

**ORDINANCE NO. 19
SERIES 2016**

**AN ORDINANCE AMENDING ARTICLE B, CHAPTER 3, TITLE 4 OF
THE VAIL TOWN CODE TO CREATE A NEW SECTION RELATING TO
THE PRIVATE USE OF VEHICLE IMMOBILIZERS**

WHEREAS, the use of vehicle immobilization devices, or "boots," is a relatively new practice being employed by private property owners to enforce parking violations and in some circumstances payment in their lots;

WHEREAS, booting is being used as an alternative, or in addition, to the use of towing;

WHEREAS, booting is not currently regulated by the state or the Town;

WHEREAS, there has been a rise in complaints from patrons of private parking lots and businesses near these lots regarding the use of vehicle immobilization devices and sometimes erroneous and fraudulent behavior that result in unjustified boots;

WHEREAS, without state or local regulation, there is an increased opportunity for fraudulent and predatory practices that negatively impact the Town's citizens;

WHEREAS, citizens are blaming local businesses for the boots and not returning to patronize those businesses, which negatively impacts the Town's economy;

WHEREAS, the Town Council finds that private booting, so long as it remains unregulated, presents an appreciable risk to public safety and to property; and

WHEREAS, the Town Council, pursuant to its authority to protect and secure the public health, safety and welfare of its citizens, desires to prohibit the use of vehicle immobilization devices in the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF VAIL, COLORADO, THAT:

Section 1. Article B, Chapter 3 of Title 4 of the Vail Town Code is hereby amended by the addition of a new Section 7-3B-8, to read as follows:

7-3B-8: BOOTS ON MOTOR VEHICLES.

A. No person shall place a boot on any motor vehicle in the Town except under the following circumstances:

1. The person is directed by a law enforcement officer to place a boot on the motor vehicle;

2. The person is a law enforcement officer authorized to place the boot on the motor vehicle;

3. The owner, authorized operator, or authorized agent of the owner of the motor vehicle requested that the boot be placed on the motor vehicle; or

4. *The person placing the boot is a property owner who owns the boot and complies with the following:*

a. Affixes a notice to the motor vehicle in a conspicuous and obvious manner containing the name, address and telephone number of the person who placed the boot on the motor vehicle, the amount of the boot removal fee and the right to have the boot removed upon payment of the boot removal fee; and

b. Maintains personnel able to remove the boot and release the vehicle to its owner or authorized operator upon the payment of a boot removal fee, with such personnel available twenty-four (24) hours per day, seven (7) days per week.

B. Upon placement of a boot on a motor vehicle at the direction of a law enforcement officer, the person placing the boot shall:

1. Affixes a notice to the motor vehicle in a conspicuous and obvious manner containing the name, address and telephone number of the person who placed the boot on the motor vehicle, the amount of the boot removal fee, the right to have the boot removed within ninety (90) minutes of contacting the Police Department, the signature of the person who placed the boot, and an advisement of the right to request a post-seizure hearing for vehicle impoundment under Section 7-3A-4 of this Code;

2. Maintain personnel authorized to remove the boot and release any motor vehicle to its owner or driver upon the payment of any boot removal fee; and

3. Provide a receipt upon payment, listing the fees charged and advisement of the right to request a post-seizure hearing for vehicle impoundment under Section 7-3A-4 of the Code.

C. For purposes of this Section, a "boot" is any immobilization device placed upon a motor vehicle for purposes of parking violation enforcement and without the prior consent or authorization of the owner or operator of the motor vehicle.

D. For purposes of this Section, a "property owner" is the owner or lessee of the private property or a person who has been authorized in

writing to act as an authorized agent for the property owner or lessee of the private property.

Section 2. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance; and the Town Council hereby declares it would have passed this ordinance, and each part, section, subsection, sentence, clause or phrase thereof, regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

Section 3. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper for the health, safety and welfare of the Town and the inhabitants thereof.

Section 4. The amendment of any provision of the Vail Town Code in this ordinance, shall not affect any right which has accrued, any duty imposed, any violation that occurred prior to the effective date hereof, any prosecution commenced, nor any other action or proceeding as commenced under or by virtue of the provision amended. The amendment of any provision hereby shall not revive any provision or ordinance previously repealed or superseded unless expressly stated herein.

Section 5. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, theretofore repealed.

INTRODUCED, READ ON FIRST READING, APPROVED, AND ORDERED PUBLISHED ONCE IN FULL ON FIRST READING this 2nd day of August, 2016 and a public hearing for second reading of this Ordinance is set for the 16th day of August, 2016, in the Council Chambers of the Vail Municipal Building, Vail, Colorado.

Dave Chapin, Mayor

ATTEST:

Patty McKenny, Town Clerk

READ AND APPROVED ON SECOND READING AND ORDERED PUBLISHED this 16th day of August, 2016.

Dave Chapin, Mayor

ATTEST:

Patty McKenny, Town Clerk