

Chapter 5-04

VEHICLE IMMOBILIZATION ON PRIVATE PROPERTY

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Section 5-04-01 PURPOSE; SCOPE

- A. The purpose of this Chapter shall be the protection of the health, safety and welfare of the citizens of Boise and their vehicles by imposing reasonable regulations on the use of vehicle immobilization operations within the City limits upon public and private parking facilities.
- B. This chapter shall not apply to:
 - 1. Any property owner who immobilizes unauthorized vehicles and does not require any remuneration, monetary or otherwise, for the removal of the immobilization device;
 - 2. The temporary and necessary actions that may be taken by the State, County, or City authorities for the emergency needs of the community;
 - 3. The removal of unlicensed or abandoned vehicles from a street, highway, public or private property in compliance with law; or,
 - 4. Any private property owner from having an unauthorized vehicle removed by a towing service in compliance with law.

(6032, Repealed & Replaced, 01/30/2001; 5626, Amended, 4/18/95; 5502, Enacted, 11/16/93)

Section 5-04-02 DEFINITIONS

- A. “Enforcement Authority” shall mean either the Boise City Clerk’s office or Boise City Parking Services. The Enforcement Authority shall have the authority to enforce all provisions of this ordinance including the issuance of Uniform Criminal citations for violations of any provision of this ordinance. The Enforcement Authority shall also have the ability to enforce this ordinance by suspension or revocation as allowed by the Boise City Code.
- B. “Licensing Authority” shall mean either the Boise City Clerk’s office or Boise City Parking Services. The Licensing Authority shall have the final approval over all of the application

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requirements for the issuance of the license.

- C. "Parking Facility" shall mean either land, lot with designated parking spaces, structure or mechanism for the temporary use of vehicles with the consent of the owner of the facility and the owner or agent of the owner of the vehicle, where the consent of the owner is manifested by conditions contained in the signage required by this chapter and the consent of the owner or agent of the owner of the vehicle manifested by the presence of the vehicle in the facility.
- D. "Private Parking Facility" shall mean a parking facility owned by a private party, entity or organization or managed by a party other than a city, county or agency of the United States.
- E. "Public Parking Facility" shall mean a parking facility owned and managed by employees or agents of a city, county or agency of the United States.
- F. "Vehicle" shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, whether or not operational, excepting devices used exclusively upon stationary rails or tracks.
- G. "Vehicle immobilization" shall mean the impounding, incapacitating, or immobilizing of any vehicle, whether motorized or not, without the permission of the owner or agent of the owner of the vehicle by the use of any device, wheel clamp, object, barrel, "car boot", mechanism, or method either attached to the vehicle or not, by the owner or agent of the property upon which the vehicle is parked, that does not allow the owner of the vehicle, or his or her authorized agent, to freely move the vehicle from the place where it is immobilized.

(6606, Amended, 09/25/2007; 6032, Amended, 01/30/2001; 5626, Amended, 4/18/95; 5502, Enacted, 11/16/93)

Section 5-04-03 LICENSE REQUIRED; PROHIBITED ACTS

It shall be unlawful for any person, individual, corporation or agent or employee of such to:

- A. Engage in vehicle immobilization at a private parking facility within the corporate limits of Boise City without having first obtained a vehicle immobilization license or agent photo identification card;
- B. To immobilize a vehicle of another person for breach of condition not stated in the signage required by this chapter;
- C. To charge a fee for release of an immobilized vehicle in excess of the fee stated in the signage required by this chapter; or,
- D. To use any device, object, barrel, "car boot", mechanism, or method that injures or damages the vehicle when installed, removed or while the owner or agent of the owner of the vehicle does not move or attempt to move the vehicle.
- E. To engage in vehicle immobilization at a parking facility that is not registered with the Licensing Authority.
- F. Violate any provision of this act.

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(6032, Repealed & Replaced, 01/30/2001; 5626, Amended, 4/18/95; 5502, Enacted, 11/16/93)

Section 5-04-04 APPLICATION

All applicants for a Vehicle Immobilization license under this Chapter must file with the City Clerk an application furnished by the City Clerk. The applicant shall furnish along with any other reasonable request of the Clerk the following information:

