- B. A booting service must maintain a 24-hour a day, 365 days per year phone number that is staffed by a live operator to communicate immediately with a driver of a vehicle that has been booted by the booting service.
- C. In the event that the application of a booting device damages a vehicle, then the booting service must pay the cost of repairs for that damage.
- D. It shall be unlawful for either a booting service to boot vehicles on private property without having a valid written contract specifically for such services entered into with the private property owner, lawful lessee, managing agent or other person in control of the property.

Section 8. That Section 6.81.130 of the Metropolitan Code of Laws shall be amended by deleting subsection B.6. in its entirety.

Section 9. That Section 6.81.140 of the Metropolitan Code of Laws shall be amended by deleting the section in its entirety and replacing it with the following:

6.81.140 Booting fees.

The maximum fee which may be charged for boot removal shall not exceed seventy-five dollars. The commission shall have the authority to adopt future increases in this fee.

Section 10. That Section 6.81.150 of the Metropolitan Code of Laws shall be amended by deleting the word “towed” and replacing it with “booted”.

Section 11. That Section 6.81.170 of the Metropolitan Code of Laws shall be amended by deleting the section in its entirety and replacing it with the following:

6.81.170 Prohibited acts.

It is declared that the following acts are prohibited and unlawful and the license or permit of any person and/or company doing any such acts or failing to comply with the provisions of this chapter may be

revoked, suspended, placed on probation or not renewed by the MTLC Director or the Transportation Licensing Commission:

- A. To tow a booted vehicle from any private property if the boot has been on the vehicle less than twenty-four continuous hours. After twenty-four hours, the vehicle may be towed, but only if properly authorized by the private property owner or lessee, which authority may not be delegated by the property owner or lessee to a third person or entity.
- B. To refuse to remove a booting device because the device is damaged.
- C. To fail to respond and arrive to a booted vehicle to remove the boot within one hour of being contacted by the owner or operator or to fail to remove the boot within one hour after full boot removal payment has been received.
- D. For a booting service to make any payment to an owner, employee, agent, or person in possession of a commercial parking lot in excess of the reasonable and customary parking fee ordinarily charged by the parking lot thereon.
- E. For any booting service to be licensed hereunder if that booting service is also engaged in the business of parking lot ownership or owns the property where booting services are being performed.
- F. For a person or company to engage in the business of providing booting services within the area of the metropolitan government without first obtaining and keeping in force a license from the commission to operate a booting service.

Section 12. That Section 6.81.180 of the Metropolitan Code of Laws shall be amended by deleting it in its entirety and replacing it with the following:

6.81.180 Signage-Unpaid parking violations.

- A. No boot shall be placed on a vehicle parked on private property unless a permanently affixed sign measuring not less than twenty-four inches in height and eighteen inches in width. Signs shall be located at each designated entrance to a parking lot or parking area where parking prohibitions are to be effective. Where there is no designated entrance, such signs shall be erected so as to be clearly visible from each and every parking space. The bottom of such signs located at a designated entrance to a parking lot shall be at least four feet above the site grade. Where there is no designated entrance, the bottom of such signs shall be six feet above site grade.

Such signs shall include the following information in red lettering on a white background:

Parking Policy Strictly Enforced

Violators will be Booted at Owner's Expense

\$75.00 Maximum Booting fee

[Name and 24-hour phone number of booting and/or towing company].

- B. Once signs have been installed in a parking lot or area, the booting service must email photos of each of the signs in the lot to the MTLC. The photos must clearly show the entrance to the parking lot or parking area. After receipt of the photos, the MTLC will schedule an inspection and the MTLC may grant a conditional approval via email, which can be revoked if, upon inspection, the signs are not in compliance. If the MTLC finds that the signs are not in compliance, the company must correct the signs within 48 hours.

- C. If a boot is placed on a vehicle parked private property for failure to pay the required parking charge, the owner or operator of the private property may require the owner of the vehicle to pay the applicable booting removal fee plus all unpaid parking fines in order to have the boot removed.

