

..Number
160842
..Version
PROPOSED SUBSTITUTE A
..Reference

..Sponsor
ALD. WITKOWSKI

..Title
A substitute ordinance relating to illegally parked vehicles.

..Sections
101-25.3 cr
101-25.7 cr

..Analysis
This ordinance authorizes the commissioner of public works, the commissioner's designee or any police officer to boot or otherwise immobilize illegally parked vehicles. It also authorizes the commissioner of public works to contract for booting services.

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

Part 1. Section 101-25.3 of the code is created to read:

101-25.3. Vehicle Immobilization.

1. DEFINITIONS. In this section:

- a. "Device security deposit" shall mean a deposit imposed for the return of a self-removal immobilization device using an unlocking code provided by the commissioner of public works, or commissioner's designee.
- b. "Immobilization device" shall mean a lockable vehicle wheel clamp or similar device designed to be placed on a parked vehicle to prevent the operation of the vehicle until the device is unlocked and removed.
- c. "Immobilization notice" shall mean a written notice placed on an immobilized vehicle listing the telephone number to call to request removal of an immobilization device, the amount of the removal fee and the terms of the deferral agreement.
- d. "Removal fee" shall mean a fee charged to remove an immobilization device, including any amounts imposed for the parking violation.
- e. "Self-removal" shall mean the unlocking and removal of an immobilization device by the owner, lessee or operator of an immobilized vehicle.
- f. "Vehicle immobilization" shall mean the act of placing an immobilization device on a parked vehicle.

2. STATE REGULATIONS. The city of Milwaukee adopts s. 349.137, Wis. Stats., and all subsequent amendments thereto, defining and describing regulations with respect to the authority to use an immobilization device.

3. AUTHORITY. Whenever any police officer, the commissioner or any of the commissioner's designees finds a vehicle standing upon any highway in violation

of s. 101-3, 101-22.5, 101-23, 101-23.2, 101-24, 101-24.1, 101-24.2, 101-26, 101-26.5, 101-26.7, 101-27, 101-27.8, 101-29 or 101-32, the officer, commissioner or commissioner's designee may immobilize the vehicle with an immobilization device. The vehicle immobilization may be performed by or under the direction of the officer, the commissioner of public works or the commissioner's designee, or a contractor under contract with the city.

4. CONDITIONS FOR IMMOBILIZATION DEVICE REMOVAL. The immobilization device shall be removed upon request under sub. 5 provided the owner, lessee or operator of the immobilized vehicle does one of the following:

a. Pays the removal fee to the commissioner or commissioner's designee.
b. Signs a deferral agreement obligating the signatory to, within 14 days of the removal of the immobilization device, either pay the removal fee, or contest, following the process established by commissioner, one of the following:

b-1. The amount of the removal fee.

b-2. The propriety of the use of the immobilization device.

5. OPTIONS FOR IMMOBILIZATION DEVICE REMOVAL. The owner, lessee or operator of an immobilized vehicle may call the telephone number listed on the immobilization notice to request that the immobilization device be removed in either of the following ways:

a. Removal by the commissioner, the commissioner's designee or a contractor under contract with the city.

b. Self-removal by the owner, lessee or operator of the immobilized vehicle using an unlocking code provided by the commissioner, the commissioner's designee or a contractor under contract with the city.

6. SELF-REMOVAL REQUIREMENTS. An owner, lessee or operator of an immobilized vehicle who opts for self-removal shall:

a. Return the removed immobilization device in reasonable condition to a location designated by the commissioner, or the commissioner's designee, within 7 business days. Failure to return the immobilization device within 7 days in a reasonable condition may result in additional charges at the discretion of the commissioner, or the commissioner's designee.

b. Post a device security deposit to be set by and at the discretion of the commissioner, or the commissioner's designee. Any unpaid charges incurred under par. a shall be deducted from the device security deposit before its return.

Part 2. Section 101-25.7 of the code is created to read:

101-25.7. Contract for Immobilization Device Services.

1. BY COMMISSIONER. The commissioner of public works may enter into contracts on behalf of the city for immobilization device services under s. 101-25.3. The commissioner may divide the city into designated areas and contract in each specific area. These services may be included in a contract for towing vehicles as executed under s. 101-25.5, at the discretion of the commissioner.

2. REQUIREMENTS. Any such contract shall provide that the immobilization device services company have adequate equipment and facilities, and personnel available 24 hours a day. The contract shall further require the company furnish

the city an indemnification agreement supported by a performance bond and indemnity bond, and, in lieu thereof, a certification of insurance to hold the city harmless from any claims arising from immobilization device services provided. The commissioner of public works shall provide the rules, regulations, specifications and conditions under which contracts are awarded.

..LRB

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

..Attorney

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

..Requestor

..Drafter

LRB #166682-3

Aaron Cadle

January 19, 2017