- A. Name or Trade Name, address, and telephone number of the licensee's permanent and fixed place of business. A permanent or fixed place of business shall be a physical location, building, office or similar, and must have a street address and shall not be a post office box or drop box.
- B. Name, address, and telephone number's of all employees of the licensee's business.
- C. Name, address, and telephone number of designated agent for service of process.
- D. Telephone number of 24-hour access number for complaints that must have a person respond to the phone call/complaint within 12 hours of receipt.
- E. Description of identifying uniform or insignia to be worn by all employees who engage in the booting of vehicles.
- F. Name, address, and telephone number of insurance carrier for the business. Insurance shall be carried at all times during the licensing period in the amount of \$10,000 per claim and the vehicle immobilization license shall be canceled upon notice of lapse in insurance.
- G. Current fee schedule charged for the release of all vehicles immobilized.
- H. Copy of the notice that will be attached to vehicles pursuant to 5-04-09 (C).
- I. Description of vehicles used to respond to calls for service and identifying logos on vehicle. All vehicles shall have identifying logos and lettering that shall be visible on both sides of the vehicle of at least three (3) inches in height and be reflective for visibility at night. The vehicle shall also have a lighted sign with the business name on it for use at night on the vehicle. Lettering shall be of a contrasting color to the primary vehicle color to provide greater visibility. The Licensing Authority must approve the identification package for the vehicles used for this service.
- J. Identification of all private parking facilities and their owners names and addresses serviced by applicant, amendments to this may be done during the licensing period with an additional administrative fee. Applicant shall provide proof or acknowledgment for the Boise City Planning and Development Services Department that the property to be used for parking vehicles is in compliance with the Boise City Code for such use.
- K. A site plan, approved by the Licensing Authority, of the parking facility identifying the locations of all signage required by this ordinance. The Licensing Authority shall have the ability to require the applicant to provide additional signage at the City's sole discretion, to provide adequate notice. At minimum, signs shall be placed at all entrances and exits unless approved by the Licensing Authority for a different or additional location.
- L. Any license in existence at the time of the enactment of this ordinance shall be canceled. A new

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application must be applied for pursuant to the requirements of the most current ordinance, all fees paid by a former licensee will be credited towards the fee for the new license.

(6032, Repealed & Replaced, 01/30/2001; 5502, Enacted, 11/16/93)

Section 5-04-05 LICENSE FEE

There shall be accompanied with a completed application for Vehicle Immobilization license an agent photo identification card for each agent of the licensee that will be performing immobilization of vehicles and a non-refundable administration fee in an amount established by the Boise City Council and listed on the most current City Clerk License Fee Schedule:

- A. The license shall be for the business or individual that requests said license. The license allows the licensee and all of its actual employees to engage in the business of vehicle immobilization.
- B. A Vehicle immobilization license is not transferable or assignable.
- C. Upon the filing of an application of a vehicle immobilization license, and tendering the fee for the processing of an application, the City Clerk shall cause to be determined if the applicant has satisfied all conditions and qualifications as hereinafter set out for the issuance of said license.
- D. The City Clerk shall, within thirty (30) days of the application, approve or deny the application based on findings concerning applicant's compliance with the conditions of this Chapter.
- E. The City Clerk may, at any time, require additional information of an applicant or licensee to clarify items on the application.

(6419, Amended, 09/20/2005; 6032, Repealed & Replaced, 01/30/2001; 5502, Added, 11/16/1993)

Section 5-04-06 LICENSE-SUSPENSION/REVOCATION/REFUSAL TO ISSUE

The Licensing Authority shall refuse to approve issuance or revoke a Vehicle Immobilization license for failure to maintain any condition of this Chapter, a violation of Title 5, Chapter 2, Boise City Code, or one or more of the following reasons:

- A. The making of any false statement as to a material matter in an application for a license, or license renewal, or in a hearing concerning the license.
- B. Violation by the licensee, applicant, or an employee of licensee or applicant of any provision of this Chapter.
- C. Revocation of a Vehicle Immobilization license of the applicant or licensee, within Thirty-six (36) months preceding the application.
- D. Use by the licensee of a name or trade name for his vehicle immobilization company other than the one registered with the City Clerk.
- E. Suspension of the vehicle immobilization license two (2) times within thirty-six (36) months.
- F. The Licensing or Enforcement Authority at any time may seek review by the City Hearing Examiner for suspension or revocation of the license for repeated violation(s) of this ordinance.

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Revocation or suspension shall be conducted pursuant to Boise City Code.

(6032, Repealed & Replaced, 01/30/2001; 5502, Enacted, 11/16/93)

Section 5-04-07 TERM OF LICENSE

Each license issued under this ordinance shall be for one (1) calendar year expiring on December 31st of each year. Each renewal for license shall be considered an application for a new license with satisfaction of all conditions and qualifications under this Chapter. The fee for the issuance of a lost, destroyed or mutilated license shall be (\$5.00) dollars.

