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AN ORDINANCE

BY COUNCILMEMBERS JENNIFER N. IDE, AMIR R. FAROKHI, MARCI COLLIER OVERSTREET, CARLA SMITH, HOWARD SHOOK, MATT WESTMORELAND, NATALYN M. ARCHIBONG, ANDREA L. BOONE, DUSTIN HILLIS, MICHAEL JULIAN BOND, AND IVORY LEE YOUNG, JR.

AS SUBSTITUTED (2) BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

AN ORDINANCE AMENDING CHAPTER 162 ARTICLE V, (VEHICLE IMMOBILIZATION SERVICES) OF THE CITY OF ATLANTA CODE OF ORDINANCES SO AS TO AMEND AND STRENGTHEN THE REGULATORY REQUIREMENTS IMPOSED THEREBY; TO REDUCE THE FEES CHARGED BY A VEHICLE IMMOBILIZATION SERVICE TO REMOVE THE DEVICE; TO REQUIRE VEHICLE IMMOBILIZATION SERVICE OPERATOR PERMITS TO INCLUDE A PHOTO OF THE OPERATOR; TO REQUIRE MORE STRINGENT CRIMINAL BACKGROUND EXAMINATIONS FOR VEHICLE IMMOBILIZATION SERVICE OPERATORS; TO REQUIRE UNIFORM AND ADEQUATE SIGNAGE, TO BE PROVIDED BY THE CITY OF ATLANTA, POSTED ON PRIVATE PROPERTY WHEREON VEHICLE IMMOBILIZATION SERVICES ARE TO BE EMPLOYED; TO REDUCE THE TIME BY WHICH A VEHICLE IMMOBILIZATION SERVICE OPERATOR MUST RESPOND AND UPON PAYMENT OF THE FEE, REMOVE THE VEHICLE IMMOBILIZATION DEVICE; TO REQUIRE VEHICLE IMMOBILIZATION SERVICES TO PROVIDE AN ELECTRONIC MONTHLY ACTIVITY REPORT TO THE CITY OF ATLANTA; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta has an interest in maintaining the public safety and general welfare of citizens of the City of Atlanta and its visitors; and

WHEREAS, Chapter 162 Article V (Vehicle Immobilization Services) of the City of Atlanta Code of Ordinances was adopted in 2000 to authorize vehicle immobilization on private property in the City of Atlanta as long as compliance with certain conditions by such services and operators is maintained;

WHEREAS, since the enactment of the Vehicle Immobilization Services Code, it has come to the attention of the Atlanta City Council that the requirements imposed thereby are inadequate to secure the rights of private property owners along with the public safety and welfare of the citizens of and visitors to the City of Atlanta;

WHEREAS, the City of Atlanta desires to amend the requirements imposed by the Vehicle Immobilization Services Code so more securely safeguard the public safety and welfare of the citizens of and visitors to the City of Atlanta; and

WHEREAS, to properly balance the rights of private property owners and the welfare of the citizens of, and visitors to, the City of Atlanta, the City of Atlanta desires to reduce the fees charged by a vehicle immobilization service to remove the vehicle immobilization device; and

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WHEREAS, due to the vulnerability vehicle owners, passengers, drivers, or persons in charge thereof may feel when interacting with vehicle immobilization operators, the City of Atlanta wishes to require vehicle immobilization service operator permits to be displayed all times when such operators are in the process of installing or removing a vehicle immobilization device and for such permits to include a photo of the operator;

WHEREAS, due to the vulnerability vehicle owners, passengers, drivers, or persons in charge thereof may feel when interacting with vehicle immobilization operators, the City of Atlanta wishes to require more stringent criminal background examination for vehicle immobilization service operators;

WHEREAS, to help ensure that vehicle owners, passengers, drivers, or persons in charge thereof have adequate notice that their failure to abide by the conditions private property owners have placed on the use of their parking lots or facilities may result in the installation of a vehicle immobilization device on their vehicle, the City of Atlanta wishes to require uniform and adequate signage, to be provided by the City of Atlanta and to be posted on private property whereon vehicle immobilization services are to be employed; and

