



Charlotte City Council
Community Safety Committee
Meeting Summary for June 19, 2013

COMMITTEE AGENDA TOPICS

- I. **Subject:** Predatory Towing and Booting
Action: None
- II. **Subject:** Next Meeting
Wednesday, September 18, 2013 at noon in Room 280

COMMITTEE INFORMATION

Present: Patrick Cannon, Michael Barnes and Beth Pickering
Time: 12:05 pm – 1:10 pm

ATTACHMENTS

1. Agenda Package
2. Towing and Booting Ordinance PowerPoint

DISCUSSION HIGHLIGHTS

Chairman Cannon called the meeting to order and asked everyone in the room to introduce themselves.

I. **Predatory Towing and Booting**

Chairman Cannon welcomed everyone to the meeting. He said the Towing and Booting Ordinance was referred back to the Committee with the idea of looking at what is happening in the way of booting. He then turned it over to Assistant City Manager Eric Campbell.

Mr. Campbell stated that approximately two years ago the Committee did a comprehensive review of the entire ordinance and did major revisions and updates specifically to sign

Community Safety Committee

Meeting Summary for June 19, 2013

Page 2 of 12

requirements, fee requirements, etc. It was sent to the full Council and adopted at that point. At this juncture we are just going to go back in and quickly review what those key changes are and Deputy Chief Eddie Levins will then elaborate on some of the specifics with booting.

Deputy Chief Levins began reviewing the “Towing and Booting Ordinance” presentation (copy attached).

Barnes: Why did this issue come to our agenda and what public safety issues are we trying to address?

Cannon: The Mayor and Council had received e-mails with regards to at least one situation where a person had parked in a commercial development and when he went into the retail establishment to patronize it, he left that establishment and went down to another retail establishment, came out of that establishment and noticed that his car was booted.

Barnes: All within the same shopping center?

Cannon: Yes. It has been suggested by the tow company that the citizen was out of line for going to a different retailer first instead of the retailer that the parking spot was allotted for. Apparently it's set up where if you park there, you must patronize him and as a result the car was booted and \$50 had to be paid, \$50 of which the citizen suggested he did not have or could afford, but obviously had to pay in order to get the boot off.

Pickering: I just drove by the site we are referring to. My understanding is this is 7th Street and I went to look at the signs and specifically the language on the signs. What I saw are three different stores in particular that those particular spaces are allotted for, the cleaners, the sandwich shop and a video store. It is those three that the signs allow parking for and only those three. I think what happened is the customer patronized the sandwich shop, came out and perhaps went to the Dollar General which is right next door. It was at that point that someone felt that customer was in violation parking wise. My question would be is someone from one of those three stores initiating the request that the boot be placed or is the towing or booting company strictly on their own, taking it upon themselves to place that boot once they see that customer leaving one of those three?

Levins: I was trying to get that information before the meeting and I believe the Police were called out there but I also believe that the wrecker company had the authority to do the patrolling of the property without the owner's presence.

Cannon: In other words there is some form of agreement between those two parties to allow the enforcement of that to take place on that property.

Pickering: So is any kind of paperwork created at that point with one of the retail stores?

Levins: Not for booting. If it had been a tow, the owner would have had to have been there and sign an order for that car to be towed away. The wrecker driver would have had to notify us, receive a complaint number and then they are authorized to tow the vehicle away. With a boot it

Community Safety Committee

Meeting Summary for June 19, 2013

Page 3 of 12

is not that way.

Barnes: Where else, other than this shopping center on 7th Street, are we finding this to be a problem, if anywhere?

Levins: I don't have any information on other locations where this is happening. This is the biggest one we've heard and there has been enough conversation with the Division about this location to make it aware.

Barnes: How frequently is it occurring at that particular shopping center?

Levins: I understand it is happening nightly.

Barnes: Do we know why it is happening there nightly?

Levins: It is happening there because you have a business with a relatively small parking lot that also has businesses across the street that utilizes the same parking lot. It has to do with bar traffic and restaurant traffic across the street that utilizes the same parking lot. It is really not just the issue of that lot and patrons of those stores, it is everybody using that lot for whatever purpose and I think that is what has created the environment of people trying to protect their spaces and this is the route they are taking to get it done.

Barnes: The shopping center owns the parking, not the bars across the street?

Levins: Correct. There is actually a pay parking lot on the end of the parking lot that is separate from them and open to the general public. There are paid slots at the Roy White end of the parking lot, the old flower shop.

