STATE OF GEORGIA

CITY OF DORAVILLE

ORDINANCE NO. 2010-____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF DORAVILLE, GEORGIA AS AMENDED TO ADOPT A SECTION, CHAPTER 6 BUSINESS AND BUSINESS REGULATION, ARTICLE XV VEHICLE BOOTING, SECTIONS 6-900 THROUGH 6-905; TO PROVIDE SEVERABILITY; TO PROVIDE PENALTIES; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; TO PROVIDE FOR CODIFICATION; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, vehicle immobilization or "booting" is not currently regulated by state law;

WHEREAS, the immobilization or "booting" is not currently regulated by the City of Doraville;

WHEREAS, the Mayor and Council of the City of Doraville and the City of Doraville Police Department have received complaints concerning vehicle immobilization or "booting" of vehicles;

WHEREAS, the duly elected governing authority of the City of Doraville is the Mayor and Council thereof;

WHEREAS, the duly elected governing authority of the City has determined that reasonable regulation regarding booting is necessary and warranted in that allowing the same to be wholly unregulated poses a substantial detriment to the health, safety and welfare of the citizens of the City; and

WHEREAS, the health, safety, welfare and aesthetics of the citizens of the City of Doraville shall be improved and protected by adoption and implementation of this Ordinance.

THE MAYOR AND COUNCIL OF THE CITY OF DORAVILLE, GEORGIA HEREBY ORDAIN:

Section 1.

That the Code of Ordinances, City of Doraville, Georgia, is hereby amended by adding a section to be numbered Article XV Vehicle Booting, Chapter 6, Business and Business Regulation, Section 6-900 et seq., which said section read as follows:

"Chapter 6. Business and Business Regulation.

. . .

Article XV. Vehicle Booting.

Sec. 6-900. Definitions.

Vehicle immobilization device shall mean any mechanical device, including those commonly referred to as "boots," that is designed or adopted to be attached to a wheel, tire or other part of a parked vehicle so as to prohibit the vehicle's usual manner of movement or operation.

Sec. 6-901. Use of Vehicle Immobilization Devices.

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

(1) Signs shall be conspicuously located at each designated entrance to the parking facility, lot or area where such device is to be used indicating that parking prohibitions are in effect.

(2) The wording on such signs shall contain the following information:

i. A statement that any vehicle parked thereon which is not authorized to be parked in such area may be subject to use of a vehicle immobilization device.

ii. The maximum fee for removal of the device shall be $50.00 A statement that fees may be paid by cash, check, credit or debit card at no additional charge.

iii. The phone number of the person or entity responsible for affixing the device.

iv. That no booting shall occur until after at least 10 minutes have passed from the time the vehicle has been parked on the property.

(3) The phone number referenced in subsection (a)(2)(iii) above must be operable and answered in person during the hours a vehicle immobilization device is affixed to a vehicle within the City, 24 hours a day, 7 days a week.

(4) The sign location and size shall be approved by the City Planner and Police Department.

(b) It shall be unlawful for any person or entity affixing a vehicle immobilization device to a vehicle within the City to charge a fee for removal of the device in excess of the fee posted pursuant to subsection (a)(2)(ii) above.

(c) It shall be unlawful for any person or entity to immobilize any vehicle located on public property within the City.

(d) It shall be unlawful for any person or entity affixing a vehicle immobilization device to a vehicle to fail to arrive on the site where the vehicle was immobilized within one hour of being contacted by the owner, driver or person in charge of the vehicle that has been immobilized. It shall also be unlawful for any person or entity affixing a vehicle immobilization device to a vehicle to fail to release the vehicle from immobilization within thirty (30) minutes

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

Sec. 6-902. Licenses for booting required.

(a) It shall be unlawful for any entity to place a boot on a vehicle unless they are licensed by the City and they have paid occupation tax or shown proof of exemption. Every vehicle immobilization service desiring to obtain a license required by this article shall file an application with the City of Doraville Police Department on forms to be prepared and approved by the City. The application shall state the name and address of the applicant; where the proposed business is to be located; nature and character of the business to be carried on; if a partnership, the names of the partners; if a corporation, the names of the officers; the charges to be imposed for various services; amounts and types of insurance held; such other information as may be required by the City; and shall be sworn by the applicant or agent thereof.

(1) Once issued, operators shall carry with them their permit at all times when they are in the process of installing a vehicle immobilization device.

(2) It shall be unlawful for any person to be an operator without first having been fingerprinted by the Doraville 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.

(3) 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 City Council.

(b) 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 City's Police Department, and failure to furnish this data, information and records within

thirty (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 Police Department who is under the applicant's control who possess or may possess knowledge of facts relevant to the application. The failure to produce a person within thirty (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.

