



Legislation Text

File #: 061146, **Version:** 0

061146
ORIGINAL

ALD. DONOVAN

An ordinance relating to regulation of parked or standing vehicles in which junk is collected or stored.

92-3-8-i rn
92-3-8-i cr
92-3-10 am
101-23.2-2 am
101-23.2-3 rc

Council file number 060470, prohibiting the parking of certain vehicles in which junk is collected or stored, was adopted 9/26/2006. In a subsequent written opinion, the city attorney determined that the ordinance was not legal and enforceable as drafted.

This ordinance repeals the provisions of file number 060470 that were determined to be unenforceable and creates new provisions limited to the parking of vehicles in which junk is collected in activities that are subject to licensure under the requirements of s. 92-3 of the code relating to junk collectors and junk dealers. The parking restriction applies to vehicles used in activities subject to licensing requirements whether or not a valid license has been issued and is in force.

This ordinance prohibits parking or standing of a vehicle that contains collected junk or in which junk is stored except while the vehicle is actively engaged in the process of loading or unloading. The prohibition applies to all highways of the city. Vehicles found in violation may be towed. The prohibition is further incorporated into the regulations governing junk collectors and dealers.

This ordinance also retains the penalty for violations provided in file number 060470 of \$55 to \$75, and retains the \$55 amount for a stipulation. In addition to the reclamation charge of \$95 and \$20 for each day of storage, an additional reclamation charge may be imposed for the actual costs, including costs of labor, incurred in the treatment, disposal, removal or abatement of any substance, chemical or other material contained within or upon a vehicle when such action is necessary to render the vehicle in a safe and sanitary condition.

Whereas, The collection and storage of junk including rags, paper, rubbish, bottles, glassware, crockery, bags, cloth, rubber, vehicle tires, ferrous and non-ferrous metals, clothing, siphons, old rope, plumbing materials, salvage gas and electric fixtures and appliances, other waste materials, and discarded articles constitutes a risk to the health and safety of the public and creates potential hazards to the environment; and

Whereas, The properly regulated removal and appropriate recycling or other disposal of junk materials is necessary to the health, safety and well-being of the public and is encouraged; and

Whereas, The collection or storage of junk in vehicles presents a risk of infestation, poisoning and other harm in areas of public and pedestrian travel; and

Whereas, Section 349.13, Wis. Stats., authorizes local authorities to regulate, prohibit or limit the parking or standing of vehicles upon the highways of their jurisdiction in the reasonable exercise of the police power; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 92-3-8-i of the code is renumbered 92-3-8-j.

Part 2. Section 92-3-8-i of the code is created to read:

92-3. Junk Collectors and Dealers.

8. REGULATIONS.

i. Parking Prohibited. No vehicle, as defined in s. 101-23.2-1-a, in which junk is collected or stored, shall be parked or left standing on the highways of the city unless actively engaged in loading or unloading junk. No such vehicle actively engaged in loading or unloading junk may be left unattended on the highways of the city for a period greater than 10 minutes.

Part 3. Section 92-3-10 of the code is amended to read:

10. PENALTY. Any person, firm, partnership or corporation found guilty of violating this section>>, except for the provisions of sub. 8-i,<< shall be subject to a forfeiture of not less than \$50 nor more than \$500 for the first offense, and not less than \$500 nor more than \$5,000 for each subsequent offense. Any person in default of payment thereof shall be imprisoned in the county jail or house of correction of Milwaukee county for a period not less than 2 days nor more than 90 days.

Part 4. Section 101-23.2-2 of the code is amended to read:

101-23.2. Vehicles Prohibited from Parking or Standing.

2. PROHIBITED. Vehicles ~~[[containing collected junk or in which junk is stored shall not be parked or left standing on the highways of the city]]~~ >>used in activities subject to licensure under s. 92-3 as junk collectors or junk dealers and in which junk is collected or<< stored shall not be parked or left standing on the highways of the city.

Part. 5. Section 101-23.2-3 of the code is repealed and recreated to read:

3. EXCEPTIONS. To the extent that a vehicle is otherwise in compliance with the code, such vehicle may be parked or left standing on the highways of the city while actively engaged in loading or unloading and such vehicle is not left unattended for a period greater than 10 minutes.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE

IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB06591-1

RLW

12/12/2006