ORDINANCE NO. 10160

AN ORDINANCE AMENDING CHAPTER 10 OF THE CODE OF THE CITY OF FORT WORTH, TEXAS (1986) AS AMENDED BY ORDINANCE NO. 10107, RELATING TO THE ADMINISTRATIVE ADJUDICATION PROCESS FOR VIOLATION OF CITY ORDINANCES CONCERNING THE PARKING AND STOPPING OF VEHICLES AND THE ENFORCEMENT OF SAME; AMENDING CHAPTER 10 BY ADDING A NEW SECTION 10-27 MAKING UNLAWFUL CERTAIN CONDUCT RELATING TO TAMPERING WITH A BOOTING DEVICE, TOWING OF A BOOTED VEHICLE BY UNAUTHORIZED PERSON, AND REMOVING OR RELOCATING NOTICE PLACED ON A BOOTED VEHICLE; PROVIDING A SEVERABILITY CLAUSE; REPEALING CONFLICTING ORDINANCES; MAKING THIS ORDINANCE CUMULATIVE OF OTHER ORDINANCES; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION AS REQUIRED BY LAW; AND PROVIDING AND EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

SECTION 1.

That Article II, "Parking Violations Bureau", of Chapter 10 of the Code of the City of Fort Worth (1986), as amended by Ordinance No. 10107 adopted by the City Council on May 3, 1988 and effective September 1, 1988, is and the same is hereby amended as provided herein.

SECTION II.

That Section 10-18(c) shall be amended to read as follows:

"Section 10-18. Parking Citations.

* * * * * *

(c) The citation shall provide that the person charged with a parking, stopping or standing offense shall have the right of an instanter hearing to determine the issue of liability for the charged offense. Such right to a hearing shall be exercised by appearing in person before a hearing officer within fourteen (14) days from the date of the citation at such convenient and reasonable hours as may be specified by the hearing officer, said hours to be printed on the parking citation.

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SECTION III.

That Section 10-21(b) and (e) shall be amended to read as follows:

"Section 10-21. Appeal.

* * * * * *

(b) The appeal must be instituted by filing, not later than the thirtieth (30th) day after the filing of the hearing officer's order, a petition with the clerk of the municipal court along with payment of a non-refundable administrative appeal filing fee in the amount of five dollars ($5.00), as well as payment of any other costs required by law for municipal courts.

* * * * * *

(e) Service of notice of appeal under this section does not stay the enforcement and collection of the judgment unless the person who files the appeal posts a cash bond before filing notice of appeal with the clerk of the municipal court. Said cash bond shall be in the amount of all fines, costs and fees assessed by the hearing officer."

SECTION IV.

That Section 10-22(b) (1) shall be amended to read as follows:

"Section 10-22. Enforcement

* * * * * *

(b) Provided, however, that no vehicle shall be impounded or immobilized under this Article unless:

(1) the offender has three (3) or more delinquent unpaid citations in any calendar year; and

* * * * * * "

SECTION V.

That Section 10-23 shall be amended to read as follows:

"Section 10-23. Procedures for Immobilization and/or Impoundment.

(a) When a vehicle is found parked, whether legally or illegally, at any time upon a public street or public property in the City, and such vehicle has met the criteria for immobilization or impoundment as provided in Section 10-22(b), any authorized parking enforcement agent of the City may immobilize the vehicle by the installation on or attachment to the vehicle of a device, or boot, designed to restrict the normal movement of the vehicle. In the alternative, such vehicle may be towed and impounded, provided that the towing and impoundment is authorized at the direction of a peace officer.

(b) At the time of immobilization, the agent shall also conspicuously attach to the vehicle a written notice on a form provided by the City, said notice to contain the following information:

(1) Notice that the vehicle has been immobilized pursuant to this Article, and that attempted movement may cause damage to the vehicle;

(2) That release of the vehicle may be obtained at a designated place;

(3) That there is a right to a hearing regarding the immobilization; and

(4) That the vehicle may be towed and impounded after a designated period of time.

(c) Any vehicle which remains immobilized after 6:00 P.M. may be towed and impounded.

(d) In the event that a vehicle is towed and impounded, the owner thereof shall be responsible for payment of applicable fees for towing, impoundment and storage in addition to the fines, costs and fees provided for herein. Towed vehicles that are not redeemed within thirty (30) days shall be subject to disposition in the manner provided by Chapter 22 of this Code.

(e) This section is to be cumulative of existing law, and nothing herein shall be construed to restrict or limit the right to tow and impound vehicles under other applicable law."

SECTION VI.

That Section 10-24 shall be amended to read as follows:

"Section 10-24. Boot Removal.

(a) The registered owner of an immobilized or impounded vehicle, or other authorized person, may secure the release of the vehicle upon:

(1) Payment of the amount of the fine and late fees, if any, for each delinquent parking citation plus the applicable boot fee and/or towing and storage fees; or

(2) The posting of a cash bond in the amount of such fines, late fees, boot fees and/or towing and storage fees to ensure appearance at the boot hearing.

(b) Payment of the fines, late fees, boot fee, and any towing and storage fees shall constitute a waiver of the right to contest such fines and fees."

SECTION VII.

That Section 10-25(a) shall be amended to read as follows:

"Section. 10-25. Boot Hearing.

(a) The registered owner of an immobilized or impounded vehicle shall have the right to a prompt post-immobilization hearing ("boot hearing") before the hearing officer.