Cannon: I want to make sure the Committee understands that it is, by my way of understanding, not just this single location where this has occurred.

Levins: I agree. I just don't have any definite information where this is happening. I don't think people call it in to us like they do with tows.

Barnes: I'm just trying to figure out if we have a problem and what we can do about it. Regarding the "Booting" slide, it says booting is already addressed in the current ordinance, there are sign/notice at all lots, requirements to respond to remove boot, and must take credit cards. So those things are in the current ordinance and they must be done where booting is done?

Levins: That is correct.

Barnes: Are those things being done at this particular shopping center? Is there signage?

Levins: There is apparent signage out there. He does come to remove the boots. The complaint is the patronage of the business in relation to what the sign says.

Community Safety Committee

Meeting Summary for June 19, 2013

Page 4 of 12

Barnes: What I heard you all describe was the situation where I may go to the Dollar General, park in front of it, come out and decide to go get a sandwich, come back and my car has a boot on it. That is a problem because it is not fair to the people who are driving in there. Do you own that shopping center?

Jim Lowder, Lowder Investment Properties: I own the part that is in discussion.

Barnes: Mr. Chair may I ask him some questions?

Cannon: Yes sir, come to the table please.

Barnes: You are not under oath or anything I just want to ask you some questions.

Lowder: I came here to try to resolve this.

Barnes: I don't blame you. You heard the issue we've discussed here in the last several minutes. From your perspective is there a problem with respect to the booting at your shopping center?

Lowder: No.

Barnes: Is there a problem with respect to parking at your shopping center?

Lowder: Absolutely.

Barnes: Would you please briefly give us the history of the issues in the shopping center?

Lowder: First of all, in the strip shopping center there are four owners of that shopping center that own their building and the parking lot in front of them. You have Dollar General who owns their building and their parking lot. I own my building and my parking lot. There are two owners down below that own their building and that part of the parking lot. I can only control what is in front of my building and my tenants were having no parking. The real problem is not Dollar General. You have Crisp, you have Starbucks, you have Jackalopes and they have neighborhood services zoning which is a pedestrian zoning. So they have to have very little parking and at lunch time, Tim Harden represents me and they do not boot at night. It is typically from 11:00 till 2:00, just for the lunch hour. The problem is that you have restaurants there that do not have parking so they park in our parking lot and then my tenants don't have parking.

Barnes: Do you think it would be reasonable for you guys to spray paint "for X customers only" on the spaces. Have you done that?

Lowder: I have put a sign in every space that says parking for these businesses only. I added signs that says booting and towing strictly enforced. Although we do not tow we do boot, and I put it up there just because I had to pay to have the sign made.

Cannon: Why do you boot and not tow when you could free the space up for another parker to come?

Community Safety Committee

Meeting Summary for June 19, 2013

Page 5 of 12

Lowder: Because the parking lot is congested and I just felt that it would probably be more hazardous during the lunch hour to try to bring a wrecker in. This is Tim's business and I do not get one penny. I get a lot of calls of grief, but when I agreed to hire him or have him represent me I get no money. My business is to give my tenants parking spaces.

Barnes: How many people did you boot last week?

Tim Harden: Within a week's time probably 25.

Barnes: In a week's time at \$50 a hit?

Harden: It fluctuates.

Barnes: So in your part of the shopping center you mark your spaces and say this is for my business only, booting and towing allowed. In the Dollar General side do they do the same thing?

Lowder: They have not and I'm trying to work with the owner on trying to sign Dollar General. Roy White or Ed White has hired Preferred Parking. They put a fence up and put paid parking on their end of the shopping center. That is the problem; you've got 4 different owners and not a common interest or common goal.

Barnes: Mr. Powers, as far as you are aware are there any requirements with respect to private real estate that we either restrict or allow parking arrangements of any sort?

Powers: No and I would say that this is an issue probably that the City Attorney's Office would have to look at more thoroughly. The private arrangement between the parties is not an issue. I will also say that if you'd like, the City Attorney's office can issue an opinion on this or get back to you more thoroughly to your question.

Barnes: Based upon the discussion that you are hearing today, Mr. Powers, it would help me if you would do that. I don't know what all will be said between now and 1:30 but please follow up on this.

Cannon: Mr. Lowder, let me ask you one question before you leave. Are there any other issues on the property?

Lowder: Generally, the only time we have a parking issue is during the lunch hour when Crisp and Starbucks and Jackalopes are also serving lunch. Like I said, when their parking lots fill up they look for someplace else and the problem is Dollar General is in between us and them. So, they first fill in Dollar General because they do not have a booting sign so then Dollar General gets full and everybody else starts looking further down and for whatever reason they don't want to pay the \$2 and park in Preferred's spots.

