

Proposed Ordinance Adoption – Vehicle Immobilization Service

Propose Article IX, Division 3 Chapter 22 - Businesses:

Article IX - Vehicle Immobilization Service

DIVISION 2. – Vehicle Immobilization

Sec. 22-331. - Definitions.

(a) For the purposes of this article, the following words and terms shall be interpreted to have similar meanings:

- (1) Words used in the singular number include the plural and words used in the plural number include the singular.
- (2) Words used in the present tense include the future tense.
- (3) The word "shall" is always mandatory and never discretionary or directory.
- (4) The word "may" is always discretionary and never mandatory.
- (5) The word "person" shall include the words "individual," "firm," "partnership," "corporation," "association," "organization," "trust," "company," or any other legal entity.

(b) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Operator means any person, including a sole proprietor, independent contractor, partnership or similar business entity, operating vehicle immobilization devices for a vehicle immobilization service.

State law means any reference to state law shall be deemed to refer to the Official Code of Georgia Annotated and the rules and regulations published annually by the public service commission related to towing.

Vehicle immobilization device or boot means any mechanical device that is designed or adopted to be attached to a wheel, tire, or other part of a parked motor vehicle so as to prohibit the motor vehicle's usual manner of movement or operation.

Vehicle immobilization service means a person, including a sole proprietor, independent contractor, partnership or similar business entity, offering services anywhere in the City of Smyrna whereby vehicles are immobilized by the installation of a vehicle immobilization device.

Sec. 22-332. - Unlawful Actions.

a) It shall be unlawful for any person or entity to affix a vehicle immobilization device to any vehicle parked in any off-street parking facility, lot or area located on private property within the city, regardless of whether a charge for parking is assessed, unless the following conditions are met:

Signs shall be located at each designated entrance to the parking facility, lot or area where such a device is to be used indicating that parking prohibitions are in effect. The wording on such signs shall contain the following information:

- 1) A warning that any vehicle parked thereon which is not authorized to be parked in such area may be subject to use of a vehicle immobilization device or *boot*.
- 2) Set forth the maximum fee for removal of the device.
- 3) The phone number of the person or entity responsible for removing the device.
- 4) A statement that no additional fee will be charged for use of cash, credit cards, or debit cards.
- 5) The size of the sign shall be the same as required for towing signs as set forth in state law.
- 6) The language on the sign shall state: "Warning: This property owner boots unauthorized vehicles."

b) It shall be unlawful for any person or entity affixing a vehicle immobilization device to a vehicle within the city to charge a fee for removal of the device in excess of the maximum allowed by state law for vehicle towing as established by the Georgia Public Service Commission for vehicles with a gross weight of 10,000 pounds or less or \$50.00, whichever is less.

c) It shall be unlawful for any vehicle immobilization service, or the vehicle immobilization service's agent, representative, employee or operator to go to any place and immobilize a vehicle unless called by the owner, owner's agent, representative or employee of a commercial parking lot, or where a vehicle immobilization service has a contract to immobilize illegally parked cars at a specific parking lot.

d) It shall be unlawful for any person or entity affixing a vehicle immobilization device to fail to provide a receipt of payment of the *booting* fee to the owner, driver, or person in charge of a vehicle. The receipt shall have the following information: The name, address, and phone number of the vehicle immobilization service or company; and the name and signature of the person who affixed/removed the vehicle immobilization device.

e) A vehicle immobilization device cannot be affixed to a vehicle and a fee cannot be charged if the driver of the vehicle returns to the vehicle before the installation of the vehicle immobilization device is complete.

f) Any company or business affixing or removing a vehicle immobilization device shall register with and obtain a business license from the Smyrna Business License Department by paying the appropriate business license fee and filing an application, on a form to be supplied by the Smyrna Business License Department; provided, however, that neither

property owner conducting vehicle immobilization on property owned by that property owner nor its property management company providing substantial management services to the property in addition to vehicle immobilization shall be required to obtain a license hereunder or required to place the call described in subsection 3., but shall be subject to all other conditions of this section.

g) It shall be unlawful for any vehicle to be subject to a vehicle immobilization device and be towed simultaneously.

Sec. 22-332. - Application Contents.

a) Each application for a vehicle immobilization or license, whether new or a renewal, shall contain the following information:

- 1) The applicant's full name.
- 2) The present address and telephone number of the applicant.
- 3) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the place and date of incorporation. If the applicant is a partnership, the applicant shall set forth the name, and residence address of the partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership filed with the county clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The applicant corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer. Such designated persons shall complete and sign all application forms required of an individual applicant under this chapter, but only one application fee shall be charged.
- 4) If applicant is a person doing business under a trade name, a copy of the trade name properly recorded. If the applicant is a corporation, a copy of authority to do business in Georgia, including articles of incorporation, and trade name affidavit, if any.

Sec. 22-333. - Penalties.

a) Any person violating any provision of this section may be punished as provided in Section 1-8 of the Smyrna Code of Ordinances.