

Order 109-15/16

Amendment to add to Section 28-290(c) that required signs are to be posted “while the lots are in operation”: 9-0 on 11/16/2015

Waive the second reading: 9-0 on 11/16/2015

Passage: 6-3 (Duson, Mavodones, Suslovic) on 11/16/2015

Effective 12/16/2015

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**CITY OF PORTLAND
IN THE CITY COUNCIL**

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**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 15. (LICENSES AND PERMITS*) SECTION 15-12. Fees and
CHAPTER 28. (TRAFFIC AND MOTOR VEHICLES)
ARTICLE VIII - LICENSING OF BOOTING OF MOTOR VEHICLES,
SECTION 273 Re: Booting of Motor Vehicles**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Chapter 15, Section 15-12, is hereby amended to read:*

Sec. 15-12. Fees and expiration dates.

(a) Unless specified elsewhere in this Code, fees for licenses issued pursuant to this Code and the expiration date of each license shall be as follows:

Location in Code	Description	Fee	Expiration Date
...			
<u>Ch. 28, Art. VIII</u>	<u>Licensing of Booting of Motor Vehicles</u>	<u>\$100.00</u>	<u>October 31</u>

2. *That Chapter 28, Article VIII, of the Portland City Code is hereby enacted to read as follows:*

ARTICLE VIII - LICENSING OF BOOTING OF MOTOR VEHICLES

Sec. 28-284. Purpose; permit and license required.

(a) The purpose of this article is to:

1. Regulate the imposition of a vehicle disabling device known as a boot and the imposition of a punitive fine by private parking lot business in order to protect the health, safety and welfare of the public; and
2. Promote the safe and legal operation of private parking lots for the use and convenience of businesses and the general public; and
3. Ensure by licensing the regulation of persons engaged in the business of providing private parking spaces, to regulate the disposition of vehicles that are disabled, and to set licensing fees and penalties for the enforcement thereof.

(b) No person, establishment or entity shall be permitted to disable vehicles by means of a boot in the course of operating a private parking lot within the City of Portland without first obtaining a license from the city and paying a \$100.00 fee therefor.

Sec. 28-285. Definitions

Boot or Booting means the act of placing on a parked motor vehicle any mechanical device that is designed to be attached to a wheel or tire or other part of such vehicle so as to prohibit the vehicle's usual manner of movement.

Private parking lot means an area reserved for parking motor vehicles that is under the ownership or control of a private parking lot company/operator/owner.

Private parking lot company/operator/owner means a business entity or individual engaged in the business of providing parking in a private parking lot.

Sec. 28-286. Exemptions

The requirements of this article shall not apply to the booting of a motor vehicle by the City of Portland and its representatives, when booting of a motor vehicle by the City of Portland and its representatives is authorized by the Portland

City Code.

Sec. 28-287. General provisions to apply.

Except to the extent that this article contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions herein, including application, licensing authority, license fee, standards for denial, suspension or revocation, appeal of denial, noticing of hearings and transferability of license.

Sec. 28-288. Application.

An application for, and, if requested, renewal of, a regulated business license to engage in the business of booting of motor vehicles shall be accompanied by the following information:

(a) Proof of commercial general liability insurance, as required under section 28-288; and

(b) A statement as to whether, within three years of the date of application or renewal, (i) the applicant, or (ii) any employee or agent of the applicant who physically installs or removes booting devices or receives payment for removing booting devices, has ever been convicted, in custody, under parole or under any other non-custodial supervision resulting from a conviction in a court of any jurisdiction for the commission of a felony of any type.

Sec. 28-289. Grounds for denial, revocation or suspension.

In addition to the grounds for revocation, suspension or denial found in chapter 15, a license issued under this article may be suspended or revoked or denied by the city upon a determination that the private parking lot company licensee, or applicant, or private parking lot company/operator/owner, hereinafter "license holder":

(a) Violated any of the requirements or regulations established herein or by the City Manager or his or her designee under this article;

(b) Has been given a disqualifying criminal conviction at any time during the three (3) years immediately preceding application; or has been imprisoned at any time during said period for a disqualifying criminal conviction; provided

that said conviction was for an offense which is rationally related to the purpose of providing private parking;

(c) Has not maintained required insurance;

(d) Has failed to show proof of a valid driver's license;

(e) Has failed to correct violations of this article or conditions of the license within (3) three days of notice of the violations;

(f) Is found in violation of the same offense two (2) times within a permit period; or

(g) Made any false statement or omission of material fact on the application, site plan or elsewhere in connection with securing a permit.