Barnes: What are your businesses?

Lowder: Vizart Video, Kim's Cleaners and Sandwich Max, used to be Substation.

Community Safety Committee

Meeting Summary for June 19, 2013

Page 6 of 12

Barnes: (Question to Preferred Parking) What is the utilization rate of your spaces?

Benjamin Sands: Minimal.

Barnes: How many spaces do you guys have?

Sands: Thirty-seven.

Barnes: Generally, are they unoccupied?

Sands: Most of the time when they are occupied they are occupied by monthly customers. We actually enacted the fence as part of the tow/boot ordinance because when we first went there there was the conflict with the other tenants within that strip because to the average citizens it looks like a strip mall. We actually worked with the local Providence Division there to develop that delineation of the parcels. We had a chain link to separate the parking lot. We sat there with CMPD to make sure that we were properly delineated so that we weren't out of conformance with the tow/boot ordinance.

Lowder: That is why we put a sign on every parking space because short of us putting a fence up and messing up the parking lot further we signed every space that we have.

Pickering: Just having been over there the signage is very clear and I don't think anyone could misunderstand the signage you've got there currently.

Cannon: Nothing may come out of Committee, but I've got to get some help to figure out how you get arms around helping us to deal with the situation like a few folks have experienced for us to go inside an establishment, going down to another establishment and coming out. They've patronized that business, but yet they come out, they've gone somewhere else and got back to their car to find it booted. I'm trying to figure out does it have to be that tedious? The example I'm referencing happens to be the one where the person went inside of the establishment.

James Miller: I'm the guy who is doing the actual booting and I sit out there.

Cannon: Did he go inside the establishment?

Miller: No, I don't boot people for going inside the establishment.

Cannon: The man had his receipt from the establishment.

Miller: They come back, run in and get a receipt and then have the receipt when the Police come.

Tim Harden: Once they see a boot they go and get a cookie or a drink or whatever and say I went into that place, but the boot is already there. They are just trying to cover the fact that they didn't go to that store until they saw the boot.

Cannon: Are you telling me that I would go and park my car in front of Jane Doe's

Community Safety Committee

Meeting Summary for June 19, 2013

Page 7 of 12

establishment, but instead of getting out of my car and going into Jane Doe's establishment, I go down to John Doe's establishment. I come out of John Doe's establishment and I see a boot on my car and I decide to go into Jane Doe's establishment to get a receipt for a soda and come back out?

Harden: Yes, and expect me to release the boot because you went to that store.

Cannon: That is ridiculous, why would I do something like that? I go and pay 79 cents or a buck for a soda to have to deal with \$50?

Barnes: If they have a receipt from the store you will take the boot off, right? Is that what you are saying?

Harden: No, that is what they want us to do. The sign plainly tells you these are the three stores you need to be going to.

Barnes: If you see me go into Vizart first then what?

Harden: If I see you go into Vizart I don't even watch you anymore because you went into one of the three stores that space belongs too.

Cannon: Do you stand out there and just wait with a watchful eye to see what these folks do?

Harden: We have to sit there to see which one they go to. There is no other way to see.

Cannon: If you don't mind me asking, what is the size of your company, capacity wise?

Harden: Three people.

Cannon: You have three people and you do all this other work for other entities where you have to patrol different lots, etc. and you take time with three people, one of which just sits at one particular location and watch people?

Harden: From the hours of about 11:00 a.m. to 2:00 p.m. That is my job and that's what he asks of us.

Cannon: And that is what got us to this ordinance of predatory towing? If you are sitting there and you are just waiting it is perceived as predatory, if not just that.

Pickering: It seems to me that the receipt would have a time stamp on it so it would be clear what happened first, the boot or visiting the establishment.

Harden: We don't time the boot. If that is something we need to document the time, we could do that if that is going to make a difference, but if you were to come out there and sit during those hours you would be amazed at the people who will say I just went over there for a minute. But you parked in front of a sign that you chose not to read. I've seen kids read the sign, point it out

Community Safety Committee

Meeting Summary for June 19, 2013

Page 8 of 12

to their parent, the parent looks back at the sign and makes the kid get out of the car and go into the store. When they come back they've got the boot and now they are mad. The kid has already told them.

Pickering: I would recommend a time stamp. That would be helpful.

