

Clerk's Report to the Board: May 4, 2021

RE: Immobilization/ "Booting" of Vehicles in Alligator Point

I reached out to Clerks throughout the state concerning "booting" in their counties. I discovered that Walton County just adopted an ordinance this year allowing for the booting of vehicles. I have attached a copy of their ordinance 2021-6 for your review.

There are no small counties that have "booting" in place. I did find larger counties, including Brevard, Desoto, Manatee, and Sarasota Counties that are "booting". However, all counties that I found were using licensed security officers, and or approved companies that have met the requirement of Florida Statute 316.193(13). Once their application has been reviewed and it is confirmed all requirements have been met, the name of the immobilization agency is added to the Court's Order of Impoundment of Immobilization. I have attached a copy of Administrative Order 2010-3.3 for Desoto, Manatee, and Sarasota Counties.

My concerns are if the Sheriff's department is the agency that will be administering the "boot" how will the payments be received? Would the fee go directly to the Sheriff's department? If the Board decides to impose a fine amount that needs to be processed through the Clerk's office then the payment would have to be received by the officer and brought to the Clerk's office for processing. If the person receiving the fine pays with a credit card, how would the payment be processed?

Furthermore, I reached out to the Florida Clerk's Association and was informed that this is not usually something that is handled by the clerk's office. This is typically handled by a private "booting" company.

I need direction from the Board on who will be responsible for the "booting" and if the Board wants to impose a fee that the Clerk's office would have to process. Once I receive clear direction from the Board, I will be able to address the issue and give a suitable recommendation on the distribution of the fine amount.

ORDINANCE 2021-06

AN ORDINANCE OF THE WALTON COUNTY BOARD OF COUNTY COMMISSIONERS ENACTING REGULATIONS CONCERNING TEMPORARY IMMOBILIZATION OF VEHICLES THAT ARE IN VIOLATION OF PARKING RESTRICTIONS ON PRIVATE PROPERTY; IMPOSING MAXIMUM RATES WHICH MAY BE CHARGED FOR THE IMMOBILIZATION OF VEHICLES ON PRIVATE PROPERTY; PROVIDING FOR SEVERABILITY, CODIFICATION, AND EFFECTIVE DATE.

WHEREAS, Sections 715.07 (9) (b) *F.S.* and 125.0103(1) *F.S.* grant counties the authority to enact regulations concerning the temporary immobilization of vehicles that are in violation of parking restrictions on private property adopted by any state or local government or by any community or development pursuant to its governing documents; and

WHEREAS, Walton County hereby authorizes the use of “Smart Boots,” “The Barnacle,” and such other “smart immobilization devices,” in conjunction with towing under the conditions set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE WALTON COUNTY BOARD OF COUNTY COMMISSIONERS THAT ARTICLE IV, CHAPTER 20, OF THE WALTON COUNTY CODE OF ORDINANCE IS HEREBY CREATED TO READ AS FOLLOWS:

- (1) “Smart immobilization devices” means such devices as temporarily disable a vehicle by means of a wheel lock (Smart Boot), windshield drape (Barnacle) or other such device that is removable *in situ* upon remitting a payment via cellphone or other personal device or payment at a specified location.
- (2) This ordinance may be used to enforce parking regulations on private property in Planned Developments by licensed private security. The term “Planned Development,” as used herein, means communities developed as a Development of Regional Impact (DRI), or Planned Urban Development (PUD) by State Coordinated Review pursuant to Chapter 163 Florida Statutes 3184(2)(C) and are organized pursuant to 720 *F.S.*, or 718 *F.S.*, as a Florida Homeowners Association or, a Florida Condominium Owners Association and are operated by a Board of Directors and employ a Community Association Manager or contract with a management company to supply a Community Association manager.
- (3) Any Planned Development utilizing smart devices for enforcement of parking regulations must either employ security officers or contract with a licensed security company to provide security services.
- (4) The licensed security officer employed or contracted by the Planned Development described above, may cause any “vehicle” hereby defined as any mobile item which normally uses

wheels, whether motorized or not parked on such property without the owner's permission to be smart immobilized by means of a immobilization device without liability for the cost of removing the device or caused by its removal.

(5) All licensed security officers deploying a smart device must be trained and must have received a letter certifying that the individual officer was trained by (a) the company issuing the smart device to the property owner or (b) by other persons or organizations certified by the company issuing the device to provide such training. At intervals of no less than 3 years, security personnel utilizing the device must be re-certified by the issuing company.