WHEREAS, to safeguard the welfare of owners, passengers, drivers, or persons in charge of vehicles who have had their vehicles immobilized by vehicle immobilization operators, the City of Atlanta desires to reduce the time by a vehicle immobilization service operator must respond, and upon payment of the fee, remove the vehicle immobilization device; and

WHEREAS, to provide adequate evidence of compliance with the requirements contained in the Vehicle Immobilization Code, the City of Atlanta desires to require vehicle immobilization services to provide a monthly activity report to the City of Atlanta; and

WHEREAS, the City of Atlanta desires for the amendments contained in this Ordinance to be effective July 1, 2018; and

WHEREAS, the City desires that any vehicle immobilization services or vehicle immobilization operators properly licensed or permitted on the effective date of the amendments in this Ordinance shall be permitted to operate under the provisions of the Vehicle Immobilization Code as it existed at the time of the approval of this Ordinance until the time of the expiration of their licenses or permits on December 31, 2018; and

WHEREAS, after December 31, 2018, all licensed or permitted services or operators shall comply with the amendments contained in this Ordinance, regardless of their being licensed or permitted at the time of the approval of this Ordinance.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS, AS FOLLOWS:

SECTION 1: That Chapter 162, Article V, Section 162-254 of the City of Atlanta Code of Ordinances shall be amended such that it shall read as follows (with permanent additions underlined in bold font and permanent deletions in strikeout font):

Sec. 162-254. - Permit to operate as an operator of a vehicle immobilization service

- (a) Every operator desiring to obtain a permit required by this article shall file an application with the licenses and permits unit of the city's police department on forms

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to be prepared and approved by the unit. The application shall state the name and address of the applicant; the applicant's address and telephone number; drivers license number or state issued identification number; and such other information as may be required by the police or license review board; and shall be sworn by the applicant.

- (b) Once issued, operators shall carry with them **and display** their permit, **which shall include a photo of the operator thereon**, at all times when they are in the process of installing **or removing** a vehicle immobilization device.
- (c) It shall be unlawful for any person to be an operator without first having been fingerprinted by the Atlanta Police Department and having been issued a permit by the city's police department indicating that such person is eligible to be an operator of a vehicle immobilization service or device.
- (d) The city police department shall conduct a complete search relative to any police record of the person fingerprinted. If there is a record of a violation of this article, no license will be issued and the person shall be ineligible to be an operator of any vehicle immobilization service or device within the city; however any person denied a license under this section shall have the right of appeal to the license review board.

SECTION 2: That Chapter 162, Article V, Section 162-255 of the City of Atlanta Code of Ordinances shall be amended such that it shall read as follows (with permanent additions underlined in bold font and permanent deletions in strikeout font):

Sec. 162-255. - General requirements for applicants of a license or permit

- (a) All applicants, whether they are a vehicle immobilization service or an operator, shall furnish all data, information and records relevant to their application requested of them by the license review board or the city's police department, and failure to furnish this data, information and records within 30 days from the date of the request shall automatically result in the dismissal, with prejudice, of the application. Applicants, by filing an application, agree to produce for oral interrogation any person requested by the license review board, the Atlanta Police Department or the city attorneys' office, who is under the applicants' control who possess or may possess knowledge of facts relevant to the application. The failure to produce a person within 30 days after being requested to do so shall result in an automatic dismissal of the application. Persons under an applicant's control are the partners of the applicant if the applicant is a partnership, the officers of the applicant if the applicant is a corporation, and/or employees, officers or agents of the applicant.
- (b) No license or permit under this article shall be issued to any person who has been convicted in this or any other country within three years immediately prior to the application for a license or permit of any **misdemeanor** crime involving solicitation for prostitution, distribution of possession of illegal narcotics, sex offenses or any other crime involving moral turpitude. **No license or permit under this article shall be issued to any person who has been convicted in this or any other county within five years immediately prior to the application for a license or permit of any felony.** Further, to be eligible for a permit under this article, the person applying must possess a current driver's license or state issued identification as provided by the laws of the state. Any person denied a license or a permit under this section or any person whose

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license or permit may be revoked under this section shall have the right to appeal this denial or revocation to the license review board as provided in section 162-259 of this article.