Cannon: The message to the citizen is that you park in front of Jane Doe's retail shop, walk in, walk back out and have your day at any other retail outlets you so desire.

Levins: The sign doesn't say when you have to go to the establishments. If we went out there and a person has been into the store that the sign says they have to park and go into then I would call that an illegal boot and I'll tell him to take it off. That is the order that I'm going to give the Providence people unless I get some different direction from the Attorney's office. I think if they patronize the store, there is no time limit when they've got to do it. The signage isn't going to do it because there has to be another way to resolve this issue in the parking lot than to do this because this doesn't make any sense. Delineation of parking lot, control the parking lot better or whatever, but we can't get in the middle of all these disputes. I need an easier line to follow for the officers and the line that I have right now is if a person says they went into the store and they have a receipt then I'm going to tell them it is an illegal boot and they better take it off.

Barnes: Let me go back to a few things I'm hearing about. One is on the issue you just mentioned, it would be helpful if you guys would bring back a few options for us to consider in terms of practical things.

Levins: I think the options are really for them though. I think there is a design issue to this parking and it is unique.

Barnes: It is and I'm just saying bring back ideas that we can pass on to them. Have there been any episodes of violence over there?

Levins: Not that I know of over there.

Harden: Yes there has. We don't file reports because it's pointless. There was one guy who took his phone and threw it out in the middle of the street. We had a lady the other day who took the paper work, threw it on the ground and stomped it down. We called the Police out to file a report but nothing happened. But if they call the Police, it is like you said, you come out and make us take a boot off without them paying. I don't know how you justify that.

Barnes: Ms. Pickering mentioned a time stamp. Right now do you have to fill out any paperwork?

Harden: We do as a receipt for the credit cards. We fill out receipt upon payment.

Barnes: When you see the person pull up in front of Visart at noon and they walk down to some other place when you are writing up the booting documentation do you put a time on it? That would help us.

Community Safety Committee

Meeting Summary for June 19, 2013

Page 9 of 12

Harden: We haven't.

Barnes: Here is the other piece, I don't know if you have an iPhone or some sort of video capability but I would get a photograph of them getting out of the car in front of the one store and going someplace else. Proof is an issue here and what we are trying to do is I want CMPD out of it and I want us out of it. I understand your issue. If I owned a business and people were parking in front of it and going to a bar or going someplace else, that would be a problem because the people who are paying you rent need their spots.

Lowder: If a person can go in and buy a cookie and get a boot removed then that will pretty much mean this is going to have to go further and in the end that parking lot will be fenced off like Roy White's.

Barnes: Because we know the Preferred parking spaces are pretty much unused, there are other options. I thought we were dealing with a situation where we had 50 parking spaces and they were all used almost all of the time. You've got empty spaces but people just don't want to pay for them, so there are options here that people could use to avoid this problem and I think you guys need proof. You need to have proof, you need to have the time documented and in fact what would be best if you could give a picture with a time stamp on it. When they come out and say I was actually in the store then you can say well here is a photograph of you walking out. I get the point about it seeming to be predatory, but they basically told you the lay of the land and you are trying to protect yourself. I actually can appreciate that because he hired you to do a job and you are standing there trying to do it, but what I'm trying to figure out is how we avoid and minimize episodes of violence, how we minimize the calls to 911 from you or from the patrons and how do we help this man keep his business stable so we don't have to keep getting engaged, and also how to get people to start using the option they have available to them. That is not something that we would necessarily mandate I don't think, but if you guys could take an iPhone or whatever to get a photograph, that would seemingly help. What do you think about that Deputy Chief?

Levins: They definitely need more information but this is going to be one that I do believe is going to be more predatory than what is being described. I think the direct permission from someone who owns the property to tell them to boot it is an option. There are other parts of this I think and we don't see the whole picture unless we spend a lot more time on looking at what it really is. That is the dilemma, how much investment do we want to make in the investigation?

Barnes: That would be a part of the options that I asked for from you and the City Attorney. I don't know the extent of the issues. Is it just this shopping center? If it is a problem in other places, then you want to figure out how to deal with it more globally, but if we can figure out a practical and peaceful solution that we can suggest to them I would like to do that and we can move on. If that is not possible we could pass an ordinance, but I don't want to do that.

Campbell: Mr. Barnes, when you say options are you talking about ordinance options or options to this specific situation?

Barnes: Both. For example, if CMPD and the City Attorney's Office and Manager's Office can

Community Safety Committee

Meeting Summary for June 19, 2013

Page 10 of 12

come up with both the ordinance related option and non-ordinance practical type options that we could suggest for that site I would like to see both.