* * * * * * "

SECTION VIII.

That Chapter 10 of the Code of the City of Fort Worth (1986), as amended, is hereby amended by adding a new Section 10-27 to read as follows:

"Section 10-27. Certain Conduct Unlawful.

(a) It shall be unlawful for any person, other than an officer or employee of the City acting in the course and scope of his duties under this article, to remove or

attempt to remove or to tamper in any manner with an immobilization device (boot) installed on any vehicle pursuant to this article.

(b) It shall be unlawful for any person, except under the direction of a peace officer, to tow or move or to cause to be towed or moved any vehicle on which a boot is then installed pursuant to this article from the place where it was booted.

(c) I shall be unlawful for any person, other than an officer or employee of the City acting in the course and scope of his duties or the owner or operator of a booted vehicle, to remove or relocate any notice placed upon a booted vehicle under Section 10-23(b) of this Code.

(d) Any offense under this section shall be a criminal offense punishable upon conviction by a fine not to exceed Five Hundred Dollars ($500). To the extent that any conduct declared to be unlawful under this section also constitutes a violation of any valid and applicable state law, then it shall be punishable as provided by state law."

SECTION IX.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION X.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (1986), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION XI.

The City Secretary of the City of Fort Worth is hereby directed to engross and enroll this ordinance by copying the caption and Section XIII hereof in the minutes of the City Council and by filing the ordinance in the ordinance records of the City.

SECTION XII.

Any person, firm or corporation who violates any provision of this ordinance related to the parking, stopping or standing of vehicles shall be fined in an amount not exceeding Two Hundred Dollars ($200) for each offense, with the exception of violation of Section 10-27 of the Code, as provided herein, which shall be punishable by a fine not to exceed Five Hundred Dollars ($500).

SECTION XIII.

This ordinance shall take effect on September 14, 1988, and shall apply to all parking or stopping offenses that occur on or after said date. An offense that occurs before the effective date of this ordinance is governed by the law in effect when the offense

occurred and the former law is continued in effect for that purpose. An offense occurs before the effective date of this ordinance if any element of the offense occurs before that date, and it is so ordained.

SECTION XIV.

The City Secretary of the City of Fort Worth, Texas, is hereby directed to publish the caption and Section XII of this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by Section 52.013, Texas Local Government Code.

APPROVED AS TO FORM AND LEGALITY:

David L. Yett
City Attorney

Date: 8/29/88

ADOPTED: August 30, 1988

EFFECTIVE: _____

MASTER FILE 1 ✓
ACCOUNTING 2
TRANSPORTATION/PUBLIC WORKS 3
WATER ADMINISTRATION 4
LAW 1
POLICE ADMINISTRATION

City of Fort Worth, Texas
Mayor and Council Communication

DATE	REFERENCE NUMBER	SUBJECT	PAGE
8-30-88	G-7706	ORDINANCE AMENDING CHAPTER 10 OF THE CITY CODE, RELATED TO THE ADMINISTRATIVE ADJUDICATION OF PARKING OFFENSES AND ENFORCEMENT THROUGH BOOTING, TOWING AND/OR IMPOUNDMENT OF VEHICLES	1 of ____

RECOMMENDATION

It is recommended that the City Council adopt the attached ordinance amending Chapter 10 of the City Code, as amended by Ordinance No. 10107 adopted on May 3, 1988, which provides for an administrative adjudication process for parking offenses and for the enforcement of same by means of immobilization (booting), towing and/or impoundment of vehicle.

The revised Chapter 10 is to become effective on September ~~1~~ 14, 1988, and apply to parking violations committed on and after that date.

BACKGROUND

During the 1987 Session, the State Legislature passed Article 6701d-24, which authorized certain cities to declare the violation of City ordinances relating to parking and stopping vehicles to be civil offenses and to adopt ordinances establishing an administrative adjudication hearing procedure for such offenses.

The legislation also provides for the utilization of efficient enforcement mechanisms including the use of immobilization devices ("boots"), impoundment of vehicles, and additional fines for late payment.

On May 3, 1988, the City Council passed Ordinance No. 10107 (M&C G-7562), which implemented the provisions of this legislation. The ordinance amended Chapters 10 and 22 of the City Code, and was given an effective date of September 1, 1988.

Since adoption of Ordinance No. 10107, a hearing officer has been appointed by the Council and City staff has conducted numerous meetings to plan nd coordinate implementation of the new parking enforcement program. During this process, it was determined that several revisions were needed in the language of the ordinance to clarify its meaning, as well as certain substantive changes including the provision for an administrative appeal fee and changes in the procedure for towing vehicles which have previously been immobilized.

The attached ordinance will accomplish these recommended revisions to Chapter 10 of the City Code, as amended by Ordinance No. 10107, and will become effective on September 1, 1988.

m/6
Attachment

APPROVED BY
CITY COUNCIL

SUBMITTED FOR THE CITY MANAGER'S OFFICE BY: Bob Terrell	DISPOSITION BY COUNCIL: ☑ APPROVED	PROCESSED BY
ORIGINATING DEPARTMENT HEAD: Wade Adkins	☑ OTHER (DESCRIBE)	AUG 30 1988 CITY SECRETARY
FOR ADDITIONAL INFORMATION CONTACT: D Yett 7619	AS AMENDED	DATE: Ruth Howard

Adopted Ordinance No. 10160

City Secretary of the City of Fort Worth, Texas