Section 13. That Section 6.81.200 of the Metropolitan Code of Laws shall be amended by deleting it in its entirety and replacing it with the following:

6.81.200 Hearing before suspension, revocation or probation and after refusal to renew license or permit.

- A. Upon the MTLC Director becoming aware of a failure of a booting service to comply with any provision of this chapter or the MTLC rules and regulations, the MTLC director shall send notice of the deficiency to the booting service. Once a booting service has been notified of any deficiency, other than violations of Section 6.81.170, by the MTLC director, the booting service shall address said deficiency within five business days of receipt of notice from the MTLC director. If the booting service fails to address the deficiency within five business days, the MTLC director is authorized to suspend, revoke, otherwise restrict, or not renew any license or permit issued under this article for failing or refusing to comply with the provisions of this chapter or the MTLC rules and regulations. For violations of Section 6.81.170, the booting service must correct the violation immediately.
- B. No action to suspend, revoke or place on probation any license or permit provided for in this chapter shall be taken by the commission or the MTLC Director, except in emergency situations, until the licensee or permittee has been furnished a written statement of the Metropolitan Code violations and a notice of the time and place of the hearing to be held thereon. The furnishing of such notice and the reasons for the commission's or MTLC Director's proposed action shall be given to such licensee or permittee at least fifteen days prior to the date of the hearing. If at such hearing, the commission finds the licensee or permittee has violated the Metropolitan Code or any provision of Section 6.81, it may suspend, revoke or place on probation the license or permit previously issued by it.
- C. Upon the failure to renew any license or permit, the commission or MTLC Director shall so notify the licensee or permittee, giving the licensee or permittee the reasons for its failure to renew the license or permit. The licensee or permittee may by a simple written request addressed to the commission, ask for and request a hearing by the commission as to the reasons for the commission's or MTLC Director's failure to renew the license or permit. The commission shall then grant the licensee or permittee a hearing and shall fix the time and place for such hearing within thirty days and shall promptly notify the licensee or permittee of the time and place. It shall be incumbent upon the commission at the hearing to substantiate the reasons for its failure to renew the license or permit.
- D. At any hearing provided for in this chapter, the licensee or permittee shall have the right to be represented by an attorney of his/her choice, to present evidence, to have witnesses testify under oath on his behalf, and the strict rules of evidence shall not apply.

Section 14. This ordinance shall take effect from and after its final passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This ordinance, as amended, makes various changes to Chapter 6.81 of the Metropolitan Code of Laws, relative to booting services.

The maximum fee that can be charged by a booting service for boot removal would be increased from \$50 to \$75. A booting service would be required to respond to and arrive to a request to remove a boot within one

hour of being contacted and must remove a boot within one hour after full boot removal payment has been received. The Metropolitan Transportation Licensing Commission (“MTLC”) Director would be given authority to take action on violations of the Metropolitan Code violations.

The definitions of “attended commercial parking lot”, “business parking lot”, and “unattended commercial parking lot” would be deleted, and former references to these terms would be changed to “private property.”

The required age for applicants for a booting permit would be reduce from twenty-one years of age to eighteen years of age. All persons engaged in booting would be required to wear a uniform bearing the name and/or logo of the booting company on the person’s shirt or jacket.

New requirements would be implemented to require vehicles used by the booting service to display the name and phone number of the booting service. Booting services would also be required to maintain a 24 hour a day/365 days per year phone number staffed by a live operator to communicate with those who have been booted by the booting service.

A booting service would be required to pay for the repair of any damages caused to vehicles booted. Booting services would be required to have a valid, written contract for services with the property owner in order to boot on private property.

Booting service companies would be given five days to correct violations of the Metro Code. However, violations of Section 6.81.170, governing prohibited acts by a booting company such as failure to remove a boot, would be required to be corrected immediately.

The ordinance also gives the MTLC the authority to adjust the fees set in the ordinance.

Additionally, various housekeeping changes would be made to the existing Metro Code provisions.