(6) The immobilization of any vehicle without the consent of the registered owner or other authorized person in control of the vehicle is subject to strict compliance with the following conditions and restrictions:

(A) The licensed security officer immobilizing a vehicle must affix an adhesive notice to the vehicle providing, in letters no less than one inch high, the 24-hour telephone number which, when called, accepts the credit card or other electronic payment information that, once processed, disarms the immobilization device so that the vehicle may be operated. The notice must also provide the local number of the security service that immobilized the vehicle, and must specify the nature of the parking violation, the time of its occurrence, the payment required to remove the device by the smart device process, a telephone number for electronic payment or a location at which cash or a check may be used for payment in lieu of electronic payment and the manner in which the license plate holder may appeal the parking violation and receive a refund of some or all associated fees. The notice must further advise the operator that the device must be deposited immediately after removal at a specified location. The location for depositing the device must be within ten (10) miles of where the device was used and failure to return the device in working condition will result in an additional charge to repair or replace it.

(B) In addition to the 24-hour number required by (6)(A) above, the local security service must be available by telephone during, and for at least two hours after, any such device is deployed. The local security service must have the means to abate the immobilization in the event that the 24-hour service described in (1)(A) above malfunctions or otherwise fails to release the smart device upon receipt of the indicated payment, and must do so promptly in that event.

(C) The person applying the smart device shall, within 30 minutes after such deployment, cause the Walton County Sheriff's office to be notified of the time of the immobilization, the location of the immobilization, the make, model, color, license plate number and state of registration of the vehicle.

(D) The person in the process of immobilizing a vehicle must stop when requested by the owner or responsible driver of the vehicle on proof of identification in the form of a valid driver's license and matching or essentially matching vehicle registration or, in the case of a rental vehicle, such documents as show the key holder to be the authorized renter

or driver. The key holder may then operate the vehicle without paying an immobilization fee.

- (7) The Planned Development must post notices meeting the following requirements:
- (A) Placement proximate to each intersection with the public right of way, which notice must clearly indicate, in not less than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles may be immobilized (or disabled or impounded) at the owner's cost. The words "Immobilization" (or "disabling" or "impound") Zone must appear on the sign in letters no less than 4 inches high. The notice must also include the name and current phone number of the security service using the immobilization device. Signs must be affixed to permanent standards no less than 3 nor more than 6 feet above ground level.
- (B) If only a portion or section of a Planned Development is to include an immobilization zone, then that area, but not the entire development, must comply with the requirements of (6)(A) above.
- (8) Entities deploying smart devices may also employ towing services in all or portions of the development but only if the signage complies with the requirements of FL. Statute 715.07(5) regarding towing and with this Ordinance regarding smart devices in the areas, if any, where both towing and smart devices will be employed; and complies with the Statute or the Ordinance, respectively, where either towing or smart devices are in effect. The required language and lettering of the towing statute and this ordinance may be combined on signs.
- (9) Any person or firm that immobilizes vehicles pursuant to this Ordinance must file and keep on record with the Walton County Sheriff office a complete copy of the current rates to be charged for such services, which shall in no event exceed the maximum County-authorized rate of \$100.00. Any Planned Development utilizing Smart Immobilization Devices must file and keep on record with the Walton County Sheriff's Office contact information for representative of the management of the Planned Development and the private security or contract security employed by the Planned Development including phone numbers, and email addresses.
- (10) Any Planned Development utilizing smart devices must have in place a process for appealing the use of the smart device. The appeal process must provide for an aggrieved party to provide a written Notice of Appeal within ten (10) days of the deployment of the device. The issuing authority must schedule a hearing before a person designated by the Planned Development who is not part of the security service to decide the appeal within thirty (30) days. The hearing may be conducted in person or by electronic means. A ruling must be rendered within ten (10) days of the hearing. The Planned Development must maintain an electronic record of the appeal or hearing proceeding and make such record available to the aggrieved party upon request for a period of one (1) year after any such hearing. The aggrieved party must have the opportunity to present written evidence as to why the smart device was wrongfully used and may be represented by counsel. This appeal process is in addition to any rights the aggrieved party may have available to them in the State Courts.


(11) Severability. If any portion of this Ordinance is determined by any Court to be invalid, the invalid portion shall be stricken, and such striking shall not affect the validity of the remainder of this Ordinance. If any Court determines that this Ordinance, or any portion hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies), or circumstance(s), such determination shall not affect the applicability hereof to any other individual, group, entity, property, or circumstance.

(12) Effective Date. This Ordinance shall become effective immediately upon adoption by the Walton County Board of County Commissioners.

PASSED AND DULY ADOPTED in regular session, by the Board of County Commissioners of Walton County, Florida, this 23rd day of February 2021.