Cannon: I would like to recognize the gentlemen in the back, I've had some minor conversation with him and welcome him to the table just for a moment. You've been able to do some things to sort of mitigate. Can you talk about that for a moment?

Randy McElwain, Freedom Recovery: We have had very similar issues that are happening at parking lots all around the city. What we've done at Selwyn Corners Shopping Center, next door to Selwyn Pub, is we had 24 x 24 towing signs put up, but we've also put 24 x 24 signs up that say parking only while doing business at Selwyn Corners Shopping Center. That ends the story. If they park there and go to the Pub they get towed or booted. If they come back and see a boot they try to sneak into one the restaurants and get a coke it doesn't work because the time is on the boot stamp when they are in the pub.

Barnes: So he has four signs.

McElwain: Do your signs say parking while doing business only?

Lauder: They say parking for my tenants only and then it says booting and towing strictly enforced.

Barnes: Your sign applies to the entire shopping center. He would have to have four signs for each of the owners of the various businesses.

McElwain: We had to pay for our own signs and it solved the problem immediately. They call the police all the time at the school (CPCC) saying I went down to the school for 2 hours, I came back, I was going to eat lunch and my car has been towed or booted. The sign says parking while doing business only at this shopping center.

Barnes: Is the issue Mr. Lowder that people are parking in front of your businesses and patronizing the other businesses in the shopping center?

Lowder: 90% of the people go to Starbucks and Crisp, they get out of their car and go straight there.

Barnes: And those businesses are not in the shopping center?

Lowder: They are not. They are on the corner and about a year ago one week-end Crisp added an outdoor patio to increase their seating and no more parking.

Barnes: Do you think Mr. McElwain's suggestion would be practical at your center?

Lowder: I can resign it but I need the police to protect my rights. If they come in there and say I can go in and buy a drink and get a boot removed that does nobody any good. If they want me to resign and say parking while doing business at that center, then if that will alleviate everything I

Community Safety Committee

Meeting Summary for June 19, 2013

Page 11 of 12

will pay to have it done. I have visited every business out there multiple times over the last three years trying to get it resolved before I put the enforcement up and nobody even listened to me. There are four entrances to this shopping center and each owner has to have their own parking. I can only put a sign up on mine, but I would put on the sign post that I have in every parking space, if you give me the wording that you want to resolve all of this from me or Tim being brought back down here to have another meeting. I'll get it made up and put it on there.

Harden: Can I ask a question about the ordinance? You had said we have to have a sign 24 x 24. At 7th Street, we had a call from the City of Charlotte City Code, saying the sign we have at the entrance can't be there. They are going to fine me \$100 to \$1,000 per sign if I don't have them removed. If I remove the signs from where they are then we are in violation of the ordinance.

Powers: Under the City's Sign Ordinance you are not allowed to post a sign that is within 11 feet of the curb which is considered the City's right-of-way so where he has the sign probably takes the sign within the 11 feet of the curb, which is why Code Enforcement is indicating they are going to cite him for every sign related to that violation. I think that is a question that maybe the Committee also addresses directly by Code Enforcement where they can aid him as to where the signs could be placed without being subject to signage citation.

Barnes: How close to 11 feet are you now?

Harden: It is all paved. The only place you can put it is right there in that space. That is where the two entries are so that is where I put them.

Powers: If it is within the thoroughfare, it has to be 11 feet off the back of the curb on the thoroughfare that would subject the individual to be cited.

Harden: If I take those signs down you are going to tell me I can't do the booting or towing because I don't have the right signs?

Campbell: Mr. Chair, we will connect him with the proper staff because it sounds like there may be an issue conflicting with the ordinance so we will have to work on that.

Cannon: Connect him with the proper staff person to do what?

Campbell: It seems like there may be some conflict between what the sign ordinance is saying and what the requirements are in the tow ordinance because of the easement. There is not enough land to meet the requirement. We will connect him with the proper staff person to see if we can find a way to resolve this.

Pickering: I have a question on the 37 spaces. They serve for which business?

Sands: They are for public consumption. Roy White is a closed business so I think that is important to talk about because what has happened here is that the liability is born by the individual property owners who are being exacerbated with the circumstance.

Community Safety Committee

Meeting Summary for June 19, 2013

Page 12 of 12

Pickering: In terms of getting ideas back and I don't even know if we can go there but I just hate to see 37 spaces not used. Is there anything that we can do about that?