(6032, Repealed & Replaced, 01/30/2001; 5502, Enacted, 11/16/93)

Section 5-04-08 EXHIBITION OF LICENSE

Each Vehicle Immobilization license or agent photo identification card shall be carried and visibly displayed by the licensee and their employees or agents when engaged in vehicle immobilization at a private parking facility and shall be presented by the licensee, employee, or agent upon contact with any person. License may not be covered or obscured by any article of clothing.

(6032, Repealed & Replaced, 01/30/2001; 5626, Amended, 4/18/95; 5502, Enacted, 11/16/93)

Section 5-04-09 CONDITIONS

Each licensee or employee or agent of the licensee under this ordinance shall observe all the following:

- A. Any devices used in the immobilization of any vehicle shall be in safe and proper working condition.
- B. Emergency vehicles used in police, fire, or medical emergencies shall not be immobilized for any reason. Upon proof that an unmarked vehicle is used for the same purpose the vehicle immobilization unit shall be removed immediately at no charge.
- C. An easily removed notice must be affixed to the driver's side window of each vehicle immobilized notifying the owner of the vehicle of the reason for the immobilization as well as the requirements necessary for the release of vehicle. Upon payment of the release fee, the sticker shall be removed. The notice shall contain the following information:
 1. Name and telephone number of company or person to contact for the release of the vehicle.
 2. Cost of release of the vehicle.
 3. Acceptable forms of payment for the release of the vehicle.
 4. Time and reason vehicle immobilized.
- D. All vehicle immobilization licensees shall have twenty-four (24) hour service and access. Licensees shall respond to all calls for release of a vehicle within thirty (30) minutes of a request

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for response and must remain at the facility until the immobilization device is removed, unless the payment of the fee is refused. The licensees, employees or agents of the licensee may exceed the 30 minute response requirement if they are actively engaged in the release of another vehicle. It shall be an affirmative defense for the licensees, employees or agents of the licensee to prove that the delay was caused by the normal operation of the business and not dilatory actions of the licensee, employee or agent of the licensee.

- E. All licensees, employees or agents of the licensee that immobilize vehicles or collect any money to remove the immobilization device shall wear their photo identification card and display it immediately upon contact with the citizen. All vehicles used by licensee shall have reflective or lighted signs as required by Boise City Code Section 5-04-04(I).
- F. No vehicle shall be immobilized at a parking facility unless signs required by this ordinance are posted at the designated locations on the site. All signs shall be posted so that the bottom of the sign is at least thirty-six (36) inches, but no more than seventy-two inches (72) off of the ground. All signs shall be of the dimension eighteen (18) inches by twenty-four (24) inches [18x24] and be reflective. All signs as designated by the Licensing Authority shall be lighted for nighttime visibility. The Licensing Authority may require additional lighted signs upon review of the site plan and visual inspection of the lot. The signs shall be white with red lettering at least two (2) inches in height and shall contain the following language in the following format:

**PERMIT
PARKING or NO
ONLY PARKING
 ANYTIME**

[Hours of Operation or 24 hours]

[BOOTING SYMBOL, as determined by the Licensing Authority]

VIOLATORS WILL BE BOOTED (FEE\$\$. \$\$) OR TOWED AT THE OWNER'S EXPENSE

[Phone #] for Release - (LICENSEE'S NAME)

No additional language may appear on these required signs. The Licensing Authority must approval all signs.

- G. All signs must be readable and unobstructed.
- H. No vehicle parked in a fire lane may be immobilized. These vehicles must be towed in accordance with State law.
- I. No attended vehicle may be immobilized without first requesting the occupant remove the vehicle, if practical.
- J. All parking spaces shall be visibly striped. No striping is required if the property prohibits the parking of cars at any time.
- K. No delivery vehicle, in service, may be immobilized.

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- L. Vehicles that are obstructing the safe travel in a parking facility and not in a marked space may not be immobilized. These vehicles must be towed in accordance with State law.
- M. All other signs allowing alternate uses of the same parking facilities must be of different color, appearance and physically placed separately and apart from the signage required by this ordinance to avoid confusion.
- N. Various forms of payment must be allowed with at least two (2) methods being an alternative to cash, specifically, personal checks, credit cards or debit cards.

(6032, Repealed & Replaced, 01/30/2001; 5502, Enacted, 11/16/93; 5626, Amended, 4/18/95)

Section 5-04-10 PENALTY

Any person, individual, corporation who shall violate any of the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed three hundred dollars (\$300.00) and/or imprisonment in the county jail not to exceed six (6) months. Each incident of violation shall be a separate offense and punishable as herein above described.

(6032, Repealed & Replaced, 01/30/2001; 5502, Enacted, 11/16/93; 5626, Amended, 4/18/95)