(c) 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 (3) years immediately prior to the application for a license or permit of a crime involving solicitation for prostitution, distribution or possession of illegal narcotics, sex offenses, or any other crime involving moral turpitude. 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 license or permit may be revoked under this section shall have the right to appeal this denial or revocation to the City Council

(d) Should any person with a license or permit obtained pursuant to this article be charged with committing any crime as described in subsection (c) above, then such charge shall constitute the basis for adverse action, including suspension or revocation. The City finds that the offenses listed in (c) above are rationally related to prevent the influence of organized crime in the booting industry and to preserve the peace by lessening the danger of violent altercations at booting scenes.

(e) It shall be unlawful for any person, either as principal, agent or employee, to use or to operate within the City any vehicle assisting in the operation of a vehicle immobilization service without first having filed a registration for such vehicle with the City's Police Department upon forms to be furnished by the department. All registrations for each vehicle utilized shall expire in December 31st of each year and shall be renewed between December 1st and December 31st of each year. The information for registration shall contain the following:

(1) The make, model and manufacturer's serial number of the vehicle;

(2) Date the vehicle was put into service to assist in the operation of a vehicle immobilization service;

(3) The driver' s license number of operators of the vehicle;

(4) The name of the insurance company with which the owner of the vehicle and all operators have liability insurance coverage with respect to the operation of the vehicle, as required by law;

(5) The permit number of each operator who shall drive or operate the vehicle on behalf of the vehicle immobilization service; and

(6) Such other information related to the vehicle as may be required by the City Police Department.

Sec. 6-903. Fees.

Application, license and permit fees shall be as follows:

(1) Upon the filing of a completed application, the non-refundable application fee for all applicants seeking a vehicle immobilization service license shall be $100.00. This application fee shall be submitted with the application and be made payable to the City.

(2) Upon approval of an application for a vehicle immobilization service license, the annual license fee shall be $500.00.

(3) Upon the filing of a completed application, the non-refundable application fee for all applicants seeking an operator's permit shall be $25.00. This application fee shall be submitted with the application and be made payable to the City.

(4) Upon approval of an application for an operator's permit, the annual fee shall be $50.00.

(5) The annual fees set forth in this section shall not be prorated starting with the date the license or permit is issued to December 31st of the first year of operation as needed.

Sec. 6-904. Unlawful acts.

(a) It shall be unlawful for any person, either as principal, agent or employee, to operate within the territorial limits of the City any vehicle to assist in the operation of a vehicle immobilization service unless the vehicle shall have displayed on each side in plain view the name of the vehicle immobilization service, the address from which the vehicle immobilization service is operating and the telephone number of the vehicle immobilization service. The lettering shall be in a contrasting color to the color of the vehicle and shall be at least two and one-half inches (2 1/2") in height.

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

(c) It shall be unlawful for any City employee to solicit business for any vehicle immobilization service owner or operator.

(d) It shall be unlawful to drive along any street within the City and solicit vehicle immobilization work. Solicitation by the operator or the occupant of a vehicle used to carry on the business of a vehicle immobilization service is prohibited. An operator shall not proceed to a specific commercial lot without complying with this article.

(e) The operator of any vehicle immobilization service shall not immobilize a vehicle and shall not charge a fee if the driver of the vehicle returns before the installation of the vehicle immobilization device is complete.

Sec. 6-905. Penalties.

(a) It shall be unlawful and punishable by a fine of $1,000.00 for any booting firm, permitted or unpermitted, licensed or unlicensed, to enter into any agreement with any person in possession of private property to provide automatic or systematic surveillance of such property for purposes of booting any such vehicle or trespassing personal property except upon call by such person in possession of such private property to such towing and storage firm for each individual case of trespass; provided, further, that it shall be unlawful and punishable by a fine of $1,000.00 for any booting firm to pay to any private property owner or one in possession of private property any fee or emolument, directly or indirectly, for the right to remove a vehicle or trespassing personal property from said private property.

(b) Any person who is convicted of violating any provision of this article shall be punished by a fine not to exceed $1,000.00 or by imprisonment not to exceed six (6) months, or both, such fine and imprisonment in accordance with Section 1-12 of the Code of Ordinances.

. . ."

Section 2.

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of

this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section paragraph, sentence, clause or phrase of this Ordinance.

c. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 3.

Penalties provided for violations of this Ordinance are set out herein and in Section 1-12, as amended, of the Code of Ordinances, City of Doraville, Georgia and are hereby incorporated as if set out fully.

Section 4.

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

Section 5.

The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 6.

The Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City of Doraville.

Section 7.

It is in the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the code Ordinances, City of Doraville, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

Section 8.

This Ordinance shall become effective upon its adoption by the Mayor and Council.

SO ORDAINED, this _____ day of _____, 2010.

CITY OF DORAVILLE

_____
Ray Jenkins, Mayor

_____
First Reading

_____
Second Reading

ATTEST:

_____ (SEAL)
Rhonda Blackmon, City Clerk

APPROVED AS TO FORM:

_____
Murray J. Weed, City Attorney

	Yea	Nay
Maria Alexander	☐	☐
Brian Bates	☐	☐
Pam Fleming	☐	☐
Karen Pachuta	☐	☐
Donna Pittman	☐	☐
Bob Roche	☐	☐