Cannon: We have a couple things on the table. We have options for a potential ordinance change to come back and the other is to have options for a non-ordinance change. We will look forward to receiving what comes back from staff in regards to that.

Powers: Mr. Barnes you want the City Attorney's Office to look at whether or not Council can regulate the use of private parking lots. Is that correct?

Barnes: That would be one of the issues.

Powers: Is that the only or sole question that you want the City Attorney's Office to research at this time?

Barnes: No sir, it would be the issues of Section 6.563 in the signage requirements. It would be the private property owner issue we talked about and it would also be the issue of whether this is happening in other parts of the City and how it is being dealt with there.

Powers: That is more of a policy issue and I just want to make sure that the legal opinion that you are wanting is solely related to that private property usage question.

Barnes: Yes. If the answer is no then I don't want us getting into that. That is private property; private dispute and we are out of it. But if there is a public role then we will figure out some place to meet.

Campbell: Mr. Powers may not be the point attorney on this issue. He was available today and I just wanted to make that clear.

Levins: On behalf of Mr. Newbold I would say that we will probably need some help on these other issues that aren't police related issues.

Cannon: Thank you for the information and thanks to everyone for attending.

Meeting adjourned at 1:10 p.m.

Community Safety Committee
Wednesday, June 19, 2013; 12:00 p.m. – 1:30 pm
Room 280

Committee Members: Patrick Cannon, Chair
Beth Pickering, Vice Chair
Michael Barnes
Andy Dulin
Claire Fallon

Staff Resource: Eric D. Campbell

AGENDA

I. Predatory Towing and Booting

Staff Resource: Deputy Chief Eddie Levins

At the June 10 City Council meeting, a referral was approved for the Committee to review the City's tow ordinance related to predatory booting practices. Staff will review the current Towing and Booting Businesses Ordinance with the Committee. No decisions or recommendations are requested at this meeting.

Attachment: 1. Towing and Booting Businesses Ordinance.pdf

Next Meeting: Wednesday, September 18 at Noon in Room 280

Distribution: Mayor/City Council
Bob Hagemann
Jon Hannan

Ron Carlee, City Manager
Stephanie Kelly
Thomas Powers

Leadership Team
Rodney Monroe
Tracy Evans

February 28, 2011
Ordinance Book 57, Page 1

ORDINANCE NO. 4608

AMENDING CHAPTER 6

**AN ORDINANCE AMENDING CHAPTER 6 OF THE CHARLOTTE CITY CODE
ENTITLED "BUSINESSES AND TRADES"**

WHEREAS, the City of Charlotte has a significant governmental interest in protecting the health, safety, and welfare of the general public and preserving the public order; and

WHEREAS, G.S. 160A-174 allows a city by ordinance to define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of the public, and the peace and dignity of the city; and

WHEREAS, some practices related to the trespass towing of motor vehicles from private property have resulted in the public and members of the towing industry being exposed to harm; and

WHEREAS, the owner and lessors of private parking lots depend on the availability of their parking spaces to conduct their businesses and activities, and should have the ability to remove motor vehicles parked in those lots without authorization; and

WHEREAS, the City Council desires to minimize and control the harmful and adverse effects that occur during the trespass towing of motor vehicles while not interfering with the ability of owners and lessors of private parking lots to conduct their businesses, including removal of unauthorized vehicles;

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that:

Section 1. Chapter 6, Article XI "Businesses and Trades" of the Charlotte City Code entitled "Towing and Booting Businesses" is amended in its entirety to read as follows:

"ARTICLE XI. Towing and Booting Business

Sec. 6-561. Definitions.

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:

Completed trespass tow means a trespass tow resulting in the complete removal of the motor vehicle from a private parking lot or private property.

Motor Vehicle means a Class A, B, or C Motor Vehicle as defined in G.S. 20-4.01(23).

Private parking lot means any parking lot or area owned by a private entity or individual that provides parking spaces for a fee or requires the permission of the owner, lessee or agent before a person may park at that location. A private parking lot includes vehicle parking spaces in an apartment or condominium complex.

Tow means to haul, carry, pull along, or otherwise transport or remove a motor vehicle by means of another vehicle.

Towing or tow service includes any person or other entity, whether licensed or not, that engages in or who owns or operates a business which engages, in whole or in part, in the towing or removal of motor vehicles for compensation.

Trespass towing or trespass tow means the towing or removal of a motor vehicle, without the consent of the motor vehicle's owner or operator, that is parked on a private parking lot without the property owner's or agent's consent.