- (c) Should any person with a license or a permit obtained pursuant to this article be charged with committing any crime as described in subsection (b) above, then such charge shall constitute the basis for adverse action, including suspension or revocation.

SECTION 3: That Chapter 162, Article V, Section 162-258 of the City of Atlanta Code of Ordinances shall be amended such that it shall read as follows (with permanent additions underlined in bold font and permanent deletions in strikeout font):

Sec. 162-258. - General requirements for vehicle immobilization services and operators

- (a) It shall be unlawful for either a vehicle immobilization service or an operator to procure a license or a permit by fraudulent conduct or a false statement of a material fact.
- (b) It shall be unlawful for either a vehicle immobilization service or an operator to pay in the form of a gratuity any person who does not own or operate a commercial parking lot for information as to illegally parked vehicles.
- (c) It shall be unlawful for either a vehicle immobilization service or an operator to make any payment to an owner, employee, agent or a person in possession of a commercial parking lot in excess of the reasonable and customary fee ordinarily charged by the owner or person in possession of the parking lot for parking thereon, such payment shall be considered a kickback.
- (d) It shall be unlawful for either a vehicle immobilization service or an operator to charge fees in excess of those set out in section 162-260 of this article.
- (e) It shall be unlawful for either a vehicle immobilization service or an operator to immobilize any vehicle located on any portion of a public street within the city, unless properly authorized in writing by the chief of police of the city or properly authorized to act as a parking management service on behalf of the city.
- (f) A vehicle immobilization 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 vehicle that has been immobilized by the vehicle immobilization service.
- (g) It shall be unlawful for either a vehicle immobilization service or an operator to immobilize vehicles at any off-street parking facility, vacant lot, or other private property without having a valid written contract specifically for such services entered into with the private property owner or lawful lessee thereof.
- (h)
 - 1. Between the hours of 5:01 am and 9:59 pm, it shall be unlawful for a vehicle immobilization service or operator to fail to arrive on the site where the vehicle was immobilized within thirty minutes ~~one hour~~ of being contacted by the owner, driver or person in charge of the vehicle. It shall also be unlawful for either a vehicle immobilization service or an operator to fail to release vehicles from immobilization within thirty minutes ~~one hour~~ after**

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receipt of payment from the owner, driver or person in charge of a vehicle that has been immobilized by a vehicle immobilization device.

2. Between the hours of 10:00 pm and 5:00 am, it shall be unlawful for a vehicle immobilization service or operator to fail to arrive on the site where the vehicle was immobilized and to fail to release vehicles from immobilization within forty-five minutes of being contacted by the owner, where the service or operator is in receipt of payment from the owner, driver or person in charge of a vehicle within that initial forty-five minutes. Where the service or operator does not receive payment from the owner, driver or person in charge of a vehicle within the initial forty-five minutes, it shall be unlawful for either a vehicle immobilization service or an operator to fail to release vehicles from immobilization within thirty minutes after receipt of payment from the owner, driver or person in charge of a vehicle that has been immobilized by a vehicle immobilization device.

- (i) It shall be unlawful for a vehicle immobilization service or operator 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 or the person who applied/removed the boot or vehicle immobilization device.
- (j) In the event that the application of a vehicle immobilization device damages a vehicle, then the service must pay the cost of repairs for that damage.
- (k) In the event that the owner or operator of a vehicle, to which an immobilization device has been applied, attempts to operate said vehicle or remove the device, then the vehicle immobilization service is not liable for any damage to that vehicle. Additionally, the owner, driver or person in charge of the vehicle will be liable to the vehicle immobilization service for the cost of damage to the vehicle immobilization device.
- (l) A vehicle immobilization service must procure reasonable insurance, as determined by the license and permits unit of the city's police department, to cover damage caused to vehicles by the use of a vehicle immobilization device.
- (m) A vehicle immobilization service shall keep copies of permits issued to its operators under this article in their place of business so that they may be inspected by any member of the Atlanta Police Department at any time.
- (n) A vehicle immobilization service shall electronically provide a monthly activity report to the Atlanta Police Department which shall contain a record of the following for each vehicle immobilization device installed within the calendar month:**
 - 1. the date and time of installation;**
 - 2. the reason for installation;**
 - 3. the date and time of removal; and**
 - 4. the name of the operator installing and removing the device;**

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5. a description of the vehicle upon which the device was installed.