Attest:

BOARD OF COUNTY COMMISSIONERS
OF WALTON COUNTY, FLORIDA


for Alex Alford, Clerk of Circuit Court
and County Comptroller


Trey Nick, Chair



**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT IN AND FOR
DESOTO, MANATEE, AND SARASOTA COUNTIES**

Administrative Order 2010-3.3

**IN RE: VEHICLE IMMOBILIZATION/
IMPOUNDMENT**

WHEREAS, Florida Statute 316.193(6)(d) requires the Court to order the immobilization/impoundment of a vehicle which was driven by, or in the actual physical control of, a person convicted of violating the provisions of Florida Statutes 316.193; and

WHEREAS, Florida Statute 316.193 was amended recently by adding sections 316.193(13) & (14) limiting who may participate in the immobilization of vehicles; and

WHEREAS, neither personnel of the Twelfth Judicial Circuit nor the Sheriffs of DeSoto, Manatee, and Sarasota Counties immobilize vehicles pursuant to section 316.193(6); and

WHEREAS, in order to ensure that immobilization entities operating in DeSoto, Manatee, and Sarasota Counties are in compliance with all statutory requirements, the Twelfth Judicial Circuit hereby establishes a vehicle immobilization/impoundment program.

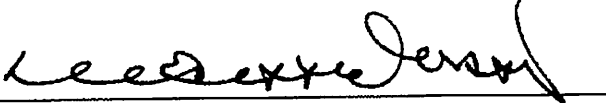
It is therefore, pursuant to the authority vested in me as Chief Judge of the Twelfth Judicial Circuit of Florida under Florida Rule of Judicial Administration 2.215,

ORDERED as follows:

1. A vehicle immobilization/impoundment program shall be permanently established within the Twelfth Judicial Circuit.
2. Court Administration will maintain a list of the names and numbers of all immobilization agencies that meet the requirements of Florida Statute 316.193(13) and which operate and provide all the essential services associated with the immobilization/impoundment of vehicles pursuant to Florida Statute 316.193(6)(d) and in accordance with the directives of the Court.
3. Companies seeking to have their names placed on Court Administration's list, which names are then listed on the Orders of Impoundment or Immobilization, must submit an application showing proof that all of the requirements of Florida Statute 316.193(13) have been fulfilled along with an initial processing fee of \$500.00.
4. Once approved, companies have an on-going responsibility to inform Court Administration of any new employees, agents or independent contractors working on the vendors' behalf who will be immobilizing vehicles in the Twelfth Judicial Circuit as well as any other changes affecting their status as a qualified immobilization agency.

- a. After a qualifying immobilization agency hires a new employee or retains a new independent contractor, it shall immediately submit proof that the person has no disqualifying criminal history.
 - b. No new employee, agent or independent contractors will be permitted to immobilize vehicles in the Twelfth Judicial Circuit unless and until the company has received written notice from Court Administration that the employee has been approved.
 - c. A \$50.00 processing fee will be required for each new employee/independent contractor that Court Administration must confirm complies with the statutory requirements.
5. Once the application has been reviewed and it is confirmed that the requirements of Florida Statute 316.193(13) have been met, the name of the immobilization agency will be added to the Court's Order of Impoundment or Immobilization. Companies who fail to comply with the statutory requirements or who, in the chief judge's discretion, are engaging in practices which compromise the integrity of the court, may be removed from the circuit's approved list of immobilization agencies.
 6. An approved list of Immobilization Agencies for the Twelfth Judicial Circuit shall be established by the Chief Judge each year. Immobilization agencies must provide notice to the Chief Judge of their intent to renew their active status on the circuit's immobilization list. At the time of renewal, a reasonable renewal fee set by the Chief Judge shall be due from immobilization agency.
 7. Immobilization agencies on the list maintained by the Twelfth Judicial Circuit shall comply with all rules and statutes pertaining to vehicle immobilization and will be expected to keep up to date with any new provisions within said rules and statutes.
 8. To offset administrative costs associated with the Vehicle Immobilization Program, a monthly fee will be assessed against the immobilizing agency in an amount equal to that charged by the company for a thirty (30) day immobilization.
 9. Monthly payment will be due by the tenth (10th) day of each month. The immobilization agency will also provide monthly a list of the cases in which a vehicle was impounded or immobilized along with the number of days the vehicle was impounded.
 10. The approved immobilizing agencies shall submit to Court Administration a proposed fee schedule for their immobilizations. The fee schedule shall be reviewed by Court Administration on an annual basis and must be approved by Court Administration prior to it being imposed.

DONE AND ORDERED in chambers, Sarasota, Sarasota County, Florida, on this 19th day of January, 2010.


**LEE E. HAWORTH, CHIEF JUDGE
TWELFTH JUDICIAL CIRCUIT
STATE OF FLORIDA**