Wheel lock means a boot, wheel lock or any other device that is attached to a motor vehicle that is designed to immobilize the motor vehicle.

Sec. 6-562. Towing of vehicles for compensation.

No towing service shall conduct a trespass tow of a motor vehicle from a private parking lot for compensation when the point of origin of the tow is within the jurisdictional limits of the city without complying with the provisions of this article.

Sec. 6-563. Trespass towing of vehicles from private parking lots; signs required.

(a) It shall be unlawful to tow or remove or immobilize by use of any wheel lock or other method, a motor vehicle that is parked on private property or private parking lot without the permission of the owner or lessee of the motor vehicle unless notice is posted in accordance with the provisions of this section on the private property from which the towing, removal, or immobilization occurs. The notice shall meet the following requirements:

- (1) The notice must be in the form of a sign structure and not less than 24 inches by 24 inches and not larger than 6 square feet and constructed of metal, plastic or other type of material that is enduring in nature. The notice shall be prominently posted on the private property at each access or curb cut allowing vehicle access to the property and within five feet of the street right of way line. If there are no curb or access barriers, notices shall be posted not less than every 50 feet facing the frontage of the public

street and facing the private parking lot. In addition, a sign not less than 12 inches by 18 inches in size may be posted with lettering on both sides at each parking space from which an unauthorized vehicle could be towed, removed, or immobilized.

(2) The notice shall clearly display the following:

a. In not less than one-and-one-half inch high letters red in color on a contrasting white background, the words "tow-away-zone" or "towing enforced."

b. In not less than one inch high letters red in color on a contrasting white background, a statement that parking is never authorized by stating "private property - no parking" or where parking is permitted under limited circumstances, by stating "authorized parking only" or "leased parking only", or "parking for _____ customers only", or "parking for residents only", or a similar phrase that specifically identifies the conditions under which someone may park on the property. If parking is only allowed for a specified time, then the sign shall specifically state the days and hours when parking is permitted.

c. In not less than one inch high letters red in color on a contrasting white background, the phone number that a person can call to retrieve the towed vehicle and the name and address of the storage facility where the vehicle is stored.

(3) The sign displaying the required notices shall be permanently installed with the bottom of the sign not less than 3 feet foot above ground level and the top of the sign not more than 8 feet above ground level.

Sec. 6-564. Trespass towing of vehicles from private parking lots; fees

(a) It shall be unlawful to engage in trespass towing of motor vehicles except in accordance with the following provisions:

(1) Fees

a. The fees for a completed trespass tow shall be \$120.00 or less for any motor vehicle weighing less than 9,000 pounds. For motor vehicles weighing 9,000 pounds or more the fee shall be \$500.00 or less. If the motor vehicle weighing 9,000 pounds or more is required by law to be towed separately, then the fees shall be \$500.00 or less for each portion of that motor vehicle that is towed. The weight of a motor vehicle shall be determined by its Gross Vehicle Weight Rating as defined in G.S. 20-4.01(12b).

b. The fee for each tow shall be all inclusive. There shall not be any additional fees assessed by the towing service for booting or for a private parking violation. No additional fees may be charged for using dollies, trailers, lifts, slim jims or any other equipment or service. Subject to the express limitations described above, towing services and owners, lessees and agents of private parking lots shall be entitled to pursue all rights and remedies available at law regarding the enforcement and collection of past due charges, for parking violations.

c. The fee for storing a towed motor vehicle shall be \$15.00 a day and shall not begin for 24 hours from the time the motor vehicle enters the lot.

d. The fee for booting a vehicle shall not exceed \$50.00. A fee for booting shall not be charged if a completed trespass tow has occurred.

e. A booting service must accept cash and at least two major credit and debit cards.

Sec. 6-565. Trespass towing of vehicles from private parking lots; Practices.

(a) Any towing service that has initiated a trespass tow by, securing the motor vehicle to the tow truck by a hook, chain, cable or similar device, but has not completely removed the trespass motor vehicle from the private parking lot, shall upon the request of the vehicle owner or operator, release said vehicle without a charge.

(b) Any towing service that is engaged in a trespass tow shall, upon request of the owner or operator of the motor vehicle, permit the owner or operator access to the trespass vehicle for the purpose of retrieving personal property from the vehicle without paying a fee. If personal items are removed from the motor vehicle by the towing service, then upon request those items will be returned to the owner or operator at no cost.