Sec. 28-290. Legal Duties

Each licensee engaged in the business of booting of motor vehicles on a private parking lot shall have a duty to:

(a) Maintain in full force and effect at all times throughout the duration of the license period commercial general liability insurance, with limits of not less than \$500,000.00 per person and not less than \$1,000,000.00 per incident, arising in any way from the issuance of a license. The policy of insurance required under this subsection shall:

1. Be issued by an insurer authorized to insure in the State of Maine; and
2. Include a provision requiring 30 days' advance notice to the City of Portland prior to cancellation or lapse of the policy. A copy of such certificate of insurance shall be kept on the licensed premises, and, upon request by any authorized city official, shall be made available for inspection by such authorized city official; and

(b) Conduct booting operations exclusively on a private parking lot and only pursuant to a written agreement with the owner, operator and/or manager of the property;

(c) Post at private parking lots with twenty (20) to fifty (50) or less parking spaces in the lot, while the lots are in operation, a minimum of three (3) red signs, no smaller than 48 inches in height and 30 inches in width, with one at the entrance, one at the exit and one at the payment device, and if there are multiple entrances or exits, then signs shall be posted at each entrance or exit location. One additional sign, conspicuously posted, shall be required for each additional 50 spaces or part thereof. Private parking lots with less than 20 spaces will require review by the City and be required to post signs as determined by the City Manager or his or her designee. The signs shall have prominent white block lettering and shall set forth in the following order:

1. That the private parking lot is not a municipal parking lot;
2. That payment is required for parking in the private parking lot;
3. That a motor vehicle can be booted and the reasons therefor (i.e. lack of payment or overtime parking);
4. The fee for removal of a boot; and
5. The name, address and a 24-hour telephone number for the licensee and property owner or manager; and

All signs shall be reviewed and approved by the City Manager or his or her designee prior to installation; and

(d) Include on each and every booted vehicle:

1. The fee for removal of a boot;
2. The name, address and a 24-hour telephone number for the licensee and property owner or manager and a description of how the boot will be removed;
3. A statement notifying consumers of their rights under this article; and

4. The date and time the boot was placed on the vehicle; and

(e) Maintain sufficient copies of this article for distribution to any person requesting a copy of this ordinance;

(f) Immediately remove a boot from any motor vehicle, at no charge, if the owner of the motor vehicle returns prior to complete attachment of the boot;

(g) Remove a boot within thirty (30) minutes of receiving contact (i.e. a telephone call, etc.) from the owner or operator of a booted vehicle;

(h) Have available means of collecting any fees, via cash and/or credit card, at each and every location where a booting operation is conducted; and

(i) For every vehicle from which a boot has been released, a receipt shall be given indicating the following:

1. The date and time the boot was placed on the motor vehicle, and the reason therefor;
2. The date and time the owner returned to the vehicle;
3. The date and time the boot was removed from the vehicle;
4. The name of the person who installed and removed the boot; and
5. A reference to the licensee's dispute resolution policy; and

The licensee shall keep on file, for a period of at least three (3) years from the date of its issuance, a copy of all of the receipts required to be provided under this paragraph and, upon request by any authorized city official, shall make a copy of such receipt(s) available for inspection by such authorized city official; and

(j) Establish a written dispute resolution policy for all contested booting charges;

(k) Refund the fee for the removal of a boot, to the customer who paid it, for any vehicle from which a boot has been released if, upon the City's investigation of a complaint to the City, the license holder is determined to have booted the vehicle in violation of this article; and

(k) Maintain at the license holder's place of business minimum business hours of 9:00 a.m. to 5:00 p.m., Monday through Friday.

Sec. 28-291. Prohibited Acts

It shall be unlawful for any licensee engaged in the business of booting motor vehicles to place a boot upon any occupied motor vehicle or upon any motor vehicle parked in accordance with the terms of use of the subject property.

Sec. 28-292. Regulations May Be Promulgated by City Manager

The City Manager or his or her designee shall be responsible for the supervision of all matters relating to private parking lot companies in the city and may promulgate, and from time to time amend, rules and regulations for the guidance, government, and conduct of private parking lot company operations.

Sec. 28-293. Violations/Enforcement

In addition to any other penalty provided by law, under this Article in the City Code or Maine law, any person who violates any provision of this Article or any rule or regulation promulgated thereunder shall be subject to a fine of not less than \$100 for each first offense and \$500 for every repeated violation. Each day that a violation continues shall constitute a separate and distinct offense.