SECTION 4: That Chapter 162, Article V, Section 162-260 of the City of Atlanta Code of Ordinances shall be amended such that it shall read as follows (with permanent additions underlined in bold font and permanent deletions in strikeout font):

Sec. 162-260. - Fees charged by vehicle immobilization service

(a) Any vehicle immobilization service, engaged in the business of the immobilization of vehicles, shall not charge the owner of any immobilized vehicle or personal property, in excess of ~~\$75~~**45.00** per day for the removal of the vehicle immobilization device or devices. The ~~\$75~~**45.00** fee shall be all-inclusive; no additional fees may be charged for using other equipment.

(b) Fees may be paid by cash, check, credit card, or debit card at no additional charge.

SECTION 5: That Chapter 162, Article V, Section 162-261 of the City of Atlanta Code of Ordinances shall be amended such that it shall read as follows (with permanent additions underlined in bold font and permanent deletions in strikeout font):

Sec. 162-261. – Signs

It shall be unlawful for any person hired by an owner of any private property, or his agent or employee, located within the territorial limits of the city to install or attach to any vehicle a vehicle immobilization device(s), boot(s), or other instrument(s) that is/are designed to, or have the effect of, restricting the normal movement of such vehicle or by any other means whatsoever to restrict the normal movement of such vehicle, unless the owner of the property, or his agent or employee, has complied with all applicable city zoning ordinances regarding the posting of signs and the following requirements:

(1) 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. **There shall be no fewer than one sign erected for every 7 parking spaces in the parking lot or parking area.**

(2) Such signs shall be a minimum of seven and one-half square feet in area (two and one-half feet by three feet).

(3) 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, such signs shall be six feet above site grade.

(4) Such signs shall state in letters at least three inches high that "Unauthorized vehicles may be impounded (towed or booted) at owner's risk and expense." Such signs shall also include the following language in letters at least two and one-half inches high:

- a. Cost of impound ~~\$45~~**50.00** per day;
- b. Fee payable by cash, check, and credit or debit card.
- c. Boot Removal—Call 000-000-0000.
- d. Tow information—Call 000-000-0000.

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- e. Vehicle may not be impounded if owner/operator returns before boot or tow is attached.
- f. Booted vehicles may be towed after 24 hours.
- g. By order of City Code.
- h. Complaints may be made to:
Parking Company 000-000-0000
Atlanta Police Department ~~404-853-4470~~ **000-000-0000**
- i. This lot is owned and operated by (Name of legal entity owning parking lot/area) and can be reached at 000-000-0000 for resolution of any disputes.

Signs shall be issued by the City of Atlanta Department of Public Works upon payment of reasonable fee therefor which shall not exceed the cost of the City to produce such signs. Signs shall be in accordance with a design approved by the Commissioner of Public Works. No abbreviations shall be used in the language contained in the sign. Where this Code section leaves a blank, the signs shall include the appropriate phone numbers. The lettering on such signs ~~shall be black on a white, reflective background, and~~ shall be illuminated if out of headlight range.

SECTION 6: That Chapter 162, Article V, Section 162-268 of the City of Atlanta Code of Ordinances shall be amended such that it shall read as follows (with permanent additions underlined in bold font and permanent deletions in strikeout font):

Sec. 162-268. - ~~Effective date of enforcement of article~~ **RESERVED**
~~Those persons that are subject to this article shall have 90 days from the date that this article becomes effective to comply with this article.~~

SECTION 7: The amendments in this ordinance shall become effective July 1, 2018.

SECTION 8: Any vehicle immobilization services or vehicle immobilization operators properly licensed or permitted on the effective date of the amendments in this Ordinance shall be permitted to operate under the provisions of the Vehicle Immobilization Code as it existed at the time of the approval of this Ordinance until the time of the expiration of their licenses or permits on December 31, 2018.

SECTION 9: That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict only.

SECTION 10: That the Municipal Clerk is instructed to retain all legislative history references in the codified version of Chapter 162, including Editor's notes, and shall not delete any such references, but shall amend them to include this ordinance.