(c) Any towing service that engages in a trespass tow or any storage facility that receives motor vehicles that have been towed as a result of a non-consensual tow from private property shall accept cash and at least two major credit cards and any debit card for any fee established by this Article. Upon request, the employee for the towing service or storage facility will provide a receipt to the owner or operator of the towed motor vehicle.

(d) Any towing service that engages in a trespass tow or any storage yard that receives motor vehicles that have been towed as a result of a non-consensual tow from private property shall have a person on call 24 hours every day who acknowledges requests to retrieve a towed motor vehicle within 15 minutes of receiving an inquiry from the owner or operator of the towed motor vehicle. If the owner or operator wishes to retrieve the motor vehicle, then the towing service or storage facility must make the vehicle available within 45 minutes of the request.

(e) The lot or facility to which a trespass towed vehicle is removed shall be located within the city limits of the City of Charlotte.

(f) No towing service shall remove a motor vehicle from a private lot from the hours of 7:00 a.m. to 7:00 p.m. unless the owner or agent of the private lot signs a contemporaneous specific written authorization for such removal which is presented to the wrecker driver of the towing service. The agent must be someone other than an employee of the towing service. The written authorization shall contain the reason for the tow, the make, model, year, color, vehicle identification number (VIN) and license plate number. The wrecker driver shall contact the non-emergency number for the Charlotte-Mecklenburg Police Department and provide the above information. The motor vehicle will not be removed from the private lot until the driver has been advised of a complaint number.

Sec. 6-566. Interference with a towing service.

(a) It shall be unlawful for anyone to obstruct or interfere with a towing service that is carrying out a trespass tow on private property or a tow conducted pursuant to a contract with the City of Charlotte except:

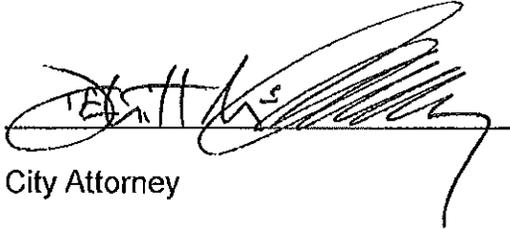
- (1) When the owner or operator verbally requests the towing service to release the motor vehicle pursuant to this Article; or
- (2) When the owner or operator verbally requests the towing service to release the motor vehicle pursuant to the provisions of a towing contract with the City of Charlotte; or
- (3) When the owner or operator verbally requests the towing service to retrieve personal property from their motor vehicle.

Sec. 6-567. Penalty.

Any person who violates a provision of this article shall be guilty of a misdemeanor as provided by G. S. 14-4."

Section 2 This Ordinance shall become effective on April 1, 2011.

Approved as to Form:



City Attorney

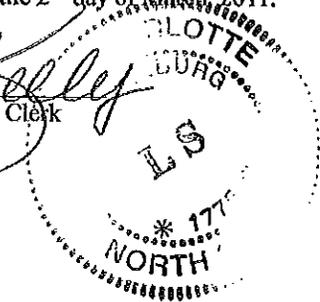
CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the city of Charlotte, North Carolina, in regular session convened on the 28th day of February, 2011 the reference having been made in Minute Book 131, and recorded in full in Ordinance Book 57, Pages (1-6).

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 2nd day of March, 2011.



Stephanie C. Kelly, CMC, City Clerk





Community Safety Committee

Towing and Booting Ordinance

June 19, 2013



POLICE
CHARLOTTE-MECKLENBURG
CMPD.ORG



CITY OF CHARLOTTE

Authority to Regulate

- State Statues
 - Regulate businesses
 - Regulate for public safety
- Federal Statute
 - Limits regulation to public safety concerns
- Case Law
 - Limits regulation to public safety concerns

CMPD.ORG

 CITY OF CHARLOTTE Highlights of Current Ordinance

- Sign Requirements (6-563)
- Sets Maximum Fees (6-564)
- Drop Vehicle Requirement (6-565(a))
- Right to Retrieve Personal Property (6-565(b))

CMPD.ORG

 CITY OF CHARLOTTE Highlights of Current Ordinance

- Acceptable forms of payment including credit cards (6-565(c))
- Storage facility on-call 24/7 (6-565(d))
- Storage facility in City Limits (6-565(e))

CMPD.ORG

 CITY OF CHARLOTTE

Booting

- Already addressed in current ordinance
- Sign/Notice at all lots
- Requirement to respond to remove Boot
- Must take credit cards

CMPD.ORG

 CITY OF CHARLOTTE

Questions ?

CMPD.ORG